Towards a Mobile and Diverse World: 'Facilitating Mobility' as a Central Objective of the Global Compact on Migration

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At the same time as the means of mobility are more accessible than ever, many parts of the world witness increasing political resistance to migration, based largely on myths, stereotypes, and misconceptions about the 'danger' that migrants pose to the well-being, stability, and values of host societies' populations. Wealthier States are erecting barriers to prevent people from moving, specifically targeting poor, uneducated, and persecuted people. Most Westerners can travel around the world with ease. However, many countries in the global North are preventing humanitarian rescue ships from landing, adding visa obligations for citizens of countries that 'produce' refugees, and funding militias and security apparatus in transit countries in the global South. Security measures aim to block undocumented migrants – including refugees, unaccompanied minors, and pregnant women – and to arrest, detain, and deport them (often in terrible conditions) before they can reach any global North border.

Yet, mobility is part of the DNA of our species. We move all the time, for work, study, family unity, tourism, retirement, or wanderlust; 400 years of territorial sovereignty theory is not going to change our DNA. Besides, technological change allows people to know what is happening abroad, to imagine themselves elsewhere, and to travel long distances. Moreover, many labour markets in thriving economies are calling for migrant workers, often preferring easily exploitable, undocumented migrants, or temporary migrant workers with precarious legal statuses. Migrants are thus going to come and go across borders – documented if possible, undocumented if need be – whether one likes it or not.

The current nationalist populist movement in the global North is a generational swansong, as ageing baby boomers perceive migration as a threat to their accumulated nest egg and fail to understand that mobility and diversity are already part of the future

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of their societies. Seventy-five per cent of young Brits voted against Brexit; their elders robbed them of a European future. Very often raised in already diverse societies, at least in urban areas, today's youth will most probably bring different perceptions and ideas about mobility and diversity when they come to power in a few decades. In the global South, many ethnic and religious rifts will take much longer to ebb, but the youth there is also connected to the pulse of the rest of the planet. Mobility and diversity will come to be valued as essential features of most societies.

To avoid creating an increasingly unmanageable and costly, repressive 'monster fortress', States need to *legalize, regulate, and tax mobility* in order to progressively allow more people to come and go in the pursuit of their own goals, including finding work, just as citizens can do within their own country. This is the lesson of the American Prohibition era and of the current 'war on drugs': zero-tolerance prohibitionist policies must be replaced by harm-reduction policies, which place individuals' well-being at the core of their objectives. In most cases, legalizing, regulating, and taxing the activity is much more productive than prohibiting it.

Responding to the complexity of human mobility, States will need to develop a long-term strategic vision of what their mobility policies will look like a generation from now, with precise timelines and accountability benchmarks. States do such strategic planning for most policies – energy, the environment, food security, public transit, infrastructure, and industry – in order to determine the investment and timelines needed to achieve the objectives. Why not do the same for mobility and migration policies? The timeline for these policies always seems to be 'now' – 'stopping migration now', 'sending back migrants now', 'bringing in IT technicians now'.

Thriving economies have the capacity to integrate millions of migrants and refugees, but we are collectively facing a crisis of moral and political leadership. Unfortunately, one cannot get out of a crisis unless one provides a post-crisis vision and a positive narrative, as demonstrated by Roosevelt's New Deal, the Marshall Plan, or the current climate change debate. There will be no tackling the present migration 'crisis' (in Europe and elsewhere) until politicians delineate a *long-term, sustainable, human-rights-based, strategic mobility and diversity policy vision* that will give meaning and direction to their actions.

Investment in facilitating mobility, and fostering the diversity that comes with it, requires a type of political leadership that is utterly lacking in current migration policy debates. Only a long-term vision and strategic planning will ensure that social integration policies are in place and that all institutions – including parliaments, executives, administrations, courts, tribunals, national human rights institutions, education and health care institutions, employers, unions, labour inspectorates, and the media – do their part in facilitating mobility while respecting the rights of all.

Despite the acrimonious discourses of their political leaders, States *already know* that 'facilitation' is a much better solution than 'prohibition', and they have already committed to 'facilitating mobility' in a number of instruments. In Target 10.7 of the 2030 Agenda for Sustainable Development, States commit to '[f]acilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies' over 15 years.

Moreover, in the Global Compact for Safe, Orderly and Regular Migration (Migration Compact), States have used words derived from the verb 'facilitate' 62

times. This cannot be an oversight. As difficult as it may currently be for politicians to proclaim this on their national political and electoral stages, States already know that prohibition policies will ultimately fail. They recognize that facilitating mobility over time will be the best way to govern it: to take maximum advantage of its economic, social, and cultural benefits, while also meeting its challenges.

The Oxford English Dictionary defines the verb 'facilitate' as 'to make (an action, process, etc) easy or easier'. States have thus committed to making mobility and migration less complex, less costly, and less risky for migrants. The Migration Compact develops this facilitation objective in a number of ways.

In Objective 5, paragraph 21, States commit to '[e]nhance availability and flexibility of pathways for regular migration':

> We commit to adapt options and pathways for regular migration in a manner that facilitates labour mobility and decent work reflecting demographic and labour market realities, optimizes education opportunities, upholds the right to family life, and responds to the needs of migrants in a situation of vulnerability, with a view to expanding and diversifying availability of pathways for safe, orderly and regular migration.

This commitment means that the long-term objective should be to give most migrants access to travel documents. As such, this commitment implies that States will agree to invest in complex and competent immigration administrations, that are able to handle the number of visa applications (or non-visa processes, such as 'electronic travel authorizations') in a timely and efficient manner.

It is important to facilitate the movement of people who seek work and to put in place quick processes for obtaining work permits for those migrants who secure employment contracts. Reducing the visa obligation – especially for migrants looking for work – is important to facilitate such mobility. The European visa facilitation and visa liberalization programmes are excellent examples of concrete tools for this objective; they should be enhanced and negotiated with many more countries of origin, especially populous countries.

Some migrants will remain inadmissible and will need to be quickly identified as such. States will retain the power to prevent convicted or suspected criminals from crossing their borders. However, the vast majority of migrants do not fall into this category and should be allowed to benefit from facilitated processes.

Facilitated regularization of undocumented status should also become a major policy tool. Although the word 'regularization' – considered as politically sensitive – has been deleted from the text of the Migration Compact, in Objective 7, paragraph 23(i), States are still committed to:

> Build on existing practices to facilitate access for migrants in an irregular status to an individual assessment that may lead to regular status, on a case by case basis and with clear and transparent criteria, especially in cases where children, youth and families are involved, as an option to reduce vulnerabilities, as well as for States to ascertain better knowledge of the resident population.

Another explicit facilitation element is that changes of administrative status should be quick and painless. States commit, in paragraph 23(h), to:

> Develop accessible and expedient procedures that facilitate transitions from one status to another and inform migrants of their rights and obligations, so as to prevent migrants from falling into an irregular status in the country of destination, to reduce precariousness of status and related vulnerabilities, as well as to enable individual status assessments for migrants, including for those who have fallen out of regular status, without fear of arbitrary expulsion.

At present, too many migrant workers are prevented from changing employer by their visa modalities (single-employer sponsorship visas, for example) or face huge administrative difficulties and delays in changing employer, even when ill-treated. This increases the precariousness of their legal and social condition and silences them, since voicing criticism may result in losing their job and thus their work and residence permits, which implies deportation. Employers know that many migrants have debts to repay and cannot afford to lose their jobs and risk deportation – and too often they exploit this constructed precariousness.

The rights of migrant children are included throughout the text of the Migration Compact. However, some of the wording regarding the detention of children for immigration purposes is disappointing, as the final text ('by working to end the practice of child detention in the context of international migration' (para 29(h)) is less protective than that proposed in the Zero Draft ('by ending the practice of child detention in the context of international migration' (para 27(g)). On many other issues, the Migration Compact does recognize that migrant children deserve protection *as children* and that their migration status or that of their parents – for which they are never responsible – should not interfere with such protection.

The principle of the 'best interests of the child' should always be a primary consideration (paras 15, 21(i), 23, 23(e), 23(f), 27(e), 29(h), 37(g)) and the right to family unity and family life, including through the facilitation of 'family reunification' procedures 'at all skills levels', should be enforced (paras 21, 21(i), 23(f), 27(e), 28(d), 29(h), 32(c), 37(g)). This will require a sea change in the conception of temporary migration, as it would prohibit limitations on family reunification, for example, even for temporary migrant workers. Combined with regularization practices, this should considerably enhance the mobility options for families and make their situation less precarious.

The commitment to respond to emergencies and migration 'crises' is to be welcomed. The examples of refugee sponsorship programmes from traditional immigration countries – including private refugee sponsorship mechanisms – and European humanitarian visa programmes come to mind. Indeed, if, as early as 2013, the European Union had announced a comprehensive resettlement programme for Syrian refugees (offering such refugees in transit countries access to several hundred thousand places per year, for several years, and with teams in place to select them and sequence their arrivals in an organized manner), the size of the 2015 'crisis' would have been considerably reduced. Many migrants would not have risked their lives (or those of their children) on dangerous sea crossings, or paid smugglers thousands of euros for those

journeys. Many migrants and refugees would readily have paid, say, €1,000 per visa, which would have been cheaper than the rate paid to smugglers. However, such policies require foresight and preparedness, including strategic planning, of a kind that is politically impossible at present in Europe.

In Objective 15, paragraph 31, States also commit to:

> ensure that all migrants, regardless of their migration status, can exercise their human rights through safe access to basic services. ... [and] further commit to strengthen migrant-inclusive service delivery systems, notwithstanding that nationals and regular migrants may be entitled to more comprehensive service provision, while ensuring that any differential treatment must be based on law, proportionate, pursue a legitimate aim, in accordance with international human rights law.

That social services should be provided 'regardless of their migration status' is key: all migrants, including undocumented migrants, should have their human rights protected (paras 20(f), 29(f), 31, 31(b), 31(c), 31(d), 32(e)).

One method of protecting such rights is the establishment of 'firewalls' between immigration enforcement and public services. Although the word 'firewall' has been deleted from the Migration Compact as too controversial, and the language has been watered down, States still commit to '[e]nsure that cooperation between service providers and immigration authorities does not exacerbate vulnerabilities of irregular migrants by compromising their safe access to basic services or unlawfully infringing upon the human rights to privacy, liberty and security of person at places of basic service delivery' (para 31(b)).

Although many examples of firewall practices can be found at national, federated State, or city levels, unfortunately the concept of firewalls runs contrary to many national policies which encourage the interoperability of databases. This especially benefits security agencies, including immigration enforcement agencies. A reckoning will be needed.

Objective 18 of the Migration Compact aims to encourage the development of policies facilitating the labour and social integration of migrants. Such an objective will require States to reinforce, in favour of everyone, including in favour of migrants, many policies that, until now, have had little impact on vulnerable migrants' lives. These include: recognizing training and professional experience; combating discrimination and racism; fighting poverty; social housing policies; reducing school drop-out rates; improving access to health care; ensuring access to justice; and enforcing decent working conditions.

In Objective 20, States commit to '[p]romote faster, safer and cheaper transfer of remittances and foster financial inclusion of migrants' and, in Objective 22, to '[e]stablish mechanisms for the portability of social security entitlements and earned benefits'. Facilitating remittance transfers and portability of social benefits, including pensions, would allow migrants and their children to make judicious mobility choices for themselves.

These are only a few examples, and all this cannot be done overnight. It implies generation-long strategic planning, with a projection of the regulatory frameworks and investment that will be needed, and when, in order to achieve the objectives. As is the

case for all long-term strategic planning exercises, public debate will be needed to determine the main directions for the realization of this mobility facilitation strategy.

Many arguments militating in favour of facilitating mobility may be advanced and will need to become a common discourse for mainstream politicians. Economic benefits can be calculated. Stereotypes, myths, and misconceptions must be combated. Ethnic, cultural, linguistic, and religious diversity needs to be heralded as a key component of richer and more dynamic societies, within the common framework of the democratic triptych (electoral representation, human rights, and the rule of law).

One such positive argument in favour of mobility facilitation can counter a common sticking point in current refugee policy debates. Mobility facilitation would considerably reduce the workload of refugee status determination agencies, as many potential refugees would be able to cross borders thanks to other mobility options, as was the case for most refugees before the 1980s. Why bother with a complex and costly refugee determination procedure if one can more easily secure a work permit?

Unfortunately, mobility facilitation is not the direction that most destination countries seem to be currently taking. In fact, their political leaders seem especially hostile to this course. The toxic nationalist, populist, prohibitionist discourse is dominant and looks likely to remain so for quite some time, at least until voters realize how damaging prohibitionist policies are at all levels (socially, economically, culturally, and politically). This probably explains why the Migration Compact has a number of blind spots in terms of facilitation.

One key example will suffice for the purposes of this article. The Migration Compact does not mention that destination countries must reduce their underground labour markets, which act as a major pull factor for undocumented migration. This pull factor fuels and entrenches criminal behaviour (although mostly against the migrants themselves) by migrant smugglers, unethical recruiters, exploitative employers, greedy landlords, and other criminal groups. It also increases the predominant myths and misconceptions about migration, further enhancing social anxiety about an 'uncontrolled' border, which nationalist populist politicians exploit.

Moreover, destination countries are wholly responsible for this pull factor and only they can reduce it. It has long been known that in specific labour markets exploitation of migrant workers is commonplace, such as in agriculture, care, construction, extraction, fisheries, and hospitality. Contrary to many other industries, which have been delocalized in countries of the global South in order to benefit from cheaper labour costs, such markets cannot be delocalized. However, the drive to reduce labour costs has led to a covert delocalization of labour conditions from the global South to the global North. By tolerating underground labour markets, where undocumented migrant workers can be exploited, and implementing temporary migrant worker programmes with very precarious legal statuses (such as single-employer sponsorship programmes), which force migrant workers to accept unethical labour conditions, labour costs are considerably reduced and the competitive advantage of the employers is thus enhanced.

The precarious nature of the undocumented or temporary migrant worker condition is, in effect, socially constructed through the interaction of their absent or insecure legal status and the lack of government enforcement of labour law against unscrupulous employers. As long as millions of employers offer jobs with exploitative working conditions, without fear of being held accountable, smuggling rings will prosper by offering a

means to bypass migration controls, and several industry lobbies will continue defending the status quo. This constructed precariousness, and the specific role of unscrupulous recruiters and migrant smugglers, is effectively built into the business plans of such economic sectors.

Thus, reducing underground and precarious labour markets in destination countries needs to go hand in hand with facilitating the mobility of potential migrant workers from their countries of origin. The Migration Compact recognizes parts of this agenda, as States commit to '[f]acilitate fair and ethical recruitment and safeguard conditions that ensure decent work' (Objective 6). The transformation required to achieve this specific aspect of mobility facilitation will not be painless. Subjecting businesses to enhanced labour inspections, to labour rights audits along the value chain, and to transparency and accountability mechanisms will result in increasing labour costs. An economic, social, and political conversation about the means to address this issue over the long term needs to be initiated and developed with all actors and with electorates. How can we transform such well-identified economic sectors to simultaneously reduce exploitative labour markets and maintain competitive industries? Sustained political will over a generation will be necessary to implement effective reforms.

To sum up, States already know that the facilitation of mobility is the way of the future. The Migration Compact provides a remarkably strong and coherent – if incomplete – conceptual framework for facilitating mobility.

Unfortunately, the development of a political discourse in favour of such facilitation, as well as of policies and practices to provide its effective implementation, may have to wait for another generation.