

**Working Sessions theme 1: Operationalizing a
Rights-based Approach to Labour Mobility, Markets and Matching**
Background note and guiding questions

GFMD Civil Society 2012 focus on operational mechanisms and benchmarks

The GFMD Civil Society programme 2012 focuses on “**Operationalizing Protection and Human Development in International Migration**”. This theme reflects civil society’s priority for this year’s GFMD to focus on operationalizing recommendations with concrete implementable mechanisms and - where feasible - benchmarks against which success can be measured in the next years - a kind of “Migration & Development Goals”. Therefore each of the Working Sessions will be geared towards putting forward:

- **mechanisms or tools**, including examples of “good” practices, existing partnerships and success stories,
- as well as a proposal for **the next 3-5 steps to take** by relevant actors, in particular governments, civil society actors and the private sector.
- Where feasible each focus theme will also formulate **some benchmarks** against which success can be measured in the next years – a kind of “*Migration & Development Goals*”, which emphasize aspirations and allow for better impact evaluation and monitoring.

The programme for the Civil Society Days 2012 will be structured around Working Sessions along three themes: “Labour”, “Development” and “Protection”. This note provides some background to the first theme “Labour”, in particular on what has previously been concluded in the GFMD and a set of guiding questions to the Working Sessions during Civil Society 2012.

Theme 1: Operationalizing a Rights-based Approach to Labour Mobility, Markets and Matching

The vast majority of international migration flows, both south-north and south-south, are driven by labour dynamics: a lack of decent jobs at home and/or the prospects of work motivate many to seek employment abroad. As observed in the States’ GFMD concept paper for 2012, “*employment abroad can accelerate human development if, in addition to assuring protection of basic human rights, it allows mobile workers to acquire new skills, use their skills productively, and return with savings or invest in the development of their family and communities*”. However, basic human rights are too often not assured. Some of the worst human rights abuses of migrants occur during the recruitment and placement process, and abusive working conditions are commonplace. In addition, many policies obstruct the mobility of workers and families and the transferability of social benefits. Barriers to mobility, employment and rights impede the human development gains for the migrant him/herself as well as the family and communities involved.

A number of promising practices and signs of a paradigm shift are emerging, including the recent adoption and first ratifications of the ILO Convention on Domestic Workers (ILO Convention 189). However, an enduring contributor to many of the existing problems continues to be a massive mismatch between the supply and demand of workers and skills, exacerbated by the further mismatch of channels for workers to migrate legally. Without the right policies in place, changing

global demographics, including ageing workforces and societies, are expected to worsen these mismatches.

Building in this direction, this civil society thematic “Labour” track will look at promoting organization of labour mobility and matching that is fair, ordered and monitored, including considerations of the role of recruitment agencies, employment practices, the matching of education/training programmes and skills with labour market needs at home and abroad and the recognition of credentials, while taking into account local job prospects, wages and working conditions. Civil society’s two Working Sessions under this theme at the GFMD 2012 are:

- 1.A: Regulating and Monitoring Recruitment, Placement and Employment Practices
- 1.B: Improving Jobs, Skills and Education Matching

In addition, one of the three joint civil-society-government dialogues in this year’s GFMD Common Space will focus on the related theme of *“Labour mobility and skills development for inclusive growth and jobs”*.

Working Session 1.A: Regulating and Monitoring Recruitment, Placement and Employment Practices

Recruitment and employment agencies play a critical role in matching migrant workers with jobs abroad and facilitating the mobility of workers, but abusive practices are widespread: outrageous placement fees, confiscation of identity papers, false information, and human trafficking. These malpractices need to be weeded out and replaced by much better organized and regulated labour mobility schemes. Working together with global leaders and champions in the recruitment industry, governments, the ILO and other international organizations, civil society is convinced that reducing recruitment abuses, while at the same time improving labour matching and placement mechanisms is within direct reach.

This working session aims to explore operational mechanisms and strategies to weed out these abuses, and improve labour mobility mechanisms, picking up from the work done by civil society in all previous GFMD’s (see below). Operational mechanisms and strategies to be discussed might include (successful and future) campaigns for the ratification and implementation of ILO Convention 181 (“the Private Employment Agencies Convention”), the abolishment of sponsorship systems tying migrants to a specific employer, creation or strengthening of independent national monitoring agencies, a global standard for recruitment agencies, strong (national) accreditation systems, industry codes of conduct, multi-stakeholder memorandums of understanding and monitoring protocols, training of employers and public awareness-raising.

Convergence of recommendations by Civil Society in GFMDs of 2007 – 2011 on regulating and monitoring recruitment, placement and employment practices

In all previous GFMD meetings, Civil Society has consistently and urgently called for better regulating the recruitment industry, and *“measures to improve recruitment and placement processes and cooperation on piloting mechanisms for labour and skills matching”* was identified as one of the four recommendations within direct reach at the GFMD in 2011. Over the past years civil society has put forward an extensive list of concrete recommendations and practices to be adopted, and there has been broad consensus on at least the two following recommendations.

If 2012 delegates agree to pick up these recommendations from prior GFMD civil society meetings as a starting point – the working session should aim to take these recommendations to the next level, add elements not previously discussed and formulate some benchmarks to measure progress in the next years.

GFMD Civil Society,

1. Calls for governments to better regulate and monitor recruitment and employment practices, by creating sound and transparent licensing and monitoring systems, codes for ethical recruitment, simplified procedures, instituting sanctions, cap permissible recruitment fees, establishing whistle-blower protections, portable justice, and reporting mechanisms for abuses, and ending visa-systems that tie migrants to specific employers.
2. Urges governments to work with employers, labour unions and other social actors to create more regular and safe migration channels that address labour market and protection needs, and ensure family (re)unification.

Links with government recommendations at GFMDs of 2007 - 2011

Calls for better regulating and monitoring the recruitment industry were among the first recommendations and priorities of the government GFMD meetings, with a very specific recommendation coming out of the first GFMD in 2007, which was revisited in 2010 and 2011 (see below). In 2011, governments organized a preparatory GFMD workshop around the theme of the “Recruitment of Workers for Overseas Employment”¹. However, the recommendations coming out of the annual government GFMD meetings tend to be less specific than those of civil society on the type of policies and practices that are needed. Perhaps recognizing this, last year’s GFMD meeting of governments recommended that “*the next GFMD may move forward more concretely on monitoring and regulating recruitment agencies, to ensure accountability* (GFMD 2011, RT I). Three other recommendations that are particular noteworthy from the GFMD government meetings are:

- i. “[...] establishing standardized systems of recruitment, licensing and regulating private recruiters and code of ethical recruitment” (GFMD 2007, RT)
- ii. “Promote monitoring and licensing systems for recruiters and other intermediaries. Develop (or implement existing) codes of conduct and registers for recruiters” (GFMD 2010, RT 2.1)
- iii. “Examine issues around recruitment and engage recruitment agencies in better preparing and protecting overseas contract workers” (GFMD 2010, RT 2.1)

¹ A report of the Workshop can be found here : <http://www.gfmd.org/en/docs/switzerland-2011/thematic-meetings>

Guiding questions

- (1) **What are the changes most urgently needed** to improve recruitment, placement and employment practices from the perspective of migrant workers? Employers? Communities and governments? E.g. with regards to:
 - a. legal frameworks, laws and national policies? (*e.g. ending sponsorship systems tying migrants to specific employers, ratifying ILO Convention 181, etc.*)
 - b. monitoring frameworks? (*e.g. strengthening independent national monitoring agencies, strong (national) accreditation systems, cross-border cooperation, etc.*)
 - c. Changing the practices and behavior of recruitment agencies, employers, local populations, or others?

- (2) **Who** can make these changes happen and **how**? What replicable **good-practices, mechanisms or tools** exist that we can use, and what are the **next steps to take and by whom**?
 - a. What steps need to be taken for wider promotion, ratification and implementation of ILO Convention 181? Is there a need for additional tools for global standards for recruitment agencies, and if so, who should be leading this?
 - b. What can and should the recruitment industry do itself?
 - c. Is there a role for the UN Global Compact (*a global platform which convenes companies together with UN agencies, labour and civil society*) and other international organizations and platforms?

- (3) Can we formulate and/or endorse up to three **benchmarks to measure** real progress towards achieving these changes? And **who can track** the progress in achieving these benchmarks?

- (4) Which **one priority issue and benchmark** should be taken up by governments in the **UN High Level Dialogue** on International Migration and Development in 2013?

Working Session 1.B: Improving Jobs, Skills and Education Matching

Increasingly, and notwithstanding global economic crises, employers and economies in both developing and developed countries are experiencing the consequence of labour shortages in the full range of skills levels. Despite these shortages on the one hand, and rampant unemployment and underemployment on the other hand, there continue to be mismatches between the supply and demand of workers and skills nationally, regionally and globally. This is further exacerbated by rigid procedures, and sometimes the lack altogether of legal channels for workers to migrate.

Large numbers of migrants resort to irregular means of migration and employment, within and across all regions of the world. Regardless of their immigration status, even skilled workers often work far below their skill-level, and/or are unable to move from one employer or employment situation, due to deficient skills recognition mechanisms and restrictive visa and employment regimes.

This Working Session aims to explore operational mechanisms and strategies to improve the matching of jobs, skills and education, including policies and programmes for skills development and the recognitions of skills across borders. Operational mechanisms and strategies to be discussed can include public-private partnerships and twinning arrangements for the co-development of skills, global standard setting for training and education per sector, development of global curricula for certain professions (e.g. in the medical sector), corporate social responsibility to prevent brain drain/promote brain gain, forgivable loans for studies, current or potential frameworks for recognizing credentials across borders, and the removal of barriers for labour migration and matching, such as double nationality, multiple entry-visas, the transferability of pensions and other social benefits, the right to family reunification, and pathways to permanent residency and citizenship.

Convergence of recommendations of Civil Society in GFMDs of 2007 – 2011 on improving jobs, skills and education matching

Although about 90% of all migrants move in search for labour, the topic of labour mobility and matching of jobs, skills and education, is relatively new on the GFMD agenda of civil society, and was only introduced in its own right last year, in 2011. Nevertheless even recommendations of civil society from GFMD meetings before 2011 contain relevant elements to this theme, including the mutual recognitions of skills, investments in training, and recommendations around temporary and circular migration schemes. There has been strong convergence in civil society on at least the following two recommendations.

If 2012 delegates agree to pick up these recommendations from prior GFMD civil society meetings as a starting point – the working session should aim to take these recommendations to the next level, add elements not previously discussed and formulate some benchmarks to measure progress in the next years.

GFMD Civil Society:

1. Urges governments to invest together with businesses, academia and other civil society actors in labour market analysis in order to develop mechanisms for the matching of education and training programs with labour market needs in both origin and destination countries and to organize skills and credential recognition in a just and more effective way so as to address present and future mismatches between labour supply and demand and prevent de-skilling and brain waste.
2. Insist that matching schemes that are circular or temporary in nature, do not replace permanent employment, and should ensure the same rights and entitlements to all workers, including equal payment, access to social security and freedom of association, and should include the portability of pension and other security benefits related to employment, as well as pathways to permanent residence status and citizenship.

Links with government recommendations at GFMDs of 2007 - 2011

Considerations of labour mobility and the matching of jobs, skills and education at large have also not been centre focus of the government agenda in any GFMDs. Government recommendations have however, regularly devoted considerable attention to temporary and circular migration schemes. Notably, government recommendations regarding temporary and circular migration have been significantly less critical than civil society's recommendations and are mostly practical in nature (proposing databases and compendia of good practices, assessing pilot circular migration scheme etc.), often without addressing the wider policy question of creating a conducive environment for circularity and return. Since the first meeting of the GFMD in 2007, attention to skills training and recognition has largely focussed on high-skilled migrants. In 2010 and 2011 this was broadened to cooperation mechanisms for better job matching and skills recognition for all skill levels. Two relevant recommendations emerging from the government meetings of the GFMD include:

- i. "Promote cooperation mechanisms between countries of origin and destination for better job matching and skills recognition." (GFMD 2010, RT 2.1).
- ii. "The GFMD could in the future discuss the issue of migrant skills/qualifications development and training, as well as skills recognition, for purposes of empowering contract workers and increasing their earning power in the country of destination, and their re-integration potential when they return home." (GFMD 2011, RT 1.2)

Guiding questions

- (1) Against the backdrop of global economic, demographic and workforce developments, **what are the changes most urgently needed** to improve national, regional and global skills and jobs matching, as well as skills development and skills recognition - from the perspective of migrant workers? National workers? Employers? Communities and governments? E.g. in terms of:
 - a. Legal frameworks, laws and national policies? (e.g. *the removal of barriers for labour mobility and matching, such as access to the labour market, the portability of rights and entitlements, pathways to permanent residency and citizenship, equal access to pay and benefits, etc.*)
 - b. Standard setting and international frameworks (e.g. *standards for training and education per sector, global curricula for certain professions (e.g. in the medical sector), ethical recruitments codes and CSR-guidelines to prevent brain drain/promote brain gain*)
 - c. Cooperation (e.g. *the co-development of skills by government and business.*)
- (2) **Who** can make these changes happen and **how**? What replicable **good-practices, mechanisms or tools** exist that we can use, and what are the **next steps to take and by whom**?
 - a. What tools do already exist for education and skills recognition, for example in certain sectors (e.g. Seafarers standards) and is there a need to develop new tools, and who should be responsible for this?
 - b. How can governments, employers, labour unions, civil society and international organizations, work together to ensure that labour matching is *both* rights-based (including the equal treatment of migrant and national workers), and responsive to labour-market needs?
- (3) Can we formulate and/or endorse up to three **benchmarks to measure** real progress towards achieving these changes? And **who can track** the progress in achieving these benchmarks?
- (4) Which **one priority issue and benchmark** should be taken up by governments in the **UN High Level Dialogue** on International Migration and Development in 2013?

A few suggested existing tools and guidelines

- Business for Social Responsibility (BSR), **International Labour Migration: A Responsible Role for Business** (2008) http://www.bsr.org/reports/BSR_LaborMigrationRoleforBusiness.pdf
- Diakonie, **Guidelines on Labour Migration and Development** (2012) http://www.diakonie.de/Text-03_2012-Guidelines-on-Labour-Migration.pdf
- ManpowerGroup and Verité, **An Ethical Framework for Cross-Border Labor Recruitment - an industry/stakeholder collaboration to reduce the Risks of Forced Labor and Human Trafficking** (2012) http://www.verite.org/sites/default/files/ethical_framework_paper_20120209_PRINTED.pdf
- ILO, **Multilateral Framework on Labour Migration** (2006) http://www.ilo.org/public/english/protection/migrant/download/multilat_fwk_en.pdf