

## Stakeholder Consultations to inform the Asia-Pacific Regional Review of Implementation of the Global Compact for Safe, Orderly and Regular Migration

19 November 2020, 11:00-14:30 hrs. (Bangkok time) - Virtual

### Protecting migrants through rights-based border governance and border management measures (addressing Global Compact for Migration objectives 4, 8, 9, 10, 11, 13, 21)

## SUMMARY REPORT

### I. Background

1. In accordance with General Assembly resolution 73/195,<sup>1</sup> the Regional Review of Implementation of the Global Compact for Safe, Orderly and Regular Migration (GCM) in Asia and the Pacific will be organized from 10 to 12 March 2021 by ESCAP along with the Regional United Nations Network on Migration for Asia and the Pacific.
2. In the GCM, member States committed to a whole-of-society approach in GCM implementation, promoting broad multi-stakeholder partnerships to address migration in all its dimensions by including migrants, diasporas, local communities, civil society, academia, the private sector, parliamentarians, trade unions, national human rights institutions, the media and other relevant stakeholders in migration governance [para 15 (j)].
3. They also committed to implementing the GCM at the national, regional and global levels in cooperation with all relevant stakeholders including migrants, civil society, migrant and diaspora organizations, faith-based organizations, local authorities and communities, the private sector, trade unions, parliamentarians, national human rights institutions, the International Red Cross and Red Crescent Movement, academia, the media and other relevant stakeholders (para 41 and 44).
4. ESCAP along with the Regional United Nations Network on Migration for Asia and the Pacific<sup>2</sup> are committed to facilitating the meaningful engagement of stakeholders with the Asia-Pacific regional review process, in line with the principles underpinning a whole-of-society approach:

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<sup>1</sup> General Assembly Resolution 73/195 of 19 December 2018. At:

[https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A\\_RE\\_S\\_73\\_195.pdf](https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RE_S_73_195.pdf)

<sup>2</sup> The Regional Network is comprised of all United Nations agencies at Asia and the Pacific regional level wishing to join. The Regional Office of IOM, Asia-Pacific serves as the Coordinator and Secretariat of the Regional Network. The Executive Committee of the Regional Network comprises of ESCAP, ILO, IOM, OHCHR, UNAIDS, UNDP, UN DRR, UNFPA, UNHCR, UNICEF, UNODC, and UN Women.

- ✓ **Transparency:** Generating an open call for engagement to all relevant stakeholders and providing an open and equal channel to receive inputs;
- ✓ **Inclusivity:** Creating room for the widest possible access to all relevant stakeholders through different forms of engagement;
- ✓ **Diversity:** Ensuring non-discriminatory access to all, with particular attention to underrepresented voices and to migrants in situations of vulnerability;
- ✓ **Meaningful participation:** Providing effective access to all preparatory and follow-up processes within the context of the regional review and encouraging the mobilization of resources to enable participation of stakeholders.<sup>3</sup>

## II. Objectives, Organization and Attendance

5. It is in this context that ESCAP along with the Regional United Nations Network on Migration for Asia and the Pacific are facilitating stakeholder consultations to inform the Regional Review in Asia and the Pacific. The consultations are being held in line with the indicative clusters of the GCM objectives envisaged for the roundtables of the International Migration Review Forum in 2022, according to General Assembly resolution 73/326.
6. The second consultation was held on 19 November 2020 and focused on the following seven GCM objectives:

4. Ensure that all migrants have proof of legal identity and adequate documentation
8. Save lives and establish coordinated international efforts on missing migrants
9. Strengthen the transnational response to smuggling of migrants
10. Prevent, combat and eradicate trafficking in persons in the context of international migration
11. Manage borders in an integrated, secure and coordinated manner
13. Use migration detention only as a measure of last resort and work towards alternatives
21. Cooperate in facilitating safe and dignified return and readmission, as well as sustainable reintegration

7. The purpose of the stakeholder consultation was to elicit stakeholders' experiences, views, expertise and recommendations to inform the Asia-Pacific Regional GCM Review, namely:
  - Take stock of the overall progress of implementation of objectives to date;
  - Identify key challenges, opportunities, gaps and emerging issues;
  - Identify established and emerging good practices and lessons learnt;
  - Identify resource requirements and capacity building needs; and
  - Formulate recommendations.

<sup>3</sup> For more information on the overall approach to stakeholder engagement in the GCM process in Asia and the Pacific, please see: *Engagement of civil society organizations and other stakeholders in the Asia-Pacific Regional Review of Implementation of the Global Compact for Safe, Orderly and Regular Migration*. At: [https://www.unescap.org/sites/default/files/Stakeholders\\_engagemen\\_t\\_20200819.pdf](https://www.unescap.org/sites/default/files/Stakeholders_engagemen_t_20200819.pdf)

8. Seven stakeholders (The Lord's Universal College of Education, University of Mumbai, India; Udyama, India; Asian Pacific Refugee Rights Network (APRRN), Thailand; Asia Pacific Mission for Migrants, Hong Kong; Help- Hilfe zur Selbsthilfe, Afghanistan; International Detention Coalition, Australia and Boniği Monitoring, Australia) and three members of the Regional United Nations Network on Migration for Asia and the Pacific (OHCHR, UNICEF and UNODC) co-organized the consultation, with overall guidance and support from ESCAP and OHCHR.
9. About 80 stakeholders from 15 countries in Asia and the Pacific attended the consultation.<sup>4 5</sup> Participants came from a broad range of sectors, including civil society, migrant and diaspora organizations, national human rights institutions, the International Red Cross and Red Crescent Movement, trade unions and academia. There was a balanced gender representation among participants.
10. In preparation for the consultation, an open call for participants, including co-organizers, had been sent to a list of stakeholders which had been compiled with input from the United Nations Network on Migration,<sup>6</sup> the Regional United Nations Network on Migration for Asia and the Pacific, the Asia-Pacific Forum on Sustainable Development<sup>7</sup> and stakeholders vetted by the Regional United Nations Network on Migration.
11. This report aims to be a non-exhaustive summary of the key points raised in the consultation, and it is structured around the seven GCM objectives which were discussed during the meeting, following a set of guiding questions. In addition, specific COVID-19 related challenges affecting migrants and their families were raised. Good practices towards GCM implementation were also highlighted. The meeting was conducted under the Chatham House rule.<sup>8</sup>

### III. Opening

12. Ms. Siobhán Mullally, United Nations Special Rapporteur on Trafficking in Persons and Mr. Hasan Al-Akraa, Founder, Al-Hasan Volunteer Network and co-founder, Refugee Emergency Fund (REF) provided opening remarks.<sup>9</sup> Mr. Klaus Dik Nielsen, Stakeholder Liaison for the Regional Review moderated the opening session. Ms. Mullally welcomed the opportunity to engage with stakeholders and emphasized that it was timely to highlight the commitments that were made, and to reflect on how to operationalise GCM objectives, including those related to trafficking in persons. The challenge was to ensure that agreed targets and indicators translated into meaningful change and enhanced human rights protection on the ground.
13. Ms. Mullally noted that conditions within which trafficking of persons flourished with impunity were the results of policy choices and lack of political will by states and international actors. Migrants should not be viewed as “others”; as “othering”

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<sup>4</sup> Including, 20 representatives from United Nations entities.

<sup>5</sup> All ESCAP subregions were represented, except North and Central Asia.

<sup>6</sup> More information at: <https://migrationnetwork.un.org/secretariat>

<sup>7</sup> More information at: <https://www.unescap.org/apfsd/7/about.html>

<sup>8</sup> Chatham House rule: [https://www.chathamhouse.org/about-us/chatham-house-rule?gclid=CjwKCAiAn7L-BRBbEiwAl9UtkK\\_4qe3CebZATZeMuXYjWB7\\_EZ\\_CcC4n-80SNYMvbXQxgKwCty\\_KoRoCFOQQAuD\\_BwE](https://www.chathamhouse.org/about-us/chatham-house-rule?gclid=CjwKCAiAn7L-BRBbEiwAl9UtkK_4qe3CebZATZeMuXYjWB7_EZ_CcC4n-80SNYMvbXQxgKwCty_KoRoCFOQQAuD_BwE)

<sup>9</sup> A pre-recorded video message from the Special Rapporteur is available at:

<https://www.youtube.com/watch?v=JbdFFiecRsk&feature=youtu.be>

was harmful. While government anti-trafficking action remained largely focused on criminal justice and migration control responses, profound changes were needed in migration policies broadly, including to eliminate discriminatory laws and practices that led to racial profiling at borders. Forced returns without meaningful risk assessments of the protection needs of migrants and victims of trafficking led to breaches of the obligation of non-refoulement and to trafficking and re-trafficking upon return.

14. Ms. Mullally asked civil society to consider engaging directly with her mandate. Acknowledging limited resources and increasing restrictions imposed on civil society's work in many countries, she recognised that civil society had been at the fore in providing protection and assistance for trafficked persons. Data and information from civil society actors and individuals on the ground should be collected. She was looking forward to continuing the dialogue with the stakeholders.
15. Mr. Nielsen encouraged stakeholders to engage with the Special Rapporteur on Trafficking in Persons.
16. Mr. Al-Akraa shared his experience of immigration detention as a child. He reflected on the situation of young refugees in Malaysia and highlighted that safety was their main concern. Obtaining access to education and services, including local healthcare centres, were key challenges. Host country governments should guarantee the safety of refugees and asylum seekers.
17. He called on governments to guarantee the rights of refugees and facilitate opportunities for equal participation in society. More data and evidence should be collected, disseminated and analysed in order to provide better insight into the situation of refugees and he encouraged stakeholders to advocate for improved policies and practices.

#### **IV. Outcomes of the consultation**

##### **A. Overall progress in implementation of the seven GCM objectives**

18. Participants noted that there had been progress in implementing the seven GCM objectives in Asia and the Pacific, but that challenges remained. For some countries in the region, those included the lack of legal status for many migrants; inadequate protection and access to services for migrants in host communities; inhumane and undignified returns and the continued use of detention of migrants. A particular challenge was to ensure human rights protection of child and women migrants who were in situations of vulnerability, especially during the pandemic. Another key challenge was to enable migrants in general to become active members of society. A number of good practices were identified, which included local authorities building strong support systems for integrating new and returning migrants. There were also innovative partnerships between CSOs offering training to migrants to find employment or learn languages as well as collaboration with states on human-rights based border governance capacity building.

**B. GCM Objective 4: Ensure that all migrants have proof of legal identity and adequate documentation**

**i. Key Challenges**

19. Lack of legal status of some migrants was listed as a key challenge. Participants highlighted situations where documented migrants became undocumented through no fault of their own. Failure to recognize the link between migration and statelessness was listed as another key challenge as migration could lead to statelessness because migrants in irregular status would be fearful of presenting themselves to authorities to obtain documentation. Without proper documents, migrants in irregular situations also faced travel restrictions and lack of access to services. They were also often subject to discrimination and abuse due to their status and were afraid to report this to authorities. Therefore, migrants in irregular status with children would often not seek to obtain birth certificates for their children risking that the children would become stateless. Furthermore, systematic discrimination based on gender took place as, too often, the legal status of women was dependent on the legal status of men, resulting in women being unable to pass on their nationality to their children, and women accessing appropriate documentation.
20. A participant noted that climate-related migrants were not sufficiently accounted for under the existing legal frameworks. Without being recognized, they often lacked access to health services and education. One participant remarked that future climate change and environmental degradation could result in more people on the move in the region. Such migrants would be disproportionately affected if their status were not recognized by governments.

**ii. Specific challenges created by COVID-19**

21. Participants pointed out that during the COVID-19 crisis, migrants, refugees and internally displaced persons (IDPs) were among the most vulnerable, and failure to support them to maintain their livelihoods, and in accessing health and education, had put societies at risk, including health related risks. Another key challenge identified was lack of coordination at national and local levels on granting social protection to returnees, including access to health. In addition, a participant reported that in the Gulf states, evacuation of nationals was hampered by authorities requiring people to provide exit visas which were difficult to obtain during the pandemic.

**iii. Good practices**

22. The National Human Rights Commissions of Indonesia, Malaysia and the Philippines had formal agreements and working relationships specifically on finding pathways to resolve issues related to undocumented and stateless persons. These arrangements could serve as a good practice for other countries in the region.
23. The City Civil Registry Department in Quezon City, the Philippines, was part of the local government's migration and development council, making the Department an integral actor in the local government's coordinated efforts on migration.

24. In Sabah State, Malaysia, the Ministry of Health had provided COVID-19 testing and related health services for free to all, including undocumented and stateless persons.
25. Recent relaxation of the Kafala system<sup>10</sup> in some countries in the Middle East had enabled greater mobility for migrant workers which had particularly benefitted them during the pandemic.

#### **iv. Recommendations**

26. Coordinated international effort must be made to provide documentation to all migrants, regardless of their status or origin. In addition to birth registration for all under Sustainable Development Goal target 16.9 on legal identity,<sup>11</sup> countries should explore other means of legal identity for all groups.
27. In response to wars or natural disasters, documentation requirements for migrants should be waived or facilitated in order to save lives and repatriate people.
28. There should be a redress mechanism for migrant workers to raise their concerns regarding documentation and legal identity, and they should be allowed to stay in the country of destination and provided support to survive as their cases are being heard by courts.
29. There should be greater engagement by home country embassies to protect migrants' rights, including ensuring that migrant workers keep their passports once they had arrived in the destination country.
30. The important role that local authorities play in ensuring that migrants have access to legal identity documents should be promoted.
31. There was a specific need to focus on women and girls to ensure they have documentation and legal status and were able to report violence and abuse.
32. Authorities who engage with migrants should have gender-sensitive training.
33. Responses to statelessness must also address the different ways in which statelessness affects children.

### **C. GCM Objective 8: Save lives and establish coordinated international efforts on missing migrants**

#### **i. Key Challenges**

34. As a key challenge, participants highlighted the lack of a monitoring system to ensure the safety of migrants in host communities, in particular migrant children. Stakeholders involved in migration did not always employ digital technology effectively to allow for swift and effective actions to locate migrants whose lives were at risk and/or who had gone missing. In addition, a participant noted poor coordination between countries to exchange information about missing and deceased migrants and informing their families.

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<sup>10</sup> The unique aspects of sponsorship systems in the Middle East, commonly known as kafala, result in a delegation of responsibility by the State to the private employer to oversee both a migrant worker's immigration and employment status. At: [https://www.ilo.org/wcmsp5/groups/public/--arabstates/--ro-beirut/documents/publication/wcms\\_552697.pdf](https://www.ilo.org/wcmsp5/groups/public/--arabstates/--ro-beirut/documents/publication/wcms_552697.pdf)

<sup>11</sup>SDG 16.9: By 2030 provide legal identity for all including free birth registrations. At: <https://unstats.un.org/sdgs/indicators/indicators-list/>

**ii. Specific challenges created by COVID-19**

35. A participant reported that migrants had come forward to be tested for COVID-19 but were then detained, and cases were rising in detention centers. As a consequence, other migrants were scared and refused to come forward even if they had symptoms, potentially putting theirs and others' lives at risk.

**iii. Good practices**

36. The International Committee of the Red Cross (ICRC) had launched the "Trace the Face" campaign dedicated to people missing in connection with conflicts, natural disasters or migration.

**iv. Recommendations**

37. Especially during crisis, there should be effective and timely communication and collaboration between government authorities and migrants, including on social media, about issues related to the crisis, so everyone was well informed and could take the necessary actions. Governments should address language barriers and ensure that their communication was gender-sensitive.

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

**i. Key Challenges**

38. Inhumane and undignified returns of migrants was highlighted as a key challenge. Participants noted that returning migrants had often not been paid, which made their return difficult. At times, forced return during the crisis had been carried out in dangerous and undignified ways.

39. Cooperation and coordination in the context of safe and dignified return of migrants was identified as a major challenge. This included effective communication and support to returning migrants, including reorientation programmes and payment of entitlements, which affected successful reintegration.

40. Participants remarked that not enough attention had been paid to the particular needs of returning migrant children. A participant further added the lack of support to returning young migrant women with children, and the stigma they experienced from their communities or origin.

**ii. Specific challenges or opportunities created by COVID-19**

41. Participants noted that the global economic recession brought by the COVID-19 pandemic resulted in job losses of migrants and a subsequent influx of returning migrants. Migrants who returned faced severe barriers for economic and social inclusion, as most economic activities were halted, therefore intensifying the scarcity of job and employment opportunities. There were also several hindrances to physical service provisions due to health protocols and limited physical and social interaction.

42. The lack of collaboration at national and local government level to facilitate and ensure successful reintegration of returning migrants, was highlighted as a key

challenge. A participant commented on the lack of granting social protection to returnees, including access to health and means of gaining an income.

43. A survey in Nepal<sup>12</sup> found that, due to COVID-19, 70 per cent of people who were returning were unaware of what kind of support the country would provide, which left a majority of returnees in a state of confusion and economic uncertainty. As a consequence, 80 per cent of returning migrant workers wanted to engage in self-employment in the informal sector of the economy.

### iii. **Good practices**

44. The COVID-19 crisis had demonstrated that information and communication technology can be an effective tool for migrants, for example, to ensure the portability, transfer and recognition of skills through an electronic skills passport for returning migrants.
45. The government of Bangladesh had taken the initiative to develop a Return and Reintegration Policy for returning Bangladeshi citizens. The Ministry of Expatriates' Welfare and Overseas Employment was leading the initiative.
46. The Quezon City Local Government Unit, Philippines, had developed a reintegration programme to foster partnerships, cooperation and coordination between the city, communities and returned Overseas Filipino Workers and their families. The programme included proper information dissemination of programmes and services from the national and local government units. The establishment of the Migration and Development Council of Quezon City had contributed to service delivery for migrants during the crisis, including the provision of online programmes, such as skills development training for retooling/reskilling and further enhancement of migrants' skills. Educational scholarships were provided, especially to children of returned migrant workers.

### iv. **Recommendations**

47. National authorities in countries of transit and destination should ensure that, where necessary, migrants were able to return home to their families in a safe, orderly and regular way, and they should establish connections with local authorities in countries of origin for follow-up actions.
48. The principles of the "Migrants In Countries In Crisis" initiative<sup>13</sup> (MICIC) should be applied to ensure dignified returns of migrants.
49. National and local governments should provide adequate and effective information for migrants who return, including on their entitlements, and providing and disseminating information to all who are affected by returning migrants to anticipate and address potential tensions posed by reintegration.
50. More partnerships across all social and economic sectors should be formed to establish a conducive and facilitative environment for the reintegration of returning migrants. There should also be a scaling up or replication of successful social and economic reintegration initiatives of returning migrant workers.
51. Sufficient support and psychosocial counselling to child migrants and guardians for child migrants should be offered.

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<sup>12</sup> Status of Nepali Migrant Workers in Relation to Covid-19. IOM and Nepal Institute of Development Studies. 2020. At: <https://publications.iom.int/system/files/pdf/rapid-phone-survey.pdf#page=36>

<sup>13</sup> <https://micicinitiative.iom.int/>



52. Training of officials engaged in return, readmission and reintegration of migrants should be gender- and child-sensitive to adequately address specific vulnerabilities for returned child and women migrants.

**E. GCM Objective 9: Strengthen the transnational response to smuggling of migrants GCM Objective 10: Prevent, combat and eradicate trafficking in persons in the context of international migration**

**i. Key Challenges**

53. A participant reported that in Nepal, the government had developed policies and programmes on trafficking, but that it was very difficult to implement those policies. Other participants reported that in the Philippines, there was a lack of knowledge around GCM objective 9 (smuggling of migrants), whilst many were very familiar with GCM objective 10 (trafficking). In Sri Lanka, the topic of immigration, migration, and trafficking was not discussed widely.
54. In some countries in the region, there was lack of clarity regarding the implementation of the law on trafficking and detention. Victims of trafficking were also not familiar with their rights, and they did not know what to do to escape forced employment situations. It was noted that information on human trafficking and human rights should be gender-sensitive and available in different languages.
55. There was little knowledge sharing on trafficking in persons among countries, and governments often did not coordinate their work with CSOs which were active on the ground.
56. A participant remarked that international students were at risk of human trafficking.
57. A participant from the Pacific highlighted that it was necessary to explore and prioritize climate change displacement and integrate them into migration policies.

**ii. Specific challenges or opportunities created by COVID-19**

58. Participants noted that COVID-19 had seen an exacerbation of vulnerabilities as borders remained closed. As a result, some migrants were taking more dangerous routes to move or return, also resorting to the use of smugglers. As a consequence, journeys had become more dangerous and expensive. A recent survey<sup>14</sup> of 600 people in Afghanistan found half of the interviewees wanted to re-migrate. Survey respondents reported that smugglers were often perpetrators of abuse and that border guards were also key perpetrators of violations against migrants. In addition, the study found that there was a need for support for proper re-integration of victims of trafficking and smuggled migrants and additional engagement with CSOs was needed to support such reintegration efforts. Overall, human and labour rights of migrants and their families had to be upheld, particularly in the context of COVID-19.
59. A participant reported that during the COVID-19 lockdown, restrictive policies on women migrants had been imposed in some countries to prevent them from taking

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<sup>14</sup> Mixed Migration Center: The Impact of COVID-19 on the Smuggling of Refugees and Migrants from Afghanistan. MMC Asia 4Mi Snapshot. October 2020. At: [http://www.mixedmigration.org/wp-content/uploads/2020/10/138\\_covid\\_snapshot\\_smuggling\\_Asia.pdf](http://www.mixedmigration.org/wp-content/uploads/2020/10/138_covid_snapshot_smuggling_Asia.pdf)

up domestic jobs in countries of destinations. Therefore, these restrictions had made women more vulnerable to trafficking as they would choose irregular routes.

### **iii. Good practices**

60. In Thailand, government agencies and communities had brought poverty reduction to people's attention as a solution to prevent smuggling of migrants and trafficking of persons. This had been identified by the Thai government as a key focus area.
61. In Bangladesh, transnational responses to the smuggling of migrants had been strengthened in collaboration with international organizations. Agencies in the country were also working on building local capacity, including with law enforcement agencies, civil society organizations, lawyers and judges to support victims of trafficking.
62. The ASEAN Convention against Trafficking in Persons, especially Women and Children<sup>15</sup> could be used to enhance efforts at national level to strengthen protection for migrant workers in countries where laws specific to them were weak or absent.

### **iv. Recommendations**

63. It was critical to ensure that the voices of people with lived experiences were being heard and that governments and civil society work together to prevent smuggling and trafficking. There should be increased support for establishing communication platforms to leverage experiences from organizations as a way to incorporate voices that have not been brought into formal conversations around trafficking in persons and smuggling of migrants.
64. There should be more investments into research to capture community views and experiences of persons who have been smuggled or trafficked. More funds should be given to community research which could provide valid data and information.
65. A directory of organisations supporting victims of trafficking and smuggled migrants should be developed and disseminated to facilitate cooperation among stakeholders and with related government entities.
66. Existing mechanisms, processes, policies and practices already in place should be strengthened, including the Bali Process<sup>16</sup> and states should be encouraged to ratify related conventions and protocols, in particular the Trafficking and Smuggling Protocols.<sup>17</sup>
67. Multilateral agreements and coordinated and comprehensive efforts were needed across all levels of government, and national plans to combat trafficking should be drafted and implemented, with CSO engagement.

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<sup>15</sup> ASEAN Convention against Trafficking in Persons, especially Women and Children. 2015. At: <https://www.asean.org/wp-content/uploads/2015/12/ACTIP.pdf>

<sup>16</sup> Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime (Bali Process). 2002. At: <https://www.baliprocess.net/>

<sup>17</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime Adopted and opened for signature, ratification and accession by General Assembly resolution 55/25 of 15 November 2000. At: <https://www.ohchr.org/Documents/ProfessionalInterest/ProtocolonTrafficking.pdf>

68. Governments should focus more on addressing factors determining the demand for smuggling, such as socio-economic conditions, mobility regulations and restrictions, instability and security, etc) rather than only focusing on smugglers.
69. Public discourses on migration and trafficking had to be evidence-based to prevent the spread of misinformation.
70. In addition to knowledge and awareness raising on human trafficking, there was need to engage in more collective efforts surrounding poverty reduction in countries of origin so that people did not turn to smuggling as a livelihood strategy
71. Host governments should ensure that people who had been trafficked were not criminalized and had full protection and access to services. Victims of trafficking, in particular children, needed to be given proper support including counselling.
72. Applying, at all times, a survivor-centered approach was vital in providing protection, assistance and support to human trafficking victims.
73. Reporting mechanisms for victims of trafficking and migrants who have suffered abuse in the context of smuggling should be put in place and monitored, ensuring that the privacy of victims is respected at all times.
74. Officials and front-line staff should be trained in gender-responsiveness and child-sensitive and culturally appropriate approaches to ensure accessible care facilities for trafficked migrant women and girls.
75. Victims of trafficking should not be held in any form of immigration detention and smuggled migrants should not be criminalized for being smuggled.

**F. GCM Objective 11 Manage borders in an integrated, secure and coordinated manner GCM Objective 13: Use migration detention only as a measure of last resort and work towards alternatives**

**i. Key challenges**

76. As a key challenge, participants identified the ongoing practice in some countries of detaining migrant children, including those who were unaccompanied and separated, for immigration offences. A participant who had been in an immigration detention center reported on how migrant children and other migrants in vulnerable situations were offered no support or assistance in detention centers. Participants also noted that children were routinely separated from one or both parents as a result of immigration detention, and family unity not respected. At the same time, there was little independent monitoring of immigration detention facilities in the region.
77. While civil society organizations in many countries were active in advocating for the use of detention as a last resort, they faced many political and bureaucratic barriers, in part because of mandatory detention or frameworks that do not allow for alternatives to detention. In addition, a participant mentioned the difficulty in establishing which sectoral body to engage within ASEAN in the context of GCM objectives 11 and 13.
78. Participants also noted the lack of coordination and collaboration in and across countries in the Asia-Pacific region on matters related to detention and border management, and a lack of linking up to the global level on these issues.

## ii. Good practices

79. In August 2018, the governments of Myanmar and Thailand began discussions on an MoU to establish a cross-border child protection mechanism and framework, including case management standard operating procedures. At the sub-regional level, a regional plan of action for implementing the ASEAN Declaration of the Rights of Children in the Context of Migration was being developed.
80. ICRC had been developing and undertaking education programmes with border officials, and CSOs were working to build capacity to provide training on border governance issues.
81. Sri Lanka had recently launched an integrated border management strategy based on international human rights standards.
82. Thailand's intergovernmental MOU on Alternatives to Detention for Children was signed in 2019.<sup>18</sup>
83. In 2019, a bilateral MOU on statelessness between the Human Rights Commission of Malaysia (SUHAKAM) and the National Commission on Human Rights of Indonesia (KomnasHam) was signed, to address the issue of statelessness and persons at risk of statelessness in Sabah. The Commission on the Human Rights of the Philippines (CHRP) participated as an observer.<sup>19</sup>

## iii. Recommendations

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

84. Governments should develop and implement more concrete legal frameworks on border governance and border management, including search and rescue operations at sea, which are transparent, human rights based and include an action plan and monitoring mechanisms. Civil society should be part of developing such frameworks with governments.
85. There was need for more efficient and effective human rights-based capacity building and training of border control officials across the region. Child protection authorities, NGOs and IGOs should be involved in the design and delivery of the training, and the training should include guiding principles on human rights, child sensitivity and gender responsiveness.
86. More innovative collaborations should be identified and cultivated, including with a wide range of stakeholders. States and CSOs should collaborate on training regarding border governance and development of advocacy materials. Community-based models and human rights-based capacity building should be strengthened and made more public. This also includes collaboration across National Human Rights Institutions.

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<sup>18</sup> Memorandum of Understanding on the Determination of Measures and Approaches Alternative to Detention of Children in Immigration Detention Centers. 2019. (MOU-ATD): [https://www.ohchr.org/Documents/Issues/Migration/CallEndingImmigrationDetentionChildren/Member\\_States/Thailand\\_submission.docx](https://www.ohchr.org/Documents/Issues/Migration/CallEndingImmigrationDetentionChildren/Member_States/Thailand_submission.docx)

<sup>19</sup> Memorandum of Understanding (MOU) between the Human Rights Commission of Malaysia (SUHAKAM) and the National Commission on Human Rights of Indonesia (Komnas HAM), with the Commission on the Human Rights of the Philippines (CHRP) as an official observer on Statelessness Issues in Sabah. 2019. At: [https://www.komnasham.go.id/files/20190424-memorandum-of-understanding-mou-\\$6DRB.pdf](https://www.komnasham.go.id/files/20190424-memorandum-of-understanding-mou-$6DRB.pdf)

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

87. Governments should end child immigration detention. It was a human rights violation and never in the best interests of the child. The detention of other migrants should be used as a last resort and governments must first consider community, rights-based alternatives in a more comprehensive way. Given the current COVID-19 situation, there should be emphasis on immediately prioritizing health and other vulnerabilities as a ground for release. Rather than using detention, the focus should be on implementation, in partnership with civil society and other stakeholders, including migrants, community, rights-based alternatives.
88. States should ensure that immigration detention procedures are transparent with independent judicial oversight and monitoring of detention facilities.
89. A comprehensive repository to disseminate best practices of human rights-based alternatives to detention should be initiated.
90. A region-wide review of legislation around detention should be conducted.
91. The ASEAN Declaration of the rights of Children in the Context of Migration should be promoted throughout the region and implemented on the ground.
92. The cost of detention centers should be analyzed and evaluated in partnership between States and NGOs. The analysis should be made public and used as a tool to advocate for alternatives.

## **V. Closing and next steps**

93. In a closing address, Ms. Eve Lester<sup>20</sup> pointed out that mobility and migration were inevitable parts of the human experience and that safe migration pathways were therefore crucial. Borders were a constant in the migration cycle. She posed a question about whether the border should be treated as a point of vitality and exchange and suggested that the claim of sovereignty at the border should be seen as signalling authority, rather than control in an absolutist sense. Positive binding legal obligations of states, such as the obligation not to criminalise victims of trafficking, should be operationalised, as mentioned by Ms. Mullally.
94. These stakeholder consultations in the context of the Asia-Pacific Regional Review were an opportunity to bring new and fresh ideas to the Regional Review meeting in March. Ms. Lester asked what could be done in terms of partnership and stakeholder engagement and suggested that stakeholders could pool resources and work collaboratively to prepare for the meeting. There could, for example, be ongoing working groups on the different GCM objectives, and joint statements could be prepared and delivered at the March meeting. Advocacy strategies around the GCM objectives could also be developed. It was also important to keep in mind that stakeholders should build on both established and new networks.
95. Ms. Pia Oberoi, OHCHR added that border governance broadly, and not just the limited activities that took place at the physical border, was important. The concept of border governance included how people were able to move across borders, what they needed when they moved and how they could ensure that their

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<sup>20</sup> Stakeholder co-organizer, Boniği Monitoring, Australia.

migration was safe and dignified. She concluded by suggesting a more practical and action-oriented approach in order to work with governments to put in place human rights-based border governance measures.

96. Ms. Sabine Henning, ESCAP, thanked all participants for attending the second consultation. She also thanked the co-hosts, in particular the stakeholders and the United Nations entities for organizing the meeting. The consultation was the second in a series of stakeholder consultations of the Regional Review.<sup>21</sup> The format of the consultations was designed in such a way to give equal voices to diverse stakeholders and advance ideas.
97. In accordance with General Assembly resolution 73/326, regional reviews were convened by regional commissions and their regional partners to take stock of the implementation of the Global Compact. The outcomes of the regional reviews would inform the International Migration Review Forum in 2022. The Regional Review in Asia and the Pacific would follow a whole-of-government approach and whole-of-society.
98. The Regional Review would take place from 10 to 12 March 2021, likely as a hybrid virtual/in-person meeting. Invitees would include representatives of ESCAP members and associated members; intergovernmental organizations; United Nations bodies, specialized agencies and funds; and other relevant stakeholders from Asia-Pacific. The report of this second consultation and subsequent reports of forthcoming consultations would serve as the basis for a conference room paper, which would inform the Regional Review meeting in March.
99. Ms. Henning encouraged all stakeholders to fully engage in the forthcoming consultations and requested that follow-up questions be directed to Mr. Klaus Dik Nielsen, Stakeholder Liaison for the Regional Review in Asia and the Pacific ([klaus.nielsen@un.org](mailto:klaus.nielsen@un.org)). She then closed the meeting.

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<sup>21</sup> The Regional United Nations Network on Migration, with support from OHCHR and IOM, had organized a consultation with stakeholders in February 2020 to preview the regional review process and discuss the workplan of the Regional Network.

## Tentative Programme

Time	Details
10:45	<i>Participants join Zoom meeting</i>
11:00-11:30	<p><b>Welcome and opening session</b></p> <p><b>Moderator:</b> Klaus Dik Nielsen, Stakeholder Liaison, Asia-Pacific Regional Review of Implementation of the Global Compact for Migration</p> <ul style="list-style-type: none"> <li>• Keynote speaker: <i>Siobhán Mullally, Special Rapporteur on Trafficking in Persons</i></li> <li>• Keynote speaker: <i>Hasan Al-Akraa, Refugee Activist in Malaysia - Founder, Al-Hasan Volunteer Network, Co-Founder, Refugee Emergency Fund – REF</i></li> </ul> <p><i>Participants being allocated to working groups</i></p>
11:30 -12:35	<p><b>Working groups – Round 1<sup>22</sup></b></p> <p><b><u>Working group 1</u></b></p> <p><b>Objectives 4, 8, 21</b> Ensure that all migrants have proof of legal identity and adequate documentation (4) ; Save lives and establish coordinated international efforts on missing migrants (8), Cooperate in facilitating safe and dignified return and readmission, as well as sustainable reintegration (21)</p> <ul style="list-style-type: none"> <li>• <i>Co-hosts: Saramma Chandy, The Lord’s Universal College of Education, University of Mumbai, Pradeep Mohapatra, Udyama, Jahangir Alam, Dhaka Ahsania Mission &amp; a representative from the Asian Pacific Refugee Rights Network (APRRN)</i> <i>UN focal point: Pia Oberoi, OHRHC</i></li> </ul> <p><b><u>Working group 2</u></b></p> <p><b>Objective 9, 10</b> Strengthen the transnational response to smuggling of migrants (9); Prevent, combat and eradicate trafficking in persons in the context of international migration (10)</p> <ul style="list-style-type: none"> <li>• <i>Co-hosts: Rey Asis, Asia Pacific Mission for Migrants &amp; Gull Ahmad Mohammadi, Help- Hilfe zur Selbsthilfe</i> <i>UN focal point: Rebecca Miller, UNODC</i></li> </ul> <p><b><u>Working group 3</u></b></p> <p><b>Objective 11, 13</b> Manage borders in an integrated, secure and coordinated manner (11); Use migration detention only as a measure of last resort and work towards alternatives (13)</p> <ul style="list-style-type: none"> <li>• <i>Co-hosts: Vivienne Chew and Carolina Gottardo, International Detention Coalition &amp; Eve Lester, Boniği Monitoring</i> <i>UN focal point: Nicola Brandt, UNICEF</i></li> </ul>
12:35-12:45	<i>Participants being allocated to working groups (repeat working</i>

<sup>22</sup> The same clusters of objectives will be discussed in round 1 and 2 of the consultation.

12:45-13.45	<p><b>Working groups - Round 2</b></p> <p><b><u>Working group 1</u></b></p> <p><b><u>Objectives 4, 8, 21</u></b> Ensure that all migrants have proof of legal identity and adequate documentation (4) ; Save lives and establish coordinated international efforts on missing migrants (8), Cooperate in facilitating safe and dignified return and readmission, as well as sustainable reintegration (21)</p> <ul style="list-style-type: none"> <li>• <i>Co-hosts: Saramma Chandy, The Lord’s Universal College of Education, University of Mumbai, Pradeep Mohapatra, Udyama, Jahangir Alam, Dhaka Ahsania Mission &amp; a representative from the Asian Pacific Refugee Rights Network (APRRN)</i> <i>UN focal point: Pia Oberoi, OHRHC</i></li> </ul> <p><b><u>Working group 2</u></b></p> <p><b><u>Objective 9, 10</u></b> Strengthen the transnational response to smuggling of migrants (9); Prevent, combat and eradicate trafficking in persons in the context of international migration(10)</p> <ul style="list-style-type: none"> <li>• <i>Co-hosts: Rey Asis, Asia Pacific Mission for Migrants &amp; Gull Ahmad Mohammadi, Help Hilfe zur Selbsthilfe</i> <i>UN focal point: Rebecca Miller, UNODC</i></li> </ul> <p><b><u>Working group 3</u></b></p> <p><b><u>Objective 11, 13</u></b> Manage borders in an integrated, secure and coordinated manner (11); Use migration detention only as a measure of last resort and work towards alternatives (13)</p> <ul style="list-style-type: none"> <li>• <i>Co-hosts: Vivienne Chew and Carolina Gottardo, International Detention Coalition &amp; Eve Lester, Boniği Monitoring</i> <i>UN focal point: Nicola Brandt, UNICEF</i></li> </ul>
13:45-14:00	<p><b>Highlights, challenges, and recommendations from the working groups</b></p> <p><b>Moderator:</b> Rebecca Miller, UNODC</p> <p>Review of Implementation of the Global Compact for Migration</p> <ul style="list-style-type: none"> <li>• Objective 4, 8, 21: <i>tbd</i></li> <li>• Objective 9,10: <i>Gull Ahmad Mohammadi, Help Hilfe zur Selbsthilfe</i></li> <li>• Objective 11,13: <i>tbd</i></li> </ul>
14:00-14.15	<p><b>Q &amp; A</b></p>
14:15-14:30	<p><b>Closing and next steps</b></p> <p><b>Moderator:</b> Pia Oberoi, OHCHR</p> <ul style="list-style-type: none"> <li>• Eve Lester (Boniği Monitoring)</li> <li>• Sabine Henning, ESCAP</li> </ul>