




3. Global Compact for Migration: Policy Implications for the Arab Region



“In adopting the Global Compact for Safe, Orderly and Regular Migration, Governments committed to a global migration framework based on facts not myths, a framework that protects their national interests and in fact advances them through better cooperation.”

Louise Arbour, Special Representative of the United Nations Secretary-General for International Migration

3. Global Compact for Migration: Policy Implications for the Arab Region

A. Introduction

The adoption of the Global Compact for Safe, Orderly and Regular Migration (GCM) in 2018 marked a historic turning point in migration governance. Anchored in human rights, GCM presents a global framework for protecting migrants and maximizing their contribution to development while maintaining countries' sovereignty.

The present chapter builds on the findings in chapters 1 and 2, and provides detailed analysis of GCM policy implications for the Arab region. It begins by providing a brief overview of the developments that led to the adoption of GCM. It then unpacks the various GCM objectives, highlighting their relevance to the region, and focuses on three selected priority areas. The present chapter also presents policy

recommendations that address priority areas for intervention.

Extensive desk research was conducted to draft the present chapter, relying on primary and secondary data sources covering the majority of Arab countries. Three countries are not included in the analysis, namely the Comoros, Djibouti and Mauritania, owing to difficulties in accessing data.

B. Developing a global migration governance framework

In the light of rapidly increasing numbers of international migrants over the last few decades (box 9), the need for an international governance framework for international

Box 9. International migration: a global snapshot

In 2017, the United Nations estimated the international migrant stock at 258 million, representing 3.4 per cent of the 7.6 billion people worldwide. Two thirds of them were migrant workers, estimated at 164 million globally by ILO.

Migration has significantly increased in the last two decades. In 2000, 173 million migrants represented only 2.8 per cent of the then 6.1 billion people worldwide, a proportion that had remained largely unchanged since at least 1990 when 153 billion migrants represented 2.9 per cent of the 5.3 billion people globally. In the same period, numbers of refugees grew spectacularly, reaching the highest peak since the Second World War.

According to UNHCR, the number of refugees worldwide increased from 11.7 million in 2000 to 19.9 million in 2017. In addition to UNHCR data, Palestine refugees under the UNRWA mandate totalled an estimated 3.9 million in 2000 and 5.4 million in 2017. Thus, the total global refugee population increased from 15.6 million (representing 9 per cent of all migrants) to 25.4 million (representing almost 10 per cent of all migrants) between 2000 and 2017.

Source: DESA, 2017; UNHCR, 2018f.

migration became apparent. The earliest element of this framework dates back to the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (the Migrant Workers Convention). While this Convention focuses on the specific situation of migrant workers, including those in an irregular situation, it underscores that most human rights enshrined in other instruments are also applicable to them. However, 28 years later, only 54 mostly migrant-origin countries (including Algeria, the Comoros, Egypt, Libya, Mauritania, Morocco and the Syrian Arab Republic) have ratified the Migrant Workers Convention, but none of the large migrant-destination countries in North America, Europe, Oceania and the Gulf have done so. Since many states are reluctant to subject themselves to legally binding instruments relating to migration, States have not reached a consensus on the Migrant Workers Convention.

The adoption of the Programme of Action of the International Conference on Population and Development, held in Cairo in 1994, was an important milestone for international migration governance. It established the nexus between international migration and development by stating that orderly international migration could have a positive impact on both the communities of origin and the communities of destination, providing the former with remittances and the latter with needed human resources. It also highlighted the potential of international migration in facilitating skills transfer and cultural enrichment. Moreover, it stressed some of the intrinsic challenges associated with international migration, and underlined the need for international migration policies to address the impact of migration on countries of origin and destination, including host societies.

The two decades following the Migrant Workers Convention and the 1994 Cairo Declaration saw limited progress in international governance of international migration. The United Nations Millennium Declaration mentioned only once

the topic of migration, by committing to take measures to ensure respect for and protection of the human rights of migrants, migrant workers and their families, to eliminate the increasing acts of racism and xenophobia in many societies, and to promote greater harmony and tolerance in all societies. However, none of the Millennium Development Goals contained any reference to migration.

Fifteen years later, migration had become a major issue under the 2030 Agenda and its 17 Sustainable Development Goals (SDGs). The 2030 Agenda recognizes migration as a core development consideration, and explicitly incorporates it in the global development agenda. A key reference to migration is present in target 10.7 on facilitating orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies; and target 10.C on reducing to less than 3 per cent the transaction costs of migrant remittances and eliminating remittance corridors with costs higher than 5 per cent. Target 8.8 also commits to protecting labour rights and promoting safe and secure working environments for all workers, including migrant workers, in particular women migrants. Nonetheless, these targets overlook many core aspects of migration issues. Other SDG targets indirectly apply to migration, such as target 16.3 on promoting the rule of law at the national and international levels and ensuring equal access to justice for all; and target 16.9 on providing legal identity for all, including birth registration.

The period 2015-2018 constituted a turning point for recognition that international migration was a major global issue and it was time to produce a framework of universal principles to guide policymaking on this matter. In the wake of major tragedies unfolding mostly, though not only, in the Arab region (such as unprecedented refugee movements from Iraq, the Sudan, the Syrian Arab Republic and Yemen; transit migration across North Africa; and tens of thousands dying at sea while crossing the Mediterranean¹ or the Gulf

of Aden), that a worldwide coalition of political leaders, international organizations, civil society organizations, influential thinkers and academics began developing key guidelines for the governance of international migration, reflected

initially in the 2016 New York Declaration for Refugees and Migrants then in the 2018 the Global Compact for Safe, Orderly and Regular Migration (GCM) and in the Global Compact on Refugees (GCR).

Table 5. Arab states' commitment to international tools on migrants and refugees and their actual experience of migration and displacement

Country	International tool				Migration and displacement experience (% of total population)	
	Refugee Convention 1951	Migrant Workers Convention 1990	GCM 2018	GCR 2018	Migrants and refugees in	Migrants and refugees out
GCC countries						
Bahrain			F	F	48,4	3,9
Kuwait			F	F	75,5	5,0
Oman			F	F	44,7	0,4
Qatar			F	F	65,2	0,9
Saudi Arabia			F	F	37,0	0,8
United Arab Emirates			F	F	88,4	1,5
Mashreq						
Egypt	Y	Y	F	F	0,5	3,5
Iraq			F	F	1,0	4,4
Jordan			F	F	33,3	7,7
Lebanon			F	F	31,9	13,5
State of Palestine			F	F	5,2	77,3
Syrian Arab Republic		Y	F	F	5,5	37,6
Maghreb						
Algeria	Y	Y	A	F	0,6	4,3
Libya		Y	A	A	12,4	2,5
Morocco	Y	Y	F	F	0,3	8,1
Tunisia	Y		F	F	0,5	6,7
Arab LDCs						
Comoros		Y	F	F	1,5	14,3
Djibouti	Y		F	F	12,1	1,7
Mauritania	Y	Y	F	F	3,8	0,8
Somalia	Y		N	F	0,3	4,9
Sudan	Y		F	F	1,8	44,2
Yemen	Y		F	F	1,4	4,2

A significant step was made with the adoption of GCM, a non-legally binding instrument. GCM obtained large consensus in the Arab region, and was adopted by most States when compared with other international tools such as the 1951 Convention Relating to the Status of Refugees (Refugee Convention) and the 1990 Migrant Workers Convention that were ratified by fewer States, as illustrated in table 5.

In the Arab region, mostly countries with a low proportion of refugees have ratified the Refugee Convention, while countries hosting large migrant populations have not. In the same vein, countries with a low proportion of migrants living on their territory but with a large proportion of citizens abroad have ratified the Migrant Workers Convention.

C. Global Compact for Migration

The Global Compact for Migration is a non-binding intergovernmental agreement that aims to facilitate safe, orderly and regular migration. Its preamble stipulates that GCM rests on international law, including the core international human rights instruments and ILO conventions. GCM aims to mitigate the negative causes and consequences of migration, while fostering its positive impact. The goal of GCM is to create conducive conditions that enable all migrants to enrich our societies through their human, economic and social capacities; and to mitigate the adverse drivers and structural factors that hinder people from building and maintaining sustainable livelihoods in their countries of origin, and so compel them to seek a future elsewhere.

For the first time, the international community spelled out a number of universal principles to guide policies in the field of international migration. Primarily, GCM promotes the wellbeing of migrants: it ensures effective respect, protection and fulfilment of the human rights of all migrants, regardless of their migration

status, across all stages of the migration cycle. It also reaffirms the commitment to eliminate all forms of discrimination, including racism, xenophobia and intolerance against migrants and their families, and mainstreams a gender perspective and promotes gender equality. Moreover, GCM advocates international cooperation (no State can address migration on its own owing to the inherently transnational nature of the phenomenon), while reaffirming State sovereignty (the sovereign right of States to determine their national migration policy within their jurisdiction, in conformity with international law). ‘Whole-of-government’ and ‘whole-of-society’ approaches to migration are also identified as guiding principles.

Striking a balance between potentially conflicting perspectives, GCM proved to be a widely consensual agreement as it obtained 152 votes in favour to 5 against and 12 abstentions (not counting 24 absent States) at the General Assembly of the United Nations on 19 December 2018. Most Arab States voted in favour, and only two abstained.

During the General Assembly debates, several arguments put forward by countries were key to GCM adoption. Firstly, the GCM is non-binding in international law. As recalled by the representative of Denmark, “the agreement creates no new legal obligations for States”.² GCM is a blueprint on how countries can best manage migration, and cooperate more effectively with one another and with other stakeholders, while taking into account their migration realities and capacities.

Secondly, GCM is about the rights of migrants rather than recognizing the right to migrate. Most of its principles are already enshrined in international human rights law. By reaffirming that these principles must apply to migrants as well as to all other persons – migrants, as well as refugees and all other persons are entitled to the same universal human rights and fundamental freedoms, which must be respected, protected and fulfilled at all times

– GCM does not add a new layer to existing principles. Instead, it intends to reduce the risks and vulnerabilities migrants face at different stages of migration by respecting, protecting and fulfilling their human rights. Since human rights are universal, GCM can naturally claim its universality. In the words of the representative of Morocco, GCM must seek to be universal, fostering State ownership and making migration a positive, driving force for global solidarity. The representative of Egypt expressed regret that some States did not sign the text, despite its respect for national policies.³

Thirdly, GCM recognizes State sovereignty in migration policy. The President of the General Assembly stressed that GCM did not undermine, but rather strengthened, the sovereignty of States. It fosters international cooperation by acknowledging that no State can address migration alone, and upholds the sovereignty of States and their obligations under international law. The representative of Bahrain said that GCM was not about who passes through borders, but rather about how to address their needs once they arrive. Giving his own country as an example, he said that in 2017, Bahrain had allowed migrants to live and work in the country without a sponsor, an employer or a job, making holders of the new ‘flexi-permit’ masters of their own fate. At the same time, he reaffirmed that this was not a permanent immigration scheme and migration to Bahrain remained temporary in essence. The representative of the Syrian Arab Republic said that GCM was in line with the principles of national sovereignty and non-interference in domestic affairs, noting that external interference had caused many Syrians to leave the country.⁴

GCM sets its people-centred approach as a guiding principle, promoting the wellbeing of both migrants and of communities in countries of origin, transit and destination. Discussions, however, also focused on the need to consider the principles of national sovereignty and the potential socioeconomic and political impact on receiving countries. In answer to those concerns,

GCM advocates argued that it reaffirmed the sovereign right of States to determine their national migration policies, and was committed to facilitating safe, orderly and regular migration to reduce the incidence and negative impact of irregular migration. Another issue of concern was dealing with refugees in the same way as migrants; however, the special status of refugees was clearly reaffirmed by the Member States of the United Nations in the Global Compact on Refugees on 17 December 2018.⁵

D. Relevance of the Global Compact for Migration objectives to the Arab region

GCM comprises 23 objectives for better migration governance at the local, national, regional and global levels. All objectives are universal; however, the present section focuses on their relevance to Arab countries.

The 23 GCM objectives cover a spectrum of topics related to numerous facets of migration and its governance. Where possible, experiences from some Arab countries are included as examples of means to operationalize those objectives.

Objective 1: Collect and utilize accurate and disaggregated data as a basis for evidence-based policies

Knowledge on international migration is limited by significant deficits in empirical data. Owing to a lack of reliable, accurate and up-to-date statistics on migration flows and stocks and on migrants’ characteristics, international migration is a domain affected by many misjudgements that could mislead policymakers and public opinion.

Statistics are needed in all policymaking steps to identify opportunities and benefits as well as challenges and risks, shape policy responses, and evaluate policies and measure their impact on the ground. Statistics must be time- and

space-sensitive and provide all the details necessary to characterize policy target groups.

Action 1 (d) is particularly relevant to Arab countries with a deficit of reliable migration statistics, including on migrant stocks and flows and more detailed statistics for analysing the effects and benefits of migration and on the contributions of migrants and diasporas to sustainable development. Policymakers have little information on the demographic, social and economic dynamics of migration in the Arab region. Arab countries therefore require support to include migration data in national surveys and administrative routines, and to ensure that data are processed and transformed into statistics.

A promising development under GCM is the African Union's support for Morocco to establish an African Observatory for Migration and Development in Rabat.⁶ This could be further explored as a resource for the region at large.

Objective 2: Minimize the adverse drivers and structural factors that compel people to leave their country of origin

People can migrate by choice, but also out of necessity in cases of conflict, environmental threats, poverty or unemployment. GCM commits to creating conducive political, economic, social and environmental conditions for people to lead peaceful, productive and sustainable lives in their own country, while ensuring that desperation and deteriorating environments do not compel them to seek livelihoods elsewhere through irregular migration. Forced displacement is particularly prevalent in the Arab region, both as the origin and destination of such movements, resulting in large numbers of migrants in irregular situations.

Action 2 (b) intends to eliminate the adverse drivers and structural factors that compel people to leave their country of origin, including through disaster risk reduction, climate change mitigation and adaptation. Environmental hazards, such as fresh water shortages (in Jordan, Syrian Arab Republic or Yemen), desert

encroachment (in Maghreb countries), and sea level elevation (in the lowlands of Egypt and Iraq) will almost certainly become factors causing population movements in the near future. Building local populations' resilience to such hazards must become an urgent priority.

Objective 3: Provide accurate and timely information at all stages of migration

Not all migrants are informed before departure of what duties and rights, and what challenges and opportunities, they will face in the destination country. It is only upon arrival that many migrants discover a destination country's laws on entry and stay, as well as its realities in terms of working and living conditions or access to services. Migrants' lack of information can cause negative outcomes, from finding themselves in an irregular situation and subject to sanctions, to being exposed to abuse, exploitation and violence. Several countries of origin organize pre-departure orientation programmes, or safe migration information campaigns, intended to provide their citizens who are moving abroad with basic knowledge of their destination. For example, the Philippines and Sri Lanka hold training sessions for migrant workers heading to Arab countries, notably women in the domestic and care sectors.⁷

Action 3 (d) recommends providing newly arrived migrants with targeted, gender-responsive, child-sensitive, accessible and comprehensive information and legal guidance on their rights and obligations. The pilot post-arrival programme launched by the United Arab Emirates in 2017, with a focus on legal and cultural orientation as a strategy to promote coexistence between migrants and host communities, serves as an example of how such action could be implemented.⁸

Objective 4: Ensure that all migrants have proof of legal identity and adequate documentation

Action 4 (d) recommends facilitating access to personal documentation, such

as passports and visas, and ensuring that relevant regulations and criteria to obtain such documentation are non-discriminatory, by undertaking a gender-responsive and age-sensitive review to prevent increased risk of vulnerabilities throughout the migration cycle.

In several Arab countries, women face significant challenges in obtaining travel documents without the authorization of male guardians. Moreover, the unlawful confiscation by employers of employees' passports remains a problem that countries should engage with international and national partners to address.

Action 4 (e) recommends strengthening measures to reduce statelessness, including by registering migrants' births, ensuring that women and men can equally confer their nationality to their children, and providing nationality to children born in another State's territory, especially in situations where a child would otherwise be stateless. In the Arab region, statelessness includes, among others, the following:

- Children born of a national mother and a foreign father when the marriage ends before the child is born, or of a father who is unable or unwilling to attest to paternity. Several Arab countries, such as Egypt, Iraq, Morocco, Tunisia and Yemen, have adopted legislation whereby mothers can give their nationality to their children to tackle this issue;
- Unregistered children of migrants and refugees may be at risk of statelessness;
- Palestinians who have not been granted citizenship of their country of residence.

Objective 5: Enhance availability and flexibility of pathways for regular migration

This objective advocates efforts to facilitate labour mobility and decent work, particularly for migrants compelled to leave their countries of

origin owing to sudden-onset natural disasters. It also highlights the need to facilitate family reunification for migrants at all skills levels, and expand available options for academic mobility.

Objective 5 is of particular relevance to Arab destination countries of migrant workers, notably GCC countries, many of which are in the process of reviewing, revising, creating alternatives to, or eliminating the *kafala* system, which creates legal obstacles to labour mobility within the destination country and may impede family reunification.

Objective 6: Facilitate fair and ethical recruitment and safeguard conditions that ensure decent work

This objective calls for several actions to appropriately tackle the decent work deficit in the Arab region. The first action is to promote signature, ratification, accession and implementation of relevant international instruments related to international labour migration, labour rights, decent work and forced labour (Action 6 (a)). All Arab countries, except the State of Palestine which is not an ILO member, have ratified at least four of the eight ILO fundamental conventions, but it is still necessary to better understand the obstacles to ratification of those conventions to which GCC countries, Jordan, Lebanon, Morocco, Somalia and the Sudan are not parties (table 6; see annex V to the present report for more information on Arab States' ratification status of international legal instruments related to international migration). Moreover, it would be valuable to have more information on the degree to which the protections enshrined in the conventions are already reflected in national legislation, regardless of the formal ratification of the conventions.⁹

In addition, objective 6 urges action to prevent debt bondage by prohibiting recruiters and employers from charging or shifting recruitment fees or related costs to migrant workers (Action 6 (c)). Positive developments include the adoption by several Arab countries, including all GCC

Table 6. Ratification of the eight ILO fundamental conventions by the Arab Countries

Country	Forced Labour Convention, 1930 (No. 29)	Freedom of Association and Protection of the Right to Organise Convention, 1948 (No.87)	Right to Organise and Collective Bargaining Convention, 1949 (No.98)	Equal Remuneration Convention, 1951 (No.100)	Abolition of Forced Labour Convention, 1957 (No.105)	Discrimination (Employment and Occupation) Convention, 1958 (No.111)	Minimum Age Convention, 1973 (No.138)	Worst Forms of Child Labour Convention, 1999 (No.182)
GCC countries								
Bahrain	1981				1998	2000	2012	2001
Kuwait	1968	1961	2007		1961	1965	1999	2000
Oman	1998				2005		2005	2001
Qatar	1998				2007	1976	2006	2000
Saudi Arabia	1978			1978	1978	1978	2014	2001
United Arab Emirates	1982			1997	1997	2001	1998	2001
Mashreq								
Egypt	1955	1957	1954	1960	1958	1960	1999	2002
Iraq	1962	2018	1962	1963	1959	1959	1985	2001
Jordan	1966		1968	1966	1958	1963	1998	2000
Lebanon	1977		1977	1977	1977	1977	2003	2001
State of Palestine								
Syrian Arab Republic	1960	1960	1957	1957	1958	1960	2001	2003
Maghreb								
Algeria	1962	1962	1962	1962	1969	1969	1984	2001
Libya	1961	2000	1962	1962	1961	1961	1975	2000
Morocco	1957		1957	1979	1966	1963	2000	2001
Tunisia	1962	1957	1957	1968	1959	1959	1995	2000
Arab LDCs								
Comoros	1978	1978	1978	1978	1978	2004	2004	2004
Djibouti	1978	1978	1978	1978	1978	2005	2005	2005
Mauritania	1961	1961	2001	2001	1997	1963	2001	2001
Somalia	1960	2014	2014		1961	1961		2014
Sudan	1957		1957	1970	1970	1970	2003	2003
Yemen	1969	1976	1969	1976	1969	1969	2000	2000

Source: ILO, n.d.

Table 7. Recruitment costs incurred by migrants and earnings of migrant workers in selected corridors, 2015 or 2016

Migration corridor	Total recruitment cost in 2016 (USD)	Current monthly earnings in 2016 (USD)	Recruitment cost in monthly earnings*
Pakistan-Saudi Arabia 2015	4460	491	10,5
India-Saudi Arabia 2016	1386	377	4,5
Nepal-Saudi Arabia 2016	769	286	3,8
Philippines-Saudi Arabia 2016	309	471	0,7
Ethiopia-Saudi Arabia 2015	1015	348	3,7
Nepal-Qatar 2016	742	292	2,9
India-Qatar 2015	1156	604	1,9
Philippines-Qatar 2015	519	508	1,1

Source: Abella, 2018.

*Averages calculated from sample distribution of ratios of recruitment cost to earnings.

countries, of legislation to stop recruitment fees from being charged to migrant workers entering destination countries. However, the fees charged by agencies operating in origin countries remain a problematic practice that affects the wellbeing of workers in the region. Tools such as the IOM International Recruitment Integrity System and the ILO General Principles and Operational Guidelines for Fair Recruitment can assist Arab countries in addressing these extra-jurisdictional issues through the engagement of private sector stakeholders (table 7).

Other actions highly relevant for Arab countries under objective 6 include the following:

- Provide migrants with written contracts and ensure their awareness of the provisions included in the contract (Action 6 (d)): many migrants across the Arab region are employed in the informal sector, where they work without a written contract. Moreover, non-Arabic speaking low-income migrant workers employed in the formal sector who have a written contract, may not have the language skills necessary to understand what it contains. Overcoming language barriers can be addressed in different ways; for example, translating the contracts and producing multilingual administrative documents;

- Prohibit the confiscation or non-consensual retention of work contracts, and travel or identity documents from migrants (Action 6 (h)): passport withholding is a widespread though unlawful practice among employers of low-income workers, notably women domestic workers. This issue can be tackled by ensuring that all workers are protected by relevant labour laws and policies, including the most vulnerable such as migrant domestic workers.

Objective 7: Address and reduce vulnerabilities in migration

To reduce vulnerabilities in migration, Action 7 (c) advocates action to address the particular needs and vulnerabilities of migrant women, girls and boys. These actions are highly relevant to the Arab region, where an estimated 1.7 million migrant women are employed in the domestic sector in GCC and Mashreq countries alone. Countries are taking steps to amend their legislation to protect vulnerable migrants; however, more action is needed to ensure that all migrants are protected from gender-based violence, abuse and exploitation.

Moreover, in some Arab countries, migrant women's reproductive rights are denied. For instance, women who get pregnant or contract

a sexually transmitted infection could be subject to detention and deportation. In addition, in some countries, marriage is prohibited for migrant women, they are subjected to regular pregnancy and HIV testing, and their access to contraceptives is restricted.¹⁰

Several categories of migrant women are particularly exposed to gender-based violence and abuse:

- Low-income migrants: research shows that health problems, for example, are rampant among low-income female migrants and significantly aggravated by illiteracy, frequent change of workplace, overtime work, mistreatment at the workplace, unpaid salaries, and when the family left behind has problems;¹¹
- Smuggled migrants: there are many reports on the severe abuses that women are exposed to along irregular migration routes, with sexual violence and rape generating extended physical and mental health problems.

Action 7 (h) aims to prevent migrants from falling into an irregular status in the country of destination, by developing accessible and expedient procedures that facilitate transition from one status to another, and by informing migrants of their rights and obligations. Irregular migrant status causes harm to migrants and to their hosts. In the Arab region, where 5-10 million migrants could be in an irregular situation (unauthorised entry, overstayed visas, unauthorised employment), reducing the challenges faced by these vulnerable categories of migrants calls for a wide range of policy changes to ease their access to basic services and rights, such as civil registry, education and formal employment.

Objective 8: Save lives and establish coordinated international efforts on missing migrants

This objective addresses a major concern of Arab Governments and other migration

stakeholders in the region. Some of the world's deadliest migration routes cross, originate from or end in Arab countries, in particular the Central, Western and Eastern Mediterranean routes to Europe, the trans-Saharan route from sub-Saharan Africa to the Mediterranean shore across Libya and other Maghreb countries, and the Gulf of Aden route from the Horn of Africa to the Arabian Peninsula. Every year, thousands of migrants die at sea or in the desert trying to reach a better life for themselves and their families. Multi-pronged action is urgently needed to save lives (Action 8 (a)), eliminate the causes of high-risk journeys (Action 8 (b)), and attenuate their consequences (Action 8 (c)).

Objective 9: Strengthen the transnational response to smuggling of migrants

Smuggling is intrinsically transnational as it spans territories belonging to countries of origin, transit and destination. International cooperation between States along smuggling routes is therefore vital to developing an appropriate response. In theory, tackling the phenomenon in the Arab region could be best done through joint efforts by all concerned countries; for example, from the Horn of Africa to Libya and Europe along the central Mediterranean route, from the Syrian Arab Republic to Turkey and Europe along the eastern Mediterranean route, and from the Horn of Africa to Yemen and GCC countries along the Gulf of Aden route. A key action to eliminate smuggling is for countries of destination to widen their pathways for regular migration.

Objective 10: Prevent, combat and eradicate trafficking in persons in the context of international migration

Undocumented migrants in irregular situations are easy prey for traffickers. Given that they are unprotected and are often stuck in limbo, they are at high risk of falling in the hands of criminal networks and being subjected to violence and exploitation. In such migrant populations, women and children are in an especially

vulnerable situation. Action 10 (e) urges States to apply measures that address the particular vulnerabilities of women, men, girls and boys, regardless of their migration status. In this regard, initiatives such as the establishment by the Government of Bahrain of an assistance fund for victims of human trafficking are a step forward, which could be replicated elsewhere in the region. The fund aims to provide victims with financial protection for court proceedings, and a grant for either reintegration in their country of origin or employment in Bahrain.¹²

Although most Arab States are parties to the United Nations Convention against Transnational Organized Crime (Palermo Convention) and its first two protocols,¹³ many reports by human rights activists and international organizations indicate evidence of trafficking in persons along routes of mixed movement, which remains a significant challenge. Action 10 (c) calls for monitoring irregular migration routes that may be exploited by human trafficking networks to recruit and victimize smuggled or irregular migrants, which is especially pertinent along the land and sea routes from Africa to Europe or the Arabian Peninsula.

Moreover, there is evidence that trafficked migrants, who are successful in freeing themselves from the criminal networks exploiting them, risk detention and deportation by the authorities for breaching laws on entry and stay. In this context, Action 10 (h) calls for providing migrants who are victims of trafficking in persons with protection and assistance, including physical, psychological and social recovery, counselling, assisted voluntary return, or a permit to remain in the country of destination temporarily or permanently.

Objective 11: Manage borders in an integrated, secure and coordinated manner

This objective is of great importance to Arab countries given the ongoing displacement within the region, and mixed flows crossing through the region. Integrated borders do not

only ensure the security of the populations within a given territory, but also guarantee the smooth movement of goods and persons required for trade, commerce and economic growth. With many Arab countries suffering from slow economic growth, such intraregional and international trade is fundamental to economic stability and prosperity in the region.¹⁴

Objective 12: Strengthen certainty and predictability in migration procedures for appropriate screening, assessment and referral

To avoid unnecessary delays and expenses for countries and migrants alike, Action 12 (a) calls for increasing the transparency and accessibility of migration procedures by clearly communicating requirements for entry, admission, stay, work, study or other activities, and by introducing technology to simplify application procedures. This action also reflects the need to address the *kafala* system's negative externalities, such as the development of illegal visa businesses and unlawful recruitment fees charged to migrants before departure. The Bahraini Expatriate Management System and the Saudi *Musaned* recruitment platform are excellent examples of technological solutions facilitating transparency, efficiency and regulation of the labour migration process, which can inform similar initiatives in the region.

Actions 12 (b), (c) and (d) address the needs of migrants in situations of vulnerability, including women, children or victims of trafficking in persons and other forms of exploitation, by highlighting the importance of providing appropriate assistance and counselling in a culturally sensitive way, and of establishing specialized, child sensitive identification and referral mechanisms.

Objective 13: Use migration detention only as a measure of last resort and work towards alternatives

This objective aims to limit the use of migration detention by encouraging the dissemination

of best practices on human rights-based alternatives to detention in the context of international migration, including by facilitating regular exchanges and the development of initiatives based on successful practices among States, and between countries and relevant stakeholders. With unprecedented flows of international migrants arriving in and transiting through many Arab countries, the reception capacity of many States has been strained to the limit. Many migrants are consequently left to face substandard conditions in detention centres in the absence of effective alternatives. Support can be provided to align best practices on alternatives to detention with regional specificities, and to develop context specific approaches that can assist countries in receiving and hosting migrants in a safe and secure environment that respects their human rights.

Objective 14: Enhance consular protection, assistance and cooperation throughout the migration cycle

Objective 14 is one of the rare sections of GCM dealing with a State's nationals abroad rather than migrants within its territory. Arab countries with sizeable numbers of citizens abroad are generally represented at the embassy and consular level in the main destination countries of their nationals. Protecting its citizens abroad is also commonly seen as a State's duty, although not all countries have developed specific tools for this purpose.

The Egyptian constitution of 2014 provides that "the State shall protect the interests of Egyptians living abroad, protect them, guarantee their rights and freedoms, enable them to perform their public duties towards the State and society, and engage them in the nation's development" (article 88: Egyptians living abroad).¹⁵ Moreover, the Egyptian Government is preparing a law to establish a fund for caring for Egyptians abroad, to assist those in need of legal and judicial assistance and to provide information on employment opportunities in Egypt.¹⁶

The Moroccan constitution of 2011 contains a similar provision, stating that "the Kingdom of Morocco works for the protection of the rights and legitimate interests of the Moroccan citizens [feminine] and citizens [masculine] resident abroad, within respect for international law and for the laws in force in the host countries. It is committed to the maintenance and to the development of their human ties, notably cultural, with the Kingdom, and the preservation of their national identity (article 16).¹⁷ Established by royal decree in 2007, the Council of the Moroccan Community Living Abroad is entrusted with defending the interests of Moroccans overseas. Moreover, on 1 November 2018, the Ministry of Foreign Affairs and International Cooperation set up a hotline for Moroccans living abroad, directly accessible from their main countries of residence.¹⁸

The Tunisian constitution of 2014 does not mention the rights and protection of the country's expatriates, but the General Direction of Consular Affairs of the Ministry of Foreign Affairs is responsible for dealing with the rights and interests of Tunisian citizens living abroad,¹⁹ and the Ministry of Social Affairs has created a portal for Tunisians abroad.²⁰

Objective 15: Provide access to basic services for migrants

The basic services explicitly mentioned in GCM are health and education.²¹ Actions 15 (e) and (f) recommend the provision of migrant-inclusive service delivery systems, making health care and quality education available to all migrants regardless of their migration status, on a non-discriminatory basis. Signatory States have committed to incorporating the health needs of migrants into national and local health-care policies, which is particularly important for Arab countries that are facing pressure on their medical systems from large population movements into or through their territories. These situations may lead to immediate reactions to restrict access to strained services to nationals only. However, such actions

can lead to public health crises in addition to exacerbating the suffering of displaced populations. Since the quality and quantity of health and education services provided to citizens varies with a country's level of income and other economic and political circumstances, it is challenging to establish universal standards for services provided to migrants. Action 15 (d) calls for mandating independent institutions to receive, investigate and monitor complaints about situations where migrants' access to basic services is systematically denied or hindered, to facilitate access to redress, and to work towards a change in practice.

Objective 16: Empower migrants and societies to realize full inclusion and social cohesion

GCM does not make explicit what 'full inclusion' precisely means, leaving room for stakeholder interpretation. In general, migrants' inclusion refers to a complex multifaceted process that extends over a long period and spans economic (e.g. access to labour and income-generating activity), cultural (e.g. recognition of others' beliefs, values and practices, including religious freedoms), social (e.g. interpersonal relationships between migrants and the host community, a common language), political (e.g. participation in public decisions, access to citizenship), and other dimensions. The GCM commitment to empower migrants to become active members of society, and to promote the reciprocal engagement of receiving communities and migrants in the exercise of their rights and obligations towards each other, must be placed in the context of a wide range of situations across the Arab region.

Firstly, Governments' visions greatly vary between countries, from those with official policies to reduce the number of foreign residents to those promoting pathways for foreign residents' full membership in the host society. For this reason, GCM support for short-, medium- and long-term policy goals regarding family reunification (Action 16 (c)) is likely to be regarded differently according to the specific context of each country.

Secondly, economic realities on the ground are highly disparate. The GCM commitment to working towards inclusive labour markets and ensuring the full participation of migrant workers in the formal economy (Action 16 (d)) has different implications according to the nature of a destination country's labour market. Arab labour markets cover the whole spectrum, from a dominant formal sector (most GCC countries) to a dominant informal sector (most Mashreq and Maghreb countries). In the first case, having a formal work contract is a prerequisite for migration; while in the second case, migration often comes first and then the migrant finds a job after arrival.

Thirdly, social norms and perceptions regarding gender roles must be factored. GCM commitments to empower migrant women by eliminating gender-based discriminatory restrictions on formal employment (Action 16 (e)) can be applied to situations where a tradition of women staying at home and providing care translates into low rates of female economic participation. When such social norms apply to national women but not to foreigners, female-dominated occupations are more easily accessible to migrant women than to nationals. For example, the proportion of employed women in the population aged 20-65 in Saudi Arabia ranges from 11.7 per cent among Saudis to 35.4 per cent among foreign nationals.²²

Objective 17: Eliminate all forms of discrimination and promote evidence-based public discourse to shape perceptions of migration

All Arab countries are among the 177 States parties to the International Convention on the Elimination of All Forms of Racial Discrimination.²³ However, assessing the Convention's implementation and measuring the prevalence of acts of racism, discrimination and xenophobia are hampered by information gaps. Reports of migrants being discriminated against exist in most Arab countries, but they are based on qualitative analysis. Statistics that would evidence the phenomenon and demonstrate its extent are

not available. Collecting data disaggregated by origin, gender and socioeconomic characteristics is needed to identify and quantify groups that are victims of discrimination and to take measures to protect them. Moreover, establishing comprehensive data requires that all acts of discrimination be recorded. For this to be possible, countries must also empower migrants and communities to denounce any acts of incitement to violence directed towards migrants by informing them of available mechanisms for redress, as set out in Action 17 (b). Surveys have shown that because of a lack of proper redress mechanisms or out of fear of being penalized and deported, migrants often do not report discrimination they have suffered.

Objective 18: Invest in skills development and facilitate mutual recognition of skills, qualifications and competences

Education is a driver of international migration. Therefore, international migrants are on average more educated than their population of origin.²⁴ This applies to migrants living in OECD countries and originating from Arab countries for which recent data on educational levels of the resident population are available (table 2).

Moreover, migration can contribute to human capital building if migrants employed at the level of their skills are exposed to a new experience, including formal education and vocational training in their country of destination. To make the most of their migration, international migrants need their skills and qualifications to be recognized. Unless migrants are recruited on the basis of their actual skills, such recognition is not straightforward (it may meet resistance from the host state and population), and migration risks resulting in a waste of skills. Action 18 (c) recommends concluding bilateral, regional or multilateral mutual recognition agreements, or including recognition provisions in other agreements. This is what several Arab countries have tried to achieve by signing mobility partnerships (non-binding agreements) with the European Union, including the following:

- The European Union-Morocco partnership (2013) aims for closer cooperation to facilitate mutual recognition of vocational and academic qualifications;
- The European Union-Tunisia partnership (2013) includes improving information available to qualified Tunisian citizens on employment, education and training opportunities in the European Union, and making mutual recognition of professional and university qualifications easier;
- The European Union-Jordan partnership (2014) covers close cooperation to facilitate mutual recognition of vocational and academic qualifications, and developing curriculums in a manner that enhances recognition of Jordanian qualifications within the European Unions and other destination countries.²⁵

Such models can be considered for intraregional mobility between Arab countries of origin and countries of destination.

Objective 19: Create conditions for migrants and diasporas to fully contribute to sustainable development in all countries

In the words of the former Special Representative of the Secretary-General for International Migration, Peter Sutherland, “migration *is* development”.²⁶ Migrants contribute to the economies of both the destination countries where they work and the origin countries to which they send remittances and ideas, and which they help connect to the world. Action 19 (a) calls for fostering and facilitating the positive effects of migration for the realization of all Sustainable Development Goals, and requires action from migrants’ countries of origin and of destination. Arab migrant-sending countries have established institutions and designed policies to connect with their expatriate nationals. The first objective is to attract migrants’ remittances and investments. Directly channelled by families, remittances are often countercyclical, can reach

remote communities, and have a proven impact on poverty reduction.

Another objective of diaspora policies is to strengthen migrants' cultural links with their country of origin. For example, Arab consulates in non-Arabic speaking countries (e.g. Western Europe) have designed special linguistic programmes for second-generation migrants. In France as of 1977, the consulates of Algeria, Morocco and Tunisia, in collaboration with the French Ministry of Education, co-organize Arabic language courses for the children of migrants within the framework of French public schools.²⁷ The Association of Tunisians in France endorses the initiative with the slogan "Teaching the origin language and culture, an effective tool for building citizens". Moreover, in 2015, the Hassan II Foundation for Moroccans Residing Abroad launched an online platform to teach Arabic to second-generation migrants.²⁸

Creating political links with the diaspora can also be achieved by enabling voting from abroad and, in certain cases, providing specific parliamentary representation for citizens abroad. Action 19 (g) also calls for enabling political participation and engagement of migrants in their countries of origin by establishing voting registries for citizens abroad, and through parliamentary representation. Tunisia,²⁹ Algeria³⁰ and Morocco³¹ have enforced such mechanisms, although only proxy voting was made available to Moroccans living abroad in the parliamentary election of 2017.

Objective 20: Promote faster, safer and cheaper transfer of remittances and foster financial inclusion of migrants

This objective addresses the overall goal of making migration work for the development of migrants' origin countries and communities. Remittances are one of the most effective sources of external funding in developing countries. Since remittances are channelled within the families of migrants, they directly

reach remote communities, with a proven impact on poverty reduction. This is of significant importance to the Arab region. As demonstrated in chapter 1 of the present report, the Arab region as a migrant destination is a major source of remittances, with remittance outflows estimated at \$120.6 billion in 2017. As a migration origin region, the remittance inflows stood at \$54.1 billion for the same year.

Action 20 (a) aligns with SDG target 10.c by calling for a road map to reduce the transaction costs of migrant remittances to less than 3 per cent, and to eliminate remittance corridors with costs higher than 5 per cent by 2030. Achieving this objective requires the involvement of all Arab States, both as countries of origin and of destination. Banks and other intermediaries often apply charges to money transfers at both ends. Moreover, there is an ongoing debate in several GCC countries on whether States should tax migrant workers' remittances, which would certainly increase overall transfer costs above the target 3 per cent.³²

Collaboration between countries of origin and of destination is also required to implement GCM Action 20 (h), which focuses on addressing gender inequalities and fostering women's economic participation through several means, such as providing financial literacy training, accessing formal remittance transfer systems, opening bank accounts, and owning and managing financial assets and investments. Similar measures allow women to have full economic agency and responsibility in managing money in destination countries if they are autonomous migrants and remittance-senders, as well as in the origin country if they are remittance-receivers heading a household.

Objective 21: Cooperate in facilitating safe and dignified return and readmission, as well as sustainable reintegration

This objective is relevant for Arab countries, as both origin and destination countries. As origin countries, several Arab States have signed a

number of bilateral readmission agreements with European countries. Moreover, Jordan, Morocco and Tunisia have also signed mobility partnerships with the European Union, which include commitments on readmission. For example, the 2013 European Union-Morocco mobility partnership provides for continuing cooperation on readmission to the mutual benefit of both parties and in compliance with the existing reciprocal obligations between Morocco and European Union countries, and for resuming negotiations between the European Union and Morocco to conclude a balanced readmission agreement.³³

Six years later, however, Morocco has not yet signed any readmission agreement with the European Union as a whole. The same applies to readmission provisions included in the European Union-Tunisia and the European Union-Jordan mobility partnerships. Readmission is part of a broader negotiation under which Arab partner States request visa facilitation for businesspeople, students and other persons in exchange for a commitment to readmit nationals or third-country nationals in irregular situations in Europe. Arab Governments, however, prefer bilateral negotiations with individual European Union countries rather than with the European Union as a whole, because this may place them in a better bargaining position.^{34,35}

As destination or transit countries, Arab States do not have specific readmission and reintegration agreements with origin countries. However, they support a number of ad hoc initiatives. For example, in 2017, Qatar launched a project on 'Return Assistance to Stranded Nepali Migrants'. Nepali migrants in situations of exploitation in Iraq, Kuwait, Lebanon, Malaysia, Oman, Qatar, Saudi Arabia, the Syrian Arab Republic and the United Arab Emirates have been provided with assistance for voluntary return and reintegration to Nepal by IOM.³⁶ Similarly, IOM has assisted the voluntary return and reintegration from Maghreb countries of thousands of migrants originating from sub-Saharan Africa.³⁷

Objective 22: Establish mechanisms for the portability of social security entitlements and earned benefits

Social security refers to public policy measures protecting individuals against certain life risks and social needs, particularly in the event of illness, unemployment, employment injury, maternity, family responsibilities, disability, loss of the family breadwinner, as well as during retirement and old age. The portability of social security entitlements is the ability of migrant workers to preserve, maintain and transfer benefits of a social security programme from one country to another.³⁸ In 2013, only 23 per cent of the world's migrant workers were working under conditions that would allow them in the future to benefit from the full portability of pension and other earned benefits. The vast majority (80.5 per cent) of them were migrants from high-income countries living in other high-income countries.³⁹ The portability of social security entitlements is rarely enshrined in a country's labour law and more often included in bilateral agreements between migrant origin and destination countries. An analysis of trends at the global level revealed a doubling of the share of migrants with no access to portability, with the situation being particularly acute in GCC countries.⁴⁰ This trend may drive migrant workers to overstay their work visas and turn to irregular employment out of fear of returning home empty handed.

In the Arab region, Bahrain was the first to adopt a full legal provision on this matter. Decree No. 24 of 1976 states that a foreigner leaving the country permanently who has subscribed to the social insurance for more than three years shall be paid his dues that were paid to the General Authority to participate in the social insurance, his indemnity, and an annual interest rate of 5 per cent (article 138 a). In addition, he shall be paid the sum of the total amounts paid for old age or death insurance that were paid on his behalf by the employer, the amounts

deducted from his salary, and an additional 3 per cent of that amount (article 138 b). Such provisions can provide a model for other destination countries in the region seeking to address this GCM objective.

Bilateral agreements on labour migration to Arab destination countries do not include specific provisions on the portability of social benefits. For example, the 2008 Qatar-Sri Lanka agreement does not cover the matter. Similarly, the 2013 Agreement on Domestic Worker Recruitment between Saudi Arabia and the Philippines contains no provision on social security, and the two countries have not signed a bilateral social security agreement.⁴¹ Support can be provided to Arab countries during negotiations to assist in integrating these considerations in future agreements, and when revising existing agreements.

As migrant origin countries, Algeria, Morocco and Tunisia have signed bilateral social security agreements with several European destination countries. Moreover, France, Spain and the United Kingdom have agreements on the portability of social benefits for seasonal migrants originating from Maghreb countries.

Objective 23: Strengthen international cooperation and global partnerships for safe, orderly and regular migration

This objective is forward-looking and sets out action to implement GCM. Migration is a transnational phenomenon, so migration policies need to be produced and implemented in a spirit of partnership between countries. In addition to traditional collaboration between sovereign States, providing a comprehensive response to migrants' and host communities' needs and reducing their vulnerabilities also require integrating all relevant governmental institutions and other relevant non-governmental stakeholders.

E. Implementing the Global Compact for Migration: priority areas for the Arab region

In view of the discussion above on possible GCM policy implications for Arab countries, the present section delves into selected priority areas for the region, namely migrants' full inclusion and their right to access basic services with an emphasis on access to health; addressing and reducing vulnerabilities of migrants; and preventing and combatting smuggling and trafficking of migrants. The present section examines the realities of Arab countries, current policies, and possible barriers facing GCM implementation. Where possible, migrants' perspectives and experiences are emphasized. In case of issues of particular relevance for refugees, their situation and experience are touched upon as well, although their situation is covered under the Global Compact on Refugees. This section concludes with a set of policy recommendations that address the challenges identified in each of those priority areas.

For Arab countries to design relevant policy measures to address the priority areas, there is an urgent need to collect accurate, reliable and comparable data, disaggregated by sex, age, migration status and other relevant characteristics. It is important to understand who migrants are, their migration patterns, and their specific needs so as to design policies and interventions that empower them, capitalize on their potential for sustainable development, dispel negative narratives and stereotypes, and limit possible migration challenges. While objective 1 of GCM, which focuses on data, is not discussed in detail in the present report, it is an enabler to achieve the remaining GCM objectives and ensure safe, orderly and regular migration.

These priority areas were selected in a broad consultation process, drawing on key messages emanating from a regional consultation on

international migration in the Arab region in preparation for GCM, held in Beirut in September 2017; a 2018 mapping report on migration-related programmes, projects and activities in the Arab region; and discussions with experts and members of the Working Group on International Migration in the Arab Region. These areas have been selected as a priority for policy intervention in the Arab region; however, this selection does not preclude the relevance of other areas and GCM objectives that merit future research.

1. Migrants' rights to access basic services and the concept of full inclusion

Building a cohesive society comprising migrants and their hosts can be best achieved with targeted policies and actions. Objective 16 of GCM aims to realize full inclusion of migrants and to strengthen social cohesion by empowering migrants and societies. Full inclusion, which GCM does not define, is usually understood as a situation where migrants have rights and duties, and opportunities and responsibilities, similar to those of their host country's citizens. In other terms, a situation in which newcomers have gained full membership of the receiving society. However, it is also important to note that some regions, such as the GCC subregion, where labour migration is prevalent and national populations are composed of significant numbers of temporary migrant workers, a more nuanced understanding of full integration should be considered. Nevertheless, social cohesion generally refers to a society that works towards the wellbeing of all its members, fights exclusion and marginalization, creates a sense of belonging, promotes trust, and offers its members the opportunity of upward social mobility.⁴² The present section briefly discusses paths to acquiring citizenship as a means of ensuring full inclusion.

Access to basic services, elaborated in objective 15 of GCM, is an important precondition for the full inclusion of migrants

and for improved social cohesion. GCM makes the case for developing migrant-inclusive service delivery systems based on the principle of non-discrimination, and entailing crucial public services such as health and education.⁴³ The present chapter considers in detail migrants' access to health services. Annex VI to the present report sets out legislation on migrants' rights to access basic services, and the portability of benefits from across the region.

(a) Acquisition of citizenship

Full inclusion is a lengthy multi-dimensional process encompassing a variety of economic and social aspects, including labour integration and access to formal employment, equal access to services, and living in the same neighbourhoods as natives and taking part in their social or recreational circles, not to mention cultural, civil and political inclusion.

Acquiring citizenship is the most accomplished form of migrants' inclusion in destination countries. The acquisition by migrants' children of the citizenship of the destination country is by virtue of *jus soli*, which is the right of those born on the territory of a country to the nationality of that country.

Nationality laws and legislation on migrant naturalization in Arab countries are not necessarily conducive to full citizenship integration of migrants and their descendants. This is especially the case in countries where inward migration flows reflect temporary labour demands with a clear understanding that there are little to no prospects of residency beyond contractual obligations, and in the case of large waves of forced displacement such as those witnessed in Mashreq countries.

In all Arab countries, an almost exclusive principle of paternal *jus sanguinis* (*haqq ad-dam*) underpins nationality laws: individuals' nationality of origin, or nationality at birth, is the State to which their father belongs.⁴⁴ Nationality

is transmitted by patrilineal descent (*jinsiyat an-nasab*). For example, in Egypt, a continuous residence in the territory from 1 January 1900 is required to establish Egyptian nationality, which is later passed on by filiation (Nationality Law of 1926 amended by law No. 391 of 1952). In Iraq (1924), Jordan (1949), Lebanon (1925), Saudi Arabia (1926), Morocco (1956), Tunisia (1956), the Sudan (1957), Kuwait (1959), Bahrain (1963), Algeria (1963), Qatar (1963), Oman (1972) and Yemen (1990), the same combination of paternal descent and presence of lineage since a specific date considered as founding the nation is what determines the nationality of origin. In all countries except the Syrian Arab Republic, there is a binary distinction between nationals and foreign-nationals. However, in the Syrian Arab Republic, a 1969 law inspired by Pan-Arabism established three categories of nationality: Syrians, Arabs, and foreigners.

In the case of a child born from a national mother and a foreign father, some countries apply a complementary principle of maternal *jus sanguinis* when the foreign father is dead or non-resident (Tunisia 1993, Egypt 2004, Algeria 2005, Morocco 2007). In Lebanon, Libya and the Syrian Arab Republic, the dominant principle of *jus sanguinis* is mitigated by *jus soli* (*haqq al-iqlīm*), so that children to whom it is not possible to attribute any other nationality (e.g. unknown parents) eventually receive the nationality of their country of birth.

Arab countries' nationality laws also rely on, in theory, the possibility of foreigners acquiring nationality by naturalization (*al-tajannus*). However, naturalization is subject to strict conditions. Some general conditions include the migrants' continuous and prolonged residency (20 years in certain countries); their integration in the political community (in Libya the law defines 'Arab nationality' and facilitates the acquisition of Libyan citizenship for Arab citizens);⁴⁵ and several other criteria, such as being in good health and employable. In general, the long-term benefits of naturalization are often delayed, as a result of a probation

period (5-10 years in general). It is only after this probation period that equality of rights with citizens becomes effective. Moreover, in some countries, an extended exclusion generally applies to political rights. From this perspective, Morocco is a forerunner in the Arab region with regard to recognition of citizenship-like rights to migrants in its territory. Article 30 of its 2011 constitution provides that "foreigners under [Moroccan] jurisdiction enjoy the fundamental freedoms recognized to Moroccan citizens [feminine] and citizens [masculine], in accordance with the law. Those among them who reside in Morocco can participate in local elections by virtue of the law, of the application of international conventions or of practices of reciprocity".⁴⁶

While nationality laws in the region can be interpreted as restrictive, many Arab societies have displayed, for more than a century, an unwavering openness to refugees and those forced to migrate as a result of conflict and adverse circumstances in neighbouring countries. The special openness of the Sudan to Syrian refugees must be mentioned. Since 2014, the Sudan exempts Syrians from an entry visa and permit of stay, grants them the right to work and full access to public education, and offers them a citizenship track after six months of residence.⁴⁷

(b) Migrants' access to health

Health is a right enshrined in the 1948 Universal Declaration of Human Rights,⁴⁸ and a core dimension of human development.⁴⁹ It is also contained in the International Covenant on Economic, Social and Cultural Rights, which affirms the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (article 12). The present section explores access to health services that non-citizens or temporary migrants have in the countries where they reside, how this access compares to citizens' access, and its impact on the specific socioeconomic conditions of non-citizens and migrants.

Two opposite forces come into play in differentiating between migrants' and non-migrants' health status. Firstly, there are reasons why a typical migrant may enjoy a higher than average level of health. Migrants, including irregular migrants, are usually people whose individual characteristics are not fully representative of those of their population of origin. On the supply side, the 'best and fittest' are more prone to moving from a country of origin and to running all the risks expatriation implies, including irregular migration (self-selection). On the demand side, recruiters often set good health as a term of employment, and in some countries the State administration requests immunity from certain diseases, and often a certificate of good health, to deliver a permit of stay and residency (selection by others). Such requests are problematic from a human rights standpoint. For example, the HIV and AIDS Recommendation, 2010 (No. 200) prohibits mandatory HIV testing of workers, including migrant workers.⁵⁰

A number of studies, all of them conducted in Western contexts of immigration, have revealed a 'migrant mortality advantage'. In particular, research on mortality levels among migrants originating from Morocco and Turkey in France and Germany highlights a 'Mediterranean paradox' by which migrants belonging to economically underprivileged segments of society have a higher life expectancy than the host population.⁵¹ Other studies found that migrants of Turkish and Moroccan origin in Belgium, as well as Moroccan and Surinamese migrants in the Netherlands, have higher life expectancies than native Belgians or Dutch nationals although they have poorer living conditions.⁵² Several factors, from the above-mentioned selection process to the virtues of a so-called 'Mediterranean diet', have been presented to understand this phenomenon.

The migrant mortality advantage, however, must be relativized as it often combines a real phenomenon (those who migrate are the

healthier members of an origin population) and a statistical artefact (migrants who fall seriously ill and risk dying tend to return to their country of origin, where the disease or death will be counted). Temporary migrants typically stay at destination for the duration of a work contract, which is conditioned on their good health. Should migrant workers fall seriously ill, it is likely that they return to their country of origin. For statistical purposes, this would not be noted in the country of destination, but rather included in morbidity (and mortality in case of death) data in the origin country. Some authors have coined this error the 'salmon effect'.⁵³

In addition to the above-mentioned health advantage, a second force plays in the opposite direction to the disadvantage of migrants. Their exposure to disease and work-related injury in a destination country is often higher than average. This is the case when migrants are employed in '3Ds' (dirty, dangerous, and demeaning jobs). Moreover, many migrants endure adverse living and working conditions, such as overcrowded housing and poor nutrition, which have a potentially negative impact on health. Consequently, with the passing of time, migrants' initial health advantage can gradually subside or even reverse.

The present section tries to answer the core question of who pays for migrants' health: the State, the employer, or the migrant. In cases where nobody is responsible but the migrants, the present section enquires whether they can benefit from the support of solidarity networks, civil society associations or systems of mutual aid. A key related question is what options are available to migrants who get sick, and whether they prefer to return to their country of origin.

Access to health is a complex issue that goes beyond the question of who pays for migrants' health, to which migrants are covered and how inclusive is their coverage. Access to health has a number of critical dimensions, including the following:

- Gender: several aspects should be considered, such as whether women enjoy the same access as men, whether they are autonomous or dependent migrants; and if their specific sexual and reproductive health needs are adequately addressed;
- Age: health needs, and the cost of addressing them, vary enormously according to age. To provide a comprehensive overview, analysis should take into consideration the needs and coverage of different age groups;
- Economic status: the level of income and the sector of employment (formal, informal, household) have an impact on health outcomes and on access to health care, and thus should be considered when analysing access to health;
- Migration status: irregular migrant status may bar access to health-care facilities that are available to migrants in a regular situation.

Taking into account the above dimensions, a complex typology emerges of who has adequate access to health services. Given the lack of comprehensive data on most of the aforementioned issues, only the question of 'who pays' is considered in the present section.

A review of the legislation governing migrants' access to health services divides Arab countries into the following categories: countries where the State is the main provider of health care to migrants; countries where the employer is in charge of migrants' health; and countries where migrants are predominantly left to fend for themselves. In several Arab countries, there is no clear legislation that defines migrants' access to health, and no stipulations in the labour law. These countries are grouped under category 4: countries where regulation on who is in charge is unclear or incomprehensive. Further research is needed on these countries, as sectoral policies or

other laws and decrees may have stipulations regarding migrants' access to health.

Category 1: The State is responsible

In a number of Arab countries, the law provides that foreign residents must be covered by health insurance; however, it is not always clear who covers the insurance. Only Moroccan law unambiguously specifies that the State is in charge. Syrian law indicates that migrant workers have the same health insurance as Syrian citizens.

The **Moroccan** Social Security National Fund covers all migrants living in the country who are employed in formal activities on an equal footing with citizens for their medical expenses. Moreover, all low-income migrants, whether they are employed in formal or informal activities, benefit from a free medical assistance scheme (RAMED), provided that they have regular residency status. Only migrants in an irregular situation, who are believed to be in small numbers after the regularization campaigns of 2014 and 2018, remain uncovered (box 10).

The 2003 law on the entry and stay of foreigners stipulates that foreign residents with authorized employment have the same access to public services as Moroccan citizens.⁵⁴ In 2015, addressing concerns about the health situation of sub-Saharan migrants in the country, the Ministry of Health, the Ministry for Moroccan Residents Abroad and Migration Affairs, the Ministry of Interior, and the Ministry of Economy and Finance signed a partnership agreement providing refugees and migrant women access to social housing and to basic medical coverage.⁵⁵

Syrian Labour Law No. 91 of 1959 stipulates that all foreign workers with a work permit are provided the same health insurance as Syrian workers, who enjoy free medical care in all government clinics and health centres.⁵⁶ Article 94 of the Social Insurance Act No. 92 of 1959,

as amended,⁵⁷ also provides for the portability of social benefits, stating that pensioners or the beneficiaries of pensioners or insured persons who leave the Syrian Arab Republic can ask for the pension to be remitted to the country in which they live, provided that they pay the transaction costs and, if they are not Syrians, subject to the condition of reciprocity. However, the law is not clear regarding its coverage of irregular migrant workers. It is also unclear on coverage for dependents of migrant worker.

Category 2: The employer is responsible

All GCC countries, except Oman, belong to this category. Migrants represent at least half of the total population in these countries, and the majority of the active population. Moreover, migrants are over-represented among low-income workers who have a high prevalence

of work-related diseases and accidents, but typically more limited access to quality health care – a detrimental combination with consequences for health, including mental health.⁵⁸

While countries regard free or highly subsidized medical care as part of the welfare package they owe their citizens, they all want to reduce public expenditure on non-nationals' health care. To this end, they can impose on employers an obligation to provide their employees with health insurance, or to directly cover their health expenses.

Bahrain is a leading example of an Arab country with non-discriminatory legislation on migrants' access to services. As early as 1976, participation in social insurance schemes was made available to all employees, irrespective

Box 10. Promoting migrants' rights in Morocco

Morocco provides an interesting example of gradual integration of low- or no-income migrants in the health system. The country hosts large numbers of migrants who arrived in the last two decades from sub-Saharan Africa with an intention to reach Europe, but who eventually became stuck in the country for lack of a visa to a European country.^a While most of them were staying irregularly in Morocco, the Government launched in 2014 and reiterated in 2017-2018 a large-scale regularization campaign. The Moroccan administration regularized the situation of most cross-Saharan undocumented migrants (around 50,000 between 2014 and 2018, representing 85 per cent of all applicants).^b Most, if not all, regularized migrants are low- or no-income people, which raises the question of what kind of access to health they have. A 2016 survey shows that a combination of public subsidies and private solidarity makes it possible for them to find some support in case of illness or injury.^c

In 2008, Morocco established a medical assistance scheme (RAMED), providing low-income people with access to free health care and to free medicine in public hospitals.^d In 2012, RAMED was extended to migrants in regular situations and to refugees in 2015, regardless of their employment status. By doing so, Morocco recognizes that migrants have the same rights to health as citizens. A survey of health behaviours among migrants in an irregular situation in Rabat found that 40 per cent had actually received health care at some point in the country. Non-governmental organizations play a greater role (62 per cent) than public hospitals (23 per cent) in providing health care, except for pregnant women who mostly give birth in public hospitals.^e In 68 per cent of cases, migrants in irregular situations had to spend some personal money on health care, potentially tapping into savings kept for continuing their journey to Europe.

^a Mourji and others, 2016.

^b Morocco World News, 2018.

^c Mourji and others, 2016.

^d <https://www.ramed.ma/ServicesEnligne/home.html>.

^e Alami, 2014.

of gender, nationality or age (article 2, decree No. 24 of 1976). The same decree provides for portability of social benefits, stating that foreigners leaving the country permanently who have subscribed to the social insurance for more than three years shall receive their dues that were paid to the General Authority to participate in the social insurance, their indemnity, and an annual interest rate of 5 per cent (article 138a).⁵⁹

Decision No. 23 of 2018 resulting in Health Insurance Law requires employers to pay fees for health insurance subscription on behalf of their non-Bahraini workers to cover the benefits listed under the compulsory health package for residents (article 28a-2). It also requires sponsors to pay subscription fees for persons they sponsor who do not have an employer (article 28a-6), a measure that protects migrants whose sponsor is not their employer.

Kuwaiti law No. 1 of 1999 on alien health insurance grants foreigners access to medical services under the general health insurance and medical security schemes (article 1). A foreign worker's employer is required to obtain and pay for the worker's health insurance policy before a residence permit is issued (article 2). Ministerial decree No. 68 of 2015 extends to domestic workers the compulsory coverage of medical expenses (together with food, clothes and accommodation) by the employer.

Qatari decree No. 16 of 2005 of the Ministry of Civil Service Affairs and Housing stipulates employers' obligation to cover their foreign employees' health insurance. Article 1 lists medical care to be provided for monitoring workers' health status and early detection of occupational diseases (check-ups for all workers, laboratory tests and x-rays, medicines, maternity care, vaccinations). Article 10 requires the employer to facilitate periodical medical check-ups while paying the employee for the time spent doing the check-ups.

Law No. 7 of 2013 established a social health insurance system to cover basic health services for all Qatari citizens, GCC citizens, residents and visitors (article 2). Employers must pay the insurance policy of their non-Qatari employees and members of their families, and sponsors must pay the insurance policy of their sponsored individuals (article 13). Any migrant worker with a residence permit receives a Hamad Medical Corporation health card, which they need to access public health centres. All services at the Hamad Medical Corporation are free or nearly free for all residents and visitors in Qatar. 'Long-term' accommodation is available for patients who do not have other options during their treatment. The only limitation is for migrants without a health card, either because of their irregular status or if their employer failed to complete the necessary paperwork.

The **Saudi Arabian** Cooperative Health Insurance Law of 1999 ensures the provision of health services to all non-Saudi residents and their dependents. Sponsors must subscribe their sponsored individuals to a health insurance scheme, which must cover the duration of their residence (article 3). For a fee, employers can expand the scope of basic services covered by the insurance. Moreover, the Compulsory Employment-based Health Insurance of 2016 requires that patients contribute a fixed co-payment for their medical expenses;⁶⁰ however, whether a migrant worker can afford the co-payment remains questionable. A 2014 study estimated that migrant workers should spend 10-30 per cent of their monthly wages (the average expatriate salary in the private sector was less than \$270 per month at the time of the survey) as co-payment for a medical consultation.⁶¹

The law of the **United Arab Emirates** requires every employer or sponsor to provide health insurance for their employees or persons under their sponsorship, and for their family members up to three children under 18 (law No. 23 of 2005). The law specifies that "an employer shall bear the cost of basic health insurance policies for his/her employees and their dependents and

shall not pass on this cost, or any part of it, to his employees" (article 11 (5)).⁶²

Category 3: The migrant is responsible

Oman is the only GCC country where the law does not stipulate that employers must cover their foreign employees' health insurance. Sultan's decree No. 72/1991 resulting in the Social Insurance Law and its amendments applies to citizens employed in private companies in Oman or another GCC country, but not to foreign workers, household workers, self-employed persons and artisans. In 2006, the law was amended to include the right of foreigners who become naturalized citizens to retroactively benefit from social insurance for the period before the law came into effect. The Omani public health scheme covers Omani and other GCC citizens, but excludes non-GCC foreigners living in the country unless they are employed in government jobs. Only in case of emergency are public hospitals obliged to admit all foreigners.⁶³

Category 4: Regulations on who is in charge are unclear or incomprehensive

Egyptian legislation is not explicit on foreign residents' access to health (law No. 64/2010). IOM and several non-governmental organizations provide health and psychosocial services to vulnerable migrants. Syrian refugees, who have been admitted to public hospitals since the arrival of the first refugees in 2012, also benefit from the Regional Refugee Resilience Plan launched in April 2017.⁶⁴

In **Iraq**, successive conflicts in the 1990s and 2000s have transformed the country, once a key destination for migrant workers, into one of the world's largest origin countries of refugees and internally displaced persons. In the 2010s, increased security in parts of Iraq and the start of the Syrian civil war triggered a movement of return of former Iraqi refugees and massive arrivals from the embattled Syrian Arab Republic. It is therefore difficult to assess

policies and the level of access to health services that people on the move have in Iraq.

Jordanian legislation is unclear on whether an overall health protection scheme is available to migrants. The 1996 Labour Law stipulates that all workers have a right to annual and sick leave (articles 64 and 65) and to personal protection from work hazards (article 78). Employers must provide medical care to domestic workers under regulation 90/2009. An Office of the Prime Minister's decision of 2010 provides all victims of violence, regardless of nationality, with free access to public hospitals.⁶⁵ Integrated medical clinics open to refugees provide services to people in need from all nationalities.

Lebanon was emerging from a devastating civil war (1975-1989) when it started receiving massive inflows of refugees, first from Iraq (2006-2008) then from the Syrian Arab Republic (since 2011), in addition to a large refugee population from the State of Palestine (descendants of refugees who arrived in 1948-1949). The country's health system found itself under extreme strain. A 'Lebanon crisis response plan' was designed with the help of UNHCR and other international agencies.⁶⁶ In 2016, access to public health centres was extended to the most vulnerable among displaced persons and host communities, irrespective of nationality. Except for basic preventive medicine and immunization care services that are free, minimal fees are requested from out-patients but hospitalization is not covered, which can pose challenges for most low-income migrants and displaced persons.

Libya, which was a major destination country and migration hub before 2011, is still host to a large number of international migrants (at least 670,920 according to IOM, or between 700,000 and 1 million according to other United Nations sources)⁶⁷ employed in the country or stranded on their way to Europe. Little is known about their health conditions. In 2017, a health service availability and readiness

assessment (SARA) by the Libyan Ministry of Health and WHO found that the country faced considerable health challenges owing to the conflict.⁶⁸ Reports from detention centres where several thousand migrants are being held describe their high exposure to communicable diseases, violence, abuse, exploitation and ultimately death.⁶⁹ A 2018 IOM survey found that water and sanitation, shelter and health are priority needs, with health coming first for more than three quarters of the migrant communities deprived of any accessible health facilities.⁷⁰

Social Security Law No. 19 of 2016 of the **State of Palestine**, which came into effect in November 2018, covers all workers, including female and male domestic workers. The law lists eight social insurance areas, three of which came into force upon the law taking effect. These include work injury insurance.⁷¹

Mauritanian decree of 16 April 2008 on the employment of foreign workers stipulates that they enjoy the same access as citizens to public services. However, the nature of this access and its coverage is not specified.

The Employment of Non-Sudanese Act of 2000 provides preferential treatment for Arab and African nationals over other nationalities in the **Sudan**, as is the case in employment-related matters. However, the insurance coverage and access to health services is not clearly defined for different migrant groups.

The **Tunisian** constitution of 2014 reaffirms that “health is a right for every human being” and “the state shall guarantee preventive health care and treatment for every citizen [...] and shall ensure free health care for those without means and those with limited income” (article 38).⁷² However, it does not specify the availability of health care for non-citizens. A study on migrants’ status regarding human rights in post-revolution Tunisia shows that the High Commissioner for Human Rights recommends that migrants, whatever their

legal status, be granted equal access to health as citizens.⁷³ Free Medical Assistance for the Poor (Assistance Médicale Gratuite – AMG) is provided to close to one third of the country’s citizens, but it is not known whether and in what proportion it reaches non-citizens, although the eligibility criterion for AMG is income not nationality.⁷⁴

A desk review of accessible **Yemeni** laws and policies did not reveal any policies related to migrants’ access to health care. On the ground, United Nations agencies are providing health services to the large refugee populations arriving from the Horn of Africa.

2. Addressing and reducing vulnerabilities of migrants

Objective 7 of GCM calls for increased efforts to respond to the needs of migrants who face situations of vulnerability, in particular women at risk, children, especially those unaccompanied or separated from their families, members of ethnic and religious minorities, victims of violence, including sexual and gender-based violence, older persons, persons with disabilities, persons who are discriminated against on any basis, indigenous peoples, workers facing exploitation and abuse, domestic workers, victims of trafficking in persons, and migrants subject to exploitation and abuse in the context of migrant smuggling.

Action 7 (d) singles out domestic workers as a vulnerable group by calling for a review of relevant existing labour laws and work conditions to identify and effectively address workplace-related vulnerabilities and abuses of migrant workers at all skills levels, including domestic workers and those working in the informal economy (box 11). Furthermore, objective 6 underlines the importance of fair and ethical recruitment and decent work conditions, which are of particular relevance to low-income migrant workers employed under the *kafala* system.

Migrant domestic workers have been selected as a case study for the purpose of the present section. It also explores two areas that require attention in an attempt to reduce the vulnerabilities of migrants: the *kafala* system, and the wage protection system.

The distinct circumstances and concerns of all vulnerable groups merit individual attention owing to the specificities of the region, and is an area for future research. Annex VII to the present report sets out legislation from across the region relevant to addressing and reducing vulnerabilities of migrants.

(a) *Kafala* system

In several Arab countries where the sponsorship system (*kafala*) is in force, every migrant is considered a temporary resident by law (or a ‘visitor’), so sponsorship is primarily aimed at making sure that migrants are only temporarily present and leave at the end of their contract. Every migrant has a local sponsor who serves as a guarantor for their actions.

An ILO white paper defines *kafala* as a system by which migrant workers are tied to the employer for: entry to country of destination; renewal of residence and work permits; termination of employment; transfer to a

different employer; and/or exit from country of destination.⁷⁵

The sponsor in most countries must be a local citizen. However, self-sponsorship is possible in some countries in the case of foreign investors, in addition to dependent sponsorship in cases of family reunion where a migrant’s spouse, sons under 18 and unmarried daughters whatever their age can be sponsored by the migrant. Transfer of sponsorship at the initiative of the migrant is mostly forbidden unless the original sponsor formally agrees.

Countries are increasingly aware of the shortcomings of the *kafala* system, such as the difficulty to implement monitoring mechanisms to ensure the fulfilment of a sponsor’s responsibilities, including covering costs pertaining to work and residence permits, health insurance, and the timely payment of wages including the final payment. Transgressions in some cases have pushed migrants towards an unbearable situation of debt bondage. Another shortfall is the restrictions it imposes in many cases on migrants’ freedom of mobility, which both infringes their rights and hinders the economic performance of the country.

Recognizing these shortcomings, several Governments have taken steps towards

Box 11. Case study: Migrant domestic workers

In 2015, there were 67.1 million domestic workers worldwide. Around 11.5 million of them, representing 17.2 per cent of the total, were international migrants. Domestic work is a highly gendered occupation. Globally, women are estimated to represent 73 per cent of all migrant domestic workers. In the Arab countries, however, domestic work is also a male occupation. ILO estimates that over 50 per cent of all male migrant domestic workers are employed in Gulf countries and the Mashreq.^a

There is insufficient public data on the number of domestic workers (both national and migrant) in the Arab region. In several countries, domestic workers typically belong to the local community or are internal, short-distance migrants. However, this does not apply to the GCC and Mashreq, where most domestic workers are international migrants, according to ILO estimates.

Two situations converge to explain the predominance of migrants among domestic workers in these subregions: a large proportion of mid- to high-income households generating a context in which



nationals are reluctant to work as domestic workers; and large refugee or migrant populations in irregular situations for whom informal employment is the only option. In the first case, migrant domestic workers enter the country with a regular visa delivered to them upon recruitment in their country of origin, on the basis of a work contract as domestic worker. In the second case, migrant domestic workers stay irregularly in the country and find employment at a later stage, typically without a formal written contract.

Migrant domestic workers are more prone to vulnerabilities, as the nature of their work presents a legal conundrum. Domestic work covers a variety of tasks that family members would otherwise complete but that domestic workers fulfil instead, typically while living with their employers. They are part of the 'economic family' but they are not members of the legal family. The law that governs the family does not govern conditions of a work contract.^b On the other hand, migrant domestic workers are waged workers, but labour law does not necessarily apply to them either. It is important to note that legislation varies between countries. In States where labour law does not include domestic workers, it is suggested that this is due to considerations of the private nature of their employment. Unlike trades, companies, factories, workshops or offices, households are not registered as productive units and a family house is not a place where labour inspectors are normally allowed owing to the privacy of the home.

As a result, migrant domestic workers in many Arab countries are exposed to more vulnerability, as they are not yet fully covered by national labour laws. Countries where domestic worker laws do exist must be acknowledged as making progress in seeking to increase protection for domestic workers. However, efforts must continue to address existing gaps and challenges (for example, compliance with the ILO Domestic Workers Convention, 2011 (No. 189)), and strengthen the enforcement of the law. This would contribute to reducing vulnerabilities and risks that migrant domestic workers face as a result of working and living in the private space of homes, with many reported cases of physical, emotional and sexual abuse, as well as unpaid overtime, absence of weekly rest and passport confiscation. Women domestic workers face a number of gender-specific barriers, including a lack of information, knowledge and access to resources, in addition to being at higher risk of violence. Furthermore, even with cases where violations of rights are evident, only a few are actually reported in practice. Migrant domestic workers are hesitant to prosecute their employers for myriad reasons, including the fear of losing their job and therefore their residency in the country of destination. Moreover, if a worker is employed irregularly, a conflict with the employer would immediately expose the complainant to detention for unauthorized employment.

Along the labour migration process, risks of exploitation are plentiful, both in countries of origin and destination. Within the context of the sponsorship system, which governs foreigners' employment and residency, migrant domestic workers face a wide range of challenges and risks. In the country of origin, these can include brokers charging illegal recruitment fees, which could potentially produce a situation of debt bondage before the paid job has even started. Another common form of treacherous recruitment is when migrant workers are offered employment before leaving their home country, without a written contract in a language they can understand. Later, they find that the job in practice differs substantially from what they had earlier understood. In the country of destination, several forms of exploitation by the employer have been noted, typically withholding salaries and confiscating passports, further contributing to debt and restricting freedom of movement. Enhancing protection for absconding migrant domestic workers would be highly beneficial, both with the support of countries of origin (embassies) and that of countries of destination. In some countries, if the employer reports a absconding migrant domestic worker, this leads to automatic or pending detention and deportation. In other cases, the workers are given time to present themselves before the relevant authorities to make their case.

In countries where employment is not governed by the *kafala* system, migrant domestic workers are also vulnerable to many risks. For example, in Egypt where the 2003 labour code stipulates that domestic work is an exception to the labour law, a typical migrant domestic worker originates from Eritrea,



Ethiopia, Somalia or the Sudan.^c Many of them are in a semi-clandestine situation and fear detention and deportation if the police apprehend them, so they refrain from denouncing and prosecuting an abusive or exploitative employer.

Measures taken to improve the situation of migrant domestic workers in the Arab region

In 2018, Kuwait made a significant step by transferring the competencies of the Interior Minister regarding the employment of domestic workers to the Minister of Economic Affairs and the Public Authority for Manpower (Council of Ministers decision No. 614 of 2018).^d The legislative framework could further be developed to ensure their eligibility for the wage protection system.^e Qatari Domestic Workers Law No.15 of 2017^f provides a legal framework for the employment and protection of domestic workers that is close to the labour law, although less protective standards remain in relation to normal hours of work, overtime compensation, periods of daily and weekly rest, and paid annual leave. An adequate and appropriate system of monitoring and enforcing compliance is also absent. In the United Arab Emirates, Federal Law No. 10 of 2017 introduces measures for the protection of domestic workers (role of recruitment agencies, standards for labour contracts, employer and employee obligations, inspections, penalties, time off, end of service indemnity, termination of contracts, and dispute settlement).^g In Saudi Arabia, laws enacted in 2017 have mandated the employers of migrant domestic workers to issue prepaid payroll or salary cards, and made it possible for domestic workers to change their employer under certain defined circumstances.

^a ILO, 2015.

^b Thomas, 2010.

^c Jureidini, 2009.

^d 2015، الكويت.

^e Migrant-Rights, 2017.

^f قطر، 2017 ب.

^g الإمارات العربية المتحدة، 2017.

reforming the system. A significant move was Qatari law No. 13 of 2018,⁷⁶ which largely ended the obligation of exit permits for foreign workers covered by the Labour Law.⁷⁷ In 2017, Bahrain introduced a flexible work permit that allows certain categories of workers in an irregular situation to obtain work permits.

(b) Wage protection system: paying wages in full and on time

Not paying wages in full and on time is a common though unlawful practice among employers of migrant workers. To protect workers, Governments in the GCC region have adopted laws requiring all employees to open accounts in accredited banks, and employers to pay their employees through bank transfers to ensure that the payment of salaries fulfils contractual obligations and

can be tracked. This obligation, called the wage protection system (WPS), has been adopted by all GCC countries, although it is not yet operational in Bahrain.

WPS implementation is a significant achievement for strengthening the protection of waged workers, and providing an array of benefits to other stakeholders. For example, through the WPS, employers can obtain proof of their compliance with the labour law in case of dispute. Moreover, WPS can be a critical resource for national authorities in regulating firms and employers.

Despite these developments, several areas remain in need of reform to reduce vulnerabilities of migrants. Firstly, the system makes it possible to monitor how much was paid to the worker, but not whether the payment corresponds

Box 12. Migrant workers in trade unions

Enabling all migrants, including those in an irregular situation, to speak for themselves and listening to them is a key means of reducing their vulnerability.

In 2012, Morocco became the first Arab country to allow migrant workers to form their own trade union (ODT-TI) as part of a large national union, the Democratic Labour Organization. ODT-TI is committed to defending the rights of all migrant workers with or without legal status in Morocco. It calls for equality of wages and treatment at the workplace for all. Its experience may serve as an example for other countries in the region. In 2018, the Tunisian General Labour Union (UGTT) opened four migrant workers' information desks (in Tunis, Sfax, Sousse and Medenine), and trained a dozen focal points with support from international organizations. UGTT also developed a guide to inform and raise awareness among migrant workers in Tunisia.

Source: Morocco, Conseil de la Communauté Marocaine à l'Étranger, 2012; see also Organisation démocratique des travailleurs immigrés. Available at <http://odtmaroc.com/ar/2461>.

to what was due. There is sometimes a gap between the net salary transferred through the bank and the basic salary written in the signed contract. Other challenges include an absence of payslips meaning that workers do not know how their wages have been calculated (overtime and deductions); gaps in penalties for non-compliance with WPS; or employers withdrawing cash for their workers under the pretext of saving them time and charging them for the service or not paying them in full.⁷⁸ Consequently, WPS makes it possible to verify if and when a payment has been made, but not if its amount was correct or if the right person withdrew the cash.

3. Preventing and combatting the smuggling of migrants and trafficking in persons

The present section highlights the importance of preventing and combatting the smuggling of migrants and trafficking in persons as a priority area for the region, which serves as an origin, transit and destination for several major smuggling and trafficking routes. It introduces the concepts of trafficking and smuggling, clarifying the distinction between them, provides a detailed analysis of the different smuggling and trafficking routes, and gives an overview of relevant global frameworks.

(a) Migrant trafficking and smuggling: definitions and distinctions

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, defines trafficking in persons as “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”.⁷⁹

The Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, defines migrant smuggling as “the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State

Box 13. Role of recruitment fees and abusive and fraudulent practices of recruitment agencies in trafficking in persons

Migrant workers are likely to rely on recruitment agencies to handle their recruitment, owing to complex visa procedures or migrants' lack of familiarity and connection with the destination country. Unscrupulous recruiters and recruitment agencies often take advantage of migrant workers' lack of education, language skills, and information to deceive them and prevent them from leaving their employment. In some cases, they provide false information about the law or workers' migration status, or take advantage of relationships with authorities to prevent workers from approaching authorities themselves. A recent report by the United Nations Special Rapporteur on the human rights of migrants states: migrants are at heightened risk of exploitation and abuse in the workplace owing to deceptive recruitment practices, both by employers and intermediaries; frequent lack of social support systems; unfamiliarity with the local culture, language, their rights at work and national labour and migration laws in the country of employment; limited or denied access to legal and administrative systems; dependence on the job and employer owing to migration-related debt, legal status, or employers restricting their freedom to leave the workplace; and reliance by family members on remittances sent back home by migrants. These factors are amplified by the discrimination and xenophobia that migrants increasingly face.

Sources: UNODC, 2015; A/HRC/26/35, para. 18.

Box 14. Reasons for low levels of trafficking convictions for recruiters and recruitment agencies

Experts consulted by UNODC flagged the following factors that potentially contribute to low levels of trafficking convictions for recruiters and recruitment agencies:

- Some victims do not see themselves as victims, and are often reluctant to come forward and testify;
- Authorities, including law enforcement, labour inspectors, judges and immigration officials, lack the capacity to identify victims of trafficking in persons;
- Lack of evidence to prove that recruiters or recruitment agencies were involved in trafficking in persons. For example, there is often a "word against word" situation, or it may be difficult to prove that the recruitment fees charged were unreasonable;
- Trafficking in persons is a complex crime, often involving organized crime structures that operate across international borders.

Source: UNODC, 2015.

Party of which the person is not a national or a permanent resident".⁸⁰

While the two notions are distinct, they are linked for smuggled migrants because of the irregular nature of their presence in countries: they are particularly at risk

of becoming trafficked persons and face challenges to get access to protection mechanisms. Subsequently, the challenge for all countries, rich and poor, is to target criminals who exploit desperate people and to protect and assist smuggled migrants and victims of trafficking.⁸¹

Table 8. Signatories to the Palermo Convention and its protocols as at 20 March 2019

Country	Ratified		
	Convention	Protocol 1	Protocol 2
GCC			
Bahrain	2004 a	2004 a	2004 a
Kuwait	2006	2006 a	2006 a
Oman	2005 a	2005 a	2005 a
Qatar	2008 a	2009 a	-
Saudi Arabia	2005	2007	2007
United Arab Emirates	2007	2009 a	-
Mashreq			
Egypt	2004	2004	2005 a
Iraq	2008 a	2009 a	2009 a
Jordan	2009	2009 a	-
Lebanon	2005	2005	2005
State of Palestine	2015 a	2017 a	-
Syrian Arab Republic	2009	2009	2009
Maghreb			
Algeria	2002	2004	2004
Libya	2004	2004	2004
Morocco	2002	2011 a	-
Tunisia	2003	2003	2003
Arab LDCs			
Comoros	2003	-	-
Djibouti	2005	2005	2005
Mauritania	2005 a	2005 a	2005 a
Somalia	-	-	-
Sudan	2004	2014 a	2018 a
Yemen	2010	-	-

Source: United Nations Convention against Transnational Organized Crime, "Signatories to the United Nations Convention against Transnational Crime and its Protocols".

Note: a: accession

Protocol 1: Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

Protocol 2: Protocol against the Smuggling of Migrants by Land, Sea and Air.

The following conceptual remarks must be made from the outset:

- Smuggling always concerns migrants, as it implies the illegal crossing of international borders. Trafficking, on the other hand, involves vulnerable individuals in general, including migrants but also vulnerable non-migrant populations;
- Smuggling is by nature transnational while trafficking can be local, national or international. Smuggling is not only about organizing illegal border crossing, it also includes transportation across large swathes of national territories spanning several countries, during which migrants are exposed to all kinds of risks. For example, in the long journey from Western Africa to Europe, migrants are left at the mercy of transnational smugglers operating not only at international boundaries but also across the desert in the national territories of Libya and Niger;
- Smuggling entails facilitating border-crossing in direct contravention of the law. In a period when major migrant destination countries are developing policies for containing international migration, and commercial carriers have a mandate to refuse boarding to individuals who would be denied entry at a destination for lack of proper authorization, smuggling has become a service in high demand. The tougher the constraints to regular migration, the higher the demand for and the price of smuggling services. Incidentally, the dangers faced by smuggled people also increase;
- Trafficking is closely related to the abusive practices of some recruitment agencies (see box 13).

GCM objectives include several commitments to prevent and combat trafficking and smuggling of migrants. Some of the actions stipulated call for intensifying joint efforts in that regard

by strengthening capacity and international cooperation to prevent, investigate, prosecute and penalize the smuggling of migrants, and fight smuggling networks. Annex VIII to the present report sets out legislation adopted by Arab countries on preventing and combatting trafficking and smuggling.

In contrast to most cases of trafficking, smuggling involves consent by the smuggled person. Nonetheless, smugglers are the criminals, not the smuggled persons. GCM commits to ensuring that migrants shall not become liable to criminal prosecution for the fact of having been the object of smuggling. Moreover, smuggled migrants are exposed to all sorts of violation of their human rights. They must therefore be protected and the special needs of women and children considered.

GCM also includes a commitment to prevent, combat and eradicate trafficking in persons in the context of international migration, and to enhance the identification and protection of, and assistance to, migrants who have become victims of trafficking, paying particular attention to women and children.

The vast majority of Arab States have signed and ratified the Palermo Convention and its first two protocols, the most recent being the Sudan that ratified Protocol 2 on 9 October 2018 (table 9).⁸² However, the way the Convention

and its protocols are implemented varies greatly between Arab countries.

(b) Trafficking and smuggling routes

The below routes have been selected because they illustrate the variety of situations and of policy responses across the region. These corridors draw a picture of the present complexity of a phenomenon that requires joint action between all countries involved: origin, transit and destination.

i. Syrians smuggled to Europe

What became known as the ‘Mediterranean migration crisis’ was triggered by large numbers of Syrian refugees leaving Turkey and other countries of first asylum, where they could no longer live decent lives. Between April 2011 and March 2016, over 640,000 Syrian citizens arrived in Greece and Italy by sea on small boats. Arrivals to Greece almost stopped after a joint statement by the European Union and Turkey in March 2016 on keeping in Turkey Syrians with no visas for Europe.⁸³

In the first years of the conflict, Syrians were in Turkey as ‘guests’ not refugees. Turkey, while a party to the 1951 Refugee Convention, maintains a geographical limitation only to people originating from Europe, excluding citizens from non-European States, from the status of refugee. In 2014, Turkey

Table 9. Syrian nationals smuggled by sea and granted asylum once in Europe, April 2011 – March 2016

(1) Syrians smuggled by sea to Greece and Italy		641,502
(2) First-time asylum applicants from the Syrian Arab Republic in the European Union		827,500
(3) Proportion of Syrian asylum seekers entering the European Union through Greece and Italy		77.5%
(4) Decisions on asylum applications lodged by Syrians	All decisions	564,875
	Positive decisions	545,470
	Percentage of positive decisions	96.6%
(5) Expected number of Syrians smuggled by sea who would have obtained a humanitarian visa before travelling to the European Union*		619,465

* Calculated as the number of Syrians smuggled by sea to Greece and Italy (1) times the percentage of positive decisions on asylum applications lodged by Syrians (4).

Source: Fargues, 2017a.

Table 10. Foreign nationals in Libya at the end of October 2018

Country	Number	Percentage
Niger	135,781	20
Egypt	95,293	14
Chad	89,488	13
Sudan	78,183	12
Nigeria	62,447	9
Other	209,728	31
Total	670,920	100

Source: IOM, 2018e.

adopted a law creating an intermediate status of ‘conditional refugees’ for non-Europeans, eligible for a number of guarantees close to those of the Convention. Conditional refugees are allowed to reside in Turkey temporarily until they are resettled in a third country.⁸⁴

Seeking asylum in Europe from Turkey requires that European countries have a resettlement policy. Refugee resettlement exists in European States’ asylum laws, and it is theoretically possible for their embassies or UNHCR to conduct refugee status determination so that an accepted refugee can travel regularly and safely. However, in reality, European States practice very little or no resettlement. They grant refugee protection only once a claim lodged by an asylum seeker at arrival on their territory has been accepted. According to European law, it is possible to apply for a humanitarian or asylum visa directly from a third country and then travel safely to Europe to lodge an asylum claim.⁸⁵ However, European countries do not deliver such visas. Migrants are therefore faced with two options: obtaining a visa for a reason unrelated to asylum, such as work, study or family reunion, but such visas are possible for only a small number of migrants; or try reaching Europe with no visa using the services of smugglers. Of the 827,500 first-time asylum applicants from the Syrian Arab Republic recorded in the European Union between 2011 and 2016, a total of 641,502 (77.5 per cent) had been smuggled by sea (table 10). Almost all of them (96.6 per cent) were granted refugee

status or temporary protection by either Greece or another country of destination in Europe. The hazards of smuggling and dying at sea, and the chaos created by thousands of disorderly landings on unequipped islands, could have been mitigated had there been more European Union humanitarian or asylum visas issued to Syrians in Jordan, Lebanon and Turkey.

ii. Gulf of Aden corridor

Despite the tragic situation in Yemen, with more than 2 million of its citizens internally displaced by conflict since 2015, the war-torn country has remained a destination or place of transit for migrants and refugees fleeing life-threatening conditions in Eritrea, Somalia and other countries. An estimated monthly average of 7,000 migrants smuggled by sea from Africa reached Yemen in 2017.⁸⁶ According to UNHCR, over 270,000 refugees, mostly from Somalia, were in Yemen in 2018. OCHA provides a higher estimate of 435,000 in 2017. Most migrants from the Horn of Africa reaching Yemen are on their way to other countries in the Arabian Peninsula, in particular Oman and Saudi Arabia.

While Yemen still attracts transit migrants and asylum seekers, an estimated 100,000 of its citizens have fled the country, half of them to Oman (50,000 Yemeni refugees in 2017) and the rest to Djibouti, Saudi Arabia and Somalia (which also sends refugees to Yemen).⁸⁷ Saudi Arabia has barred the entry of new refugees from Yemen and is sending back some of them (17,000 in the first quarter of 2018).⁸⁸

Several countries on this route have adopted legislation and policies relevant to combatting smuggling and trafficking and to protecting victims, as follows:

- Article 248 of the Yemeni penal code criminalizes slavery and prescribes penalties of up to 10 years of imprisonment for sex trafficking; and article 279 criminalizing child sex trafficking prescribes penalties of up to seven years imprisonment, which could be

increased to 15 years imprisonment under aggravating circumstances;⁸⁹

- Omani royal decree No. 126/2008 defines acts of trafficking and penalties for convicted offenders;⁹⁰
- The Saudi Arabian 2009 Anti-Trafficking Law prohibits all forms of human trafficking, and prescribes heavy punishments of up to 15 years imprisonment and 1,000,000 Saudi Riyals fines (articles 3 and 4).⁹¹

Despite those policies and legislation, migrants smuggled or trafficked along this route face heightened vulnerabilities. They are exposed to abuse, kidnapping, forced labour and death. There is a high number of cases of enforced disappearance of women trafficked for sex.⁹²

iii. Migrants' extreme vulnerability in Libya

Libya is Northern Africa's largest migration hub. In 2018, between 700,000 to 1 million international migrants, representing 11-16 per cent of the country's 6.3 million inhabitants, were in Libya.⁹³ Migrants are attracted by work opportunities in the country, and by the prospect of passage to Europe. Libya has been a hotspot for people smuggling for decades, with many smuggled migrants exposed to high risks of exploitation, abuse, violence and even death.

Some migrants to Libya originate from war-torn countries like Somalia or the Sudan, and would have been eligible for refugee status if such a status existed. However, Libya is not party to the 1951 Refugee Convention and, in spite of having ratified the 1969 Convention Governing the Specific Aspects of Refugee Problems in Africa, it has no legislation on asylum. As a result, Libya does not recognize any refugee on its territory. UNHCR, however, can register individuals from a limited list of nationalities, including Palestinians.⁹⁴

No official statistics on migration flows to or through Libya exist, but IOM records suggest that Libya still attracts large numbers

of migrants. In October 2018, IOM counted 670,920 foreign nationals in the country, but the real number could be anything between 700,000 and 1 million according to IOM (table 11). Two thirds of them arrived from sub-Saharan Africa, 28 per cent from Northern Africa, and 6 per cent from other Middle-Eastern and Asian countries. Four of the six countries sharing a land border with Libya are top of the list of origin countries (Chad, Egypt, Niger and the Sudan). Particularly vulnerable groups are minors (comprising 10 per cent of total migrants, of whom 35 per cent are unaccompanied) and women (12 per cent).⁹⁵

Migrants in Libya belong to four categories, according to their origin and motivations for migration: nationals of neighbouring countries employed in Libya, who frequently travel back and forth to their home country; nationals of a western or central African country who seek employment in Libya, and are at high risk of ill-treatment or who try to reach Europe; nationals of an eastern African country, fleeing persecution and trying to reach Europe to lodge an asylum claim; and nationals from a distant Arab country (mostly Iraq, State of Palestine and the Syrian Arab Republic), who are often travelling with their families.⁹⁶

The political disorder and economic downturn witnessed in Libya since 2011 have set the stage for the proliferation of a multitude of militias engaging in all types of criminal activities, including smuggling. Migrants are susceptible to arrest by armed groups at any checkpoint. In the absence of rule of law, migrants are exposed in any part of Libya to the worst forms of human rights violations, such as deprivation of food, water and minimal health care, physical violence, sexual abuse, robbery, arbitrary detention for extorting money, forced labour, slavery, torture and murder.⁹⁷

A smuggling economy has emerged. Migrants have become a commodity in the hands of armed groups and organized criminal groups

operating transnationally within and beyond the region. The scale of revenues is huge, estimated at \$978 million in 2016 (3.4 per cent of the country's GDP), distributed between \$726 million in charges for overland travel and \$252 million for Mediterranean crossings.⁹⁸ Not only do criminal networks control migration routes in Libya, but some of them have also developed beyond the country's borders into 'pan-African smuggling consortia' capable of handling migrants' full travel from origin to destination and collecting payment upon departure.⁹⁹

The number of undocumented migrants and refugees arriving by sea from Libya to Italy has significantly declined in the last two years, from 181,436 in 2016 to 23,370 in 2018.¹⁰⁰ The sharp drop in arrivals by sea to Italy since 2016 is the result of fewer migrants embarking from Libya, and of changes to the 'search and rescue at sea' policy adopted by the European Union.

(c) Containing the flow upstream: the Khartoum process

There is a common notion that preventing would-be migrants from leaving a country unless they have the proper documents to reach their final destination is the most straightforward way to end the migrant smuggling business. However, the accuracy of this notion is unfounded. In 2014, when movements of migrants smuggled across the Sahara started to raise concerns, the European Union and the African Union launched a platform for political cooperation between countries along the route from the Horn of Africa to Europe, which became known as the Khartoum Process. Five Arab countries were involved in the Process: Djibouti, Egypt, Somalia, the Sudan and Tunisia.¹⁰¹ Libya was not part of it, because it could not be considered a safe country for containing or returning migrants.

The Khartoum process focused on tackling human trafficking and prosecuting criminal networks of smugglers and traffickers. It claimed a 'victim-centred approach', supporting

the victims of trafficking and protecting the human rights of smuggled migrants, while developing a regional framework for returning migrants and the establishment of reception centres.¹⁰² The Khartoum Process held a summit in Valetta in November 2015 and several subsequent meetings, but it has not produced any significant solutions to curbing migrant smuggling across the Sahara. Similar to other frameworks, it also seeks to address the root causes of irregular migration by promoting sustainable development in countries of origin and transit.

4. Achieving the Global Compact for Migration: entry points for policy reform in the priority areas

The following are some policy recommendations that can guide policymakers and relevant stakeholders in addressing the migration governance priority areas set out in the present chapter, and assist in operationalizing and implementing the relevant GCM objectives.

(a) Filling the knowledge gap

Objective 1 of GCM focuses on collecting and utilizing accurate and disaggregated data as a basis for evidence-based policies.¹⁰³ While this objective was not selected as a standalone priority area, it is cross-cutting across the various regional priority areas selected. Ensuring access to services, reducing vulnerabilities, and combatting trafficking and smuggling all require data to inform policies and devise appropriate responses. Identifying migration-related issues, designing policy responses, monitoring policies, and evaluating their impact require quality statistics. Current statistical deficits in the region are an obstacle to sound policymaking on migration. To address this challenge, there is a need to build the capacity of public administrations to produce the data necessary for statistical observation of migration, while protecting individual privacy. Below are some recommendations on filling the knowledge gap:

1) Applying the definitions of international migration established under the aegis of the United Nations Statistical Commission.

The United Nations uses two distinct and complementary definitions. The first applies to the individual migrant, who is defined “as any person who changes his or her country of usual residence. A person’s country of usual residence is that in which the person lives, [...] where he or she normally spends the daily period of rest”.¹⁰⁴ The second applies collectively to the migrant population and defines the international migrant stock as “the number of people living in a country or area other than that in which they were born”.¹⁰⁵

Because public policies dealing with international migrants are by nature multisectoral, information routinely collected by a variety of public administrations on individuals using their services must identify and count international migrants, and systematically include a person’s country of birth and country of citizenship. Other individual characteristics, including sex, age, migration status and other variables (education, economic activity, occupation), must be collected to disaggregate data and identify migrant subgroups for targeted and inclusive policymaking. This is in line with SDG target 17.18, which calls on countries to increase significantly the availability of high-quality, timely and reliable data disaggregated by income, gender, age, race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national contexts.

This applies to administrative sources of data, such as forms filled in by hospitals, schools, labour offices, housing offices and tribunals. They represent matchless sources of data to assess and monitor migrants’ inclusion, use of services, and access to justice. Moreover, they make it possible to observe differential outcomes between migrants and non-migrants, and track discrimination against migrants.

2) Collecting harmonized and disaggregated data

Under GCM objective 1, States commit to elaborating and implementing a comprehensive strategy for improving migration data at the local, national, regional and global levels, with the participation of all relevant stakeholders, under the guidance of the United Nations Statistical Commission, by harmonizing methodologies for data collection, and strengthening analysis and dissemination of migration-related data and indicators. Harmonizing data entails the two following conditions:

- Nationally, central statistical bureaus must safeguard that all public administrations use the same definitions, to guarantee consistency between data produced by different sectors and ensure that migrants can be compared with non-migrants in the host country. For example, the impact of migrants’ occupation on their health presupposes that occupation is defined using the same classification by administrations collecting health events (numerator of a prevalence or morbidity rate) and by those counting migrants (denominator);
- Internationally, States must use the same classifications to make it possible to compare migrants with the population in their countries of origin. Measuring the impact of migration on health presupposes that all countries apply the WHO International Statistical Classification of Diseases and Related Health Problems.

The research community must design universal time-sensitive indicators to measure and monitor migrants’ access to a variety of services, including housing, health, education and access to justice. Each type of service requires specific methodologies to measure migrants’ access and outcomes, and compare them with non-migrants in the same population.

In addition to country of birth and country of citizenship, other individual characteristics that public administrations in Arab countries could collect to better understand migration include the following:

- Sex and age to identify gendered and age-specific issues, and to monitor policies targeting or impacting women, children, young people and older persons;
- Duration of stay, which allows differentiating long-term from short-term migrants and travellers, and is a factor of migrants' integration in the host society and their access to rights and duties;
- Reason for migrating, which allows differentiating between forced and voluntary migrants, and between workers, family members, students and other groups of migrants;
- A self-reporting indicator, where individuals are asked if they consider themselves of migrant origin/heritage, which allows the identification of second-generation migrants and diaspora members.

Many migrants in Arab countries are employed in informal occupations. The sector of employment is a critical determinant of access to health for citizens and foreign-citizens. Workers in the formal sector are likely to enjoy better health coverage than those in the informal sector. It is therefore recommended to include the employment sector in data collected on migrants by public administrations. It is also recommended that the 2020 round of population censuses should include all the above questions, and routine household surveys should also collect such data within the limits of their sample size.

The distinction between migrants and refugees must be flexible, to include individuals who seek at the same time protection and employment. The concept of 'mixed movements' used by

international organizations to refer to the cross-border movement of people seeking international protection or better lives and opportunities, often by resorting to smugglers and travelling together without valid visas,¹⁰⁶ may indeed correspond to the mixed motivations of genuine refugees who also need to make a living.

Countries must properly address irregular migration by collecting data on apprehended migrants that make it possible to distinguish between irregular entry, irregular stay, and irregular employment. While the three situations are not mutually exclusive, they are susceptible to specific policy interventions by the State, actions by non-governmental and civil society organizations, and public perceptions.

Countries with significant migrant populations in transit should commission ad hoc statistical surveys of transit migrants both in regular and irregular situations, to better understand related policy challenges. This is a service currently provided by the IOM Displacement Tracking Matrix in many Arab countries.

Lastly, it is recommended that academia should strengthen research on migrant smuggling and trafficking as business models, on their modus operandi, on the way migrants are regarded by communities, and on the differing impacts on men and women migrants. Greater knowledge is vital for efficiently combating this billion-dollar industry.

(b) Facilitating migrant inclusion and access to services

1) Reconsidering nationality laws

Arab countries may consider reforming their nationality laws to adjust to realities created by migration. Depending on their specificities, countries should consider the following:

- Introduce *jus soli* by conditionally and selectively providing citizenship to individuals born and living in their territory;

- Include maternal descent as a way to transmit citizenship to children born from mixed marriages, as is already the case in some countries of the region;
- Consider the naturalization of selected long-term residents on the basis of individual criteria, linked to the potential for economic, social and cultural integration.

2) Ensuring migrants' access to basic services

In line with GCM objective 15 on providing access to basic services for migrants, Arab countries can consider granting long-term migrants all the rights guaranteed to citizens. Such rights should include those defined in article 25 of the Universal Declaration of Human Rights stating that "everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care".

All Arab countries, notwithstanding their signatory status to the International Covenant on Economic, Social and Cultural Rights, should consider complying with its General Comment n.20 stating that "the ground of nationality should not bar access to Covenant rights [...]. The Covenant rights apply to everyone including non-nationals, such as refugees, asylum-seekers, stateless persons, migrant workers and victims of international trafficking, regardless of legal status and documentation".¹⁰⁷

Unequal access to health is not only a violation of a fundamental right, it is also counter-effective in terms of a country's public health as it can produce uncontrolled negative effects, such as the spread of transmissible diseases. According to WHO, prevention can be the most cost-effective way to maintain the health of the population in a sustainable manner, and to create healthy populations for everyone's benefit.¹⁰⁸ Consequently, a fully efficient health system must grant all migrants, regardless of their status, free access to a number of basic preventive and curative medical services. Universal access to

basic health care is both a factor of increased efficiency of the whole health system and a critical component of human capital, and therefore the sustainable development of a country.

Some GCM actions commit States to incorporate the health needs of migrants in national and local health care policies and plans, such as by strengthening capacities for service provision, facilitating affordable and non-discriminatory access, and reducing communication barriers. In Arab countries where migration brings in sizeable populations with a variety of languages and cultural practices, States must provide interpretation in health-care facilities so that migrants face no linguistic obstacles to their right to health.

In compliance with these objectives, States are encouraged to ensure that migrants are granted universal health coverage in the same way as non-migrants. This applies in particular to workers employed in the formal sector. Whether paid by the employer or by the State, health insurance should cover all migrant workers' and their families' preventive and curative medical expenses, and not only work-related incidents in hazardous occupations, such as construction sites. This should apply in particular to low-income migrants who cannot afford out-of-pocket expensive medical care.

In a context of conflict- or poverty-driven migration, people on the move are exposed to exceptionally high risks to their physical and mental health and often to their lives. Health care and protection must be available to migrants at all stages of their journey from origin to destination through one or several countries of transit. The cross-border continuity of health services that migrants need requires a level of medical bilateral or regional cooperation, which is not easily attained in most parts of the Arab region. In crisis contexts, countries must therefore facilitate interventions by mobile emergency units working under international control to ensure migrants and refugees' access to medical support.

(c) Addressing and reducing vulnerabilities of migrants

1) Protecting human rights of migrants and creating enabling environments

GCM objective 6 is closely linked to objective 16, as it aims to provide migrant workers engaged in remunerated and contractual labour with the same labour rights and protections extended to all workers in their respective sectors, including through wage protection mechanisms.

Whether their status is regular or irregular, all migrants have the same human rights. Countries must therefore create an enabling environment and specific instruments allowing migrants, regardless of their status, to report violations of their human rights and to have access to justice.

Accordingly, States must ensure that authorities do not arbitrarily arrest, detain or deport migrants when they file complaints. This applies to all migrants, in particular to those who are victims of abuse or exploitation, or those who fall into an irregular situation because of their employer or sponsor.

2) Protecting the most vulnerable

Migrant domestic workers are an especially unprotected category, notably in countries where the labour law does not apply to them. Countries must consider extending labour law protections to all domestic workers employed by private households, including migrants.

In countries where the *kafala* system is in force, migrants' high dependence on their sponsor could generate various kinds of abuse that may prove difficult to control by the authorities. Governments must not wait for the reform or abolition of the *kafala* system to put in place monitoring mechanisms and to sanction employers and sponsors for unlawful actions. In particular, monitors are recommended to have a mandate to ensure that private sponsors do not risk sponsored persons falling into irregular

situations, thus exposing them to arbitrary detention and deportation.

The unlawful but common practice of sponsors and employers retaining their employees' passports amounts to denying them freedom of movement. Countries must enforce the prevention of passport confiscation, forced confinement at the employer's home, and other illegal practices violating employees' rights.

Countries should also strengthen existing measures and put in place monitoring instruments for identifying and penalizing cases of abuse, exploitation, violence and other illegal practices against domestic workers. They must ensure that an employee can safely file a complaint against an employer without risking detention and deportation when the employment contract is broken. States can build on existing practices to enforce wage protection systems, and penalize employers for delayed or non-payment of wages.

(d) Combatting smuggling of migrants and trafficking in persons

All Arab States but one have signed or acceded to the United Nations Convention against Transnational Organized Crime (UNTOC), and most have also signed the first two Palermo protocols. Nonetheless, large-scale unpunished human trafficking and migrant smuggling has been observed across the entire region.

To successfully achieve the GCM objectives related to smuggling and trafficking, Arab States may consider the following recommendations:

- Take significant steps to incorporate UNTOC and its protocols in national legislation;
- Enhance international and regional cooperation, including through intelligence and information sharing, to allow for strengthened investigation and

prosecution of trafficking in persons and smuggling of migrants;

- Mobilize and deploy all the necessary human and administrative resources to efficiently combat criminal networks operating on their territory and transnationally;
- Take action to eliminate unauthorized border-crossing and irregular migration, including prosecuting smugglers and traffickers, sanctioning employers of undocumented migrants, and opening regular channels for migrants and persons in need of international protection. A variety of actors, including States, civil society organizations and the media, must work jointly to raise awareness of the dangers of resorting to smugglers for crossing land borders and territories or the sea;
- Consider regularizing migrants in an irregular situation, particularly when they are already working informally and there is a recognized demand for their employment;
- Amend laws criminalizing irregular entry, stay and exit from their territory, and deal with such infractions as administrative offenses not crimes;¹⁰⁹
- Replace detention with other sanctions to penalize the administrative offenses of irregular entry, stay and exit, with respect for migrants' human rights. In the meantime, ensure that detained migrants are held in conditions respectful of their human rights, and provide humanitarian inspectors access to detention sites and to detained persons;
- Ensure that detained migrants who are deported are not returned to unsafe countries, in compliance with the International Refugee Law and human rights principle of non-refoulement.

In the crisis context of several Arab countries, protecting migrants and refugees requires a

specific approach that coordinates local and international actors to accomplish the following:

- Establish mobile teams to reach mobile vulnerable migrants;
- Regularly assess operational locations to adapt to a volatile security context;
- Reach migrants stranded in desert or mountain areas to provide them with support;
- Cooperate with local civil society to reach migrants and refugees hiding in remote places and support them;
- Coordinate humanitarian interventions in the various countries crossed by migrants and refugees from their origin to their destination;
- Increase efforts to counter-trafficking and enforce the law against criminal networks of trafficking in persons;¹¹⁰
- Use the framework of mobility partnerships with the European Union and its member States to encourage regular migration of persons in need of international protection;
- Work with the European Union and its member States to step up search and rescue operations in the Mediterranean, and reach an agreement to disembark them in European ports.¹¹¹

Moreover, the international community should set up monitoring instruments to ensure that European financial and technical support provided to Arab countries for preventing irregular migration is not used against the human rights of migrants.

Arab transit countries and the European Union need to help origin countries of returned migrants in establishing reintegration programmes under European Union-sponsored policies.

Combating migrant smuggling and trafficking in persons must include dismantling the wider smuggling economy.

More coordination between governmental and non-governmental actors, and international and local actors engaged in tackling migrant smuggling and trafficking in various parts of the Arab countries, is also necessary.

Enabling all migrants, including those in an irregular situation, to speak for themselves and listening to them is a recommendation for all stakeholders.

F. Conclusion

In 2018, for the first time, the world's nations agreed on fundamental principles to govern international migration. The Global Compact for Safe, Orderly and Regular Migration adopted in Marrakech, Morocco, on 11 December 2018 bears a resolutely people-centred approach for migration to benefit all, migrant persons as well as origin and destination populations. It spells out the rights and freedoms that apply to all migrants as human beings: women, men and children, whether they have a regular or irregular migration status. However, for 2018 to go down in history as a critical turning point in the governance of international migration, States must implement GCM, and the actions it recommends must result in the expected outcomes. Great challenges still lie ahead.

The Arab region has its own set of challenges. Firstly, the proportion of nationals abroad and migrants living in Arab countries compared with the total population is two and three times, respectively, higher than the world's average. Refugee populations, notably those in protracted refugee situations, are the largest globally in certain parts of the Arab region. Moreover, owing to their geographical position between the least developed regions of the world and its richest parts, several Arab

countries are crossed by routes of mixed movement originating in Africa and Asia destined for Europe and the Arabian Peninsula.

Secondly, gaps in the governance of migration in Arab countries have accentuated a number of migration-related issues. Nationality laws often hinder full inclusion of migrants and their descendants in the citizenry, so entire subpopulations of non-citizens with limited or no access to all fundamental rights have gradually emerged over the years and generations. On the other side, the *kafala* sponsorship system that prevails in the largest migrant destination countries of the Arab region limits the protection, defence and exercise of migrants' rights. Exclusion of migrant domestic workers from labour laws has created additional vulnerabilities. Gendered legislation on migration-related issues and personal status place particular strain on migrant women in the exercise of their reproductive rights. Moreover, owing to a lack of well-defined alternatives, detention and deportation are a frequent though exaggerated response to the administrative offence of irregular entry or stay.

Thirdly, challenges in the implementation of the law gives room to a variety of unlawful practices, which worsen the situation of migrants in the Arab region. Numerous migrants with an irregular status fall victim to organized crime perpetrated by migrant smugglers and human traffickers along the routes of mixed movement across the entire Arab region. They risk all forms of abuse, from extortion and forced labour to being trapped in sex work and sometimes killed. Low-income migrant workers can also be subject to illegal exploitative working conditions imposed by employers, without access to justice and redress.

Good practices already applied in several Arab countries should facilitate the implementation of parts of GCM. The following are a few examples of recent progress towards a better management of migration: providing extended economic and social rights to non-citizens, including migrants in

irregular situations; amending nationality laws to include maternal descent; applying health coverage to a large spectrum of migrants; complementing the fight against smugglers and traffickers by legislation to defend and protect their victims; including domestic workers in the general framework of labour laws; and signing bilateral and multilateral partnerships to establish cooperation between origin and destination countries.

Nevertheless, significant obstacles remain to full GCM implementation in the Arab region. Filling the knowledge gap is an absolute priority. Countries cannot conduct informed policymaking on migration with a severe data deficit, which prevails across the entire Arab region. Only when public administrations include the necessary information in their routines, and statistical offices transform raw administrative data into meaningful indicators, migration stakeholders will have the tools for identifying issues, designing policies and monitoring their outcomes.

Guaranteeing migrants full inclusion for building social cohesion is another priority. To achieve this, amending policies on employment, health and education is necessary. The aim is to treat non-citizens in the same way as citizens regarding access to the labour market and to basic services, and to eliminate discriminatory practices. An additional priority is to address and reduce vulnerabilities, including through action to address the specific needs of autonomous migrant women and children, and to ensure that migrants in an irregular situation are not criminalized for their status and that their human rights are fully respected. Combatting criminal networks engaged in migrant smuggling and trafficking in persons is an utmost priority. It requires both local action on the ground where networks operate, and external cooperation with origin and destination countries to tackle the causes of irregular migration.

Endnotes

Chapter 3

1. From 2000 to 2017, an estimated 33,761 migrants died in the Mediterranean, 59 per cent (19,891) of them after 2011 (Fargues, 2017a).
2. United Nations, 2018a.
3. Ibid.
4. United Nations, 2018b.
5. Part II of the Global Compact on Refugees is the comprehensive refugee response framework (CRRF) as adopted by the United Nations General Assembly (A/RES/71/1, annex I).
6. News24, 2018.
7. Graziano, 2018.
8. Al Hashemi and Habib, 2018.
9. Information on Member States' implementation of ILO conventions is contained in the ILO supervisory system. See <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11000:0::NO::>
10. Labour Migration, Gender, and Sexual and Reproductive Health and Rights, 2013.
11. Simkhada and others, 2018.
12. The fund was approved by the Executive Committee chaired by the Crown Prince of Bahrain and endorsed by the Cabinet of Ministers on 30 April 2018 (Bahrain, Labour Market Regulatory Authority, 2018).
13. The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children; and the Protocol against the Smuggling of Migrants by Land, Sea and Air.
14. Practical guidance for States on how to fulfil their border governance obligations in accordance with international human rights law and other relevant standards is available in OHCHR's Recommended Principles and Guidelines on Human Rights at International Borders.
15. Egypt, 2014.
16. Egyptian Streets, 2019.
17. Morocco, 2012.
18. Bidar, 2018.
19. <https://www.diplomatie.gov.tn/en/tunisians-abroad/consular-services/>.
20. <http://www.social.tn/index.php?id=221&L=0>.
21. With regard to health, GCM refers to World Health Assembly document 70.24 on a framework of priorities and guiding principles to promote the health of refugees and migrants.
22. Saudi Arabia, General Authority for Statistics, 2016.
23. United Nations, Treaty Series, vol. 660, No. 9464.
24. Fargues, 2017b.
25. https://ec.europa.eu/home-affairs/what-we-do/policies/international-affairs/southern-mediterranean_en.
26. Sutherland, 2013.
27. <https://eduscol.education.fr/cid52131/enseignements-de-langue-et-de-culture-dorigine-elco.html>.
28. <http://www.e-madrasa.ma>.
29. Jaulin and Nilsson, 2015.
30. Algeria, 2016.
31. Morocco, 2012, art. 17.
32. Malit and Naufal, 2016.
33. Council of the European Union, 2013.
34. Limam and Del Sarto, 2015.
35. In March 2019, the European Union's Justice and Home Affairs Council proposed to resume negotiations on readmission agreements with Morocco and Tunisia in exchange for visa facilitation and regular mobility access to the European Union (Council of the European Union, 2019).
36. IOM, 2017d.
37. IOM, 2018a.
38. Taha, Siegmann and Messkoub, 2015.
39. Holzmann, 2018.
40. Holzmann and Wels, 2018.
41. Panhuys, Kazi-Aoul and Binette, 2017.
42. OECD, 2011.
43. As previously stated, GCM refers to World Health Assembly document 70.24 on a framework of priorities and guiding principles to promote the health of refugees and migrants, which addresses eight guiding principles and 12 priority areas. Furthermore, the United Nations, under the 'leaving no one behind' principle, has recognized that countries must ensure that all communities have universal health coverage. The WHO Regional Office for the Eastern Mediterranean focused on universal health coverage in a 2018 technical paper (EM/RC65/4), which states that «universal health coverage means that all people and communities can use health services they need, of sufficient quality to be effective, without facing financial hardship».
44. Parolin, 2009.
45. Bartolomeo, Jaulin and Perrin, 2011.
46. Morocco, 2012.
47. Almajdoub, 2017.
48. Article 25, "Everyone has the right to a standard of living adequate for the health and wellbeing of himself and of his family"; article 26, "Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages".
49. The Human Development Index is a summary measure of average achievement in key dimensions of human development: a long and healthy life, being knowledgeable, and having a decent standard of living.
50. ILO, 2010.
51. Khat and Darmon, 2003.
52. Bos and others, 2004; Anson, 2004.
53. Chiswick, Lee and Miller, 2008; Namer and Razum, 2018.
54. Morocco, 2003.
55. World Health Organization, 2018.
56. الجمهورية العربية السورية، مجلس الشعب، 1959.
57. ILO, Protección Social, n.d.
58. Kristiansen and Sheikh, 2014.
59. Zahra, 2018a.
60. Willis Towers Watson, 2016.
61. Alkhamis, Hassan and Cosgrove, 2014.
62. Zahra, 2017.
63. ExpatFocus, 2017.
64. WHO, 2018.
65. De Bel-Air, 2016.
66. WHO, 2018.
67. IOM, 2018e; UNSMIL and OHCHR, 2018.
68. A/HRC/28/51.
69. Grange and Flynn, 2015.
70. IOM, 2018e.
71. State of Palestine, Democracy and Workers Rights Center, 2016.
72. Tunisia, 2014.
73. Hanafi, 2017.
74. Chen and others, 2016.
75. ILO, 2017a.
76. Qatar, 2018b.
77. Qatar, Ministry of Administrative Development, Labour and Social Affairs, n.d.
78. Ibid.
79. UNODC, 2004, p. 42.
80. Ibid. p. 54 and 55.
81. <https://www.unodc.org/unodc/en/human-trafficking/smuggling-of-migrants.html>.
82. United Nations, 2000a, 2000c, 2000d.
83. Fargues, 2017a.
84. Turkey, Ministry of Interior, Directorate

- General of Migration Management, 2013.
85. European Union, European Parliament, 2009, art. 25.
86. Mixed Migration Centre, 2018a.
87. UNHCR, 2018d.
88. Mixed Migration Centre, 2018b.
89. United States of America, Department of State, 2018.
90. Zahra, 2015.
91. Zahra, 2018b.
92. United States of America, Department of State, 2018, p. 168.
93. IOM, 2018e.
94. UNSMIL and OHCHR, 2018.
95. IOM, 2018e.
96. Altai Consulting and Impact Initiatives, 2017.
97. Altai Consulting and Impact Initiatives, 2017; UNSMIL and OHCHR, 2018.
98. Eaton, 2018.
99. Micallef, 2017.
100. Fargues, 2017a; IOM, 2018f.
101. The following countries are signatories of the Declaration of the Ministerial Conference of the Khartoum Process, also known as the Rome Declaration: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Djibouti, Egypt, Eritrea, Estonia, Ethiopia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Kenya, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Somalia, South Sudan, Spain, Sudan, Sweden, Tunisia and United Kingdom. www.khartoumprocess.net.
102. Declaration of the Ministerial Conference of the Khartoum Process, (EU-Horn of Africa Migration Route Initiative), Rome, 28th November 2014.
103. A comprehensive note on the topic was produced in November 2017 by the International Union for the Scientific Study of Population's Panel on "Strengthening migration data, research and training, in the context of the Global Compact for Safe, Orderly and Regular Migration" (International Union for the Scientific Study of Population, 2017). See also Fargues, 2018, pp. 24 and 42.
104. ST/ESA/STAT/SER.M/58/Rev.1, p. 93.
105. DESA, 2009.
106. <http://www.mixedmigration.org/about/>.
107. E/C.12/GC/20, para. 30.
108. WHO, 2014.
109. Hastie and Crépeau, 2017.
110. Altai Consulting and Impact Initiatives, 2017.
111. Euronews, 2019.