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Global Migration Challenges and Remedies:
An interdisciplinary review

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Global Migration Policy Associates

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Editorial

*The **Revista Tecnológica ESPOL – RTE** proudly presents this special issue titled "Global migration challenges and remedies: an interdisciplinary review," produced in collaboration with Global Migration Policy Associates – GMPA, along with the Geneva School of Diplomacy and International Relations – GSD of Switzerland. The main objective is addressing key thematic challenges of today's migration and its governance, contributing to enhance world academic collaboration in exploring a crucial issue of the 21st Century regarding international migration, with an inter-and multidisciplinary approach and democratizing perspectives.*

Particularly, the RTE journal takes pleasure in presenting this special issue which has succeeded in pulling together authors and content concerning all world regions, Africa, the Americas, Asia, Europe, Eurasia, and Oceania. Moreover, the article authors and peer reviewers intentionally represent a "gender balance", regional and national diversity across the globe, multiple disciplines, a range from veteran experts to young scholars, and experiential backgrounds from migrants to accomplished academics to international organization specialists.

The compendium of the ten best articles accepted from a rigorous blind peer-reviewed process serves to accomplish three key aspects regarding international migration: Firstly, to review the current state of the art on knowledge and policy responses on key questions of migration governance and regulation, economic development and welfare, and social solidarity. Secondly, to fill gaps in the literature and policy discourse towards a comprehensive overview of knowledge, norms, and practice on governance and practical action concerning international migrants and refugees. Thirdly, to address cutting-edge multi-/inter- disciplinary issues of policy, public concern, and academic debate on migration including human rights; health & COVID; discrimination/inclusion; cities; global warming/environment; economic and social development; among others.

The ten selected articles published in this RTE special volume feature discussion of key issues intersecting with migration: human rights for all; policy for protecting rights, decent work and welfare of women migrant workers; addressing health and other risks facing migrants and refugees in the COVID-19 pandemic; small island country responses to global warming consequences; impeding climate change displacement of indigenous pastoralist communities; preventing discrimination and promoting equality of treatment for migrants; identifying common values and approaches of cities welcoming migrants and refugees; and the importance of international migration in sustaining economies, development, and human welfare worldwide. Articles herein also explore the expansion of anti-migration discourse by rising populist ethnonationalism, lessons from ancient history for contemporary international refugee law, and an innovative approach to including migration and human rights in university teaching.

As a result, we obtain an exceptional volume of a compiled collection of authoritative, academically sound articles that can serve for academic and professional exploration to provide governance policy guidance, teaching bibliography, and proficient practitioner background for actors in government at all levels, as well as civil society, migrant, and refugee stakeholders. Additionally, this volume can be used as a vehicle for developing inter-institutional cooperation among academic, specialist, and international relations entities inter-regionally.

Finally, the editors trust that published contributions, like this special issue, will stimulate further research and dialogue and support good governance and effective protection of human rights of all migrants and refugees. Thus, we express our very special thanks to the authors, the reviewers, the editorial and layout team, who, with their support, have made possible the successful production of this new special RTE volume.

Nayeth Solórzano, **Ph.D**.
RTE Editor in Chief
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Patrick A. Taran, Prof.
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Editorial

*La **Revista Tecnológica ESPOL – RTE** se enorgullece en presentar este número especial titulado "Retos y soluciones a la migración global: un enfoque interdisciplinario", producido en colaboración con Global Migration Policy Associates – GMPA, junto con la Escuela de Diplomacia y Relaciones Internacionales de Ginebra – GSD de Suiza. El objetivo principal de este volumen busca abordar los desafíos temáticos, fundamentales de la migración y su gobernanza en la actualidad, contribuyendo a mejorar la colaboración académica mundial en la exploración de un tema clave del siglo XXI como es la migración internacional, desde un enfoque interdisciplinario y multidisciplinario con perspectivas democratizadoras.*

En particular, la revista RTE se complace en presentar este número especial en el que se ha logrado reunir a autores y contenidos sobre todas las regiones del mundo, África, América, Asia, Europa, Eurasia y Oceanía. Además, los autores de los artículos y los revisores pares representan intencionalmente un equilibrio de género, diversidad regional, nacional y mundial, múltiples disciplinas, con una gama desde expertos veteranos hasta académicos jóvenes, con antecedentes experienciales que abarcan desde inmigrantes hasta con una gama de expertos académicos y especialistas de organizaciones internacionales.

El compendio de los diez mejores artículos aceptados, dentro de un riguroso proceso de revisión por pares ciegos, sirvió para lograr cubrir tres aspectos claves con respecto a la migración internacional: en primer lugar, para revisar el estado actual del conocimiento y las respuestas políticas sobre cuestiones estratégicas sobre la gobernanza y regulación de la migración, el desarrollo económico y el bienestar, y la solidaridad social. En segundo lugar, llenar los vacíos en la literatura y el discurso político hacia una visión general integral del conocimiento, las normas y la práctica sobre la gobernanza y la acción práctica con respecto a los migrantes y refugiados internacionales. En tercer lugar, abordar aspectos de vanguardia multi/interdisciplinarias de política, interés público y debate académico sobre la migración, incluidos los derechos humanos; salud y COVID; discriminación/inclusión; ciudades; calentamiento global/medio ambiente; desarrollo económico y social; entre otros.

Los diez artículos seleccionados publicados en este volumen especial de RTE presentan discusiones sobre temas claves que se relacionan con la migración, tales como: derechos humanos para todos; política de protección de derechos, trabajo decente y bienestar de las trabajadoras migrantes; abordar los riesgos de salud y otros riesgos que enfrentan los migrantes y refugiados en la pandemia de la COVID-19; respuestas de los pequeños países insulares a las consecuencias del calentamiento global; impedir el desplazamiento por el cambio climático de las comunidades de pastores indígenas; prevenir la discriminación y promover la igualdad de trato de los migrantes; identificar valores y enfoques comunes de ciudades que acogen a migrantes y refugiados; y, la importancia de la migración internacional en el sostenimiento de las economías, el desarrollo y el bienestar humano en todo el mundo. Los artículos de este volumen también exploran la expansión del discurso antimigratorio por el creciente etnonacionalismo populista, las lecciones de la historia antigua para el derecho internacional de refugiados contemporáneo y, un enfoque innovador para incluir la migración y los derechos humanos en la enseñanza universitaria.

Como resultado, se ha obtenido un volumen excepcional que incluye una colección compilada de artículos revisados y académicamente sólidos, los cuales pueden servir para la exploración académica y profesional que brindan orientación sobre políticas de gobernanza, bibliografía docente y antecedentes profesionales competentes para los actores en el gobierno en todos los niveles, así como también miembros de la sociedad civil, y partes interesadas de migrantes y refugiados. Además, este volumen puede ser utilizado como un vehículo para desarrollar la cooperación interinstitucional entre entidades académicas, especializadas y de relaciones internacionales a nivel interregional.

Finalmente, los editores confían en que contribuciones publicadas, como las que se incluyen en este número especial, estimularán una mayor investigación y diálogo y apoyarán la buena gobernanza y la protección efectiva de los derechos humanos de todos los migrantes y refugiados. Por ello, expresamos nuestro agradecimiento muy especial a los autores, los revisores, el equipo editorial y de maquetación, quienes con su aporte hicieron posible la producción exitosa de este nuevo volumen especial de RTE.

Nayeth Solórzano, Ph.D.
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Special issue

Global Migration Challenges and Remedies: An interdisciplinary review

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COVID-19 y Migración: aportes a la gobernanza desde el asociacionismo de las mujeres inmigrantes en Valencia (España)

COVID-19 and Migration: contributions to governance from the association of immigrant women in Valencia (Spain)

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Resumen

La situación de emergencia ocasionada por la COVID-19 trajo como consecuencia el aumento de la vulnerabilidad social y económica en poblaciones vulnerables, entre las que se destacan las mujeres inmigrantes, especialmente aquellas en situación administrativa irregular. En un estudio realizado por la Asociación Por Ti Mujer, en el año 2020, se sistematizaron las experiencias vitales y realidades vividas por el colectivo de mujeres inmigrantes latinoamericanas de la ciudad de València y su área metropolitana, incidiendo en el impacto de la crisis sociosanitaria consecuencia de la COVID-19, especialmente en lo concerniente a las dimensiones laboral, económica y emocional, concluyendo que dichas afectaciones vulneran el ejercicio de los derechos fundamentales. Considerando el papel de incidencia social y política que juegan las organizaciones del tercer sector y, ante la constatada debilidad e insuficiencia de los sistemas de protección social, desde su trabajo de investigación e incidencia con la creación de este tipo de informes, la trayectoria de la Asociación Por Ti Mujer constituye un ejemplo de buenas prácticas en la contribución a la gobernanza democrática, a la construcción de políticas públicas, al fortalecimiento y la defensa de los derechos humanos de las mujeres inmigrantes y, a la sensibilización y el fortalecimiento de la sociedad civil.

Sumario: Introducción, Metodología, Género y migración: una aproximación sociodemográfica al contexto valenciano en España, Gobernanza y Sociedad Civil: aportes desde la Asociación de Mujeres Inmigrantes, Covid-19 y vulneración de derechos: un estudio de caso sobre las mujeres inmigrantes en València (España) y Conclusiones.
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Palabras clave: Asociacionismo, Gobernanza, Género, Migración, COVID-19, Buenas prácticas.

Abstract

The emergency situation caused by COVID-19 resulted in an increase in social and economic vulnerability in vulnerable populations, among which immigrant women stand out, especially those in irregular administrative situations. In 2020, a study carried out by the "Por Ti Mujer Association", the life experiences and realities lived by the group of Latin American immigrant women from the city of Valencia, and its metropolitan area, were systematized. That greatly affected the social and health crisis of the COVID-19 pandemic. It especially impacted the labor, economic, and emotional dimensions, concluding that their affects violated the exercise of their fundamental rights. The role social and political advocacy played by third sector organizations, the verified weakness and insufficiency of social protection systems, research and advocacy work, and these types of reports, the trajectory of the "Por Ti Mujer Association" constituted an example of good practices. They also contributed to democratic governance, the construction of public policy, the strengthening and defense of the human rights of immigrant women, and to raising awareness and strengthening civil society.

Keywords: Associationism, Governance, Gender, Migration, COVID-19, Good practices.

Introducción

A menudo, las minorías sociales más susceptibles de sufrir desprotección social e institucional carecen de mecanismos para dar visibilidad social a las múltiples vulneraciones de derechos que viven en su día a día desde sus propios discursos, así como para incidir sobre la agenda pública con el fin de plasmar sus necesidades en las políticas públicas, como elemento fundamental para contribuir al cambio social protagonizado por la ciudadanía en su diversidad. En esta línea, el presente artículo pretende poner en valor el papel del tercer sector como herramienta para contribuir a la gobernanza democrática, a la construcción de las políticas públicas, al fortalecimiento y la defensa de los derechos humanos de las mujeres inmigrantes y, a la sensibilización y el fortalecimiento de la sociedad civil.

A través de esta propuesta investigativa, se hace un análisis a la aportación de la Asociación Por Ti Mujer, en adelante APTM, desde su línea de investigación e incidencia social como ejemplo de buenas prácticas de gobernanza. La APTM es una entidad sin ánimo de lucro, que trabaja desde el año 2009 en la ciudad de Valencia (España) y su área metropolitana y en Colombia, con el fin de combatir las causas estructurales que restringen y/o afectan al ejercicio de la ciudadanía de las mujeres inmigrantes, víctimas de violencia de género y/o en riesgo de exclusión psicosocial desde un enfoque de género, intercultural e interseccional y basado en Derechos Humanos. Para ello, se parte de los resultados del estudio de caso realizado por la organización en el año 2020 y plasmado en un informe de incidencia titulado 'COVID-19: su impacto en las mujeres inmigrantes en Valencia'. A través de este estudio, se sistematizan las experiencias vitales y realidades vividas por el colectivo de mujeres inmigrantes latinoamericanas de la ciudad de Valencia y su área metropolitana[1], incidiendo en

[1] El Área metropolitana de Valencia conforma una red urbana organizada en torno a la costa central de la Comunidad Valenciana, y más concretamente alrededor de la ciudad principal de Valencia. Se trata de la tercera aglomeración en número de habitantes de España, con 1.581.057 (2020) de habitantes aunque al no existir una definición oficial sobre la misma, sí existen distintos estudios cuyos resultados varían (Más información en Wikipedia: https://es.wikipedia.org/wiki/%C3%81rea_metropolitana_de_Valencia).

el impacto de la crisis sociosanitaria consecuencia de la COVID-19, especialmente en lo concerniente a las dimensiones laboral, económica y emocional.

De esta manera, el artículo se estructura en diferentes apartados. En primer lugar, se presenta una breve explicación sobre la metodología utilizada para la construcción del mismo y la elaboración del trabajo de campo en el informe sobre el que se basa su análisis. Acto seguido, se aborda una contextualización sociodemográfica sobre la situación de las mujeres inmigrantes en València y su área metropolitana para englobar la realidad que posteriormente será analizada. En tercer lugar, se encuentra el marco teórico sobre el que se sustenta la gobernanza democrática desde el asociacionismo de las mujeres inmigrantes, luego se expone a modo de discusión, un análisis de los resultados obtenidos en el informe de incidencia '*COVID-19: su impacto en las mujeres inmigrantes de la ciudad de Valencia',* como un ejemplo de buenas prácticas de gobernanza democrática desde el tercer sector en España. Finalmente, se esbozan las principales conclusiones obtenidas.

Metodología

Para la elaboración del presente artículo de investigación hemos utilizado 3 técnicas de recolección de datos tanto cualitativas como cuantitativas. En primer lugar, la observación participante ha sido un elemento clave en la construcción del análisis que se aborda en la presente investigación. La utilización de esta técnica viene motivada por el particular hecho de haber sido construida por mujeres investigadoras y profesionales del tercer sector, que realizan día a día un trabajo de intervención directa y un acompañamiento con el colectivo de mujeres que constituye el objeto de estudio de este artículo. De esta manera, de acuerdo con la definición de Corbetta (2007:326-327), esta implicación cotidiana desde el ámbito profesional, permite a las autoras construir una visión "desde dentro" de la propia realidad social investigada, viviendo cómo y con las personas que acontecen su objeto de estudio, compartiendo su cotidianidad para comprender su cosmovisión sobre el mundo desde sus propios términos (ibid), lo que contribuye a dotar, a las conclusiones obtenidas, de rigor y adecuación con la realidad estudiada. En este sentido, epistemológicamente es importante proyectar la investigación desde el conocimiento situado (Haraway, 1995), teniendo en cuenta las características subjetivas y contextuales que rodean la construcción de esta investigación y a sus autoras.

En segundo lugar, el marco teórico sobre el que se fundamenta el análisis abordado se ha articulado a partir de una revisión bibliográfica, como se trata de las bases de datos obtenidas en otras investigaciones enmarcadas en la misma temática o publicadas por instituciones públicas, a nivel nacional y autonómico de España y la Comunitat Valenciana (comunidad autónoma en la que se sitúa València dentro del Estado español), así como literatura científica relevante en la temática. En tercer lugar, y en relación a las fuentes primarias, entre otros documentos internos de la entidad, esta investigación toma como principal referencia en el abordaje del apartado de discusión los resultados cuantitativos obtenidos en el informe de incidencia titulado *COVID-19: su impacto en las mujeres inmigrantes de la ciudad de València,* publicado por la misma en 2020 ante el fuerte impacto que ha supuesto la crisis sociosanitaria generada por la COVID-19 en las vidas de las mujeres inmigrantes. Así, a través de este informe, desde Por Ti Mujer se pretende analizar y visibilizar de qué manera se vio afectada su situación de vulnerabilidad, a nivel socioeconómico y emocional, durante el confinamiento domiciliario.

Con este fin, se realizó un total de 170 entrevistas telefónicas semi-estructuradas a mujeres inmigrantes bajo el criterio de un muestreo no-aleatorio. Todas ellas provenían de América Latina, en su mayoría a Colombia, Venezuela y Honduras, y sus edades son las

comprendidas entre 19 y 74 años, siendo el rango de edad más preponderante el formado por las mujeres que tienen desde 40 a 51 años, seguido de aquellas que tienen entre 29 y 39. El grupo de edad más infrarrepresentado es el formado por mujeres mayores de 62 años. Tal y como se relata en el informe, la elección de la técnica de recogida de datos de la investigación estuvo condicionada por la situación de confinamiento que se impuso en España desde el 14 de marzo hasta el 20 de junio de 2020, lapso temporal en el que se ubica la recogida de datos. La entrevista fue conducida a base de un guion estructurado de acuerdo a las dimensiones a abordar (situación administrativa, brecha digital, mercado laboral, salud, situación socioeconómica, vivienda, protección social y estabilidad emocional), lo que permitió la sistematización de las respuestas, para su posterior análisis cuantitativo de manera triangulada con el resto de fuentes de información y el marco teórico. Asimismo, señala el informe que, aún cuando el interés del estudio radica en lo experimentado a raíz del surgimiento de la COVID-19, también se les interrogó acerca de acontecimientos o vivencias pasadas, pues éstas han condicionado las diferentes adaptaciones a la situación (ibid).

Género y migración: una aproximación sociodemográfica al contexto valenciano en España

Durante las últimas décadas, la consolidación de un nuevo orden socioeconómico en las sociedades contemporáneas ha incrementado los flujos migratorios a escala global. En 2020, se estima que un total de 2,5 millones de personas migraron a la Unión Europea desde otros países no-comunitarios, siendo un total de 23 millones los ciudadanos y ciudadanas procedentes de otros países no-comunitarios que entonces residían en Europa (5,1% de la población) (Eurostat, 2020). España es uno de los principales países europeos receptores de migración dadas las características geográficas, culturales y de su tejido productivo, entre otros factores. Como reflejo de ello, en 2020 fue el segundo país europeo después de Alemania en recibir y tramitar más solicitudes de protección internacional y, el tercero en recibir más solicitudes de visado para estancias de corta duración tras Francia y Alemania (ibid).

En el ámbito mundial, España ocupa el décimo puesto en el ranking de países con más población inmigrante del Atlas de la Población Mundial (2019) elaborado por G. Pison con 5,9 millones en 2015, lo que lo sitúa por detrás de Australia (6,7 millones) y por delante de Italia (5,8 millones). Asimismo, cabe resaltar que el total de población extranjera respecto al total poblacional es de 12,7%, cifra que se acerca a la de los países que lideran este ranking, como es el caso de Estados Unidos con 48,2 millones de inmigrantes, aunque esta cifra supone solo un 15,1% sobre su población total (ibid). De este modo, mientras que a finales de la década de los 90 la proporción de población extranjera en el Estado español oscilaba entre el 1 y el 2%, a 1 de enero de 2021, según consta en los datos del Padrón Continuo obtenido por el Instituto Nacional de Estadística, esta cifra ha aumentado hasta el 11,45%, lo que refleja el crecimiento progresivo de los flujos migratorios a nivel nacional.

Actualmente, entre el total de la población extranjera en España predominan las personas provenientes de países del resto de Europa (40,1%), Sudamérica (20,7%) y África (22%), siendo un 8,1% sobre la población española total el porcentaje de ciudadanos y ciudadanas de nacionalidad de un país no-comunitario. A nivel general, el último Padrón Contínuo estima que la población extranjera en España está compuesta en un 51,1% por hombres y en un 49,9% por mujeres, predominando en su total las personas provenientes de Marruecos, Rumanía y Colombia en su respectivo orden, y habiendo incrementado su presencia considerablemente respecto al año anterior los ciudadanos y ciudadanas de Reino Unido (+6,5%), Colombia (+6,2%) y Honduras (+5,7%).

En cuanto a la Comunidad Valenciana o País Valenciano, comunidad autónoma en España[2], donde Por Ti Mujer desarrolla su actividad y marco contextual de la realidad analizada en el presente artículo de investigación, siempre ha presentado porcentajes de población extranjera mayores respecto a las medias nacionales por su atractivo cultural, geográfico y de su tejido productivo para la población inmigrante. De esta forma, mientras que a finales de la década de los 90 estos porcentajes oscilaron entre un 2 y un 3%, en 2020 se observa que esta cifra ha alcanzado el 14,92%, en especial en cuanto a la provincia de Alicante, donde conforma el 19,81% de la población total. A nivel general, se evidencia que, del total de población extranjera en la Comunidad Valenciana, un 53,8% proviene de países del resto de Europa, un 17,9% de África y, finalmente, 16,5% de Sudamérica. Sin embargo, ante las dificultades que encuentran muchas personas inmigrantes a la hora de empadronarse en el municipio de residencia, hace falta triangular los datos demográficos enmendados tanto a escala nacional, autonómica como europea, pues solo contabilizan el porcentaje de población extranjera empadronada.

A pesar de que el sistema de extranjería español es uno de los más flexibles de Europa, factor condicionante en la creciente acogida de población inmigrante, se estima que buena parte de la población extranjera que reside en el Estado español se encuentra en situación administrativa irregular y, de este modo, indocumentada, a pesar de la inexistencia de instrumentos para obtener cifras reales. Según el Informe jurídico-social sobre la situación de las personas inmigrantes en la Comunidad Valenciana (2018), en 2015 se estima que el 15,43% del total de población extranjera que entonces residía en la Comunidad se encontraba indocumentada, gracias a la obtención de la diferencia del total de extranjeros/eras empadronadas y con permisos de residencia. Todavía así, los datos siguen siendo una pequeña aproximación sobre la cifra real.

En este sentido, la dificultad para obtener un permiso de trabajo y un salario digno para la población migrante hace que, salvo excepciones, ésta se encuentre en riesgo de alta vulnerabilidad y en una permanente situación de indefensión a nivel jurídico y social durante todo el tiempo que dura su proceso de regularización administrativa, el cual suele durar una media de 5 a 10 años cuando se realiza mediante la solicitud de arraigo social. Muestra de esto, según el INE, es que la tasa de riesgo de pobreza o exclusión social en la población no-comunitaria residente en España es de un 56%, frente a un 23% de la población española en 2018.

Como reflejo de ello, el Diagnóstico social de la Ciudad de València (2017) esclarece cómo la presencia de población extranjera ha incidido en la emergencia de nuevos perfiles sociales de población en riesgo de pobreza o exclusión social. En esta línea, el estudio correlaciona la presencia de mujeres o personas extranjeras en los hogares con un mayor riesgo de exclusión social, especialmente en cuanto al riesgo de pobreza monetaria. Esta situación hace especial referencia a los hogares donde las mujeres son cabezas de familia, y se encuentran vinculadas de manera precaria al mercado laboral, característica propia de la situación laboral de un gran número de mujeres migrantes, las cuales se encuentran mayoritariamente vinculadas en el sector del trabajo doméstico y de los cuidados. Sobre la situación social, en términos generales, en la ciudad de València se observa una intensa desigualdad en los ingresos de los hogares, concluyendo que una cuarta parte de éstos se encuentra en situación de vulnerabilidad (ibid.).

[2] Desde 1978, España es un Estado descentralizado distribuido territorialmente por diferentes Comunidades Autónomas con cierto grado de competencia y capacidad de autogobierno en algunas materias, como se trata de sanidad o educación. Cada Comunidad Autónoma está compuesta por al menos una provincia y una capital de provincia.

Paralelamente, la situación de indefensión y vulnerabilidad impuesta por la condición migratoria, hace, además, que las mujeres inmigrantes sean triplemente vulnerables ante la violencia de género, sobre todo por el temor al hecho de que su situación administrativa en España se pueda ver afectada a consecuencia de la denuncia de los hechos, de la solicitud de una orden judicial de protección o del final de su relación matrimonial o de pareja con el maltratador, lo cual, lamentablemente, en muchas ocasiones acaba para obligarla a guardar silencio y normalizar y convivir con el maltrato. Así pues, las mujeres inmigrantes -como mujeres y como inmigrantes- constituyen uno de los colectivos sociales potencialmente más vulnerables, sobre todo cuando se trata de mujeres en situación administrativa irregular.

Todas las cifras analizadas tienen como trasfondo el fenómeno que, por excelencia, ha caracterizado los flujos migratorios contemporáneos: la feminización de las migraciones y la feminización de la pobreza (De Haas, Castles y Miller, 2019; Murguialday, sf). La consolidación del nuevo modelo de desarrollo socioeconómico globalizado contribuyó, desde la década de los 60, a la consolidación de los Estados del bienestar y a la industrialización de los países en el Norte Global. Paralelamente, los países del Sur Global se han visto cada vez más estratificados socioeconómicamente, dando lugar a crisis humanitarias y múltiples vulneraciones de derechos fundamentales. En este escenario, la crisis de cuidados que se generó en el Norte Global a raíz de la creciente incorporación de las mujeres al mercado laboral, como necesidad productiva del sistema junto y la ausencia de políticas públicas de conciliación, especialmente en los Estados del Bienestar de tipo Mediterráneo[3] (Esping Andersen, 1993), entre los que se encuentra España, dio lugar a una demanda de fuerza de trabajo en el sector del hogar y los cuidados que fue asumida por las mujeres migradas del Sur. Este fenómeno se conoce como "cadenas globales de cuidados", definido por Amaia Pérez Orozco como "cadenas de dimensiones transnacionales que se conforman con el objetivo de sostener cotidianamente la vida, y en las que los hogares se transfieren trabajos de cuidados de unos a otros en base a ejes de poder, entre los que cabe destacar el género, la etnia, la clase social y el lugar de procedencia" (2007:4).

Concretamente en España, según datos del Instituto de las Mujeres del Ministerio de Igualdad (sf), la inmigración femenina aumentó en un 417% entre el año 1991 al 2001 ante las condiciones de bonanza socioeconómica acontecidas en esa época en el país, cifra que posteriormente se estabilizó con el aumento de la migración masculina incentivada por otros factores y el impacto de la crisis financiera de 2008. De otra parte, datos de la Encuesta de Población Activa del INE de 2020 indican la sobrerrepresentación de mujeres inmigrantes en los "servicios de restauración, personales, protección y vendedores" (39,1%) y "ocupaciones elementales"[4] (42,9%), frente al de "Directoras y gerentes", donde las mujeres españolas suponen un 3,1% y las extranjeras un 0,8%. Sin embargo, tal y como se matiza en el Informe *la COVID-19: su impacto en las mujeres inmigrantes de la ciudad de València* (Asociación Por Ti Mujer, 2020), estos datos "sufren una distorsión relativa a la gran cantidad de mujeres que se encuentran en situación irregular en España y la Comunitat Valenciana", vinculadas al mundo laboral desde la economía sumergida de manera que, los datos oficiales infrarrepresentan la cantidad de mujeres dedicadas al cuidado.

[3] Esping Andersen (1993) clasifica este modelo de Estado del Bienestar a los países que tuvieron un desarrollo social e industrial más tardío (entre 1970 y 1980), como se trata de Grecia, Italia, Portugal y España. Se caracteriza porque la familia sea el principal núcleo proveedor de bienes y servicios a nivel social, con una intervención subsidiaria del Estado sobre el mercado.

[4] Aquí se incluyen profesiones que van desde ayudantes de cocina hasta lavadoras de vehículos, limpiadoras y asistentes de oficinas y hoteles o peones de explotaciones agrícolas o ganaderas.

Según el informe *Tiempo para el cuidado. El trabajo de cuidados y la crisis global de desigualdad* publicado por Intermón Oxfam (2020) "el valor económico del trabajo de cuidados no remunerado que llevan a cabo en todo el mundo las mujeres de 15 o más años asciende al menos a 10,8 billones de dólares anuales, una cifra que triplica el tamaño de la industria mundial de la tecnología", lo que equivale a un 14,9% del PIB. Además, España es uno de los países que aún no ha ratificado el Convenio 189 de la Organización Mundial del Trabajo, lo que supone que las condiciones laborales en este sector tienden a ser abusivas, generando dinámicas discriminatorias que terminan socavando el bienestar emocional, convirtiéndose en fuente de ansiedad y estrés, especialmente de aquellas mujeres que se encuentran en una situación administrativa irregular (Red Acoge, 2017), atravesadas tanto por el sistema de opresión patriarcal como racista.

Según Oso y Martínez (2008), factores como el idioma, la cercanía cultural o el estigma de ser "dulces, abnegadas o pacientes", hace que las mujeres latinoamericanas sean el perfil de contratación más demandado en este nicho laboral en España, especialmente en lo que respecta a las mujeres peruanas. En contraste, "las dominicanas o colombianas encuentran más dificultades en el acceso, estas últimas por la vinculación simbólica que las asocia con el narcotráfico y la prostitución" (Asociación Por Ti Mujer, 2020), de manera que "la mujer inmigrante trabajadora se enfrenta al prejuicio que la vincula irremediablemente a tareas relativas a la reproducción social, pues su condición de mujer y de inmigrante le dificulta sobremanera el acceso a puestos de mayor cualificación, independientemente de su formación y experiencia previa (OIM, 2015, citado en Asociación Por Ti Mujer, 2020).

En definitiva, "la estructura social española y los discursos articulados en torno a la migración, generan una división sexual y étnica del trabajo que encapsula al colectivo de mujeres inmigrantes en ocupaciones que, siempre giran en torno a la órbita del cuidado o la limpieza, sin importar el capital cultural que muchas mujeres detentan" (ibid). El condicionante migratorio es pues un alto factor de vulnerabilidad que, junto con el género, expone a las mujeres inmigrantes a sufrir toda una serie de opresiones y violencias desde sus interseccionalidades (Crenshaw, 2017). Así, tanto el Estado como los organismos internacionales, a pesar de los múltiples tratados en materia de derechos humanos de las mujeres y las personas inmigrantes ratificados a nivel internacional, niegan a este colectivo su posibilidad de ejercer de forma activa su ciudadanía y de hacer efectivos a sus derechos humanos, desde la total indefensión jurídica y social en la que se ven inmersas especialmente cuando su condición administrativa es irregular.

Gobernanza y Sociedad Civil: aportes desde la Asociación de Mujeres Inmigrantes

La gobernanza implica nuevas formas de gobernar, sustentada en una cooperación e interacción entre diversos actores (Peters y Pierre, 1998; Kooiman, 2002; Ingraham y Lynn, 2004; Mayntz, 2001; Rosenau y Czempiel, 1992). Pasar de una visión unidireccional entre gobernados y gobernantes, a una bidireccional y multilateral donde los actores son interdependientes (Aguilar, 2007 y 2010; Prats, 2003; 2004; 2005; Kooiman, 1993; 2003; 2005; Mayntz, 2001; 2003). Este contexto democrático lleva inmerso un conflictos de intereses y el establecimiento de relaciones de poder de los diferentes actores implicados (Castells, 1998), de ahí que sea imprescindible una deliberación e implicación ciudadana pluralista -de proximidad y conformación de redes locales- (Blanco y Gomà, 2003; Brugué, Gomà y Subirats, 2001). En este escenario, la sociedad civil organizada, destacando a las Asociaciones, podría jugar un rol importante a la hora de dar respuesta a las demandas societales inmersas en una realidad diversa, compleja y dinámica.

La APTM viene desarrollando diversos programas y proyectos con el fin de combatir

las causas estructurales que restringen o afectan al ejercicio de la ciudadanía de las mujeres inmigrantes, víctimas de violencia de género y/o en riesgo de exclusión psicosocial, tanto en València y su área metropolitana como en Colombia. Para ello, la entidad brinda de manera integral y gratuita una serie de servicios especializados dirigidos a este colectivo de mujeres, en el caso de talleres y cursos de formación y servicios de atención directa e individualizada a nivel jurídico, sociolaboral y psicológico. Todos ellos se proyectan de manera transversal desde un enfoque de género, intercultural, interseccional y basado en Derechos Humanos.

Desde el ámbito de la migración, se destaca la participación e incidencia en otros niveles más allá del contexto local, ya que la APTM forma parte del Lobby Europeo de Mujeres en España y de la Platform for International Cooperation on Undocumented Migrants (PICUM) y es representante en España de la European Network of Migrant Women (ENoWM). Desde el fortalecimiento de una ciudadanía activa, en este ámbito se distingue también su adhesión al Movimiento #RegularizaciónYa, un movimiento ciudadano que surge a nivel estatal con la instauración del Estado de Alarma en marzo de 2020 y, aboga por una "regularización sin condiciones ni exclusiones para las personas en situación irregular, invisibles ante toda política de protección social"[5]. Gracias al apoyo de más de 1500 organizaciones de todo el país, este movimiento ha puesto en el centro del debate social y político la necesidad de hacer un replanteamiento integral de las políticas sociales y migratorias (ibid.).

En definitiva, la presencia de la APTM en este tipo de espacios, favorece la posibilidad de realizar un trabajo de incidencia social y política mediante el cual poder contribuir a incorporar en la agenda política las necesidades y problemáticas de las mujeres inmigrantes, con el fin de que se hagan efectivos sus derechos y el ejercicio de una ciudadanía activa y comprometida para garantizar una vida libre de violencias. Como asociación de mujeres, la APTM ha logrado posicionarse en el escenario político y ha contribuido en los procesos de fortalecimiento de la gobernanza local, convirtiéndose en ese actor de proximidad al colectivo migrante, en tanto se constituye no solo en un espacio para canalizar y resolver algunas demandas específicas, sino más bien, como ese espacio de participación que ayuda a la consolidación de una sociedad civil más fuerte, que permite a las mujeres inmigrantes residentes en València, encontrarse, identificarse y constituir redes, vínculos y alianzas para aumentar su capital social (Putnam et al, 1993; Bourdieu, 2006).

Adicionalmente, en esta misma línea, la Asociación cuenta con una línea de publicaciones[6] en las que se reflejan y ponen en valor las realidades vividas por sus usuarias desde sus propios discursos y los procesos de acompañamiento que se les brinda desde Por Ti Mujer. De esta manera, desde Por Ti Mujer se pretende poner en valor el papel del tercer sector como herramienta para contribuir a la gobernanza democrática, la construcción de la política pública, el fortalecimiento y la defensa de los derechos humanos de las mujeres inmigrantes en València y también, la sensibilización y el fortalecimiento de la sociedad civil. Específicamente, en el presente texto se incluye el trabajo de campo realizado por la organización ante el gran impacto ocasionado por la pandemia de la COVID-19, en el que se sistematiza de qué manera la situación de las mujeres inmigrantes se ha visto afectada de manera económica, social y emocional.

[5] Se proponen 13 medidas que interpelan al gobierno, instándole a resolver cuestiones pendientes como la sistemática desatención o denegación de solicitudes de asilo, la violencia que es ejercida hacia las y los menores no acompañados o el deficiente funcionamiento del sistema de atención de extranjería. Para más información consultar la web oficial del movimiento: https://regularizacionya.com/

[6] Se destaca la publicación de dos informes: 1. *Covid-19: su impacto en las mujeres inmigrantes de la ciudad de València* (Asociación Por Ti Mujer, 2020a), 2. *Violencia sexual a mujeres inmigrantes del sector de los cuidados* (ibid, 2020b) o la 3. Campaña 'Internet es un derecho' (ibid, 2020c). Más información en la bibliografía.

Finalmente se señala que, cuando se enfrenta ante un fenómeno tan complejo y dinámico, el Estado ya no debe ser el único actor para resolver las demandas societales; sino más bien, debe asumir un papel activo de animación, facilitación y coordinación. Entendiendo que, la gobernanza no implica necesariamente una disminución de los roles del gobierno (Prats, 2005); sino más bien, un cambio del rol asumido (Kooiman, 2005: 58). Un rol que propenda por la generación de espacios para la participación y el fortalecimiento de asociaciones público-privadas (de diversos tipos y alcances) (Mayntz; 2001; Prats, 1996), comprometiendo no solo las capacidades y los recursos, sino también las responsabilidades. Con estas líneas de actuación se fomenta la construcción de una serie de propuestas que fortalecen las políticas públicas, como buena práctica de incidencia social, para que, desde una proyección local (Robertson, 1993), pueda replicarse desde otros contextos y lugares.

COVID-19 y vulneración de derechos: un estudio de caso sobre las mujeres inmigrantes en Valencia (España)

En conexión con la metodología descrita en el apartado 2 y a modo de discusión, a continuación, se exponen los principales resultados obtenidos en el análisis de los datos cuantitativos obtenidos por la Asociación Por Ti Mujer (2020a) a raíz del informe de incidencia 'COVID-19: su impacto en las mujeres inmigrantes de la ciudad de València'. El análisis brinda al lector/ora una visión panorámica acerca de la vulneración de derechos de las mujeres inmigrantes generada por esta crisis sociosanitaria desde el estudio de caso realizado por la organización, en el que participaron 170 mujeres de la ciudad de València y su área metropolitana.

Dentro la línea de incidencia e investigación de la APTM, el informe constituye así un referente de buenas prácticas de gobernanza desde el asociacionismo y el tercer sector en el ámbito del género y la migración al dar voz y visibilidad a las realidades vividas por las mujeres inmigrantes desde sus propios discursos y, plantear una serie de conclusiones y recomendaciones enfocadas a hacer incidencia sobre la agenda política pública y promover la sensibilización de la sociedad civil.

Los resultados del estudio han evidenciado un claro impacto de la COVID-19, no solo en la salud de las mujeres sino en las dimensiones sociales, económicas y administrativas de su vida cotidiana de manera transversal, concretamente en lo que respecta al acceso al mercado laboral, a la vivienda, a la internet y a la salud mental y emocional. Las situaciones que se describen han agravado una situación de vulnerabilidad que ya existía y que ha repercutido en el aumento de la precarización de sus vidas, manifiesta por las múltiples discriminaciones de las que son objeto mujeres y en específico las mujeres inmigrantes, por razones de género, etnia, clase social, etc. De hecho, un 75,7% de las mujeres que participaron en el estudio ya consideran encontrarse en una situación más vulnerable por el hecho de ser mujer.

Mercado laboral

En relación al ámbito laboral, el confinamiento ha afectado con mayor incidencia al colectivo femenino, relacionado principalmente por la dificultad en la conciliación familiar, laboral y personal, por el aumento del riesgo a padecer situaciones de violencia de género y la dificultad de acceso a determinados empleos. Frente al mercado laboral, se pudo constatar que la gran mayoría de ellas está sin empleo (76,5%). El 60,6% estaba desempleada antes de la COVID-19 y el 15,9% de estas mujeres ha perdido su trabajo a causa de la crisis económica sobrevenida por la pandemia.

Entre tanto, de las mujeres ocupadas, solo el 8,2% está empleada con un contrato de trabajo en regla y, el otro 15,3% desarrollan su actividad sin un contrato laboral regularizado,

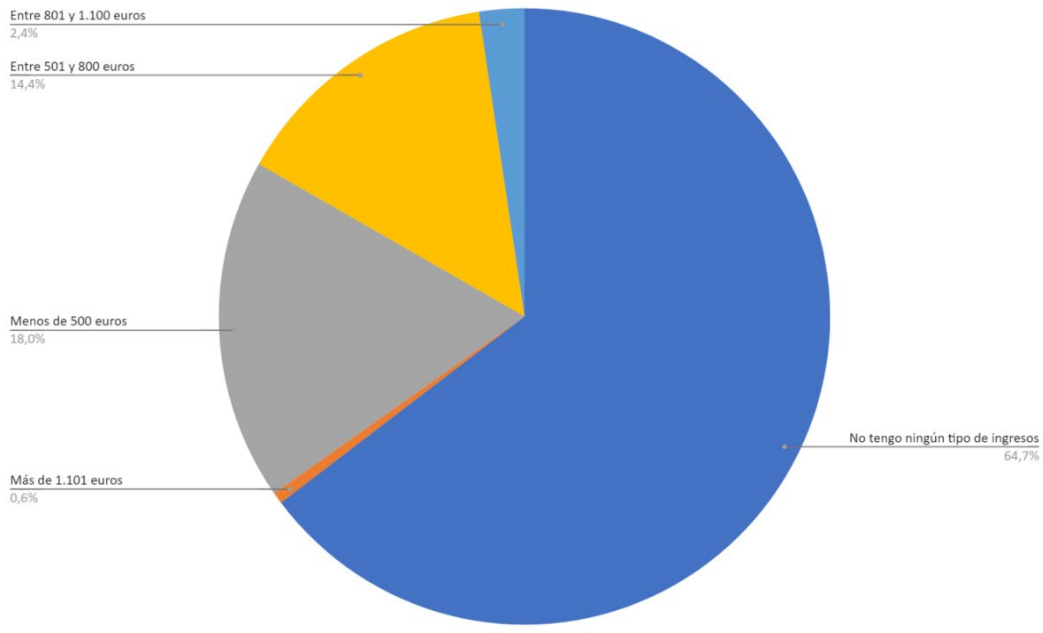
con todo lo que ello implica en términos de cotizaciones, el acceso a subsidios por desempleo, y en general, el acceso a sus derechos laborales. Así mismo, hay que destacar que la mayoría de las mujeres que manifestaron estar trabajando (23,5%), lo hacen a través de un trabajo temporal y en algunos casos, no superan las 10 horas semanales, lo que genera una precariedad laboral y una inestabilidad de la economía familiar difícil de subsanar.

En concordancia con lo que se refleja en la contextualización elaborada en el apartado 3, frente a las áreas de trabajo, como es la tendencia de ocupación de las mujeres inmigrantes en España, las categorías laborales predominantes son las de limpieza, empleada doméstica a nivel interno, y en general, empleada del hogar y los cuidados, agrupando a un 80,2% de las mujeres que participaron en el estudio. En el caso de las mujeres que ejercen el trabajo de cuidados como internas (22,7%), sus jornadas laborales suelen exceder las 60 horas semanales, lo que supone una clara vulneración a sus derechos.

En general, las mujeres presentan unas precarias condiciones laborales, lo que aumenta su vulnerabilidad. Sus ingresos resultan ser insuficientes para hacer frente a sus necesidades vitales, tanto de ellas mismas, como de sus familias que viven en el lugar de destino, como para sus familias en el país de origen. Como se observa en el Figura 1, el 64,7% de las mujeres encuestadas no recibe ningún tipo de ingresos, y únicamente el 2,4% percibe entre 801 y 1.100 euros. El porcentaje de mujeres encuestadas que ingresa más de 1.100 euros al mes representa solamente el 0,6%. De los ingresos percibidos se destaca que en su mayoría, están destinados a cuatro categorías, tres relacionadas con el hogar en destino: alimentación (33,3%), alquiler (29,1%) y pago de suministros y servicios básicos (19,5%) y una con el hogar en origen, a través del envío de dinero a sus familias (6,6%), lo que nos demuestra la importancia de las remesas en las economías de países de origen y destino. Estas situaciones se hacen evidentes, además, cuando en su percepción el 78,7% de las mujeres que participaron del estudio, manifiestan tener dificultades para llegar a fin de mes.

Figura 1

Porcentaje de respuestas de las entrevistadas ante la pregunta '¿Cuáles son tus ingresos en este momento?'



Fuente: elaboración propia

De todos los asuntos relacionados con el empleo es el área que más preocupa a las mujeres (34,3%), seguido de dos elementos asociados, como la generación de ingresos para el pago de la vivienda (28,8%) y la crisis económica ocasionada por la pandemia (20,15%). Por su parte, la salud, la educación de sus hijas/os y la conciliación familiar y laboral ocupan, entre sus preocupaciones un lugar rezagado, con un 7,1%, 5,6% y 2,8%, respectivamente. En este sentido, llama la atención, que pese a que el 34,3% de las mujeres del estudio presentan una situación administrativa irregular (sin documentación), solo al 1% de estas mujeres, la condición administrativa signifique una preocupación, alejando de sus percepciones también de otros asuntos, educación (2,4%), la salud (2,9%) por la considerable cobertura básica que tiene el Estado del Bienestar español, a pesar de haber sido clasificado dentro del Modelo Mediterráneo de acuerdo con el criterio de Esping-Andersen (1993) y de las restricciones impuestas por la política administrativa de extranjería. En este sentido, cabe destacar de nuevo que España constituye uno de los países con una ley de extranjería más laxa.

Acceso a la vivienda

Tal y como señala la APTM (2020a), las condiciones de habitabilidad de las viviendas se han configurado como un elemento crucial a la hora de evaluar el impacto de la COVID-19 en la población, sobre todo durante el período en que fue decretado el Estado de Alarma. En este sentido, resalta la ONU (2018, citada en ibid.), un entorno doméstico óptimo ayuda a prevenir enfermedades y promueve la resiliencia de las comunidades. Por el contrario, una insuficiencia de suministros y de saneamiento expone a los convivientes a numerosas enfermedades, entre las que se encuentran las transmisibles. Otros problemas son desencadenados por la contaminación del aire, la contaminación acústica, el coste elevado de la calefacción, el amianto o el hacinamiento que sufren muchos barrios del país (ibid.). El confinamiento ha reabierto el debate sobre la vivienda, pues se ha puesto de manifiesto la importancia de ésta a la hora de garantizar una vida plena.

El alto precio de la vivienda en el territorio español, evidencia que tan solo un 3,6% de las mujeres encuestadas tiene vivienda propia y su pago constituye una de las principales preocupaciones de todas ellas (34,3%), como ya se ha señalado en el anterior apartado. La práctica totalidad de ellas hace uso de la modalidad en alquiler, ya sea alquilando solo una habitación en un piso compartido (41,7%) o una vivienda entera para habitarla con el núcleo familiar (50%). Se destaca que el 4,8% de las mujeres viven en casas de acogida, destinadas por los gobiernos para ser ocupadas principalmente por víctimas de violencia de género o en riesgo de exclusión social.

Brecha digital

Señalaba el ex Relator Especial de las Naciones Unidas, Frank La Rue, que “Internet es uno de los instrumentos más poderosos del siglo XXI para aumentar la transparencia en la conducta de los poderosos, el acceso a la información y facilitar la participación activa de los ciudadanos en la construcción de sociedades democráticas” (APC, 2016). En este aspecto, la APTM (2020c) resaltaba en su campaña de sensibilización ‘Internet es un derecho’ que tanto la falta de alfabetización digital y de acceso a la compra y mantenimiento de dispositivos y del servicio de internet en los colectivos sociales más vulnerables, como se trata de las mujeres inmigrantes, especialmente cuando se encuentran en una situación de violencia y en situación administrativa irregular, afecta gravemente al ejercicio de sus derechos más fundamentales, como el derecho a la información, la participación, la educación, a un trabajo digno, al ocio y a la cultura o a la no discriminación, entre muchos otros, por lo que debemos de dejar de considerarlo un lujo.

Frente al 5,5% de las mujeres encuestadas que manifestaron presentar dificultades para el acceso a internet, se ha profundizado en este elemento, debido al papel que ha protagonizado en el contexto actual. La Internet se ha convertido en un elemento fundamental para la continuación de una multitud de actividades desarrolladas por la APTM que anteriormente realizaba de manera presencial, convirtiéndose en un medio para el ejercicio laboral y formativo. Más allá de estos ámbitos, con la pandemia la internet se ubicó como uno de los medios de comunicación masiva, de ocio y entretenimiento para las familias (Asociación Por Ti Mujer, 2020a). Una herramienta que contribuyó en aminorar la carga emocional que suponía el confinamiento social y preventivo (ibid).

Sin embargo, para las mujeres inmigrantes este acceso fue uno de los obstáculos que tuvieron que afrontar; si bien solo el 0,6% de las mujeres encuestadas no tenía ningún tipo de acceso, la mitad de ellas tenía un acceso limitado. El 43,5% de estas mujeres acceden al servicio a través de la disposición de datos con su telefonía móvil o recibe la señal de WIFI por medio de una clave prestada (4,7%); situación que no permite garantizar el acceso a una Internet estable e ilimitado como el que demanda la situación de pandemia, quedando al margen de contar con un soporte que permita descargar contenido digital y multimedia, y en consecuencia, ahondando la brecha digital. La otra mitad (51,2%), tienen un contrato con empresas prestadoras de servicios de internet en sus casas.

COVID-19 y salud mental y emocional

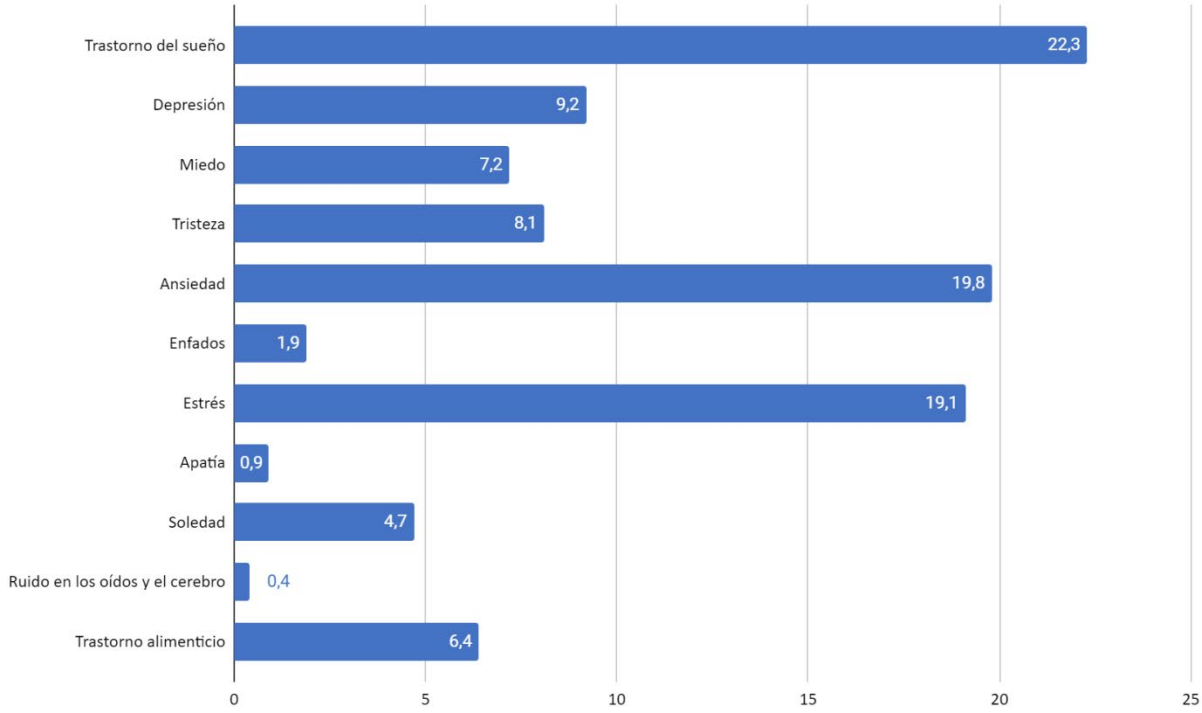
El Estado de Alarma y la situación de confinamiento que llevó implícito, provocaron unas consecuencias negativas en la salud mental y física de muchas personas. Prácticamente, la totalidad de las mujeres encuestadas reconocen una afectación en la situación emocional (95,3%). De la diversidad de alteraciones emocionales manifiestas (ver Figura 2), se destacan con mayor preponderancia: el trastorno del sueño (68,82%), seguido del trastorno de ansiedad (61,18%) y el estrés (58,82%). Es de anotar que la pérdida de sociabilidad, percibida en el 53,18% de las mujeres, está asociada a los sentimientos de soledad y desamparo. La tristeza y el miedo de forma aislada pero mayoritariamente simultánea, con un 24,71% y 21,76%, respectivamente.

Todas estas alteraciones se encuentran atravesadas por el duelo migratorio que marcan los primeros años de estancia en la sociedad de acogida de las personas migrantes en su proceso de integración, al carecer de capital social y de redes de apoyo y de cuidados en la sociedad de acogida y/o al haber dejado a hijos/as u otros familiares económicamente dependientes en la sociedad de origen. En este caso, a este duelo debemos de sumar el impacto emocional generado a raíz de la pandemia y la dificultad añadida en el acceso a los servicios básicos y, al aumento de la situación de vulnerabilidad socioeconómica.

Por lo general, los servicios de salud mental públicos tienen en España una cobertura muy residual. Además, durante la pandemia se han visto profundamente desbordados, lo que ha afectado a la calidad y efectividad del servicio, de manera que tanto la población en general como las minorías sociales más vulnerables, como se trata de las mujeres inmigrantes participantes en el estudio, especialmente aquellas que en aquel momento se encontraban en situación administrativa irregular, han tenido un acceso muy limitado a la intervención y acompañamiento por parte de un o una profesional. En este sentido, cabe señalar cómo el único recurso al que ha tenido fácil acceso este colectivo, ha sido a la intervención psicológica brindada desde el tercer sector, a través de organizaciones como se trata de Por Ti Mujer.

Figura 2

Porcentaje de respuestas de las entrevistadas ante la pregunta '¿A partir de la COVID-19 has presentado alguna de las siguientes alteraciones?'



Fuente: elaboración propia

Conclusiones

Los procesos migratorios y, en específico, la feminización y la pobreza asociada a este fenómeno, requiere cambios en las formas tradicionales de gobernar. Frente a su dinámica y complejidad, es necesario replantear los roles de los actores presentes en el territorio para dar una respuesta adecuada a las necesidades y las demandas que les son implícitas. En este contexto, las Asociaciones de Mujeres Inmigrantes, como parte de la sociedad civil organizada, se constituyen en un actor importante a la hora de negociar, definir y consensuar acuerdos que contribuyan en la construcción de las políticas públicas, en la medida en que sus líneas de actuación no solo busquen la satisfacción de las necesidades básicas e inmediatas, sino más bien, logren establecer mecanismos de participación e incidencia política, en distintos ámbitos y niveles, que permitan el acceso y la garantía de los derechos humanos.

La deliberación e implicación de diversos actores, además de fortalecer los procesos de gobernanza, potencializa e incrementa el capital social en el territorio. Un elemento que cobró especial trascendencia en el contexto de la actual crisis social, sanitaria y económica ocasionada por la COVID-19. Es de anotar que, si bien los datos demuestran que la pandemia ha tenido una repercusión negativa en toda la población; es en los colectivos que presentan una situación de mayor vulnerabilidad, como las mujeres inmigrantes, donde se ha presentado una mayor incidencia, en especial en lo que respecta al acceso al mercado laboral, la vivienda, a internet o a la salud mental y emocional. Las situaciones de desigualdad estructural que hacen parte del contexto, la precariedad de las condiciones de trabajo y la menor remuneración económica que perciben, asociados principalmente al área de trabajo donde mayormente desempeñan sus tareas como son el ámbito del hogar y los cuidados, han sido algunas de las circunstancias que se han visto agravadas en la vida de las mujeres inmigrantes en general, y en mayor medida en las mujeres en situación administrativa irregular.

La crisis de la COVID-19 también ha evidenciado la debilidad de los sistemas de protección social, mostrados incapaces de garantizar las necesidades poblacionales. Las medidas de reconstrucción que se prevén para salir de la crisis, deben por tanto, promover acciones integrales, que consideren las situaciones estructurales que generan la desigualdad, la discriminación y la vulnerabilidad existente. Esto implica la aceptación, que frente a la complejidad de los procesos, se hace necesaria la articulación de los diversos actores, que permitan avanzar en la cohesión, la coordinación, la cooperación y la integración. El Estado ya no puede ser el único actor en la formulación de las políticas, sino más bien, debe garantizar la generación de espacios para la participación y el fortalecimiento del trabajo en red y alianzas con otros actores, públicos y privados, garantizando no solo la existencia de los recursos, técnicos y económicos, sino también, el fortalecimiento de las capacidades y las responsabilidades de otros actores implicados, en los que las asociaciones, por su proximidad, podrían jugar un papel preponderante.

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COVID-19, Migrants, Refugees, Mobile Workers: Global Assessment and Action Agenda

COVID-19, migrantes, refugiados, trabajadores móviles: evaluación global y agenda de acción

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Abstract

The COVID-19 pandemic has disproportionately affected millions of migrants, refugees, asylum-seekers, and stateless persons as well as IDPs worldwide. At the same time, the dependence of economies and societies on migrant and refugee labour to perform essential work in such sectors as healthcare, transportation, services, agriculture, food production and distribution, construction, industry, commerce, and others became even more obvious. However, many policies and actions addressing COVID-19 at the beginning of the pandemic were established with little or no consideration for migrants and refugees, resulting in excessive COVID cases, high mortality rates, unemployment, and loss of livelihood across migrant and refugee populations. The paper argues that a comprehensive and rights-based package of measures is needed for effective response to the pandemic, relevant and proportionate to prevent the spread of coronavirus and allowing for people and economies to sustain socio-economic development on local, national, and regional levels. Based on in-depth review and critical analysis of literature as well as synthesis of approaches and recommendations contained in guidance documents from international organisations, the paper provides policy lines and actions/action steps on COVID-19 and migrants and refugees. It covers the interrelated issues of health and healthcare including vaccination; non-discrimination and inclusion; social protection; employment; community support and protection; gender; refugee specific measures; cross-border mobility; data, narrative, and communications; and recovery. Only a comprehensive package of measures that includes migrants, refugees, asylum seekers, stateless

Summary: Introduction, Methodology, Challenges faced by refugees, migrants, host communities and countries of residence, Need for urgent, appropriate action by governments and all other actors, Overarching normative obligations for treatment of migrants and refugees, A Checklist of Practical Guidelines for action, legislation, policy and monitoring and Conclusions.
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persons and IDPs in national and local COVID-19 responses can possibly solve challenges posed by the pandemic in our global, mobile, interconnected and interdependent world.

Keywords: migration, health, migrant workers, asylum seekers, stateless persons, internally displaced persons (IDPs), human rights, discrimination, social protection, labour, employment.

Resumen

La pandemia de COVID-19 ha afectado de manera desproporcionada a millones de migrantes, refugiados, solicitantes de asilo y apátridas, así como a desplazados internos en todo el mundo. La dependencia de las economías y sociedades de la mano de obra de migrantes y refugiados para realizar el trabajo esencial se volvió aún más obvio en sectores como la salud, el transporte, los servicios, la producción y distribución de alimentos, la construcción, la industria, el comercio y otros. Sin embargo, muchas políticas y acciones que abordan la COVID-19 se establecieron con poca o ninguna consideración por los migrantes y refugiados, lo que resultó en casos de COVID excesivos, altas tasas de mortalidad, desempleo y pérdida de medios de vida por muchas poblaciones de migrantes y refugiados. El documento argumenta que se necesita un paquete integral de medidas relevantes y proporcionadas, basado en los derechos, para prevenir la propagación del coronavirus y permitir que los pueblos y las economías sostengan el desarrollo socio-económico a nivel local, nacional y regional. Basado en un análisis crítico de la literatura y la síntesis de recomendaciones de organizaciones internacionales e informes de expertos, el documento proporciona líneas de política y acciones sobre la COVID-19, migrantes y refugiados. Cubre las cuestiones interrelacionadas de la salud, la asistencia sanitaria y la vacunación; la no-discriminación e inclusión; protección social; empleo; apoyo y protección de las comunidades; género; medidas para refugiados; movilidad transfronteriza; datos, narrativa y comunicaciones; y recuperación. Solo un paquete integral de medidas que incluya a migrantes, refugiados, apátridas y desplazados internos en las respuestas la COVID-19 puede resolver los desafíos levantados por la pandemia en nuestro mundo móvil, interconectado e interdependiente.

Palabras clave: migración, salud, trabajadores migrantes, solicitantes de asilo, apátridas, desplazados internos (IDPs), derechos humanos, discriminación, protección social, trabajo, empleo.

Introduction

> *COVID-19 has shown us that excluding and discriminating against groups of people makes us all weaker. To build societies that can be more resilient and resistant to all kinds of shocks, we need to act with greater solidarity. Instead of repeating harmful narratives of fear and exclusion, it's time to welcome people into our communities, to reimagine our collective future.*
> United Nations High Commissioner for Human Rights, Michelle Bachelet (OHCHR, 2020b).

As demonstrated worldwide since the outset of the COVID-19 pandemic, many response measures and/or the lack thereof, created compounded health, social and economic risks, and costs of the still-spreading coronavirus. The aggregate response –or rather the absence of a globally coordinated, scientifically sound and cooperative solidarity response– continues to impede ending the pandemic as well as economic and social recovery. The recent emergence of new variants –*omicron* in November 2021– appeared to aggravate the situation globally. Migrants, refugees, asylum seekers, stateless persons, mobile and seasonal workers remain among those most at risk and those most severely affected. In consequence, economic

and social problems and costs for nations and societies continue to be exacerbated worldwide.

Major challenge arises not only from the pandemic itself but from measures by some government, employer and private actors vis-a-vis migrants, refugees, IDPs and stateless persons. These have included fear-based and non-science-grounded actions resulting in seriously detrimental consequences for economies, businesses, health, social welfare and social cohesion of communities and entire countries.

Without –or despite– accurate assessment of risks and scientifically sound and context-appropriate approaches, governments worldwide continue to take poorly informed and reactive measures often based on narrow political considerations that exacerbate privation and suffering faced by populations, particularly migrants and refugees, as well as aggravating economic costs.

The big picture

At the beginning of 2020, there were an estimated 281 million foreign-born people residing in countries other than where they were born or held original citizenship (UNDESA, 2021a) representing about 3.6 percent of the world's population – a proportion that has only "inched up" since 1970 when the estimated migrant population was 2.5% of the global total. 73 per cent of international migrants worldwide were between the ages of 20 and 64 years, compared to 57 per cent for the total world population (UNDESA, 2021b).

That UN global estimate includes refugees and asylum-seekers but cannot account for internally displaced persons (IDPs) who remain on the territory of their country of origin. Latest UNHCR figures as of mid-2021 (updated 10 November 2021) counted 26.6 million refugees, including 5.7 million Palestinians under UNRWA (United Nation Relief and Works Agency) mandate, 4.4 million asylum seekers and 3.9 million Venezuelans displaced abroad not counted among refugees or asylum-seekers (UNHCR, 2021e). At least 10 million people in the world today are stateless (UNHCR, n.d.). UNHCR also estimated a total of 48 million internally displaced persons (IDPs) as of end-2020 (UNHCR, 2021e).

Many other *foreign* persons in temporary, short-term, or seasonal employment and/or residence situations are not counted in UN and other statistics on *international migrants* when their sojourn is less than a year and/or if they retain formal residency in another country. The UN estimate does not include persons visiting a country for short periods such as tourists, nor commercial or transportation workers who have not changed their place of residence, nor itinerant cross-border traders, several hundred thousand of whom circulate across respectively Eastern, Southern and Western Africa while remaining legally resident in their home country (Taran, 2018).

The movement of people across borders remains a misunderstood and underestimated lifeline for peoples, countries, and economies worldwide. In 2019, international migrant workers constituted 4.9 per cent of the global labour force (ILO, 2021). Most industrialized and many developing countries rely on foreign-born migrant workers for 5 to 20 percent of their workforces. The share of migrant workers in total labour force by region is: 41.4 per cent overall in Arab States –up to 90 per cent in several GCC countries; 20.0 per cent in Northern America; 18.4 per cent in Northern, Southern and Western Europe; 9.4 per cent in Eastern Europe; and 12 per cent in Central and Western Asia (data for 2019) (ILO, 2021a). As the pandemic situation has highlighted, many *essential* workers in healthcare, food production, processing and distribution, transportation, etc. are migrant workers.

While the COVID-19 situation has unprecedented aspects, international normative standards, ample scientific knowledge, and experience from previous pandemics provide the basis for policy and action to meet emergency needs, sustain economic activity and social welfare, and shape recovery.

Methodology

This article is based on a broad review of relevant literature from early 2020 to December 2021, also drawing on earlier works on health and pandemics. Its scope is inclusive of asylum seekers and stateless persons and refers to internally displaced persons (IDPs) whose situations and treatment are often similar to those of refugees and international migrants.

The situation narrative and critical analysis were derived from and built on information and perspective garnered across a broad range of contemporary literature, including scientific reports, international institutional documents and web-posts, authoritative journal articles and current reporting in periodicals considered credible. The comprehensive agenda of policy lines and actions/action steps on COVID-19 and migrants and refugees was synthesized and elaborated from guidance and recommendations by international organisations across the UN system and others, using a recombinant approach applied in preparing international common agenda and consensus documents and recommendations. The extensive review, analysis and comprehensive synthesis of collective recommendations sought to cover interrelated issues and challenges of health and healthcare including non-discrimination and inclusion; vaccination; social protection; employment; community support and protection; gender; cross-border mobility; refugee specific measures; data; narrative; communication; and recovery.

This article is framed as a policy brief to support government authorities, parliamentarians, city governments, social partners, civil society organisations and refugee and migrant actors with concrete practical guidance for effective, rights-based lines of action to: protect people's safety and health; provide attention to health and sustenance for migrants, migrant workers, refugees, asylum-seekers, mobile workers, internally displaced persons (IDPs) and stateless persons; ensure protection of human rights, including health-related rights and labour rights of all concerned; and enable economic and social recovery.

An earlier version of this research was published in May 2021 in Spanish in the journal Revista Compendium: Cuadernos de Economía y Administración (Taran and Solorzano, 2021).

Challenges faced by refugees, migrants, host communities and countries of residence An Overview

Tens of millions of migrants, refugees, asylum seekers, IDPs and stateless persons worldwide were from the outset among those most severely affected by the COVID-19 global pandemic worldwide. Millions more temporary, short-term, seasonal, and itinerant migrants are similarly affected. According to UNHCR, more than 134 countries hosting refugees have been affected by the pandemic and reported local transmission of COVID-19 (UNHCR, 2021b). 85 per cent of the world's refugees are hosted in developing countries. The Least Developed Countries provide asylum to 27 per cent of the total (UNHCR, 2021e). "The various population groups face very different living conditions depending on their legal status, demographic characteristics, the country where they live, their location in camps or in urban settings, among other factors" (Vishwanath, Alik-Lagrange and Aghabarari, 2020, p.6).

However, many measures, policies and actions addressing COVID-19 were and

continue to be taken with little or no consideration for or attention to migrants, refugees, asylum seekers, IDPs or stateless persons. Nor for the labour and economic consequences of restricting cross border/international mobility. Excluding those groups, who are part of the society and key economic actors in initial and ongoing responses has had dire consequences not only for these populations, but also on human, health, social, and economic conditions for countries of residence and for countries of origin.

Perhaps most serious are measures formal or informal, intentional or not, that exclude foreigners, migrants, refugees, asylum seekers, stateless persons and/or displaced persons from healthcare and from coronavirus prevention and treatment. Such measures range from 'citizens only' restrictions to immigration control enforcement leaving migrants and refugees – particularly those in irregular status and/or with non-extended permits– fearful of approaching health care providers due to lack of documentation and fear of discrimination and/or deportation. Especially problematic has been deportation of Covid-carrying persons from detention or job dismissal, without informing them, the transporter, or health authorities.

Health care services have been unavailable, inaccessible, or non-existent in practical terms for migrants and refugees in many places even when they do have legal status. Health care may be non-existent or prohibitively expensive for those not legally resident on the territory, who may also fear coming forward for testing or treatment because of the risk of detention or deportation for irregularities in immigration status. Similarly, they may face difficulties in obtaining information on risks and mitigation measures due to language barriers and communications not accessible by them.

Measures widely imposed included closing borders and restricting or stopping altogether movement of migrants, as well as refugees, asylum seekers, and stateless persons despite adverse consequences to food production, health-work, aged- and child-care, transportation and other essential work and to recovery –as well as to refugee protection; lockdown measures that left migrants, refugees, IDPs, asylum seekers and stateless persons highly exposed to infection and to transmission; retaining foreign workers in 'essential work' but with little or no personal protection equipment (PPE) in exposure to high risk working and living situations; expulsion and deportation from territories of foreigners, including deportation flights to homelands despite air travel shut-down and the risk of refoulement of refugees and asylum seekers.

These consequences included absence of needed health care workers, high infection and death rates among immigrant, migrant and refugee health care workers, reduction of food production due to absence of migrant workers for crucial planting, cultivating, harvesting, and processing activity for which local and native workers are not available, and constraints in transportation where many trucking, bus and railway workers are migrants and/or operate internationally.

The economic costs of constraints on mobility of workers at all skills levels continues to debilitate entire sectors of economies in countries across Africa, Eurasia, Europe, and the Americas, particularly those more dependent on international mobility of people to provide labour and skills. Seasonal agricultural work, food production, health care, construction, local/regional industrial production and marketing, distribution of goods and services are among *essential* sectors adversely affected in many countries.

Migrant Workers

"The COVID-19 pandemic has had a devastating impact on migrant workers and their access to decent work. Beyond the immediate public health crisis, response measures including lockdowns and border closures had specific implications for the hiring and employment conditions of migrant workers. These measures increased the [risks faced by] migrant workers at the same time as economic and social dependence on migrant workers who deliver essential services such as healthcare and sanitation has deepened" (Jones, Mudaliar and Piper, 2021, p.vii)

Reports by human rights monitoring groups on situations in a number of countries described pre-existing and new conditions faced by migrants, refugees and forcibly displaced people worldwide that have been exacerbated by COVID-19. As a country report by a human rights monitoring body put it, "Migrant workers... face a range of entrenched abuses from employers, including deceptive recruitment practices, wage theft, passport confiscation, unsafe living and working conditions, and excessive work demands, which indicate forced labor and violate domestic and international standards. The spread of Covid-19 and the lockdown to contain it has exacerbated these conditions, as workers face job loss, unpaid leave, reduced salaries, and forced work without pay" (Human Rights Watch, 2020a).

Dire situations for migrant workers were reported in Middle East and Gulf countries, also in countries across Asia, Africa, Eurasia, Europe, North and South America and the Pacific region. Literally millions of migrant workers were arbitrarily and immediately dismissed from work across the Middle East region and elsewhere. In some countries, migrants were physically expelled from or compelled to leave cities or places where they were living and working; drastic compelled quarantines in place –such as "sealing off" migrant neighbourhoods, migrant dormitories/living quarters and/or industrial areas (Middle East Eye, 2020).

The "economic and social challenges emerging from the COVID-19 pandemic cast a new light on services at the core of functioning local economies. Sectors such as food processing, delivery, or health care are vital for the continuity of economic activity... During the pandemic, these sectors were defined as 'essential'. The crisis has initiated a new reflection of essential services and the people that work in them, the so-called 'key workers'. In particular, the role of migrants who often work in low-paid but vital occupations has gained greater recognition across OECD" (OECD, 2020b, p.2).

"Migrants … account for 14% of *key* workers across European regions, 5% from EU countries and 9% from non-EU countries. … Key sectors such as distribution, food processing, or health care strongly rely on migrants for their workers, especially in urban environments. … Across 31 European countries, "migrants play a crucial role in health care, where 23% of all doctors and 14% of nurses are foreign-born. In cities such as London or Brussels, around half of all doctors and nurses are migrants. Capital regions have the highest share of migrant *key* workers (20%). Similarly, cities rely more on migrant key workers than other areas, especially in low-skilled occupations where migrants make up 25% of workers" (OECD, 2020b, p.1-2).

According to OECD research, "in all countries for which data are available, immigrants' unemployment (in 2020) increased more, compared to their native-born peers. The largest increases for immigrants were observed in Canada, Norway, Spain, Sweden, and the United States. In Sweden, almost 60% of the initial increase in unemployment fell on immigrants" (OECD, 2020a). "Unemployment and underemployment data [in Canada] in April 2020 shows that mostly affected were those with temporary work, with less than one year

at their job and not covered by a union or collective agreement" (Triandafyllidou and Nalbandian, 2020, p.5) –situations common for many migrant workers worldwide.

Multiple Mitigation Measures

However, numerous countries around the world adopted contingency measures to keep systems operational and mitigate impacts on migrants and citizens (EMN, 2021). While many countries imposed restrictions on admission and entry of migrants at the outset of the pandemic, emergency measures allowing mobility for "essential workers" were quickly put in place at borders around the world to ensure that migrant workers including frontier, seasonal and transportation workers needed for agriculture, food production and processing, transportation and healthcare could cross borders despite lock-downs, confinement, "no travel" measures or closed borders.

EU countries and others allowed for continued admission of workers for essential occupational sectors, notably health, agriculture, and transport. Non-EU OECD countries also identified health, agriculture, and food security as essential sectors; support for critical infrastructure was cited by some countries (EMN, 2021). For example, while entry to Canada of high-skilled foreign workers was halted at the start of pandemic restrictions, migrant workers in the Seasonal Agricultural Worker Program were exempted from restrictions and the Federal Government quickly introduced special arrangements to bring foreign workers to Canadian farms and fisheries (Hennebry and KC, 2020; Triandafyllidou and Nalbandian, 2020).

In a number of countries, measures were taken to mitigate effects of the pandemic for migrants already on territories, particularly migrant workers, such as to ensure that those affected by travel restrictions or restrictions on immigration services did not fall into irregular status. "In EU Member States and Norway, these included automatic extension of residence permits, tolerated stays, removal of the obligation to leave, and/or the suspension/ extension of procedural deadlines ... Non-EU OECD countries also made similar efforts to ensure that migrants did not fall into an irregular situation, for example, in the US, where from March 2020, timely online requests for extension of stay were possible to mitigate the effects of COVID-19" (EMN, 2021, p.1).

To address labour shortages, especially in seasonal activities, some EU Member States implemented measures to facilitate employment access for third-country nationals already on the territory. "Regularisation of third-country nationals employed in certain key sectors was permitted in a limited number of cases, both in EU and non-EU OECD countries" (EMN, 2021, p.2).

"Most EU Member States reported that COVID-19 related healthcare was available for all migrants, with costs met from public health insurance or social security and/or from State public health funds. For regular [authorized] migrants who experienced a drop or loss in income, underlying rules on access to general healthcare were maintained, allowing access to general healthcare in most reporting Member States" (EMN, 2021, p.2).

Mobile, cross-border, and seasonal workers

Millions of mobile cross border workers, seasonal and temporary workers were immediately affected by lockdowns and border closings at the outset of the pandemic–and some remain so in February 2022, two years on. The immediate result and the continuing consequence in many situations, was large economic cost to local economies dependent on that labour in agricultural and industrial production and distribution, health, transportation, and other sectors as well as cross-border and regional trade and marketing of goods and services

provided by those workers.

Some countries were effectively denied supply of and/or outlets for distribution of local and national production, whether agricultural, artisanal, or industrial, including basic foodstuffs, health equipment, medications and supplies, and other *essential goods*. This was the case in regional economic communities (RECs) in Central, Eastern, Western Africa, in the MERCOSUR South American common market area, in Central America, in the Caribbean region, and South-East Asia as well as across the integrated economies of Europe in and beyond the EU and the European Free Trade Association area.

However, "Germany, Spain, and other countries in Europe (such as Switzerland) have gone to extraordinary lengths to admit seasonal agricultural workers from other countries (such as Romania and Bulgaria) or further afield (such as Morocco), including chartering flights and exemptions from travel restrictions" for passage through other countries when borders were officially closed. (Hooper, 2021 citing Hooper and le Coz, 2020). Canada –much of whose agriculture depends on seasonal workers– engaged in similar efforts to bring workers from usual source countries including Guatemala, Jamaica and Mexico.

Refugees, IDPs, stateless persons and asylum-seekers

Refugees, asylum seekers, IDPs and stateless persons, especially those in crowded camp situations, with dire sanitary and hygienic conditions and the impossibility of social distancing, are particularly at risk of coronavirus infection. Major challenges include absence of health care, insufficient food, crowded living quarters, absence of running water, poor underlying health, etc. UN news, in August 2020, reported that the World Food Programme (WFP) was forced to reduce its food and cash assistance for refugees in Eastern Africa by up to 30 per cent and feared that reductions could worsen in coming months unless urgent additional funding is received (UN news, 2020). These conditions exacerbate coronavirus transmission, serious illness resulting, and absence of, treatment for forcibly displaced populations.

The COVID-19 pandemic had far-reaching effects on all areas related to asylum and migration throughout 2020 and continuing into 2022. The COVID-19 pandemic resulted in a drastic reduction in refugee movement across borders and in resettlement due to border closures, travel restrictions and pushbacks. As of May 2020, nearly 100 countries had temporarily denied access to their territory; by May 2021 almost 60 countries still denied access (Tanner, Mugera, Tabasso et al, 2021).

While many countries in Europe had lifted travel restrictions and reopened borders by July 2020, mobility for refugees and asylum seekers remained impeded. Resettlement departures were halted for the first time in history and visa processes for complementary pathways for admission of refugees significantly delayed. People in refugee-like situations transiting through South-Eastern Europe experienced entry bans in several countries. Pushbacks on land and at sea have been reported in 2021 along frontiers between Greece and Turkey, as well as at borders of Balkan and Central European countries and recently at borders between Belarus with Poland and Lithuania.

Pushbacks were also reported in African, Asian and Middle Eastern countries as well as at borders of Mexico, Guatemala, and the USA. While some pushbacks have not explicitly cited COVID as a justification, the US executive order establishing push-back of potential refugee-asylum claimants on that country's southern border explicitly cited a national health emergency justification.

Refugee protection itself has been undermined. Border closures and restrictions on international mobility have prevented refugees escaping from situations of persecution and refugee movement to safe havens. Access to asylum remains a vital, but threatened right. Government measures in several countries, in some cases endorsed by legislation, restricted access to the country by refugees and asylum seekers. People arriving at borders seeking safe haven have been returned to neighbouring countries, told to apply for asylum at consulates and embassies or to wait elsewhere–often indefinitely, for claims to be processed. "While States have a sovereign duty to protect public health, measures that restrict access to asylum should be temporary, necessary and proportionate and respect the prohibition on returns to persecution and danger. ... Externalization can amount to warehousing asylum seekers indefinitely in isolated places, 'out of sight out of mind', exposing them to danger and chain refoulement" (Triggs, 2020).

Health and well-being of refugees, IDPs, stateless persons and asylum-seekers remains the second main issue. Inability to maintain even basic hygienic conditions at vastly overcrowded refugee camps in many places, notably reception and identification centers (RICs) in Europe, led to severe and prolonged quarantines in those camps and centers. Inadequate conditions for basic health and hygiene prevail in many IDP and refugee camp facilities, particularly in African and Middle East and without considering additional measures for masking and distancing. Migrant and refugee detention facilities also became major hotspots of coronavirus transmission in many countries. IDPs and stateless persons face increased challenges in accessing healthcare due to absence of documentation, lack of availability of services and discrimination.

Surveys from eight countries, including Bangladesh, Ethiopia, Iraq, and Yemen, showed a deterioration in employment, food security and access to health and education for refugees (Tanner, Mugera, Tabasso et al, 2021). The pandemic-fostered-rise in gender-based violence and violence against children, and the triggered societal stresses have hit people of concern to UNHCR hardest (UNHCR, 2021c).

"Modelling and simulation analyses conducted in specific areas estimate an increase in poverty among the forcibly displaced and their host communities as a result of the simultaneous effects of COVID-19 and other aggravating socio-economic factors. In Lebanon, due to the occurrence of COVID-19 during a deep economic and social crisis, the number of Syrian refugees below the national poverty line is expected to increase by 430,000 in 2021 compared to the period just prior to the pandemic" (Tanner, Mugera, Tabasso et al, 2021, p.1).

Furthermore, at least 12 million people with disabilities are forcibly displaced worldwide according to UNHCR, while the real number may be higher. "Forced displacement disproportionately affects people with disabilities. They are often at higher risk of violence, discrimination, neglect, gender-based violence, exploitation and abuse, face barriers to access basic services, and are often excluded from education and livelihood opportunities," said Gillian Triggs, UNHCR's Assistant High Commissioner for Protection (UNHCR, 2021d).

Countries of Origin

Further complicating the tragedy has been the dilemmas faced by millions of people in migrant origin countries who were dependent on the incomes and remittances of migrant worker family members abroad rendered unemployed and, in some cases, deported to homelands with few possibilities to be reintegrated in remunerative activity. This was aggravated by local home country and community perceptions that returning migrant workers

–members of their own families and communities– are vectors of COVID and should be kept away (Asharq Al-Awsat, 2020).

During the first wave, several migrant worker origin countries refused return/re-entry by their own nationals, leaving citizens expelled or deported from other countries in a quasi-stateless situation and their families destitute. However, many countries organized repatriation efforts in the early months of the pandemic, including special transportation arrangements for citizens abroad. Most countries continue to permit re-entry of citizens and lawful residents despite border closures. However, migrant worker countries of origin in Africa, Asia and the Americas initially had few or no measures for testing and advising returnees upon or after arrival, leaving repatriated migrants to return to home communities across the countries when some were, usually unknowingly, coronavirus vectors.

However, data on the actual number of workers returned or deported to homelands remains non-existent, as is data on how many have since redeployed or returned abroad. Anecdotal data suggests that the actual numbers of workers returned to country-of-origin homelands was a small proportion of the global 'migrant' workforce.

Global remittance estimates for 2020 are $706 billion compared with $722 billion in 2019, a reduction by only 2.2 percent, whereas in mid-2020 predictions were that remittances would fall by more than 15%. The current forecast for 2021 is $751 billion (Ratha, Ju Kim, Plaza, Seshan et al, 2021). In 2021, remittance flows to low- and middle-income countries (LMICs) are projected to reach $589 billion, registering a 7.3 percent increase over 2020. The recovery in 2021 follows the resilience of flows seen in 2020, when remittance flows to low- and middle-income countries recorded only a modest 1.7 percent decline to $549 billion compared to 2019 ($559 billion) despite one of the deepest global recessions on record. Remittances currently represent more than three times the value of official development assistance and, excluding China, remittances are more than 50 percent higher than foreign direct investment, highlighting the importance of remittance flows in providing for local sustenance in recipient countries during periods of economic hardship (Ratha, Ju Kim, Plaza, Seshan et al, 2021).

Labor and economic problems getting worse

"The Covid-19 pandemic is not only having a seismic impact on global public health but also causing chaos for the economy, with supply chain disruptions and labor shortages a big problem for businesses around the world" (Ellyatt, 2021). Supply bottlenecks and shortages of raw materials, components, and consumer goods remain widespread in February 2022, and have worsened in recent months. One authoritative assessment by MPI highlighted, "As European countries seek to revive their economies in the wake of the COVID-19 pandemic, an acute labor shortage in a variety of sectors risks stopping the recovery in its tracks" (Hooper, 2021). Especially concerning is that "many of the supply and labor shortage issues are expected to last for many years to come" (C. Tang in Popa, Ford and Schaller, 2021, p.3), a USA assessment widely shared elsewhere.

The labor shortages are in large part attributed to the COVID-19 pandemic, its direct impacts, response measures that initially shut down labor mobility worldwide, and continuing or reimposed restrictions. The impact is serious, constricting supply, production, and distribution "from automobiles to appliances to toothpaste" in the US for example. US employers specifically cite constraints in immigration as a major impediment to resolving the current lack of workers for jobs unfilled due to pandemic related factors, including workers unable to come back to work because they're caring for family sick with COVID-19, are sick

with the virus themselves, or lack childcare (Popa, Ford and Schaller, 2021). “Many workers are also leaving their jobs in record numbers and are delaying coming back to work. For example, in August (2021), 4.3 million Americans quit their jobs” in the *Great Resignation* as it is being called (ibid). Subsequent months saw similar levels of job leaving in the USA. Reports from the UK in the fall of 2021 reported transportation delays and breakdowns resulting in widespread fuel shortages at distribution stations, empty supermarket shelves, ‘dry’ pubs across the country unable to obtain beer, and pork and poultry unprocessed and un-marketed, all attributed to absences of workers. A shortage of 100,000 lorry drivers was widely evoked, a consequence of departure of many truck drivers in Britain natives of EU countries who departed after the coincident double wham of Brexit and COVID and could not be replaced.

Illustrative of situations facing many countries, “Even before Singapore stopped entries from India and other South Asian nations, departures and tighter travel rules were already keeping foreign workers away from the country… the crunch has led to delays of construction projects by as much as a year, resulting in a surge of 30 per cent in the price of labour and sparking worries over excessive workloads” (DT Next, 2021). Construction delays were seen to risk "badly disrupted" housing, hospital and transit line projects, slowed real estate sales, stalled industrial and commercial facility openings, and weaker consumption. Furthermore, construction industry groups warned that the current workforce is "already working at maximum capacity, increasing the risks of workplace incidents" (DT Next, 2021). Meanwhile, Russia’s Deputy Prime Minister Marat Khusnullin said in July 2021 that construction sites in Russia were short of 1.5-2 million people and called the situation “a catastrophic shortage of workers” (Hashimova, 2021); much of construction labour in Russia was provided by migrant workers from Central Asian countries, many went or were sent home after the outset of the pandemic.

While some supply and production delays and shortages and their economic consequences are attributed to transport impediments or supply chain interruptions, most assessments reveal that lack of and departure of workers combined with migration restrictions are major factors –notably in key sectors of agriculture, construction, food processing, healthcare, and transportation heavily dependent on foreign or immigrant workers in many industrialised countries. Foreign workers compelled to leave from countries at the outset have been impeded by COVID restrictions and anti-immigration measures such as Brexit in the UK from returning or arriving. The challenges are complex; some factors pre-date the COVID pandemic and others, such as more people taking early retirement, leaving jobs or the workforce altogether, are prompted or exacerbated by the pandemic situation.

The consequences of labour shortages in large part deriving from COVID-19 and subsequent mobility barriers and constraints affect everyone. As Bloomberg analysts put it: “Robots may replace us eventually, but for now COVID-19 has revealed both how desperate businesses are for workers of the human variety and the broader economic consequences of that desperation. Companies are raising wages to attract talent, which in turn is helping boost inflation, hitting 6.2% in the U.S. last month and currently running at 8.1% in Russia” (Flanders and Sasso, 2021).

Discrimination and xenophobia

A sharp and generalized rise in racist/xenophobic discourse and violence targeting foreigners, migrants, refugees, asylum seekers, IDPs and stateless persons in context of COVID is reported worldwide. Manifestations include “violence, discrimination, arbitrary denial of services, heightened exclusion or other forms of disparate negative impact in the COVID-19

crisis against minorities including Roma, people of African Descent, people of Asian descent, refugees, asylum seekers, migrants and stateless persons, internally displaced persons and religious minorities, as well as other persons and groups exposed to stigma and/or discrimination such as LGBTI people, indigenous peoples, as well as based on caste" (UN Network Racial Discrimination, 2020, p.2). UNHCR assessed that xenophobic messages on social media, in the news or in official discourse led to violence and discrimination against non-nationals including incidents of eviction, denial of medical service, or expulsion from hotels. (UNHCR, 2020b). "The COVID-19 pandemic has created a heightened risk of discrimination and exclusion of marginalized individuals, groups and communities" (UN Network Racial Discrimination, 2020, p.1).

Horrific treatment was reported in several countries. In a GCC country, more than 20,000 migrant workers, predominantly from Bangladesh, Egypt, Ethiopia, India, Sri Lanka, and Sudan, were concentrated into "squalid desert camps", 50 to 200 persons sheltered in the same spaces with no running water and overflowing sewage. Local security forces reportedly shot tear gas, stun grenades and rubber bullets at migrant detainees who protested, while an actress and actor respectively called for foreigners' deportation and to "throw them into the desert" (Ullah, 2020).

Migrants and others presumed to be foreigners have faced deadly violence. Reports emerged in August 2020 of dozens of African migrants who had been shot on both sides of a border in the Middle East in April, with COVID 19 fears cited as a pretext (Human Rights Watch, 2020b). News reports and monitoring bodies have reported increases in violent attacks –some deadly– on persons of Chinese or other Asian appearance across Africa, the Americas and Europe. UNHCR offices also reported increasing incidents of discrimination, stigmatization and xenophobia against refugees and displaced people, exacerbating tensions with local communities. Lockdowns and increased family tensions also led to spikes in gender-based violence across the world (UNHCR, 2020b).

"There has also been a proliferation of conspiracy theories and hate- or bias-based discourse in connection with COVID-19, including with anti-Semitic, anti-Muslim, anti-Roma (based on anti-Gypsyism), or other racist, xenophobic or sectarian subtexts. Narratives stressing geography rather than medical terminology to refer to COVID-19 are stigmatizing, and encourage racist or xenophobic attitudes and attacks, including against persons and groups who are forcibly displaced and stateless who may be at greater risk during the pandemic" (UN Network Racial Discrimination, 2020, p.2). Migrants, refugees, displaced persons and other marginalized groups have been accused of spreading the virus since the outbreak of the pandemic in early 2020 (Reuters, 2020; WHO, 2021).

Such actions "exacerbate fear and worsen the situations of various minority groups, people of African descent, people of Asian descent, or people considered foreigners – persons already facing threats of discrimination or exclusion" (UN Network Racial Discrimination, 2020, p.2).

Gender: migrant women and COVID-19

The impacts of COVID-19 and ill-considered responses have been highly gendered, particularly for migrant and refugee women and girls. The pandemic highlighted risks women migrants face in employment, at home and in day-to-day activity. As migrant women tend to be concentrated in low-skilled, low-paid and informal jobs, they continue to face higher risks of job and income loss in the pandemic-provoked economic crisis (Rakotonarivo, 2020). Many migrant women were and remained employed in health care and other *essential* work on the

frontlines of the pandemic. Almost 70% of health workers across OECD member countries are women (OECD, 2020c). In many countries, women migrant workers constitute the majority of health workers (Foley and Piper, 2020). Studies conducted in Spain, Italy and the US demonstrated that between 69-75.5% of healthcare worker COVID-19 infections were in women (UN Women, 2020b).

Most migrant domestic workers are women; many lost jobs since the outset of the pandemic and had to return to their countries of origin. Travel bans and restrictions put those who had lost jobs and residence permits in a dire situation. Many faced delays or non-payment of wages, as well as violence and harassment by former employers. Those who kept their jobs generally found themselves overworked as their employers were more often at home. There were reported cases of being exposed to increased levels of stress and violence during confinement with their employers (Rakotonarivo, 2020).

Many women migrants are in essential occupations where physical distancing is difficult or impossible. Those in health care have had to work longer hours to handle large influxes of COVID patients and cover for sick colleagues. Many women workers including migrants have faced significantly increased family responsibilities related to care and education as a result of suspension of in-class schooling and childcare services.

Domestic violence against women and children has risen, while domestic violence in migrant households is likely hugely under-reported. Violence against women is already an epidemic with 137 women killed every day in the world by a family member. Living in confinement and in times of economic stress increases the risk of sexual exploitation and violence against women. Failing to take into account gendered dimensions in the response to the pandemic not only exacerbated existing inequalities but created new ones (IPU, 2020a).

Migrant women, especially those in informal work and or in undocumented situations, faced little or no social protection and faced difficulties obtaining health care, particularly sexual and reproductive health care indeed already prior to the pandemic (UN Women, 2020a). Higher incidence of poverty and poor housing conditions compounding risks of infection, lack of social protection preventing access to healthcare or sick leave, and reductions in or suspension of prenatal, birthing and maternity care by COVID-overwhelmed health systems are further challenges faced by female migrants and refugees as the pandemic continues (Rakotonarivo, 2020). An extensive survey of 170 Latin American migrant women in Valencia, Spain in the fall of 2020 concluded that the social-health crisis resulting from COVID-19 aggravated the situation of migrant women, particularly those in irregular migration situations, with loss of employment, deepening precarity and increasing anxiety and psycho-social distress including depression. The report noted that the prior absence of minimal social protection reaching those most at risk left many migrant women without any support for basic needs, a situation made both more evident and worse by the pandemic and its consequences (Palop Lainez, Rueda and Salas, 2020).

Migrant and refugee women in countries with gender discriminatory provision in nationality laws face exacerbated risks. In many countries, refugees and IDPs depend upon the informal economy, and they were among the first to feel the economic impacts of lockdowns. (UNHCR, 2020a) Many lost their jobs, were evicted from their homes and their children were out of school for many months due to COVID-19 impacts. Those who continued to work often were and remain exposed to risks of COVID-19 infection and other illnesses.

Twenty-five countries still have gender discriminatory provisions in their nationality

laws denying women equal rights with men to confer nationality to their children while at least fifty countries deny women and men equal rights to confer nationality to non-citizen spouses. (Global Campaign for Equal Nationality Rights, n.d.) Both types of legal gender discrimination can lead to statelessness and often result in family members of female citizens having to rely on visas to lawfully reside in the country of their mother or spouse. In consequence, children share the risks faced by immigrant and refugee parents of exclusion from health care, COVID prevention and mitigation efforts, as well as denial of economic assistance, basic nutrition support and *stimulus* needed for decent living, even to survive.

Vaccine Access

Eighty-five per cent of refugees, most IDPs, and a large portion of migrants reside in developing countries. However, 80 per cent of all vaccine doses have been given in high- and upper middle-income countries (UNHCR, 2021f). Huge barriers impede vaccine access for many of the world's refugees and migrants, notably vaccine unavailability along with limited allocation and little implementation capacity. Systems to monitor products and processes and identify and vaccinate people are weak in some countries –and for marginalized populations in many others, while health systems everywhere are struggling to maintain essential health services. Several refugee-hosting countries have only reached very small proportions of their population. UNHCR highlights that the activities strengthening support for local actors and addressing misinformation are key to ensuring the successful delivery of vaccines to local communities, especially those most at-risk (UN/ Red Cross/Red Crescent, 2021). However, vaccine scarcity remains a major barrier for refugees and IDPs as well as many migrants, while vaccine hesitancy adds complications (UNHCR, 2021a).

Of the 160 countries that submitted information to UNHCR, 99% of them have either explicitly included refugees in their vaccination plans or have provided that they will do so. As of September 2021, UNHCR had confirmed vaccination of refugees and/or other persons of concern in 121 countries. Vaccination campaigns commenced across all 21 countries in West and Central Africa and all countries in the region agreed to include refugees in their plans (UNHCR, 2021a).

Reliable data is crucial

The COVID-19 pandemic has underscored the critical importance of reliable data in addressing local and global humanitarian, development and social challenges and for informing the design and delivery of policies, services and interventions. Data deficiencies are acute for populations particularly at risk in the COVID-19 pandemic, among refugees, migrants, stateless persons, mobile workers and IDPs. Knowledge on access to and availability of health care, decent work/employment, basic income, education, and freedom of movement remain woefully inadequate, making appropriate responses and adequate planning and delivery impossible (Tanner, Mugera, Tabasso et al, 2021). These populations, or portions of them, are often not included in –or are deliberately excluded from– official statistics. National statistical systems, along with other basic infrastructure notably for health are often weakest in the low- and middle income- countries hosting more than 86% of the world's refugees and IDPs (Gillsäter, 2021).

Need for urgent, appropriate action by governments and all other actors

Despite huge challenges faced by millions of migrant workers, refugees, asylum-seekers, IDPs and stateless persons worldwide, most responses to the pandemic have been and remain unilateral, national, uncoordinated, and often counterproductive. Coordination, cooperation, and common action internationally have been conspicuously weak, slow, or non-existent.

A major concern is to ensure that responses to the coronavirus pandemic are rights-respecting, appropriate and proportional to both preventing the spread of coronavirus and ensuring peoples –and economies– abilities to sustain national, community and individual welfare, to anticipate sustainable recovery and to *build forward together*.

The response lines can be categorized into ten main themes, recognising that issues are inter-related, and that a sustainable and effective response requires a comprehensive approach with interdependent policy lines and action measures across all themes. No quick fixes will resolve the complex dilemmas, nor work on their own. Instead, seeking *quick fix* solutions will divert attention from obtaining political and public support and resources to sustain the nationally and locally appropriate response packages that will *make the difference* over time.

These thematic areas listed in Table 1(without an order of hierarchy beyond the first) are discussed below in part 6.

Table 1

A Checklist of Practical Guidelines on COVID-19 and migrants and refugees

Values-, science- and experience-based policy lines and actions/action steps on COVID-19 and migrants and refugees	
1.	*Right to health,* health-related rights, health care, vaccine access
2.	Universal non-discrimination, inclusion, equality of treatment
3.	Community support and protection measures
4.	Immigration, movement across borders, non-refoulement
5.	Employment, migrant worker protection, migrant/refugee entrepreneurs
6.	Social protection; access to schooling and education
7.	Refugees, asylum seekers, stateless persons, IDPs: specific measures
8.	Gender-specific considerations
9.	Accurate and reliable data, information, and knowledge
10.	Recovery, *Building Forward Together*

Table by authors

Overarching normative obligations for treatment of migrants and refugees

International human rights instruments and International Labour Standards (ILO Conventions and Recommendations) delineate rights and responsibilities imperative to address COVID-19, including health-related rights and rights to social protection. Most countries have ratified most of the nine core International Human Rights Treaties[1] while all ILO member States are bound to respect the eight fundamental ILO Conventions on non-discrimination/equality of treatment, abolition of forced labour, prevention of worst forms of child labour, and respect for freedom of association and collective bargaining rights[2]. Other International Labour Standards provide normative guidance on occupational safety and health (OSH), social protection, and *decent work* as well as for payment of wages and benefits to migrant workers including upon return/expulsion.

[1] See the listing and full texts at https://www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx

[2] ILO. Conventions and Recommendations. https://www.ilo.org/global/standards/introduction-to-international-labour-standards/conventions-and-recommendations/lang--en/index.htm

Specific normative guidance on refugees, asylum-seekers, and the prohibition of refoulement, especially relevant in this time of COVID-19, are provided by the 1951 Convention and 1967 Protocol Relating to the Status of Refugees[3] one or both ratified by 149 countries. The right to seek asylum and the prohibition of discrimination are also articulated in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

The 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness[4] and the Guiding Principles on Internal Displacement[5] provide normative guidance for those groups especially at risk of COVID-19.

Three international Conventions provide legal standards specifically on migration for employment, rights of migrant workers and migration governance (one or more ratified by nearly 100 countries): the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW), 1990[6] (one of the nine core human rights Instruments), ILO Convention on Migration for Employment (Revised), 1949 (No. 97)[7] and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No.143)[8]. The ICRMW provides definitions for migrant workers, family members and specific categories applicable to nearly all international migrants worldwide.

"All people in the territory or under the jurisdiction of a State, regardless of their nationality or migration status, have an equal right to health. States have an obligation to guarantee the right to health to everyone without discrimination, including on grounds of nationality and migration status. The scarcity of resources is not a sufficient basis for treating migrants' healthcare needs differently" (OHCHR, 2020a).

Although not legally binding, the Global Compact on Refugees (UN General Assembly, 2018b) and the Global Compact on Safe, Orderly and Regular Migration (UN General Assembly, 2018a), both adopted in December 2018, provide further guidance on protection of and assistance to, respectively, refugees and migrants.

A Checklist of Practical Guidelines for action, legislation, policy and monitoring

The following *checklist* provides values-, science- and experience-based policy lines and actions/action steps on COVID-19 and migrants and refugees. These guidelines consider social, political, legal, environmental and health determinants and draw on lessons from other pandemics notably HIV and AIDS, as well as knowledge and experience in salient reports on migration, health epidemiology and pandemics (ILO, 2017; WHO, 2018; WHO, 2019). Thus, there is also a comprehensive synthesis of approaches and recommendations contained in thirty guidance documents by international organisations on COVID-19 and migrants/refugees listed below in Table 2.

[3] See full texts at https://www.unhcr.org/3b66c2aa10 ; background information and lists of States parties at https://www.unhcr.org/1951-refugee-convention.html
[4] https://www.unhcr.org/un-conventions-on-statelessness.html
[5] https://www.unhcr.org/protection/idps/43ce1cff2/guiding-principles-internal-displacement.html
[6] Text and ratification status at: http://www.ohchr.org/EN/ProfessionalInterest/Pages/CMW.aspx
[7] Text at: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312242:NO
[8] Text at: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312288:NO

Table 2

List of guidance documents by international organizations on COVID-19 and migrants, migrant workers, refugees, stateless persons, and IDPs consulted for the checklist

WHO	ILO	IOM	UNHCR	OHCHR	UN Women	IASC, IFRC, IPU
WHO (World Health Organization), 2020	ILO (International Labour Organization), 2020a	ICC-IOM (International Chamber of Commerce-International Organization for Migration), 2020	UNHCR (UN Office of the High Commissioner for Refugees), 2020c	OHCHR (Office of the UN High Commissioner for Human Rights), 2020a	UN Women, 2020a	IASC (Inter-Agency Standing Committee), 2020
WHO Europe, 2020	ILO, 2020b	IOM, 2020	UNHCR, 2020d	OHCHR, 2020c	UN Women (Asia and the Pacific), 2020a	IFRC (International Federation of Red Cross and Red Crescent Societies) et al, 2020
WHO, 2021b	ILO, 2021b	IOM, 2021a	UNHCR, 2020e	OHCHR-ACHPR-Council of Europe-IACHR, 2021	UN Women (Asia and the Pacific), 2020b	IPU (Inter-Parliamentary Union), 2020a
		IOM, 2021b	UNHCR, 2020f		UN Women (Asia and the Pacific), 2020c	IPU, 2020b
		IOM, n.d.	UNHCR, 2020g		UN Women (Asia and the Pacific), 2020d	
			UNHCR, 2021g		UN Women (Europe and Central Asia), 2020	

Table by authors

Health, the *right to health* and health-related rights and health care, including vaccine access.

Main concerns include inclusion of access by migrants and refugees to preventive, palliative and curative health care, in particular reliable information, testing, treatment and vaccination for COVID-19, and occupational health and safety protection, notably personal protective equipment (PPE) for migrants in health, industrial, commercial, etc. employment. Response lines include:

- Include all migrants, refugees, stateless persons, IDPs and asylum seekers in local and national COVID-19 testing, prevention, mitigation. vaccination and treatment.
- Waive fees for COVID-19 testing, vaccination and treatment, regardless of a person's citizenship, nationality, or legal migration/resident status in the country.
- Provide information on prevention of spread, early diagnosis, vaccination, and treatment of COVID-19 in languages migrants, refugees and IDPs understand, in accessible formats.
- Create information materials in migrant and refugee languages suitable for low literacy levels.
- Ensure timely and effective access to health facilities, goods, and services to all, regardless of immigration status, by legislative, policy, administrative, and practical

measures, including the flexibilization of movement and documentation requirements.

- Create/maintain *firewalls* between health and immigration services, allowing stateless persons, persons at risk of statelessness, migrants in unauthorised situations and others to access services without intimidation and fear that they will be identified to immigration control authorities.
- Implement fully all necessary measures for protection and support of migrant workers in *essential work,* especially those in health-related and care work, notably risk mitigation and prevention training, provision of PPE, and protective workspaces.
- Ensure inclusion of migrants, IDPs, stateless persons, asylum seekers and refugees on an equal basis in mental health and psychosocial support.
- Implement training programmes for healthcare professionals to build basic psychosocial helping skills to people directly or indirectly affected by COVID-19.
- Include migrants, IDPs, stateless persons, asylum seekers and refugees on an equal basis in vaccination.
- Increase support for local delivery mechanisms and capacity to deliver vaccines quickly and fairly and to strengthen national and local health systems for preparedness and response.
- Ensure that vaccines get from suppliers to those most at risk including refugees, migrants, asylum seekers, marginalised groups, stateless persons, and those in areas affected by armed conflict.
- Waive the indemnity and liability requirements for humanitarian buffer applicants.

Non-Discrimination and Inclusion

Universal non-discrimination, inclusion, and equality of treatment are *essential* for effective pandemic response, mitigation, and recovery.

- Ensure that non-discrimination, equality of treatment and inclusion are core legal, regulatory, and institutional parameters for all public and private health and social protection measures for all persons present, including migrants, refugees, asylum-seekers, stateless persons, and internally displaced persons.
- Build on, adapt, and utilize existing legislative frameworks on anti-discrimination, explicitly incorporating nationality as well as national origin, ethnicity, race, and religion among prohibited grounds.
- Ensure that migration status is excluded as grounds for exclusion or limitations on provision of health services, vaccination, social protection and social and human services access and delivery.
- Take measures to prevent, monitor and address racism, xenophobia, discrimination, hatred, and violence including holding perpetrators to account.
- Engage local and national anti-discrimination and human rights monitoring bodies in monitoring compliance with non-discrimination law and regulations, reviewing government and other actor policy and actions, taking up complaints, documenting evidence, and otherwise supporting migrants, refugees, mobile workers and other non-nationals, stateless persons and IDPs, vis a vis discrimination and xenophobia.
- Include participation of migrants and refugees, as well as worker unions and civil society actors, in developing, implementing, and monitoring anti-discrimination and inclusion strategy, policy and actions.
- Initiate and support campaigns combating xenophobia and racism and ensure that public discourse and responses to COVID-19 do not contribute to those.

Community support and protection measures

Providing for effective coronavirus prevention, protection and treatment measures is vital at the local, community level. Key is taking account of conditions of localities and housing where migrants and asylum seekers reside; situations of refugee and IDP camps; and circumstances where adult populations depend on day-to-day work outside home –when they can get it– to survive, where social distancing is impossible, and stay-at-home lockdowns unsurvivable. Response measures include:

- Determine and apply viable, appropriate measures for access to sustenance and/or remunerative activity in situations where social distancing and isolation are effectively impossible, such as crowded housing, slum neighbourhoods, migrant worker dormitories, refugee camps.
- Implement *safe-work* measures in crowded workplaces (e.g., meat packing plants, garment mills), that may be hotspots of transmission.
- Allow for free movement with masks, social distancing guidelines and PPE where people and economies depend on day-work for sustenance, especially where basic needs support is not feasible or deliverable due to absence of resources, lack of infrastructure, weak or ineffective government institutions, etc.
- Implement/continue measures of income-loss compensation and/or minimum income/resources to sustain essential food and housing for migrants, refugees, and other displaced people in place.
- Establish and implement adequate measures to respond to heightened risks of violence, including gender-based violence, due to the pandemic.
- Support the engagement of migrants, refugees, and displaced people in COVID-19 responses, particularly professionals, healthcare trained professionals and community leaders.

Immigration, movement across borders and non-refoulement

Cross border movement of workers remains vital to sustaining food supply, health care, agricultural and industrial production, construction, transportation, and economies in general in many countries worldwide, particularly in regional economic communities and common markets. Providing or maintaining recognition and status to all migrants and refugees present in a country is paramount to ensure that appropriate coronavirus information, prevention, testing, vaccination, and treatment reach all persons equitably in every community and place. Imperative measures include:

- Eliminate border barriers impeding movement to work of seasonal, frontier, temporary, posted, transportation and other workers needed/employed in national economies and/or across borders, particularly in regional free movement regimes.
- Facilitate adjustment of status, temporary extension and/or renewal of permits, and group determination/actions (such as extension of permits for classes of migrants rather than individual procedures) permitting migrants to remain in authorized status.
- Conduct regularisation of status for migrants to ensure legal recognition, access to vital services, and employment in regular situations with protection of rights and decent work.
- Ensure that access across borders to seek refugee protection by asylum seekers and refugees is not impeded in the guise of coronavirus restrictions or for other reasons.
- Maintain explicit legal protection for migrants and refugees' rights and dignity during measures of mandatory confinement as well as travel/movement restrictions.

- Maintain unfettered access to asylum/refugee claimant and determination procedures.
- Designate birth and death registration services as 'essential services' and continue to operate, with temporary operational modifications as necessary and appropriate.
- Allow online notification and registration of vital events, extend timelines for registration of birth, and put in place a fee waiver for late birth registration.
- Enact reforms to uphold citizens' right to confer nationality on spouses and children and to acquire, change, and retain nationality on an equal basis regardless of gender.
- Suspend all detention of migrants/asylum seekers, non-nationals except for criminal violations.
- Ensure that any returns are carried out on a voluntary basis, meeting requirements of a fully informed decision, without coercion and supported by availability of valid alternatives.
- Ensure that all returns comply with *non-refoulement* and the prohibition of collective expulsions, as well as guarantees of due process, access to lawyers and translators, and the right to appeal, and that any returns are compatible with sustaining public health in the country of return.

Employment, migrant worker protection, inclusion of migrant/refugee entrepreneurs

Dismissals and layoffs of workers –particularly migrants, closures of businesses, border closures, and departure and deportations in reaction to the pandemic reduced capacity and competence of entire workforces as well as specific sectors in local and national economies. These, and ongoing restrictions on mobility and migration have contributed to ongoing shortages of goods and services, notably in food supply and essential health care and to aggravated deficits of workers in demand as of 2021. Immediate measures are imperative to:

- Uphold strict conditionalities of/for layoffs and for departure from the country of employment, including adequate notice period, payment of all wages/salary owed, and transfer of earned social security contributions and entitlements.
- Ensure that employers comply with all national and local requirements for public health and occupational safety and health and communicate critical information to employees, particularly (im)migrant and refugee workers.
- Assess where presence and availability of international workers (in complementarity with native workers) are required to maintain and/or rebuild production and distribution activity and to provide for needed skills, productivity, and innovation across workforces.
- Include migrant, refugee and other displaced entrepreneurs in economic incentives and in credit provided to small and medium enterprises (SMEs).
- Facilitate recognition of qualifications, notably for refugee and migrant workers in health and other essential occupations and sectors.
- Take measures to retain employment and available foreign workers and skills.
- Formulate guidelines and provide incentives for reanimating local and national economies during and after periods of continued special measures (such as lockdowns), with attention to facilitating access by needed foreign skills and labour.

Social protection and education

Social protection and access to schooling have been devastated worldwide by the COVID-19 pandemic and measures taken to impede its propagation; migrants and refugees are among those most devastatingly affected. Urgent measures to ensure provision of social protection and schooling for migrants and refugees and others similarly affected include:

- Guarantee access to social services, including mental and psychosocial support for all, particularly children and adolescents and unaccompanied and separated minors.
- Ensure provision of basic health care and attention to all children, including migrant and displaced children, and children remaining 'at home' with parents abroad.
- Provide for social protection safety net coverage of all migrants and displaced people.
- Establish/maintain special basic needs support measures to families cut off from overseas migrant *breadwinner/s* support**.**
- Extend financial support packages to all those residents in the territory who meet needs, risk, or vulnerability criteria, regardless of legal status.
- Ensure access by all migrant, refugee, asylum seeker, stateless and displaced children to virtual learning if/when classroom learning is restricted due to coronavirus measures, including by providing devices or alternatives to those who do not have reliable telecommunications connectivity or personal computer or cell-phone hardware.
- Provide for continued access to emergency shelters for migrants in transit, homeless people, and victims of disasters with no barriers as to their migratory status.
- Extend rent/housing payment moratoriums and/or payment support aid for COVID-related impediments and suspend evictions from homes and shelters.

Refugees, stateless persons, IDPs and asylum seekers' specific measures

Upholding refugee protection is crucial under any circumstances, as is maintaining the mechanisms of access to protection and of adequate assistance. Precautions for preventing spread of COVID can easily be maintained or applied without impeding access to protection, to legal recognition and to decent living situations for refugees, asylum-seekers, stateless persons and IDPs:

- Maintain access to refugee protection, including by ensuring access to asylum, individual assessment, best interest assessment and determination, and *international protection* under international human rights and refugee law.
- Adapt registration and processing of new asylum applications by mail, phone, email, and other virtual communication tools, as well as by making adjustments to facilities in accordance with public health guidelines, so those seeking protection are still able to do so.
- Automatically extend asylum documents and civil registration deadlines, while services are suspended and for a reasonable period after registration services have restarted to allow persons to renew their documents before they become invalid.
- Facilitate nationality procedures and change discriminatory nationality laws and practices, particularly those tolerating gender discrimination.
- Reinstate/Allow rescue at sea operations in the Mediterranean region, South Asia and elsewhere.
- Provide full access by refugees, IDPs, stateless persons to healthcare, including coronavirus treatment, testing, prevention, and vaccination, similarly to local populations.
- Ensure adequate health facilities as well as food, water, sanitation, and hygiene for all displaced people, those in camp situations and holding facilities.
- Provide for adequate space and reduce/prevent overcrowding at refugee and IDP camps and processing centers, by expanding facilities and/or transferring refugees from overcrowded facilities to decent housing, respecting the family unit.

- Include forcibly displaced people in national response plans and programmes, as well as in social safety nets and in-kind support responding to the socio-economic impact of the pandemics.
- Advocate for/ensure appropriations of additional allocations to UNHCR and the WFP to enable decent housing/shelter and adequate nutrition for all at refugee and IDP camps/facilities.
- Re-establish resettlement, complementary pathways, and regional and national relocation operations and programmes.

Gender specific considerations

The impact of COVID-19, and especially of often ill-considered response measures, has been and remains highly gendered for migrant and refugee women and girls. A comprehensive set of measures is needed to:

- Ensure that all COVID prevention and mitigation efforts and education are gender responsive and gender appropriate.
- Directly address specific risks for women migrants and refugees, including those in healthcare, aged care, and other essential work.
- Encourage prevention measures and provide PPE to reach women at workplaces and at home.
- Ensure focused and targeted outreach to provide health information, including specifically about COVID, to migrant, asylum seeker, IDP, stateless and refugee women and girls including in isolated 'hard to reach' situations.
- Ensure that all pregnant women and mothers of infants enjoy adequate and appropriate pre-natal, birthing, and post-natal attention, including equipping care providers and maternity facilities with PPE material for all women receiving care.
- Maintain or provide (if non-existent) reproductive health, family planning and contraceptive information, services and products for all refugee and migrant women and adolescent girls.
- Recognize, suppress, and provide safety options and shelters for victims of increased domestic violence against women and children during the pandemic, particularly during lockdowns.
- Provide access to menstrual hygiene products, particularly to women and girls in camp situations.
- Support prevention and response initiatives targeting men and boys, highlighting positive male role models, and promoting non-violent behaviour.
- Support helplines, safe-houses, support groups and other mechanisms of solidarity for migrant/refugee women.

Data, Narrative and Communications

Obtaining and providing accurate, reliable information and knowledge reaching all populations and individuals is primordial to overcoming the pandemic and the detrimental effects it and many response measures have had. Communication of accurate information and narratives of respect and solidarity is indeed key to rolling back discrimination, exclusion, and racist-xenophobic violence.

- Collect, analyze, and apply gender-, age-, and migration-situation disaggregated data locally and nationally on needs for, access to and availability of health care; decent work/employment; basic income; social protection; schooling and education; and freedom of movement as well as COVID-specific information.

- Articulate and popularize a narrative of solidarity, respect and common interest regarding migrants, immigrants, refugees, IDPs, stateless persons and asylum seekers.
- Emphasize that migrants, refugees, and other displaced people are part of our communities and make essential contributions to economic and social well-being for all.
- Clarify that migration and refugee protection are not major risk factors for transmission; rather travel *per se* –for business, tourism, or holidays– is a concern, specifying that most transmission was, remains and will be domestic «community» exposure everywhere.
- Provide communications and dedicated outreach efforts in locations, languages, and channels of communication of populations present, including immigrant, migrant, refugee, stateless and displaced persons.
- Monitor and correct misinformation, including by engaging trusted community members and leaders to promote circulation of accurate knowledge and to contest misinformation.

Recovery, Building Forward Together

While the end of the pandemic and general social, employment and mobility recovery remains less than imminent, it is timely to prepare for *rebuilding forward together*. Main challenges include employment reduction and stagnation remaining unabated in major economic sectors in many countries; business failures rising particularly among SMEs; controls on cross-border mobility remaining in place or being reimposed; and socio-economic situations for large numbers of people worsening as relief funds are not extended, moratoriums on rent and mortgage payments expire, and crises in governments remain unresolved. Sustainable recovery and rebuilding of economies and societies will necessarily include:

- Strengthening *universal quality services and social protection* made available to, accessible by, and with, equality of treatment for all migrants and refugees. Implementation of the Universal Social Floor in all countries is key. Explicit inclusion of all migrants, refugees, stateless persons, and displaced persons in COVID prevention, testing, PPE, vaccination, and treatment as needed.
- Establishing *UBI –universal basic income* with coverage of all resident migrants and refugees, regardless of status, as the only way to *leave no-one behind,* particularly in contexts of aggravated unemployment and accelerated business failures.
- Articulating *employment rich* recovery plans with employment support measures, both immediate and for sustainable recovery, ensuring equal access to employment for migrant workers and support for migrant and refugee entrepreneurs.
- Strengthening *decent work, workers' rights and labour standards* regulation, implementation, monitoring and enforcement, with explicit inclusion of equality of treatment/non-discrimination in law, application of international labour standards, and labour inspection covering all migrant workers.
- *Regularising status of migrants in irregular situations* recognizing that most migrants enter destination countries by regular means although some overstay permits and/or take up employment without authorisation, while many migrants worldwide are in free-movement spaces with rights to mobility, residence, and establishment.

Conclusions

Migrants, mobile workers, refugees, asylum seekers, stateless persons, and internally displaced persons (IDPs) remain among the most severely impacted, most at risk, and least protected peoples in the ongoing pandemic. Ill-considered response measures excluding or ignoring migrants and refugees –or targeting them as scapegoats- have significantly worsened health, social, economic, and political impacts of the pandemic crisis. While some improvements in health and pandemic-response policy and practice have been implemented, the pandemic appears set to continue. Without deliberate and comprehensive attention to the situations of migrants and refugees and their inclusion in overall response, prevention and recovery measures, the pandemic itself and its nefarious impacts on populations and communities worldwide will not be overcome.

There are no simple solutions, quick fixes, or easy remedies; a comprehensive package of measures is imperative. While some can be accomplished by administrative action, all need public oversight and legislative enabling, including by ensuring that resources are in place to include migrants, refugees, asylum seekers, stateless persons and IDPs in national and local COVID-19 responses and recovery.

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Juego de Roles: Una herramienta para visibilizar la lucha por los Derechos Humanos en programas de Ingeniería

Role Play: A tool to approach the fight for Human Rights in Engineering programs

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Resumen

En el presente artículo se propone implementar un taller educativo basado en la técnica "juego de roles", en el plan de estudios de una materia ofrecida en cualquiera de los dos últimos años de un programa de Ingeniería. Se evidencia, mediante revisión literaria, que las actividades educativas basadas en esta técnica son fundamentales en el estudio y comprensión de distintas problemáticas, como la migración global. A través de la personificación de representantes de una nación, los participantes logran no solo analizar los problemas que experimentan los migrantes y refugiados en varios países, sino que también se busca crear conciencia, empatizar y sentir la crisis y vulneración de derechos humanos fundamentales que viven a diario, motivando a los estudiantes a buscar continuamente soluciones innovadoras a dichos conflictos. Una de las herramientas basadas en simulación de "juego de roles" comúnmente utilizada es el Modelo de las Naciones Unidas (MUN), el cual consiste en una representación del Sistema de Naciones Unidas en escuelas, colegios y universidades. A lo largo del artículo se analiza el funcionamiento de técnicas de aprendizaje activo, sus beneficios e importancia sobre las habilidades sociales y formación integral de los estudiantes de Ingeniería. Adicionalmente, se revisa el impacto positivo de incluir temas sociales, como migración global, en los sistemas educativos.

Sumario: Introducción, Revisión de Literatura, Propuesta de la aplicación de juego roles en programas de Ingeniería, Discusión y Conclusiones.

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Palabras clave: Educación, juego de roles, diplomacia, migración, Ingeniería, Modelo de Naciones Unidas.

Abstract

This article proposes to implement an educational workshop based on the "role-play" technique as a fundamental tool to be included in the syllabus of a course offered in any of the last two years on an Engineering Program to introduce social problems such as global migration-related situations. Through impersonating a diplomatic representative of a nation, participants get to analyze the problems that migrants and refugees cope with within several countries, but also gain awareness, empathy, and embody the crisis and fundamental human rights vulnerability they experience day by day, motivating students to routinely incorporate innovative solutions to these conflicts. A "Role-play" simulation-based tool commonly used is the Model United Nations (MUN), representing the United Nations System focused on students from schools, colleges, or universities. The article examines the MUN model methodology, its benefits, and its overall importance for the social skills development of the participants. Additionally, we review the positive impact of including social topics, such as global migration, into educational programs.

Keywords: Education, role-play, diplomacy, migration, engineering, Model United Nations.

Introducción

La migración internacional es un fenómeno permanente de nuestro mundo actual. Las estimaciones de las Naciones Unidas para el stock total de migrantes a nivel mundial (el total de personas nacidas en el extranjero residentes en países) en 2020 fue de 281 millones, alrededor del 3,5% de la población mundial (UNDESA, 2020). Eso representa un aumento modesto en la proporción de población migrante con respecto a la población mundial, que se ha mantenido en torno al 3% desde la década de 1990. La migración anual neta ha sido consistentemente de 9 a 10 millones de personas por año durante los últimos 30 años. La Oficina del Alto Comisionado de las Naciones Unidas para los Refugiados (ACNUR) contabilizó un total de 20,7 millones de refugiados bajo su mandato en 2020, más 5,7 millones de palestinos bajo el cuidado de la UNRWA (United Nations Relief and Works Agency) y 4,1 millones de solicitantes de asilo (ACNUR, 2021), que representan en conjunto el 11% del total mundial de stock de migrantes. Casi todos los países del mundo son países de origen, destino y tránsito de migrantes y, en algunos casos, de refugiados y solicitantes de asilo. Muchos países se benefician de la residencia permanente, de largo o corto plazo, de migrantes que brindan habilidades y mano de obra que sustentan sus economías y su desarrollo.

Si bien no existe una definición normativa universal para *migrante internacional*, las convenciones internacionales brindan definiciones para trabajadores migrantes y sus familiares y para refugiados.[1] La definición estadística de las Naciones Unidas se refiere a las personas que residen fuera de su país de nacimiento. Las convenciones internacionales ratificadas por casi todos los países de América Latina y el Caribe proveen definiciones y detallan los derechos humanos de los trabajadores migrantes y miembros de sus familias y para los refugiados, incluidos los derechos laborales, y los derechos específicos a la protección de refugiados. Se reconoce como "refugiado" a todo aquel que se vio obligado a huir de su país por violaciones de los derechos humanos, conflictos armados o persecuciones y que teme ser perseguido si regresa a su país. Estas personas no cuentan con la protección de su país y su regreso conlleva

[1] Convención Internacional sobre la Protección de los Derechos de Todos los Trabajadores Migratorios y de sus Familiares (1990); la Convención de 1951 y el Protocolo de 1967 sobre el Estatuto de los Refugiados.

grandes riesgos que atentan contra su seguridad y sus vidas (Edwards, 2016). Sin embargo, muchos migrantes y refugiados se enfrentan a violaciones o falta de respeto a sus derechos humanos en los países de tránsito, en los que refugiados buscan asilo y/o en que los migrantes y refugiados residen.

El sistema de Naciones Unidas, especialmente sus agencias especializadas ACNUR, la Organización Internacional del Trabajo (OIT) y la Oficina del Alto Comisionado de Naciones Unidas para los Derechos Humanos (ACNUDH) tienen mandatos basados en las leyes internacionales que les conllevan a promover la domesticación de las convenciones en los países, además de llevar a cabo acciones para asegurar la protección de los derechos de todos los migrantes y refugiados. Esto obliga a la Organización de las Naciones Unidas (ONU), y otros actores, a buscar continuamente soluciones interdisciplinarias que garanticen protección a ambos gremios. Además, como está indicado en la Agenda 2030 para el desarrollo, hay una gran preocupación mundial para el acceso a la educación, incluso técnico y vocacional, incluyendo a los migrantes y refugiados, también del reconocimiento internacional de calificaciones y diplomas –lo que concierne a la ingeniería. Aunque el tema es vital en la actualidad y conlleva grandes retos, no todas las universidades ingenieriles lo consideran en su malla curricular. Según Walther (2019), uno de los criterios de ABET dentro de los programas de Ingeniería es "la habilidad para comprender el impacto de soluciones de ingeniería en el contexto global, económico, medio ambiental y social", de esta manera el estudiante es capaz de relacionar sus conocimientos técnicos con los desafíos mundiales actuales, como es el caso de la necesidad de resguardar los derechos de los migrantes, refugiados y demás desplazados.

Una de las herramientas que permite visibilizar la lucha por los derechos humanos es el uso de juego de roles en el ámbito educativo. Kilgour *et al.* (2015) en su artículo titulado *Role-Playing as a Tool to Facilitate Learning, Self Reflection and Social Awareness in Teacher Education,* comenta que la aplicación de esta herramienta brindó la oportunidad a sus estudiantes de experimentar una realidad distinta a la que están acostumbrados. De esta manera se logra que empaticen con las vivencias y sentimientos de los grupos minoritarios en una sociedad y, por lo tanto, serán capaces de encontrar soluciones sólidas a sus problemáticas.

La ONU toma como base la implementación de un juego de roles en su conocido Modelo de las Naciones Unidas, MUN, el cual se define como una simulación del Sistema de las Naciones Unidas donde participan estudiantes de escuelas, colegios o universidades. Cada alumno asume el papel de un embajador de uno de los estados miembros de la ONU, se plantean las problemáticas a tratar según los temas más relevantes de la agenda internacional y, se llevan a cabo debates y negociaciones con el fin de acordar las mejores soluciones posibles.

Este artículo tiene como objetivo presentar una propuesta de aplicación de juego de roles en el plan de estudios de una materia de los dos últimos años de las carreras de Ingeniería. Está compuesto por tres secciones principales, primero es la recopilación de estudios que demuestran que la aplicación de estos modelos de simulación de juegos de roles permite afianzar conocimientos y aprendizajes, relacionados con temas sociales como la migración global (Obendorf y Randerson, 2013); seguido de la presentación de la propuesta de juego de roles para programas de Ingeniería y, una sección de discusión donde se analizan las implicaciones de la propuesta planteada relacionándola con la revisión de la literatura previamente escrita. De este modo, se pretende incentivar a los jóvenes a interesarse profundamente en el análisis y comprensión de las situaciones que viven a diario migrantes y refugiados, además de fomentar una cultura de búsqueda continua de soluciones integrales.

Revisión de Literatura

Aprendizaje formal e informal

Existe una amplia gama de métodos de aprendizaje que permiten el efectivo desarrollo del individuo y sus capacidades (Becker & Bish, 2015); es posible segmentarlos en dos grupos, aprendizaje formal e informal. Para entornos cambiantes en el tiempo, como lo es la educación, es indispensable que se encuentren maneras efectivas para mejorar los programas de estudio, permitiendo que los estudiantes desarrollen nuevas capacidades y habilidades (Armstrong and Sadler-Smith, 2008); por ello, la búsqueda de nuevas herramientas de aprendizaje es fundamental.

Se considera aprendizaje formal a aquél que posee una estructura organizada, tiene establecido objetivos de aprendizaje y se da en instituciones educativas; por ejemplo: un curso online, talleres, seminarios o clases dictadas en un aula. Por otra parte, el aprendizaje informal se define como conocimiento adquirido de experiencias diarias, aprendizaje horizontal o cualquier tipo de aprendizaje que no es formal (Malcolm, *et al.,* 2003).

El modelo 70:20:10, considerado como aprendizaje informal, nace de una investigación empírica elaborada por McCall Jr. *et al.* (1988) en donde estudian alrededor de 200 ejecutivos de grandes corporaciones. Este modelo establece que el 70% del aprendizaje se basa en la experiencia, el 20% de otras personas y el 10% de aprendizaje formal, haciendo énfasis en que la mayor parte del aprendizaje sucede a través de experiencias, prácticas, conversaciones y reflexiones.

Entre el modelo propuesto por McCall Jr. *et al.* y una simulación de juego de roles existen similitudes. El porcentaje del 70% hace alusión a que el aprendizaje y el conocimiento se obtienen a partir de la práctica; esto es, la investigación propia realizada y el desarrollo de la simulación en donde se incluye la resolución de la problemática planteada. El 20% se refiere a aprender de otras personas, por ejemplo, las sesiones de mentoring, conferencias previo al ejercicio del taller, información relevante que otros participantes exponen con respecto a su rol y la retroalimentación proporcionada. La última parte del modelo y la que posee el menor porcentaje, 10%, sería el aprendizaje que se obtiene de cursos o talleres en los que los participantes se inscriban previo al juego de rol.

Tanto el aprendizaje formal como informal son necesarios en la vida de los estudiantes universitarios; los modelos, herramientas y metodologías existentes en torno a la educación permiten fortalecer el ejercicio de la didáctica de modo que los estudiantes se beneficien con un aprendizaje significativo, conocimientos sólidos y enseñanzas para los ámbitos personal y profesional de sus vidas.

Aprendizaje Activo

Al introducir temas sobre migración global a través de dinámicas basadas en un juego de roles, se consigue que el estudiante adquiera mayor comprensión y retentiva de lo que aprende; este tipo de dinámicas pertenece a la categoría de aprendizaje profundo o activo, el cual se consigue a través de la experimentación. Jean Piaget en su teoría del constructivismo concluye que “el conocimiento es una construcción producto de la actividad del sujeto en su interacción con el medio ambiente físico y social” (Rodríguez, 1999). Dentro de un aula de clases, el joven representa el sujeto del que habla Piaget y el medio ambiente físico o social son los distintos escenarios que se pueden crear sobre la temática propuesta.

Es crucial tener en cuenta que el aprendizaje activo no tiene como única finalidad el crear una clase más llamativa; se deben incluir técnicas que permitan que el estudiante

experimente y recuerde sucesos históricos, conceptos y sentimientos sobre el tema en cuestión (Kilgour *et al.*, 2015). Algunas de las técnicas o herramientas consideradas como aprendizaje activo son: juego de roles, debates, evaluaciones abiertas, paneles de discusión, simulaciones, enseñanza por proyectos, aprendizaje basado en problemas, entre otros.

Cusimano sugiere que el aprendizaje activo debe ser basado en descubrimiento, consulta y participación de manera pasiva y basado en la lectura (Fortin, 2012). Weir y Branowski (2011) en su artículo *Simulation History to Understand International Politics* enfatizan la importancia del uso de herramientas para promover el aprendizaje activo y, además, establecen que es una manera de facilitar la capacidad de los estudiantes para considerar temas como política internacional, sin estar completamente sesgados con perspectivas occidentales.

En un caso de estudio titulado en inglés como *Establishing Consistent Active Learning in a Calculus I Course,* Steve Bennoun y Tara Holm comentan sobre la transformación, los beneficios y los desafíos con los que se encontraron al implementar en la Universidad de Cornell el aprendizaje activo en distintos cursos de varias carreras. En primer lugar, se enfatiza que este proyecto fue impulsado debido a que se encontró la necesidad de apoyar a los estudiantes de todos los niveles con nuevos métodos de pedagogía, que garantizarán que el alumno aprenda de manera consciente cada materia. Las dos iniciativas que se tomaron como base para el proyecto fueron, la de educación científica de Carl Wieman en la Universidad de Columbia Británica (CWSEI) y la de Universidad de Colorado en Boulder (SEI).

El primer curso en el que se aplicó el aprendizaje activo fue Cálculo de una Variable, dictado en primer semestre y de modo tradicional. Su adaptación implicó cambios en la manera en que se enseñaba la materia; fue indispensable la continua capacitación a los docentes y, adicionalmente, fue necesaria la revisión literaria de casos de estudio similares, la definición de objetivos, la preparación de material didáctico y las evaluaciones. De esta manera, los resultados obtenidos fueron favorables, los estudiantes señalaron mediante un grupo focal de discusión que la nueva forma de aprendizaje les permitió compartir abiertamente los temas de la materia sin temor a equivocación y, además, en cada grupo de trabajo se apreciaban distintos puntos de vista de una misma temática (Steve Bennoun y Tara Holm, 2020).

Por otro lado, Kilgour *et al.* (2015) en un artículo de educación explican la manera en que se desarrolla un caso de estudio mediante el uso de un juego de roles, en una clase de educación multicultural. Se reunió a 100 estudiantes de masterado durante 50 minutos para que cada uno represente un papel distinto dentro de una pequeña sociedad; el objetivo principal era que los alumnos experimenten las diferencias del poder, injusticias y sentimientos de angustia que viven a diario los grupos minoritarios.

Al finalizar el taller se realizó una encuesta y los resultados fueron asombrosos. Los participantes mencionaron lo rápido que se aprende a sobrevivir cuando la situación lo amerita y, el resentimiento que sintieron al observar como aquellos con buena calidad de vida se llevaban los mejores bienes. Comentaron sobre las injusticias, egoísmo y discriminación de otras personas sobre ellos mismos. Asimismo, mostraron empatía al entender las dificultades que viven los grupos minoritarios al no tener un hogar, alimento o ayuda comunitaria.

En este último caso de estudio se demuestra que es posible alcanzar un mejor nivel de comprensión que el solo recibir teoría de manera tradicional dentro de un aula de clases. Los mejores resultados se aprecian cuando el estudiante es capaz de interactuar con sus compañeros, comentar su punto de vista y escuchar activamente el de los demás. Así como,

indagar por su propia cuenta previo, durante y después de la clase para que sea capaz de refutar o estar de acuerdo con un tema, basándose en argumentos sólidos. De este modo, la misma metodología se podría aplicar en escuelas, colegios y universidades al enseñar sobre migración o temas relacionados. Un ejemplo directo es la realización de un Modelo de Naciones Unidas, donde los estudiantes sean los representantes de los distintos gobiernos y busquen soluciones disruptivas y transformadoras.

Modelo de Naciones Unidas

Los conflictos internacionales político-ideológicos y armados, además de las luchas anti-coloniales concerniendo a países miembros, fueron motivación suficiente para que docentes y estudiantes empezaran a realizar simulaciones del Sistema de las Naciones Unidas en la década de 1950, como una forma de aprender acerca de temas internacionales, gobernanza global y diplomacia (Muldoon, 1995).

La simulación de un Modelo de Naciones Unidas recrea el trabajo de la Asamblea General y Comités pertenecientes a la ONU; los asistentes, a quienes se les da el nombre de conferencistas, personifican mediante un juego de roles a miembros del Comité Director y delegados de Naciones. La problemática sobre la cual se centrará el debate, al igual que los comités existentes en la simulación, queda a consideración de la entidad organizadora del modelo.

Los conferencistas, a quienes se les atribuye el rol de co-delegados o delegados, previo a la simulación, deben elaborar un intensivo trabajo investigativo del que se espera puedan identificar el contexto de la nación a la que representan, eventos de los que la nación ha sido parte en las últimas décadas, problemas existentes dentro o en territorios fronterizos y documentación internacional de la que sean parte. De este modo, la información recolectada debe ser plasmada en un documento de postura a favor o en contra de la problemática planteada. El Comité Organizador del modelo será el encargado de enseñar a los delegados el lenguaje parlamentario requerido en este tipo de espacios, con la finalidad de que el modelo se ejecute de forma diplomática y respetuosa.

El debate tiene lugar en varias sesiones en las que los delegados empiezan a compartir el contexto de las naciones a las que representan en un caucus moderado, establecen alianzas para trabajar conjuntamente en propuestas para mitigar los efectos de la problemática en la sociedad, y preparan un documento con las resoluciones finales donde se plasman acuerdos y soluciones innovadoras en un caucus inmoderado.

El MUN es considerado un método de aprendizaje activo para estudiantes de educación secundaria y universitaria; además, representa una solución a la brecha existente entre la experiencia de educación deseada y el modelo tradicional. Mediante la participación en un MUN, los estudiantes tienen la oportunidad de mostrar y potenciar habilidades de investigación, negociación, debate, liderazgo, oratoria, escritura académica, capacidad de toma de decisiones y comunicación asertiva, haciendo que empiecen a crear significado en base a la información adquirida, más no sólo memorizar datos; de esta forma, el ejercicio contribuye directamente a su formación integral.

Impacto del Modelo de Naciones Unidas en la Juventud

Pese a que el Modelo de Naciones Unidas es una simulación de una Institución Política, las actividades que conforman la agenda de la Organización de Naciones Unidas han creado oportunidades para que estudiantes de carreras ajenas a la política, por ejemplo: Ingeniería Económica, Administración y Finanzas, puedan ser parte de un MUN en la década de los 90

en Estados Unidos. Gracias a su participación en el modelo, estudiantes de una escuela de negocios lograron aprender sobre diplomacia multilateral, ganando así valiosa experiencia práctica en la gestión de proyectos internacionales que posteriormente dio paso a oportunidades de pasantías de verano en el *U.S. Departament of State* (Phillip y Muldoon, 1996).

En India se desarrolló un estudio sobre el impacto que tienen las conferencias MUN en la juventud; entre los principales resultados se obtuvo que el modelo ayudó a crear conciencia sobre asuntos internacionales contribuyendo además en la perspectiva de los jóvenes con el entorno universal (Agarwal, 2014). Adicional a esto, se les hizo sencillo entender conflictos internacionales y asuntos políticos internos de la India. En el documento de resolución final presentado, el grupo fue capaz de establecer soluciones potenciales para la existente Crisis Siria.

Investigaciones sobre simulaciones en aulas de clases de jóvenes americanos sugieren que la experiencia que los estudiantes tienen en el MUN puede respaldar el desarrollo de su eficacia política (Condon y Holleque, 2013); entiéndase por eficacia política a la sensación de que el cambio político y social es posible, también, que el ciudadano individual puede desempeñar un papel para lograr ese cambio. Un estudio retrospectivo presentado por los mismos autores encontró que estudiantes que habían participado años antes en un MUN, atribuyeron su compromiso con la sociedad y política a sus experiencias en esta simulación.

Por otro lado, un caso de estudio realizado en el Departamento de Inglés y Literatura de la Universidad de Pamulang, en Indonesia, demuestra que la aplicación de un MUN en una clase de cuarto semestre, de la materia Literatura del Idioma Inglés, logró mejorar la expresión oral de sus estudiantes. Previo a que se realizara el MUN, los docentes recalcaron la falta de habilidad de sus alumnos en expresión oral del idioma a diferencia de la escritura o gramática, por lo que decidieron utilizar al Modelo de las Naciones Unidas como una herramienta clave para afrontar esta problemática. Los resultados demostraron que la participación de los estudiantes en este evento permitió que cada uno generara más confianza en expresarse en el idioma inglés, así como mejoró su pensamiento crítico y su vocabulario en distintas temáticas. Así también, las puntuaciones de las pruebas de expresión oral, previas y posteriores, mostraron una diferencia significativa (Nasution y Sukmawati, 2019).

Desarrollo de habilidades blandas

Cimatti (2016) define a las habilidades blandas como aquellas aptitudes que no poseen una relación directa con un trabajo en particular; es decir, con un trabajo para el cual se requiera conocimientos específicos. Además, indica que dentro de las habilidades blandas se encuentran habilidades personales y sociales, las primeras haciendo referencia a los aspectos cognitivos de las personas y, las segundas a la capacidad de entablar buenas relaciones con los demás.

Los estudiantes de Ingeniería tienen más deficiencias en sus habilidades blandas en comparación a los estudiantes de otras disciplinas, debido a los conocimientos técnicos que son impartidos en el contenido de la carrera (Deep *et al*., 2019). De acuerdo con Hsieh y Knight (2008), las habilidades blandas son esenciales en el proceso de aprendizaje permanente, además, son necesarias para convertir profesionales en miembros responsables de la sociedad.

Cech (2014) en su trabajo cuestiona la educación de Ingeniería y la relación que tiene con la desvinculación de los estudiantes con la sociedad, destaca las consecuencias potenciales que éstos podrían tener si la academia no atiende el desarrollo de la empatía. Entre sus principales hallazgos enmarca que la educación en Ingeniería promueve algo que ella denomina "cultura de desvinculación", y hace referencia a una ideología en la que cualquier preocupación

que no sea considerada técnica es irrelevante para el "trabajo real" en Ingeniería. Del mismo modo, el estudio revela una disminución en la preocupación de los estudiantes de Ingeniería por el bienestar público conforme avanzan en su carrera universitaria.

Estudios han demostrado que, mediante el aprendizaje basado en problemáticas, habilidades blandas como resolución de problemas, empatía y trabajo en equipo se desarrollan de manera efectiva (Prince, M. y Felder, R. M., 2006). A pesar de que autores como Walther *et al*. (2019) demuestran importancia significativa de este tipo de actividades en el desarrollo de estudiantes de Ingeniería, aún existen universidades que no lo enseñan formalmente como parte del pénsum académico.

En la Universidad de Lincoln, uno de los componentes centrales de evaluación son las simulaciones Lincoln MUN, además, forma parte de los módulos obligatorios para estudiantes de Relaciones Internacionales. La institución considera esta herramienta como un vehículo para el aprendizaje activo, la resolución de problemas y el aprendizaje comprometido con la investigación (Weir y Baranowski, 2011); desarrollando en estudiantes habilidades blandas y técnicas. La retroalimentación por parte de los estudiantes participantes de los Lincoln MUN es positiva, afirma que la herramienta ha contribuido al desarrollo de su conciencia y conocimiento por otras culturas y países. De esta forma, se evidencia por parte de estudiantes y docentes el gran valor de las simulaciones en la enseñanza y aprendizaje en instituciones de educación superior.

En Estados Unidos se desarrolló un estudio entre jóvenes universitarios que formaron parte de una simulación de juego de roles dentro de la conferencia "*American Political Science Association Teaching and Learning*", en donde personificaron a actores nacionales e internacionales enfrentando la compleja situación de emergencia humanitaria de desplazados internos en Haití luego del terremoto del 2010. El estudio evaluó la empatía global, conciencia política y compromiso cívico de los participantes antes y después del ejercicio; entre los principales resultados se reportaron cambios positivos y estadísticamente significativos en la actitud de los estudiantes (Zappile *et al*., 2016).

La empatía social es definida por Segal (2011) como "La capacidad de comprender a las personas al percibir o experimentar las situaciones de su vida y, como resultado, obtener información sobre las desigualdades y disparidades estructurales". Mediante el desarrollo de la empatía social es posible comprender de mejor forma las desigualdades sociales y económicas de otras personas, lo que puede conducir a acciones que produzcan cambios positivos, justicia social, justicia económica y bienestar en una comunidad.

Cuando nos enfocamos en las habilidades blandas que se desarrollan mediante un MUN, Augustine Hammond y Craig Douglas Albert en su artículo titulado en inglés como "*Learning by Experiencing: Improving Student Learning Through a Model United Nations Simulation",* comentan la experiencia vivida en una clase semestral del MUN llevada a cabo en la Universidad de Augusta en Georgia, Estados Unidos. Se demuestra mediante un análisis estadístico que existe una diferencia significativa en las habilidades presentadas por los estudiantes previo al registro a la clase y posterior a su participación en la misma; entre dichas habilidades se encuentran el trabajo en equipo, la comunicación efectiva, la capacidad de pensar de forma crítica y de encontrar soluciones creativas a las distintas problemáticas basadas en los conocimientos adquiridos anteriormente (Hammond & Douglas, 2019).

Adicionalmente, los autores comentan que la materia fue diseñada de forma que los estudiantes lograron desarrollar habilidades de liderazgo al ser organizadores y anfitriones de

un MUN dirigido a cursos inferiores. Esta propuesta brinda a los alumnos la oportunidad de vivir y conocer la experiencia desde ambas perspectivas, en un inicio siendo participante, y posteriormente, siendo el gestor del evento que coordina informes y maneja tanto al equipo de trabajo como a los participantes; además de tener que leer y revisar de manera comprehensiva los documentos de resolución a las problemáticas planteadas. Por ello, es factible pensar que, sumada a la habilidad de liderazgo, el estudiante desarrolle la capacidad de ser más exigente consigo mismo en la calidad de sus trabajos para las futuras participaciones en simulaciones.

Implicaciones para la Ingeniería

Como se ha comentado anteriormente, los juegos de roles brindan la posibilidad a los participantes de percibir y experimentar una rutina de vida distinta a la que están familiarizados. En palabras de Segal citado en (Walther *et al*., 2016), "una mayor comprensión de las desigualdades sociales y económicas puede conducir a acciones que produzcan cambios positivos para el bienestar común de una sociedad". Ahora bien, si se considera la idea de introducir a estudiantes de Ingenierías en simulaciones sobre grupos minoritarios, las acciones que menciona Segal se convertirían en resultados basados en soluciones ingenieriles con la capacidad requerida para desarrollar proyectos sistemáticos y óptimos.

Este concepto no es relativamente nuevo, instituciones como la Universidad de Georgia han implementado programas que proporcionan las herramientas necesarias a sus estudiantes de Ingeniería Mecánica para poder fomentar en su aprendizaje trabajos enfocados en aspectos humanitarios; al finalizar cada módulo de los programas, la institución evaluaba los conocimientos adquiridos para consolidar los resultados del aprendizaje. Esta iniciativa fue adoptada en base a la necesidad de futuros profesionales que dominen e integren un pensamiento técnico y empático al mismo tiempo (Walther *et al.*, 2016).

En febrero de 2021 se llevó a cabo la IX Edición del Modelo de Naciones Unidas de la Universidad Autónoma de Chihuahua (MUNUACH), donde dos estudiantes de Ingeniería Industrial de la Escuela Superior Politécnica del Litoral (ESPOL) participaron como co-delegadas en la Entidad de las Naciones Unidas para la Igualdad de Género y el Empoderamiento de la Mujer, ONU Mujeres, representando a la República Federal de Nigeria. Siendo las únicas estudiantes de Ingeniería, propusieron ideas innovadoras logrando ganar la categoría de "Mejor Postura", reconocimiento que se obtiene por destacarse en la escritura del documento de posición ante la problemática "Protección de los Derechos Humanos de las Mujeres Refugiadas".

Al finalizar el evento, ambas delegadas concluyeron que haber participado en el MUN fue una experiencia enriquecedora y desafiante, la cual permitió conocer y empatizar con las situaciones críticas que viven miles de mujeres y niños refugiados a diario. Su experiencia fue un ejemplo más de que es posible participar y destacar sin formar parte de una rama de Ciencias Sociales; desde la Ingeniería, también es posible declarar soluciones y acuerdos a problemáticas internacionales que afectan a un determinado nicho, como fue el caso de las mujeres refugiadas en esta simulación.

Así también, la Ingeniería juega un rol fundamental en problemáticas a nivel mundial como es el caso de las afectaciones por el calentamiento global. En una investigación realizada por Nils Matzner y Robert Herrenbrück (2016), se menciona paso a paso la implementación de un Modelo de Naciones Unidas con estudiantes entre quinto y sexto semestre de estudio, donde el escenario abordó los aspectos políticos sobre la Ingeniería Climática como solución al cambio climático. Al finalizar, los participantes lograron adquirir un conocimiento más profundo sobre los diversos intereses políticos de cada gobierno, las ventajas y desventajas de

la aplicación de Ingeniería Climática, las políticas de riesgo involucradas, y finalmente recalcar el desconocimiento que existía entre los estudiantes y profesores sobre el tema previo a la simulación.

De este modo, se logra apreciar la ventaja de introducir a estudiantes de carreras técnicas como aportadores de soluciones ingenieriles para afrontar los escenarios planteados en un MUN, que resultan ser problemáticas reales a las que se enfrentan grupos vulnerables a diario. También se observa el beneficio de incluir este tipo de simulaciones en el campo de la Ingeniería como herramienta para desarrollar en el estudiante habilidades blandas; es decir, que desde ambas perspectivas los resultados son favorables.

Derechos Humanos y la Ingeniería

El mencionar derechos humanos y educación en Ingeniería en una misma oración puede sonar extraño, sin embargo, poseen una fuerte relación. Si nos remitimos a ciertas definiciones de la ingeniería, se enuncia que buscan ofrecer las mejores soluciones a problemas reales con los recursos disponibles al servicio de la humanidad (Hoole, 2002). Los ingenieros son personas que crean soluciones y mejoran sistemas, sin embargo, también pueden ascender en la estructura organizacional de una empresa y asumir cargos gerenciales en donde el conocimiento sobre manejo de personal es un requerimiento, de esta forma, es importante respetar los derechos y libertades fundamentales de los trabajadores.

Hoole (2002) en su trabajo sobre derechos humanos en los planes de estudio de Ingeniería menciona que, como docente universitario, la implementación de la enseñanza en derechos humanos le ha revelado la importancia que tienen las habilidades en comunicación y cómo éstas complementan el desarrollo de un estudiante desde su perspectiva. El autor ha percibido el descuido existente en las clases de Ingeniería sobre estas habilidades, cómo tópicos de derechos surgen en la educación y porqué la resolución de problemas debe basarse en un compromiso con los derechos humanos.

Leydens y Lucena (2018) mencionan en su libro titulado en inglés "*Engineering Justice: Transforming Engineering Education and Practice*" que apenas el 20% de la población mundial se ve directamente beneficiada por ingenieros, el 80% restante tienen necesidades insatisfechas; en este último grupo se encuentran algunos derechos humanos universales. El entender términos, como justicia social, puede ayudar a desarrollar habilidades que permitan presentar soluciones a diversas comunidades y abarcar parte del 80% mencionado anteriormente, que puede ser población con derechos vulnerados. Para mejorar la educación en Ingeniería, se propone incorporar la justicia social en el plan de estudios de una Escuela de Minas en Estados Unidos; este término hace referencia a tener personas que puedan percibir diversos puntos de vista para abarcar mejores soluciones para la población (Kulak, 2019).

En el seminario "Evaluación de los Derechos Humanos y la Sostenibilidad" organizado por la Universidad de Connecticut, se buscó unir a estudiantes de Ciencias Sociales y Ciencia, Tecnología, Ingeniería y Matemáticas, STEM por sus siglas en inglés, para que trabajen en conjunto explorando soluciones en temas de derechos humanos. Entre los resultados de la encuesta realizada para el estudio se obtuvo que estudiantes de Ingeniería experimentaron un mayor impacto del seminario, debido a que se exponen con menor frecuencia a colaboraciones interdisciplinarias; este tipo de seminarios se posicionan más atractivos para los ingenieros, contribuyendo en su aprendizaje y desarrollo de habilidades comunicativas (Hertel y Mackay, 2015).

Un artículo en el cual se utilizó juego de roles para enseñar a estudiantes acerca de equidad, derechos humanos y migración forzada, muestra entre sus principales hallazgos que la herramienta puede aumentar la capacidad de reconocer y abordar las amenazas como las violaciones de los derechos humanos y el acceso desigual a la atención médica entre los pacientes (Emegwa y Eriksson, 2020). Así, se evidencia el aporte de los juegos de roles para visibilizar el cumplimiento de los derechos humanos en el sector de la salud.

Levy (2016) presenta un caso de estudio en donde se evalúa el desempeño de estudiantes pertenecientes a un club que desarrolla juego de roles mediante los MUN. Uno de los participantes en su documento de posición exhorta a las demás delegaciones a proteger los derechos humanos fundamentales de los ciudadanos palestinos; además, propone soluciones mediante las que se puede mejorar la situación de esta fracción de la población asegurando el cumplimiento de sus derechos. Esto ejemplifica la conexión existente entre los juegos de roles y los derechos humanos, se propicia un espacio de investigación y aprendizaje activo sobre temas sociales, proponiendo soluciones funcionales que beneficien a la población con derechos vulnerados.

Propuesta de la aplicación del juego de roles en programas de Ingeniería

Es importante para la rama de la Ingeniería que sus proyectos y trabajos sean evaluados analizando los pilares social y ambiental del desarrollo sostenible. El tomar en cuenta distintas aristas permite visibilizar luchas sociales y ambientales que se están dando en la actualidad, haciendo que el impacto de los proyectos sea significativo y mucho más profundo que sólo velar por un beneficio económico.

Por ello, se propone la implementación de una simulación de juego de roles basada en la estructura con la que se lleva a cabo un MUN (United Nations, s.f.). El modelo contará con varias fases como el de la ONU, sin embargo, se ha decidido añadir una más para lograr tener un espacio en donde tanto organizadores como participantes puedan tener comentarios sobre el desarrollo de la actividad; de este modo, se tienen tres fases: Pre-conferencia, Conferencia y Retroalimentación.

En la primera etapa, “Pre-Conferencia”, se establece el tema del modelo, los roles de los líderes de cada nación y se brinda capacitaciones presenciales o virtuales dando a conocer los reglamentos, guiones, y pasos a seguir durante el evento. Así también, se brindan charlas por parte de miembros de los distintos organismos de la ONU como ACNUR, ONU Mujeres, entre otros.

La segunda etapa, “Conferencia” es la realización de la simulación junto con el comité organizador, los delegados y los facilitadores seleccionados en la fase anterior. Se lleva a cabo la presentación de cada delegación, la lectura de sus posturas, el debate y la redacción del proyecto de resolución. En esta etapa, los estudiantes podrán demostrar su preparación previa y los resultados de su aprendizaje activo por medio de su participación en el taller.

Se prevé que la aplicación de juego de roles en programas de Ingeniería sea una herramienta de educación formal implementada en instituciones de educación superior, por ende, es necesario hacer énfasis en la adición de una tercera etapa de “Retroalimentación”, en donde más allá que información sobre una calificación, se darán comentarios sobre el desempeño, análisis del desenvolvimiento de los estudiantes, principales conclusiones, análisis del impacto del ejercicio en la materia y puntos de mejora para futuros talleres.

Lineamientos

A continuación, se presentan las generalidades y los ejes temáticos a tomar en consideración al momento de planificar el taller del juego de roles.

Generalidades

- El taller está contemplado para realizarse de manera presencial o virtual en una de las materias de los dos últimos años de la carrera.
- Constará de 3 etapas, las cuales son preparación, ejecución y retroalimentación; la preparación se lleva a cabo en sesiones previas o con el envío de tareas, la ejecución durará aproximadamente una hora y media de clase, y la retroalimentación media hora.
- Es necesario que el estudiante adquiera durante la etapa de preparación los conocimientos necesarios sobre el eje temático y comprenda la importancia de la aplicación de juegos de roles en su carrera.
- Es fundamental que el docente se capacite sobre el contexto en que se basan los juegos de roles y lo que se espera de los estudiantes con su aplicación en la materia.
- El docente debe instruirse en el eje temático que se desarrollará en la simulación.
- Queda a criterio del docente la ponderación de este taller sobre la calificación final de la materia.
- Los estudiantes deben ser capaces de relacionar los aprendizajes obtenidos en la carrera con las soluciones innovadoras propuestas en la simulación, sin embargo, queda a criterio de cada docente integrar a la solución requerida algún aprendizaje específico enseñado en su materia.
- La propuesta de juego de roles está planteada de tal manera que sirva como guía para los coordinadores de carrera y docentes de cada Ingeniería; sin embargo, se deja a criterio propio la forma en que se adapte la aplicación de este taller en las distintas asignaturas según las metodologías de enseñanzas impartidas.

Propuestas de Ejes Temáticos

Se enlistan sugerencias de posibles temáticas en las que se puede desenvolver el taller, sin embargo, los coordinadores o docentes no están restringidos únicamente a estas opciones.

- Migraciones y derechos humanos, protección de los derechos de todos los migrantes.
- Protección internacional de refugiados, ACNUR y el Derecho Internacional de Refugiados.
- Protección, derechos y asistencia de los desplazados internos (IDPs).
- Inclusión de los migrantes/refugiados en la sociedad.
- Vivienda para migrantes, campamentos de refugiados y desplazados internos: Seguridad y Crisis Sanitarias.
- Educación y escolaridad para refugiados, migrantes y desplazados internos.
- Reconocimiento internacional de cualificaciones y diplomas.
- Programas de salud y nutrición para refugiados, migrantes y desplazados internos.

Estructura

Para la realización del taller de juegos de roles en el aula de clases, se plantean tres etapas que se detallan a continuación:

Etapa 1: Preparación

Dentro de esta etapa el estudiante debe adquirir un nivel mayor de conocimiento relacionado a uno de los ejes temáticos en los que se desarrolla el taller. Esta fase inicia algunas clases previas a la ejecución del taller, donde el docente explica los objetivos de aprendizaje, la temática a tratar, las rúbricas de revisión y la ponderación de la calificación sobre la nota final de la asignatura. Asimismo, debe definir las tareas a realizarse en esta fase, tales como, revisión de literatura, asistencia a capacitaciones, asistencia a charlas impartidas por expertos en el tema, y entre otras actividades que garanticen la preparación del alumno previo al taller. Cabe recalcar que el docente establece la frecuencia con que se lleva a cabo cada una de las tareas por lo que es necesario determinar un cronograma de trabajo.

Etapa 2: Ejecución

La simulación tiene una duración de una hora y media, se lleva a cabo de forma presencial en un aula de clases con capacidad para aproximadamente 30 personas; en caso de requerirse hacerlo de forma virtual es posible adaptarlo. La participación de los estudiantes es en parejas y debe mantener un lenguaje formal durante el desarrollo del taller. El juego consta de cuatro etapas: lectura de la problemática, exposición de posturas, debate y, redacción del documento de resolución.

Etapa 3: Retroalimentación

Al culminar la simulación, inicia la fase de retroalimentación la cual se estima tenga una duración de 30 minutos. Se entrega a cada uno de los estudiantes un formulario físico si el taller se realizó de manera presencial o digital si fue modalidad virtual; algunas preguntas propuestas son, el género, lo que aprendieron del juego, los sentimientos experimentados sobre el debate, las posibles mejoras o recomendaciones para futuros talleres, entre otras.

El docente propone que se compartan las respuestas de la encuesta con los presentes, y es el responsable de comentar las principales observaciones de cada uno de los grupos, brindándoles retroalimentación. Esta retroalimentación puede estar relacionada con las respuestas de los estudiantes sobre el tópico central o con las técnicas implementadas durante el debate. Al finalizar el taller, el docente debe presentar las conclusiones y recomendaciones de la simulación.

Los resultados de las encuestas deben ser compartidos entre los docentes que implementaron este ejercicio, así, se analiza el impacto que tuvo en la comunidad estudiantil y se puede estudiar la retroalimentación por parte de los participantes y docentes, para que el ejercicio del taller pueda mejorar en futuros semestres.

Discusión

En instituciones de educación superior es necesario crear conciencia sobre temas sociales y trabajar en propuestas interdisciplinarias que permitan a estudiantes de las ramas de Ingeniería aprovechar sus habilidades técnicas para desarrollar soluciones a problemáticas sociales de modo que el alcance de los proyectos sea mayor, al igual que la cantidad de beneficiarios. De este modo, los estudiantes comprenden el impacto que pueden tener sus soluciones en escenarios ajenos a los de su rama de estudio.

Se conoce que existe desinterés en temas sociales por parte de estudiantes de Ingeniería, de acuerdo con estudios (Walther *et al., 2019;* Walther *et al., 2016;* Bachen *et al. 2012)* se evidencia falta de empatía y un escaso desarrollo de habilidades blandas. Con la implementación de juego de roles, es posible que los estudiantes logren alcanzar nuevos niveles

de conocimiento en temáticas globales y a su vez desarrollen empatía por los temas consultados.

Los juegos de roles son una herramienta que permite consolidar conocimientos adquiridos durante su desarrollo por medio de la experiencia de personificar un rol, cumpliendo así con un proceso de aprendizaje activo. Esto propicia que el estudiante que participe aprenda de manera consciente sobre la temática que ha investigado y experimentado, además, da paso a que lo asocien con conceptos de alguna materia de su rama de la Ingeniería, logrando que el aprendizaje sea permanente y significativo en su vida.

Esto se evidencia en la experiencia de las autoras en el MUNUACH, en donde aprendieron a profundidad sobre las luchas y derechos vulnerados que sufren las mujeres refugiadas de la República Federal de Nigeria, al igual que las de las mujeres de demás naciones representadas por participantes de otras universidades. Asimismo, les permitió integrar sus conocimientos técnicos aprendidos durante la carrera de Ingeniería Industrial en las soluciones propuestas para la problemática.

Conclusiones

Los juegos de roles sobre problemáticas sociales, como las migraciones internacionales, es un enfoque significativo para aprender sobre equidad, igualdad, derechos humanos y la vulnerabilidad asociada; y contribuyen a la creación de ciudadanos responsables y comprometidos con la sociedad, preparados para velar por los derechos humanos de grupos vulnerables y dispuestos a ser agentes de cambio en diferentes lugares del mundo. Además, los estudiantes tienen la oportunidad de obtener información actualizada y sin sesgo sobre migración global, alentando el desarrollo de la empatía.

El aprendizaje activo que obtienen los estudiantes luego de participar en una actividad de juego de roles, como por ejemplo una simulación del Modelo de Naciones Unidas, refuerza la eficacia política y promueve un cambio de mentalidad individualista por uno enfocado en el bien común. Da paso a una juventud empoderada, con sentimientos de responsabilidad social y formación integral que contribuye a una mejor gobernanza; puesto que, al estar conscientes de problemáticas existentes, los líderes de las naciones se verán forzados a crear políticas amigables con los ideales de la juventud que enmarquen el mayor beneficio para la sociedad.

En el caso de los programas de Ingeniería, los beneficios de usar herramientas de juego de roles se combinan con el aporte técnico y cuantitativo que los estudiantes pueden proveer. Además, la herramienta ha demostrado ser eficiente para el desarrollo de habilidades blandas, que resultan igual de importantes que las técnicas en el perfil profesional de los estudiantes de Ingeniería.

En cuanto al objetivo inicial planteado para este trabajo, se presenta una propuesta de aplicación de juego de roles en el plan de estudio de una materia de los dos últimos años de las carreras de Ingeniería, sigue una estructura en la que el estudiante ejerce aprendizaje autónomo, y el docente facilita herramientas adicionales para consolidar conocimientos de modo que los estudiantes vayan desarrollando empatía y demás habilidades. El desempeño durante el desarrollo del juego de roles es evaluado por el docente como calificación, así, el estudiante se ve comprometido a desarrollar un buen trabajo y se proporciona una retroalimentación por parte de docente y estudiante para mejorar talleres futuros.

Finalmente, se recomienda la implementación del aprendizaje activo en los planes de estudio tanto en escuelas, colegios y universidades puesto que se ha evidenciado a lo largo de este artículo que actividades didácticas, como es el caso del Modelo de Naciones Unidas, permite el crecimiento personal y profesional del estudiante. Cabe recalcar que para su correcta implementación es fundamental disponer del compromiso de las autoridades y docentes de la institución organizadora, así como de una planificación detallada de los objetivos y recursos necesarios para el desarrollo del programa.

Reconocimientos

Este trabajo fue inspirado en la experiencia de las autoras Nicole Alvarado y Samantha Carrillo al participar en el Modelo de Naciones Unidas de la Universidad Autónoma de Chihuahua, MUNUACH. Las autoras desean expresar su agradecimiento a los estudiantes y profesores organizadores de la Universidad Autónoma de Chihuahua de México y a la Empresa Juvenil de la ESPOL de Ecuador por la invitación a formar parte del evento. El conocimiento adquirido en el modelo fue valioso para el desarrollo del artículo.

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Global Warming and Displacement: Challenges and Solutions in the Maldives

Calentamiento global y desplazamiento: desafíos y soluciones en Maldivas

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Abstract

For Small Island Developing States such as the Maldives, climate change poses an existential threat to the future and welfare of their countries' populations. The effects of global warming, such as rising sea levels and increased flooding, have forced countries to consider different measures in order to adapt, and some are even worried about a possible climate forced migration as a result of these dangers. Unfortunately, a lack of recognition of climate migrants under international law means that island states are left on their own to decide the best course of action. This raises an important question: What are possible challenges and solutions for Small Island Developing States [SIDS], such as the Maldives, who are planning for the climate forced migration of their populations? Using a case study of the Maldives, this paper explores both mitigation and adaptation measures that the Maldivian government has considered to develop its climate resilience. It also argues that rather than plan for relocation, the Maldives and other SIDS should prioritize keeping their populations together, maintaining cultural integrity, and implementing initiatives which support sustainable development.

Keywords: migration, climate, relocation, mitigation, adaptation, population, sovereignty, culture, development.

Summary: Introduction, Methodological apparatus, Clarification of Terminology, Coverage in Relevant International Legal Frameworks, Other Challenges with Current Terminology, Mitigation Measures, Adaptation Measures, Planned Relocation and Its Challenges, Further Recommendations, Main Priority and Conclusions.

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Resumen

Para los pequeños Estados insulares en desarrollo como las Maldivas, el cambio climático representa una amenaza existencial para el futuro y el bienestar de las poblaciones de sus países. Los efectos del calentamiento global, como el aumento del nivel del mar y el aumento de las inundaciones, han obligado a los países a considerar diferentes medidas para adaptarse, y algunos incluso están preocupados por una posible migración forzada climática como resultado de estos peligros. Desafortunadamente, la falta de reconocimiento de los migrantes climáticos bajo el derecho internacional significa que los estados insulares deben decidir por sí mismos el mejor curso de acción. Esto plantea una pregunta importante: ¿Cuáles son los posibles desafíos y soluciones para los Pequeños Estados Insulares en Desarrollo [PEID], como Maldivas, que están planificando la migración forzada climática de sus poblaciones? Utilizando un estudio de caso de Maldivas, este documento explora las medidas de mitigación y adaptación que el gobierno de Maldivas ha considerado para desarrollar su resiliencia climática. También argumenta que, en lugar de planificar la reubicación, las Maldivas y otros SIDS deberían priorizar mantener unidas a sus poblaciones, mantener la integridad cultural e implementar iniciativas que apoyen el desarrollo sostenible.

Palabras clave: migración, clima, reubicación, mitigación, adaptación, población, soberanía, cultura, desarrollo.

Introduction

In an opening speech given at the most recent United Nations Climate Change Conference, the COP26, held in Glasgow, Scotland, the president of the small island nation of the Maldives, Ibrahim Mohamed Solih, began his address by describing the existential threat that global warming poses to his country: "Our islands are slowly being eaten by the sea, one by one. If we do not reverse this trend, the Maldives will cease to exist by the end of the century...Please, please do not let this opportunity go to waste" (Meredith, 2021).

For Small Island Developing States [SIDS] like the Maldives, Fiji, Tuvalu, and other island nations, the COP26 represented a pivotal moment to show the world, and in particular nations that are high emitters of carbon dioxide [CO_2] such as the United States of America and the People's Republic of China (Blokhin, 2021), how crucial taking global climate action is before rising sea levels force the displacement of hundreds of millions of people across the world by the end of the century (Brown, 2008). Bodies such as the International Organization for Migration [IOM] and the Intergovernmental Panel on Climate Change [IPCC] predict that environmental degradation resulting from factors such as rising sea levels and flooding (Baillat, 2021) will not only worsen humanitarian issues like poverty and war (Podesta, 2019), but could also result in changes to migration that will fundamentally affect human mobility (Kälin and Weerasinghe, 2017). According to IOM, in SIDS such as the Maldives, where it is predicted that rising sea levels will overtake all of its islands by 2100, temporary or "permanent migration may be the only option[s] for those who anticipate their homes becoming permanently uninhabitable as a consequence of environmental changes" (Kälin and Weerasinghe, 2017). In addition, the "permanent relocation of populations – whether initiated or supported by governments – is increasingly considered as a solution of last resort" due to the costs and complexities involved with planning for such scenarios (Kälin and Weerasinghe, 2017). Moreover, if these migrants are not provided with sufficient assistance, they may be more at risk from "exploitation, discrimination, and [even] human rights" abuses (Kälin and Weerasinghe, 2017), forcing governments to intervene as they find ways to manage their populations' needs. In addition, for many islanders, the land they live on is considered a "part of their identity", and making the decision to leave the place of their ancestors is often a

traumatic experience which brings physical and psychological hardships (Borsa, 2020). All of these concerns raise an important question: *What are possible challenges and solutions for Small Island Developing States [SIDS], such as the Maldives, who are planning for the climate forced migration of their populations?*

Using the Maldives as a case study, this paper explores the phenomenon of climate migration, first by contextualizing the terminology used in such discussions and then identifying relevant existing international regulations and frameworks. It will then explore potential mitigation and adaptation measures developed by the Maldives and subsequently provide policy recommendations for SIDS' governments whose countries' futures are threatened by the realities of climate change.

Methodological apparatus

The purpose of this paper is to provide a literature review of existing analysis on the climate action measures planned by the Maldives and other SIDS. This sweep of the literature will be used as a means of identifying the appropriate next steps that such states can take to tackle the long-term effects of climate change on their population.

The literature used was first identified through searches on search engines such as Google Scholar and JSTOR, as well as previous background reading done in an undergraduate course on international migration. The materials analyzed were also authored by renowned experts in the topic, such as Ilan Kelman, Johannes Luetz, Sumudu Atapattu, Alex Arnall, and Uma Kothari.

Such secondary sources were also chosen for their relevance to the study of climate change impacts on international migration, and were used to examine the phenomenon of climate migration from several perspectives, including environmental viewpoints, international legal frameworks, and governance. The literature cited in this analysis also includes the work of several international organizations, including the International Organization for Migration [IOM], World Bank, European Commission, United Nations Development Programme [UNDP], United Nations High Commissioner for Refugees [UNHCR], National Aeronautics and Space Administration [NASA], and the World Refugee and Migration Council.

In order to ensure the quality and accuracy of the information in this paper, the editorial process was followed with an anonymous peer review which provided feedback and recommendations for revision. A further virtual meeting of peer researchers was conducted in order to provide a space for questions and comments relevant to the feedback.

Clarification of Terminology

Firstly, it is important to clarify the terminology relevant to the context of migration and climate change, as the lack of any globally recognized or international legal definitions for migrants as a result of environmental degradation (International Organization for Migration, 2020) means that different organizations and groups utilize a variety of terms to describe the issues involved. One term developed by IOM in 2007 is the phrase "environmental migration" to denote any type of migration in which environmental disasters are the drivers of human movement (Kälin and Weerasinghe, 2017). Furthermore, IOM defines *environmental migrants* as "persons or groups of persons who, predominantly for reasons of sudden or progressive change in the environment that adversely affects their lives or living conditions, are obliged to leave their habitual homes, or choose to do so, either temporarily or permanently, and who move either within their country or abroad" (International Organization for Migration, 2020).

However, for the Maldives and other SIDS, another, narrower term has also been used as a way to better represent the realities of forced migration from the effects of climate change: *climate migration*. According to IOM's guide to international migration law, "Glossary on Migration", climate migration is a specific "subcategory of environmental migration" and is defined as the "movement of a person or groups of persons who, predominantly for reasons of sudden or progressive change in the environment due to climate change, are obliged to leave their habitual place of residence, or choose to do so, either temporarily or permanently, within a State or across an international border" (International Organization for Migration, 2020). Similar to environmental migration, the term 'climate migration' is not a recognized one in international law; however, it has appeared in several international legal instruments in the past few decades, including the *binding* "Cancún Agreements on Climate Change Adaptation" adopted by countries at the COP16 conference in 2010, an agreement which recognized three types of human movement exacerbated by climate change: "displacement, migration, and planned relocation" (International Organization for Migration, 2020). These terms also indicate specific patterns or forms of migration; for example, *displacement* is used to discuss people who flee their homes as a result of "sudden-onset events in the environment" (International Organization for Migration, 2020). Moreover, *planned relocation* is, "in the context of disasters or environmental degradation, including when due to the effects of climate change, [refers to] a planned process in which persons or groups of persons move or are assisted to move away from their homes or place of temporary residence, are settled in a new location, and provided with the conditions for rebuilding their lives" (International Organization for Migration, 2020). Thus, unlike displacement, which is a consequence of a climate related disaster, planned relocation is a more deliberate course of action which seeks to provide relief to migrants over a long term period.

Although all the terms mentioned above may connect to each other in some way, it should be emphasized that the nature of their utility truly lies within their specificity. Why? Well, using the correct terminology is critical to a comprehensive understanding of the issues involved in migration resulting from environmental degradation. For example, *climate forced migrants* who have been assisted with planned relocation from their homes due to rising sea levels are facing very different circumstances than, perhaps, *environmental emergency migrants* who have had to flee due to a tsunami or earthquake. The consequences of either group's situation should not be minimized in any way, but for the former, the rising sea levels may pose a threat to the very survival of their country. In short, for all the aforementioned reasons, it may be more appropriate to refer to the people living in [SIDS] like the Maldives as 'climate forced migrants' rather than an alternative, broader term such as 'environmental migrants'.

Secondly, recognizing the correct terminology is an important step in an analysis of this issue, particularly because the terms used to describe climate migrants often connect to the lack of existing *binding* international legal frameworks or agreements that are relevant in this area. For example, there is a popular misconception that environmental migrants, or even specifically climate migrants, may also be referred to as 'climate refugees'; however, this term is inappropriate, for a variety of reasons. One is that in order to be considered a refugee, a person must be, as defined by the 1951 Refugee Convention, "unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion" (UNHCR, 2017). Refugees cannot simply be used to describe people who are fleeing their home; there must be an extreme factor such as war, armed violence, or persecution (UNHCR, 2017) that makes it particularly unsafe for that person to return. To call environmental or climate migrants 'refugees' is not only misleading and holds "no legal basis in international migration law", but

also "could potentially undermine the international legal regime for the protection of refugees" (Olsson, 2015). Although climate migrants face their own unique struggles, it appears that most are not in immediate danger or afraid that they will be targeted for belonging to a specific group. As a result, binding international legal treaties which recognize and serve to protect refugees, such as the 1951 Refugee Convention, or principles under international human rights law, such as the principle of non-refoulement, do not acknowledge migrants facing environmental degradation as holding refugee status. Thus, environmental or climate migrants are not protected under international law or afforded the same rights, i.e. the ability to seek asylum.

Coverage in Relevant International Legal Frameworks

Of course, this isn't to say that climate migrants are not recognized at all in international migration policy or law. Indeed, there are a few relevant *non-binding* agreements, i.e. the Global Compact for Migration [GCM], an international agreement which highlighted global warming and other phenomena of climate change as drivers "of forced migration through calls for building community resilience and adaptation capacity as well as for relocation schemes and commitments that 'enhance the availability and flexibility of pathways for regular migration'" (McCarney, 2021). However, even within the GCM, the terminology used effectively conceals the circumstances of people living in SIDS such as the Maldives, as the lack of meaningful solutions for migrants fleeing uninhabitable lands due to the effects of climate change [for example, rising sea levels] are not properly addressed. The agreement instead favors policies such as 'migration with dignity' and connecting migration guidelines to the Sustainable Development Goals (McCarney, 2021), which are not extensive enough to deal with the complexities of climate displacement issues.

Moreover, other *non-binding* frameworks, such as the United Nations Framework Convention on Climate Change [UNFCCC]'s Task Force on Displacement [TFD], which was developed by the Paris Climate Accords [2015], are restricted to providing recommendations (McCarney, 2021) that are not yet enforced by an international body, making it difficult for climate migrants to be supported in practical ways. In fact, a report made to the TFD in 2018 highlighted a frustrating lack of meaningful leadership and collaboration in this area, both in the United Nations and within international legal frameworks (McCarney, 2021). Worse still, not only has the UN failed to develop applicable solutions, but often even when mechanisms were created to support frameworks for climate migrants, the political will to act was so weak that there would be no follow through on the course of action. For example, in 2005 a resolution titled "The legal implications of the disappearance of States…for environmental reasons, including the implications for the human rights of their residents…" was adopted by the United Nations Sub-Commission on the Promotion and Protection of Human Rights in order to request the appointment of a Special Rapporteur, who would create an inclusive study on the legal consequences of the disappearances of countries due to environmental degradation (McAdam, 2011). However, this study was never performed, and the resolution remains unfulfilled until today for unknown reasons.

In addition to the above-mentioned lack of protections, another gap in the legal protection of climate forced migrants is the lack of an acknowledgement of *de facto* statelessness, or persons who may enjoy the protections of a government currently, but may not be protected in the future if their governments don't exist or hold the capacity to provide needed assistance (Olsson, 2015). The reason for such a concern might be the following: if states such as SIDS might eventually have to consider measures such as planned relocation, an solution explored later in this paper, due to the disappearance of islands from rising sea

levels, the respective governments could perhaps be unable to serve their citizens and provide them with the services typically coordinated by national officials. Just because these island populations are protected by their governments currently does not guarantee that the authorities can meet those commitments following a climate forced migration. Unfortunately, modern international law on statelessness, as derived from the 1954 Convention Relating to the Status of Stateless Persons, is "premised on the denial of nationality through the operation of the law of a particular state…despite the fact that a diversity of human rights are affected by environmentally induced migration" (Olsson, 2015).

In short, the combination of a lack of existing legally *binding*, enforceable migration policies for climate migrants, and little political will to create such policies, means that potential *climate forced migrants* from states such as the Maldives are stuck in a sort of 'legal limbo' that unfortunately provides them with little protection or even recognition in international governance.

Other Challenges with Current Terminology

According to Dr. Ilan Kelman, a renowned expert in risk and disaster reduction at the University College London in the U.K., there are two fundamental issues in current discourse on climate migration: the difficulty in establishing how many climate migrants there are in the world, and misunderstandings on what the basic causes of forced climate migration are. In his paper titled "Imaginary Numbers of Climate Change Migrants?", Kelman explains these issues in order to assert the following: there isn't any meaningful evidence to back up that climate change is a direct cause of any migration patterns (Kelman, 2019). While some intergovernmental organizations or agencies may point to statistics of climate migrants in different countries, Kelman argues that no such numbers are accurate. There are many possible reasons for such a claim, one of which is that theoretically, the best way for researchers to count climate migrants in populations would be to wait until after the deaths of the migrants in order to record their status, as it cannot be definitive until it is known if the migrant would ever return, or whether their migration was a more permanent phenomenon (Kelman, 2019). However, this would never work in practice because human beings are not stationary; most don't stay in one place for their entire lives (Kelman, 2019). People can move away from their homelands and return in the future. As a result, when migrants do move away from their native countries and such movements are recorded, "inconsistency might emerge if people purport to move due to climate change impact", even if those migrants move back to their homelands in the future without considering possible threats from climate change (Kelman, 2019). This is an interesting view, as agreeing with Kelman's assertion means that experts can never be too sure about whether climate migrants exist at all, at least if they continue to use the same methods to calculate such populations.

Similarly, Kelman's second issue, which asserts that climate migration is generally the result of a "lack of support mechanisms to deal with climate change impacts, rather than climate change" itself, also highlights that current statistics of climate migrants may not be helpful (Kelman, 2019). These groups may not have been forced to move due to the effects of climate change, such as rising sea levels, but instead have faced the consequences of their governments' failure to implement feasible adaptive measures. Subsequently, the term 'climate migrants' may not be the appropriate name for this group, but could potentially be a distraction to solving the challenges presented by national development. Kelman argues that if countries stop blaming their issues on climate change and instead focus on their preparedness for threats to security, they can be successful in improving the quality of life for their populations. One example of a successful country to model after its disaster reduction structure is, according to Kelman,

Bangladesh (Kelman, 2020). The southasian country, which is vulnerable to climate disasters such as tsunamis and flooding, has for decades experienced high migration levels, but through its national planning on cyclone preparation, Kelman contends that Bangladesh has "indicated what can and what should be achieved regarding weather, irrespective of climate…change" (Kelman, 2020). In short, climate migration may not be an issue if countries are adequately prepared for natural disasters, which is why having strong mitigation measures and adaptation measures is so crucial to ensuring people aren't forced from their homes in the first place.

Mitigation Measures

Ergo, all these considerations lead to a crucial question: If climate forced migrants are not protected under international law, then what can countries like the Maldives, Fiji, Tuvalu, or other Small Island Developing States [SIDS] that fear the disappearance of their islands do to protect the future of their peoples? Although global warming is of course a problem which can't be solved by the SIDS alone, there are practical measures that countries like the Maldives are already taking in the interests of their populations' welfare. In the context of climate action, these types of measures are often divided into two categories: mitigation and adaptation. Mitigation refers to measures that help maintain or lower carbon dioxide and other greenhouse gas emissions, while adaptation refers to adjusting to the current consequences of climate change (National Aeronautics and Space Administration, n.d.). Over the past few decades, the Maldives has implemented several mitigation and adaptation measures with the purpose of overcoming the effects of climate change, and in particular global warming, in order to protect Maldivians from rising sea levels and flooding.

Subsequently, one major focus of the Maldives' mitigation measures has been promoting "low carbon development" as a means to help decrease carbon emissions (Climate and Clean Air Coalition, 2015). According to information gathered by the Global Climate Change Alliance Plus Initiative, a climate focused project funded by the European Union, the Maldives has prioritized "leveraging public-private partnerships" in order to manage energy efficiency and support further development of renewable energy sources [i.e. wind, solar, hybrid, etc.] on the islands (Climate and Clean Air Coalition, 2015).

In addition, the government has collaborated with local private resorts to create new finance frameworks which would help decrease carbon emissions produced by the country's popular tourism sector (Global Climate Change Alliance Plus (Climate and Clean Air Coalition, 2015). Moreover, in 2019, the Maldives introduced its *National Action Plan on Air Pollutants*, a comprehensive scheme that details twenty-eight different mitigation measures "across three priority source sectors: waste, electricity generation, and transport" (Climate and Clean Air Coalition, 2015). According to the United Nations Development Programme, the plan "is viewed as a landmark initiative within the disaster risk reduction and adaptation communities" (United Nations Development Programme, n.d.). Among the suggestions made, the most notable ones are: advancing existing and improving access to "public transport, bicycle lanes, and footpaths"; making electric cars or other electric vehicles tax-free; pledging to discontinue the development and sale of hydrofluorocarbons [HFCs] in favor of the more sustainable method, district cooling; and even banning future sales of cars older than five years in the country (Climate and Clean Air Coalition, 2015). According to the Climate and Clean Air Coalition at the United Nations Environment Programme [UNEP], if this National Action Plan is fully carried out, the Maldives would see a "forty percent reduction of black carbon and a twenty-seven percent reduction of nitrogen oxide…emissions" by the year 2030. Arguably, this would be an incredible outcome, considering that the Maldives already only contributes "0.003% to global emissions" (Climate and Clean Air Coalition, 2015).

Nevertheless, how do these mitigation measures connect to migration, and more specifically, climate forced migrants? According to the United Nations Intergovernmental Panel on Climate Change's report on Mitigation of Climate [2014], the aim of mitigation is to ensure that development is consistent with sustainability (National Aeronautics and Space Administration, n.d.). Bearing this aim in mind, it is important to reiterate that if the world continues to follow an unsustainable path through development, which then increases carbon emissions, the consequences would be severe for people living in SIDS, which are dramatically affected by rising sea levels. Thus, countries like the Maldives enact mitigation measures because while they unfortunately can't always influence other more powerful states to take climate action, they can take their own steps to reduce their likelihood of climate forced migration in the future.

Adaptation Measures

Naturally, mitigation measures are often not sufficient for countries to prepare for the effects of climate change, which is why the Maldives has also implemented adaptation measures. Such efforts are not only designed to help the Maldives adjust to climate change, but to also "take advantage of any positive opportunities that may arise" (The European Climate Adaptation Platform Climate-ADAPT, 2020). There are different types of adaptation techniques which have been grouped into the following classifications by the European Climate Adaptation Platform: "gray, green, and soft measures" (The European Climate Adaptation Platform Climate-ADAPT, 2020). Gray measures are "technological and engineering solutions" designed to generate new types of infrastructure and land management in order to adapt to climate change challenges (The European Climate Adaptation Platform Climate-ADAPT, 2020). Green measures strengthen the "resilience" and "adaptation capacity" of a country through an "ecosystem-based approach", and soft measures may include "legal, social, financial" or governmental policies which can reinforce adaptation capacity as well as mobilize awareness on the effects of climate change (The European Climate Adaptation Platform Climate-ADAPT, 2020).

Wetland Conservation

One green measure which constitutes a significant feature of the Maldives' Climate Change Adaptation Project [CCAP] has been conserving the country's wetlands (Ali, 2018). The importance of protecting these areas cannot be understated, as wetlands "can store several tens of millions of cubic meters of water", providing a powerful flood management tool which act as natural "barriers against rising sea levels" (Ali, 2018). Wetlands also help to purify the groundwater flowing through the ecosystem and manage erosion of shorelines (Ali, 2018). Thus, in order to protect these important areas, the Maldives has begun carrying out new solid waste management projects to safeguard the wetlands from illegal waste dumping practices (Ali, 2018). The purpose of such initiatives is to bolster already occurring phenomena in the hydraulic cycle like groundwater recharge, which can "restore groundwater levels and store water for later use" as well as "reduce flood risk" (Escriva-Bou et al., 2021).

Moreover, such a project can also be considered a soft measure for its boost to the wider population's awareness of climate change. In the interest of "biodiversity conservation", the Maldives is using the protection of the wetlands to increase its nature based tourism by making the areas more enticing to tourists (Ali, 2018). This will be achieved by defining spaces as national parks for hiking activities, building bird observatories for bird-watching enthusiasts, and building more pathways along the coast for visitors who wish to experience the Maldives' grand views (Ali, 2018). The revenue generated from this development in the tourism sector can then be used to renovate infrastructure for climate change resilience, while simultaneously bringing attention to a new feature of the country, notwithstanding its beaches or coral reefs

(Ali, 2018). More importantly, though, these developments will not only benefit tourists but Maldivians too, as protecting the wetlands will also support their livelihoods. One of the plants native to the Maldives' wetlands, taro, is considered both an important source of food, but is also used as a "medicinal herb" and a material used in traditional "embroidered handicrafts" such as mats and baskets (Ali, 2018). Safeguarding the wetlands means that the supply of taro will be protected against illegal cutting of the plants, which is a growing concern among the islands' artistic communities. It also provides visitors with an opportunity to view first-hand how protecting the islands from the effects of climate change is crucial to maintaining the locals' way of life and why it is fundamental for the world to invest in SIDS such as the Maldives.

Sea Wall Infrastructure

However, protecting the wetlands is only the 'tip of the iceberg' in terms of the Maldives' adaptation measures. One adaptation measure which is not only a possible solution for the Maldives, but one which the island state is actively implementing, is the building of sea walls to deal with rising sea levels (Kapoor, 2020). Sea walls are defined by the National Maritime Foundation as "heavily engineered inflexible structures which…prevent sliding of the soil" and are helpful in acting as a defensive barrier against flooding (Kapoor, 2020). The Maldives has been exploring the use of sea walls for decades, but it recently began increasing production of the barriers, which are usually made of concrete or mortar (The European Climate Adaptation Platform Climate-ADAPT, 2020), following the El Niño phenomenon in 2016, a "warming of the equatorial Pacific Ocean" that led to one of the most damaging losses to coral life via "mass bleaching" in the Maldives since 1950 (Stockdale et al., 2017). Sea walls are incredibly useful to coastal communities for several reasons: they are designed to be storm-resistant; they preserve eroding cliffs and other rock structures; and they shield the land from "wave overtopping" as their heights can secure the distance between the mainland and the beach level, also called the dune (The European Climate Adaptation Platform Climate-ADAPT, 2020). According to the Maldives' current Minister of Foreign Affairs, Abdulla Shahid, building more sea walls is fundamental to protecting the country's coasts from the ravaging effects of climate change, as highlighted by his quote in an interview with the Reuters news agency in 2020: "In order to protect the islands, we need to start building sea walls…It's expensive, but we need [them]. We can't wait until all of [the islands] are being taken away" (Pal & Ghoshal, 2020).

Fortunately, some larger states have already stepped up to help develop the Maldives' sea walls. For instance, Japan had finished constructing a six kilometer long sea wall in 2002 along the Maldivian capital of Malé which ended up protecting the city considerably "from the 2004 Indian Ocean Tsunami" (Kapoor, 2020), one of the deadliest underwater earthquakes ever documented. Such a sea wall is not only useful for protection against natural disasters in the short-term, but perhaps long term defense as well, particularly against rising sea levels and increased flooding resulting from global warming.

Nevertheless, it is important to note that the building of sea wall infrastructure does have disadvantages, some of which may arguably outweigh any previously referenced benefits. One disadvantage is that focusing too much on building sea walls or other types of "hard infrastructure" might divert attention and resources away from soft adaptation measures which can be just as critical for building a climate resilient country and economy, i.e. training policymakers or supporting climate action education for local communities (Kapoor, 2020). Another disadvantage is that sea walls are not completely sustainable in the long term for the preservation of the local environment, especially in relation to beaches. Although sea walls serve as excellent defensive barriers, they have been "reported to aggravate the problem of

beach erosion" (Kapoor, 2020), a process which has severe consequences on the animals who have made the beaches their home. For example, sea walls may block sea turtles from "nesting sites" and can even be trapped by them (Kapoor, 2020). Subsequently, the repercussions of the structures on erosion and animal habitats raise concerns on whether sea walls are sufficiently environmentally friendly to justify their continued production, or if alternative, less damaging options need to be emphasized.

Floating City Model

Another innovative adaptation measure the Maldives has begun implementing is the development of waterfront residences for the purpose of building a "floating city" (Marchant, 2021). The project is being designed by the Maldivian government in collaboration with the Netherlands to develop "thousands of waterfront residences and services floating along a flexible, functional grid across a 200-hectare lagoon" (Marchant, 2021). These residences will form the basis of an "island city" that will be located in a "warm-water lagoon" about ten minutes from Malé by boat (Marchant, 2021). The reasoning behind such a design is rooted in a focus on sustainability and protecting the islands from rising sea levels. The Maldives is hoping that by modeling the Netherlands' innovative production of "floating social housing", it can create unique aquatic, urban grids which can meet the growing needs of its population (Marchant, 2021).

One reason why the floating city model might be preferable to the production of sea wall infrastructure is that it has "minimal impacts" on the local environment in that it doesn't contribute to beach erosion or destruction of the coral reefs (Marchant, 2021). The waterfront residences can also be created independently, meaning that no existing land needs to be used for the model to work. More importantly, though, rising sea levels would not be as great of a concern as the residences would rise along with the waves (Marchant, 2021). Such an outcome could be groundbreaking for the Maldives, as the presumption of climate forced migration from the country is generally based on rising sea levels making the lands uninhabitable in the future. However, if the floating city model allows the state to adapt with the sea while maintaining the population's quality of life, this migration would not have to take place.

Another benefit to the floating city model is that the interconnectedness inherent in the model's plan would not only help Maldivians deal with issues from climate change, but could also propel the country further towards more sustainable development. The idea is to construct a chain of connecting water channels, bridges, and docks that would make it easy for locals to go to businesses, houses, and other facilities across the floating city (Marchant, 2021). Moreover, the city would run on energy derived from renewable resources such as solar, wind, and aquatic power, making the country less reliant on fossil fuels or other sources contributing to the climate crisis.

Artificial Islands

Likewise, a third adaptation measure which could be a powerful solution for the Maldives if further developed is the construction of artificial islands. This plan goes a step further beyond the floating city model, as building new islands means physically raising the height of the existing land to make the environment more flood-resistant. While the plan might seem difficult to execute at a first glance, the Maldives had already begun building such an island in 1997. Known to the locals as Hulhumalé, this artificial island was built in order to "relieve overcrowding in Malé", and today it is the "fourth-largest island" in the country with a population of over 50,000 people (Voiland & NASA Earth Observatory, 2021). Hulhumalé was constructed by "pumping sand from the seafloor onto a submerged coral platform", allowing it to rise about two meters above sea level, which is about twice the height of Malé

(Voiland & NASA Earth Observatory, 2021). While the island had not initially been developing with climate-resilience in mind, Hulhumalé has the capacity to inhabit or house other groups of the population who might need to evacuate there in case of natural disasters such as earthquakes or tsunamis (Voiland & NASA Earth Observatory, 2021), providing the government to with an opportunity to already begin moving people from smaller islands which are more vulnerable to flooding.

In addition, locals who now inhabit Hulhumalé prefer living on the raised island for the following reasons: it "has wide sand beaches instead of a concrete sea wall" (Hamilton, 2008), due to the lack of a need for a physical barrier; there is more space for individuals and families, alleviating the congestion that locals previously living in Malé had to deal with; and it's clean because the government could already build modern sanitation systems from the initial phase of the development.

Following these positive reactions, one recommendation for the Maldivian government would be to not only help more locals move to Hulhumalé, but to focus on the expanded development of artificial islands. Further land raising would help protect the Maldives against rising sea levels and could be a long-term climate-resilient solution combined with the floating city model. It would also support urbanization and greater sustainable development in the country. Of course, there are some considerations which need to be accounted for in such planning. For example, the extent of "the height allowance over time" would need to be thought through in relation to variables such as "flood hazard e.g. sea levels, waves, surges, tides, and exposure e.g. land use and defenses" (Brown et al., 2020). Naturally, the higher the allowance for sea level rise, the better, as the higher the islands rise in height, the lower the chance would be of those islands having to face flooding (Brown et al., 2020). There are also some challenges which arise from this practice; for instance, even if the rising sea levels do not directly impact the raised islands, the "secondary effects of sea level rise such as groundwater stalinization" would still have to be dealt with (Brown et al., 2020). A more significant challenge, moreover, would be the costs involved in such a project. The following question remains: Who would be paying to build these raised islands? Well, according to the Maldives, other countries, particularly those which are higher emitters of carbon dioxide and thus larger contributors to global warming, should be responsible for contributing the funds (Hamilton, 2008). While these countries would be hesitant to help, it is arguably in their best interests to do so, as the lack of long-term solutions like the floating city model and artificial islands could mean that planned relocation, albeit a gradual, phased one, might be the only option for the Maldivian population.

Future Floating

Although it has already begun implementing various mitigation and adaptation measures, the Maldives is not the only island state which has developed new ways of tackling the effects of climate change. One method which Maldivians or other SIDS could learn from, and possibly apply to their own populations, is the 'future floating' model created in Bangladesh. According to Johannes Luetz, a social scientist specialized in human climate migration, Bangladesh's "revolutionary solution" to intense annual floods involves a "flat-bottomed fleet of 42 boats that are school bus and schoolhouse in one, providing education and other services to more than 1,500 students in nearly 400 villages…" (Luetz, 2008). The main benefit of this model is that the students who live in coastal areas would not be forced to relocate to urban communities to pursue their secondary education [or even basic schooling, in many cases].

Nevertheless, there are numerous other advantages which not only protect these students from the impacts of rising sea levels, but even increase accessibility and promote

sustainable development. For instance, many Bangladeshi students in coastal communities would drop out during monsoon season because taking a flooded route to school for a couple months was extremely dangerous (Luetz, 2008). However, the boats created for the 'future floating' model allowed these students to continue their education during monsoon season, preventing disruptions which would have otherwise limited their opportunities in the future. In addition, the Bangladesh government worked with indigenous communities to ensure that the production of the boats was done by indigenous manufacturers, supporting local development.

What is important to take away from the 'future floating' model, and other innovations similar to its design, is that mitigation and adaptation measures should not only be focused on climate action. As well, governments should consider how to implement policies which increase sustainable development and make the lives of their peoples better than before.

Planned Relocation and Its Challenges

However, why might planned relocation be considered a last resort option for the Maldives? Firstly, it is important to explain what exactly the term implies. Planned relocation does not mean moving to a new island within the Maldives as the artificial island developments are trying to achieve, but instead refers to moving to an entirely different country or territory. Thus, the reasons for the hesitance to implement such a system are varied, but one significant factor lies with the hardships associated with the moving process itself. For islanders in the Maldives, the land they live on is often considered a natural extension of their cultural identity. To leave their home behind as a result of climate change disruption would arguably be a traumatic experience, and would mean that communities formed over generations in ancestral lands would have to 'start over' in a place they've never been to before. Another challenge would be the "extent to which the needs of affected populations and the impact of planned relocations on them are taken into account" (Gallo, 2019). Moving an entire country's population to another territory would have significant impacts on the lives of the population already living there, and if the relocation is not planned out carefully, the possibility for violence, xenophobia, discrimination, and perhaps even armed conflict between the two groups could be high. Moreover, a relevant concern would be "land tenure issues in terms of evacuated areas, land acquisition, [and] relocation sites" (Gallo, 2019). Not only would finding available land to house such a large population be difficult but obtaining that land legally and ensuring that the relocated population is recognized under domestic laws, as well as public international law, would be a major challenge. An additional challenge would relate to governance; for instance, how would the Maldives govern its population and form the basis of a country if its population was living in a new territory?

Subsequently, in such discussions about the challenges of planned relocation, it is critical to point out that current international law is often insufficient to resolve such issues, as the scope is neither large enough nor fully developed. For example, according to international environmental lawyer Sumudu Atapattu, the application of international legal principles, such as the right to self-determination, to contexts of planned relocation has never been thoroughly investigated, especially on such a large scale with regards to entire populations from SIDS (Atapattu, 2014). In her paper titled *Climate Change: Disappearing States, Migration, and Challenges for International Law* published by the Washington Journal of Environmental Law and Policy, Atapattu further explains that it is not yet known if populations from a disappeared state would govern themselves, or even if they could use the right to self-determination in order to demand territory from other states for their own sovereignty (Atapattu, 2014). Of course, self-determination is not the only defining principle of international law at play here; according to researcher Jeremy Keller, the right to nationality is also an important entitlement in

international law, regardless of whether the territory of one's nation has disappeared (Kelley, 2011). Essentially, international law does not have adequate frameworks to unravel this dichotomy, as even existing legislation such as the Law of the Sea Convention does not articulate what would happen to maritime zones associated with disappeared states. As such, SIDS may have to rely on the goodwill of larger, more powerful states to support their enduring existence.

How, then, is the Maldives planning to execute planned relocation? And how should SIDS implement this process in order to account for the needs of all populations involved? First, the Maldivian government has been considering which countries are prime locations for planned relocation for over a decade, with Australia, India, and Sri Lanka having been considered due to proximity and similarity in culture (Ramesh, 2008). In fact, the government has already "set up a sovereign savings account, funded by revenue from tourism" to purchase a new homeland in one of these countries (Burgess, 2012). Although other SIDS such as Kiribati and Tuvalu have held talks with the Australian government to "discuss the possibility of immigration assistance", the Maldives has created their fund with the hope that by owning their land, the government will not "require the bureaucratic generosity of other nations" (Burgess, 2012). However, such a solution is not feasible for all countries considering planned relocation.

Further Recommendations

In addition, a recommendation for SIDS who don't have the funds to purchase land in another country and are also facing bureaucratic resistance to requests for future humanitarian assistance, would be to propose setting up an autonomous state, similar to the governance structure of First Nations in Canada and Native American tribal reservations in the United States. In both countries mentioned, all members of the autonomous states living in these territories, i.e. Navajo Nation in southwestern U.S., Métis Nation in eastern Canada, etc., pay federal income taxes to the respective government (United States Department of the Interior Bureau of Indian Affairs, 1991). By following a similar model, island nations could be contributing to the economy of the host country while maintaining their own sovereignty. Naturally, though, binding agreements would need to be developed between the two countries that meet the requirements of human rights and other cornerstones of international law. Protecting the SIDS' government's sovereignty would be vital to the success of such a process, however, meaning that political and social considerations would need to be comprehensively accounted for.

Finally, it cannot be overemphasized that a planned relocation should be implemented in phases, and that it should only be considered if all other initiatives fail as adaptation measures. If countries such as the Maldives find planned relocation to be necessary, groups in the smallest or most vulnerable islands should be prioritized in a gradual movement towards the host country's territory. This phased relocation should be spread out over every couple of years in order to sufficiently take care of the needs of each group. This will not only reinforce the host government's effort to properly welcome the new inhabitants, but will allow the respective SIDS government to identify how much land and resources are required to support the growing populations.

Main Priority

Firstly, it is important to emphasize that when discussing initiatives such as planned relocation, the priority should be preparing for realistic outcomes. For instance, some scholars might argue that the best solution for SIDS would be to collaborate with the United Nations, or

perhaps other intergovernmental organizations to produce new and/or binding frameworks for climate forced migrants within international law. Realistically, though, small states such as the Maldives will have to confront the fact that more powerful states might not feel responsible for providing territory or aid with relocation, regardless of any prior commitments expressed in climate frameworks like the United Nations Framework Convention on Climate Change [UNFCCC] (Atapattu, 2014). Moreover, even if land has already been bought for a planned relocation, concerns relevant to cost, governance, and naturally the maintenance of cultural integrity remain.

Furthermore, it is also crucial to recognize the dangers of allowing panic to influence major public policy making, rather than focusing on pragmatic solutions. Throughout the sphere of media, and even in discussions amongst politicians and environmental scientists, there is often a tendency to adopt an alarmist perspective "by invoking a policy discourse of immediacy and urgency" (Arnall and Kothari, 2015). These representations of a "climate apocalypse" are problematic for two reasons. First, they create a notion that developing states are helpless without the support of the Western World, adding to stereotypes of victimhood and reinforcing the idea that SIDS lack the independence required to solve such problems (Arnall and Kothari, 2015). Second, these representations portray climate threats with such a strong sense of "immediacy" that may distract governments from their populatuon's more pressing concerns, such as the economy, healthcare, or political freedoms (Arnall and Kothari, 2015).

However, the alarmist voice often used in the media and politics isn't necessarily the right one. Planned relocation is not the only solution to climate change for SIDS, and subsequently, should not be considered unless all other viable alternatives have demonstrably failed. Adaptation measures such as artificial islands and floating cities won't be easy to implement, but they will support the sovereignty of SIDS as well as the cultural integrity of the populations living there. As such, these types of measures need to be prioritized over planned relocation schemes which may only serve as distractions from the current issues that islanders are facing. Of course, this doesn't mean that adaptation measures should be implemented *in place of* planned relocation; this scenario isn't necessarily an 'either-or' situation. Unfortunately, not every project can be invested into, and therefore, governments would be more proactive by investing in initiatives that further develop their economies.

Conclusions

In conclusion, the Maldives is one of many countries whose survival is being threatened by climate change. As the global temperature increases and sea levels rise, many states, particularly SIDS, must confront the possibility of planning for a future where their islands may be submerged in one hundred years. Fortunately, there are several measures used by the Maldives that can be duplicated by other countries to protect populations from flooding and natural disasters. Mitigation measures such as developing the use of renewable energy sources, and adaptation measures such as the construction of floating cities and raised, artificial islands can be used in conjunction with phased planned relocation to serve populations' short-term as well as long-term needs. However, what is most important to take away from this analysis is that SIDS considering a planned relocation need to primarily focus their attention and resources on adaptation measures.

While planned relocation is an option, its feasibility is questionable, and such an initiative would upend the lives of populations who may feel a strong cultural connection to their native homelands and would require national restructuring on a massive scale. Moreover, adaptation measures support countries in maintaining their sovereignty, and offer a current

alternative to supporting sustainable development while tackling the effects of climate change. If policy officials work together now to protect their nations from the effects of climate change, they may prevent forced climate migration from occurring and ensure a more sustainable and hopeful future for all islanders.

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Migrant workers and discrimination: realities, threats, and remedies

Trabajadores migrantes y discriminación: realidades, amenazas y remedios

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Abstract

Migrant workers perform essential work but often have to do so in substandard or even abusive conditions. Women make up nearly half the migrant workforce and are exposed to extra dangers to their health and safety. The COVID-19 pandemic and other events have heightened the visibility of their situation. The rights-based approach, developed over a period of more than 60 years, offers coherent solutions to the whole range of issues pertaining to the employment of international migrant workers. It covers recruitment, admission, employment, unemployment, training, occupational safety, health care, social security, organisation, housing, family, and others, that by minimising the differences in treatment and opportunities between migrant and national workers protect not only migrant but also national workers and minimise social and economic divisions and the risk of political divisions inherent in them. Using examples, the article outlines the risk of discriminatory treatment not only by individuals but by law and administrative practice for migrant workers and the need to control the risk, not least for the benefit of national workers. It describes the many ways and situations in which migrant workers have been found to suffer discrimination. It takes a close look at the definition of discrimination in the international Conventions adopted in response. Among their implications it highlights the issue of indirect discrimination and touches on the issue of positive discrimination. Some reasons given by states for keeping migrant workers in situations prone to discrimination are mentioned.

Keywords: migration, migrants, rights-based approach, employment, unemployment, labour inspection, domestic work.

Summary: Introduction, The state of debate about migrant workers and discrimination, Definitions of Discrimination and Facts, International legal norms, Forms, remedies, and proof of discrimination and Conclusions.
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Resumen

Los trabajadores migrantes realizan trabajos esenciales, pero a menudo lo hacen en condiciones deficientes o incluso abusivas. Las mujeres constituyen casi la mitad de la fuerza laboral migrante y están expuestas a peligros adicionales para su salud y seguridad. La pandemia de COVID-19 y otros eventos han aumentado la visibilidad de su situación. El enfoque basado en los derechos, desarrollado a lo largo de más de 60 años, ofrece soluciones coherentes a toda la gama de cuestiones relacionadas con el empleo de los trabajadores migrantes internacionales. Abarca la contratación, la admisión, el empleo, el desempleo, la formación, la seguridad en el trabajo, la atención de la salud, la seguridad social, la organización, la vivienda, la familia y otros, que al minimizar las diferencias de trato y oportunidades entre los trabajadores migrantes y los nacionales protegen no solo a los trabajadores migrantes sino también a los nacionales y minimizan las divisiones sociales y económicas y el riesgo de divisiones políticas inherentes a ellas. Mediante ejemplos, este artículo describe el riesgo de trato discriminatorio no solo por parte de los individuos, sino también por la ley y la práctica administrativa para los trabajadores migrantes y la necesidad de controlar el riesgo, sobre todo en beneficio de los trabajadores nacionales. Describe las muchas formas y situaciones en las que se ha descubierto que los trabajadores migrantes sufren discriminación. Examina de cerca la definición de discriminación en los convenios internacionales adoptados como respuesta. Entre sus implicaciones destaca el tema de la discriminación indirecta y aborda la cuestión de la discriminación positiva. Se mencionan algunas razones dadas por los Estados para mantener a los trabajadores migrantes en situaciones propensas a la discriminación.

Palabras clave: migración, migrantes, enfoque de derechos, empleo, desempleo, inspección del trabajo, trabajo doméstico.

Introduction

Today migrant workers are ubiquitous around the world, and evidently, they are often employed in undesirable or even abusive conditions, i.e. in low-wage industries, services or plantations, in poorly regarded occupations, in jobs offering little or no opportunity for advancement, in economically unattractive or remote areas, or in enterprises offering below-standard wages and working conditions (Böhning, 1996:13). They are often underpaid, provided with inadequate or no workplace safety and health protections thus suffering injury and death, and hired and dismissed 'on a moment's notice'. Under these conditions, expression of freedom of association and collective bargaining rights may be difficult, intimidated or otherwise rendered impossible. In many places they are also more frequently unemployed than local workers. In addition, housing conditions are often poor or expensive or both (Taran and Gächter, 2005; Taran and Kadysheva, 2022).

In the International Convention on the Protection of the Rights of Migrant Workers and Members of Their Families (ICRMW), 1990, the preamble highlights the "importance and extent of the migration phenomenon, which involves millions of people and affects a large number of States in the international community," and "the impact of the flows of migrant workers on States and people concerned" (United Nations, 2005:21).

Succinctly put, "The question of migrants' rights represents a cutting edge of contention between the consequences of the economic logic of globalization vs the moral values embodied in human rights concepts and law. This contention is marked most dramatically by the conditions that many migrant workers face in host countries around the world. As the 2004 International Labour Conference observed about migrant workers: "a significant number face undue hardships and abuse in the form of low wages, poor working conditions, virtual absence of social protection, denial of freedom of association and workers' rights, discrimination and

xenophobia, as well as social exclusion. Gaps in working conditions, wages and treatment exist among migrant workers and between migrant and national workers. In a significant number of cases unemployment rates, job security and wages differ between regular migrant workers and national workers" (ILO, 2004, para 5).

"Widespread abuse and exploitation of migrant workers – often described in terms of forced labour and slavery-like situations – stand in marked contrast to the promises that economic globalization will bring better conditions and social protection to the lives of people around the world" (Taran, 2010). Against this background cooperation on migration between the UN and other agencies was intensified and became more closely aligned (ILO/IOM/UNHCR, 2001).

The article below intends to provide a framework for intensified research into the discrimination of migrant workers in all situations. In particular, its focus is on advancing research that wishes to combine an improved understanding of processes of discrimination with an intention to remedy injustices, inequalities, and inefficiencies. It therefore presents and discusses, at times critically, the most relevant concepts in human rights instruments as they currently stand and how they apply to migrant workers in general and to some specific kinds of migrant workers in particular. The concepts the article highlights include that of migrant worker with a special emphasis on female migrant workers, and that of discrimination with an emphasis on analysing its form, content, and functioning, and including consideration of specificities relating to migrant workers, to indirect and to positive discrimination. The article also discusses aspects of the language used in prohibitions of discrimination. To these ends it cites the relevant provisions from the human rights instruments and from accompanying commentary.

The state of debate about migrant workers and discrimination

An outline of the problem

Two events of the early 2020s brought the issues out in high relief. One was the COVID-19 pandemic that unfolded from the beginning of 2020, the other the Football World Cup 2022 in Qatar.

Firstly, in the early stages of the pandemic it became unusually evident that migrant workers are "carrying out essential jobs in health care, transport, services, construction, and agriculture and agro-food processing. Yet, most migrant workers are concentrated in sectors of the economy with high levels of temporary, informal or unprotected work, characterized by low wages and lack of social protection, including in care work which in many countries is largely carried out by women migrant workers" (ILO, 2020a:1). The disruption of supply chains and severe restrictions on labour mobility raised the spectre of food insecurity, especially in Europe. "Amidst this context, agriculture workers have been re-labelled 'essential workers' subject to lifting of travel-bans and other exceptional measures" (ILO, 2020b:2, 6).

As in the health and care sectors this situation led to calls for a revaluation of work and workers. This pandemic shows that for a long time, seasonal agricultural workers have not been fully rewarded for their contribution to society in terms of earnings, social protection, and challenging working conditions, including hours of work and occupational and health protections. This has vast implications for the design of temporary schemes and also for integration prospects of these seasonal migrant workers. Existing approaches in the law and practice of a number of countries tend to overlook the real labour market integration needs of these workers. As shown in ILO research, migrant workers in agriculture and the rural economy often experience discriminatory treatment (ILO, 2020b:5; see also ILO, 2019).

Secondly, it became no less evident that "Migrant workers are among the most vulnerable. Reports document rising levels of discrimination and xenophobia against migrants and in some cases food insecurity, layoffs, worsening working conditions including reduction or non-payment of wages, cramped or inadequate living conditions, and increased restrictions on movements or forced returns (where they may be stigmatized as carriers of the virus). Migrant workers are often first to be laid-off but last to gain access to testing or treatment in line with nationals. They are often excluded from national COVID-19 policy responses, such as wage subsidies, unemployment benefits or social security and social protection measures. Where access to COVID-19 testing or medical treatment is available, they may not come forward due to fear of detention or deportation, especially those in an irregular status. In the case of domestic workers, home-based workers, agricultural workers and others in the informal economy, exclusion in many countries stems from the fact that labour law does not regard them as workers. In some cases, travel restrictions have trapped migrants in countries of destination with few options to return home. Layoffs of migrant workers not only often lead to income losses but also the expiration of visa or work permits, putting migrants into undocumented or irregular status. Travel restrictions have also meant that many migrant workers have been prevented from taking up employment abroad for which they have contracts, and for which many may have paid high recruitment fees and costs" (ILO, 2020a:1-2; similarly, also ILO, 2020c; Baruah, 2020; IOM et al., 2020). Migrant workers are also faced with the 'work or lose your income dilemma' meaning that they might still have to work even if the COVID-19 related workplace security conditions are not put in place (ILO, 2020b:5).

In December 2010 Qatar was selected to host the World Cup 2022 finals. The ensuing building boom was heavily dependent on migrant workers from South Asia, the Philippines, Kenya and other places. In 2014, workers' groups lodged a complaint against Qatar at the ILO for non-observance of the Forced Labour Convention, 1930 (No. 29) and the Labour Inspection Convention, 1947 (No. 81) at the 103rd Session of the International Labour Conference.[1] More evidence of abuses was supplied in the following years that in their totality outlined systematic discrimination of migrant workers. In 2017, Qatar entered into a three-year (2018-2020) Technical Cooperation Programme with the ILO in which the government agreed to "align [Qatar's] laws and practices with international labour standards and fundamental principles and rights at work". Reform objectives covered five areas: improvement in the payment of wages; enhanced labour inspection and health and safety systems; replacement of the kafala sponsorship system and improvement of labour recruitment procedures; increased prevention, protection and prosecution against forced labour; and promotion of workers' voice[2] (Amnesty International, 2020:8).

Towards the end of the Technical Cooperation Programme's term the legal situation had improved but the implementation of the law's stipulations was said to lag behind: "Today, despite improvements to the legal framework, these migrants often still face delayed or unpaid wages, work excessively long hours, and struggle to access justice. The impact of the COVID-19 pandemic is also placing new stresses on employers and employees alike. For migrant workers this has only exacerbated their acute vulnerabilities, including heavy debts from high recruitment fees, restrictions on movement and obstacles to attaining effective remedies for their abuse" (Amnesty International, 2020:7). Observers called for "action to address major weaknesses in key areas including the payment of wages, access to justice and workers' voice. Qatar must also give particular attention to the situation faced by the country's domestic

[1] See the text of the complaint at: https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_348745.pdf

[2] See the text of the agreement at: https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_586479.pdf

workers, who face severe and widespread abuse away from the spotlight of the World Cup" (Amnesty International, 2020:7).

In 2021, the debate about Qatar's treatment of migrant workers increasingly focused on the number of deaths among construction workers and on whether the causes given for them were correct (Amnesty International 2021a, 2021b; The Guardian 2021). It should be noted that Qatar's unreformed system had similarities with that in other Gulf States and elsewhere in Asia (Baruah 2020).

Both the pandemic and the Qatar experience prompted renewed emphasis on the need for adequate labour inspection: "Some abuses can only be detected through labour inspection, showing how vital these services have become during the pandemic" (ILO 2020b:5). The important role of adequate labour inspection was also re-emphasized in the European Union (EU FRA, 2021).

If having part of the population in deplorable conditions is undesirable, not only for the afflicted themselves but for everybody because everybody is suffering in some way from the social division, then it will be important to understand the conceivable causes of the situation and to remedy them.

Human rights bodies have been observing, monitoring, and analysing the situation of migrant workers since 1919. They have also been developing constructive ways of dealing with the challenges through legal regulation and governance under the rule of law as well as policy and practice. The framework they developed is known as the 'rights-based approach' to the movement, employment, and settlement of migrant workers. Below its provisions regarding discrimination and how they can help come to terms with the challenges will be discussed.

The core international legal instruments referred to are far from new. They were in the main negotiated and adopted between 1930 and 1990, i.e., over a period of 60 years that ended more than 30 years ago. Directly involved were not only governments but also employer organisations and trade unions. Civic organisations provided important inputs. Since 1990, little had to be added which speaks to their completeness and factual adequacy. The discussion below draws substantially on seminal commentary on the human rights instruments written soon after their provisional completion in 1990.

The ICRMW, adopted in 1990, came into force in 2003 when 20 Member States had ratified it. At the end of 2021 ratifications stood at 56, mostly in Latin America, West and North Africa, with several in Asia and the Caribbean.

Migrant workers

Although used in many different ways, the term migrant worker has a precise meaning.

As defined in Article 11 of ILO Convention No. 143 (1975) "the term migrant worker means a person who migrates or who has migrated from one country to another with a view to being employed otherwise than on his own account and includes any person regularly admitted as a migrant worker." It thus does not include persons not regularly admitted.

Similarly, the ICRMW Article 2 says, "The term 'migrant worker' refers to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national." The ICRMW further explicitly includes self-employed workers, as well as other specified categories of: frontier worker; seasonal worker; seafarer

including fisherman; project-tied worker; worker on an offshore installation; itinerant worker; and specified-employment worker ('posted worker').

The ICRMW excepts employees of international/ intergovernmental organizations, of States (governments) posted abroad, investors, students, refugees and stateless persons, and seafarers not admitted for residence in the State where their employment is based.

The ICRMW definition is considerably wider than the ILO Convention's. It neither requires the person to have migrated nor to have been "regularly admitted". It thus includes persons in an irregular situation/unauthorized status and persons born in the country not possessing the country's citizenship provided they ever entered the country's labour force or hope to do so in the future. In practice, given that the UN statistical definition for measurement of *international migrant* counts *foreign-born* persons, international migrant workers are usually counted as and among foreign-born, even as some may have acquired 'naturalized' citizenship of the country of residence. It can be noted that many naturalized immigrants will have also maintained citizenship of their country of origin given the increasing recognition of dual citizenship by States.

Several of the problems and challenges mentioned apply to internal migrants, too, as do the solutions offered by the rights-based approach, but the article below will only deal with international migrant workers.

Discrimination

In the UN's analysis, discrimination is certainly not the only but clearly the main contributor to the migrant workers' disadvantaged situation. "It can be said that discrimination is unjustified differential treatment" (Taran and Gächter, 2015). The precise UN definition of discrimination will be looked at in the next chapter. The current section presents in outline the manifestations of discrimination and the instances of its operation that were taken into consideration when the ICRMW was drawn up and adopted.

"Discrimination against migrant workers in the field of employment takes many forms. These include exclusions or preferences as regards the types of jobs which are open to migrants, and difficulty of access to vocational training. Different standards are often applied to nationals, on the one hand, and migrants, on the other, as regards job tenure, and contracts may deprive migrants of certain advantages" (United Nations, 1996:5). "A widespread tendency is to regard migrants as a complementary labour force, and to assign them to the jobs which have the least attraction for nationals" (United Nations, 1996:6).

"Cases are cited of legal and administrative rules which force migrants to remain in certain occupations and specific regions, as well as of inequalities in pay and grading for identical jobs. Migrant workers are known to have been excluded from the scope of regulations covering working conditions, and to have been denied the right to take part in trade union activities" (United Nations, 1996:6).

"Although migrant workers contribute to social security schemes, they and their families do not always enjoy the same benefits and access to social services as nationals of the host State" (United Nations, 1996:6).

"Living conditions for migrant workers are often unsatisfactory. Low incomes, high rents, housing shortages, the size of migrants' families, and local prejudice against foreign

elements in the community are the main factors which combine to cause a serious accommodation problem" (United Nations, 1996:6).

"Migrant workers face the gravest risks to their human rights and fundamental freedoms when they are recruited, transported and employed in defiance of the law." … They are "a natural target of exploitation … at the mercy of employers and may be obliged to accept any kind of job, and any working conditions. In the worst cases, the situation of migrant workers is akin to slavery or forced labour." They "rarely seek justice for fear of exposure and expulsion, and in many States have no right of appeal against administrative decisions which affect them" (United Nations, 1996:6-7).

All these formulations carefully avoid laying the blame for discrimination on anybody in particular. Evidently, though, they envisage discrimination to arise from the interplay of private agency, practices of authorities, and state regulations with the weights and roles between the three components being distributed differently in different countries and at different times. Given that human rights instruments are in the first instance addressed to lawmakers the legislative and administrative practices of states get particular attention. This also includes the states of which migrant workers are citizens (Abella, 1997).

Efforts to deny discrimination or to belittle its importance sometimes focus on the migrants' cultural rooting and attribute poorer housing standards and poorer working conditions to it. This appears to follow the common pattern of attributing blame to the victim. At the UN it was noted that "In most cases financially poor, they share the handicaps – economic, social, and cultural – of the least-favoured groups in the society of the host State" (United Nations, 1996:5). Thus, the treatment received by migrant workers sometimes is a more intense symptom of wider patterns of discrimination in a society.

Women migrant workers: multiple discrimination

Women make up nearly half the migrant workers (ILO, 2021) but their work is often less publicly visible. They provide essential services in private households, in health and in care, but also in manufacturing, in hospitality, and food services among others. For instance, in Italy, "women migrant agriculture workers perform key activities for certain crops and in packaging houses. … [and] are usually overrepresented in unpaid and seasonal work. Women migrant farm workers often labour under the same harsh conditions as men: 10 or 12-hour days in unsafe and inadequate conditions for a daily wage of EUR 15 to 25. They face an additional risk, because agricultural workers usually live on the farms, in contexts of isolation and poorly maintained housing. These conditions are often accompanied by sexual harassment and abuse" (ILO, 2020b:5; see also ILO, 2019).

The United Nations Committee on the Elimination of Discrimination against Women issued a General Recommendation in 2008 on the situation and issues facing migrant women (CEDAW, 2009). The following passages from it highlight risks of women migrants to multiple discrimination (Taran and Gächter, 2005):

"(13) Once they reach their destinations, women migrant workers may encounter multiple forms of de jure and de facto discrimination. There are countries whose governments sometimes impose restrictions or bans on women's employment in particular sectors. Whatever the situation, women migrant workers face additional hazards compared to men because of gender-insensitive environments that do not allow mobility for women, and that give them little access to relevant information about their rights and entitlements. Gendered notions of appropriate work for women result in job opportunities that reflect familial and service

functions ascribed to women or that are in the informal sector. Under such circumstances, occupations in which women dominate are, in particular, domestic work or certain forms of entertainment."

"(15) Because of discrimination on the basis of sex and gender, women migrant workers may receive lower wages than do men, or experience non-payment of wages, payments that are delayed until departure, or transfer of wages into accounts that are inaccessible to them."

In the COVID-19 pandemic, too, over and above the issues mentioned earlier women migrant workers bore extra burdens: "The impacts on women migrant workers appear to be compounded as they are over-represented in the informal economy and among undocumented workers in many countries. Women migrant workers employed as front-line health and care workers are in a particularly high-risk group for COVID-19. Further, those who experience increased levels of violence or harassment – in accommodation, at work, in quarantine facilities, or upon retrenchment and return home – now have fewer options for support services. Globally, many support services for migrant workers and particularly addressing violence against women have been forced to downscale, close, or are online/phone-only models" (ILO, 2020a:2; see also Spotlight Initiative, 2020).

Multiple discrimination may result in cumulative effects (Sheppard, 2011; Taran and Kadysheva, 2022) and may make anti-discrimination activity ineffective unless it takes a broad approach, i.e. to discrimination in general rather than any specific kinds or bases of discrimination.

The effects of discrimination on the non- or less discriminated

Migrant workers were sometimes viewed as instruments in the hands of employers to undermine or thwart efforts by local workers for better conditions. This can only come about when migrant workers are in a legally or otherwise disadvantageous situation that makes them accept lower wages or in other ways poorer conditions or even forces them to do so.

Human rights instruments have been alerting to such dangers, although they tended to highlight them particularly with respect to workers lacking the right to be in the country or to be in employment or in this particular employment. In its preamble the ICRMW contains the consideration "that workers who are non-documented or in an irregular situation are frequently employed under less favourable conditions of work than other workers and that certain employers find this an inducement to seek such labour in order to reap the benefits of unfair competition," and "also that recourse to the employment of migrant workers who are in an irregular situation will be discouraged if the fundamental human rights of all migrant workers are more widely recognized and, moreover, that granting certain additional rights to migrant workers and members of their families in a regular situation will encourage all migrants and employers to respect and comply with the laws and procedures established by the States concerned" (United Nations, 2005:22).

Subsequent commentary emphasized that "Discriminating against ordinary migrant workers or, worse, having foreigners work in illegal conditions … runs counter to fundamental beliefs concerning equity and human rights in the economic and social field, and it is bound to have a boomerang effect on national workers whose remuneration and working conditions will sooner or later be undermined by unlawfully employed migrants" (Böhning, 1996:57). "Discrimination creates inequality, and inequality is a danger to the standards protecting native workers" (Abella et al., 2014).

One step on in the process migrant workers may themselves become dissatisfied with their situation. Böhning expressed the "conviction that workers who are badly or unfairly treated will become frustrated, may contract psychosomatic and other illnesses and, as a result, will be less productive than satisfied workers" (Böhning, 1996:57). Then employers may want to replace them with even more pliable workers. A downward spiral is set in motion that ultimately benefits no one.

Definitions of Discrimination and Factss

Three components: content, effect, and criteria

Discrimination is defined in the ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111) as "(a) any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation, (b) such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the Member concerned after consultation with representative employers' and workers' organisations, where such exist, and with other appropriate bodies. (2) Any distinction, exclusion or preference in respect of a particular job based on the inherent requirements thereof shall not be deemed to be discrimination" (Art. 1(1) and (2)).

In 1965 the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) was adopted by the UN Assembly. In its Article 1 'racial discrimination' is defined as "any distinction, exclusion or preference based on race, colour, descent or national or ethnic origin, which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life." One notes the parallels to ILO C111.

ILO Convention No. 111, while referring specifically to employment and occupation, was the first major international instrument specifically on discrimination. All other international instruments on discrimination are consistent with its approach (Taran and Gächter, 2005).

The definition combines three components, namely a kind of behaviour ("distinction, exclusion, or preference"), an effect on victims ("nullifying or impairing equality of opportunity or treatment in employment or occupation"), and a list of seven "bases" ("race, colour, sex, religion, political opinion, national extraction or social origin") that can be added to individually by Member States.

The criteria

The ICRMW in its Article 7 contains a more extensive list of bases than ILO C111 does. The rights provided for in the Convention are to be ensured by states "without distinction of any kind such as to sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status."

Closing the list on "or other status" makes it open-ended. Contrary to ILO C111 it does not leave it up to Member States to extend the list but makes it compulsory on them to consider the specifically named bases as merely illustrative and not exhaustive. Naming them, however, does make them inescapable priority concerns as was also true of the seven bases named in C111. Left open to interpretation is the exact meaning of 'status' but, of course, also the

meanings of the words used to designate the specifically named items in the list. Would, for instance, a difference in accent be covered by 'language'? Why is 'origin' appended to 'social' – does this make discrimination on current social status less culpable than on social origin? How is 'position' in 'economic position' to be understood? What is covered by 'birth'? These among many other questions can all be answered but it is left open to legislators and judges in Member States to do so and the results may vary a great deal between places, over time and according to context.

When the 1990 UN Convention was not yet in force it was stressed that "… discrimination on the grounds of nationality, a type of discrimination to which migrants by definition are extremely vulnerable, is not outlawed by [ICERD]" (ILO, 1999:26). Given that the lack of the country's citizenship they reside in is a distinguishing feature of migrant workers and because in advertisements firms or landlords may state citizenship as a selection criterion the inclusion of 'nationality' in the listing seemed an urgent matter. There are countries that have taken it on board without becoming a party to the UN Convention. How much effect it has had is hard to gauge as is always true of preventive measures when they are taken without embedding the legal change in a carefully planned and executed evaluation.

Baring individuals and enterprises from discriminating on the basis of citizenship has the effect of transferring the exclusive right to exclude or to disadvantage non-citizens to state authorities and to legally defined, suitably transparent processes. States are extremely hesitant to give up legislation disadvantaging citizens of other countries. They have done so exceptionally on a mutual basis within regional economic groupings, but generally left backdoors open allowing them to curtail the rights of non-citizens at critical moments.

Outside the UN human rights context, the "bases" are sometimes called "grounds" of discrimination. The use of the word 'grounds', however, may to some falsely suggest causation, i.e. that characteristics of the discriminated are the causes of the discrimination. This is of course not so. The cause of any discrimination always lies in the characteristics of the discriminators, in the circumstances of their existence, or in the norms they adhere to. The word 'basis' is also not entirely free of ambivalence on this matter. Other words might be more serviceable, such as perhaps 'criteria' or 'categories'.

Restricting legislation and action against discrimination to the items explicitly mentioned in any of the listings would miss the point, even if, as in Belgium, the list is extended to 19 "grounds": nationality, national or ethnic origin, 'race', skin colour and cultural background (e.g. Jewish origin), disability, religious or ideological beliefs, sexual orientation, age, wealth, civil status, political beliefs, trade union beliefs, health status, physical or genetic characteristics, birth, social background and language. In addition, there are 13 "grounds" related to gender (gender, pregnancy, childbirth, breastfeeding, motherhood, adoption, assisted reproduction, gender identity, gender expression, so-called 'sex change', sex characteristics, fatherhood, co-motherhood) (UNIA, n.d.).

Because everybody wants to be treated fairly and is entitled to equal treatment the list would ultimately have to include every particularity of everybody who ever lived. This is being acknowledged by making the lists open-ended. Conceivably, listings will eventually be abandoned in favour of a more prominent focus on the behaviour that is to be prohibited and particularly the impacts that are to be averted.

Behavioural content

The behaviour in question – "distinction, exclusion, or preference" – in itself is a commonplace activity humans cannot but to engage in incessantly in regard of other humans. Thus, it is not the behaviour as such that poses a problem or that needs to be prohibited. Only if the behaviour leads to certain effects is it to be abstained from no matter whether the behaviour and its effects are intended or not, conscious or not, on one's own accord or not. The definition does not state who or what is making the "distinction, exclusion, or preference" and who is executing it. It could be an algorithm making it that has learned it from analysing millions of previous decisions so that no particular person was involved in bringing it about. The algorithm's decision would reflect the rules, regulations, practices, traditions, habits, social norms etc. that were being adhered to during the time the decisions were made that it learned from. The decisions may have been made in an office, an organisation, a society. In other words, whether the behaviour emanates from named individuals, from anonymous individuals, from organisations, social structures or other such entities is of no concern.

Behaviour is shaped by structure and there may thus be no choice about it. Outlawing certain behaviours, if they have certain effects, implicitly required the recognition of such structures, and implicitly outlaws them. Outside the UN this has come to be recognized legally by including indirect discrimination among the explicit prohibitions. Within the UN-defined rights-based approach it could be left implicit as agency is left open and the actual focus is on the effect that is to be averted.

Effect on victims

The key component of a definition of discrimination is its description of the prohibited impact on victims. It is the injustice that matters rather more than the kind of behaviour that inflicted it or the basis on which it was inflicted.

In ILO C111 the prohibited impact is "nullifying or impairing equality of opportunity or treatment in employment or occupation". Both, treatment and opportunity are to be equal. Treatment is in the here and now, but opportunity projects into the future. It seems that in general this future was understood to have to take place in the country the migrant workers are not citizens of but actually the definition does not require this.

If a definition of discrimination emphasized the behavioural aspect too much, i.e. the perpetrator's choice to discriminate or not, it would invite a certain risk of being interpreted narrowly to only include intentional discrimination. By deemphasizing behaviour and focusing on the effect definitions become more explicitly inclusive of unintentional behaviour, of regulations, conditions and circumstances that could result in the same effects without anybody intending them knowingly or consciously.

Areas or fields in which discrimination can occur

The ICERD definition contains an extra component not present in those of the ILO or the UN Convention of 1990, namely the – open ended – listing of "fields of public life." As the list is open-ended naming any fields at all is a matter merely of prioritising them. The other conventions do not contain a reference to fields as part of the definition because they define the areas of their applicability elsewhere or do so implicitly by referring to ICERD or other statutes.

The danger of too narrow a delineation of the fields or areas of applicability would be to miss the side-effects discrimination in one area can have in another, as for instance discrimination by school principals or teachers could affect subsequent employment outcomes

of the students, and so could discrimination by landlords or neighbours (Wrench 2007). Protecting workers against discrimination by employers and by other workers cannot achieve its full intended effect as long as discrimination in other fields is not also kept in check. The necessary holistic approach to the rights of migrant workers is the added value of the 1990 UN Convention mentioned before.

International legal norms

Fundamentals

Non-discrimination is one of the most fundamental rights, reiterated in all core International Human Rights Conventions, and generally in International Labour Standards.

Non-discrimination provisions are at the start and the heart of all international human rights instruments, many of these widely ratified. These include the:

- Universal Declaration of Human Rights, Article 2
- International Covenant on Civil and Political Rights, Article 2
- International Covenant on Economic, Social and Cultural Rights, Article 7
- International Convention on the Elimination of All Forms of Racial Discrimination
- International Convention on the Elimination of All Forms of Discrimination Against Women.
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (that incorporated nationality to the list of prohibited grounds)
- Convention on the Rights of Persons with Disabilities.

The legal framework for non-discrimination regarding migrant workers[3]

A coherent and comprehensive legal framework for non-discrimination and equality of treatment under the rule of law has been elaborated over the last century. Application of its universal principles to migrant workers and their families has been progressively recognized. The international instruments and policy recommendations have been elaborated by States parties at global and regional levels. Together, they provide the foundations – and relevant legal texts – for national law, policy and practice applicable in all countries.

The CERD and ILO Convention No. 111 lay out anti-discrimination and equality of treatment norms, particularly as they apply to the world of work. Additionally, three specific instruments address equality of treatment and non-discrimination for migrants: ILO Conventions No. 97 and No. 143 and the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. It is said that these instruments comprise an international charter on migration by providing a broad normative framework covering both treatment of migrants – including non-discrimination – and inter-state cooperation on regulating migration. They provide definitions and legal text for national law. They also articulate an agenda for national policy and for consultation and cooperation among States on labour migration policy formulation, exchange of information, integration, and orderly return.

Special concern for the protection of workers outside their countries of citizenship was recognized in the Treaty of Versailles of 1919 and the ILO Constitution. The application of universal principles of non-discrimination to migrant workers was subsequently spelled out in

[3] This whole section draws extensively on Taran/Gächter (2005) and on Taran/Kadysheva (2022).

the ILO Migration for Employment Convention (Revised), 1949 (No. 97), the ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) and the 1990 International Convention on Protection of the Rights of All Migrant Workers and Members of Their Families, as well as in the 1998 ILO Declaration on Fundamental Principles and Rights at Work.

Further provisions directly of relevance to the protection of the rights of migrant workers are contained in the ILO Equality of Treatment (Social Security) Convention, 1962 (No. 118), the ILO Maintenance of Social Security Rights Convention, 1982 (No. 152) (Böhning 1996:4f), and the ILO Convention on Decent Work for Domestic Workers, 2011 (No. 189), as well as in the accompanying ILO Recommendations. The Forced Labour Convention, 1930 (No. 29) and the Labour Inspection Convention, 1947 (No. 81) along with others are of continued relevance.

Open-ended non-discrimination clauses in international and regional human rights instruments have been interpreted to outlaw unjustifiable distinctions between persons based on nationality. These include:

- Article 2 of the Universal Declaration of Human Rights,
- Articles 2 and 26 of the International Covenant on Civil and Political Rights,
- Articles 1 and 24 of the American Convention on Human Rights and
- Article 2 of the African Charter on Human and Peoples' Rights.
- Article 14 of the European Convention on Human Rights (ECHR), while not explicitly referring to nationality, has been interpreted by the European Court of Human Rights as prohibiting discrimination based on nationality.
- The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families formally recognized nationality as a prohibited base, explicitly listed in Articles 1 and 7 regarding applicability and non-discrimination.

Non-discrimination in application of labour standards

International law stipulates that, once established in a country with authorization for employment, there should be no difference in treatment between migrant workers and national workers, either in general or in terms and conditions of employment such as wages, benefits, opportunities for advancement, occupational safety and health, etc.

While this is evident regarding migrants with authorized entry, residence, and employment, the ILO Committee of Experts and international courts have reinforced the notion that application of International Labour Standards in the workplace is universal to all workers who are in an employment relationship, regardless of immigration status.

"An important development in this respect is the advisory opinion that the Inter-American Court of Human Rights issued at the request of Mexico on the legal status and rights of undocumented migrants.[4] In its opinion, the Court states that the fundamental principle of equality and non-discrimination is of a peremptory nature and binds all States regardless of any circumstance or consideration such as the migratory status of a person. The Court concludes that the State thus has the obligation to respect and guarantee the labour human rights of all

[4] Corte Interamericana de Derechos Humanos. Condición Jurídica y Derechos de los Migrantes Indocumentados Opinion Consultativa OC-18/03 de 17 de Septiembre de 2003, solicitada por los Estados Unidos de Mexico; Inter-American Court of Human Rights, Advisory Opinion OC-18/03 on the juridical condition and rights of undocumented migrants, 17 September 2003.

workers, including those of undocumented migrant workers. The Court clarifies that 'the migratory status of a person cannot constitute a justification to deprive [her or] him of the enjoyment and exercise of human rights, including those of a labour-related nature' and that 'States may not subordinate or condition observance of the principle of equality before the law and non-discrimination to achieving their public policy goals, whatever these may be, including those of a migratory character'" (United Nations, 2005:13).

Migrant domestic workers

Migrant domestic workers have long been recognized as particularly at risk of discrimination, abuse and exploitative working and living conditions (Böhning, 1996:63-64) and pose a well-documented instance of the cumulative discrimination referred to earlier. "Most domestic workers are women and suffer discrimination on the grounds of their sex and associated gender roles. This is reflected in pay levels where the work remains undervalued and poorly regulated. Traditional attitudes and prejudices about women as subordinates also contribute to wide-spread practices of coercion and violence" (ILO, 2016:3). This is believed to be particularly acute if the migrant domestic workers are in an irregular situation. In connection with forced labour "domestic work is one of the most frequently cited economic sectors" (ILO, 2016:4).

In June 2011, the ILO adopted the first international standard specifically on domestic workers, Convention No. 189 on Decent Work for Domestic Workers. It includes a number of provisions intended to improve protection and ensure equality of treatment for many domestic workers who are foreigners (migrant workers) in their place of employment, although it does not cover undocumented migrant domestic workers nor those under an au-pair programme or in diplomatic households. In particular, where this has not been the case the country's labour laws should be extended to domestic workers. For migrant workers this would entail access to other employers and occupations. The Convention has found relatively rapid approval by Member States and by the end of 2021 was ratified by 35 of them.

Inferior rights, insufficient protection

If States have not ratified international human rights instruments or labour standards, they may be less immediately bound by specific provisions. However, customary international law and *jus cogens* impose normative obligations on all States for human rights and labour standards, including non-discrimination, regardless of ratification of particular instruments. Applicability remains debated as to the extent of non-discrimination obligations for non-citizens on the territory of the country – notably depending on immigration status – but international court and treaty body rulings generally regard non-discrimination as in effect s*ina qua non* for all persons, including migrants and regardless of status for labour, economic, social, and cultural rights protection.

In any case, if national legislation and administrative practices conform to what in the instruments is defined as discrimination, it will be discrimination in the light of these instruments.

There are at least three ways in which a state can allow or facilitate discrimination:

a) The state does not outlaw or, if outlawed, it tolerates private discrimination,
b) the state itself discriminates in its laws and regulations or in its administrative practice,
c) the state puts an obligation on individuals and organisations to discriminate.

Any combination of (a), (b) and (c) can and does occur in reality but while there is reasonable knowledge of the legal regulations in a large number of countries there is little or no information on actual practices (ILO, 1999).

States offer a variety of reasons for not ratifying the Conventions. The contents of the Articles do not appear to be the main obstacle, although states engaged in strict rotation of temporary, posted or seasonal migrant workers do of course view any provisions establishing equality between migrant and national workers, equality of opportunity and treatment, the right to change jobs, and any rights in the case of loss of employment or incapacity to work as anathema (ILO, 1999:239). Rather they cite (unspecified) specificities of their labour market, the lack of infrastructure, of personnel capacity, of funds, untoward economic or political conditions, uncertainties about how much their laws and practices conform with the norms set in the Conventions, and while they may agree with equal treatment equal opportunities are held to be asking too much (ILO, 1999:236-240, 242-243). The point they mean to make is not always exactly clear.

There were and are instances where employers or landlords are obliged by law to treat non-citizens differently from citizens and in fact to discriminate against them, although 'discrimination' will not be the term used in the relevant legal language.

Forms, remedies, and proof of discrimination

While there is no need for the definitions in the Conventions to do so, there are many different categorisations, classifications or typologies of discrimination in the academic literature. The definitions and names chosen for the categories, types, forms etc. do not matter as much as the awareness that discrimination comes in many guises and does not depend on intention. Helpful is also the awareness that good intentions are no guarantee at all against discriminating.

Much discrimination arises from an unwillingness to accommodate the needs of others as long as there is neither obligation nor other need or pressure to do so. In addition, behaviour can be chosen opportunistically to accommodate third parties. Finally, there is the whole area of behaviour that follows social norms, regulations, rules, traditions, or habits regardless of whether they may be deemed discriminatory or not.

In the Conventions and Covenants that define the rights-based approach to migrant workers no distinctions between different kinds of discrimination are drawn. This has the beneficial effect of avoiding any sense of hierarchy or priority among them and bears the risk of overlooking discrimination that is indirect. The risk arises less in cases of complaints and perhaps least when equality of opportunity is considered because it is almost self-evident that opportunities lie in structures rather than in individual behaviour but may be relevant when thinking about preventive measures.

Direct and indirect

These concerns were in the main dealt with above when discussing the behavioural content of the definition of discrimination in ILO C111. Nonetheless it may serve well to establish an understanding of the now widely accepted distinction between direct and indirect discrimination that at the start of the century still posed considerable problems for law makers and judges. The European Union, in 2000, drew the distinction thus:

(a) "direct discrimination shall be taken to occur where one person is treated less favourably than another is, has been or would be treated in a comparable situation, on any of the grounds referred to in Article 1;
(b) indirect discrimination shall be taken to occur where an apparently neutral provision, criterion or practice would put persons having a particular [characteristic] at a particular disadvantage compared with other persons unless: (i) that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving the aim are appropriate and necessary, or (ii) …"[5]

Here indirect discrimination is not distinguished by any particular effects but by the effects arising out of a, for instance, selection behaviour following rules that would not be discriminatory, if people did not differ on characteristics they can either not give up or have a right to possess. In other words, rules of any kind have to be adapted sufficiently to accommodate the limitations set by, in the EU's specific case, disability, age, sexual orientation, political conviction, and faith.

In the framework of the rights-based approach to migrant workers such accommodation is not explicitly provided for.

Affirmative Action and "Positive discrimination"

Discrimination against one kind of persons is tantamount to discrimination in favour of other kinds of persons. For this reason, so called 'positive discrimination' is usually outlawed along with its counterpart. A case can be made, though, for permitting or even requiring affirmative action (see, for instance, Faundez 1994) as justified differential treatment until a certain goal has been achieved when a category of persons is shown or believed to have suffered extensive discrimination in the past. Moderate and widely practised forms of positive action/affirmative action consist in an obligation to prefer one kind of candidate if there are several equally qualified ones until a certain balance is achieved or in setting quotas for certain categories of persons.

Article 4 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted on 18 December 1979 by UN General Assembly Resolution 34/180, for instance, authorises "temporary special measures aimed at accelerating de facto equality between men and women" and exempts them from being considered discriminatory provided that they are "discontinued when the objectives of equality of opportunity and treatment have been achieved." This, of course, applies to migrant women, too, and could be an example to follow in regard to other criteria of discrimination.

Outlawing positive discrimination may not also prohibit 'positive action', meaning the targeting of particular kinds of persons for the improvement of professional qualifications, for anti-discrimination training including training in how to react to being discriminated, or for building resilience to discriminatory behaviour by others.

The line between positive action and discrimination is a fine one, though. Excluding somebody from participation in positive action courses on grounds of not belonging to a designated group could result in a discrimination charge. Admission to positive action has to be as free of discrimination as any other kind of admissions policy, i.e. it has to be based on objective, verifiable criteria of individual need for positive action.

[5] Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, Article 2 (2); likewise, Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, Article 2 (2).

As discussed earlier, expectations and claims of employer discrimination in favour of migrant workers are one reason why workers or trade unions and other actors have at times advocated against the admission of foreigners to the labour market, to employment, to integration and settlement, or to the country.

Proving the existence of discrimination against migrant workers

Individual cases illustrate the existence of discrimination in society and its widely varying appearances but provide no measure of its extent. This is particularly true of court cases but almost equally of complaints to designated organisations or offices.

If necessary, there are ways of obtaining data on the extent of discrimination, chiefly situation testing and surveys of perceptions of discrimination. The challenge is to carry them out judiciously and with up-to-date methodology and to actually cover the situation of migrant workers, including recently arrived ones, or to reach them with a questionnaire.

However, far more data and research is needed to establish where and how discrimination is taking place, and thus to enhance the political and social will to fight against discrimination and promote equality of treatment around the world.

The issue of measurement is a complex one with a substantial specialist literature that cannot be gone into here (but see, for instance, OECD 2008). Suffice it to mention that, for a period, the ILO itself offered Member States testing of hiring processes for discrimination and that between the mid-1990s and the mid-2000s seven European countries used the opportunity and in two more the methodology was copied. The results were remarkably similar showing that labour market entrants whose parents were migrant workers had to try between two and four times more often in order to get a job interview than others (Zegers de Beijl, 1999; ILO, 2007).

Conclusions

The rights-based approach calls for and, where applied, strengthens the protection of rights. It includes legislation, policy and practice to protect migrant workers and their families from discrimination. In its results, the rights-based approach contributes to a situation in which migrant workers, national workers, and employers can derive the most benefit from the admission and employment of migrant workers. This may not always be immediately evident in the very short run but arises as an incontrovertible conclusion from observing the evolution of national labour policies over the past 200 years, where the replacement of largely repressive with more rights-based regimes has been benefitting employers, shareholders, workers, government finances, and social cohesion, even if the transition remains incomplete. The same conclusion arises from the success of policies in regional groupings such as the European Union, ASEAN or Mercosur since the middle of the 20th century. Nationally and in regional groupings this path should therefore be continued and the temptation to turn the clock back should be resisted by workers, business, and all of society alike.

Changing laws is the easy part of the transition from a repressive and divisive to a rights-based approach. Getting practices on the ground to conform to the law however takes a sustained effort. This is true both in regard of practices of the public administration and the courts and of employers whether private or public (Abella et al., 2014; Taran and Gächter, 2004; Gächter, 2017). Laws set rules, and rules take time to learn, but absent implementation they will not be learnt even in the long run. There need to be serious efforts to make the rules known, accessible opportunities to learn them, and incentives or, if need be, pressure and sanctions. A particularly effective way of propelling learning on the job for administrators,

managers and household proprietors may be to give workers, including all migrant workers, the freedom to react to changes and to decisions by either seeking other employment, organising, demonstrating or at least for fielding complaints anonymously.

Laws also provide or withhold rights. “The benefits of migration cannot be maximised unless the migrating workers are made fully aware of their rights and conditions of employment” (Abella et al., 2014). The onus for providing such information on rights and responsibilities has often been placed on the states the migrants are citizens of but, as became evident once again during the COVID-19 pandemic, and as emphasized here and elsewhere, it would benefit the states where they work to disseminate impartial and accurate information and to encourage trade unions and other bodies such as civil society groups and community associations to do so (EU FRA, 2021). In addition, the need for adequately staffed, trained, and empowered labour inspection cannot be emphasized enough, but crucially needs to be complemented by facilitation of workers’ self-organisation and easily accessible, effective complaints bodies and recourse to justice by individual workers for there are large numbers of workplaces inaccessible to or hidden from labour inspection.

In closing it may be noted that this bare-bones outline of the conceptual framework international legal instruments provide for research on and action against discrimination, especially of migrant workers, largely leaves open the content of such research. While much of will necessarily have to be local, regional, or national in focus, attention may also have to be paid to international and global structures of inequality and the processes of their perpetuation.

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Has Anti-Migration and Anti-Refugee Discourse Hampered Progress against Child Labour?

¿Ha obstaculizado el discurso antimigración y antirrefugiados el progreso contra el trabajo infantil?

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Abstract

The chequered application, since 2000, of integrated policies to eradicate the intersectional root causes of child labour sits more recently in a wider political context of recrudescent populist ethnonationalism accompanied by weakened respect by the governments of many countries for the rules-based international system and rights-based development. The author suggests that (apart from Northern-centric trade and policy interests) influential populist-nationalist governments (including those of the United Kingdom (linked to Brexit), and Australia (linked to the "Bali Process") have contributed to diverting global attention from the largest cohort intended to benefit from Sustainable Development Goal Target 8.7 - the 160 million children now in child labour - by conflating forced labour with trafficking and trafficking with migration and asylum. This conflation seeks to demonise asylum-seekers, refugees, and economic migrants. It is an important element of the discourse of populist-nationalist ruling parties in their search for continued electoral support and reflects a willingness to violate international law protecting human rights.

Keywords: Fundamental principles and rights at work (FPRW); employment, workers, child labour, forced labour, trafficking, migration, asylum, UN Sustainable Development Goals (SDGs), ethnonationalism, xenophobia, antisemitism, exploitation, Brexit, Windrush Scandal, the Bali Process, human rights.

Summary: Introduction; Trends, What Went Wrong? Populist Ethnonationalism: The English "Example" – Racism, the "Hostile Environment`", Brexit, and the Nationality and Borders Bill; Northern-Centrism and SDG Target 8.7 and Conclusions and Proposals.
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Resumen

La aplicación accidentada, desde 2000, de políticas integradas para erradicar las causas fundamentales interseccionales del trabajo infantil se sitúa más recientemente en un contexto político más amplio de recrudecimiento del etnonacionalismo populista acompañado de un respeto debilitado de los gobiernos de muchos países por el sistema internacional basado en reglas y desarrollo basado en derechos. El autor sugiere que (aparte de los intereses políticos y comerciales centrados en el norte), al combinar el trabajo forzoso con la trata y la trata con la migración y el asilo, gobiernos populistas-nacionalistas influyentes, en particular los del Reino Unido (vinculados al Brexit) y Australia (vinculados al "Proceso de Bali"), han contribuido a desviar la atención mundial de la mayor cohorte destinada a beneficiarse de la Meta 8.7 del Objetivo de Desarrollo Sostenible: los 160 millones de niños que ahora se encuentran en situación de trabajo infantil. Esta fusión busca demonizar a los solicitantes de asilo, refugiados y migrantes económicos. Además, es un elemento importante del discurso de los partidos gobernantes populistas-nacionalistas en su búsqueda de apoyo electoral continuo y refleja la voluntad de violar el derecho internacional que protege los derechos humanos.

Palabras clave: Principios y derechos fundamentales en el trabajo (PDFT); empleo, trabajadores, trabajo infantil, trabajo forzoso, trata, migración, asilo, Objetivos de Desarrollo Sostenible (ODS) de la ONU, etnonacionalismo, xenofobia, antisemitismo, explotación, Brexit, Windrush Scandal, el Proceso de Bali, derechos humanos.

Introduction

In June 2021, the ILO and UNICEF jointly published global child labour estimates for 2016-2020 (ILO and UNICEF, 2021). The number of children concerned had risen from 152 million to 160 million. This was before the COVID-19 pandemic wrought havoc on the global economy and despite the global consensus proclaimed in the UN Sustainable Development Goal Target 8.7 to eliminate all forms of child labour by 2025, as well as all forms of forced labour by 2030. It was the first increase since quadrennial estimates began in 2000.

This setback should not surprise us. This article, based on the first-hand experience of a now-independent specialist on child labour, and the intersectionality of fundamental principles and rights at work (FPRW), explores some possible reasons for the chequered application, since 2000, of integrated policies to eradicate the intersectional root causes of child labour. The article is not, primarily, an essay about migration, nor is the Author a migration specialist. It seeks to reflect on how the recrudescent juggernaut of ethnonationalist populism and, especially, its conflation of forced labour with trafficking and trafficking with migration and asylum (as well as Northern-centric trade and policy interests), and related policies violating the rights of migrants and asylum-seekers, may have contributed to deflecting global attention from the largest cohort supposed to benefit from SDG Target 8.7: children in child labour.

Because, just as the four categories of FPRW - freedom from discrimination, from child labour and from forced labour, and freedom *to* organize and bargain collectively - are mutually supportive and interdependent, so too are violations of these rights "mutually aggravating". The context of reversal of progress against child labour includes: the rejection of the global trade unions´ proposal for an integrated Alliance 8 to drive the 2015 Sustainable Development Goal on decent work for all, which derived from the established ILO position that FPRW were indivisible and interdependent; the establishment instead of an Alliance 8.7 intended to concentrate only on forced labour and child labour; and the narrow focus of certain influential governments, notably of the U.K. and Australia (both self-proclaimed leaders of the Alliance),

whose xenophobic anti-migration and anti-asylum discourse and policies were central to their populist, ethnonationalist project. This was epitomized in Australia by the Bali Process and the incarceration of men, women and children on Nauru and Manus: and, in the U.K., by the racist "Hostile Environment" policies that led to the Windrush Scandal, and which contributed to the little-England exceptionalism of the Brexit campaign and to a determination to violate the 1951 Geneva Convention: its most recent consequence was the death of 27 mainly Kurdish asylum-seekers, including three children, in November 2021, in the English Channel.

The article seeks to contribute to an analysis of why, for the first time in two decades, child labour is increasing. It explores some of the lexicon of the discourse concerning "modern slavery" (a term that appears nowhere in relevant authoritative international instruments) and its common reduction to trafficking. It also considers the unhelpful but increasingly common misuse of the term "exploitation" to imply that it takes place only in conditions of forced labour, rather than being the essential economic relationship between labour and capital in the capitalist mode of production, which organized labour seeks to moderate through collective bargaining.

Trends

A summary of the latest estimates and the chequered progress against child labour since 2000, especially the stagnation and regression since 2016 is the best introduction. The global estimates for 2016-2020 (ILO and UNICEF, 2021) show that:

- 160 million children are in child labour: eight million more than in 2016 and the first increase since the first global estimates in 2000.
- The Covid pandemic could prompt a further 8.9 million increases by late 2022.
- 79 million children (49 percent) are in hazardous work.
- Progress continued in the Asia and the Pacific Region and in Latin America and the Caribbean, but sub-Saharan Africa saw a further rise, accounting now for more than half of all child labour.
- Child labour among five-to-11-year-olds rose by 17 million; among 12- to-17-year-olds it continued to decline.
- 97 million boys and 63 million girls are in child labour but, among five- to-14-year-olds, the gap halves if we consider household chores performed by girls for more than 21 hours weekly.
- 123 million children in child labour are in rural areas, a prevalence (13.9 percent) almost three times higher than in urban settings.
- 112 million children perform child labour in agriculture (70 percent worldwide; 81.5 percent in sub-Saharan Africa; and still 44 percent in Europe and North America).
- 72 percent of all child labour and 83 percent among five- to-11-year -olds is in family farms or micro-enterprises. A quarter of these youngest children and half of 12- to-14-year-olds in child labour perform hazardous work.
- More than a quarter of five- to-11-year-olds in child labour and a third of 12- to-14-year-olds are out of school.
- The 2020 estimates did not provide a figure for forced labour: of 152 million children in child labour in 2016, 4.3 million were estimated to be in forced labour.

It is pertinent to note that the concept of "modern slavery" appears nowhere in the relevant Conventions. Its usage entered forced labour phraseology only recently, during passage of UK Prime Minister-to-be Theresa May's 2015 Modern Slavery Act, partly to

broaden the ambit of forced labour to include forced marriage. Crucially, populist-nationalist governments' discourse commonly deploys "modern slavery" as a synonym for *trafficking*.

From 2000 to 2004, the number of children in child labour fell by 23 million. From 2004 to 2008 it fell by only seven million. Yet, between 2008 and 2012, greatly accelerated progress reduced child labour by 47 million: a sevenfold improvement on the previous four years.

The Third Global Conference on the Sustained Eradication of Child Labour (the Third Global Conference), hosted by the ILO's tripartite Brazilian constituents in 2013, followed that extraordinary period of progress and consolidated global consensus on the need for integrated policies to eradicate all forms of child labour. (Global Conference on Child Labour, 2013; ILO, 2014). Previously, the worldwide movement had talked of eliminating child labour, yet some had focused only on its worst forms, deviating from the intersectional premise of the 1998 ILO Declaration on Fundamental Principles and Rights at Work (the 1998 Declaration).

Four things had become clearer in the run-up to Brasilia:

First, short-term direct-beneficiary measures, simple to attribute and report to donors, had not supported sustainable eradication - "pulling up the roots" - of child labour. Such measures, often not consonant with nationally-established development priorities, dominated international development assistance-funded projects on child labour in the first decade of the century.

Second, measures directed only at worst forms, not least in global supply chains (a small if important proportion of child labour), ignored the wider context of movement of the same child, siblings, and children in the same community between non-worst and worst forms and, perhaps, different sectors, seasons, and places. These considerations drove development of the Integrated Area-Based Approach to create communities free of all forms of child labour (ILO, 2017; ILO, 2018a).

Third, ILO Convention No. 138 (1973) on the minimum age for admission to employment explicitly links the minimum age for work with the minimum school-leaving age. The worldwide movement was increasingly clear that children's human rights to education and the eradication of all forms of child labour were indivisible. Indeed, millions of younger children in non-worst forms of child labour are still unable to go to school, attend irregularly, or are prevented by their child labour from benefitting fully from their attendance.

Fourth, seeking to tackle child labour in isolation from other fundamental rights was not only unsustainable, it entailed great risks. This had been illustrated dramatically in sporting goods manufacturing in Sialkot, Pakistan (a centre of activities against child labour) when a major multinational enterprise threatened to terminate contracts, endangering thousands of jobs, because of persistent violations of trade union rights. Tragically, the resulting tripartite Sialkot agreement on child labour and decent work (which the Author helped negotiate) was blown off course after Benazir Bhutto's assassination.

The principal root causes of child labour – family and community poverty – derive from an interrelated complex of social exclusion and unequal distribution of power and wealth not restricted to low-income countries. Child labour also persists in emerging and richer economies where political will has been lacking or stymied, notably among migrant worker families in the United States. Meanwhile, governments of some less developed or emerging economies,

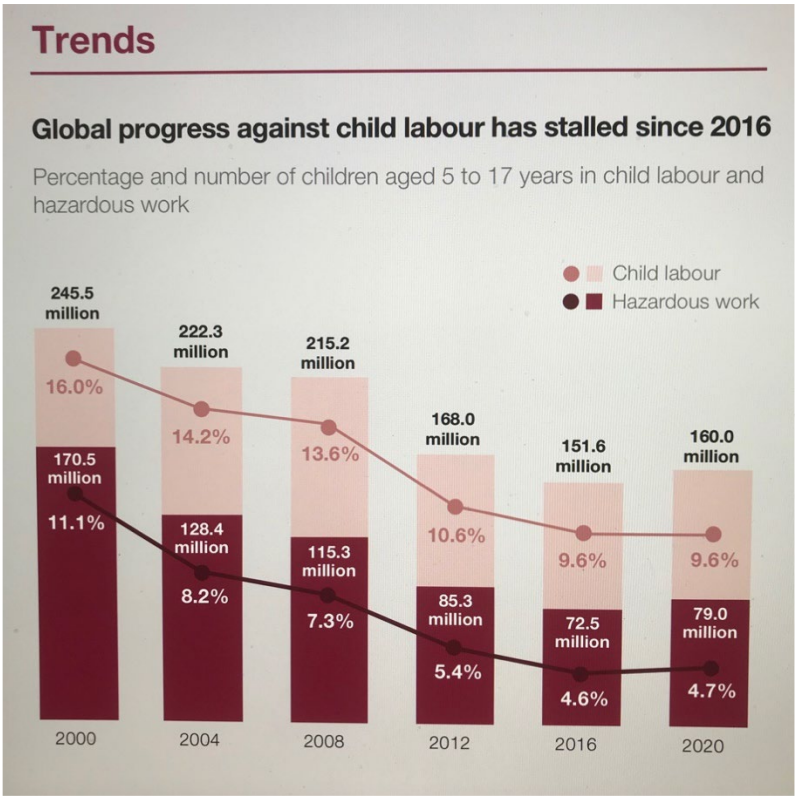
notably India and Brazil between 2008 and 2012, had sought to adhere to international standards and implemented successful nationally-determined policies. Sadly, not all donors followed the Brasilia consensus by supporting systemic change in other, still largely donor-dependent countries.

By 2017, only 43 percent of child labour was in low-income countries. 55 percent was in lower- and upper-middle-income countries, including the seven largest emerging economies in which half the world's people live. Today's figures (41 and 58 percent respectively) perhaps reflect the reversal of progressive policies in key middle-income countries. Approximately 14 percent of the world's people live in the 80 high-income countries, where 1.6 million children still perform child labour. The least unequal countries, like some in the European region, have largely eradicated child labour. However, there are high-income countries – most obviously under the Trump presidency – where super-concentration of wealth accompanies systemic poverty, weakened social protection, and deficient protection in law and practice of FPRW.

Several matters should be borne in mind when considering the roller-coaster up to 2012 and developments since then, as reflected in the ILO's comparable quadrennial estimates since 2000. Among them are: the need for integrated approaches against child labour; that poor and emerging economies can adopt and apply sound policies; and that misdirected donor conditionalities can hinder the development and piloting of such policies.

Figure 1

Trends in global progress against child labour, 2000-2020[1]



Source: ILO and UNICEF (2021).

[1] The title could be clearer: key trends for the youngest children in agriculture and in Africa began to stall from 2012.

Between 2000 and 2012, child labour fell by 78 million and hazardous child labour by 85 million. There are several reasons why the hazardous figure exceeds the total:

- Children above the minimum age for work are considered to be in child labour only if it is a worst form: hazardous work is used as a proxy;
- At 18, children exit the child labour statistical pool;
- Children between the minimum age and 18 years might move from hazardous child labour into acceptable youth employment;
- Convention 182 on the worst forms of child labour requires children in worst forms to be removed from child labour altogether but, without integrated implementation of Conventions 182 and 138, children below the minimum age removed from hazardous work might continue to perform non-hazardous child labour. This appeared to have been the case particularly between 2000 and 2004: hazardous child labour fell by 43 million while the total child labour number fell by only 23 million; and
- Similarly, from 2004-2008, the number of children in hazardous work fell by 13 million, while the overall number fell by only seven million.

The worldwide movement re-emerged in the 1990s in the form of the Global March Against Child Labour, campaigning for what in 1999 became Convention 182. It was further reinvigorated by the adoption of the Convention, which also encouraged many more ratifications of Convention 138.

Nonetheless, in the decade after the adoption of Convention 182:

- An overwhelming focus on worst forms meant young children below the minimum working age continued to enter child labour and few were removed from non-worst forms.
- A widespread US-donor block on funding public services left their capacity, in general, weakened.
- Instead, major donors' conditionalities on direct beneficiary projects required NGOs (accountable to donors but not local communities) to deliver simple-to-report, short-term benefits to limited numbers of selected children or families.
- Most project funding went on short-term service delivery and reporting, rather than confronting systemic economic and governance root causes or promoting social dialogue; and trade unions were not always treated as key partners.
- Political considerations often took precedence over data and evidence. While not all donors pursued the direct beneficiary approach, it involved most of the funding of the ILO's International Programme on the Elimination of Child Labour (IPEC).
- Although the Author and others proposed that an ILO Regular Budget Supplementary Account should be established to align development cooperation funds to the Governing Body's agreed strategies, the narrow focus on hazardous child labour in global supply chains often diverged from the principle that nationally established development priorities should prevail.

Child labour numbers fell by 23 million from 2000 to 2004 and by only seven million from 2004 to 2008. Then, despite the 2008 financial crisis, progress accelerated remarkably. From 2008 to 2012, the number of children in child labour fell by 47 million and, for the first time, not only among children in hazardous work: at least 17 million children too young to work but not in worst forms also benefited.

Further research might explain this remarkable surge, but our knowledge of two countries that contributed significantly to it supports some hypotheses.

Lower-middle-income India is around the middle of the Gini income inequality index, while upper-middle-income Brazil (with the world's sixth largest population) is among the least equal. During this period both governments pursued trilateral South-South child labour cooperation with South Africa. These three, then progressive, administrations asserted their sovereignty, pursuing nationally-determined priorities to accelerate equitable development, combat income and social wage poverty in the rural and informal economies, and, with varying commitment, to strengthen protection of FPRW. The ILO constituents in the three countries also enjoyed close and friendly collaboration with the ILO's child labour programme.

The three countries' determination found expression in India's Convergence Model (with parallels in Brazil) and Brazil's 2013 hosting of the Third Global Conference. (ILO-IPEC, 2013). Convergence sought to combine relevant national policies to create a multiplier effect. The constitutional amendment on the right to education, the midday meals scheme, and specialised bridge schools for children leaving child labour boosted school attendance and retention. The Mahatma Gandhi National Rural Employment Guarantee Scheme and extension of social protection curbed family and community poverty in the rural and informal economy and supported child-friendly infrastructure improvements. Similar approaches emerged, for example, in Pakistani Punjab, while Ghana's Torkor Model achieved international acclaim.

While labour ministries maintained their leading/convening roles, national tripartite child labour committees increasingly co-opted other relevant authorities, converging policies on labour markets, infrastructure, education, social protection and health services, law enforcement and access to justice, labour inspection and agricultural extension, antidiscrimination, and food security. Convergence also supported local government authorities to fulfil their crucial roles in delivering services to the population. This included community child labour monitoring and remediation systems, which (unlike supply chain social auditors) could provide permanent oversight, identify children in or at risk of child labour, and refer them to relevant public services.

In 2014, Kailash Satyarthi and Malala Yousafzai shared the Nobel Peace Prize. Kailash and Nitte Adyanthaya of the Indian National Trades Union Congress (the Author's successor as the ILO Governing Body Workers' group spokesperson on child labour) worked behind the scenes with committed civil servants towards India's 2017 ratification of both ILO child labour Conventions. This brought the vast majority of the world's children under their ambit.

Following the 2012 International Labour Conference resolution on FPRW, the ILO endorsed an integrated, intersectional approach to child labour as part of an integrated fundamental rights policy (ILO, 2016) and established an integrated Fundamental Rights Branch. (ILO, n.d.) Ratifications of Conventions 138 and 182 continued: in 2020, Convention 182 became the first to be universally ratified by all 187 ILO member States. And, in 2013, Brazil's brilliant influence on the Third Global Conference (Global Conference on Child Labour, 2013) supported a broad and incisive declaration targeting systemic root causes. Perhaps it was "of its time and place." If so, there are still lessons to learn, because the Brasilia Conference followed the period of greatest progress.

Recalling the 47 million reduction between 2008 and 2012, including 17 million children by definition below minimum age (in child labour but not in worst forms) what happened after Brasilia?

The title of Figure 1, taken from the ILO estimates, suggests progress stalled only after 2016, but it had already stalled for the youngest children from 2012 to 2016:

- 152 million children were still in child labour.
- The reduction of 16 million was almost all among older children in worst forms.
- The number of five-to-11-year-olds (73 million) stayed unchanged.
- Worse, among these youngest children hazardous child labour increased.
- And while other regions advanced, child labour numbers grew in sub-Saharan Africa, agriculture now accounting for 80 percent.

What Went Wrong?

What caused the dramatic stall? There is no "authorised" version of what happened after 2012 and further research is required, but there are possible explanations.

The ILO's member States bear primary responsibility for eliminating child labour. However, the changes in government in India (2014) and Brazil (2019) cannot alone explain the 2012 to 2016 regression, nor should we underestimate the importance of ILO development cooperation with constituents, particularly in least developed countries. Unfortunately, after 2011, direct funding for integrated ILO support to strengthen constituents' capacity to combat child labour declined and IPEC's presence in member States shrank greatly (ILO, 2016).

Among Northern NGOs and donors (Ireland and Norway being notable exceptions) two principal emphases re-emerged: global supply chains and enforcement against trafficking from the global South to the global North.

First, however, most child labour is not in global supply chains. Also, despite the Rana Plaza disaster, too many actors still seek to hinder workers' fundamental rights to organise and bargain collectively, arguing that supply chain problems can be resolved by snapshot social audits and conversations between multinational enterprises and NGOs.

These two emphases – global supply chains and enforcement against trafficking – emerged in a wider political context: the recrudescence in many countries of populist ethnonationalism alongside weakened respect for the rules-based international system and rights-based development. The Author suggests that, rather than accelerating progress against child labour as SDG 8.7 demanded, influential populist-ethnonationalist governments, by conflating forced labour with trafficking and trafficking with migration and asylum, and by seeking electoral support by demonising refugees and economic migrants, contributed to slowing progress against child labour.

In September 2017, at a side meeting at the United Nations in New York, the ILO launched its 2012-2016 global estimates on child labour and forced labour. 152 million children were in child labour, of whom 4.3 million were in forced labour (as were 21 million adults).

Several things stood out at that meeting, including crucial trends that subsequently continued unchecked and contributed to the recent increase in the number of children in child labour. The 2017 estimates showed that progress among the youngest children (aged five to 11) had stalled, and more of them were in hazardous work. Moreover, despite the efforts of the International Partnership for Cooperation on Child Labour in Agriculture and the Global March Against Child Labour to draw more attention to child labour in agriculture (including a major conference in Washington DC in 2012), the number of children concerned grew substantially.

In addition, sub-Saharan Africa was the only region to experience an increase in child labour overall and not just in agriculture.

One might have expected that these figures would have focused discussion on what had become the predominant typology of child labour (accounting perhaps for 40 million or more): the African child of primary school age, as likely to be a girl as a boy, working unpaid alongside their parents on a small family farm producing for local markets. Such expectation, while justified, would have been dashed. ILO Director General Guy Ryder (a stalwart supporter of the movement against child labour) presented the key statistics and called for the necessary action, yet most of the other speakers barely mentioned child labour, let alone its largest category.

Those with a feel for the politics and protocol of the discussion might have noted the dominance of speakers from Australia and the UK and Ivanka Trump's silent presence. They would also have noted that the Australian chair (of the meeting and the new Alliance 8.7) did not give the last word to the ILO Director General (the most senior person in the room[2]). He gave it instead to Australian mining magnate Andrew Forrest, whose Minderoo Foundation funded the Walk Free Foundation[3] and who emphasised its campaigning against child trafficking, including for sexual exploitation (Eyewitness account by the Author).

Australia had by then already sought to deter migrants and refugees by incarcerating adult and child migrants and asylum-seekers in detention camps on Nauru and Manus with scant concern for their physical or mental health or rights under international law. Few Asia-Pacific countries have ratified the 1951 Refugee Convention. Indeed, Professor Susan Kneebone (2017) had been warning about the securitisation of refugee and migrant border control in the Asia-Pacific region through the Bali Process (the "Regional Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime" co-chaired by Australia and Indonesia), and long before the Australian government sought (and failed, thanks to International Trade Union Confederation's alertness) to have it listed as good practice in the Fourth Global Conference on Child Labour outcome document (Global Conference on the Sustained Eradication of Child Labour, 2017).

Commercial sexual exploitation of children (CSEC) and recruitment of children for armed conflict – both specifically referenced in Convention 182 – attract justified moral outrage and varying degrees of vitally important and useful interventions. Such moral and religious outrage, however, often narrowed the focus at the expense of the wider, complex political economy of child labour (ignoring, for example, life-shortening hazards faced by children exposed to dangerous chemicals). This narrow focus on CSEC and trafficking for CSEC has also been misused by some who conflate all trafficking with sex work, and who also commonly: reject the evidence that constrained economic choices by working people within the continuum of freedom and lack of freedom in labour markets do not *always* result in forced labour as defined by international instruments; deny the agency of adult sex workers as rights holders; and oppose their right to organise and defend their interests through collective representation. (In so doing, of course, they also reject ILO Convention 87's essential principle that the inalienable right of freedom of association applies to all workers without distinction).

[2] By custom, the tripartite ILO being the UN's "senior service" established with the League of Nations in 1919, its Director General comes second to the UN Secretary General

[3] https://walkfree.org

It appeared that the Australian government's main aim at the Fourth Global Conference in Buenos Aires was to gain support for its migration and asylum policies by conflating forced labour with trafficking and trafficking with migration and asylum. However, it was not alone in its eagerness to ignore its international obligations towards migrants and to demonise and victimise adults and children seeking safe haven. While Canberra proselytised the Bali Process, Britain's Conservative government, in a (still persisting) display of kith and kin proximity, had already enshrined the same conflation in then-Home Secretary Theresa May's "Hostile Environment" against migrants, refugees and asylum seekers. The Hostile Environment, launched in 2012, was a major cause of the Windrush Scandal that led to Black British *citizens* being unlawfully deported, and it legitimised the ethnonationalist xenophobia and racism which contributed to the Brexit "mix" (Joint Council for the Welfare of Immigrants, n.d.). Other countries across Europe and Asia were also falling prey to resurgent populist-nationalist Islamophobia and antisemitism: in some, the parties concerned assumed control of government. The US, meanwhile, was also adopting harsh anti-migrant measures and, after 2017, began to withdraw from the multilateral system.

Populist Ethnonationalism: The *English* "Example" – Racism, the "Hostile Environment`", Brexit, and the Nationality and Borders Bill

Perhaps most notable at the New York meeting (although some might consider it an abuse of the agenda), was the statement of Britain's (then) International Development Secretary Priti Patel that "open borders facilitate crime." This undisguised piece of Brexit propaganda reflected the leitmotiv of the UK and Australian governments' putative support for SDG Target 8.7 and for the Alliance established to campaign for it.

Most recently, Patel as Home Secretary (Interior Minister) moved the UK Nationality and Borders Bill, which would reduce support for victims of human trafficking (including children) and weaken systems for identifying them. Criticised for "excessive cruelty to asylum seekers," she and the Government have faced multiple challenges to their attempts to justify the Government's willingness to depart from international norms (Townsend, 2021b).

During 2021, more than 28,000 people crossed the English Channel in small boats; a small number compared to those crossing the Mediterranean (Similarly, far fewer people seek asylum in the UK than in Germany, France or Spain).

In a statement on March 20, 2021, the Home Office claimed an "alarming rise in people abusing our modern slavery system by posing as victims in order to prevent their removal and enable them to stay in the country" (Home Office, 2021). First leaked to the Sun (a right-wing tabloid in Rupert Murdoch's media empire) Patel said: "Our generous safeguards for victims are being rampantly abused by child rapists, people who pose a threat to national security, and failed asylum seekers with no right to be here." Patel's revolting conflation of victims of trafficking for forced labour with child rapists - almost harking back to the medieval antisemitic blood libel - echoed Trump's racist electoral campaign trope that Mexican migrants were drug dealers, criminals and rapists and, indeed, the prurient rants of Islamophobic racists in England and their counterparts in the RSS in India - the paramilitaries backing Narendra Modi (whom Patel so admires).

Yet a Freedom of Information (FoI) Act response to queries by ECPAT (Every Child Protected Against Trafficking) UK, revealed that the Home Office's Modern Slavery Unit

could not provide data on child rapists, national security threats or failed asylum seekers referred to the modern slavery system since 2017[4] (Townsend, 2021b).

The response, that compiling the data would require trawling individual case files, suggested Patel's claims and policies lacked evidence.

In June, the High Court ruled that Patel had acted unlawfully in detaining, in former military barracks (which also failed to meet minimum safety standards during the Covid pandemic), six asylum-seekers who had been victims of trafficking and/or torture. Her process for selecting people to be held there was also deemed unlawful (Taylor, 2021b).

In October, barristers' legal opinion commissioned by NGO Freedom from Torture concluded the Bill breached domestic law, articles 31 and 33 of the 1951 Convention, and articles 2, 3, 4, 8 and 13 of the European Convention on Human Rights, in at least ten ways (Syal, 2021a).

In November, Patel was exposed as having misled Parliament by seeking to justify inhumane deterrence measures with false claims that the majority crossing the Channel were not asylum-seekers but single young migrant men seeking employment. While refusing a Freedom of Information request to reveal its most recent "evidence" about asylum-seekers' motivations (Townsend, 2021c), the Government also falsely claimed it had reached an agreement with Albania to "offshore" asylum-seekers while their claims were considered.[5] This was denied by Albania's Prime Minister, Foreign Minister and Ambassador to the UK who, in a BBC Newsnight interview on 19 November, dismissed it as "fake news". Analysis by the Refugee Council and Médecins sans Frontiers of Freedom of Information and Home Office statistics from January 2020 to May 2021 showed that 91 percent of asylum-seekers were from ten countries riven with conflict, human rights abuse and persecution; that 98 percent of those crossing the Channel applied for asylum; 61 percent of those from the ten key countries would have been granted refugee status following their initial claim (88 percent in the case of Syrians); and of the 39 percent whose initial claim was refused, 59 percent were likely to be granted on appeal.

From this research, the Refugee Council concluded that the Government should:

- Rapidly expand existing safe routes including both resettlement schemes and refugee family reunion;
- Establish a humanitarian visa system to allow people to apply for a visa to enter the UK safely for the purposes of claiming asylum;
- Recognise that many people seeking asylum have no option other than an irregular journey as recognised in the 1951 Convention, and therefore should be treated fairly and humanely by being granted a fair hearing on UK soil; and that
- The government should put in place an efficient, effective, high-quality and timely asylum decision-making system so people do not have to wait for months or years for an outcome (Refugee Council, 2021).

[4] Formerly End Child Prostitution and Trafficking, ECPAT UK is a valuable ally seeking to situate its central campaign within a broader context, and vocal critic of the British government's failure to fulfil its obligations to protect child migrants, asylum-seekers, and child victims of trafficking. See https://www.ecpat.org.uk/

[5] In the same vein, some government sources had suggested offshoring asylum-seekers on the Falkland Islands/Malvinas or Ascension Island.

Following an attempted bombing in Liverpool on 17 November, and despite calls for calm by politicians and police and warnings that she was inflaming tensions and risked inciting violence, including against lawyers acting for asylum-seekers, Patel nonetheless blamed the incident on what she described as an asylum system that had been broken "in the past" (her Party has been in Government for 11 years). She also added a clause to the Nationality and Borders Bill giving her unprecedented power to remove *without notification* UK citizenship from dual UK citizens born and raised in the UK, a measure the Race Relations Council concluded would be used disproportionately against British Muslims.

Other clauses would also violate international norms, "…including rendering claims from anyone arriving in the UK by an illegal route inadmissible, while criminalising them and anyone who seeks to save their lives, and giving Border Force staff immunity from prosecution if people die in the Channel during "pushback" operations" (Siddique, 2021). Trade unions representing UK Border Force staff stated that a policy of turning back small boats, already rejected by France, would violate maritime law and be unworkable. In November 2021, the Public and Commercial Services Union announced it might seek judicial review to challenge its lawfulness (Syal, 2021b). The Home Office's lawyers advised that such a challenge would be highly likely to succeed, and that the union might also take industrial action and support individual claims under section 44 of the Employment Rights Act, 1996.[6] The "culture war" now ran so deep that, in August, Nigel Farage and the British right-wing media dared criticise the Royal National Lifeboat Institution (RNLI) for rescuing people – including children – from small boats in distress. The public, however, responded with vastly increased donations to this venerable (voluntarily-funded) service.

Also in November 2021, the UK Government sent military advisors to assist Poland in its enforcement of Fortress Europe borders against migrants and asylum-seekers who had become victims of the machinations of Lukashenko's Belarus regime. In late November, 27 asylum-seekers, mostly Kurds, drowned trying to cross the English Channel to reach the UK. A week later, the RNLI website came under cyber-attack and its staff received threatening emails.

In the July 2021 parliamentary debate on Patel's Bill, former Prime Minister Theresa May admitted that as Home Secretary she would have proposed similar measures to deter asylum-seekers by sending them to a "safe third country" had it not been for "practical concerns." Whatever May's credentials as EU Remainer and intellectual author of the UK Modern Slavery Act, as author of the Hostile Environment she contributed to the xenophobic rhetoric of othering that nourished the recrudescence of populist English nationalism.

This rhetoric is ever more familiar in today's "culture wars". The ethnonationalist political forces seeking to close borders against migrant workers and refugees and deny family reunion to unaccompanied children are precisely those that are also promoting neo-colonialist revisionism - decrying as "woke" and unpatriotic critical historical analyses of the transatlantic slave trade, colonialism, Empire, post-Civil War segregation in the United States, and their links to contemporary migration and refugee flows.

[6] Section 44 provides employees with the right to withdraw from and to refuse to return to a workplace in which – in their opinion – the prevailing circumstances represent a risk of serious and imminent danger which they could not be expected to avert; and permits claims for Constructive Dismissal and unlimited compensation in the event that an employer fails to maintain safe working conditions. Cf: https://section44.co.uk for a simple explanation. Full text at https://www.legislation.gov.uk/ukpga/1996/18/section/44.

Speaking to Conservative Party Conference after the 2016 Brexit referendum, May had derided mobile people with multiple cultural, linguistic, and ethnic heritage who identified as Europeans. She said:

> Today, too many people in positions of power behave as though they have more in common with *international elites* than with the people down the road, the people they employ, the people they pass on the street ... but if you believe you are a citizen of the world, you are a citizen of nowhere. You don't understand what citizenship means (Davis and Hollis, 2018; Merrick, 2017; The Spectator, 2016; Author's italics).

Besides the obvious irony of a Conservative prime minister criticising elites, her choice of language and (hopefully genuine) ignorance of European history and the analogy of "international elites" and "cosmopolitans" was chilling. In November 1933, at the Berlin Siemens Dynamo Works, Hitler had derided:

> [the] clique ... people who are at home both nowhere and everywhere, who do not have anywhere a soil on which they have grown up, but who live in Berlin today, in Brussels tomorrow, Paris the day after that, and then again in Prague or Vienna or London, and who feel at home everywhere[7] (O Karlsson, 2018).

Within 15 years, "rootless cosmopolitan" became Stalin's synonym for Jew. Today, Hungary's Viktor Orbán shares this lexicon; his government´s crude antisemitism one cause of its increasing distance from the EU[8] (David and Moos, 2021).

Evidently, racism and xenophobia alone did not cause Brexit, nor were they sentiments shared by much of the UK population. However, while other member States educated children as EU citizens (and publicly celebrated EU membership and structural and regional fund projects), successive UK governments had fanned the Brexit flame by blaming the EU for their own failure to respond to globalisation and deindustrialisation with appropriate industrial strategies and by failing to highlight the peace, prosperity, and *acquis* of labour and other rights the EU had underpinned for decades.[9] Nonetheless, this foul and foolhardy language contributed to releasing the racist genie from the bottle, to the Windrush Scandal, and to the toxic ethnonationalism and xenophobia that, playing on ahistorical delusions of English exceptionalism, helped build the slight majority[10] in England and (among non-Welsh voters) in Wales in the (advisory) Brexit referendum. As the writer and critic Will Self said in March 2019, when challenged that he was accusing all pro-Brexit voters of racism: "You don't have to be a racist or an antisemite to vote for Brexit; it's just that every racist or antisemite in the country did" (Gelblum, 2019).

[7] On Hitler and antisemitism see inter alia (and especially): Kershaw (1999 and 2001). Domarus' Hitler Reden und Proklamationen 1932-1945 includes only an edited version of Hitler's 1933 Siemenswerk speech. However, the full quote used here was cited by O. Karlsson in an article in the Berliner Tageszeitung (10.10.2018) reporting criticism by historians Wolfgang Benz and Michael Wolfssohn of German AfD leader Alexander Gauland for using similar language resonant of that speech.

[8] Declaration of interest: the Author's father and other family members were refugees from Nazi occupation; the few survivors in post-War Czechoslovakia became victims of Stalinist antisemitism. The reactions of other "Second Generation" children to this ethnonationalist-populist "Zeitgeist" are reflected in David and Moos (2021). In November 2021, the Author chaired an online conference on this subject: Lord Alf Dubs (leading advocate for child refugee rights in the House of Lords), Moos and David were principal speakers.

[9] The Author would also argue that, compared with other EU member states, widespread (English) monolingualism hindered more people in the U.K. from using their freedom of movement to work and explore their shared European culture.

[10] The 52 per cent who voted Leave was 37.5 per cent of the registered electorate.

The propagandist conflation of migration and asylum with trafficking is just one aspect of the growing wave of populist ethnonationalism around the world led by a New Right. However, it is central to our discussion because it contributed significantly to diverting attention from the ten percent of the world's children still in child labour. Indeed, in July 2021, amid the pandemic, Britain's "get Brexit done" government reconfirmed its disdain for the world's poorest children by cutting international development assistance, hitting child nutrition and girls' education and health, both essential elements in the struggle to end child labour (McVeigh, 2021).

Northern-Centrism and SDG Target 8.7

Let us return now from the downward spiral of the UK Government's populist-xenophobic rhetoric and (anti-)asylum legislation to the international stage of the SDGs. Target 8.7 aims to "eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms" (United Nations, 2015).

With hindsight, it was probably unwise to put child labour and trafficking (as a subset of "modern slavery") together, not least when (to borrow Bertolt Brecht's reference to war and the rise of Hitler from his 1941 play, The Resistible Rise of Arturo Ui) the ethnonationalist "bitch that bore him was on heat again" (Brecht, 1978).

In the late 1990s, some international trade union colleagues feared Convention 182 might be applied in isolation from or even supersede Convention 138. Indeed, although member States continued to ratify the Convention - and despite criticism by the ILO supervisory bodies of the Bolivian government's attempt to reduce the minimum age to ten years (ILO, 2019) – a coalition of NGOs and academics still campaigns against Convention 138 and its principle of a minimum age for work, which is inextricably linked to that of universal compulsory education. It was, perhaps, inevitable that Target 8.7, when put alongside the 2014 Protocol to Convention 29 on forced labour, could face similar risks and that this resurgent populist-ethnonationalist discourse would distort the crucial campaign against forced labour by conflating forced labour with trafficking and trafficking with migration and asylum, while the waters were being muddied further with the newly-invented category of "Modern Slavery" and misuse of the term "exploitation".

Unfortunately, the discourse swirling around the anti-migration juggernaut may also have sideswiped the campaign for ratification of the 2014 Protocol, despite its excellent content. The fact that some perceived it as a "trafficking protocol" probably did not help. The vocal support of the UK and Australian governments and the UK's incessant promotion of its enforcement-centric Modern Slavery Act – fell on barren ground in some developing countries with bitter experience of UK migration policies (views imparted to the Author by parliamentarians from South Asia). Protocols are rarely rapidly ratified, although this one supplemented the second-most ratified ILO Convention. The aim of 50 ratifications by 2018 was not reached until 2020. By comparison, in a similar period following its adoption, Convention 182 had gathered 157.

Several factors might have contributed to the formulation of SDG Target 8.7. Of the 152 million children in child labour in 2017, as defined by the Conventions and the International Conference of Labour Statisticians (ILO, 2018b), 4.3 million were in forced labour. Some wanted attention focused on child marriage, others on forced child labour - or "child slavery" as they called it. Although their narrow concern about what they considered the

most egregious form of child labour was understandable, it risked undermining the strategic, integrated policy approaches required to deal with the intersectional root causes of all forms of child labour. Sadly (and mostly unintentionally) it also boosted the populist-nationalist enforcement discourse. Criminal sanctions against "evil traffickers" (including those who are not traffickers but facilitate irregular crossing of closed borders)[11] sit far more comfortably with populist-ethnonationalist propaganda than complex discourse on the intersectionality of human rights and sustainable and equitable socioeconomic development.

True, some influential colleagues who were not child labour policy specialists erroneously believed all child labour was forced labour and so both belonged in a single SDG target. Indeed, until the ILO Convention 182 was adopted, and while Convention 138 had few ratifications, the ILO Committee of Experts on the Application of Conventions and Recommendations had derived its child labour jurisprudence mainly from member States' reports on the application of the widely ratified Convention 29. The Experts had held that, because a child could not give free consent, all child labour was forced labour. However, this jurisprudence obtained before the adoption of Convention 182, before IPEC became the ILO's largest single development cooperation programme, before the first quadrennial global estimates in 2000 were developed, and before the growing understanding of the political economy of child labour.

Dominant Northern perceptions of child labour fuelled by global supply chain campaigns also showed scant interest in the wider child labour economy. It was and is right to condemn child labour performed for third-party employers, for example, in the production of garments, sports goods, surgical instruments, or agricultural commodities like bananas, tobacco, cotton, and prawns (although perhaps not pure coincidence that the US initiated some such campaigns when US farmers or prawn fishers were clamouring for support, as after the 2010 Gulf of Mexico oil spill). Yet these campaigns were often predicated on the misapprehension that all children in child labour were under direct, unscrupulous control of an identifiable enterprise. Although often true, this narrow focus largely ignored what was and remains the predominant mode of child labour: unpaid work alongside parents in family farms and micro-enterprises producing primarily locally-traded goods and services. That (despite its widespread use of bonded labour of entire families) included brick-making, a textbook local manufacture. The exception, perhaps, was child labour in domestic work, although it still accounts for seven million children (2.5 million of them girls under 11).

One example of conflating forced labour and child labour in a global supply chain was the headline-grabbing claim that children trafficked from neighbouring countries produced all West African cocoa. Untrue when the campaign began in the USA (quickly followed by Europe and Japan), and still today, it nonetheless sparked the Harkin-Engel Protocol, which sought to impose measures, especially on Ghana and Côte d'Ivoire. Although the US ambassador to Ghana stated publicly that the nationally-determined child labour priorities were fishing, domestic service, and artisanal mining, the US maintained pressure on the cocoa/chocolate industry and on the two other governments. Furthermore, it supported the establishment of a monitoring body operating separately from the national child labour monitoring system, while rejecting proposals for tripartite, tri-national oversight.

Significant funding for IPEC work accompanied this campaign. However, it mostly went to direct beneficiary projects, partly because the US Government Performance and

[11] How easy it seems for some to forget resistance networks in Nazi-occupied Europe that delivered persecuted Jewish adults and children, resistance fighters, members of the Allied forces, UK SOE operatives and others to safety across closed borders. The Calais World War II museum dedicates a room to them. (Trilling, 2021)

Results Act required simplistic correlation of expenditure with results. The US then had (and still has) not ratified Convention 138 and was focusing exclusively on the worst forms of child labour (which it unhelpfully termed "exploitative" child labour, an adjective explicitly rejected by the ILO Conferences in 1998-99). Despite President Obama's unequivocal call on World Day Against Child Labour in 2009 for the "elimination of child labour in all its forms" (Peters and Woolley, 2009), and Senator Harkin's support for integrated interventions to tackle the root causes of child labour, resistance came from within the Administration to integrated fundamental rights and decent work approaches targeting all forms of child labour and to support for worker and small farmer self-organisation. This general exclusion of support for public services and for generalised benefits to communities meant root causes remained largely untouched.

It became clear that most children performing child labour (even if hazardous) in cocoa production had not been trafficked and were not in forced labour. Most were working on family farms run by their parents as owners, tenants, or sharecroppers (although, in the last two, conditions could approximate to forced labour), and might also be engaged in producing other crops or in other types of labour like domestic work or artisanal mining.

The "modern slavery" and Target 8.7 discourses deployed another damaging conflation, perhaps unintentional and based on common but inexact usage: "exploitation" became a synonym for forced labour. By repeatedly referring to exploitation as if it existed only in conditions of forced labour, this further hindered understanding of the mutually supportive and interdependent nature of FPRW at the heart of the 1998 Declaration and of the mutually aggravating nature of violations of those rights.

The Marxist definition of exploitation – extraction of surplus value by capital from labour, the essential relationship of the capitalist mode of production – is not universally accepted. However, suggesting that exploitation takes place *only* in conditions of forced labour (or to use the term exclusively or primarily in that context) undermines the struggle for universal realisation of all four interdependent categories of FPRW: freedom from child labour, forced labour and discrimination, and, particularly, freedom *of* association and the right to bargain collectively. Indeed, the 2012 ILO Conference made clear that freedom of association and the right to collective bargaining are *primus inter pares* among these rights. The 1998 ILO Declaration Preamble proclaims that the purpose of universal realisation of these rights is to "enable the persons concerned to claim … a fair share of the wealth they have helped to generate" (ILO, 1998 and 2010). However, if only people in forced labour are exploited, then all others (including garment, plantation, and food-processing workers; teenagers in fast-food restaurants and "gig economy" delivery services; and migrant workers cleaning offices and hotels) must be receiving their 'fair share', and therefore do not need collective bargaining, and neither do small farmers need associations or cooperatives to negotiate fair prices.

Abuse of the specific meanings of the distinct economic and legal concepts *exploitation* and *forced labour* not only risks disdain for the universal rights to freedom of association and collective bargaining. The intrinsic overlap between denial of these rights and discrimination, social exclusion and disempowerment on one hand, and forced labour and child labour on the other is effectively universal (unlike the, mercifully, comparatively small overlap between child labour and forced labour). The narrow misuse of "exploitation" therefore also undermines the strategic understanding - enshrined in the 1998 Declaration and subsequent ILO resolutions - that forced labour, child labour, and discrimination will not be eradicated without universal realisation of freedom of association and effective recognition of the right to collective bargaining.

Moreover, several other related and erroneous beliefs are incompatible with an understanding that the struggle against the root causes of forced labour and child labour in the real economy requires the collective *agency* and representative voice of rights holders (if that concept is understood at all). Prominent among those ideas are that employer paternalism, "corporate social responsibility", and social auditing render trade unions and small producers' organisations and their principal collective bargaining function redundant, and that forced labour and child labour can be eliminated by a combination of donor-funded NGOs, philanthropic *noblesse-oblige*, draconian migration curbs, and blunt-instrument law enforcement. Billionaires' proclamations – as heard by the Author – that philanthropy would end forced labour in the 21st Century are symptoms of an ahistorical, neo-colonialist pathology ('Wilberforceitis'?) clustered in the global North. This peddles the delusion that white benefactors alone ended transatlantic slavery; denies the collective *agency* of enslaved workers; and ignores their struggle for self-organisation and their rebellions from ancient Mesopotamia to the Americas and the Caribbean of the 18th and 19th centuries[12] (and the centuries since, during which slave-owners´ descendants were paid compensation for "loss of their property").

Today's UK Government appears to be seeking the permanent renewal of populist-nationalist xenophobic support. It does so by attacking people "traffickers" alongside seeking to deport "illegal" migrants and "return" "illegal asylum-seekers" to "safe countries" through which they have passed (although there is no such thing as an illegal asylum-seeker, and none of those countries has agreed to accept them); and by stating its intentions to copy the Australian practice of offshore detention. Thus, the government signals its intent to breach its obligations arising from ratification of the 1951 Convention, the ILO 2014 Protocol, and Convention 182 to protect child and adult victims of trafficking, and under the law of the sea (See, *inter alia*, IMO-UNHCR-ICS, 2015; Røsæg, 2020).

The UNHCR criticised Australia's deliberate separation of family members as a breach of fundamental human – and children's – rights (Doherty, 2021). The UN Special Rapporteur on Racism and a large coalition of migrants' and refugees' rights organisations have also criticised the policies of the present UK Home Secretary as incompatible with international law (See, *inter alia*, Taylor, 2021a; Grierson and Marsh 2021; Townsend, 2021a).

Perhaps when Alliance 8.7 was established it was no surprise that vocal support for "stopping trafficking" ran alongside hostility by some governments to migrants, asylum-seekers and refugees, despite the clear evidence that *protected* migration and safe routes to asylum help *prevent* the vulnerability to trafficking for forced labour to which migrant workers, asylum-seekers, and their families may be exposed when denied safe passage. Despite the UN General Assembly's adoption in 2018 of the Global Compact for Safe, Orderly and Regular Migration (but see the record vote: UN Digital Library (2018)), tens of thousands of people, including infants and children, among them unaccompanied child refugees, have since died trying to reach safe shores.

Why pay such attention to this conflation and the wider context of weakened commitment to international norms in a discussion about child labour trends? Foremost, because despite some crossovers, forced labour and child labour are not the same thing. Of the 160 million children in child labour, 155 million are not in forced labour.

[12] See, *inter alia*, the work on slavery and slave resistance in Brazil by the late Prof. Dr Dick Geary, former director of the Nottingham University Institute for the Study of Slavery, and his colleagues: Geary (2016)

Deficits in rights-based development make people vulnerable to forced labour, and penal sanctions against the criminal offence of exacting forced labour are also essential. However, for most children in child labour, who are working unpaid in their family's small farm or micro-enterprise, rights-based development, social protection, and formalisation of the locally traded informal especially rural – economy are far more appropriate responses than sanctions against their parents. Indeed, while there is *some* crossover between child labour and forced labour, both are *consistently* interwoven with discrimination and with denial of freedom of association and the right to bargain collectively.

Conclusions

The author has attended every Global Child Labour Conference since the First (Oslo 1997). The Fourth (Buenos Aires, 2017), followed a severe reduction in progress against child labour but also the adoption of SDG Target 8.7, becoming a conference on child labour plus forced labour, plus youth employment. The outcome document maintained the language of the forced labour Conventions and of the sustained eradication of child labour; indeed, it was more detailed than the strategic conclusions of Brasilia. Yet, child labour received slightly fewer references than forced labour and trafficking, and the document inadequately differentiated these ills and their required solutions.

The global trade union movement had proposed an integrated Alliance 8 on decent work, explicitly recognising the interdependence of all four categories of FPRW. This being denied, and despite considerable efforts to persuade them to join, key global union federations declined to bring their crucial sectoral mandates to Alliance 8.7. Indeed, without the IUF, the global union federation with competence for agriculture, the Alliance could not convene a credible rural economy working group.

Child labour and forced labour, with trafficking delineated specifically, *were* put together and, after the SDGs were adopted, it appeared that more attention was paid to trafficking than to child labour (indeed, Australia, Alliance 8.7's first chair, has still not ratified Convention 138).[13] This was, in part, fuelled by the policies of ruling parties which, conflating forced labour with trafficking and trafficking with migration and asylum, sought electoral support by demonising migrants and asylum-seekers. Future global estimates on forced labour might indicate whether that has helped or hindered the fight against "modern slavery". Already, however, continuing attacks, in government policies and on the street, on migrants, asylum-seekers, refugees and people from ethnic minorities, and, in the USA, an attempted insurrection by white supremacists indicate that the racist genie is now truly out of the bottle.

The result is an interesting intersectional equation illustrating how, in an era of populist-nationalist identity politics and othering, violation of one fundamental right further hinders the realisation of the others. In this crucial example, child labour is relegated as certain forces prioritise their discrimination *against* migrants, asylum-seekers, and refugees on the pretext of combatting trafficking. Such discrimination prevents safe passage and makes trafficking for forced labour more likely, not less, but is also a tool to divert attention from social and economic injustice. This weakens opposition to policies that increase wealth disparities: policies that in turn thrive when freedom of association and collective bargaining are hindered rather than promoted.

[13] The other ILO member States that have not yet ratified Convention 138 are Bangladesh (believed to be in process), the Cook Islands, Iran, Lesotho, Marshall Islands, New Zealand, Palau, St Lucia, Somalia, Timor-Leste, Tonga, Tuvalu, and the USA

The author is not suggesting a conscious plot to side-line child labour, although some governments and some (certainly not all) NGOs in Alliance 8.7 displayed little interest in the topic. However, the lower priority it received stemmed partly from the anti-migration and anti-asylum stance of influential governing parties that deny the interdependent nature of FPRW. In the ethnonationalist discourse, child labour has no electoral value, unlike children seeking asylum, who gain it when governments boast fortress borders, denying them safe haven, incarcerating them, or letting them drown.

In 2013, the author hoped that replicating the 2008 to 2012 success of Brazil, India and others might eradicate child labour by 2030. The remarkable absence of detailed analysis of that extraordinary progress persists. Numerous conflicts - not least in Afghanistan, Libya, Syria, Yemen, Myanmar, the Sahel, and the Great Lakes region, the climate emergency, and the Covid pandemic have increased the challenge. Today 800 million children may be partially or wholly out of school, many vulnerable to child labour. Families are thrown into poverty: in the global North queuing at food banks; in the global South, sometimes fleeing violent persecution, returning from an imploded informal urban economy to seek food security in home villages.

More recently, the urgency of SDG 8.7 and the pandemic might have encouraged greater commitment by some actors to pursue both elements of the target. New national policy initiatives against child labour are emerging, including in rural Africa. The concept of SDG 8.7 pathfinder countries, [14] which require support to demonstrate concrete results, is advancing. There are widespread (though not universal) efforts to implement the integrated area-based approach against child labour in supply chains.

Furthermore, given their *primus inter pares* role in the canon of FPRW, President Biden's vocal support for all working people to enjoy their rights to freedom of association and collective bargaining is encouraging (Biden, 2021). This could help recreate a climate in which mature labour relations are understood as normal and essential for social and economic justice and well-functioning democracies, in turn helping to renew support for the interwoven promotion of all FPRW.

Targeting the root causes of child labour has been a powerful convening and entry point for successful integrated activity to promote all - mutually supportive - fundamental rights at work. Following the International Year for the Elimination of Child Labour, (ILO, 2021) with the Fifth Global Conference in Durban pending in 2022, the 2025 SDG target demands reinvigorated multilateralism, international solidarity, tripartite consensus, and partnership to pursue accelerated implementation of integrated fundamental rights policies to eradicate *all* child labour. Durban could also provide an opportunity to promote a wider coalition with the International Partnership for Cooperation on Child Labour in Agriculture, directing greater attention to the great majority of child labour in locally traded goods and services in rural economies (Established in 2007, the IPCCLA comprises the ILO, FAO, IFAD and the IUF. See FAO, IFAD, ILO & IUF, 2020).

The nine-year-old African girl working unpaid alongside her parents on the family farm, producing mainly for local markets, perhaps occasionally going to school but prevented from exercising her right to fulfil her potential, might not move Northern consumers. Yet, unless we reject the racist diversion caused by the populist-nationalist conflation of trafficking with migration and asylum, and refocus attention on her and her parents' fundamental rights,

[14] On Pathfinder countries and the response to the pandemic's effect on child labour see, *e.g.*: ILO (2020)

we will be unable to resume the integrated strategies required to eradicate child labour. Instead, we will need to apologise, yet again, for breaking the solemn promise to the world´s children, repeated time and time again and to which, in 2015, we attached a deadline: to eradicate all forms of child labour by 2025.

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Ancient Refugee Policies reviewed with the International Law Acquis of Today

Políticas de Refugiados Ancestrales revisadas con el Acervo de Derecho Internacional de la Actualidad

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Abstract

The article revisits the refugee policies of Ancient Athens and Ancient Rome and highlights how exploring them reveals the value of the contemporary acquis of international law for actively addressing refugee crises triggered by military invasion. The nexus between refugee flows, the undermining of ancient civilizations, and the value of legal corpuses has long been overlooked by contemporary literature. It is a gap that the article intends to fill by inquiring possible explanations for Athens' and Rome's failures in managing the Attican and Gothic refugee crisis. The article offers a historical analysis of the abovementioned refugee crises. The contribution of this article is two-fold: the article not only calls attention to the unpreparedness and lack of foresight in the refugee policies of the Ancient Athenians and Romans, but it also highlights how certain mistakes could have been avoided and why these failures remain relevant to modern society from an international law perspective. The results of the analysis are supported robustly by the triangulation of ancient testimonies with modern academic references.

Keywords: Refugees, Ancient Rome, Ancient Athens, Gothic Refugee Crisis, Attican Refugee Crisis, Valens, Pericles, Past Experiences, Modern Society, International Law.

Summary: Introduction, Ancient Refugee Crises and the Undermining of Two Ancient Civilizations, Assessment of the Findings: Some Lessons on the Value of the Contemporary Legal Acquis and Conclusions.

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Resumen

El artículo reexamina las políticas de refugiados de la Antigua Atenas y de la Antigua Roma y resalta cómo su exploración revela el valor del acervo contemporáneo del derecho internacional para abordar activamente las crisis de refugiados provocadas por una invasión militar. La literatura contemporánea ha pasado por alto durante mucho tiempo el nexo entre los flujos de refugiados, el socavamiento de las civilizaciones antiguas y el valor de los corpus jurídicos. Es un vacío que este trabajo pretende llenar investigando las posibles razones de los fracasos de Atenas y Roma en la gestión de la crisis de refugiados de Godos y Áticos. Este estudio ofrece un análisis histórico de las crisis de refugiados mencionadas previamente. La contribución de esta investigación es de dos aspectos: el artículo no solo enfoca la atención en la falta de preparación y la falta de previsión de las políticas de refugiados de los Antiguos Atenienses y Romanos, sino que también destaca cómo dichos errores podrían haberse evitado y por qué estos fracasos siguen siendo relevantes para la sociedad moderna desde la perspectiva del derecho internacional. Los resultados del análisis se apoyan sólidamente en la triangulación de testimonios ancestrales con referencias académicas modernas.

Palabras clave: Refugiados, Antigua Roma, Antigua Atenas, Crisis de los Refugiados Godos, Crisis de los Refugiados Áticos, Valente, Pericles, Experiencias Pasadas, Sociedad Moderna, Derecho Internacional.

Introduction

"How can it be right to drag the suppliant away by force?"
-Euripides, 2009-

In Euripides' play "Heracleidae", the Athenian King Demophon comes to the rescue of the children of Heracles, refugees who have been driven from their homes in the Peloponnese by the vengeful King Eurytheus of Argos. By portraying a merciful and hospitable Athenian King, Euripides markets Athens as a cosmopolitan hub where the interests of the rabble and dispossessed are championed over that of the strong and the violent. This comes to the extent that the King Demophon is ready to risk the blood of his own kind to protect the life of the refugees.

Euripides' embrace of hospitality and solidarity were not unheard of at the time: both Ancient Athens and Rome believed their strength to be rooted in the successful integration of refugees of all kind. In Athens, officials such as Plutarch and Pericles praised their city for her free liberality and sophisticated ability to "teem with people constantly migrating to Attica from all over the Mediterranean, seeking refuge" (Plutarch, n.d.; as cited in Garland, 2020; Brown et al., 2002, pp. 38–41). Its borders were kept open in peacetime and welcomed predominantly males in their primes whose skills and resources beneficiated the host community (Rubinstein, 2018, p. 8). Rome, similarly, built its empire around the notion of universality, glorifying itself as a migrant foundation (i.e., founding tale of Aeneas, the refugee from Troy). However, Rome went even further than Athens through its legalistic premise of transforming human diversity into unity by the generalization of the Roman citizenship (Moatti, 2006, pp. 116–117). Eventually, the integration of refugees would turn Rome into a powerhouse over much of the known world, with many of these migrants joining the Roman army with the hope of elevating themselves in the Roman society (Nowrasteh, 2018).

Building on this cosmopolitan image, modern literature has commonly described Ancient Athens and Ancient Rome as models for modern societies to cope with refugee crises (Beard, 2015; Schumacher, 2019; Swift, 2015). Yet, although it is true that the two cities were

remarkably cosmopolitan for their time, they both poorly managed major refugee crisis, namely the Attican and the Gothic refugee crisis.

The Attican and Gothic crisis share many characteristics. First, they both fall in line with the definition of refugee under international law[1], insofar as they involved hundreds of thousands of people unable to return to their country of origin, fleeing a conflict, and seeking a refuge somewhere safe: in the first case within the walls of Athens, in the second case within the *limes* of the Eastern Roman Empire. Second, the two refugee crises disrupted the local balance of power in similar proportions, with the Athenian and the Eastern Roman authorities of the time both being caught off-guard by the number of refugees they suddenly had at their gate. This begs to a third point: unpreparedness resulted in poorly managed migration policies in both situations, in turn precipitating the decline of the two empires. In the case of Athens, over-crowdedness would pave the way for one of the deadliest epidemics in the city's history, in turn causing massive civil unrest and turning the population against Athens' open-door policy. In the case of Eastern Rome, corruption, self-interest, and the lack of foresight turned a poorly managed refugee crisis into one of the biggest military disasters of Roman history, with the Goths establishing themselves as the first foederati barbarian nation of the late Roman Empire.

The complete failure of both civilizations is puzzling, as Athens and Rome both successfully handled similar refugee crises in the past. While Athens withstood the integration of waves of refugees during the Dorian invasions and stood up to the invading armies (Wade-Gery, 1948), Rome had an experience in dealing with the tribes living across the Danube. Back in the first century AD, a senatorial governor, even displayed pride in bringing "over more than 100,000 of the people who live across the Danube to pay tribute to Rome" (Eaton, 2020, p. 58). *Then, how can Athens' and Rome's failures at managing the Attican and Gothic refugee crisis be explained? What do these failures reveal regarding the value of the contemporary acquis of international law?*

The article demonstrates that despite their very different contexts, both empires faced similar problems in refugee crisis management, and these problems resulted in similar outcomes: (1) structural weakening, (2) the erosion of their model of society, and (3) a sense of irreversible decline. While reviewing these aspects and establishing a pattern, the article shows the value of the contemporary *acquis* of international law in effectively addressing refugee crises triggered by military invasion.

The history of international law has come a long way, and as the article will demonstrate, looking back at the past can help us better understand the value of contemporary legal corpuses. For contemporary lawyers, history constitutes indeed "a rich reservoir of both successful and failed ideological, theoretical, practical, institutional, and methodological experiments" (Rasilla, 2021).

Of course, the purpose of the article is *not* to promote a retroactive application of international law. As jurist Kenneth Howard Anderson stated, "International law could hardly develop if states believed that by accepting newly developed norms of international law, the result would be to hold them liable under today's norms for behavior acceptable under yesterdays" (Declaration of Kenneth Howard Anderson JR., 2005, pp. 16-17). The article holds

[1] The 1951 Refugee Convention defined a refugee as "someone who is unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership, membership of a particular social group, or political opinion" (UNHCR, 2021, p. 3).

the same position as this quote and solely uses international law as a conceptual bridge for understanding the value of present legal corpuses.

The article conducts a qualitative content analysis of relevant sources. Qualitative content analysis identifies core consistencies and meaning from the different textual data that is collected (Bengtsson, 2016). This aligns well with the article's objective of categorizing the data of different historical settings to make sense of it and reveal a pattern regarding the management of refugee crises. There is, however, an evident lack of testimonies contemporary to the Attican and Gothic refugee crises. Many simply did not survive history. A number of those which did are too ideologically one-sided for being treated as reliable sources: romanticizing history was a common practice among the historians of the time (e.g., Herodotus, Zosimus, Socrates, Scholasticus). Consequently, the article chooses to base its historical analysis on the testimony of Thucydides and Ammianus.

Both authors were not only contemporary to the crisis in question but also demonstrated a commitment to stay away from mythology and other forms of mystification in their narration of the events, embracing instead *historiography*; i.e., the critical investigation of past events (Eisenberg, 2009; Hoffman, 2016). Thucydides and Ammianus were also similar in that they were both on the forefront of the political scene. Also, they both served in the military and were familiar with the key statesmen of the time: Thucydides was a friend of Pericles and Ammianus spoke as an alleged eye-witness of imperial court plots in the Roman East (Fornara, 1992; Hoffman, 2016). The two were therefore particularly knowledgeable of the technical details that surrounded the politics of their time. Thucydides was even present in Athens when the city was overcrowded and the epidemic hit: he caught the illness but recovered (Martínez, 2017, p. 139). Lastly, it is worth noting that Thucydides and Ammianus have enjoyed significant visibility in the modern literature, and while some contemporary historians have underlined that the ancient authors' narration of past events was not flawless (e.g., Duff, 1999; Eisenberg, 2009), a vast majority has continued to give tribute to the two ancient authors for providing the most comprehensive historical account about the era (Barnes, 1993; Gibbon, 2011; Hoffman, 2016; Wolpert, 2014).

The research starts by providing a historical analysis of the Attican and Gothic refugee crises. This analysis paves the way for a conclusive discussion in which Rome and Athens' refugee policies are reviewed with the international law *acquis* of today.

Ancient Refugee Crises and the Undermining of Two Ancient Civilizations

Athens and the Attican Refugee Crisis

"In war, the way is to avoid what is strong and to strike at what is weak"

-Sun Tzu, 2000, p. 23-

Several scholars have mistakenly portrayed the Periclean war strategy against the Spartans as defensive; thus, they have overlooked Athens' broader strategy of striking where its enemy, Sparta, was the weakest, namely in naval battles (de Wet, 1969; Spence, 1990; Westlake, 1945). In the thinking of its general Pericles, Athens could afford to let go of its land possessions in Attica, retire behind its walls, and replace the subsequent loss of agricultural products by imports. With only its capital and a handful of forts to protect in the mainland, Athens would be able to divert all its attention to her empire and naval supremacy "to feed herself while avoiding a major hoplite engagement" (Spence, 1990, p. 91). Tactically speaking, the strategy was at least partially successful: the numerically superior Peloponnesians failed to subdue Athens through the plunder of her Attican crops, despite mobilizing two thirds of their forces for their repeated invasions of Attica. In the meantime, Athens was able to focus her war

strategy on far-off theatres, engaging in offensive wars as far afield as in the west coast of Greece, Macedonia, Chalcidice, and Sicily (de Wet, 1969, p. 118). What the Athenian general overlooked was the consequences of his war strategy on the peasants of Attica. Many had settled in this land for generations and were forced to evacuate in order not to face off the invading armies.

Thucydides wrote that the Atticans had long lived scattered in independent townships and that down to the present war, they had been living in the country with their families and households. They were consequently "not at all inclined to move now" when they were ordered to do so by Athens (Thucydides, 2003, p. 88). "Deep was their trouble and discontent at abandoning their houses and the hereditary temples of the ancient constitution, and at having to change their habits of life and to bid farewell to what each regarded as his native city" (p. 88). Their discontent would grow into resentment and outrage after they moved to Athens: only a few of them had houses of their own to go to. The rest "had to take up their dwellings in the parts of the city that were not built over and in the temples and chapels of the heroes" (p. 88). With the city of Athens proving to be too small to host them, law and order started to erode, and many refugees settled unlawfully in holy sites, towers, and parcels of the Long Walls (pp. 88-89).

The outbreak of the epidemic in 430 B.C., one year after the beginning of the war, would inflame the already explosive situation. Pericles, who was already "the object of general indignation" for "not leading out the army which he commanded" (p. 90), started receiving severe criticisms for his poor management of the capital's health situation. The latter was getting untenable due to the siege by the Spartans. In the overcrowded urban environment, Thucydides describes that "[the refugees] had to be lodged at the hot season of the year in stifling cabins, where the mortality raged without restraint. The bodies of dying men lay one upon another, and half-dead creatures reeled about the streets and gathered round all the fountains in their longing for water" (p. 104). Anarchy eventually followed after scenes of horrors in the overcrowded streets. "Fear of gods or law of man there was none to restrain them," as Thucydides explains. It seemed to the population that "a far severer sentence had been already passed upon them all and hung ever their heads, and before this fell it was only reasonable to enjoy life a little" (p. 105).

Modern historians believe that the disease killed between one fourth and one third of the Athenian population. While it is difficult to number the casualties (Thucydides did not indicate any number), there is a consensus in the literature that the city's over-crowdedness due to the poor management of the refugee situation significantly aggravated the scope of the plague; i.e., the other Greek city states were only marginally affected by the same epidemic (Martínez, 2017; Morens & Littman, 1992, pp. 298–299; Soupios, 2004, p. 46). According to modern estimates, which are themselves based on Thucydides' military numbers[2], the Athenian population trebled or quadrupled during the siege, from a prewar population of around 100-150,000 people to 300-400,000 people before falling sharply to 100-150,000 inhabitants again (Littman, 2009, p. 458; Martínez, 2017, pp. 138–139). The extremely high density of inhabitants may have climbed up to 100,000 per square mile; hence exacerbating the effect that a disease spread by person-to-person contact could have (Martínez, 2017, p. 139). The disease spread more among the poor and the refugees because of their precarious lifestyle and greater person-to-person interactions, but the rich were also affected. Pericles' two sons, Paralus and Xanthippus, died of the plague in 429 BC and Pericles himself perished shortly thereafter.

[2] The only numbers mentioned by Thucydides are those of Athens' military at the beginning of the Peloponnesian War: 29 000 hoplites, 1200 cavalry, 1600 archers, and 300 seaworthy triremes (Pritchard, 2020, p. 1).

There are no clear indications as to how far the social disruptions went, but it does seem that Athens was able to withstand the unrest. Despite being briefly ousted from his office of *strategos* in 430 B.C, Pericles was reelected the following year and remained in power until the disease caught him. Athens also continued the war against Sparta and equipped the great expedition against Sicily, before being utterly defeated in 404 B.C. The changes, therefore, were not immediately discernible, but they prepared ground for greater problems.

First, Athens was undeniably *structurally weakened* by the crisis. The epidemic spread from refugees to soldiers. For example, 1,050 hoplites of an expeditionary body of 4,000 died of the disease during the Potidean expedition (Morens & Littman, 1992, pp. 294–295). The disastrous management of the epidemic led Athens on a path of self-restraint. Athens resisted the idea of major military invasions overseas to spare the manpower it had left. This even applied when Athens set plans to invade the rebellious city-state of Mytilene in 428 B.C.: Athens would react after much hesitation and only after all diplomatic channels were exhausted. This timidity would outlive the epidemic and prevail in Athens' foreign policy-making until Athens completely recovered its manpower when the war resumed in 415 B.C. (Couch, 1935, pp. 100–102). While therefore not a point of non-return, the poor management of the refugee crises and of the health situation did exhaust Athens' efforts of achieving a quick victory against Sparta during the first half of the war (431 B.C. – 421 B.C.).

Second, Athens slowly *turned its back on the model of society* that had made its glory prior to the war: its free liberality and overture to the world. With Athens experiencing the worst from the epidemic and Sparta being largely unscathed, many Athenians started giving credence to the legend that their gods had favored a victory by the Spartans and therefore spared the Peloponnese from the illness (Martínez, 2017, p. 140). Athenians began questioning their overture to the world, accusing refugees and foreigners for causing them misfortune, and metics would become increasingly discriminated in society. These negative attitudes would never recede and the Periclean law of 451 B.C., which restricted the citizenry to Athenians born of two Athenian citizens, would be reenacted in 403 B.C., and this time more for ideological than economic reasons[3]. Many citizens died and to fill the subsequent political vacuum, only the richer and more industrious metics were naturalized (Martínez, 2017, p. 141). The rest was denied citizenry, including the refugees who had survived the epidemic and whom Pericles had promised concessions (Thucydides, 2003, p. 85). The epidemic also triggered a survival spirit, and people went on to think more in individualist terms. They preferred to live for the moment rather than living for the honored customs and social restraints. In this connection, the demise of Pericles signaled the ascension of self-interested Athenian politicians, more interested by their selfish gains than by Athens' virtuosity. They would renounce Pericles' wisdom and instead embark Athens on a path to recklessness (Alcibiades and the Sicilian campaign) and ruinous fiscal policies (Cleophon, Hyperbolus, and Cleon's debasement of the Athenian currency) (Soupios, 2004, pp. 50-51).

What would inevitably unfold is the *irreversible decline* of the Athenian Empire, Athens' imperial strength was primarily rooted in the idea of a system in which humans were political beings seeking honor and power for the common good. In its golden days indeed, Athens was a patriotic society in which Athenians formed a cohesive society: citizens were expected to help their friends and to harm their enemies. It was also an inclusive society. The value of honor (or *philotimia)* inspired all the inhabitants to serve the *polis* in the fullest of their ability (Karatzogianni, 2012, p. 195). Metics, and even asylum-seekers, could ascend in society

[3] The original Periclean law of 451 B.C. was primarily voted to limit the number of potential beneficiaries of the civic redistributions of wealth which Pericles had championed for the poorer citizens. Contrary to popular wisdom, it did not have much to do with Athens' founding tale of autochthony (Azoulay, 2014, pp. 100–102).

if they were able to convince the Assembly of citizens and be granted the special status of "equal rights", through which they were exempted of the usual liabilities of non-citizenship (Garland, 2020; Smith, 2012). After the refugee crisis and the plague, however, this social mobility eroded as demagogues rose to power, basing their rule on corruption and self-interests instead of the greater good. This stratified the Athenian society and made Apollodorus, a fourth century politician, seem uneasy over the prospect of one day being exposed as the descendant of a metic in the lawsuits he was involved in. This atmosphere of paranoia would generalize to the entire Athenian society and while a male metic might still be able to buy his citizenry, he would risk being reduced to slave status if evidence of his bribery was found (Martínez, 2017, pp. 143–144).

The stratification of the Athenian society would make Athens lose grip on the social mobility that had made its appeal to many foreigners and traders prior to the war. This loss of appeal in turn contributed to the breakdown of innovation and to the eventual decline of Athens (Karatzogianni, 2012, p. 200). Politically, Athens would be overshadowed by ascending regional powers such as Thebes and Macedonia; in the economic and cultural realm, it would never experience the same kind of blossoming that it had prior to the Peloponnesian War. The refugee crises played an instrumental role in this transformation, as it was largely Athens' poor management of the refugee situation that led to the humanitarian tragedy; this tragedy in turn demoralized Athens and caused the ruling elite to rethink its model of society in more authoritarian terms. The Athenian democracy would rapidly loose its prime: it experienced two oligarchic coups in 411 B.C. and 404 B.C. before being definitively abolished after Macedonia conquered Athens in 338 B.C.

The case of the Attican refugee crisis therefore reveals a pattern with dangerous political ramifications for the future of a political entity. Many historians identify the plague, the refugee crisis, and the Peloponnesian war as elements leading to Athens' decline (e.g., Retief & Cilliers, 1998; Zaretsky, 2020). Can the same be argued for Rome and the Gothic refugee crisis? This is explored in the next section of the analysis.

Eastern Rome and the Gothic Refugee Crises

"When the higher officers are angry and insubordinate, and on meeting the enemy give battle on their own account from a feeling of resentment, … the result is ruin"

-Sun Tzu, 2000, p. 42-

While the Attican refugee crisis stemmed from poor tactical planning on the part of Pericles, the Gothic refugee crisis and the subsequent political breakdown was caused by self-interest, greed, and the complete failure of command of the Eastern Roman authorities. Despite the contexts and aggravating factors being therefore very different, the bottom of the crises was fundamentally the same: Tervingi Goths, just like the Attican peasants, were fleeing an invading army, in their case the Huns. This "race of men hitherto unknown", described Ammianus (1939), "was seizing or destroying everything in its way," "like a tempest of snows from the high mountains" (pp. 400-401). In desperation, many Goths deserted the cause of their king Athenaricus and decided to flee to a home "removed from all knowledge of the savages" (p. 401). This new home was Thrace, a fertile land beyond the Danube that was then under the domination of the Eastern Roman Empire. In 376 A.D., an official request was sent to Eastern Rome, asking the Emperor for permission to settle in the territory of Thrace.

Valens, the Eastern Roman Emperor of the time, saw this movement of population with a positive eye, believing that he could make use of the many Goths that were fleeing to expand his Roman army with fresh recruits (Goldsworthy, 2014). The civil wars of the Third Century

A.D. had also decimated the northern provinces and vast areas needed to be repopulated (Russell, 1958, p. 78; Willard, 1851). From the beginning, however, Eastern Rome appeared to be unprepared to deal with such a large influx of refugees. First, Valens gave almost contradictory orders to his officers, ordering them to let the Tervingi cross the Danube while blocking the border to another Gothic tribe, the Greuthungi. The different orders could be explained by the power politics of the time and the fact that Valens was sympathetic towards the leader of the Tervingi, Friteger, a converted Christian who had opposed the anti-Christian policies of Athenaricus (Atkinson, 2017, pp. 6–7).

Welcoming the Tervingi alone proved to be a tremendous stress to the infrastructure of Eastern Rome. Although the Empire had a strong bureaucracy and a network of cities with storages of grain and other essentials, the refugees were even more numerous than what Valens expected. Ammianus does not give any specific number but modern estimates place them between 10,000 and 200,000 fighting men and the whole body of refugees may have included up to a million individuals (Goldsworthy, 2014; Merelli, 2016; Willard, 1851, p. 168). Simply put, the officers in charge were rapidly overwhelmed by the enormous number of refugees.

Some proved to be unwilling to do anything to improve the refugee situation. Corruption was rampant in the late Roman Empire and instead of seeking solutions, Lupicinus and Maximus, two top Roman officers of the region, sought to take advantage of the political impasse. They imposed on Friteger and his Tervingi an humiliating traffic, offering them to "exchange every dog that their insatiability could gather … for one slave each, and among these were carried off also sons of the chieftains" (Ammianus, 1939, p. 407). After signs of revolt started to become apparent, Lupicinus ordered his *limetanei* to bring the Goths before his headquarters at Marcianopolis, where he invited Fritigern and other Gothic chieftains for a dinner-party. It is unclear what happened at the dinner-party, if Lupicinus deliberately tried to use the celebrations as a pretext to capture and kill the chieftains (Goldsworthy, 2014), or if, as Ammianus (1939) suggested, fights broke out between the inhabitants of the city and the Gothic refugees who were pleading for food (Hughes, 2013, p. 151). One thing that the evidence knows for sure is that Fritigern was able to convince Lupicinus to let them go to "quiet the people" (Ammianus, 1939, p. 413). After this incident, Fritigern led his people away and prepared them for battle against the Romans.

Unpreparedness and greed had already turned an influx of refugees into a refugee crisis and a refugee crisis into a military standoff, but the escalation of violence would not stop here. With Lupicinus mustering all his soldiers to supervise the movement of the Tervingi, he removed his troops from the Danube border, thereby allowing the Greuthungi to cross in (Hughes, 2013, pp. 150–151). The Tervingi and Greuthungi would eventually join forces. Together, they defeated the Romans of Lupicinus in an ambush. The victory of Fritigern would deprive the province of Thrace from most of its Roman garrison and the Gothic raids intensified. In the process, Fritigern was able to convince many Goths who had been enslaved or who had been recruited into the Roman army to switch sides. By 377 A.D., Fritigern even recruited groups of Huns and Alans, paying them with plunder (Goldsworthy, 2014).

It took time for the Eastern Roman Empire to deliver a reaction that was proportionate to the growing threat, being the overstretched entity that it was. Furthermore, at the time of the refugee crisis, Valens was based in Antioch and in the middle of an indecisive war with the Sassanian Persians. Yet learning about the worrisome developments, Valens was able to arrange a cessation of hostilities with the Persians, and he returned to Constantinople, bringing with him some of his Eastern troops (Goldsworthy, 2014; Hughes, 2013, pp. 158–159). Several months passed during which the Roman and Gothic armies stared at each other, mustering all

the forces they could get and delivering minor skirmishes. A rescue army from Valens' nephew, the Western Roman Emperor Gratian, was also on its way. However, the arrival of this rescue army was delayed due to other commitments in the Western Empire (Atkinson, 2017, pp. 9–10).

Valens did not have the patience to wait for his nephew's army, and he decided to strike at Adrianople with an army strong of 15,000 men in August 378 A.D. Ammianus explained Valens' recklessness from his excessive jealousy of better men, namely Sebastianus, a general who had defeated the Goths in minor encounters, and Gratian, who was only 18 and who had yet already achieved victories against the 'barbarians' in Gaul on his own. Paranoid and fearing competition from all sides, Valens refused to listen to his advisors and decided to make the attack alone (Atkinson, 2017, p. 10). After receiving reports from his scouts that the Goths were only 10,000 men strong, he led his army on the battlefield despite his situation not to be as advantageous as anticipated[4]. Until very late in the battle, Fritigern was willing to negotiate his surrendering to Valens in exchange for lands where to settle (Eisenberg, 2009, p. 116). However, while the negotiations were ongoing, Roman archers started firing at the Gothic position without orders, leading to a counterattack from the Gothic cavalry. The calvary easily broke the Roman lines and routed the entire army of Valens. It was a hot summer and the Roman soldiers were "exhausted by hunger and worn out by thirst, as well as distressed by the heavy burden of their armour" (Ammianus, 1939, p. 477). The battle was an unmitigated disaster, as no less than two thirds of the Roman army died, including Emperor Valens himself (Eisenberg, 2009; Goldsworthy, 2014). Ammianus (1939) would compare the battle to the Roman disaster of Cannae during the Second Punic War (p. 483).

Despite his outstanding victory at Adrianople, Fritigern did not achieve significant strategic gains. His disorganized army was unfit to siege fortified cities, let alone take over an entire empire (Goldsworthy, 2014). In the meantime, the Western Emperor Gratian, more interested in settling the power vacuum in the East than in suppressing a band of refugees, appointed one of his men, Flavius Theodosius, as Eastern Emperor in 379 A.D. and returned to the West. As a patient administrator, Theodosius would wage a war of exhaustion against the Goths, raiding and ambushing isolated groups. Surrounded, poorly supplied, and exhausted by the war, the Goths gradually surrendered to Theodosius and achieved the terms they wanted in the first place: the permission to settle in Thrace and to live with significant political autonomy, in return for which they would serve in the Roman army (Hughes, 2013, p. 190). As a result, after a bloody defeat, the Gothic refugee crisis was *mostly* resolved. Indeed, while the Empire appeared to have recovered its imperial borders and to have subjugated the Goths, there were massive repercussions to Eastern Rome's failure at handling the Gothic refugee crisis.

First, the Gothic refugee crisis *structurally weakened* Eastern Rome in proportions that were roughly similar to Periclean Athens. The Empire lost some of its most valuable legions at Adrianople and the need to fill in the gaps only accentuated the 'barbarization' of the Roman legions, with in the present case the Goths replacing the fallen Roman soldiers. This development did not only hint at relying on less Romanized and therefore less reliable men (e.g., see Alaric) but also fundamentally changing the structure of the Roman army, with the contemporaries of Adrianople attempting to learn from the disaster by giving greater focus to cavalry and overall mobility (Nickel, 1973, p. 150).

Second, the Gothic refugee crisis exposed the *decay of the Roman model of society*. Long gone were the days of Roman cosmopolitanism and the first reaction of the Roman

[4] The scouts had largely underestimated the number of Goths; modern estimates confirm Ammianus' narrative and place both armies at roughly the same number (Eisenberg, 2009; Goldsworthy, 2014).

authorities after Adrianople was to disarm and massacre parties of Goths throughout the Eastern Empire, including those who had stayed loyal to the Roman army (Goldsworthy, 2014). Aside from the growing xenophobia of the Roman society, the very fact that Lupicinus and Maximus were able to use bribery as blatantly as they did is indicative of a decaying Roman order in which social mobility had long since eroded. In a striking contrast with the Augustan Romans who displayed pride in serving their Emperor, the Romans of the 4th century A.D. thought about themselves first. Landowners, Brown (1967) explains, "shared a common human wish to avoid high taxation and knew well enough how to protect themselves against its incidence" (pp. 338–339). Valens' jealousy and paranoia are also illustrative of the power politics of the time, with the stature of the Roman Emperor losing its prestige and a proven military record being enough of a reason for a general to overthrow the Emperor and taking over his place.

This kind of individualism is characteristic of the decay of the Roman social ladder and the emergence of a "top-heavy" society (Jones, 1986). Due to its overstretched territory and the growing pressure at its borders, the late Roman army and bureaucracy was so heavy that it ended up absorbing all the wealth that traditionally came from landed ownership. This negative development would encourage people to 'play outside of the system', using bribery and hostile political takeovers to aggrandize themselves. These opportunists would not only be found among the Romans themselves but also, and increasingly, among the refugees migrating in the Empire, with warlords emerging from their ranks. Again, the life of the Visigothic King Alaric exemplifies this pattern very well: a soldier of Fritigern, Alaric rallied around him veterans of Adrianople and caused massive devastation across the Empire, sacking Rome in 410 A.D., and carving out a quasi-kingdom in Illyria. Ironically, it is through his devastation that he was able to elevate himself and obtain various concessions and political titles (he had joined the Roman army in 392 A.D. with the hope of doing a career in the military but he had grown bitter against the Empire after being denied a promotion in 395 A.D. (Smith, 2020)).

What the Gothic refugee crisis eventually demonstrates through the ascension of warlords such as Alaric is the *irreversible decline of the Roman Empire of the classical era*. By negotiating on an equal footing with the Goths after a crushing defeat, Theodosius would upset centuries of uneven dynamic between the Romans and the so-called 'barbarians' and encourage the latter to replicate the achievements of the Goths and to try carving out their own domain within the Empire. In this sense, the Gothic refugee crisis served as a dangerous omen for the weaker and less defensible Western Roman Empire, which would soon be overrun by wave after wave of Germanic tribes in the great migration of the 4th - 6th centuries culminating in its collapse in 476 and the dissolution of the Western imperial court in Ravenna by Eastern Roman Emperor Justinian in 554.

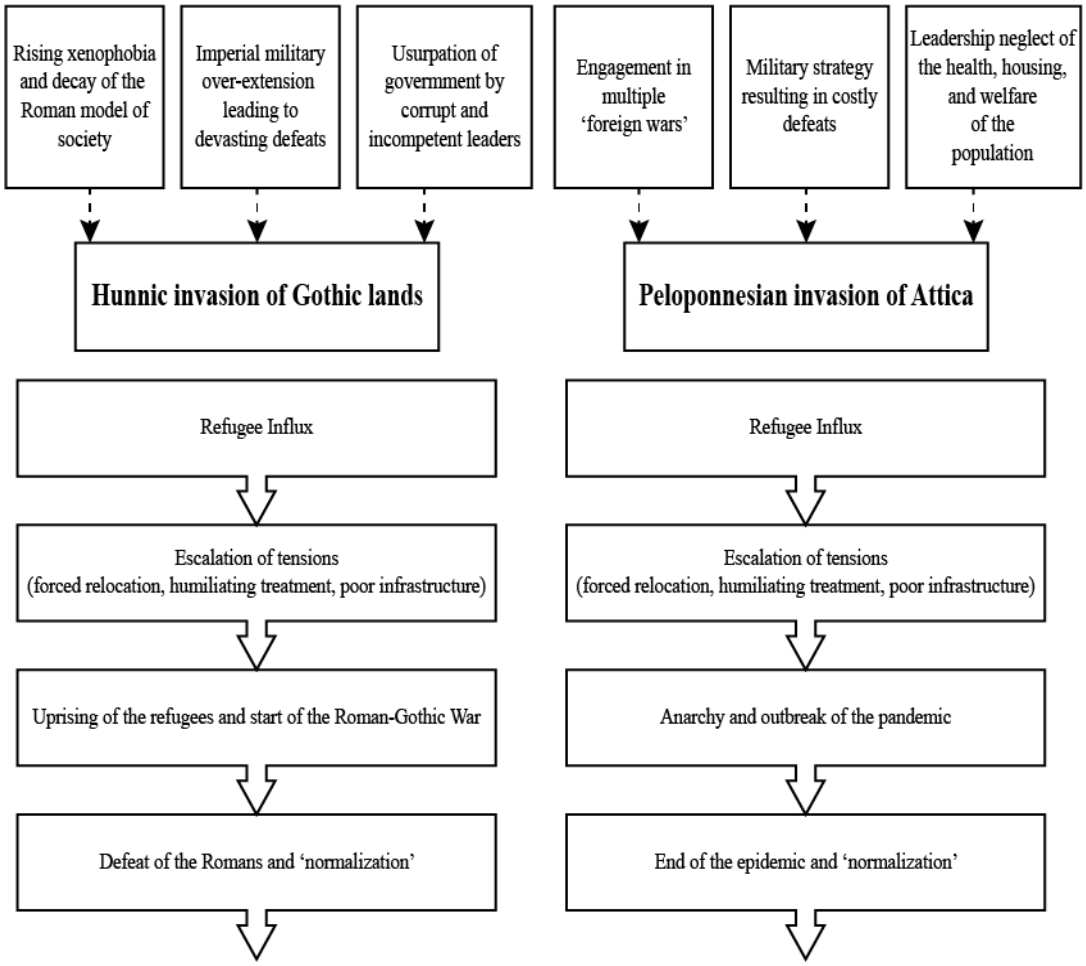
Assessment of the Findings: Some Lessons on the Value of the Contemporary Legal Acquis

It is remarkable to see how these ancient refugee crises mirrored each other in illustrating how seemingly minor refugee developments can fester into enormous political crises and generate significant impacts on the future of the two empires. Figure 1 showcases the similarities between the two crises. While the two crises ended with a *de facto* normalization, they also both unleashed dynamics that were particularly harmful to both empires. The Attican refugee crisis, by aggravating the outbreak of the plague, demoralized the Athenian society, lessened the likelihood of an early Athenian victory, and led its cosmopolitan democracy to be more receptive to demagogy, xenophobia, and authoritarianism. The Gothic refugee crisis produced similar outcomes, with the disaster at Adrianople dealing a blow to Roman cosmopolitanism through its anti-Gothic massacres. Adrianople also opened a breach

to other 'barbarian' tribes seeking a place within the Empire. In both cases, there was a 'before' and an 'after' to the refugee crises.

Figure 1

When History Rhymes: The Pattern of two Ancient Refugee Crises



It remains unclear whether the two refugee influxes could have been avoided: while Athens would have needed to completely rethink its war strategy to protect the whole of Attica (Spence, 1990), Eastern Rome, even if it had rejected the Tervingi refugees, would have inevitably faced other refugee crises owing to the advance of the Huns. What however could most likely have been avoided is the despicable ways the refugees were treated in the two empires. Pericles could have better anticipated how overcrowded Athens would be and the health risks associated with overcrowding[5]. For example, Pericles could have ordered the relocation of some of the refugees to Athenian islands in the same way as he relocated the Attican cattle to Euboea (Martínez, 2017, p. 139). Valens could also have easily avoided the escalation of tensions with the Goths of Fritigern, had he had more competent administrators in place in Thrace. Perhaps even Valens' presence when the crisis started would have helped. While Valens was not the most competent emperor and had all the negative traits to be expected from a leader with an "active-negative personality"[6], he remained a "conscientious

[5] The imposition of quarantines, both officially and spontaneously, indicates that the Athenians were knowledgeable of the connection between overcrowding and the spread of the disease (Martínez, 2017, p. 139).
[6] Rourke (2007) defines a leader with "an active-negative personality" as follows: "The more active a leader, the more criticism he or she encounters. Positive personalities take such criticism in stride, but negative personalities

administrator, careful of the interests of the humble" (Hughes, 2013, pp. 191–193). If he had been the person directly in charge of marshaling the refugee influx, it seems unlikely that the situation would have escalated as badly as it did with greedy men like Lupicinus and Maximus taking advantage of the situation.

Athens and Eastern Rome's failures reveal the value of key international law principles in addressing refugee crises triggered by military invasion. The first one of these principles is the inherent *dignity* of the human person, as codified today in the International Bill of Human Rights. If core human rights treaties stipulate that "all human beings are born free and equal in *dignity* and rights" (Article 1, Universal Declaration of Human Rights, 1948), they also emphasize the responsibility of all states to "ensure that any person whose rights or freedoms … are violated shall have an effective remedy" (Para 3, Article 2, International Covenant on Civil and Political Rights, 1966). Special emphasis is dedicated to the right of everyone to an "adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions" (Para 1, Article 11, International Covenant on Economic, Social and Cultural Rights, 1966). In a context of refugee crises triggered by military invasion, refugee-hosting states are therefore bound to protect all human beings within their jurisdiction and to remedy to abuses that may have arise during the war or while settling here.

Neither the Atticans nor the Goths were treated with dignity by their ancient hosts, which only contributed to exacerbate resentment and anger among the refugees (and eventually anarchy for the former, revolt for the latter). Athens and Eastern Rome did open their gates to a significant influx of Attican and Gothic refugees fleeing the invading armies, thereby complying – at least mostly[7] – with the Principle of Non-Refoulement, the Right of Asylum, and the Rule of Temporary Refuge[8]. However, both empires fell short of providing long-standing protection to the fleeing individuals, as the refugees were not provided with adequate health and food security. While the Atticans' right to health was largely disregarded when Athens was under siege and hit by the epidemic, the Goths were deliberately starved out; in turn turning both populations against the host authorities. Both *the right to health* and *the right to food* are sanctified principles of modern international law. While health is recognized as a "fundamental human right indispensable for the exercise of other human rights" (Article 1, General Comment No. 14, 2000)[9], the right to adequate food is also considered key. The latter is "realized when every man, woman, and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement" (Article 6, General Comment 12, 1999). In this connection, intentionally using starvation of

are prone to assume that opponents are enemies. This causes negative personalities to withdraw into an inner circle of subordinates who are supportive and who give an unreal, groupthink view of events" (p. 74). This definition matches well with Valens' behavior prior to the battle of Adrianople: seeing enemies everywhere, including within his inner circle (Sebastianus); he only listened to the scouts that were giving him a positive narrative of his battle situation.

[7] A reservation could be made in the case of Eastern Rome as the Greuthungi were not initially admitted.

[8] The three principles belong to customary international law. The Principle of Non-Refoulement finds echo in Article 3 of the Convention against Torture, which states that "No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture" (Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984). The right of asylum is recognized in the Universal Declaration of Human Rights (1948), Article 14(1): "Everyone has the right to seek and to enjoy in other countries asylum from persecution." Lastly, the rule of Temporary Refuge finds echo in United Nations General Assembly Document No. 12A (A/35/12/Add.1): Para (i) of Article (b) asserts that "in the case of large-scale influx, persons seeking asylum should always receive at least temporary refuge" (Temporary Refuge No. 19, 1980)

[9] The General Comment was submitted by the UN Treaty Body for the International Covenant on Economic, Social and Cultural Rights (CESCR). The CESCR is a core UN instrument ratified today by 171 States.

civilians as a method of warfare – which is what the Eastern Romans did – constitutes a war crime that is today punishable under international law[10].

The principles of humanity, also reflected in the Greek and Roman religions of the time, would have facilitated the management of the refugee crises and possibly even prevented the refugee influxes from becoming crises. Today, under the jurisdiction of the International Criminal Court, Lupicinus and Maximus would be treated as war criminals and they would be arrested for their outrageous actions. Frameworks such as the Human Rights Committee of the United Nations[11] would also have warned Pericles that even states confronted to widespread contagion cannot "derogate from their duty to treat all persons, including persons deprived of their liberty" (Human Rights Committee, 2020, p. 41). The Committee would particularly stress the importance of ensuring "the adequacy of health conditions and health services in places of incarceration" as exceptional measures cannot impede on the right to health of individuals within Athens' territory (p. 42). If the authorities are unable to commit to measures proportionate to the health threat, a complaint may be submitted to the Committee. An inquiry procedure then unfolds and the Committee keeps the case under consideration until satisfactory measures are taken by the State party (OHCHR, 2021).

Two final principles of customary international law gain tremendous value when reviewing the two crises: the *principle of responsibility-sharing* and the *principle of access of humanitarian relief*. The principle of responsibility-sharing stresses that refugee protection only works with a sound level of participation by all countries. The countries to where refugees arrive first cannot be the only ones receiving refugees, every state "having differing capacities and resources" (Article 68, New York Declaration for Refugees and Migrants, 2016). One may thus wonder what might have happened, had Athens and Eastern Rome received the support of their allies in the reception of the refugees (Athens with its Delian allies, Eastern Rome with Western Rome). The principle of access to humanitarian relief also comes to mind when reviewing the two ancient refugee crises. Although customary international law does not prohibit military sieges, it does impose on besieging powers the obligation to provide access to humanitarian aid for the civilian population in need (International Committee of the Red Cross, n.d.). Retrospectively, the law would not only apply to Sparta during the siege of Athens but also to Emperor Theodosius when he waged his war of exhaustion against the Goths of Fritigern. Both powers would be required to maintain an unimpeded access or "corridor" for the passage of humanitarian aid for the civilians in need. This kind of assistance in turn may have helped de-escalate the two refugee situations, for example by mitigating the death toll of the plague in the case of Athens. To paraphrase the Brahimi Report[12], effective peace-building is contingent with the making of a demonstrable differences in the lives of the people and humanitarian relief, in this context, can help bridge the divide between refugees and hosting authorities.

From all these insights, it appears evident that our international legal *acquis* is relevant to address refugee crises triggered by military invasion. Two factors played an instrumental role in turning refugees against their host states in the two case studies: health and food

[10] Para (xxv) of Article 8(b) of the Rome Statute of the International Criminal Court forbids states from "intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including wilfully impeding relief supplies as provided for under the Geneva Conventions" (Rome Statute of the International Criminal Court, 1998)

[11] The Human Rights Committee is the UN Treaty Supervisory Body for the International Covenant on Civil and Political Rights (ICCPR). The ICCPR is a core UN instrument ratified today by 173 States.

[12] The Brahimi Report outlines the need for strengthening the UN's capacity to operate a wide variety of peacekeeping operations (Comprehensive Review of the Whole Question of Peacekeeping Operations in All Their Aspects, 2000, p. 7).

insecurity. Two additional factors aggravated the refugee crises: the lack of solidarity from neighboring powers and the lack of humanitarian relief. In this context, the developments in international law and human rights law provide effective mechanisms for the management of refugee crises triggered by military invasion, as countries are under scrutiny to ensure that their policies and practices remain consistent with international law principles. In turn, complying with these principles might help modern states ensure that they do not reproduce the same mistakes as ancient empires in their dealing with refugee influxes.

Conclusions

Mark Twain once said that "history doesn't repeat itself, but it often rhymes" (Mark Twain, n.d.; as cited in Burleson, 2007, p. 23). The cases of the Attican and Gothic refugee crises confirm the line of Twain remarkably well. Although the settings, the people, and the host states were different, the pattern still rhymed: forced relocation in a war environment resulting in anarchy or revolt in the host country, due to poor treatment by the host authorities. Even the consequences of the two refugee crises were highly alike for both empires: structural weakening, erosion of the model of society, and overall decline. The article thus confirms the nexus between refugee influxes, poorly managed integration policies, and the undermining of ancient civilizations. It is evident that both the Attican and Gothic refugee crises could have been better managed and that the two empires' failings had broader consequences on their political future.

The modern reader would be wrong to regard the Attican and Gothic refugee crises as episodes of a remote past that became irrelevant with the passing of time. In fact, reviewing these two refugee crises and their contextual situations with key international law principles reveals the value of our contemporary legal *acquis* in addressing refugee crises triggered by military invasion. The right to health, the right to food, responsibility-sharing, humanitarian relief; all these principles would have been relevant to help Athens and Eastern Rome manage the refugee crises of their time. In turn, the codification of these principles in contemporary international law demonstrates that these principles continue to remain relevant to address today's refugee crises.

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Global warming impacts displacing the Maasai community in East Africa: challenges and responses

Impactos del calentamiento global que desplazan a la comunidad Maasai en África oriental: desafíos y respuestas

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Abstract

Global warming is increasingly leading to displacement of people. The Maasai community in East Africa are a pastoralist community that severely face the impact of climate change which is leading to their displacement. This article examines the context of global warming in East Africa, examines the direct factors for displacement of the Maasai community and assesses the various factors that affect migration patterns of the Maasai. Issues such as exacerbated gender disparities due to climate change are outlined with an analysis of the link between both. Kenya is home to a large number of the Maasai. Thus, the article also assesses the measures implemented in Kenya to tackle global warming effects on the displacement of the Maasai. The article aims to identify what is missing in the international and regional law and norms applicable to pastoralists affected by climate change with a section providing recommendations for the East African Community.

Keywords: environment, global warming, climate change, pastoralists, Maasai, indigenous people, displacement, gender, migration, East Africa, IGAD.

Resumen

El calentamiento global está provocando cada vez más desplazamientos de personas. La comunidad Maasai de África Oriental es una comunidad de pastores que se enfrenta a los efectos del cambio climático, lo que está provocando su desplazamiento. Este artículo analiza el contexto del calentamiento global en África Oriental, examina los factores directos del

Summary: Introduction, Methodology, Factors, Data Analysis, and Outcomes Discussion and Conclusions.

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desplazamiento de la comunidad Maasai y evalúa los diversos factores que afectan a los patrones de migración de los Maasai. Se esbozan cuestiones como la exacerbación de las disparidades de género debido al cambio climático, con un análisis de la relación entre ambos. En Kenia vive un gran número de Maasai. Por ello, el artículo también evalúa las medidas aplicadas en Kenia para hacer frente a los efectos del calentamiento global en el desplazamiento de los Maasai. El artículo pretende identificar lo que falta en el derecho y las normas internacionales y regionales aplicables a los pastores afectados por el cambio climático, con una sección que ofrece recomendaciones para la Comunidad de África Oriental.

Palabras clave: medio ambiente, calentamiento global, cambio climático, pastores, Maasai, pueblos indígenas, desplazamiento, género, migración, África Oriental, IGAD.

Introduction

The term "environmental migrants" refers to “persons or groups of persons who, predominantly for reasons of sudden or progressive changes in the environment that adversely affect their lives or living conditions, are obliged to leave their habitual homes, or choose to do so, either temporarily or permanently, and who move within their country or abroad.” (IOM, 2007). According to Hafez Ghanem, World Bank Vice President, East Africa and Southern Region, “More than 38.5 million people could be internally displaced as a result of climate change in the Lake Victoria Basin by 2050 if widespread and urgent action is not taken (Rigaud et al., 2021). The Lake Victoria Basin includes five countries: Kenya, Tanzania, Uganda, Burundi, and Rwanda” (Rigaud et al., 2021). These countries, including South Sudan, comprise the East African Community (EAC). Livestock is frequently regarded as a contributing factor to the climate change problem.

Livestock emissions, particularly from cattle, are responsible for a substantial fraction of the greenhouse gas emissions that contribute to global warming around the planet (Ericksen & Cramer, 2021), 14.5 percent of all anthropogenic GHG (greenhouse gas) emissions according to recent data (FAO, 2021). However, Sub-Saharan Africa is responsible for only a tiny proportion of those emissions. Africa's overall contribution to greenhouse gas emissions is low. According to (Ordu, Oteh, & Lioko, 2021), in terms of global climate change, Africa carries the smallest share of blame while also suffering the most severe repercussions. Apart from South Africa, forty-eight sub-Saharan African countries are responsible for only 0.55 percent of global CO2 emissions over the course of history. Nonetheless, seven of the ten most susceptible countries to climate change are located in Africa. The equatorial region of Africa is particularly hard hit by the effects of climate change (Davis et al., 2021).

Disasters and climate change-related effects frequently result in the displacement of people and endanger people’s security and well-being. Globally, the extent of displacement is rising, with most of it occurring within countries’ borders. While governments and communities must lead responses, the global ramifications of displacement necessitate a global response and international collaboration. The majority of internally displaced individuals live in low- and middle-income countries, which are impacted by global inequalities, an increase in extreme weather events, and unsustainable development practices.

The Maasai are one of the few remaining indigenous tribal communities in East Africa. They are semi-nomadic people who live primarily in the Great Rift Valley, stretching between Kenya and Tanzania (MCV, 2019). When it comes to semi-nomadic societies, pastoralism is an integral aspect of their culture. As a result, the people travel constantly across borders in search of pasture for their livestock. Global warming impacts pasture availability and constrains the Maasai as they have to look for other land and other sources of income. The

climate change phenomenon has led to their increased displacement away from traditional pastoral lands, routes and regions within the EAC, depriving them of livelihood and devastating their cultural integrity, thus making it imperative to address the underlying causes of displacement.

The article examines how global warming impacts contribute to the displacement of the Maasai community in East Africa. In addition, challenges faced by the Maasai such as: climate change-induced declines in productivity, constrained pastoralists movement, insecurity caused by climate change, exacerbated gender disparities, and tourism changing livelihoods of the Maasai are addressed. These major challenges faced by the Maasai go unnoticed globally due to the limited research on the topic thereby highlighting the necessity to address the challenges faced by the group. Measures implemented in Kenya are included to assess the country's efforts in tackling global warming effects on the displacement of the Maasai community. International and Regional Laws and Norms addressing displacement caused by global warming exist. However, they require further development to address what is missing which the article outlines.

Efforts to address internal displacement in a changing climate is a developmental endeavor that will require stronger political will, enhanced strategic investment, and improved coordination among stakeholders involved in disaster risk reduction, peacebuilding, sustainable development, and climate action. It is undoubtedly a problem that should be addressed in any national disaster risk reduction plan, particularly in countries where disaster displacement is a regular aspect of crisis occurrences which is critical for lowering the number of climate change affected individuals. According to the Internal Displacement Monitoring Centre (IDMC) report (2021), significant climate disasters have nearly doubled in the previous two decades, as greenhouse gas emissions continue to rise. Combined with lax risk governance and environmental destruction, continuing inequality and marginalization create new risks and exacerbate the global consequences of local crises.

Assessment of the global warming impacts on the Maasai people in East Africa uncovers other challenges the community faces, such as affected livelihoods, questioned survival of the Maasai culture and community, and specific gendered consequences for Maasai women and girls. The global warming challenge also sheds light on the level of discrimination and institutional neglect towards nomadic and sedentary communities. In addition, it highlights a need for implementing measures to mitigate consequences, prevent contributing factors such as discrimination, and support adaptation by the Maasai to support and preserve their community, culture and livelihoods.-The data on global warming effects on the Maasai and how it contributes to displacement is scarce which is a major limitation in the research on the topic.

Background on Global Warming and Change in East Africa's Weather Patterns

For a long time, the Maasai have been displaced due to climate change. Maasai people were particularly vulnerable to severe drought in the 1960s and 1980s in Kenya caused as a result of natural climate variability in the East African region. Consequently, they were compelled to overwork the land that they possessed, which resulted in a reduction in vegetation as well as soil erosion. As a result, the Maasai were unable to effectively sustain their herds of livestock. Some chose to travel to Tanzania in pursuit of arable farmland, while others were compelled to sell their land (Davis et al., 2021). East Africa suffers seasonal fluctuations in precipitation and temperature that are of different intensity and length. These climate change episodes manifest themselves in a variety of ways and all these aspects are encountered by the Maasai people. Drought patterns have become more frequent and more prolonged in the region,

forcing the Maasai to relocate more regularly and frequently to new locations, often for protracted periods.

Although the Maasai have lived and grown in the East African region for generations, changing weather patterns are endangering their way of life. Warm and cold weather patterns have grown more variable, and rainfall has decreased in recent decades. Throughout East Africa, droughts have occurred on an almost routine basis. This natural disaster has caused significant damage to the region's agricultural production. Kenya's average annual temperature rose by 0.34 degrees Celsius every decade on average between 1985 and 2015 and the rainfall patterns in Kenya have been increasingly erratic and varied during the last 50 years (Davis et al., 2021). Droughts in Kenya are occurring fairly frequently today, as opposed to the prior 20-year period with glacial volumes having decreased by 66 percent over the previous century on the other hand. Mount Kenya is one such site that is witnessing substantial glacier melting, which is having an impact on the Maasai people that reside in and around the region (Davis et al., 2021). Increased droughts and unstable weather lead to lower agricultural output affecting the livelihood of the Maasai.

According to scientists, droughts are attributed to a combination of factors, including the vast clearing of forests and the emission of carbon dioxide into the atmosphere (Selby & Kagawa, 2013). Women, in particular, are confronted with the problem of fetching water for the household's consumption, which is in short supply. Occasionally, they are compelled to walk for nearly 10 kilometres to find fresh drinking water, and sometimes droughts deepen, and springs dry up, leaving some stranded (Selby & Kagawa, 2013). The lack of rain has had significant consequences for the region, with both humans and animals suffering as a result of the drought (Selby & Kagawa, 2013). The Maasai people must coexist with diverse species on these lands. And when water is scarce, there can be a spark of conflict.

Methodology

The goal of this study was to investigate and address the ways in which global warming is displacing the Maasai community in East Africa, as well as to assess the challenges and responses. Due to the fact that there has been little research done on the subject, qualitative methods of research and analyses are more appropriate for this topic, since they provide high specificity of interpretations than a quantitative methodology (Creswell & Creswell, 2017). The data on greenhouse gas emissions and the number of the Maasai population in the research is derived from existing literature. The data limitation highlights a need for more research on the climate change impacts on the Maasai which ought to be addressed urgently and effectively. In addition, further research and development on the topic would be helpful for contemporary law and policy to better address the situation of the Maasai which will also be relevant also to other pastoralist and indigenous populations. To have an accurate “on ground” assessment of the global warming impacts on the Maasai, literature from Kenyan sources is used. For information on laws, treaties and protocols, literature from the IOM, ICPALD, FAO, IDMC, Minority Rights Group International among several others are used in the article. The literature provides information that can be further developed to cater for the specific context i.e., how to better address the impacts of global warming on the Maasai.

Factors, Data Analysis, and Outcomes Discussion

Located in southern Kenya and northern Tanzania along the Great Rift Valley, the Maasai people of East Africa live in semi-arid regions. Approximately 160,000 square kilometres of territory is occupied by the Maasai (Maasai Association, n.d.). The land

occupation dynamics and statistics change over time due to various factors such as population growth rate, age, and gender distribution.

Although reliable data are difficult to come by because ethnic groups are not included in the population census, population estimates place the Maasai in Tanzania at 430,000 people, according to government estimates (Porokowa, 2021). The Maasai people of Kenya number roughly 900,000 people now, according to recent estimates (MasaiMara, 2021). However, it is crucial to highlight that the reason why there are no precise estimates for the population of the Maasai group is because many Maasai regard the national census as an intrusion by the government and hence miscount their numbers when they are approached by census officials (Maasai Association, n.d.). There are some individuals who want to be counted multiple times, while there are others who do not want to be numbered at all. Furthermore, as underscored by the Maasai Association, because Tanzania does not perform ethnic-based censuses, it is difficult to estimate the number of Maasai who live in Tanzania.

Maasai displacement occurs predominantly in Kenya and Tanzania as these are the countries where cross-border migration of the community occurs. The Maasai, as nomadic pastoralists have practiced transhumance for thousands of years, a seasonal migration within their own local areas that is prompted by the need to find new grasslands and water, as well as the need to avert areas where livestock diseases are prevalent (Munishi, 2013). Although nomadic pastoralists have been migrating to urban areas in large numbers since the 1990s, this is primarily due to poverty upsurge caused by the decline of the cattle economy, which has been exacerbated by unpredictable climatic variability that has resulted in droughts and flooding (Munishi, 2013). Rural-Urban migration caused by climate change is common among the Maasai in both Kenya and Tanzania.

According to (Selby & Kagawa, 2013), the Maasai, who are traditional cattle herders, have found themselves forced to leave their communities for months at a time in search of pastures and water for their animals. This typically results in vulnerable women, children, and the elderly left behind to care for themselves in the villages, which is dangerous. Maasai herders have now become a familiar sight on the outskirts of Nairobi, Kenya's capital, as they look for pastures for their animals (Selby & Kagawa, 2013). Droughts on a regular basis, along with dwindling land sizes, have rendered pastoralism in Narok and Kajiado Counties, areas highly concentrated by the Maasai population, an unsustainable venture, leading in an extraordinary increase in the number of Moran hawkers in the urban parts of the city (Mwale & Kishoyian, 2019). Others are abandoning their pastoral way of life entirely and relocating to urban areas searching for jobs. This threatens the survival of their culture and community as there is a rural to urban migration pattern. Similarly, in Tanzania, the Maasai nomadic pastoralists are migrating to urban areas because of poverty brought on by the decline of the livestock business, which is a result of a combination of environmental, financial and political circumstances.

Direct factors contributing to the Maasai's displacement

Climate change-induced declines in productivity

Regarding the Maasai in southern Kenya, after relying primarily on cattle production for survival for hundreds of years, the Maasai have begun to experience climate change-induced declines in productivity (Saitabau, 2014). As a result, economic mechanisms that secure pastoralists' survival through adversity have become more compromised. Continued reliance on the same will only serve to deepen poverty, marginalisation, and dependence on aid in the coming years. In this particular case, climate change has had a significant impact on the community in a number of ways, including (i) severe drought which has killed large numbers of their livestock; (ii) malnutrition due to a lack of balanced diets; (iii) outbreaks of

diseases that are attributed to adverse weather conditions; (iv) landslides and communication breakdowns that have slowed development in the area and; (v) climate change distortion of the traditional ceremonial cycles that are held on specific days of the week (Saitabau, 2014). In such difficult circumstances, livestock may not be able to resist extended droughts, and pastoralists may lose a large number of cattle. In most cases, pastoralists will lose livestock. Reduced-stock animals (sheep and goats) are better resistant to harsher and drier climates (Saitabau, 2014). Consequently, to lessen the likelihood of losing their livestock, the Maasai tend to reduce the stock of cattle and increase the number of sheep and goats in their herd.

Constrained pastoralists movement

Mobility inside and beyond national borders and across international borders is critical to the viability of mobile pastoralism, which is especially true in the face of climate change. However, a growing body of research indicates that pastoralists' movement is being constrained for various reasons, increasing their incapacity to reduce risks and react with climatic and other shocks. Administration boundaries are being defined without considering the demands of pastoralists who move about, resulting in inter-communal conflicts, instability, and conflict (Security in Mobility, 2020). Due to the expansion of alternative livelihood systems into pastoralists' territory, pastoralists are progressively driven to the periphery.

Insecurity caused by climate change

Insecurity caused by climate change-induced is having devastating humanitarian effects for the pastoralists that are impacted across the region. Pastoralists are now the most frequent receivers of humanitarian assistance in the Horn of Africa and East Africa, according to the United Nations Development Programme (Security in Mobility, 2020). Because of a lack of support and investment in the pastoral production system, pastoralists have been pushed to the periphery of development, unable to maintain their traditional livelihoods without falling into poverty. There has neither been any fostering of an alternative environment from one in which livelihood options are, by design and default, few. While food aid can save the most vulnerable lives during acute crises, it has primarily been utilised in isolation and as a substitute for other urgently required, longer-term development efforts in developing countries (Security in Mobility, 2020). Increasing insecurity has posed a danger to pastoralists' social well-being and their ability to survive. Protecting pastoralists' lives and livelihoods is essential for long-term development in drought-prone areas. Nomads are being forced to relocate more frequently and rapidly to new locations, often for extended periods of time, as a result of the increasing frequency and duration of drought patterns. This adaptive trend has coincided with an increase in intercommunal violence, which is troubling. In contrast to some kinds of migrants, such as refugees and internally displaced persons (IDPs), pastoralist communities are the only group of people whose movement has never been publicly acknowledged and/or safeguarded by the government (Security in Mobility, 2020).

Further factors affecting migration of Maasai

Exacerbated gender disparities

Global warming affects food security, water, and other resource limitations, and even people's health, among other things. Furthermore, it exacerbates gender disparities by increasing the vulnerability of women and girls to sexual violence, hazardous behaviours, and other forms of abuse, among other things (Esho et al. 2021). Regarding the gendered consequences for Maasai women and girls, a link exists between climate change, gender inequality, and harmful practices like Female Genital Mutilation (FGM). A study conducted by (Esho et al. 2021), underscores that climate change should not be ignored when assessing the more prominent socio-ecological aspects that may increase the likelihood of FGM. In

addition (Esho et al. 2021), state that climate change is expected to lead to a rise in temperatures and less consistent rainfall, which would raise the risk of flooding and droughts in Kenya.

Women and girls are particularly vulnerable to slow-onset climatic hazards such as drought because of their significant reliance on climate-sensitive occupations, like farming, and their restricted economic independence. Whenever a change in climate has an adverse effect on the natural resources needed for making a livelihood from this job, it stops women and girls from making a living and sustaining themselves or their families, leaving them more exposed to specific Gender Based Violence (GBV) risks, as well as causing food shortage circumstances that are more likely to target women significantly (GBV AoR Helpdesk, 2021). In addition, due to their lower economic status, women are less likely than men to have the financial means necessary to adapt to climate change, such as the capacity to finance drought-resistant crops.

Aspects of women's and girls' lives that are complicated by their responsibilities as caregivers are exacerbated by slow-onset climatic catastrophes. As an example, during a drought, women and girls are typically responsible for securing food and water; this may entail traveling increasingly long distances, which not only increases security risks, but can also result in girls having to withdraw from school to cope with the extra workload (GBV AoR Helpdesk, 2021). Slow-onset climatic catastrophes such as severe drought and persistent hunger in East Africa, which are directly connected to climate change, have raised the risk of GBV for women and girls, sexual assault, and early marriages which are among the most pressing issues that need to be addressed. The (GBV AoR Helpdesk, 2021) report underscores that according to the World Health Organization and other research, the rates of Intimate Partner Violence (IPV) and child marriage are particularly likely to be aggravated by climatic crises in East African countries. Drought-induced economic hardship in Kenya has been linked to an increase in rape and harmful practises such as child marriage and female genital mutilation (FGM) (GBV AoR Helpdesk, 2021). Girls facing economic hardship because of the drought have been reported to engage in transactional sex or to be forced into early marriages by their families. In a similar vein, drought-induced hunger in Ethiopia and South Sudan resulted in an increase in the number of girls who were sold into early marriage in return for cattle to assist their families survive. If climate change and gender inequality aren't better understood, FGM and child marriage in Kajiado County, Kenya, may be perpetrated by a lack of education that makes girls more prone to harmful practices and socioeconomic disempowerment.

Women bear the brunt of climate change's influence on gender norms and FGM, which must be taken into account (Esho et al. 2021). In light of this, it is more important than ever to implement strategies that encourage girls to stay in education, stop early marriages, and abandon FGM. Family adaptation techniques, such as marrying off daughters at an early age due to decreased income and decreasing livelihoods, occurs out of desperation given the social and environmental contexts (Esho et al. 2021).

Tourism changing livelihoods of the Maasai

The effects of global warming on the Maasai community are also reflected in the hospitality sector. The Maasai Mara is a renowned tourist attraction in Kenya, when millions of wildebeest, zebra, and other herds move northward from Tanzania's Serengeti National Park into the country. The Maasai population also migrates across borders to work in the tourist business, a growing sector. This makes life simpler for them since they can provide for their family and livestock while also earning a living without having to leave their land. Climate change has had a significant influence on this business, adversely affecting their livelihoods and forcing them to migrate in search of other employment opportunities. Climate changes also

impact the community, whereby there is an increased loss of arable land. In addition, rapid tourism expansion in the area leads to further scarcity of land for the community.

Maasai pastoralists living near national parks are one of the tribes being encouraged and supported to pursue conservation as a commercial tourism venture (Ondicho, 2016). The reasons for this are threefold according to (Ondicho, 2016).: one, the realisation that the survival of more than 70 per cent of the wild animals that live seasonally or permanently outside protected areas is dependent on the goodwill of landowners, and thus there is a need to involve them in tourism as a means of encouraging sustainable natural resource conservation outside protected areas; two, reducing human-wildlife conflicts by providing local communities with diverse economic alternatives that will benefit wildlife conservation; and three, encouraging sustainable land conservation outside protected areas (Ondicho, 2016).

With much more attention being paid to Maasai culture, one could claim that a new sort of tourism has emerged which (Ondicho, 2016) refers to “Maasai tourism”. Today, the people are in the vanguard of so-called Maasai cultural tourist development. Maasai cultural tourism entails encounters that include the Maasai people as objects of the "tourist gaze" and specific components of their cultural heritage as tourist attractions (Ondicho, 2016). Ritual music and dance, beading and handicrafts, traditional events such as weddings and circumcision, and cultural bomas are essential parts of Maasai tourism. Travel services are encouraging foreign and domestic visitors to visit cultural bomas and learn about the Maasai people's exotic traditions.

Despite the utilisation of Maasai culture as a distinctive tourist attraction and instrument for developing and marketing Kenyan tourism, the Maasai people have not profited from tourism in any meaningful way (Ondicho, 2016). In his conclusions, deduced that traditionally, they have also been excluded from active tourist development and business involvement. However, confronted with the problem of an ever-dwindling land base that must feed a growing population, falling livestock productivity, intense government pressure to modify their way of life, and constraints faced due to displacement, the Maasai are progressively assimilating into the national economy.

Measures Implemented in Kenya to Tackle Global Warming Effects on the Displacement of the Maasai Community

Kenya has implemented specific measures to tackle global warming effects on the displacement of the Maasai community. Regarding prevention of drought and promotion of sustainable development, the Kenyan government has implemented various policies. As a follow-up to the National Climate Change Response Strategy (NCCRS) published in 2010, which detailed proof of climate impacts on different economic sectors and proposed various adaptation responses, the National Climate Change Action Plan (NCCAP) published in 2013 aimed to put the 2010 NCCRS into action and set out a series of measures to facilitate low-carbon, climate-resilient development (Minority Rights Group International, 2019). The NCCAP measures support the Maasai community in tackling the effects of climate change. For example, under the adaptation strategies, the national Government under the Ministry of Tourism, County Government of Narok, non-governmental organisations (NGOs) (such as WWF and Save the Elephant), Kenya Wildlife Service (KWS), tour operators, and the local population are all active in adaptation efforts in the Maasai Mara. These adaptation techniques take the Maasai community into consideration when devising policies as they are an important component of the Maasai Mara.

Adaptation goals are established in the National Adaptation Plan (NAP) 2015– 2030, which builds on this, while the Climate Change Act 2016 offers a regulatory framework for integrating climate change considerations into development planning, budgeting, and adoption across all levels of government (Minority Rights Group International, 2019). The National Drought Management Authority Act (2016), on the other hand, is responsible for providing comprehensive coordination over all aspects connected to drought management (Minority Rights Group International, 2019). However, delays and political roadblocks have slowed the implementation of these policies, highlighting that more efforts are required to tackle the challenge at hand, which is evolving rapidly.

As laid out in Kenya's National Climate Change Action Plan (2018-2022), pastoralists, hunter-gatherers, and fishing communities are crucial to any strategy. In conjunction with Article 260, Article 56 of the Kenyan Constitution recognises these groups as marginalised populations for whom efforts must be made to ensure that they participate and are represented in government and other sectors of life, among other things (Government of Kenya, 2018). Due to climate change, the livelihoods of these communities are threatened, and adaptation measures require the participation of these groups in their implementation and monitoring (Government of Kenya, 2018). Several institutions in Kenya are now working on climate change concerns. Still, the activities of these organisations toward tackling climate change have so far not been coordinated, resulting in, among other things, duplication of effort.

International and Regional Law and Norms applicable -and What's Missing

As exemplified by refugee and human rights legislation, international protection frameworks serve as key reference points when it comes to determining needs and responding to them (McAdam, 2011). International human rights instruments, namely the International Covenant on Economic, Social and Cultural Rights (ICESCR), Committee on the Elimination of Racial Discrimination (CERD), Committee on the Elimination of Discrimination against Women (CEDAW), International Convention the on Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW) and the Committee on the Rights of the Child (CRC) have a particular applicability to ethnic minorities, women and children. The above instruments excluding the ICRMW have been ratified by both Kenya and Tanzania and nearly all are ratified by EAC states (ILO, 2022). The ICRMW has been ratified by the EAC member states Rwanda and Uganda (United Nations, 2022).

Of particular importance is ILO C169- Indigenous and Tribal Peoples Convention, 1989 which is the only global binding instrument addressing the protection of rights of indigenous peoples which is highly relevant for the Maasai community. The ILO C169 has been widely ratified in Latin America but not Africa besides the Central African Republic which ratified the instrument in 2010 (ILO, 2022). The provisions laid out in the ILO C169 prove to be important for African countries, particularly the EAC countries where the Maasai reside, highlighting the need for adoption of the instrument.

The 1951 Refugee Convention and 1967 Protocols are widely cited but are not relevant unless political persecution and violence directed to the Maasai community have resulted in Maasai persons fleeing to other countries to claim protection as refugees from forced repatriation (*refoulement)*.

Regional Economic Communities (RECs) play an essential role as they are intergovernmental economic integration processes and mechanisms among the member countries that can address evolving situations or new situations that need regulation with legal agreements such as by establishing new protocols to their community treaties. For instance, the

Economic Community of West African States (ECOWAS) has sequential protocols dealing with aspects of and extension of free movement.

Chapter 17 of the EAC Treaty refers to the free movement of persons, labour, services, right of establishment and residence (EAC, 2007). The chapter includes clauses aimed at easing border crossing, maintaining common employment policies, making training facilities available among several other clauses that could be further developed to include the Maasai community in specific since they constantly cross the borders.

Given the absence of treatment of the specific situation of transhumance in the EAC Treaty and the Protocol on the Establishment of the East African Community Common Market, the negotiation of a Protocol or similar agreement would be critical to explicitly protect transhumance free movement for the Maasai who often cross the Kenyan and Tanzanian borders, as well as other nomadic and sedentary populations whose traditional lands cross borders in EAC, such as the Digo, Karamajong, Kuria, and Luhya peoples. The Digo Kuria, and Luhya are part of the main ethno-linguistic minorities in Kenya (Makoloo & Ghai, 2005). The Karamajong are a pastoralist community found in north-east Uganda. They are one of Uganda's most prominent marginalized minorities and are geographically, economically, and politically isolated (MRG, 2018). Recent years have seen an increase in the level of suffering experienced by the Karamajong. They, like other East African livestock herders, have been directly impacted by climate change. Increased competition for scarce resources as a result of more frequent drought cycles has resulted in an increase in cattle rustling, which has been followed by an increase in violent outbursts in response (MRG, 2018). Devastating floods have also wrecked the region, rendering it vulnerable to illnesses in addition to destruction and loss of land (MRG, 2018). It is essential that a normative instrument such as a protocol take these communities into consideration to ensure their movements remain unhindered. Given that the issue is one wider than the Maasai and concerns other nomadic and sedentary populations in the EAC an EAC approach would be more feasible rather than multiple bilateral arrangements for each different peoples and borders within the same regional community.

In addition, as outlined by McAdam (2011), international protection frameworks provide a pre-existing set of norms and principles to guide and influence policymaking, as well as identifiable rights- and duty-bearers in the process. Furthermore, despite the fact that "the scope for activating human rights legislation is probably limited" in the context of climate change, its normative framework may guide policymaking, show difficulties that could otherwise be overlooked by a solely environmental or economic approach, and assist in the formulation of claims concerning access, adaptation, and balance (McAdam, 2011).

In many cases, mitigation and ex-ante adaptation efforts are inadequate to protect humans from the adverse effects of global warming. Protection and aid for people who have been adversely impacted by the consequences of climate change, including those who have been forced to leave their homes, must thus be included in adaptation efforts on a broader scale (Kälin & Schrepfer, 2012). When it comes to protecting the rights of people who have been impacted, countries, as primary duty bearers, are required to do so by international human rights law. In the context of climate change, cross-border displacement and migration movements are already taking place and are expected to rise in the future, albeit at an undetermined magnitude at this moment (Kälin & Schrepfer, 2012).

Climate change and disaster-related mobility is expected to grow more diversified and new patterns will develop; therefore, the issue arises as to whether or how current international law and protection institutions are now addressing, or may be utilised to address, these new

movement patterns. The fact that persons migrating across borders in the wake of climate-related disasters may frequently find themselves in a sort of uncertainty is a result of the legal loopholes that exist. While the lack of suitable normative frameworks for such individuals is a contributing factor, there are also institutional inadequacies in responding to their protection and aid requirements (Kälin & Schrepfer, 2012). In this scenario, inter-state collaboration between countries of origin and countries of refuge, is appropriate. In addition, regional and subregional organisations play a critical role since it is projected that climate change would affect particular regions more than others and in certain ways, and that its effects will not be limited to national borders.

The Intergovernmental Authority on Development (IGAD) is an inter-governmental mechanism for cooperation covering 20 economic, environmental, security, humanitarian, development, integration, and other concerns among eight member countries in the Horn of Africa-East Africa regional that Kenya is a part of (IGAD, 2022). A drawback identified is that IGAD does not include Tanzania which would mean that the Protocol is not helpful for Maasai transhumance. Special efforts will be required to transpose the relevant provisions of the Protocol to the Tanzanian legislation. The IGAD Protocol on Transhumance notes the importance of pastoralism in ensuring output and productivity and covers cross-border movement under Article 2 which states that "the purpose of this protocol is to exploit the full social and economic potential of the pastoral system by allowing free, safe and orderly cross-border mobility of transhumant livestock and herders in search of pasture and water as an adaptation mechanism to climate change and weather variability within the IGAD region" (ICPALD, 2020).

Kenya and Tanzania, and indeed the East African Community are presented with an opportunity to devise a framework between both countries to address the challenges faced by the Maasai due to climate change. By borrowing from the IGAD Protocol on Transhumance, the East African Community could further strengthen and implement the clauses outlined into their national frameworks and further to a joint bilateral agreement. This would ensure the protection of the Maasai community.

Several policy recommendations exist on enabling climate adaptation that East Africa can borrow lessons from. To enable adaptive capacity, (Nassef et al., 2009) propose key recommendations. Firstly, they discuss that climate foresight must be incorporated into the planning process for pastoralist development to be successful. At many stages of planning and execution, more understanding of how to acquire and apply climate forecasts is necessary. This will enable the Maasai community to better adapt to climate change patterns and ensure that pastoralist development projects are successful. Secondly, it is necessary to develop comprehensive assessments of the socio-economic costs and benefits of various adaptation techniques that involve pastoralists, and the costs and benefits should take into account livelihoods, ecosystems, and the broader economic benefits of the project (Nassef et al., 2009). A third key recommendation proposed is the necessity to assess the National Adaptation Programmes of Action (NAPAs) for Tanzania, Ethiopia, Eritrea, and Sudan from the perspective of how prioritised initiatives would contribute to the adaptive capability of pastoralists in these countries. The lessons learned from these exercises should be included into the formulation of the Kenya National Adaptation Plan as well as the implementation of the Kenyan Climate Bill in the country (Nassef et al., 2009).

To better address the challenges faced by the Maasai community in East Africa, more action research is necessary to create and share information on climate adaptation by pastoralists. In addition, there is a need to share and distribute knowledge to important regional

and national organisations that can work together with the Maasai to assist in scaling up successful efforts addressing pastoral development challenges while increasing regional collaboration. Communication is key in fostering understanding of the situation. As (Nassef et al., 2009) point out, it is vital to ensure that effective public communication programmes are carried out in East Africa that assist people in understanding and responding to the climate change problems that are experienced in different parts of the country and in different districts. Districts need to devise strategies that address region specific challenges which will ensure that challenges are addressed effectively and faster on the ground.

Conclusions

The various challenges faced by the Maasai community with regards to global warming outline the need for concrete solutions in the East African Community. First, it is vital to investigate how countries in East Africa might provide pathways to safety and security for the Maasai community who are forced to relocate due to climate change impacts. It is essential to implement adaptation and mitigation measures to reduce and prevent displacement of the Maasai from traditional land. Adaptation goals are established in the National Adaptation Plan (NAP) 2015-2030 and the Climate Change Act 2016 provides a regulatory framework on integrating climate change considerations into development planning, budgeting, and adoption across all levels of government. The adoption of these frameworks by East African countries is vital to effectively address the challenges faced by the Maasai. However, it is important that the actions be fully implemented. Delays and political roadblocks are a setback to the implementation of these policies which necessitate the need for increased efforts in ending delays and clearing roadblocks to tackle the rapidly evolving challenge at hand.

Second, adaptation techniques and policies should take the Maasai community into consideration as their livelihoods are directly affected. Increased participation of these groups aids in effective implementation and monitoring of adaptation measures. In addition, important measures such as supporting the cultural survival and integrity for the Maasai and ways of supporting the Maasai displaced from land and community ought to be implemented to ensure protection of rights, maintenance of livelihoods and restoration of cultural identity.

Third, it is key to establish an EAC Protocol and other legal mechanisms to protect Transhumance as there are other concerned peoples in East Africa besides the Maasai. Developing an EAC instrument dealing with Transhumance is a proposed solution in tackling the challenges outlined. The IGAD Transhumance Protocol can be used as a model in this case. With immediate action, communities might reap the advantages of free movement for many years to come. The protocol can also be used as a model to devise a regional framework or a bilateral framework between Tanzania and Kenya, specifically addressing the Masai community's climate challenges whereby both countries can tackle the challenges together. This also ensures effective resource mobilisation, increased community financing, and fosters better ties between both countries.

Fourth, there is a need to strengthen existing climate change policies and migration legislation within East Africa. These legislations and policies must foster more inclusiveness for the Maasai community and device strategies specifically catered to address their needs. This is also important in ensuring that the community is preserved, and their culture does not fade away. In addition, it is also important for the countries to keep in mind that the climate challenge needs to be addressed more concretely as it is having a ripple effect on other sectors and a vast majority of people. In addition, for pastoralist growth to be effective, climate foresight must be integrated into the planning process. More understanding of how to get and utilize climate projections is required at various phases of planning and implementation. This

would help the Maasai community to better adjust to climate change trends and assure the success of pastoralist development programs.

Fifth, both governmental and non-governmental actors need to address the issue at hand concretely. For instance, the involvement of the hospitality industries together with governmental bodies and non-governmental bodies ensures the protection of the Maasai community. Also, it ensures that their challenges are addressed at all levels. This also provides an opportunity for the sharing of good practices, which can later be embedded in society and ease the lives of the community. Activities of the relevant organisations towards tackling climate change have so far not been coordinated which results in, among other things, duplication of efforts which eventually slows down progress.

Sixth, more profound knowledge of the ramifications at international, national, and regional levels is essential for the early warning to improve preparedness and help vulnerable communities build the resilience they desperately need. The recent COP26 summit has also shed light on how countries, mainly African countries, should focus on more robust regional integration and strengthen their national climate change policies.

Finally, improved statistics on the prevalence, location, assistance required, and resources available to displaced Maasai peoples and other indigenous and pastoralist peoples in East Africa are required to strengthen attempts to find long-term solutions to their displacement problems. Improved statistics can also shed light on how other intersecting characteristics, including age, disability, gender, and sexual orientation, influence their relocation experiences (IDMC, 2021). It is necessary for their communities and the governments of the countries they live in to recognise the need to accurately track displacements if accurate information is to be made accessible.

Additionally, information on the conditions of displacement is required, such as the reasons for community displacement, where they are displaced from, where they go, and when it is determined that their displacement has ended (IDMC, 2021). To address these specific problems and establish solutions, it will be necessary to collect data and proof of the consequences, as well as the voices and experiences of the affected populations, among other things.

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Cities and migration: comprehensive study of cities welcoming migrants and refugees

Ciudades y la migración: estudio integral de las ciudades que acogen a migrantes y refugiados

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Abstract

In today's globalized world of international mobility, migration is a major contributor to urbanization. Cities play a crucial role in welcoming migrants and refugees and in their integration with local societies. Cities are spaces for refugee and immigrant reception, rights protection, and inclusion in local communities. Migration represents significant challenges for city governance, social cohesion, and realisation of human rights for all. This paper is based on describes UNESCO-ECCAR-GMPA-Marianna V. Vardinoyannis Foundation ongoing research project on 'Cities Welcoming Refugees and Migrants' launched in May 2016. The 6-year research project analysed contemporary experiences, policies, and practice of cities with a particular focus on Europe. This paper discusses the research project, its methodology, key types of data, documents and literature reviewed, and key findings. This paper discusses the trilogy of research questions: how to obtain knowledge and assessment of place, policy, and practice of cities welcoming migrants and refugees; whether there are common approaches and policies referencing values and rights; and do common approaches, policy, and practice represent a coherent values-based framework across multiple cities in Europe. The study of city experiences shows a largely common welcoming city agenda regarding the reception and integration of refugees and migrants. The research findings highlight that deliberate values and rights-based approach is the foundation of a welcoming city.

Keywords: urbanisation, welcoming cities, local authorities, human rights, inclusion, integration, non-discrimination, research methodology.

Summary: Introduction, State of Art and Key Definitions; Methodology, The Analysis Process and Results, Outcomes: Identified Welcoming City Values, Approaches and Action Areas and Conclusions.

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Resumen

En el mundo globalizado actual de movilidad internacional, la migración es un factor importante que contribuye a la urbanización. Las ciudades juegan un papel crucial en la acogida de migrantes y refugiados y en su integración con las sociedades locales. Las ciudades son espacios para la recepción de refugiados e inmigrantes, la protección de los derechos y la inclusión en las comunidades locales. La migración representa desafíos importantes para la gobernanza de las ciudades, la cohesión social y la realización de los derechos humanos para todos. Este documento se basa y describe el proyecto de investigación en curso de la UNESCO-ECCAR-GMPA-Marianna V. Vardinoyannis Foundation sobre 'Ciudades que acogen a refugiados y migrantes' lanzado en mayo de 2016. El proyecto de investigación de 6 años analizó experiencias, políticas y prácticas contemporáneas de las ciudades. con un enfoque particular en Europa. Este documento analiza el proyecto de investigación, su metodología, los tipos clave de datos, los documentos y la literatura revisada, y los hallazgos clave. Este documento evalúa la trilogía de preguntas de investigación: cómo obtener conocimiento y evaluación del lugar, la política y la práctica de las ciudades que acogen a migrantes y refugiados; si existen enfoques y políticas comunes que hagan referencia a valores y derechos; y los enfoques, las políticas y las prácticas comunes representan un marco coherente basado en valores en varias ciudades de Europa. El estudio de las experiencias de la ciudad muestra una agenda de ciudad de acogida en gran parte común con respecto a la recepción e integración de refugiados y migrantes. Los resultados de la investigación destacan que los valores deliberados y el enfoque basado en los derechos son la base de una ciudad acogedora.

Palabras clave: urbanización, ciudades acogedoras, autoridades locales, derechos humanos, inclusión, integración, no discriminación, metodología de investigación.

Introduction

Cities everywhere have long benefited from and faced challenges of human mobility. Cities emerge from, and develop through, processes of migration and urbanisation. Newcomers – whether from rural areas or other cities within and outside of national borders – contribute to increasing the diversity and complexity of cities.

Cities have emerged on the radar of international development partly due to demographic growth, impacts of climate change, increased human exposure to natural hazards and other urban risks (UN-Habitat, 2020b, p.3). The role of local authorities and urban governments in discourse, policy and practice on migration, migrant and refugee inclusion and integration, human rights protection, and on development has significantly increased over the last decade, both in Europe (influenced by 2014-16 spike in refugee arrivals) and worldwide (especially in cities located in countries of immigration, such as USA, Canada, Australia, and others).

As evoked in the New Urban Agenda, “populations, economic activities, social and cultural interactions, as well as environmental and humanitarian impacts, are increasingly concentrated in cities, and this poses massive sustainability challenges in terms of housing, infrastructure, basic services, food security, health, education, decent jobs, safety and natural resources, among others” (United Nations Conference on Housing and Sustainable Urban Development, 2016, p.3). Migration represents significant challenges for city governance, social cohesion, realization of human rights for all, and for ensuring vibrant, productive cities today and tomorrow. These challenges include addressing the risks and vulnerabilities that migration entails in general and specifically for human rights protection across the whole of city governance and welfare of all denizens.

Migrants, refugees, and internally displaced persons are addressed throughout the New Urban Agenda adopted at the Habitat III conference held in Quito, Ecuador, in 2016. The United Nations 2030 Agenda for Sustainable Development (2015) explicitly recognizes the positive contribution of migrants to sustainable development, as well as features migration, migrant, and refugee concerns. The Global Compact for Safe, Orderly and Regular Migration (2018) and the Global Compact on Refugees (2018) also affirm the crucial role of local authorities as key actors in migration governance and refugee response.

While a growing number of academic studies, policy reports and other publications feature the challenges migration brings for urban governance (see Literature Review section below), until recently, there was little policy guidance and even less practical guidance and experiences collected and published.

This paper presents the result of six years of research, data collection and analysis, literature review, and studies of city policies and practices in Europe and worldwide done by the collaborative project *Cities Welcoming Refugees and Migrants,* among UNESCO, ECCAR (European Coalition of Cities against Racism), and GMPA (Global Migration Policy Associates), realised with the cooperative support of the *Marianna V. Vardinoyannis Foundation,* launched in May 2016. This paper draws on and presents the key points and findings included in the *Handbook on Cities Welcoming Migrants and Refugees: Rights, Inclusion, Integration, Sustainability' (Taran and Kadysheva,* forthcoming 2022). The Handbook, in turn, builds on previous research and analysis published as '*Cities Welcoming Refugees and Migrants: Enhancing effective urban governance in an age of migration' (*Taran, Neves de Lima and Kadysheva, 2016), and more recent analysis and elaborations of numerous topics.

The focus of the research was on Europe as a specific region with certain commonalities, including geographic delineation and significantly common development. The researchers also studied numerous publications, reports, research papers, and policy documents on cities elsewhere in the world, as well as global policy agendas and international city conference documents.

The research allowed to articulate a framework for action to guide development and implementation of city governance, including policy, institutional and programmatic responses on migration, as an agenda deriving directly from contemporary city policy and practice.

The study addresses the following key issues that make up an interlinked trilogy of research questions:

1. How to obtain knowledge and assessment of the evolving place, policy, and practice of cities welcoming migrants and refugees?
2. Core question: Are there consistent common approaches and policies referencing values and rights, versus discourse and analysis that is utilitarian city self-interest in economic growth and social cohesion?
3. Do the common approaches, experiences, policy, and practice of cities represent a coherent values-based framework across multiple cities and to what extent cities as a whole in Europe?

State of Art and Key Definitions

Definitions of key terms and concepts

Cities: In the absence of an internationally agreed normative definition, this paper considers cities as established urbanized concentrations of population in specific territorial space with an operational governance system, administrative apparatus, economic activity, and social organization. As the OECD (Organization for Economic Cooperation and Development) notes, "despite intense global discussions around urbanisation, a global definition of a 'city', 'urban area' and 'rural area' has been lacking, and thereby, limiting meaningful international comparisons (OECD/European Commission, 2020, p.3). This report recognizes the relevance of the *welcoming cities* notion and practice to small size cities of several thousand inhabitants as well as cities of larger populations.

Right to city – "the right of all inhabitants present and future, to occupy, use and produce just, inclusive and sustainable cities, defined as a common good essential to the quality of life. The right to the city further implies responsibilities on governments and people to claim, defend, and promote this right" (United Nations Conference on Housing and Sustainable Urban Development, p.26). The *right to the city* includes several elements and implications, such as right to inclusion, to services, and to participation.

Welcoming cities are those that recognize that all refugees, asylum seekers, migrants, immigrants, displaced people and other newcomers to the city are rights-holders, subject to non-discrimination, equality of treatment and opportunity, and provision of services regardless of identity, origin, nationality, legal status or any other grounds of discrimination. Welcoming cities facilitate engagement of migrants and refugees with local communities to provide support and orientation to newcomers, and enable settlement, inclusion, and integration.

Welcoming culture – explicit public commitment to the reception and integration of and with newcomers, particularly immigrants, migrants, and refugees in terms of equality, participation and justice for the entire population.

Whole of city approach – refers to participatory involvement of and cooperation among all concerned institutions, departments and agencies of the city government, elected officials, the city legislative body or council, and concerned civil society and community groups including representative im/migrant and refugee community organisations and members of the population at large.

Whole of society approach – involvement by and cooperation among community groups, unions, civil society organizations, specialized NGOs, migrant and refugee associations, and business/private sector and employer organisations as well as volunteers and other concerned individuals.

The place of cities in a globalized world of international mobility

*"*The city, one of the world's biggest phenomenon of the 21st century, has evolved greatly over the centuries, particularly in terms of its size, form, structure and composition, while largely maintaining its importance in local and regional development" (UN-Habitat 2020a, p.2). The data shows that the global population living in urban areas has increased from 29.6% in 1950 (UN DESA, 2014) to 56.2 % today; long-term prospects continue to predict that the world will further urbanize over the next decade, to 60.4% by 2030 (UN-Habitat, 2020b, p. xviii). Cities have become a driving force for addressing sustainable economic growth, development, and prosperity. They inspire innovation, promote consumption and investment in both developed and developing countries (UN-Habitat, 2016).

The research and literature review reaffirmed that cities worldwide have developed through processes of migration and urbanization. In today's globalized world, migration and urbanization are interconnected and interrelated processes. "Migration has been a major contributor to urbanization, whether rural-to-urban movement within countries or the clustering of international migrants in global cities. International migration accounts for about one-third of urban growth in developed countries and is increasingly transforming urban areas into heterogenous, multi-ethnic, multicultural, and multilingual spaces" (UN-Habitat, 2020b, p. xix). The current levels of urbanization around the world are the result of changes in local population due to natural increase, but ever more often, the predominant change is due to migratory flows – between and within the countries, between urban and rural areas, and between different regions of the world.

Cities are centers of access to jobs and business opportunities, innovation and entrepreneurship, education, culture, and sports. Globalization has highlighted the socioeconomic potential of cities. However, in both the developed and developing countries, economic growth has not resulted in the well-being of all; there are gaps between the rich and the poor, and 'formal' and 'informal' cities. Addressing poverty and providing access to local public services for all, including healthcare and adequate, affordable housing are of particular concern for local governance.

Over the centuries, cities have faced challenges as well as opportunities deriving from human mobility. Newcomers and immigrants contribute to increasing their diversity and complexity of cities. The populations of cities throughout Europe consists of multiple ethnicities, national origins, social classes, education and skill levels, and professional occupations. City residents live in diverse neighbourhoods but interact with each other on a daily basis. Immigrants into established and new metropolitan settings transforms urban areas demographically, culturally, socially, politically, and economically. In many cities, officials are actively encouraging immigrants, albeit primarily highly skilled migrants and business and creative elites, to join their communities. The availability of jobs and remunerative activity also attracts low-skilled migrants, both in regular and irregular situations.

Migration presents significant challenges for city governance, social cohesion, the realization of human rights for all, and for ensuring equality of treatment and non-discrimination. These challenges include addressing the areas of health, education, housing, community welfare and others across the whole of city governance and for the welfare of all denizens.

Much of migration governance is developed and implemented at the local/city level, including provision of basic services such as housing, healthcare, schooling/education, facilitation of employment and enterprise creation; and upholding of human rights, equality of treatment and social cohesion. Cities are crucial for welcoming, reception and integration of migrants and refugees. Cities are the place and space where migrants interact with the society, community, and (indirectly) with the country of residence. Nearly every city across Europe is formally engaged in addressing migration. Research and analysis of city policies, actions, and practices over several years shows that cities generally have established a values-based policy on migration to the city, with comprehensive government approaches, explicit responsibilities and coordination across administrations, and cooperation with local and regional NGOs, civil society, private enterprises and community groups as well as refugees and migrants themselves.

The International Conference on Population and Development back in 1994 recognized urbanization as integral to development. The issues of migration, refuge and internal

displacement are addressed explicitly in the New Urban Agenda, which was adopted at Habitat III in Quito in October 2016. Migrant and refugee concerns are also present throughout the 2030 Agenda for Sustainable Development, which recognizes the positive contribution of migrants to sustainable development. The Global compact for Safe, Orderly and Regular migration and the Global Compact on Refugees also affirm the active role of local authorities as key contributors to migration governance and refugee response.

Contextual data on international migration and cities in Europe

Review and extrapolation of data shows that a significant portion of growth in cities in Europe (and in some cases simply maintaining population levels) is a direct consequence of migration to cities, notably international migration. For example, over the past 60 years, the city of Vienna has experienced a very dynamic population development. Within a few decades, population numbers in the city first went from stagnant to shrinking and then started to grow rapidly. At the same time, a previously strongly ageing city was turned into a young metropolis – mostly due to international immigration (City of Vienna, 2021).

In 2020, the estimated number of *international migrants*, defined as persons residing outside their country of birth or citizenship for more than one year, reached 281 million worldwide, with female migrants accounting for 48 percent of this population (UNDESA, 2020). International migrants make up 3.6 percent of the global population, a proportion that has remained relatively stable over the last three decades (UNDESA, 2020). Nearly half of all international migrants resided in the region from which they originated. Among the major regions of the world, the largest number of international migrants in 2020 resided in the European region, with a total of 87 million. 70 percent of migrants residing in Europe were born in another European country (UNDESA, 2020).

According to European Commissions data, 2.7 million persons immigrated to the EU, while 1.2 million persons emigrated from the EU in 2019. Total net immigration to the EU was 1.5 million persons. Without migration, the European population would have shrunk by half a million in 2019, given that 4.2 million children were born, and 4.7 million people died in the EU. In 2020, according to provisional data, EU population shrunk by about 300 thousand people (from 447.3 million on 1 January 2020 to 447.0 million on 1 January 2021), due to a combination of less births, more deaths and less net migration (European Commission, 2021).

In 2020, about 2.25 million first residence permits were issued in the EU, compared to nearly 3.0 million in 2019. The decrease was due to the travel restrictions imposed as a result of COVID-19 pandemic, that had a particularly strong negative impact on education-related permits: their share decreased from 14% in 2019 to 11% in 2020. In 2020, first permits were issued for the following reasons: 40% work/employment, 28% family, 11% education, 11% asylum, 10% other (European Commission, 2021)

Foreign born populations comprise significant portions of populations across Europe: 47.3% in Luxembourg; 29.7% in Switzerland, 19.5% in Sweden; 19.3% in Austria; 18.1% in Iceland; 17.8% in Ireland; 17.2% Belgium; 16.1% Germany; 15.6% in Norway; 14.9% in Estonia; 14% in each Spain and the UK; 13.4% in the Netherlands; 12.8% in each France and Slovenia; 12.7% in Latvia; 12.5% in Greece; 10.8% in Portugal; 10.5% in Denmark; 10.4% in Italy; etc. (OECD, 2019).

Indeed, the proportions of foreign-born persons in cities in Europe are significantly higher than their share in the total populations of the countries. Many European cities are home to large populations of foreign-born individuals, notably: Brussels (46 per cent), London (38

per cent), Amsterdam (34 per cent), Stockholm (33 per cent), Milan (32.3 per cent), Madrid (20.5 per cent) and Paris (19 per cent) (World Cities Culture Forum, n.d.). Analyses of city populations that distinguish foreign-born individuals and those with at least one foreign-born parent more fully reflect the outcome of recent immigration: population counts in Vienna, for example, show that 59 per cent of residents are either foreign born or have a foreign-born parent.

In 2020, according to UNHCR estimates, there were a total of 20.7 million refugees under its mandate, plus 5.7 million Palestinians under care of the UNRWA, and 4.1 million asylum seekers, who represent together 11% of the total global migrant stock population. 73 per cent of refugees and Venezuelans displaced abroad lived in countries neighbouring their countries of origin (UNHCR, 2021).

The number of first-time asylum seekers who applied for international protection in Member States of the EU increased gradually from 122 thousand in 2008 to 250.4 thousand in 2012. The numbers spiked to 531 thousand in 2014 to over a million in 2015 and in 2016 and decreased to 620.3 thousand in 2017; 564 thousand in 2018; and 632 thousand in 2019 and then declined substantially to 416.6 thousand in 2020 (Eurostat, 2021).

In 2020, 40.7% of EU first instance asylum decisions resulted in positive outcomes, that is granting refugee or subsidiary protection status, or an authorisation to stay for humanitarian reasons, some 50.1% of which resulted in granting refugee status. In absolute terms, 106,200 persons were granted refugee status in the EU in 2020 at first instance, 50,300 were given subsidiary protection status, and 55,400 were given authorisation to stay for humanitarian reasons. Another 69,200 asylum applicants in the EU received positive final decisions based on appeal or review in 2020, of whom 21,600 were granted refugee status, 22,400 were granted subsidiary protection, and 25,300 were granted humanitarian status (Eurostat, 2021).

At the end of 2020, the EU hosted 10% of all the world's refugees (almost 2.6 million) (European Commission, 2021), some of whom were long settled, with the majority in urban locations. In comparison, Turkey alone hosted nearly 3.7 million refugees, the largest population worldwide. Colombia was second with more than 1.7 million, including Venezuelans displaced abroad. The share of refugees in the EU is only 0.6% compared to its total population (UNHCR, 2021). For comparison, at the end of 2020, the numbers of refugees as share of total population for Lebanon was 12.9%, Jordan 6.4%, Turkey 4.4%, Uganda 3.3%, Sudan 2.4%, and Germany 1.5% (European Commission, 2021) These refugee numbers are generally included in total migrant population figures that count foreign-born individuals' residents abroad for at least a year, but may not capture numbers of recently arrived refugees and asylum seekers.

Methodology

UNESCO and ECCAR established the project "Cities Welcoming Refugees and Migrants" as an open-ended collaborative research and city advisory effort in early 2016, with the support of Marianna V. Vardinoyannis Foundation. The project was carried out by a specialized multi-disciplinary international expert group GMPA, in collaboration with a specialized UN agency UNESCO and in consultation with city leaders in a leading European city network ECCAR. Core GMPA team included a researcher specializing in urban policy; a university professor-researcher on economics and socioeconomic development; and senior migration specialist with background in cities services, national governance, and international organizations.

The research: a combination of components

The methodology of the project leading to validated research findings was a mixed method using a qualitative and quantitative complex combination of:

- literature review across a variety of relevant types of materials, sources, entities, such as academic papers, city documents, European and International city networks reports, international institutions publications, normative documents including international conventions, etc. as outlined earlier in the paper;
- detailed surveying of multiple cities of different characteristics in different national-subregional contexts across Europe;
- interfacing with prior and parallel team member research on substantive city and refugee issues, in particular discrimination-integration; health; COVID-19 and migrants; and EU refugee and migration law and policy;
- engagement directly with city officials and other stakeholder practitioners in city and intercity consultations, sharing of information, participation in conferences and policy debates;
- academic schooling by a team member on urban planning and city management;
- prior team member knowledge and experience in directing a city-based refugee social services agency.

In general, the methodology and structure of the project allowed the expert team to:

1. Summarize and reiterate solid general research findings from surveys and recent follow-up with 22 cities in 11 countries across Europe.
2. Carry out comprehensive literature review, complemented by analysis of international policy papers and discussions and documents on cities and migration.
3. Identify key political, ideological, legal, social and other issues and contentions in city discourse and action articulated in responses to surveys.
4. Perform an analytical review and discussion of key issues, premises and responses identified from research and city discourse and policy as well as multi-stakeholder/constituency positions and practice.
5. Review the subsequent extensive research done over the period of 2017-2022 for the forthcoming comprehensive handbook for cities welcoming migrants and refugees.

Key stages of the research

The research was done in several sequential and interrelated stages. It started with the circulation in April 2016 of a survey questionnaire, designed by UNESCO with GMPA, to member cities of ECCAR. The questionnaire was sent to local authorities and city departments working on migrant and refugee issues. The survey sought to obtain contextual data on cities, identification of issues city governments are faced with in reception and integration of refugees and migrants, and description of city policies, practices and local initiatives. In addition, the researchers sought comparable data from other cities. The research team compiled and analysed results; prepared an extensive matrix of survey responses to identify similarities and differences in policy, practice, and actions, and wrote a survey report.

A stakeholder consultation in May 2016 at UNESCO headquarters in Paris presented a summary of survey responses, shared findings, and identified key issues, approaches, and a project plan of action. High-level ECCAR member city officials comprised nearly a third of the 70 participants.

In addition to the survey, the overall research comprised literature review and analysis of existing data by the GMPA core team, such as academic articles, research papers, policy briefs, publications by international organisations and city networks, conference presentations and outcomes, official city policy documents, statements, reports, and data/statistics on international migration and on refugees. The normative base of the research included International/UN conventions, ILO and UNESCO instruments, International Labour standards, Regional –and especially European Union– Conventions, Declarations, Directives, UN treaty body recommendations and comments, international conferences declarations, programs of action and agendas, and city charters and declarations. The section on Literature Review presents the sources used classified into key groupings.

A further round of web-search of complementary information on city websites was done, to complement, expand and develop the city survey responses. This allowed to enhance and fill in detailed profiles of each city providing substantial information, data and perspective, and to develop 2-page city briefs on 24 cities, outlining concrete city actions and policies.

During the project, the researchers drew on team background knowledge, approach and methodological inspiration and previous work and/or research experience, in such areas as city governance and urban planning, academic research on economics and mobility in Eurasian regional context, empirical discrimination testing of immigrants/immigrant origin persons in twelve cities in Europe and setting up and directing a city-supported refugee reception, resettlement and integration social service agency.

Over the course of project, team members participated in conferences on cities and on migration, in city consultations and inter-city meetings among city executives, practitioners, academic researchers focussed on cities and city institutes, sharing experiences, concerns, presenting joint activities, assessments and analyses.

The data, findings, and conclusions of the first phase of the research were written up as a 75-page book subsequently published jointly by UNESCO, ECCAR and GMPA titled '*Cities Welcoming Refugees and Migrants: Enhancing effective urban governance in an age of migration'*. The manuscript went through peer review in September 2016; comments and suggestions from 7 reviewers as well as from UNESCO team colleagues were addressed by the authors. The publication was launched at a 2-day high-level conference in Athens in November 2016. The event, the participants and the space allowed for broad peer discussion and vetting of the study and for testing the research hypotheses, findings, and conclusions among some 60 participants from across Europe, North America, and other regions, representing cities, universities, international organisations and migrant groups. The research team presented the draft structure and outline of a broad-spectrum multidisciplinary handbook for city governance practitioners. The discussion allowed the project tram to receive suggestions and inputs towards shaping the structure, content, and key issues to be elaborated in the handbook.

The research has been ongoing since 2017 up to early 2022. Over that five-year period the team collected and studied another two hundred plus documents, publications, reports, as well as relevant data, city practice examples over nearly 30 distinct thematic areas (discussed below). Further research, consultations, revisions allowed to draft and subsequently rewrite most chapters at least twice again as new material, more sophisticated analysis and more complex inter-relationships emerged.

Over the course of the project, the GMPA team interfaced the cities research with complementary research, notably an assessment of EU law and policy on protection of refugees, asylum seekers, and migrants at EU borders and in member countries (Caritas Europa, 2016); a study on migration, health, and human rights (ILO, 2017); research on migration and development in Europe (Caritas Europa, 2019) including contributing to 11 national reports; and recently on COVID-19 and migrants and refugees (article 3 in this issue).

The draft of the handbook went through peer review in early 2018 with feedback, comments and suggestions received from academic and practical experts at Università Iuav di Venezia (Venice), Centre for Social Innovation (ZSI, Vienna), European Training and Research Centre for Human Rights and Democracy (ETC-Graz), University of Zagreb, OHCHR and several experts at UNESCO.

In October 2020 UNESCO circulated an updated short questionnaire to those cities that replied to the original survey in 2016. The follow-up questionnaire sought new examples of city action, focusing on impactful and successful activities in different policy areas. The questionnaire requested brief descriptions of several initiatives undertaken by the city and a hyperlink to webpages, as well as updates on current status of initiatives reported in 2016. Additional information was also obtained directly from city websites.

The handbook manuscript has undergone UNESCO institutional review and editing of each component. Some of its separate chapters have also been reviewed by experts in cities, ECCAR officials, and specialists in relevant international and European organisations.

The resulting handbook includes 30 chapters, each containing: key facts and data, including on COVID-19 impact; legal/normative framework, such as key legal instruments for governance of migration and protection of rights of migrants; description of key challenges; discussion of specific issues; key policy and practice responses, and actions in cities. The latter contains relevant examples of city actions, whether by city authorities themselves, or by city/local NGOs often in partnership with and the support from city administration.

The Analysis Process and Results

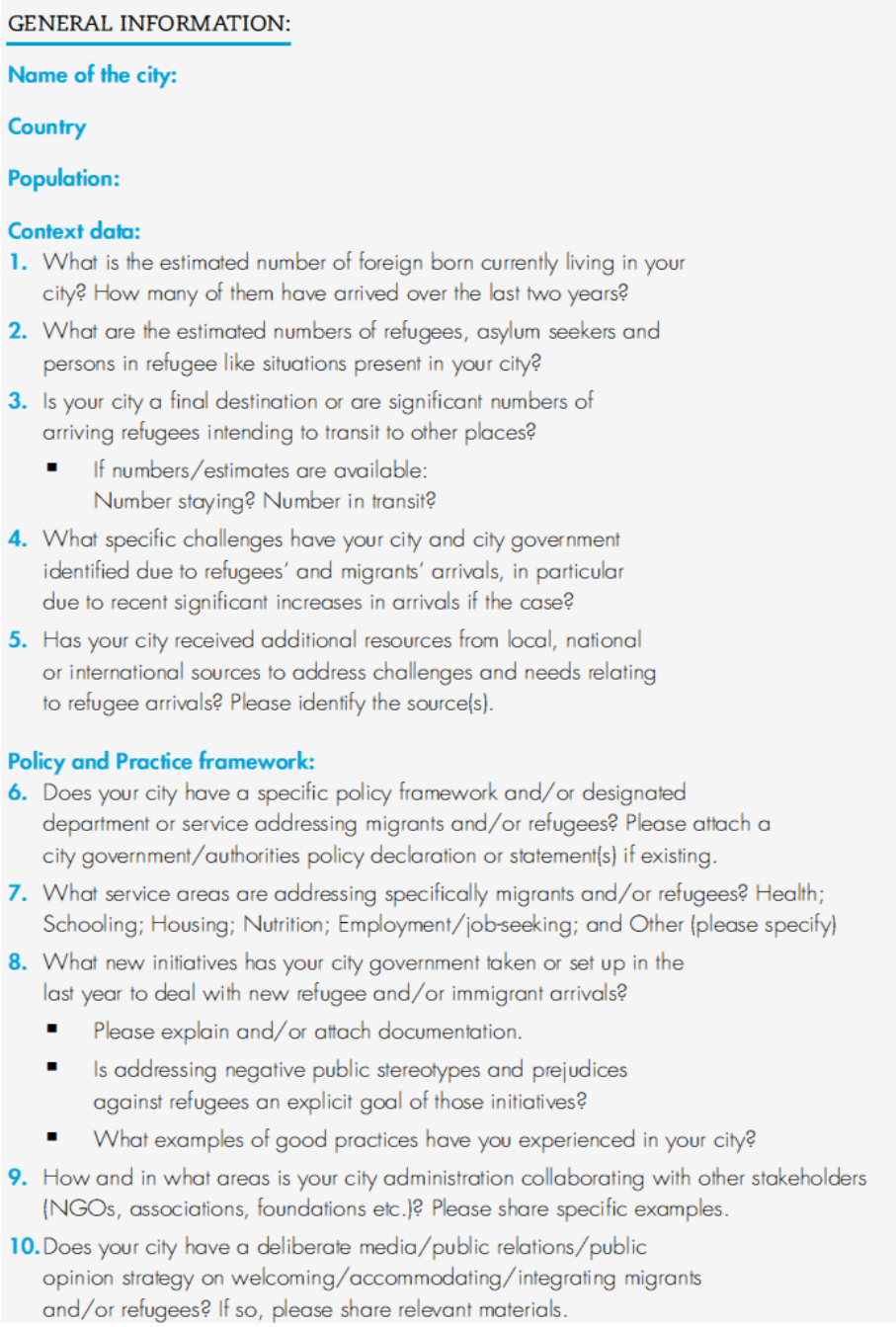
The questions were deliberately formulated to obtain city government views on the nature and characteristics of the challenges at the local level and to identify positive and innovative city policy approaches and recent response initiatives. The 10 questions requested information and data on refugee and migrant presence; city policies and practice frameworks regarding refugees and migrants; specific services provided; identification of practical initiatives; and actions tackling stereotypes and prejudices. The full questionnaire is provided in Figure 1. The questionnaire was circulated in English and French. With the responses, many cities included extensive documentation and links to city websites with information in the national language(s).

ECCAR leadership promoted participation in the survey and responses to the questionnaire designed by UNESCO with GMPA by key cities across a spectrum of counties in different parts of Europe. The responses reflected a diversity of city characteristics, sizes, economies, and regions. The 22 cities in 11 countries that responded to the initial survey questionnaire in 2016 were: Athens, Greece; Barcelona, Spain; Berlin, Germany; Bologna, Italy; Darmstadt, Germany; Erlangen, Germany; Esch-sur-Alzette, Luxembourg; Geneva, Switzerland; Ghent, Belgium; Graz, Austria; Helsingborg, Sweden; Karlsruhe, Germany; Lausanne, Switzerland; Liège, Belgium; Metz, France; Malmö, Sweden; Nancy, France; Rotterdam, the Netherlands; Soest, Germany; Stockholm, Sweden; Uppsala, Sweden; and

Vienna, Austria. Relevant data on Bristol, UK and Lisbon, Portugal was also included, thus providing information on a total of 24 cities in 13 countries.

Figure 1

UNESCO -ECCAR-GMPA city survey questionnaire (2016)



GENERAL INFORMATION:

Name of the city:

Country

Population:

Context data:

1. What is the estimated number of foreign born currently living in your city? How many of them have arrived over the last two years?
2. What are the estimated numbers of refugees, asylum seekers and persons in refugee like situations present in your city?
3. Is your city a final destination or are significant numbers of arriving refugees intending to transit to other places?
   - If numbers/estimates are available: Number staying? Number in transit?
4. What specific challenges have your city and city government identified due to refugees' and migrants' arrivals, in particular due to recent significant increases in arrivals if the case?
5. Has your city received additional resources from local, national or international sources to address challenges and needs relating to refugee arrivals? Please identify the source(s).

Policy and Practice framework:

6. Does your city have a specific policy framework and/or designated department or service addressing migrants and/or refugees? Please attach a city government/authorities policy declaration or statement(s) if existing.
7. What service areas are addressing specifically migrants and/or refugees? Health; Schooling; Housing; Nutrition; Employment/job-seeking; and Other (please specify)
8. What new initiatives has your city government taken or set up in the last year to deal with new refugee and/or immigrant arrivals?
   - Please explain and/or attach documentation.
   - Is addressing negative public stereotypes and prejudices against refugees an explicit goal of those initiatives?
   - What examples of good practices have you experienced in your city?
9. How and in what areas is your city administration collaborating with other stakeholders (NGOs, associations, foundations etc.)? Please share specific examples.
10. Does your city have a deliberate media/public relations/public opinion strategy on welcoming/accommodating/integrating migrants and/or refugees? If so, please share relevant materials.

Source: Taran, Neves de Lima and Kadysheva (2016)

The ECCAR-UNESCO-GMPA team assessed the responses as ample and representative of the diversity of cities in much of Europe. Most replies were multiple pages of written text plus multiple documents attached. The survey responses and additional data from cities that range in population and territory sizes, experiences, and circumstances across 13 countries in Europe offered a relatively representative breadth and diversity of situations. Responding cities ranged in size from capital and large cities with populations exceeding one

million to small cities with less than 50,000 inhabitants. The majority of responses came from medium-sized cities with populations ranging from 100,000 to 300,000 inhabitants.

It is important to note that the three major challenges indicated by cities and local governments related to welcoming and integrating migrants and refugees are housing, education, and employment. In general, the survey responses allowed for comparing the obtained data to identify convergences, similarities, and differences in the actual situations as well as policy and practice responses among the variety of cities. This permitted the researchers to identify common areas of concerns, policy approaches, city government organization, and strategies on reception, inclusion, and integration. Survey responses identified numerous innovative initiatives in cities, successful practices, and examples of local partnerships. The information obtained from the surveys, complemented by extensive literature review and review of materials on city websites allowed for the preparation of 25 detailed city case-study profiles on topical areas of policy concern.

Barcelona, Esch-sur-Alzette, Ghent, Graz, Helsingborg, Karlsruhe, Lausanne, Liège, Soest, Stockholm, and Vienna provided responses to the October 2020 follow-up questionnaire. These cities provided brief descriptions of recent initiatives (most in cooperation/partnership with local partners) as well as updates on previously reported initiatives.

Selection and Analysis of the Literature Review

The total bibliography analysed combining the 2016 publication and the forthcoming handbook includes at current count nearly 400 sources. The sources were classified into the following categories (examples):

- International Conventions, Treaty Body Recommendations, World Conference Declarations, UN Declarations and Agendas, and international cities bodies declarations on international migration and protection of rights of migrants and refugees.
- Academic papers, reports and studies specifically on cities and migration *(given that the main literature review was done during the first stage of the project back in 2016, many of the key sources used were issued before that)*: Bravo (2018), Brown and Kristiansen (2009), Çağlar (2014), Glick Schiller and Çağlar (2010), Gomes da Silva, (2018), Juzwiak (2014), Juzwiak, McGregor and Siegel (2014), IOM (2015), Price (2014), Price and Chacko (2012);
- Publications and reports on international migration, migrants, and refugees: ILO (2021), OECD (2020), UNDESA (2020), UNESCO (2019), UNHCR (2021), WHO (2018), WHO (2019);
- Data sources: European Commission, Eurostat, OECD, UNDESA, UNHCR databases
- Reports, papers and publications on human rights of migrants, equality of treatment, non-discrimination and integration: Caritas Europa (2016), EMN (European Migration Network), FRA (Fundamental Rights Agency), ILO (2010), ILO (2017), ILO/IOM/OHCHR (2001), IPU/ILO/OHCHR (2015).
- City documents: policies, strategies, brochures, plans, program documents, etc.
- City networks charters, declarations, reports, briefs, strategies, plans and online materials: Cities of Migration global initiative (CERC Migration/Ryerson University), CLIP (European network of cities for local integration policies for migrants), ECCAR (European Coalition of Cities Against Racism), Eurocities, the Hague Process on Refugees and Migration, ICCAR (International Coalition of

Inclusive and Sustainable Cities), Rainbow Cities Network, UCLG (United Cities and Local Governments), etc.
- Migration and city high-level international conferences and forums outcome documents, agendas for actions, international commitments: United Nations Conference on Housing and Sustainable Urban Development-Habitat; Global Mayoral Forum on Mobility, Migration and Development; etc.
- Specialised migration and city conference papers and presentations.
- Articles on city policies, initiatives and practices published in city, local and regional journals, online media.

The literature review provided a broad overview of the conditions, situations and issues of cities and migration across Europe and elsewhere, as well as theory of cities and urban development, right to the city and related concepts. The literature provided ample information and analytical perspective on city approaches to migration, policy frameworks and applied city practices. In particular, the literature review supported generating a comprehensive understanding of the human rights aspects of city policies and services that ensure no migrant or refugee is 'left behind'. Furthermore, the literature provided a basis to develop the research analysis and framing of the welcoming city approaches, common values, and city-wide practice inclusive of other stakeholders and migrants and refugees themselves.

Outcomes: Identified Welcoming City Values, Approaches, and Action Areas

Values and rights-based approach of the welcoming city

The research combining and interfacing literature review, surveys, and direct consultations with city officials, inputs by other experts and practitioners, and summation of concrete experience of cities across Europe and elsewhere found that there is a largely common *welcoming agenda* advocated and implemented in practice regarding the reception and integration of refugees and migrants. This agenda includes a set of approaches to address the challenges and opportunities of migration in cities and responding to the needs of newcomers while integrating the concerns of host societies.

This *welcoming agenda* is compiled from the contemporary experience of cities, derived from the responses to two surveys of twenty-two city members of ECCAR, widely reported across academic literature and indicated in the findings and recommendations of international associations and networks of cities. For its realization, this agenda depends on the commitment of local authorities in designing and implementing inclusive policies and services with support from regional and national governments, the engagement of civil society and the private sector, and meaningful participation on the part of all denizens and newcomers.

The research found that nearly all cities explicitly defined themselves as welcoming and inclusive. This was explicitly elaborated in formal city policy, usually through consultative and deliberative processes that involve the city's legislative and executive governance bodies and the mayor's office. Among the main values – that also reflect the governance principles – commonly cited by cities in terms of their engagement with refugees and migrants are the following (see Table 1).

Table 1

Main principles and values of welcoming cities

- **Inclusivity:** cities are explicitly inclusive of all denizens and newcomers in law, policy, administration, services, and practice, often with reference to non-discrimination, equality of treatment, welcoming culture and participation.
- **Integration:** distinct from inclusion, integration is referred to as a purpose or goal as well as a process and relates to the mutual incorporation and accommodation of immigrants in the city and with its inhabitants in community, social, economic, cultural, and political spheres, while respecting the cultural identity and heritage of each and every person.
- **Equality and services for all:** all essential services are available, accessible, affordable, adaptable and are offered with quality to all without discrimination on any basis. Equal treatment and opportunities are provided for all persons living in the city regardless of their immigration/legal status.
- **Non-discrimination:** a value expressed and understood as a universal principle in international law and usually in national and local legislation across a wide range of grounds including race, ethnicity, nationality, gender, religion, migration status and sexual orientation.
- **Rights protection and realisation:** refers to the respect, protection and fulfilment of human rights as recognized in international standards (usually reiterated in national law and local legislation), and the responsibility of city governance to uphold and provide for the fulfilment of human rights for all denizens.
- **Welcoming culture:** policy formulations in many cities make specific reference to a welcoming culture as a main underlying value.
- **Solidarity:** an integral part of the welcoming and integration processes, as stated by some city pronouncements and policy documents, usually referring to mutual support and common interests between the city and its newcomer immigrants and refugees.
- **Participation:** inclusive and active participation of all in the life of the city, particularly at the community and neighbourhood level, in social, economic, cultural, and political activities. Participation includes not only the engagement of all stakeholders in the advisory, decision-making, and implementation bodies of city governance, but also encouraging and facilitating involvement of people in community-based organisations and local and city level associations, unions, clubs, groups, etc.
- **Diversity:** expressed as a value and reality of the city with corresponding expectations of enhancing diversity, respecting the different ethno-socio-cultural identities of denizens, and facilitating the visibility of and exchange among the diverse community identities in the city.
- **Dialogue:** articulated as a value, dialogue requires openness to communicate across the city and its diversity of actors and denizens as well as deliberate measures to organize, facilitate and support mechanisms and forums for dialogue.
- **Social cohesion:** for cities, it is both a fundamental value and a core objective. A cohesive society is one which 'works towards the well-being of all its members, fights exclusion and marginalisation, creates a sense of belonging, promotes trust, and offers its members the opportunity of upward social mobility' (OECD, 2011). As such social cohesion is both a desirable end and a means to inclusive development.
- **Development:** some cities make specific reference to development – economic, social, and cultural – as a value underlying policy on immigration/immigrants, usually with reference to terms of inclusive economic growth, sustainable cities, social development, and recognition of a migration-development nexus.

Table by author

Key areas of city concern and policy action

The research looked at specific areas of policy, administrative and practical activity, and services. At the local level, migration governance includes specific attention to the following areas. Each of these areas is discussed in corresponding chapters of the Handbook (see Table 2).

Table 2

Key areas of concern and policy action for Welcoming Cities Governance

Keys for governance for a welcoming city:

- human rights-based approach and leaving no one behind
- articulating and realising the welcoming city narrative
- communicating inclusive cities welcoming refugees and migrants
- data collection, analysis, and application
- exercising leadership by cities
- comprehensive 'whole of city' approach
- obtaining resources and efficient budgeting
- building cooperation and partnerships
- accountability

Cross-cutting considerations:

- addressing discrimination, xenophobia, and racism
- enabling diversity, equality, inclusion, and integration
- achieving meaningful local participation of migrants and refugees

Responsive approaches, rights protection, and inclusion for specific groups

- gender dimensions, women, and girls
- migrant and refugee family concerns
- migrant and refugee children
- youth and adolescents
- migrants in irregular situations
- LGBTQI refugees and migrants

Functional-operational domains of city governance

- holistic approach to urban health
- availability and access to affordable housing
- accessible employment and decent work, (recognition of qualifications and experience)
- social security and social protection
- schooling, education, vocational training, recognition of qualifications, tertiary education and language learning
- public utilities/services, transportation, infrastructure
- public safety, emergency services, policing, law enforcement
- access to justice
- culture, sport, leisure and recreation

Table by autor

Functional-operational domains of welcoming city governance

The study allowed to identify major 'new' points coming up in handbook research and revision. Some of functional-operational domains of city governance crucial to inclusion, integration and human rights protection of migrants and refugees are presented below.

Holistic approach to urban health: Cities recognize that public health inclusive of newcomers, immigrants and refugees is among the most fundamental concerns. The COVID-19 pandemic amplified the centrality of this issue. All cities reviewed in the research had made efforts to design health prevention, care and treatment policies without discrimination, stigmatization, or inequality. Most cities have taken comprehensive and holistic approaches recognizing that it is the circumstances faced by immigrants to the city, particularly living and working conditions and other social determinants of health, rather than migration itself, that put people at risk of medical pathologies or negative health outcomes. Increased exposure to health risks and the limited ability to cope with illness that arise from these living and working conditions, expose migrants to higher health risks, as amply demonstrated by the pandemic and often inappropriate responses to it that either were discriminatory against migrants or provided little or no response to their particularly circumstances, risks and needs. Therefore, it is crucial for cities to ensure that the right to health and health-related rights are enshrined in local law, policy, and practice. City authorities need to pay deliberate attention to providing for appropriate and affordable health prevention, care and treatment services accessible by all migrants, accommodating for language barriers, and regardless of migration status.

Availability and access to affordable housing: Housing is one of the fundamental concerns indicated by city authorities in addressing migration to cities. Housing is inevitably a major issue for any city growing in population. It also constitutes a challenge for cities growing in economic activity and affluence, as expectations rise among the population for larger housing space and quality, even when urban populations may not be growing significantly. It is important therefore to ensure that immigration figures in urban planning.

Accessible employment and decent work: Employment and access to the labour market for immigrants/migrants to the city is among the key challenges recognized by cities. Unrecognized educational attainments, qualifications and/or prior work experience, language barriers, discrimination and in some cases irregularity of status were mentioned as major factors in migrant exclusion from employment, as well as from engaging in business activity and thus self- and family-supporting income. City survey responses and city discourse emphasized that these problems are transversal and hinder inclusion of migrants and refugees in the city. Cities are taking a wide range of actions to facilitate migrant and refugee employment, including local recognition of qualifications, retraining, apprenticeship programs for migrant and refugee youth, language training, widening access to technical and vocational education and training, providing incentives to local employers to hire im/migrant and refugee workers.

Social security and social protection: Ensuring migrants and refugees access to social protection raises particular challenges as social security rights are usually related to periods of employment, contributions or residency. Social protection includes support *benefits* in situations of need for medical care, sickness, unemployment, old-age, employment injury, family/children need, maternity, disability, and survivors (widow/er) benefits. Migrants – particularly those in precarious temporary or seasonal regimes – often face distinct and greater risks of exclusion from social protection. Similarly, asylum seekers and refugees with a precarious status are often excluded from even minimum guarantees of social protection. City attention to supporting income security, reducing poverty and inequality, and advancing social inclusion improves employability and productivity for migrants, for economies and for *all of the city*. A key concern is ensuring effective implementation of national social security systems and complementing and extending support at the local level to ensure provision of basic benefits as needed across the situations enumerated above.

Schooling, education, vocational training, recognition of qualifications, tertiary education and language learning: Schooling and education in general are among the fundamental challenges urban governments recognize they must address with immigration to the city, regardless of its origins. The schooling of migrant girls and boys, including unaccompanied minors, allows for their inclusion in society and the training for adults offers them the possibility to enter the labour market. Key concerns include: provision of public schooling accessible by and adapted to diverse child and youth populations; proximity of schools and appropriate class size/teacher-student ratios for all children and students in the city; rapid inclusion of all arriving migrant/immigrant/refugee children in schools including by local language learning, and providing for appropriate and adequate teaching, learning and educational content ensuring that schooling supports inclusion of and integration with children and youth migrants to the city.

Public utilities/services, transportation, infrastructure: Public utilities/services and infrastructure are basic to city physical structure and its means and ability to support its population as well as economic and other activities. They include supply, connection, and distribution of energy – namely electricity, natural gas and in some cities central steam heat distribution; water, sewage, garbage and recycling collection services; public transportation; and telephone and internet services, both fixed-line and mobile. Growth and change in population impact all aspects of city governance and administration, especially functions relating to spatial distribution and the organization of metropolitan life and activity. They necessitate planning, major cost investments, sophisticated organization and political negotiation on public utilities, transportation and infrastructure, including taking into account immigrant and refugee populations, particularly to ensure that infrastructure and utilities are available, affordable and equitable throughout the city. This requires particular attention and resource allocations in city planning and administration.

Public safety, emergency services, policing, law enforcement: Cities need to address deliberately and substantively migrant-responsive public safety, policing, emergency services, and disaster preparedness. It is especially crucial to ensure the proximity of fire, rescue, medical and other emergency services as well as policing concerning migrants and refugees equal to that of all city residents. City planning, resource allocation, preparation and training also needs to include major emergency and disaster preparedness. It is not only an issue of equipment and facilities, it is also a major concern for training of police, other emergency responders and disaster preparedness personnel to ensure that migrants are treated with respect and feel included and perceived as equal human beings in the communities in which they live. It is also a matter of building trust with public safety, police, and emergency responders.

Access to justice: Cities need to ensure access to justice, both in law and in judicial and administrative mechanisms, processes, and institutions, for migrants and refugees equal to that of all city residents. Particular attention is needed to ensuring access to justice for migrants in irregular or undocumented situations as well as for refugees and asylum seekers.

Culture, sport, leisure and recreation: Culture, sports, leisure and recreation are each vital components of community life and human activity in the city, that have important implications for inclusion, participation and integration of every individual in the city, especially for welcoming migrants and refugees. Culture is also a means for empowerment and self-expression of migrants, through which they are able to create bonds with people from their origin-based communities and 'established' communities, offer their contributions and also reshape their self-identities in new environments. It is important for local governments to also *culturally* integrate migrants within their societies and offer them tools and opportunities not

only to learn the language of the host country, but also their historical and cultural traditions. At the same time, however, it is fundamental that cities promote and valorise the important sociocultural contributions that migrants themselves bring in the country of destination. Well-established and newer migrant communities have always made significant sociocultural contributions to the countries of destination, in terms of sport, music, arts, food and many other fields. This means ensuring that museums and libraries as well as city departments and facilities addressing sports, parks and public spaces deliberate ensure inclusion of migrants, migrant led activities and spaces and events that feature migrant and refugee cultural expression, preservation of cultural identities, histories and manifestations. It also means specific attention to ensuring accessible and appropriate sports, parks, open spaces and meeting places in proximity to where migrant and refugee communities live.

Conclusions

This review demonstrates that the three research questions stated in the introduction were amply addressed and answered.

1. The six-year project and its methodology allowed the research team to explore evolving place, policy and practice of cities welcoming migrants and refugees. The combination and each component of academic-scientific research, detailed surveying of city actors, direct engagement with city officials and practitioners, along with specialized team competences and practical experience in relevant city activity provided a unique comprehensive study system permitting obtaining accurate and authoritative findings, conclusions and recommendations that have been subsequently validated by city experts, officials, academics, and practitioners.

The applied methodology and process of the project permitted to document, accurately assess and validly articulate the well-established and evolving governance frameworks, policy and practice of cities welcoming migrants and refugees. Notably, this included common expression of a values and rights-based approach shared across diverse cities in Europe in city policy and day-to-day practice on the ground in the community.

2. The research found a common deliberate, values-based, and comprehensive *"whole of city" approach* by city governments as well as multi-stakeholder engagement with partners, including migrants and refugees, broadly across the "whole of society". Within this approach, nearly all cities sought to provide:

- specific attention *across the board* to the spectrum of arrival, reception, settlement, self-sufficiency, integration and participation support actions and services;
- services for all without distinctions of any kind on any basis, whether grounds of prohibited discrimination or legal status or recognition;
- focused attention to reach groups considered at higher risk of exclusion, discrimination, isolation, etc. (e.g. women, children, youth, unaccompanied minors), while several cities also cited specific attention to protection and assistance for LGBTQI refugees and migrants; and
- deliberate mobilization across the entire city administration in liaison with regional and national government, and efforts to coordinate with other municipalities.

3. The research found that the common approaches, experiences, policy, and practice of cities represent a coherent values-based framework across multiple cities. The study of city policy and practice across Europe shows that a comprehensive and deliberate city governance approach to welcoming and including refugees and migrants is common to and prominent in

all the cities directly reviewed. While this does not necessarily establish that the same is generally true for cities throughout Europe, the literature, city discourse and participation in welcoming cities networks and initiatives by many cities across the whole of Europe certainly suggests that a welcoming cities approach is at the least widespread and manifested in some way in at least some cities in all countries of the wider Europe.

The approach in all 24 cities reviewed and mentioned in the literature regarding many other cities was explicitly based on a set of values such as inclusion, non-discrimination and equality of treatment, city services to all, and participation in the city of all the residents. These values also reflect ethical norms. Many city laws and policy documents make specific references to international human rights laws, norms, and standards. At the same time, proactive, public leadership by city mayors, leaders, officials, and executives was found to be equally important. This kind of leadership is usually demonstrated through public discourse, official statements on welcoming city policies, practices, and initiatives, and in engaging city population and the media.

Focused attention to fostering mutual respect between 'citizens' and existing populations and newly arriving refugees and migrants is also a nearly universal theme in city responses to refugee and migrant inflows. Most cities in Europe studied or referred in literature undertake deliberate activities to address the concerns of existing populations, to counter racism and xenophobia, and to promote accurate, well-founded, non-antagonistic stories and other media coverage.

All cities reviewed emphasized extensive and widespread self-mobilization by community, civil society and charity organizations in solidarity with and in support of refugees and migrants. This was consistently affirmed in literature and information from many other cities in Europe. Several cities have also experienced outpourings of individual volunteers. City governments similarly seek to encourage, support, and facilitate better coordination with and among civil society, local and community responses, and individual volunteers. Some city governments also deliberately engage support by *private sector* businesses/employers and business associations.

Another point worthy of note is that most cities have longstanding policy and practices of welcoming immigrants and in several cases prior refugee influxes, with several cities formally devoting attention to migrants and refugees over decades.

Migration and associated responses at the city level are similarly at the forefront of international dialogue, networking, and cooperation among cities. This is manifested in the expanding number of international metropolitan networks on migration and the growing compilation of collective international city commitments and statements on migration.

Contemporary experience shows that city authorities and constituents need to engage in dialogue and negotiations with national authorities, taking a firm stance on upholding fundamental city governance responsibilities, fully implementing human rights and humanitarian obligations, and defending subsidiary autonomy of local authority, responsibility, and competence. As current news indicates, cities may be obliged to engage in legal defence of *welcoming city* law, policy and practice in judicial proceedings, in addition to spirited public advocacy and mobilizing public opinion.

This article features and assesses the applied research approach itself, to encourage similar multi-disciplinary, multi-method, practitioner-inclusive approaches for research and for

policy development and assessment on topics concerning governance, populations, society, social work, international relations and others.

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Migration, Human Rights & Sustainable Economies: A Century 21 Agenda

Migración, derechos humanos y economías sostenibles: Una agenda del siglo XXI

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Abstract

This comprehensive brief identifies a range of key contemporary challenges for human rights, development, and governance of international migration as an all-encompassing human, social, economic, political, and environmental phenomena. It premises that migration is fundamentally about development, human rights, and social welfare, showing that labour and skills mobility is key to sustaining viability of labour forces and economies and to obtaining return on capital in a globalized economy. It notes that over 90 percent of migration today results in employment and economic activity outcomes. Sustaining development in all regions depends on migration. The article discusses the structural and systemic imperatives for mobility of people worldwide and it identifies 20 law, policy and practical challenges for economic and social development, human rights, welfare of people, and for governance. The article reiterates the comprehensive international legal framework for governance of migration and reviews especially relevant global policy frameworks: the UN 2030 Sustainable Development Agenda and the New Urban Agenda. Discussion addresses abusive exploitation of migrants versus lacuna in legal protection; contentions between *capital* and *labour* in deregulation impacting migrant workers; dangers of xenophobia; gender specificity in migration; restrictions in access to social security for migrants; challenges to social and family welfare; growing skills and training constraints, and impact of the COVID-19 pandemic and often inappropriate response measures. The trend of r*egime change* towards deregulatory migration control is raised, with mention of concerns on the Global Compact on Migration. A comprehensive Agenda for Action outlines policy lines and practical actions for rights-based, economically sustainable, and socially responsible governance of migration. This article and

Summary: Introduction; Methodology; A Context Review of Key Features of International Migration; Main Law, Policy and Practical Challenges; and In Conclusion: an Imperative Agenda for Action.

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the action agenda build on the plenary address by the author to the Global Parliamentary Consultation on International Migration held in Rabat, Morocco in December 2018.

Keywords: migrants, labour mobility, skills, sustainable development, globalisation, employment, rights-based approach, governance, migration policy, normative framework.

Resumen

Este exhaustivo informe identifica algunos desafíos contemporáneos clave para los derechos humanos, el desarrollo y la gobernanza de la migración internacional como un fenómeno humano, social, económico, político y ambiental. Parte de la premisa de que la migración tiene que ver fundamentalmente con el desarrollo, los derechos humanos y el bienestar social, y muestra que la movilidad laboral y de habilidades es clave para mantener la viabilidad de las fuerzas laborales y las economías y para obtener el rendimiento del capital en una economía globalizada. Señala que más del 90 por ciento de la migración actual genera resultados en el empleo y la actividad económica de los migrantes. El desarrollo sostenible en todas las regiones, depende de la migración. En el artículo se discute los imperativos estructurales y sistémicos de la movilidad de las personas en todo el mundo e identifica 20 desafíos legales, políticos y prácticos para el desarrollo económico y social, los derechos humanos, el bienestar de las personas y la gobernanza. El artículo reitera el amplio marco legal internacional para la gobernanza de la migración y revisa los marcos de políticas globales relevantes: la Agenda de Desarrollo Sostenible 2030 de la ONU y la Nueva Agenda Urbana. La discusión aborda la explotación abusiva de los migrantes frente a las lagunas en la protección legal; las disputas entre el capital y el trabajo en la desregulación que afecta a los trabajadores migrantes; los peligros de la xenofobia; la especificidad de género en la migración; las restricciones en el acceso a la seguridad social para los migrantes; los desafíos para el bienestar social y familiar; las crecientes limitaciones en materia de habilidades y capacitación, y el impacto de la pandemia de COVID-19 y las medidas de respuesta a menudo inapropiadas. Se plantea el cambio de régimen hacia el control migratorio desregulador, y se mencionan las preocupaciones del Pacto Mundial sobre la Migración. Una Agenda de Acción integral describe las líneas políticas y las acciones prácticas para una gobernanza de la migración basada en los derechos, económicamente sostenible y socialmente responsable. Este artículo y la agenda de acción se basan en la intervención plenaria del autor ante la Consulta Parlamentaria Mundial sobre Migración Internacional celebrada en Rabat, Marruecos, en diciembre de 2018.

Palabras clave: migrantes, movilidad laboral, desarrollo sostenible, globalización, empleo, enfoque de derechos, gobernanza migratoria, política migratoria, marco normativo.

Introduction

Migration is about people, and in a globalized world dominated by capitalist economic relations and ownership, is about sustaining economies and development, about human rights and about social welfare. Governance of migration is thus about ensuring protection of people, about decent work for all, about social protection, and about *justice* and *human development* for all people, whether they are working or not.

Migration today is international skills and labour mobility that sustains the *world of work* in the Twenty-First Century. It is key to employment and labour markets worldwide and to obtaining return on capital in a globalized economy. Sustaining development depends on migration in every region: Africa, the Americas, Asia-Pacific, Eurasia, Europe, and the Middle East. Migration has become a key factor in maintaining the viability and productivity of

agriculture, construction, health care, hotel, restaurant and tourism and other sectors. International migration meets growing demand for skills; it dynamizes workforces and productivity; and mobility promotes entrepreneurship across every region. Remittances, transfer of skills and investments by migrants, as well as trade growth spurred by migration, enhance economic activity and well-being in many countries North and South.

However, just as the needs for skills and labour mobility increase to buttress viability, sustainability, and productivity of both labour forces and entire economies, the world seems to be getting it wrong on migration with intensified restrictions and barriers to mobility coupled with maligning of migrants and migration. These contradictions are highlighted by current unmet needs for workers at all skills levels in many industrialized countries that constrain economic recovery and appear to be a contributing factor to rising inflation.

This article seeks to identify the main global economic, social and governance challenges raised by international migration today and factors driving it in an anti-migration environment. It pursues to subsequently articulate the normative and policy lines of a global 'law and policy agenda' for effective, rights-based governance of migration that sustains economic viability and societal welfare broadly. This article and the action agenda were inspired by and build on the plenary address by the author to the Global Parliamentary Consultation on International Migration held in Rabat, Morocco in December 2018 (Taran, 2018).

Methodology

This article is built on a wide review and summary of contemporary literature, applicable law discourse, and practice following a 'Qualitative method' with reflexive and critical comparison approach combining broad, multidisciplinary literature review; monitoring of promotion, application, and treaty review of international standards; direct participation in policy processes in all regions; summation of executive experience in international organizations; and assessment of empirical research.

The literature review included a sweep of works on migration, human rights, international relations, social protection, international labour and skills mobility, development, and related topics. The normative review covered elaboration, promotion and monitoring of the international legal/framework and specific instruments concerning migration, regarding application of and status of realization of norms and rights. The review included country reporting to, treaty body observations on, and independent monitoring of international conventions and labour standards. The study drew on ongoing monitoring of international institutional and political processes addressing migration, migration governance and treatment of migrants and refugees. It also drew on direct experience in and knowledge gained from participation in international organizations such as ILO and IOM and in intergovernmental dialogues and consultations, some of which were not accessible to academics or other 'outsiders.' It took into account design and oversight for large scale multi-country empirical testing on discrimination in migrant/migrant-origin worker access to employment in twelve cities in Europe. The resulting article interfaces positions, analysis, findings, policy lines, and recommendations among these different bases utilizing the author's approach in compiling distinct as well as overlapping knowledge and perspective to prepare international conference resolutions and *rapporteur* reports.

Review and analysis

The qualitative study drawing also on empirical research was a sequel to four decades of reviewing and contributing to literature across multiple disciplines as well as migration-

specific papers, briefs, reports and other documents. It built on participatory engagement in development, promotion, reporting and monitoring of international legal standards and policy frameworks combined with direct engagement in regional, national and local policy development, technical cooperation, and advisory and training activities with concerned institutions and organizations in all regions of the world. This long-term combination of research and practice allowed for developing broad multi- and interdisciplinary knowledge, and analysis and, deriving from these, comprehensive policy formulations. The current review of literature, evolving policy, and practice refined contextual understanding of international migration, assessment of main challenges for governance and human welfare, and for updating law, policy and practice lines. Formulated to serve as a briefing for stakeholder-actors in government, civil society and migrant organizations, this article reviews context and drivers of international migration, followed by an identification of main law, policy and practice issues with brief elaboration on several salient concerns. It concludes with a comprehensive agenda for action addressing main issues identified in both the study review and practice.

A Context Review of Key Features of International Migration

Migration, Economic Activity and Development

Over 90 percent of migration today –whether for reasons of employment, family reunification, immigration, education, or due to refugee flight—is bound up in employment and economic activity outcomes. ILO calculated that 169 million of the 272 million people – including refugees – living outside their countries of birth or origin in 2019 were active migrant workers (ILO, 2021), meaning economically active – employed, self-employed or otherwise engaged in remunerative activity. Economically active/employed migrant workers in 2019 were 70.1 percent of all working age international migrants (ILO, 2021).

Nearly all the total migrant stock population of 15+ age (245 million in 2019) would be *migrant workers* by international convention definition: "intending to be engaged, engaged or having been engaged in remunerative activity", including self-employment[1]. Considering children and aged family members of working migrants means that nearly all migrants and refugees are, have been, or are intending to be engaged in work or dependent on persons who are.

In 2020 an estimated 281 million foreign-born people resided in countries other than where they were born (UNDESA, 2020a).[2] 73 per cent of international migrants worldwide were between the ages of 20 and 64 years compared to 57 percent for the total world population (UNDESA, 2020a).

International migrants comprised 14 percent of the population in 2019 across all high-income countries; that proportion was significantly higher in several countries in Europe, North America, and Oceania (UNDESA, 2019).

Foreign-born people comprise large portions of populations across 'Western' industrialized countries (see Table 1).

[1] Definition, Article 2, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

[2] As noted in DESA estimates, "The estimates are based on official statistics on the foreign-born or the foreign population, classified by sex, age and country of origin. Most of the statistics utilised to estimate the international migrant stock were obtained from population censuses. Additionally, population registers and nationally representative surveys provided information on the number and composition of international migrants."

Table 1

Foreign-born as a share of population in some OECD countries, %, 2019

Switzerland	29.7	Ireland	17.8
Australia	29.1	Belgium	17.2
New Zealand	26.8	Germany	16.1
Israel	21.2	Norway	15.6
Canada	21.0	Estonia	14.9
Sweden	19.5	United Kingdom	14.0
Austria	19.3	Spain	14.0
Iceland	18.1	United States	13.6

Source: OECD, 2019a.

Migrants are also growing portions of populations in countries across Africa, Asia, Latin America and the Caribbean, Eurasia, and the Middle East.

The UN migrant estimate accounts for refugees and asylum/seekers who comprise 10.9 percent of the global international migrant population: 20.7 million refugees, 5.7 million Palestinians registered by UNRWA (UN Relief and Works Agency), and 4.1 million asylum seekers at the end of 2020 (UNHCR, 2021). UNHCR also estimated that there may be 10 million Stateless People worldwide.

However, the global migrant stock figures above are under-counts; many other *foreign* persons in temporary, short-term, or seasonal employment and/or residence situations are not counted in the UN statistics on *international migrants* when their sojourn is less than a year and/or if they retain residency in their home or another country. Commercial or transportation workers who have not changed their place of established residence and itinerant commercial traders, hundreds of thousands of whom retain residence in one country but circulate much of the time across numerous countries in regions such as Eastern, Southern and Western Africa are not formally counted as international migrants. However, many of these mobile workers fit the definition of international *migrant worker,* as do itinerant, offshore, posted and cross-border "*frontalier*" workers, so are concerned by this discussion.

Migration occurs as populations age and workforces decline and even as unemployment remains high in some immigration countries. The global dichotomy is threefold: a significant proportion of unemployment is structurally inherent to jobless growth approaches by finance and industrial capital –North and South. Secondly, technological evolution results in many workers left with obsolete skills or simply without skills relevant to today's employer needs. Thirdly, education and training lag behind evolving economic and labour market needs, both in numbers and in content of training; often training and education do not address 'youth bulges' in population.

Development is often simplistically equated with growth of GDP –increased economic growth measured by domestic production of goods and services. However, a more adequate definition of *development* is:

> *the elaboration of productive means, forces, capacities, organization and output that provide goods, services, technology and knowledge to meet human needs for*

> *sustenance and well being. Development comprises building the material and technological means for: extraction and transformation of resources; production of goods, services and knowledge; constructing infrastructure for extraction, production, transportation and distribution; reproducing capital and labour and skills; and providing for human welfare/well-being in terms of housing, nutrition, healthcare, social protection, education, and culture in its broad sense* (Taran, 2011, p.1).

Viable economic activity and thus development require bringing together capital, labour power, skills, resources, and technology. Economies are not sustainable and will not be sustained in developed or developing countries without the labour and skills to conduct economic activity and provide for human welfare. The viability of developed economies today depends on migration, even more so their future.

Human Mobility for Regional Integration and Development

Development requires bringing together and integrating material and human resources, capital, technological capacities, and doing so in larger market spaces across groups of states that combined can obtain the diversity of resources, scale of production, and market size necessary for viable economies in a highly competitive globalized world.

Free movement with rights to residence and establishment of employment or entrepreneurial activity is the means to ensure availability of skills and labour where needed to spur investment and economic development. Free movement is essential to mobilize the breadth and diversity of professional and technical competencies as well as labour power across groupings of countries in RECs, sometimes referred to as common markets. It likewise provides for expanding free trade and commerce throughout those regional spaces, spurring production and distribution of locally-produced goods and services as well as increasing local employment.

Eleven regional integration processes involving in total more than 100 countries have operational free movement regimes for at least some community member nationals:

- Pacto Andino – the Andean Pact (South America)
- CARICOM – the Caribbean Community
- CEMAC – Communauté économique et monétaire de l'Afrique Centrale
- COMESA – Common Market of Eastern and Southern Africa
- EAC – East Africa Community
- ECCAS – Economic Community of Central African States
- ECOWAS – Economic Community of West African States
- EAEU – Eurasian Economic Union
- EU – European Union
- GCC – Gulf Cooperation Council
- SICA – Sistema de la Integración Centroamericana (Central American Integration System).

Additionally, IGAD –Inter-Governmental Authority on Development (Horn of Africa area) is finalizing a free movement Protocol while SADC –Southern African Development Community, has drafted a regime for *flexible* movement.

Commonly used terms to characterize migration, such as –South-North and South-South– do not accurately convey the reality that nearly half or more of all international migrants reside in the region from which they originated; notably 70 per cent of migrants born in Europe reside in another European country and 63 per cent of m migrants originating in sub-Saharan Africa remain in that region (UNDESA, 2020a). In Africa, Europe, and Eurasia the larger part of migration is within the RECs with formal regimes of free circulation of persons. For example, more than 80 per cent of migration originating in West Africa goes to other member countries of ECOWAS; the proportion is similar in the Eurasia Economic Union. It is 45 to 50 per cent for the East Africa Community, the European Union, and *Mercosur*.

Economic Importance of Migration

Recent figures indicate that the annual flow of remittances to low-and middle-income countries was 540 billion US dollars in 2020 –a drop of only 1.6 per cent from 2019, despite predictions last year of a much higher decline due to the COVID-19 pandemic (Ratha et al, 2021). Preliminary indications suggest that total remittances to low- and middle-income countries in 2021 increased by 7 percent over 2020, making them modestly higher than in pre-COVID 2019. However, the true volume of remittances, including unrecorded flows through both formal and informal channels, is believed to be significantly larger than recorded figures.

In comparison, the reported figure of personal remittances to low- and middle- income countries in 2020 was more than three times larger than total official development assistance (ODA) by OECD member countries of the Development Assistance Committee (DAC) that amounted to USD 161.2 billion, an amount characterised as the highest ever but representing only representing 0.32 percent of their combined GNI (gross national income) (OECD, 2021).

Often missed in the 'migration-development' narrative is the huge value of personal remittances sent to developed countries. Total global remittances including to developed countries were 706 billion US dollars in 2020, indicating that remittances to high-income countries totalled 157 billion, nearly a quarter of the total (Ratha, Ju Kim, Plaza, Seshan et al, 2021).

Overall, the 27 member countries of the European Union received 109.9 billion euros equivalent in 2020 in personal remittances, while 110.7 billion euros were remitted from EU member countries, 58.1 billion euros of which to other EU countries, a figure greater than the 52.6 billion remitted outside the EU including to other non-EU European countries (Eurostat, 2021). Note that total intra-European personal remittances significantly exceed extra-EU remittances. For reference, in 2020, France received 22 billion euros, Germany 15.7 billion and Italy 8.5 billion in total personal remittances, according to Eurostat data (2021).[3]

Despite pessimistic predictions during early months of the pandemic in 2020, personal remittances from EU countries to third countries in 2020 declined only by 3.5 percent from 2019, while inflows from third countries declined by 4.1 percent (Eurostat, 2021). 2021 data was not available at time of publication. Personal remittance outflows from EU countries to other EU countries in fact declined more in 2020 over 2019, by 15 percent. (Eurostat, 2021) Nonetheless, total remittance inflows to EU countries from other EU countries and from third countries were actually slightly higher in 2020 than in 2018, albeit by a modest 1.3 percent (Eurostat, 2021).

[3] Eurostat figures on aggregate remittances to/from EU member countries differ from World Bank figures for the Europe-Central Asia region due to differing accounting methodologies.

Remittances, however important, are an indirect indicator of the far larger economic value generated by the labour and economic activity of migrants/immigrants in their countries of employment. That total value may be 4.7 trillion dollars worth globally in 2020, when worldwide remittance flows were estimated to have exceeded $704 billion (just 2.4 per cent less than in pre-COVID 2019), extrapolating from an IFAD calculation. The UN Secretary-General's 2018 report on *Making Migration Work for All* highlighted an estimate by the UN International Fund for Agricultural Development (IFAD) that "Migrant workers typically send home about 15 percent of their earnings as remittances. The remaining 85 percent [...] stays in host countries, and is mostly spent on housing, food, transportation, taxes and other necessities." (United Nations, 2018; IFAD, 2017).

That figure does not indicate the value added by migrants' labour not returned to workers in remuneration or benefits but that adds to the worth of employers, private and public, in formal and informal sectors.

In Europe, using a similar calculation, remittance figures for 2020 suggest the far larger overall value of migrant skills and labour to the EU and its member countries' economies, could be 738 billion euros that year, when EU member country remittance outflows were 110.7 billion euros, 52 percent of which went to other EU countries.

Furthermore, migrants contribute to the health of national social security systems, in some cases without ever obtaining benefits or use of their contributions. The acknowledged subsidy that undocumented migrant workers provide to the US Social Security system was estimated to be near 50 billion dollars over a recent five-year period: this subsidy comprises the contributions by undocumented migrant workers that they will never be able to collect or benefit from.

Remaining un-measured is the value of training and social reproduction cost transfers made by migrants moving usually from less to more developed countries. In aggregate terms, that represents a sort of *foreign aid* primarily from South to North. Assuming that each migrant with tertiary education represents $40,000 in cost of usually State-financed higher education, migration of 100,000 skilled workers represents an aggregate transfer of tertiary educational investment equivalent to 4 billion US dollars. This figure is indicative, no research on costings and aggregate values has been widely done.

Greater Mobility Anticipated

Over the next decade, most of the world's countries and populations will face significant work-force decline. The German labour market will lack up to 6 million people in 2040 compared to 2018; even with relatively high immigration, the decline amounts to 4.5 million persons in the workforce (9 percent) by 2024 (Schattenberg and Bräuninger, 2019). The number of working-age Poles will fall by 28% between 2015 and 2050, the overall population will decline by 10 percent but half of Poland's population will be aged 50 or more by mid-century (Fleming, 2019). The Japanese labour force will shrink by 20 per cent in 2040 from what it was in 2017, a projected workforce reduction of more than 12 million persons (ibid). China's workforce declined by 40 million in the decade 2000 to 2010 and is currently projected to decline by another 35 million in just the next five years (Teng, 2021). Smaller countries are proportionately similarly affected. The Swiss national employers' organisation recently estimated that Switzerland may need 700,000 additional workers by 2030 (Swissinfo, 2020).

More than 100 of 224 countries and political territories are at or well below *zero population growth* fertility rates[4], according to data in multiple world population projections including the UN *World Fertility and Family Planning 2020* report *(*UNDESA, 2020b) and the 2021 CIA *World Factbook*. Examples of countries at or below *replacement rate* fertility, by region are presented in Table 2.

Table 2

Countries currently at or below fertility rate of population replacement, by region

Africa	Djibouti, Libya, Mauritius, Seychelles, Tunisia, South Africa.
Asia	Bangladesh, Bhutan, Brunei, China, Hong Kong, Indonesia, Malaysia, South and North Korea, Malaysia, Mongolia, Singapore, Sri Lanka, Taiwan, Thailand, Vietnam.
Americas	Argentina, Brazil, Canada, Chile, Colombia, Costa Rica, El Salvador, Honduras, Mexico, Nicaragua, Paraguay, Peru, Uruguay, USA, nearly all Caribbean countries.
Europe	All 27 EU member countries; Albania, Bosnia and Herzegovina, Croatia, Montenegro, Serbia, United Kingdom.
Eurasia	Armenia, Azerbaijan, Belarus, Georgia, Moldova, Russian Federation, Ukraine, Uzbekistan
Middle East	Bahrain, Iran, Lebanon, Qatar, Saudi Arabia, Turkey, United Arab Emirates (UAE)

Table by author

Over the next years, if not already, all these countries face increasing departures from their native workforces while new entrants of young people born in the country decline. In effect, all these countries need immigration as a key measure to retain viable workforces, despite political discourse to the contrary. In reality, this means intensifying international competition for a most crucial economic resource: people with skills at all levels. The consequence for many countries is an increasing drain of skilled and educated human resources. It also means crises for contributory-based social security systems when declining work-force numbers face increasing numbers of retired workers.

Unmet demand for workers at all skills levels has surged in many industrial countries in the second year of the corona-virus pandemic, portending increased international migration. Meanwhile, particularly in Africa, the absence of jobs and decent work remains in countries with growing youth populations. Job creation has been consistently flat while youthful populations are adding millions of new workers each year to labour markets in which new jobs created only at best matched numbers of jobs lost.

The Governance Framework

There is indeed a comprehensive international legal framework for governance of migration despite academic literature and political discourse to the contrary. It is essentially designed to support good governance, regulation, and effective administration at national and local levels, where most migration issues and responsibilities are concentrated. The international governance framework comprises mandates and responsibilities in a range of international and regional agencies and organizations. The framework includes globally

[4] 2.1 to 2.2 children per woman is considered the 'replacement rate' of zero population growth, below which population declines.

applicable policy recommendations elaborated in formal, authoritative international conferences over the last three decades.

The legal framework is provided by complementary legal standards in several areas of international law: 1) the nine main Human Rights Conventions; 2) all up-to-date International Labour Standards; 3) the 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.

Three complementary, sequential international conventions on migration and migrant workers provide the core foundation for rights based, regulatory and cooperative governance of migration: ILO Convention 97 on Migration for Employment (1949), ILO Convention 143 on migrant workers (Supplementary Provisions) of 1975, and the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW).[5] These three instruments contain a comprehensive set of legal norms for governance and administration of migration, for international dialogue and cooperation, and for recognition and protection of universal human rights including labour rights that apply to all migrant workers and members of their families, and in effect to all migrants.

Protection of rights of all migrants cannot be realized nor enforced without recognition in national law and practice. Ratification of these instruments and incorporation of their provisions in national legislation is the necessary foundation for national and local governance and regulation of migration under the rule of law. In reality, 93 States (nearly half of the UN membership) have ratified at least one of these three instruments; 15 Council of Europe participating States, 32 African Union Member States and nearly all States in Central and South America have ratified one or more of these three conventions. Counting in the additional signatories of the ICRMW that have not ratified any of these Conventions, 105 countries worldwide are legally committed to uphold legal standards governing migration and protecting rights of migrants.

The international institutional structure mirrors the multitude of concerns in governing large populations, whether within a particular state or spread across many. A number of specialized UN and other international institutions address relevant aspects of migration in their mandates, competencies and activity. These include the international agencies addressing labour and employment, health, security, development, education, human rights, criminal justice, etc. No single agency could possibly address with necessary competence the range of concerns of governing populations, each requiring specialized knowledge, law, technical approaches, and functions, in the same way that no national government could do away with distinct ministries – often 20 or more– covering specific areas of governance to instead function with a sole super-ministry.

Global policy frameworks: Sustainable Development and New Urban Agendas

The Declaration and Programme of Action of the International Conference on Population and Development at Cairo in 1994[6] was the first global development policy framework to emphasize the role of migration and its contributions to development. The UN

[5] Texts, ratification status and related information available respectively at:
http://www.ilo.org/dyn/normlex/en/f?p=1000:12001:::NO::: and
http://www.ohchr.org/EN/ProfessionalInterest/Pages/CMW.aspx

[6] The ICPD was the biggest conference ever held on population, migration and development with 11,000 delegates from 179 countries and some 4,000 participants in the parallel NGO Forum. The ICPD Declaration and Programme of Action continues to serve as a comprehensive guide to progress in people-centred development. See https://www.unfpa.org/fr/node/9038

2030 Agenda for Sustainable Development with its Sustainable Development Goals (SDGs) adopted in 2015 and the New Urban Agenda adopted in Quito in October 2016 are the main contemporary policy frameworks.

The 2030 Agenda for Sustainable Development covers most topics and issues concerning development and human welfare and is relevant at local, national, regional and global levels. While explicit reference to migration is made in Sustainable Development Targets 8.8 and 10.7, more than 44 SDG Targets across the 17 SDGs apply to migrants, refugees, migration and/or migration-compelling situations (GMPA, 2017).

The Sustainable Development Agenda Targets relevant to migrants, refugees and migration include: social protection; empower and promote the social, economic and political inclusion of all; universal health protection; retention of health workforce in developing countries; equal access for women and men to affordable and quality technical, vocational and tertiary education; substantially reduce the proportion of youth not in employment, education or training; development that supports productive activities, decent job creation, entrepreneurship, creativity and innovation; valuing unpaid care and domestic work; prohibition and elimination of the worst forms of child labour, eradicate forced labour; protect labour rights and promote safe and secure working environments for all workers, including migrant workers; orderly, safe, regular and responsible migration and mobility of people; inclusive and sustainable urbanization; climate change-related planning and management; achieving a land-degradation-neutral world; and others.

The *New Urban Agenda -NUA* (2016) gives explicit attention to people-centered migration and development linkages. It constitutes the guidance framework for cities and urban settlements worldwide –where most migrants and refugees reside. The NUA commits "to strengthening synergies between international migration and development at the global, regional, national, subnational and local levels." (New Urban Agenda, 2016, art 3). It calls for all cities to adopt law, policy and practice "promoting, as appropriate, full and productive employment, decent work for all and livelihood opportunities in cities and human settlements, with special attention to the needs and potential of women, youth, persons with disabilities, indigenous peoples and local communities, refugees, and internally displaced persons and migrants, particularly the poorest and those in vulnerable situations, and to promote non-discriminatory access to legal income-earning opportunities" (article 7).

Main Law, Policy and Practical Challenges

Increasing systemic and structural need for mobility of people with skills and work capacities underlies 20 key law, policy and practical challenges for development and welfare and thus for governance worldwide (see Table 3). These challenges have been consistently signalled in international conferences, parliamentary consultations, specialist meetings and civil society events over the last ten years. These all concern migration, especially migrant workers, also in many situations' refugees, asylum seekers, stateless persons and mobile cross-border workers. Beyond the first point, the order below implies no order of hierarchy or sequence; they are all *essential* and inter-related concerns overall, particularly for migrants and refugees as well as international, regional, national, and local entities directly concerned.

Brief reflections on some of these follows, several are elaborated in other articles in this special issue on international migration.

Table 3

20 key law, policy and practical challenges for governance of migration

1. Lack of legal protection and non-recognition of human rights including labour rights of migrants under law.
2. Utilitarian instrumentalization of migrants and migration subordinating human rights.
3. Xenophobic hostility and violence against migrants worldwide.
4. Prevalence of sub-standard, abusive employment relations and conditions of work for migrants, in context of deregulation with diminishing application of labour and occupational safety and health (OSH) standards.
5. Systematic/structural discrimination and exploitation of migrant women.
6. Lack of healthcare and workplace health protection for migrants and refugees; denial of their health rights.
7. Absence of access to and non-portability of social protection/social security for many migrants.
8. Social exclusion and absence of participation of migrants and refugees in associations and unions.
9. Migrant and refugee family separation and family decomposition coupled with social disruption for separated family members –particularly children—remaining 'at home' in places of origin.
10. Growing gaps between skills needs and the numbers and types formed worldwide.
11. Barriers and restrictions for migrant and diaspora entrepreneurs and for migrant SMEs
12. Increasingly restrictive policies and attitudes towards migrants and refugees, threatening current and future economic viability of countries.
13. Instrumentalisation of development aid to extend migration control and repression.
14. Non-implementation of agreed free circulation regimes and increasing restrictions on free circulation were existent.
15. Concentration of *migration management* in security and policing institutions, contrasted with absence of policy and administrative responsibility by employment, labour, and social protection institutions.
16. Criminalization of migrants, association of migrants with criminality, particularly by emphasis on (counter) trafficking and smuggling of migrants and refugees.
17. Criminalization of solidarity with migrants, repression of migrants' rights defenders
18. Obtaining comprehensive, rights-based national policy frameworks on migration consistent with human rights conventions, labour standards, and the 2030 Sustainable Development Agenda.
19. Implementation of city/urban policy and practice *welcoming migrants and refugees* in line with the New Urban Agenda.
20. The dearth of accurate and reliable data, analysis and knowledge about migration and development.

Table by author

Abusive Exploitation versus Protection

Abusively exploitative conditions are experienced by many migrants. They are structurally driven. An excerpt from the executive summary of a report on the UK sums up treatment today of many migrants in other industrialized countries as well (Cook, 2011, p.4):

"Migrants, especially those from outside the EU-15 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."

Global competition, free trade, and the economic *race to the bottom* push against costs of labour and provision of social services; they challenge the very social function of States (Taran, 2015).

For many enterprises in many countries and for some entire economic sectors, low-cost foreign labour is the only ticket to survival. Labour dependent agriculture would not be viable in many countries in Africa, the Americas nor in Europe nor could a part of the population afford to eat without cheap immigrant labour. Health, homecare and schooling for children and care for populations of aging people today depend on migrants in many countries in all regions. So are hotel, restaurant, and tourist sectors prior to the COVID pandemic, and those sectors will be dependent on migrant workers for recovery and beyond.

Keeping migrant workers cheap, docile, flexible, and removable without social costs is imperative to keep jobs at home and maintain the viability of entire economies. Despite rhetoric about controlling migration, migrant workers falling into or remaining in irregular situations are often selectively tolerated because they provide the cheap, flexible labour needed to sustain enterprises and in doing so, retain employment and competitiveness. At the same time, labour standards are generally little or not at all applied in migrant-dependent sectors and industries, while labour inspection is often left with no capacity or competence to reach workplaces where migrant workers are prevalent.

Protection of human rights and of decent work is an essential pillar of good governance to international labour mobility, especially the application of international labour standards and their application and enforcement in all workplaces formal or informal, particularly where migrants are employed.

Contention and convergences between Economic Actors

Migration is a key terrain of contention between capital and labour: between the employers/private sector versus workers/especially organized unions. It is where the 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. Migrants are also the pawns in contention over conditions of work and investment in safety and health protections versus lowering labour and related costs to obtain higher returns on capital.

Capital, managed today mostly by private sector employers and *labour* represented by worker trade unions, are incontestably the core actors of economic activity, the key actors to advancing regional integration in fundamental economic and social dimensions.

Capital –embodied in private and public sector enterprise-- and labour in its aggregate are primary beneficiaries of liberalizing international circulation of capital, goods, services,

technology and labour. They most immediately suffer the losses engendered by restrictions on circulation –whether of capital, goods or people.

Migration, however, also raises challenges to the extent working people remain organized to defend their interests. Migrant workers are key to whether workers freely associate and organize to collectively bargain for fair remuneration and decent work conditions; freedom of association of migrants or restrictions on it can make or break unionization.

The Danger of Xenophobia

An especially urgent concern is the generalized rise of discriminatory practices and of cist and xenophobic behaviour against migrants. Events in countries in all regions show that hostility towards migrants is rising—worldwide. Reported incidents in all regions include shootings of migrant workers at or near workplaces; individual or mob attacks on and killings of migrants; firebombing of migrant and refugee residences, businesses, and religious places. In situations of civil conflict, foreigners have been targeted with deadly hostility.

The concern is aggravated by the absence of vigorous responses by governments to anticipate, discourage, and prevent manifestations of xenophobic hostility against foreigners and to prosecute perpetrators. To the contrary, anti-foreigner hostility is aggravated by discourse by certain political leaders and by actions of some governments that tacitly encourage or directly engage in public brutality and violent repression against migrants. That includes police roundups and mass detention of migrants. A common refrain of "dignified deportation" and "return" as the solution to the (irregular) migration problem frighteningly resonates with *deportation* as the solution to Europe's "Jewish problem" in the last century.

Social cohesion can only be maintained by deliberate legal, institutional, and practical measures. Demonstrable proof is that in the few countries such as Ireland and Finland where discrimination and xenophobia were vigorously discouraged by government and civil society, there have been few racist killings of migrants nor burnings of businesses, homes or places of worship of foreigners while anti-immigrant politicians and political parties have gained little support or sympathy.

Gender Specificity

The feminization of migration is not about the gender proportions of migration. Female participation has been above 45% for decades and is over 48% today (UNDESA, 2020a). In 2020, the number of female migrants slightly exceeded that of male migrants in Europe, Northern America and Oceania. The distinction from earlier times is that today most women migrants are economically active rather than dependents of migrant men. They often migrate on their own in all regions.

In a global context of stratification of employment and segmentation of labour markets, women migrants hold particular appeal for employers as they are sought after for 'women's work' that, not coincidentally, is usually low paid and unprotected: domestic work, healthcare, agriculture, hotel and restaurant, semi-skilled manufacturing in export processing zones. Common across these sectors is that while some workplaces may be highly socialized, they are not organized, meaning no unions or associations for mutual defence and solidarity, nor any bargaining power to press for decent work conditions.

Women and girl migrants are at high risk of sexual and gender-based abuse, exploitation and violence to a greater or lesser degree in all countries of residence and employment. Adoption of ILO Convention 189 on Decent Work for Domestic Workers

brought attention to a sector of activity that is almost entirely comprised of women workers, while the most recent ILO Convention 190 on harassment at work is especially pertinent to the high risk and often unreported rates of harassment and abuse faced by women migrants. Promotion of ratification of these conventions should be springboards to highlight and address the generalized lack of effective protection faced by women migrant workers in agriculture, in textile sweatshops, in services, and elsewhere as well as in domestic work in industrialized countries across the global North as well as in the South. Testimony abounds of women working in these sectors subject to abusive working conditions, sexual harassment, unprotected exposure to dangerous pesticides or chemicals, and other risks.

Social Protection

Effective social security systems provide income security, prevent and reduce poverty and inequality, and promote social inclusion and dignity. Social security enhances productivity and employability and supports sustainable economic development, contributing to decent living conditions for all and making extension of social security coverage for migrants vital to workers, the economy and society.

Although migrant workers contribute to the economies of both destination and origin countries, they are not usually taken into account in national social security schemes. Migrants often lose entitlement to social security benefits in their country of origin due to absence. They face restrictive conditions or non-access to social security in the country of employment. Even when they can contribute in host countries, their contributions and benefits often are not *portable* to origin countries.

Migrants and migration are today key terrain for global contention over social protection: who is responsible for it, who is covered and with what benefits. The intent in international law is universal coverage, as laid out in ILO Convention 102 on social security. The ILO and UN have established the notion of a *social protection floor* as a universal expectation. But assertions abound that social protection for migrants is today a question of finding a median between two "extremes," one being full coverage, the other none at all.

In contrast, progressively extending social security to migrant workers is imperative to ensure welfare and social cohesion in every country and across regions. However, it can only be achieved with political will to obtain necessary legislative acts, administrative mechanisms, and practical measures.

Family welfare

Many migration regimes other than long term or permanent immigration, essentially require family separation, only calling for and admitting workers –whatever skills levels-- alone, without family, at least initially.

In situations of civil warfare, men heads of family may leave first to find safe haven to then bring out wives and children; or in contrast men stay to engage in combat while sending family members out of harm's way.

In both cases, the absence of breadwinner and family adults and role models often has devastating consequences for the socialization and education of children, left in care of less able grandparents or otherwise overwhelmed relatives. Little or no compensatory social and schooling support is available in most countries experiencing large emigration, that correlates with higher rates of school leaving, delinquency and psycho-social pathology among children with one or both parents abroad.

Skills and Training Constraints

No country today can form or train the entire range and number of evolving skills needed to perform the ever more complex work done on its territory. It is widely observed that institutions and educational systems in many countries are producing graduates with inappropriate, inadequate, or obsolete skills and knowledge. In consequence, fast changing technology and skills needs drive a constantly increasing, international mobility of skills, competences, and labour at all skill levels. Globally, Manpower predicts that "the global talent shortage is expected to result in 85 million unfilled roles by 2030", citing its own research (Manpower Group, 2021).

At the same time, educational, vocational, and technical training systems are not accessible to many youths seeking employable skills and qualifications. The development cost is huge, skills are absent where they are needed to spur investment and support economic and infrastructure development. Impediments to mobility and absence of recognition of skills and experience compound the lack of training for current and future needs.

The Global COVID-19 Pandemic and Migration

The global situation has changed radically since March 2020. The global COVID-19 pandemic, its human consequences, generalized recession in 2020, and often ill-considered anti-coronavirus measures changed migration patterns –but did not reduce economic and development dependency on migration of skills and labour. While globalized travel bans, 'stay in place' confinement and work stoppage under the COVID-19 pandemic emergency meant that migrant workers everywhere were temporarily out of work –and some remain so-- renewed demand for foreign skills and labour has surged since mid 2021. While a severe decline in remittances to developing countries was predicted for 2020 as national economies abruptly contracted and jobs disappeared, in the end the actual decline was only about 1.6 per cent vis-a-vis 2019 (Ratha et al, 2021). Foreign workers appear to be needed now as much as ever in industries, services and health care. Nonetheless, increasing restrictions on immigration combined with difficult economic and employment situations in some primarily migrant worker-origin countries make for a "buyer's market" with some labour demand-side countries proposing de-regulatory terms, while origin countries face economic and social pressures to offer workers for jobs abroad at any price –whatever the human costs. (See article on *COVID-19 and migrants and refugees* in this issue as well as a previous research article in Spanish *La Pandemia de Covid y Los Migrantes: una Agenda de Diez Puntos Para Mitigar el Desastre en Curso* (Taran and Solorzano, 2021)).

Restructuring Governance: Redefining a New Regime for Labour?

The governance structure for migration –as well as ideology and practice of governing migration – has changed in both old and new immigration countries. The locus of migration regulation in immigration/migrant-receiving States over previous decades was generally in labour and employment ministries. That reflected the primacy of needs to protect both migrant and national workers as well as oversee employment relations and social dialogue. Those ministries retained key competences in labour market administration, in supporting and mediating negotiation between social partners, and in taking account of interests of the key migration actors: employers –public and private –and worker unions –the latter often inclusive of migrant workers. Those ministries supervise vital regulatory and administrative functions of labour inspection and social security.

Today, security and control institutions of States predominate in managing migration and controlling migrants: ministries of interior or home affairs now hold lead responsibilities on migration in many countries. Assertion by home affairs/interior ministries of hegemony on

migration management and control is concurrent with broad redefinition and deregulation of conditions for labour. The treatment imposed on what are growing migrant components of workforces in turn influences treatment of the workforce broadly.

Administration of increasing foreign components of work forces by control institutions has consequences in shifting emphasis of law enforcement regarding work from labour standards to immigration enforcement and in imposing repressive policing to subdue labour conflicts at the expense of social dialogue (Taran, 2016).

In parallel, enhanced border and movement control measures within regional economic community spaces in Africa, the Americas and Eurasia have large implications in impeding and slowing mobility as well as raising costs, contrary to facilitating free movement of labour, skills and services. The longstanding existence of control posts by multiple police, armed forces and intelligence entities as well as customs and immigration agencies along land routes in each country across much of Africa, each post with obligatory inspections of buses, trucks, and cars and payment of 'fees' by passengers and drivers, continues to restrict and slow down, rather than facilitate circulation of people as well as goods and services. In Europe, the increasing surveillance of some internal borders and incidents of muscled expulsions of migrants across borders from one EU member country to another are, unfortunately, consistent with global trends.

Movement control measures also undermine exercise of freedom of association rights in internationalized labour markets and employer supply chains. Tightened control on movement facilitates tightened control on workers and work forces, restricting realization of rights to change employers or workplaces to escape exploitative, oppressive conditions. Tightened control and restricted mobility also impede union organizing across sectors and industries as well as in production chains that themselves are increasingly organized across borders.

Meanwhile, advocates of expanded 'circular migration' (a misnomer for short term, temporary, and seasonal migration regimes) characterize it as the solution to both employment needs and to protecting 'national cohesion and cultural integrity' of nation states needing foreign labour. Many temporary migration regimes impose explicitly restricted labour rights, notably exclusion of freedom of association, while permitting reduced application of labour standards.

Of immediate and direct concern to application of *human rights for all* is the enactment of the '*delit de solidarite*' (the “offence of solidarity”), that criminalizes provision of assistance and support –including provisions food, housing or transportation– to migrants in unauthorized, irregular, or undocumented situations, and also rescue of migrants at sea; such laws mandate prosecution of individuals and organizations for engaging in acts of humanitarian assistance.

Coincidentally to these trends is consolidation of the IOM as the hegemonic global agency on migration and its inaccurate identification as the *UN migration agency* when it remains a *related organization* to the United Nations, the same status as that of the World Trade Organization - WTO. The formal IOM-UN Agreement explicitly states that the IOM “shall function as an independent, autonomous and non-normative international organization in the working relationship with the United Nations...” (United Nations, 2016, Article 2, para 3). As such, it is not subject to the UN Charter nor to compliance with United Nations normative conventions. Reporting to the UN by the related agency is discretionary: the IOM “may, if it

decides it to be appropriate, submit reports on its activities to the General Assembly through the Secretary-General" (Ibid, Article 4).

A discourse justifying these initiatives posits that the level of rights protections for migrants is negotiable. The terminology of *rights versus numbers* and *the price of rights* 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 long-disproved argument that lowering wages instigates creation of more jobs is not infrequently invoked.

A fundamental premise in this discourse –and in policy initiatives-- is that foreigners are not equal, nor are they equally entitled to protection or inclusion under law or ideology of the nation State. In practical terms, the notion of limiting rights of migrants presumes incentivizing greater migrant access to labour markets in higher income countries, and consequently, greater "development gains" through purportedly more jobs created if at lower wages and consequently, more remittances returned to migrant origin countries.

Consistent with the above is international regime change from a global framework of normative regulation, binding legal obligations and the accountability of formal public reporting on compliance, to a discursive process of meetings and review of good practices taken up by States to implement non-binding commitments to general policy options and practice recommendations. The Global Compact for Safe, Orderly and Regular Migration (GCM) (UNGA, 2018) adopted at an intergovernmental conference in 2018 does not enhance the normative rights-based approach to governance and regulation of migration. While providing assertively comprehensive guidance on all aspects of migration, it diverges from upholding binding standards of human rights protection and the legal accountability of States under international law by establishing a non-binding set of policy recommendations, many of which articulate lower and more narrower expectations than those in existing human rights Conventions and International Labour Standards.

Furthermore, as a pact of guidelines explicitly addressed to executive migration *management*, the Compact undermines the participation in formal governance by the legislative branch of government and dismisses the review and supervisory role of the judiciary; indeed, by omission it relegates these to sidelines while posing migration as primarily a matter for the executive branch of government, with the latter's arbitrary discretion unfettered by legislative definition and judicial review.

The GCM also incorporates for the first time in a UN policy framework, language and policy notions of repressive control of mobility. It commends measures that effectively criminalize irregular migration as well as migrants in irregular situations and, in contrast, legitimize deportation and involuntary return and reintegration as seemingly UN-consented approaches. The GCM calls on States to strengthen surveillance and control over national borders, objectively constraining universal rights to leave and return freely to one's own country and undermining free movement essential for development across regional communities in Africa, the Americas and elsewhere.

In Conclusion: an imperative *Agenda for Action*

As the context for and features of migration summarized above show, internationalized mobility/migration of people is essential to sustaining economies and maintaining development worldwide, and in doing so providing for human well-fare everywhere. That mobility of people, notably *labour* at all skills levels, is as essential to our common future as is mobility of

resources, capital, goods, services, knowledge, and technology. However, as emphasized above, migration is people who have economic, labour, social, cultural, civil and political rights that must be respected, protected and realized for all people in all situations. To accomplish this requires effective rights-based, participative governance and regulation under the rule of law at all levels.

All of the concerns evoked in this brief must be addressed to ensure effective and just governance of migration that *realizes* human rights, equality and basic well-fare for all concerned, 'locals' and migrants and refugees alike. No concern can be left unaddressed if no-one is to be left behind. Only the comprehensive agenda outlined below at regional, national, and local levels will resolve the immense challenges of sustaining development and maintaining inclusive societies in the context of globalization. Enactment and implementation of all the elements in the agenda is essential; they are interrelated and interdependent.

The following agenda comprises legislative action, policy lines and practical measures for rights-based, economically sustainable, and socially responsible governance of migration. It combines and synthesizes the principles of international Conventions, global policy frameworks, and recommendations from international, tripartite, and civil society conferences around the world over the last 30 years. A fundamental challenge is mobilizing the political will and popular support to implement this agenda to realize inclusive communities, sustainable economies, universal respect for human rights, and well-being for all.

1. **Full recognition and legal protection of all migrants**
    a) Promote ratification and implementation of the international legal standards recognizing and protecting rights of all migrants: the ICRMW, ILO C-97, ILO C-143 and ILO C-189.
    b) Enact and assist in regularization of migrants and refugees in unauthorized situations.
2. **Rights- and people-based narrative and discourse**
    a) Identify migrants as people and rights-holders first and foremost.
    b) Call for respect for rights and dignity of and solidarity with all migrants and refugees.
    c) Advocate for inclusion of, participation by, and integration with migrant and refugee persons and their communities.
3. **Decent Work for all migrants: Vigorous enforcement of labour standards**
    a) Adopt, apply and enforce International Labour Standards, particularly in places and conditions where migrants are working.
    b) Extend labour inspection in sectors and workplaces where migrants are working.
    c) Fully 'fire-wall' labour inspection from immigration control.
4. **Stop discrimination, xenophobia, and *racism* and against migrants**
    a) Repeal discriminatory legislation and reinforce non-discrimination/equality of treatment law and its implementation.
    b) Define and implement national action plans against discrimination, xenophobia, and *racism.*
    c) Denounce and repudiate any and all acts of xenophobic violence.
    d) Demand anti-discrimination, anti-xenophobia political discourse, media reporting and school curricula.
5. **Gender-specific migration legislation and policy**
    a) Ensure equality of rights, opportunities and protection for all migrant women and girls.

b) Obtain gender specific policy, measures and practices recognizing gender-based risks and ensuring equality in outcomes as well as intent.
c) Protect rights and provide appropriate support measures for LBGTQIA+ migrants and refugees.

6. Health for all migrants (health is a right for all).

a) Ensure full access by migrants to quality and appropriate health education, disease prevention and health care and treatment services and facilities.
b) Provide for specific, full and equal inclusion of all migrants in COVID prevention, protection, vaccination and treatment everywhere.
c) Elaborate specific national and local public health and safety and health at work policies inclusive of migrants and refugees.
d) Uphold and monitor occupational safety and health (OSH) protection for migrants in all workplaces.

7. Social Security for migrants

a) Implement unilateral measures to extend social security coverage and portability to migrants in both origin and employment countries.
b) Incorporate and harmonize social security access in regional integration spaces.
c) Obtain wider ratification and implementation of ILO C-102 on social security and ILO C-118 on portability of social security.

8. Participation of migrants and refugees; freedom of association and collective bargaining rights

a) Ensure freedom of association and collective bargaining rights for migrants and refugees
b) Support migrant workers organizing in unions and by unions.
c) Engage migrant and refugee participation and membership in community associations, worker unions, and CSOs.

9. Family Unity and family support

a) Provide for family unity and family reunification in all immigration and migration regimes.
b) Ensure immigration law facilitates family reunification.
c) Sustain socialization and education for children and adolescents remaining 'at home' in places of origin.

10. Training youth for employment; overcoming skills shortages

a) Reform, renovate and expand technical and vocational education and training for all youth
b) Promote migrant access to schooling, higher education and vocational and technical education and training (VTET), without discrimination.
c) Harmonize qualifications and training standards across regions and in regional economic communities in particular.

11. Facilitate migrant and diaspora entrepreneurship and their establishment of SMEs

a) Provide comprehensive training and coaching to migrant/diaspora entrepreneurs in conception, organization, product/service development, legal registration, fiscal matters, start-up and management of enterprises.
b) Provide access to start-up cost financing for qualified migrant entrepreneurial initiatives.
c) Support migrant entrepreneur/employer participation in employer and business associations.

12. Re-frame the narrative on migration towards inclusive, rights-based, mobility-facilitating discourse, policy, practice and institutional behaviour.

Key points include:

- migration is people, with universal, inalienable human rights and dignity;

- international mobility/migration is structurally necessary for current and future economic viability and welfare worldwide;
- migration supports *integrated human development* in all societies and countries;
- migrant workers support and sustain economies and development worldwide;
- migration is about freedom of movement as well as the *right to remain* where people are.

13. Engage in development cooperation that supports jobs-rich approaches.

a) Ensure that development aid supports: *jobs rich* building up of industry, agriculture, and infrastructure; local, national and regional transformation of resources; local and regional production and consumption of goods, services, and knowledge; regional economic integration; and fair trade, especially of value-added local resources employing people within their own regions.
b) Prevent any linking of development aid to migration control policies and measures or to enhancing repressive capacities of control and policing institutions in recipient states.

14. Promote full implementation of free circulation regimes

a) Advocate political will by governments to implement and maintain free circulation of people.
b) Promote ratification of free movement protocols by regional community member States and their parliaments.
c) Promulgate national implementing legislation and regulations for free movement protocols.
d) Harmonize labour codes and recognition of qualifications across REC member countries.
e) Derogate legal, administrative and control measures that thwart labour circulation.

15. Consolidate migration policy and administrative responsibility, capacity and coordination by labour and social protection institutions:

a) Concentrate labour migration governance responsibilities in labour/employment ministries
b) Designate focal points or units in labour institutions on labour migration/mobility
c) Encourage engagement on migration by social partner organizations.
d) Training and capacity building for labour institutions and social partners.
e) Engage tripartite consultation and coordination at national, regional and continental levels.

16. Decriminalize migrants, refugees, and migration:

a) De-criminalize/non-criminalization of immigration law and infractions to it.
b) Non-detention/end detention of migrants for non-criminal offences.
c) Treatment of all minors according to the best interests of the child.
d) Repeal of generalized migrant/traveller identify control, surveillance and restriction measures.
e) Lift border controls and eliminate in-country travel/transport inspection-control posts within established areas of REC free circulation of persons.

17. End repression of solidarity with migrants and of migrants' rights defenders

a) Repeal any existing '*delit de solidarité*' legislation and prevent enactment if proposed.
b) Demand that social protection, human/social services and CSO solidarity reach all migrants and refugees without discrimination of any kind, including on basis of status.
c) Ensure that service organisations and other civil society entities concerned attend to all migrants and refugees without discrimination.

d) Offer legal and political advocacy for anyone prosecuted or persecuted for defence of migrants' human rights including labour rights and social protection.

18. Establish national –and local-- *policy frameworks on migration*, with "whole of government' consultation and "whole of society" participation including social partners and civil society:

a) Involve all concerned government ministries, agencies, and authorities as well as legislators/parliamentarians, social partners, civil society, and migrant organizations.
b) Address comprehensively concerns, issues, and challenges of international migration, including human rights, labour standards, and humanitarian protection responsibilities.
c) Ensure that policy and practice respond to short-, medium-, and long-term considerations of domestic economic and social development, demographic trends and labour and skills needs.
d) Insist that national and local policy on migration is rights-based and socially responsible in line with international normative standards.
e) Address development cooperation, public and private foreign investment, and migration consequences of arms and munitions exports and international military engagements.
f) Consider displacement consequences of global warming and mitigation approaches that protect rights and facilitate remaining in place or close to places of origin.

19. Support *welcoming migrants and refugees'* policy and practice by cities

a) Support city elaboration of values-based, inclusive *welcoming migrants and refugees'* narrative, policy, administration and practice.
b) Advocate for city policy and practice that upholds and promotes inclusion, non-discrimination/equality of treatment and full participation of migrants and refugees.
c) Engage whole of city/urban government administration on formulating and implementing action on reception, settlement, inclusion and integration of migrants and refugees.
d) Promote involvement of local community associations, unions, employer and business groups, civil society organizations and migrant/refugee associations.

20. Obtain gender & age disaggregated data and knowledge on migration, including migrant characteristics, situations, and conditions.

a) Adopt and utilize international statistical standards for all migration and migrant data.
b) Account for all migrants intending to work, working, and/or having been engaged in the world of work, including in informal, unregistered, or unseen economic activity, self-employed, temporarily non-working, long term unemployed, etc.
c) Obtain data on employment, education and qualifications, health and health care, social protection, rights protection and discrimination, services, etc. re migrants, refugees and migration.
d) Establish data sharing and coordination among national institutions concerned.
e) Interface data with relevant international labour market and labour migration databases.
f) Provide competencies, training and appropriate data hardware and software to the institutions, agencies, and personnel responsible for data and knowledge.

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