

# Gender and global migration governance for South-South migration

WORKING PAPER



## AUTHOR

**Matthew Walsham**, Research Associate, Global Development Institute, University of Manchester

## ACKNOWLEDGEMENTS

Thanks to Nicola Piper, Katja Hujo, Kavita Datta, Tanja Bastia and Toni Cela for reviewing the document and for their extensive and very helpful comments throughout. Thanks also to all the participants in the MIDEQ Share In meeting on gender and intersectionality in November 2021 for their constructive thoughts and feedback.

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## GLOSSARY

ADBI	Asian Development Bank Institute
ASEAN	Association of Southeast Asian Nations
C189	Domestic Workers Convention, 2011 (No. 189)
CAN	Andean Community / Comunidad Andina
CARE	Care International
CARICOM	Caribbean Community
CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
CMC	Caribbean Migration Consultations
COVID-19	Coronavirus Disease 2019
ECLAC	Economic Commission for Latin America and the Caribbean
ECOWAS	Economic Community of West African States
ESCAP	Economic and Social Commission for Asia and the Pacific
EU	European Union
GCIM	Global Commission on International Migration
GCM	Global Compact for Safe, Regular and Orderly Migration
GFMD	Global Forum on Migration and Development
GR26	CEDAW General Recommendation No. 26
ICRMW	International Convention on the Rights of All Migrant Workers and Members of their Families
ILO	International Labour Organization
INURED	Interuniversity Institute for Research and Development / Institut Interuniversitaire de Recherche et de Développement
IMILA	Research on International Migration in Latin America programme

INSTRAW	United Nations International Research and Training Institute for the Advancement of Women
IOM	International Organization for Migration
JVAP	Joint Valetta Action Plan
MDGs	Millennium Development Goals
MERCOSUR	Southern Common Market / Mercado Común del Sur
MIALC	Internal Migration in Latin America and the Caribbean database
MIDEQ	Migration for Development and Equality
MOU	Memorandum of Understanding
OECD	Organisation for Economic Co-operation and Development
PROSUR	Forum for the Progress and Development of South America / Foro para el Progreso y Desarrollo de América del Sur
RCM	Regional Conference on Migration (the 'Puebla Process') / Conferencia Regional sobre Migración (CRM)
RCPs	Regional Consultative Processes on Migration
SAARC	South Asian Association for Regional Cooperation
SACM	South American Conference on Migration (the 'Lima Process') / Conferencia Suramericana sobre Migraciones (CSM)
SADC	Southern African Development Community
SDGs	Sustainable Development Goals
SIGI	OECD Social Institutions and Gender Index
STOE	Standard Terms of Employment
UN	United Nations
UNASUR	Union of South American Nations / Unión de Naciones Suramericanas
UNDP	United Nations Development Programme
UNECA	United Nations Economic Commission for Africa

UNFPA	United Nations Population Fund
UNHCR	United Nations High Commissioner for Refugees
UNIFEM	United Nations Development Fund for Women
WHO	World Health Organization

## 1. INTRODUCTION

International migration has important social, economic, cultural and political consequences in almost every country across the world – as sites of origin, destination and transit, or often a combination of all three. National laws, regulations and policies combine with bilateral agreements between countries to shape the dynamics of migration in particular migration corridors. However, these are in turn shaped by supra-national, multilateral policymaking processes, frameworks and conventions at regional and global scales, which together form the contemporary, formal global migration governance landscape. Key actors at this level include the United Nations, regional bodies such as the European Union and MERCOSUR, donors, financial institutions, global and regional civil society and trade unions, as well as private sector organisations and other actors within the broader ‘migration industry’ (Gammeltoft-Hansen and Sorensen, 2013). Since the turn of the century, efforts have been made to strengthen the global governance of migration and to ‘mainstream’ it into broader development agendas, most recently through the Sustainable Development Goals and the 2030 Agenda for Sustainable Development (United Nations, 2015). In response to these shifts, there is a growing body of research into both the global and regional governance of migration, which seeks to gain empirical and theoretical insights into the consequences of these policies and processes for social, political and economic development in countries of origin and destination, and – just as importantly – for migrants themselves (Grugel and Piper, 2011; Lavenex, 2019; Lavenex and Piper, 2019, 2021).

Migration flows are always gendered, and gender relations both shape and are shaped by migration at every scale, from internal movements to inter-continental flows. A concern with gender has increasingly been incorporated into the global governance of migration, most recently through the Global Compact for Safe, Regular and Orderly Migration’s (hereafter: GCM) efforts to advance a global consensus on ‘gender-responsive approaches’ to migration governance. However, this approach has not been uniformly applied in policies and frameworks at the global level, reflecting – among other things – different historical and institutional approaches to gender in relation to particular forms of migration (e.g. refugees, domestic migrant workers, skilled migrants) across the UN system and more widely. For example, the Global Compact on Refugees is less effective in mainstreaming a gender-responsive approach, which is – at least in part – the result of the more limited consultative processes, led by UNHCR, through which it was developed (Hennebry and Petrozziello, 2019). This stands in contrast to the negotiations which produced the GCM, to which this paper will return below. Further, beyond these global initiatives, the extent to which migration policies at the national, bilateral and regional level have made any significant progress in moving beyond gender blind approaches to account for gendered power dynamics and the gender-segregation of

labour markets – and to what extent this reflects developments at the global level – requires investigation in its own right (Hennebry, Hari and Piper, 2019; Piper, 2006).

While debates about gender and migration governance have relevance across the globe, there is a need to consider how migration governance and policy frameworks address gender in relation to South-South migration specifically. This is important for a number of reasons, including: the historical focus of research and policy on South-North movements; the scale of migration within and between countries of the Global South; differences in the gendered drivers of migration, the composition of migrant flows, nature of labour markets and the outcomes for migrants in South-South corridors; and differences in the migration governance regimes between South-South and South-North migration flows (both in particular corridors and at the regional level). Power discrepancies in the role of international agencies and northern states to set policy agendas in the expectation that southern states will implement them also imply the need for greater scrutiny of how global governance regimes shape gendered migration flows in countries of the Global South. These effects can manifest themselves in a range of ways. For example, the policy focus on economic benefits over migrant women's subjectivities and rights in the 'migration for development' agenda; efforts to control and limit women's mobility; the gendered consequences of temporary migration regimes for migrants and their families; and bilateral labour agreements that favour destination country agendas (Bastia and Piper, 2019; Piper, 2006).

In analysing these issues, it is important to consider policies and frameworks at both global and regional levels, as well as how these are – or are not – reflected at national or bilateral levels in particular country corridors (Acosta and Freier, 2018; Deacon, 2013; Deacon et al., 2011; Deacon, Fioramonti and Nita, 2013; Geddes et al., 2019; Lavenex, 2019; Lavenex and Piper, 2021). This analysis must incorporate the full range of actors at each level, including the UN system, regional organisations, donors, financial institutions, civil society and trade unions, and how these actors negotiate and adapt their approaches in response to regional and local contexts (Deacon, 2013; Hujo, 2013; Nita, 2013). As will be explored in more detail below, this is important not least because even global actors such as UN Women have played distinct roles within different regions on gendered migration, focusing more on some areas and forms of migration (e.g. temporary migration regimes in Southeast Asia) than on others. Civil society is also increasingly organised in regional networks and Global Union Federations all have regional offices, so the key advocacy actors now operate at the regional as well as global and national levels. Finally, with the review process for implementation of the GCM taking place at the regional level, the regional dimension is arguably assuming ever greater importance within global migration governance regimes.

Within the MIDEQ project, the three country corridors that are the focus of our research on gender and migration (Haiti-Brazil, Ghana-China and Nepal-Malaysia)



span different regional approaches across South, Southeast and East Asia as well as West Africa, Latin America and the Caribbean. As is shown below, an analysis that accounts for these regional differences draws attention to the wide range of actors involved and how the roles they play differ across national, bilateral, regional and global policy and governance frameworks. In line with our overall research objectives within the project, the primary focus of this working paper is on labour migration – through both formal and informal channels – and each of these country corridors is dominated by highly gendered forms of labour migration (see Izaguirre, Skov and Walsham (2021) for further details). However, the implications of our findings will also be relevant for other forms of migration.

Within global migration governance, paid care work has been the dominant focus of efforts to strengthen normative frameworks and policies more broadly that relate to work often carried out by migrant women (alongside women as a ‘vulnerable’ category in relation to trafficking and involuntary migration, a detailed analysis of which is beyond the scope of this paper). For example, the rights of migrant domestic workers were a prominent concern in the development of ILO’s Domestic Workers Convention (No.189) and the WHO Code of Conduct on Ethical Recruitment addresses the hiring of nurses – the majority of whom are women – and other medical professionals from low-income countries. However, it is important to extend the focus of the analysis beyond care since there are many other sectors in which female migrants work across the Global South, often alongside male migrants. In our three corridors, for example, the presence of Ghanaian women traders in China draws attention to the gendered experiences of both women and men from Ghana throughout the migration cycle, including how these experiences are shaped by the actions of national and local authorities in China (Izaguirre et al., 2021). A gendered lens illuminates the ways in which migration governance supports or constrains the rights and opportunities of migrants, with effects that may impact differently on migrant women and men. Indeed, as we have argued elsewhere (Bastia et al., manuscript submitted for publication; Izaguirre and Walsham, 2021) this analysis can – and should – be extended further to incorporate a concern with how intersectional considerations that reflect diversity within groups of migrant women and men (by race, class, religion, sexuality, disability or other factors) are taken into account.

The urgency of these issues has been underlined by COVID-19, which has exposed the fragility and significant power inequalities inherent in existing migration governance regimes globally, including in countries of origin and destination in the Global South (Foley and Piper, 2021; Murzakulova, Dessalegn, and Phalkey, 2021; van Riemsdijk, Marchand and Heins, 2021). The pandemic has also highlighted the essential nature of work undertaken by many migrant women and men, not least in health and social care, and how this critical role has not prevented their exclusion from key services and support (Foley and Piper, 2020). Rather, it has demonstrated

how the development concerns of states – whether the provision of health care in countries of destination, or a reliance in countries of origin on ‘counter-cyclical’ migrant remittances in times of crisis – may be in tension with the immediate needs and rights of migrants, thus highlighting the importance of a truly rights-based and gender-responsive global governance system for migration. It is therefore both imperative and timely to seek to understand the gendered dimensions of the governance frameworks, processes and policies at global and regional level on which – to a greater or lesser degree – national migration policies in the Global South and bilateral and regional South-South migration regimes are founded.

This paper begins with an overview of global frameworks and policy processes, focusing initially on targeted efforts made since the early 2000s to better coordinate the global governance of migration and build the foundation of a more gender-responsive, rights-based approach. It explores how major initiatives from the Global Commission on International Migration onwards sought to integrate gender into their work and paved the way for more recent developments, notably the 2030 Agenda for Sustainable Development, the two Global Compacts on migration and refugees and changes to the rights-based international labour migration framework such as ILO Convention No. 189. It also examines the key role in these developments played by actors within the UN system and beyond whose role has in turn been shaped by these changes to the migration governance landscape.

Following a global overview, the focus then shifts to how gender is incorporated in regional and sub-regional approaches to migration governance in Asia, Africa and Latin America. In each case, a broad regional overview is provided alongside some consideration of sub-regional and national policy frameworks, with a focus on those regions spanned by our country corridors. It concludes with some reflections on the key findings from the global and regional perspectives, and identifies the main gaps in our knowledge regarding the extent to which the existing migration governance regime addresses the gendered dimensions of South-South migration flows which could be addressed in future research.

## 2. GLOBAL FRAMEWORKS AND POLICY PROCESSES

Gender has increasingly been incorporated in global efforts to strengthen migration governance that gathered momentum from the early 2000s onwards, although the approach taken has evolved substantially – if unevenly – over time. This section provides an overview of this changing landscape and seeks to identify the extent to which migration within the Global South has been accounted for within global policy debates and governance frameworks. It provides a consideration of the role of different actors in the global space that provides a foundation for understanding their role in the regional domains that follows.

## 2.1 GENDER AND MIGRATION - FROM THE GLOBAL COMMISSION TO THE GLOBAL FORUMS

From the early 2000s onwards, there were efforts at the global level to develop a more coordinated approach to the global governance of migration (Piper, 2017). The UN established the Global Commission on International Migration (GCIM), which ran from 2003 to 2005 and sought to foster a broader and more comprehensive understanding of international migration through research and evidence from policy approaches across the world. The Commission had an explicit focus on strengthening the international governance of migration and incorporated gender within its work (Carling, 2005; Piper, 2005), but its recommendations on enhancing governance did not include any that focused on this issue specifically (GCIM, 2005). The process also attracted criticism for its exclusion of civil society voices and its dominance by governments from the Global North whose primary concern, it was argued, was to enhance their control of migration and maximise benefits for receiving countries through the emerging agenda of ‘migration management’ (Castles and Delgado Wise, 2008).

Following the GCIM, two High Level Dialogues on Migration and Development were held in 2006 and 2013 that sought to build on this foundation and identify ways to improve the global governance of migration. Although the role and degree of influence exerted by civil society organisations continued to be a source of contestation, there was growing involvement in the process through both formal and informal channels, with many organisations originating from the Global South<sup>1</sup> (Rother, 2009; Delgado Wise, 2018b). Indeed, as a result of efforts from these organisations along with UN bodies including UN Women and the ILO, the General Assembly’s Declaration at the second Dialogue contained a more substantial focus on migrant women and girls, recognising that they account for almost half of migrants and calling for a gender perspective in migration policies, regulations and programmes, including for women migrant workers (United Nations, 2013).

Emerging from the first High Level Dialogue, the Global Forum on Migration and Development (GFMD) was established in 2007 as a state-led process to bring together governments – as well as civil society, the private sector and UN agencies – to discuss policy challenges and foster cooperation around migration and development. Meeting every one or two years, the Forum played an important role in shaping the agenda for the High Level Dialogue in 2013 as well as the development of the 2030 Agenda and Global Compacts. Within this process, civil society

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<sup>1</sup> The largest regional migrant rights network is in fact the Migrant Forum in Asia (Piper and Rother, 2020; 2021).

organisations, including women migrants' organisations, have played an increasingly influential role in mainstreaming gender into discussions – with themes advanced on 'Civil Society Days'<sup>2</sup> often finding themselves on the agenda for Government Days in subsequent years (Hennebry et al., 2019). However, there is also substantial variation between years – for example, the thirteenth GFMD Summit chaired by the United Arab Emirates in January 2021<sup>3</sup> had no thematic focus on gender or women migrants, nor any side events on this topic – and substantial gaps between the agendas promoted by civil society organisations and the recommendations adopted by states.

Indeed, counter-voices and critiques point to the enduring dominance of northern governments within these processes and to the neoliberal frameworks underpinning contemporary approaches to 'migration management' and security within mainstream approaches to global governance (Hujo, 2019; Piper, 2017). These continue to create major barriers to counterhegemonic participation in the development of global migration governance, especially by actors from the Global South (Delgado Wise, 2018a, 2018b). In this view, the GFMD is dominated by entrenched – primarily northern – interests which aim to depoliticise migration through the seemingly 'neutral' language of migration management and the 'triple win' for countries of origin and destination, and for migrants themselves. In doing so, they marginalise efforts to promote alternative rights-centred approaches that acknowledge the multi-dimensional relationship between migration and development, encompassing "economic, political, social, environmental, cultural, racial, ethnic, gender, geographical and demographic factors." (Delgado Wise, 2018b, p. 329). As a result, similar concerns have also been expressed about the GCM, where despite concerted pressure from a range of civil society organisations during the negotiating process, ensuring that rhetorical support for 'gender responsiveness' is matched by substantive, rights-based policy and practice remains a key challenge (Hennebry, 2018). To explore these issues in more detail, our focus will now turn to the incorporation of concerns with migration and gender in the Sustainable Development Goals and the two Global Compacts that aim to improve migration governance in the context of the 2030 Agenda.

## 2.2 THE SUSTAINABLE DEVELOPMENT GOALS AND GLOBAL COMPACTS

The increasing prominence of migration in development policy over the last 20 years is reflected in the differences between the Millennium Development Goals

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<sup>2</sup> Replaced in 2020 by full participation in the GFMD for all stakeholders, with a 'Civil Society Preparatory Meeting' prior to the Summit itself.

<sup>3</sup> Originally scheduled for 2020, it was postponed due the COVID-19 pandemic and held virtually in January 2021.

(MDGs) – which contained no specific references to migration – and the Sustainable Development Goals, which incorporate migration issues in many of the Goals, especially Goals 5 (Gender Equality), 8 (Growth and Decent Work) and 10 (Reducing Inequalities). However, in Goal 5 the only explicit migration target on gender equality relates to human trafficking, even if target 5.4 – “recognise and value unpaid care and domestic work” – has potentially important repercussions for both migrant and non-migrant women (Piper, 2017); while the most significant overall migration target 10.7 – “to facilitate orderly, safe, regular and responsible migration” – is gender blind in its formulation (O’Neil, Fleury and Foresti, 2016). Indeed, only target 8.8 on labour rights specifically mentions migrant women workers. Further, the global nature of the Goals – in contrast with the focus of the MDGs on developing countries – means that there is no explicit focus on migration within and between countries of the Global South; while the extent to which their global framing represents a transformative break from previous Northern dominated development agendas is also highly contested (see, for example, Fukuda-Parr and McNeill (2019); Horner (2020)).

As a result, gender and South-South migration are not brought together in a comprehensive way in the monitoring framework for the SDGs or in any major reports related to the Goals. Thus, while UN Women is promoting an agenda on data collection, disaggregation and gender specific indicators for the SDGs, including on migration, the only substantive discussion of migration in its 2019 SDG ‘gender snapshot’ focused on family reunification policies in the Global North (UN Women, 2019); while the brief discussion on migrant women in the 2021 report is global in focus, but the examples given are care workers in Australia and the violence experienced by women migrants crossing Western and Central Mediterranean routes into Europe (UN Women, 2021b)<sup>4</sup>.

Presaged by the ‘New York Declaration for Refugees and Migrants’ in 2018, the overall framing of the GCM is consistent with target 10.7 of the SDGs. In relation to gender, it aims to advance a global consensus on ‘gender-responsive’ (rather than ‘gender sensitive’) approaches to migration that “promotes gender equality and the empowerment of all women and girls” and moves away from a primary lens of vulnerability and victimhood. As noted above, the GCM more effectively incorporates a ‘gender-responsive’ approach to migration than the Global Compact on Refugees following a wider consultative process during which references to ‘gender responsiveness’ increased from twelve in the initial draft to twenty-one in the final document (Hennebry and Petrozziello, 2019). However, in their detailed assessment of the content of the two Compacts, Hennebry and Petrozziello (2019) note that while gender-responsiveness is ‘peppered’ throughout both documents, many

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<sup>4</sup> In the 2020 report, only one brief reference is made to migrant domestic workers (UN Women, 2020a).

concrete measures did not make it into the final drafts. Pointing to Cornwall and Rivas' (2015) analysis of the previous 'evisceration' of the concepts of 'gender equality' and 'women's empowerment', they argue that the term itself is at risk of losing its conceptual and political edge. Similar concerns have been expressed about the concept of 'intersectionality' in the context of gender and migration, where its increasing use by development actors risks repeating early mistakes associated with the gender mainstreaming in development and losing its transformative potential (Bastia et al., manuscript submitted for publication). It is therefore critical, Hennebry and Petrozziello (2019) suggest, that gender and migration expertise are incorporated into the implementation structures of both Compacts.

In this regard, the new UN Network on Migration – coordinated by the IOM – is taking the lead role and the first regional implementation reviews for the GCM were carried out in 2021. The first global International Migration Review Forum (replacing the High-level Dialogue on International Migration and Development) is scheduled for 2022. This process has the potential for promoting a sustained focus on migration and gender-responsive migration governance in the context of the 2030 Agenda. It also demonstrates the growing importance of the regional level in global migration governance, to which we return in detail below. However, at both global and regional levels, the institutional apparatus and capacity is still in the process of development so arguably the GCM remains 'transitional' rather than 'transformative' at this point in time (Hennebry and Petrozziello, 2019). Further, importantly in regard to ensuring its gender-responsive implementation, UN Women who were active members of the Global Migration Group and played a key role in creating space for underrepresented women's voices are not members of the new Network's eight agency executive. They are active in the 'Expert Working Group for Addressing Women's Human Rights in the GCM' on whose initiative 'Policies and Practice Guide for Gender-responsive Implementation of the GCM', was recently developed. This aims to provide "clear, concrete and practical guidance" for governments and other stakeholders on the gender-responsive approach (UN Women, 2021a). However, their absence from the Network's executive groups does at least raise a question about the degree to which gender will be prioritised in its work going forward.

The GCM also explicitly recognises the need for South-South bilateral, regional and multi-lateral cooperation around migration. However, it does so only very briefly – in point 42 on the GCM's implementation – and South-North migration often remains an implicit focus in global debates around the Compact and – as will be shown below – its operationalisation at the regional level. This includes, for example, the new guide to gender responsive implementation of the GCM, which makes no specific references to contextual factors within and between different regions of the Global North and Global South, although it does emphasise the importance of gender-sensitive approaches within regional as well as national and bilateral agreements and processes. This also reflects the approach across the wider policy

environment regarding migration and development more generally. For example, most major global policy reports on migration and development in the last fifteen years focus primarily – if implicitly – on South-North migration (even if, as discussed below, regional reports by UN agencies such as the Economic Commission for Latin America and the Caribbean (ECLAC) are more likely to address intra-regional flows).

This implicit focus on migration flows to the Global North was apparent in two key global reports on migration – the UNDP Human Development Report 2009 – ‘Overcoming barriers: Human mobility and development’ – and the UNFPA’s State of World Population report on women and international migration (2006), neither of which paid significant explicit attention to South-South migration. It also reflects the approach in UN Women’s second revision of its ‘Gender on the Move’ (Maulik and Petrozziello, 2016) training manual and in many reports focused on specific sectors, such as ILO’s recent publication on migrant care work (King-Dejardin, 2019), both discussed further below. In a recent review of the 2009 Human Development Report, the UNDP acknowledges the ‘dominance’ of South-South migration flows and the authors reflect on the challenges of developing the original report in a context where “countries of migrant origin, mostly in the global South, and countries of destination, mostly in the Global North, often regarded each other with suspicion.” (UNDP, 2020, p. 67). However, while its focus may have broadened in the ten years since its publication, the examples used to illustrate gendered inequalities throughout the recent report remain – with some limited exceptions – dominated by countries of destination in the Global North.

As this suggests, a variety of actors within the global policy sphere have played an important role in shaping approaches to gender and migration policy, with a particularly influential role for some UN agencies and other key development actors. Beyond the policy developments outlined above, their roles are also shaped by the landscape of formal conventions and other rights-based frameworks that underpin the UN system – including the SDGs and Global Compacts – which are themselves evolving. Below, we examine key developments in these frameworks in relation to gender and migration and explore how they shaped – and are shaped by – different actors from multi-lateral agencies to global civil society. This will provide the background for exploring the variety of roles these institutions play alongside other more localised actors at the regional and sub-regional levels.

## **2.3 KEY RIGHTS-BASED FRAMEWORKS AND ACTORS AT THE GLOBAL LEVEL**

Underpinning the policy and governance frameworks discussed above – and their associated institutional arrangements – are a range of international conventions and multi-lateral agreements, some of which are well established, while others are more recently developed. Explicitly incorporated into the GCM, these human rights

standards provide a normative, international framework for advancing a rights-based approach to gender and migration. They include legal frameworks to support the rights of women, of which the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) is the most important, and others that address the rights of migrants directly – most notably the International Convention on the Rights of All Migrant Workers and Members of their Families (ICRMW). However, while CEDAW has been ratified by 189 countries, the ICRMW (signed in 1990 and entering into force in 2003) has only been ratified to-date by 56 countries, mostly countries of origin for migrants in West Africa and Latin America (although some, like Argentina, are also major countries of destination). Indeed, this ‘under-ratification’ is characteristic of most international human rights standards that directly address the rights of migrants, reflecting a concern that global migration governance is dominated by countries in the Global North who focus primarily on controlling migration and extracting its economic benefits while too often “paying lip service to the human rights of migrants.” (Piper, 2017, p. 233).

Despite this, some efforts have been made to further strengthen the rights-based international legal framework over the last twenty years, including addressing the specific needs of migrant women. For example, while CEDAW requires state parties to eliminate discrimination against women and includes specific points on the trafficking of women and unequal employment rights, it does not address the issues migrant women face in any substantive detail. This led to the development of CEDAW General Recommendation No. 26 (GR26) on women migrant workers, passed in 2010, which aims to provide protection throughout the migration cycle for both documented and undocumented women labour migrants. While it is not itself a ratified convention, it is nonetheless the most comprehensive normative instrument relating to women migrant workers, covering a wide range of risks throughout the migration cycle (Hennebry, Williams and Walton-Roberts, 2016). This includes the lifting of restrictions or bans on women’s migration, the provision of education, awareness raising and training, access to health services and facilitating the right to return.

The other most significant development since the turn of the century is the Domestic Workers Convention, 2011 (No. 189) adopted by the ILO which aims to promote decent work and the rights of all domestic workers, both migrant and non-migrant. In contrast with the earlier ILO Conventions on Migration for Employment (1949, No. 97) and on Migrant Workers (1975, No. 143), which were both characterised by an assumption of the migrant workers as ‘male breadwinners’, the Domestic Workers Convention concentrates on an area of work dominated by women and during its development aimed to incorporate voices and concern from female workers, including women migrant workers (Fish, 2021; Mahon, 2021; Piper, 2013). Nonetheless, Hennebry et al. (2016) note that, in contrast with GR26, it does not address women or migrant workers directly and – as with the gender neutral



ICRMW – they argue that this limits the scope of the Convention and serves to obscure the gendered division of labour in migrant domestic work (2016, pp. 69-70). Further, in common with the Global Compact and SDGs, none of these frameworks incorporate a specific concern with migration in the Global South. Others have, however, argued that alliances between migrant and non-migrant domestic workers were critical in mobilising a broad – and thus successful – coalition around C189, pointing to the important role of transnational networks, particularly those involving migrant women in Asia, in seizing this opportunity (Piper, 2013). Indeed, the importance of seizing such political opportunities when they present themselves is supported by more recent evidence from the Philippines, for example, where tensions between the rights of migrant and national domestic workers since C189 was ratified have progressively weakened these coalitions between migrants' rights organisations and domestic labour unions over time (Fontana, 2020).

UNIFEM – subsequently merged with INSTRAW to form UN Women – was involved in the development of C189 (particularly through its activities in Southeast Asia), but was instrumental in the development of GR26, convening regional and global stakeholder meetings, providing technical assistance and making efforts to include the voices of women migrants in the process (Mahon, 2021). However, since the adoption of GR26 and C189, while both UN Women and ILO remain active in promoting these agendas – most importantly, in ILO's case, through its mandate to monitor implementation of C189 – the nature and extent of their ongoing engagement differs quite significantly at the global as well as the regional level (see below for further discussion). Nonetheless, for both agencies, it is paid care work which continues to receive the most attention in relation to women labour migrants, including work with a South-South focus<sup>5</sup>. Following ratification of C189, this continues to be the main focus of ILO's activities, often with a focus on migration flows in – some regions of – the Global South. For example, its Global Action Programme on Migrant Domestic Workers (2013-2016) focused primarily on subregional migration flows and four of its five migration corridors were within the Global South<sup>6</sup> (Tayah, 2016). A similar concern with subregional as well as interregional migration is also reflected in the framing of its recent report 'The Social Construction of Migrant Care Work: At the intersection of care, migration and gender', although the focus is primarily on OECD countries and seven of the nine in-depth case studies concentrate on Europe, the US and Canada<sup>7</sup> (King-Dejardin, 2019).

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<sup>5</sup> As noted above, this is alongside substantial work on trafficking which is beyond the scope of this working paper.

<sup>6</sup> Zimbabwe-South Africa, Indonesia-Malaysia, Nepal-Lebanon, and Paraguay-Argentina.

<sup>7</sup> The two exceptions are Singapore and the Gulf Cooperation Council states.

In its current projects on women migrant workers, mostly concentrated in ASEAN countries, ILO often partners with UN Women. Building on the earlier work of INSTRAW and UNIFEM, UN Women have articulated the most coherent approach regarding 'gender responsive labour migration governance' and South-South migration through a programme of activities in Asia and the Gulf, further discussed in the next section, as well as its global engagement in the development of the GCM, GR26 and other key frameworks (Grugel and Piper, 2007; Hennebry and Petrozziello, 2019). However, with the exception of its work in Asia, an implicit South-North focus is apparent in some of its other key activities in this area. For example, UN Women's 'Gender on the Move' training manual, now in its second edition (Maulik and Petrozziello, 2016), is flagged in the GCM and builds on INSTRAW's earlier work on gender as well as a programme of activities carried out by UN Women from 2013-2016. However, it includes very little material explicitly exploring South-South migration flows and throughout its examples are largely drawn from South-North movements.

As noted above, the WHO have also adopted an increasingly prominent role regarding policy on the migration of health workers, including nurses, building on substantial work by the ILO in the 1960s and 1970s and with a particular interest in countries of origin in the Global South (Yeates, 2010; Yeates and Pillinger, 2019a, 2019b). This culminated in 2010 in its Global Code of Practice on the International Recruitment of Health Personnel, which aims to stem the flow of skilled health professionals from poorer to richer countries. While its activities in this area remain primarily focused on emigration to OECD countries (where foreign-trained nurses, of whom a majority are women, increased by 20% from 2011 to 2016), the 'State of the World's Nursing' report for 2020 acknowledges that new migration patterns are emerging in Asia, Africa and the Caribbean, including inter-regional South-South migration (WHO, 2020, p. 27). Other agencies and institutions working on migration at the global level do also consider gender and South-South migration flows, but usually in a relatively piecemeal fashion. For example, the World Bank Global Knowledge Partnership in Migration and Development incorporates gender as a cross-cutting issue and recent reports – including 'Moving for Prosperity' (2018) and a briefing for its Board entitled 'Leveraging Economic Migration for Development' (2019) – discuss the gendered nature of migration flows as well as South-South migration trends, but the two are not linked in any systematic way.

The approach in these examples thus mirrors the global migration governance frameworks discussed above which do not consider gender and South-South migration directly or do so only very briefly in terms of general principles. Arguably, this implicitly orientates the work of international organisations towards the concerns of the Global North, reinforcing dominant agendas around 'migration management' and limiting discussions of gendered issues related to those that directly concern South-North migration flows. Thus, for example, the role of women and men in

cross-border trading within Africa receives almost no attention despite its widely acknowledged scale and significance (African Union and IOM, 2020); nor are the gendered dynamics of migration between Africa and East Asia considered even where migration from and to different African countries and China is growing and – as COVID 19 demonstrated – increasingly raising challenging issues for migration policy in both China and Africa (Human Rights Watch, 2020; Lukamba, Mtasa and Wahito, 2020).

An exception, as was noted, is the role that major policy fora have played in advancing this agenda, in particular the Global Forum for Migration and Development and the important role played by civil society actors from the Global South in ensuring gender was fully incorporated (Hennebry et al., 2019). We will return to their role in greater detail in the regional sections that follow. Other similar fora may also have a role to play going forward, for example IOM's 2020 International Dialogue on Migration was supposed to address 'dialogue and action on the Sustainable Development Goals 25 years after Beijing: the place of migrant women in the development agenda' but was postponed due to the COVID-19 pandemic<sup>8</sup>. However, arguably the most important new setting where there is scope for gender-responsive action on migration governance is the significant role given to regions in implementing the GCM – building on the substantial role played by Regional Consultative Processes (RCPs) in its development – with the first round of regional reviews completed in 2021 (Lavenex and Piper, 2021; and see below for further details on the regional reviews).

In this context, a consideration of regional and national frameworks is essential, especially given the diversity of migration corridors captured by the concept of South-South migration (e.g. between Africa and Asia, intra-ASEAN and from Asia to the Gulf). As will be demonstrated below, there are significant differences between regions in the Global South, although none have yet adopted a comprehensive, gender-responsive approach. Indeed, a recent report by the Special Rapporteur on the Rights of Migrants (2019), itself notable for the decision to focus on gender-responsive migration legislation and policies, concluded that while there are examples of positive actions taken across all regions, many are relatively recent and most migration laws and policies at the national level remain gender neutral, with disproportionately negative impacts on the rights and well-being of migrant women. It argues that gender responsiveness in national migration governance is most effective when connected to wider rights-based commitments to gender equality, while paying special attention to the specific gendered challenges faced by migrant women and girls throughout the migration cycle. However, at present, in most countries major gaps remain across key domains such as immigration policies, the

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<sup>8</sup> In the end a decision was made to focus on COVID-19, with the 2021 Dialogue concentrating on climate change.

legal system, access to health and other essential services, and opportunities in the labour market.

Thus, while global agendas have influenced regional and sub-regional policy frameworks – and, in some cases, national migration policies and laws – it is debatable the extent to which they have had a concrete influence on bilateral negotiations on labour migration agreements or Memorandum of Understandings (MOUs), which generally remain quite narrowly focused. In addition, at the national level and in relation to individual migration corridors, there is evidence that the gendered nature of wider ‘social institutions’ beyond the confines of migration governance influence South-South migration flows in regard to both sending and receiving countries. For example, Ferrant and Tuccio (2015) use the OECD Social Institutions and Gender (SIGI) index to explore linkages between migration decisions, gender norms and discriminatory social institutions in South-South migration. Among their findings is the worrying conclusion that these flows may contribute to regressive gender norms at origin, with discriminatory norms transferred from highly discriminatory countries. This opens potential research avenues into how migration governance may relate to broader gender regimes within society that not only absorb ‘top-down’ influences from global and regional frameworks, but also ‘bottom up’ influences that are not always progressive in character (see, for example, Samari (2021); Tuccio and Wahba (2018)).

While this shows that progressive change cannot be taken for granted, this section has explored how rights-based frameworks have nonetheless evolved considerably over recent decades and how this shapes the roles played by key global institutions involved in gender and migration governance. As has also been noted, however, while the global level is important, across Asia, Africa and Latin America there are distinctive gendered characteristics in how migration is governed at regional, sub-regional and national levels, which reflect among other things the distinctive role played by global actors at regional levels, the nature of migration flows within each region and the particular configuration of migration actors – including civil society organisations – within those settings. The following section will explore these issues in detail.

### 3. REGIONAL, SUB-REGIONAL AND NATIONAL GOVERNANCE

Across the Global South there are quite profound differences between regions and sub-regions in terms of the regulatory and institutional frameworks, policy programmes and the degree of regional and bilateral cooperation related to migration governance as a whole and in relation to gender specifically. Nowhere has a comprehensive, gender-responsive system in place, but progress towards this goal has been faster and more systematic in some regions and slower or more piecemeal

in others. As the regional perspectives below will show, in the case of Africa and Asia, alongside flows within sub-regions (e.g. ASEAN, ECOWAS), the main policy processes regarding South-South migration concern inter-regional migration flows to Arab states. However, arguably migration policies within Gulf countries are also among the least developed in terms of an explicit focus on gender, reflecting wider discriminatory gender norms within the region and a migration regime where gender, race and nationality intersect through the kafala system to structure hierarchical, coercive and highly exploitative labour practices (Fernandez, 2021). Latin America, in contrast, is primarily concerned with intra-continental flows, with a greater – albeit patchy – focus on rights-based agendas.

### 3.1 ASIA

Of the three regions, Asia has the most developed governance frameworks and policy programmes in relation to South-South migration. In part, this reflects the dominance of formal, temporary, employer-tied migration regimes across the continent, in whose smooth functioning origin and destination states both have vested interests. The region has also seen the growth of very strong transnational civil society organisations and coalitions which have influenced regional policy and driven global agendas, including on women migrants (Chavez, 2015; Grugel and Piper, 2011; Piper, 2009). This has been supported by multi-lateral efforts, with UN Women especially active in promoting gender-responsive labour migration governance in South, Southeast Asia and the Gulf.

The main overarching migration governance frameworks in the region are the ASEAN Declaration (2007) and Consensus (2017) on the Protection and Promotion of the Rights of Migrant Workers and the migration related articles in the SAARC Kathmandu Declaration (2014), along with two regional consultative processes – the Abu-Dhabi Dialogue (focused on Asia-Gulf migration) and the Colombo Process (focused on Asian labour sending countries)<sup>9</sup>. At the sub-regional level, ASEAN is much more active than SAARC as an institution, but both the ASEAN and SAARC Declarations include very little detail with regard to gender and – where it does feature – concentrate primarily on trafficking. The ASEAN Action Plan for implementation of the Consensus (2018), for example, mostly focuses on trafficking and the associated vulnerabilities of women migrants. While the Kathmandu Declaration (2014) only commits SAARC member states to collaborate on “safe, orderly and responsible management of labour migration from South Asia” and to take action to prevent the trafficking of women. A ‘zero draft’ of a SAARC Declaration

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<sup>9</sup> In addition, the Bali process focuses specifically on people smuggling, trafficking and transnational crime.

on Labour Migration has been circulated among members, but not yet approved (ADB, OECD and ILO, 2019; SAARC, 2020).

Of the two main regional consultative processes, the Abu-Dhabi Dialogue is focused exclusively on temporary labour migration and only explicitly considers gender in relation to its limited activities around domestic work. This is clearly highly problematic given the status of women migrants – primarily but not exclusively as domestic workers – within the kafala system in Gulf States (Fernandez, 2021). A recent report commissioned by the Dialogue Secretariat on the future of domestic work in the region does contain detailed analysis of the gendered nature of care work and the drivers of in-migration to the region, but its analysis focuses heavily on addressing skills deficits and includes no discussion of the rights of workers (Tayah & Assaf, 2018). In contrast, the Colombo Process has gender as one of four cross-cutting themes and the Ministerial Declaration in Kathmandu in 2018 committed those states involved to promoting gender equality for women migrant workers and mainstreaming a gender lens across all its working groups (Colombo Process Secretariat, 2018). However, beyond this commitment it is difficult to identify any concrete outcomes from the Declaration to-date.

The most recent development at the regional level is the newly established regional review process for implementation of the GCM, whose first meeting was held in March 2021. Hosted by ESCAP, the Asian review process was structured around a substantial 'baseline assessment' of GCM implementation – the Asia-Pacific Migration Report 2020 (ESCAP, 2020). With a strong focus on South-South and intraregional migration the report addresses gender throughout, including issues such as gender-based discrimination within the migrant labour force, the need for gender disaggregated migration data systems and the importance of gender responsive support services for migrants. A specific section of the report focuses on the experiences of migrant women and echoes the findings of the Expert Working Group for addressing women's human rights in the GCM in calling for actions such as gender-based budgeting and gender-responsive migration research, education and policy development. Thus, although the institutional arrangements for the GCM are, as noted above, in their infancy and their role in shaping migration policy and practice remains to be tested, the focus at this initial stage does suggest that gender-responsiveness will receive continued attention within the regional GCM process going forward.

Beyond these processes and frameworks, most activities at the regional level focus heavily on particular migration flows, especially those from South and Southeast Asia to the Gulf and intra-ASEAN flows. This includes an ongoing programme of activities by UN Women, ILO and ASEAN that aims to promote gender-responsive migration governance across Southeast Asia. For example, UN Women's 'Programme on Empowering Women Migrant Workers in Asia' has been running since 2001 with a specific focus on Bilateral Labour Agreements, MOUs and

Standard Terms of Employment (STOEs) (UN Women, 2018 a-d). Other recent activities include a programme of research on women migrant workers in ASEAN, covering – among other things – mobility trends, access to labour markets, sub-regional policy on gender and migration, and bans and restrictions on women’s labour migration (Napier-Moore, 2017; UN Women, 2017).

As noted above, civil society and transnational social movements in the region have also played a strong role in advocating for migrants’ rights, including for migrant women. This includes the Migrant Forum in Asia who are the largest regional migrants’ rights network and played a key role in global and regional migration policy as early as the UN’s High-Level Dialogue on Migration in 2006 (Chavez, 2015; Piper and Rother, 2020; 2021) as well as global, regional and national labour unions and labour justice groups. A recent study of civil society organisations working on women and international migration across the world<sup>10</sup>, identified sixty two organisations in Asia-Pacific, half based within East and Southeast Asia (Cymnet, 2021). It noted that Southeast Asia in particular was characterised by a focus on self-organising among women migrant workers, while across Asia as a whole high levels of alliance building are a notable feature of migrant organisations (92% of surveyed organisations were part of national, regional or international networks).

Despite these activities, however, there is a challenge in aligning both global and regional commitments around gender and migration with the agendas advanced by countries of origin and destination through bilateral agreements, which often persist in gender blind approaches (Hennebry and Hari, 2021). Further, where non-binding MOUs and STOEs – which remain very common across the region – are not in alignment with national laws, there can be significant challenges in their implementation, especially in countries of destination. For example, there are many cases where this is true of agreements around domestic work, which undermines what limited provisions are in place to protect migrant domestic workers (UN Women, 2018 a-d). Indeed, the recent experience with COVID-19 has demonstrated how fragile these agreements are and the degree to which women migrant workers are at particular risk (see, for example, the report on COVID-19 and women migrant workers in ASEAN by the United Nations’ ‘Spotlight Initiative’ (2020)).

Within the Nepal-Malaysia corridor in which MIDEQ is conducting new research on migration and gender inequalities, an MOU agreed in 2018 makes no reference to any wider regional or global frameworks, referring only to national legislation on employment in the two countries and making occasional references to the need for “special attention to female workers.” The MOU itself emerged out of a major scandal regarding fraudulent hiring practices and inflated prices for visas and medical checks, which saw migration in the corridor temporarily suspended (see

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<sup>10</sup> Globally, 315 organisations were surveyed.

Izaguirre et al. (2021) for more detail). Questions remain about the degree to which the agreement has addressed these challenges and the subsequent impacts of COVID-19 – which led to migration between the two countries being suspended once again – have made this difficult to assess at this stage. Women migrating from Nepal also face specific risks and restrictions, notably those migrating for domestic work, where a ban introduced following cases of physical and sexual abuse in Gulf countries – and subsequently extended to Malaysia – has faced heavy criticism for violating the rights of Nepali women to move and forcing those who do so to use riskier, informal channels (Grossman-Thompson, 2019; Hari and Hennebry, 2019; Izaguirre et al., 2021; Napier-Moore, 2017; Pyakurel, 2018). This approach by the government reflects broader paternalistic attitudes within Nepal – and across the region more widely – which consider women migrants primarily in terms of their need for ‘protection’ rather than as potential agents of development and ‘breadwinners’ in their own right (Sijapati et al., 2019; Shivakoti, Henderson and Withers, 2021).

No specific frameworks or processes exist between Ghana and China, the other migration corridor involving an Asian country within MIDEQ’s gender work package. Some further reflections on this follow below in the section on Africa and ECOWAS. However, it is also worth noting that within regional debates in Asia, China has until recently played a relatively limited role and it was only in 2016 that it officially joined IOM as its 165th member state. Generally understood as a country of origin rather than destination, China is increasingly attracting migrants from across Asia as well as Latin America – notably Brazil and Peru (Zhang and Geiger, 2020). Accompanying wider shifts in its engagements as a regional and global development actor – not least the Belt and Road Initiative – as well as a concern to occupy a global leadership role, its accession to the IOM and adoption of both the GCM and the Global Refugee Compact appear to signal its intention to engage more proactively in regional and global migration governance going forward (ibid.). However, while initiatives such as the EU-China Dialogue on Migration and Mobility Support Project have funded research on migrant domestic workers that incorporates a concern with gender discrimination in the context of CEDAW – which China has ratified, in contrast with the ILO’s Domestic Workers Convention which it has not – this work currently focuses on internal migrants and it is too early to identify a clear role for China in relation to gender and migration governance at either regional or global levels.

Overall, within Asia as a whole, there are a wide variety of governance frameworks, consultative processes and transnational projects that – to a greater or lesser degree – address the gendered nature of labour migration within the region. These are most prominent at the sub-regional level, particularly within ASEAN states. However, while the language in formal declarations and plans of action may reflect wider global developments around gender and migration, these are only addressed substantively through specific projects, such as those led by UN Women



or where civil society organisations have taken the lead. This is particularly apparent regarding bilateral agreements between states where – as with the example of Nepal-Malaysia – most agreements remain gender blind and limited in both their ambition and ability to safeguard the rights of migrant women and men.

## 3.2 AFRICA

African debates about the governance of migration focus not only on inter-continental movements to Europe, the Americas and Asia, but also on a long-standing commitment to the principle of free movement across the continent of Africa. This commitment has been a notable feature of policy within the African Union (previously the Organisation of African Unity) and was formally codified as early as the Lagos Plan of Action for the Economic Development of Africa in 1980 (Schöffberger, 2020). In 2018 a Protocol on the Free Movement of Persons, Right of Residence and Establishment was adopted, which envisages an ‘African passport’ and gradual extension of free movement across the continent, beginning at the regional level. At the same time, a new African Union framework on migration was also agreed (African Union, 2018), replacing the previous framework from 2006.

Most formal institutions outlined in the framework remain in the very early stages. For example, the African Migration Observatory, based in Rabat, Morocco, which aims to collect, analyse and exchange data on migration across Africa to improve migration policies was only inaugurated in December 2020. National and regional challenges – including inter-State conflicts, changing public attitudes towards migration, labour market imbalances and national security and public health concerns – along with limited implementation of many African Union agreements may also hinder implementation of the framework (Schöffberger, 2020). Further, as the framework itself concedes, most concrete activities around the governance of migration in Africa relate not to intra-African mobility, but to migration corridors between Africa and Europe or – to a lesser extent – the League of Arab States (e.g. the Africa-Arab Technical Coordination Committee on Migration). Indeed, any consideration of migration between African countries and states in Asia or both North and South America is missing entirely from its strategy for increased inter-regional cooperation and the associated Action Plan<sup>11</sup>.

Gender is one of 11 cross-cutting issues within the framework which incorporates calls for ‘gender-responsive’ policies and programmes at national and regional levels throughout. In a section on migration and gender, ten ‘recommended strategies’ include the need for research on the gender dynamics of migration, gender-responsive approaches to migration management, sex-disaggregated data

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<sup>11</sup> The only specific activity in the Action Plan is to undertake a “diaspora mapping project in the Americas, Caribbean...and Asia-Pacific.” (African Union, 2018, p. 92).

and support for associations and networks of migrant women to promote their voices in policy dialogue at national, regional, continental and global levels. The language on gender and migration within the document and many of the issues highlighted are thus reflective of recent policy developments at the global level and explicit reference is made to Goal 5 of the Sustainable Development Goals. Nonetheless, it is notable that the Action Plan contains no specific actions related to gender and mentions migrant women directly only in the context of the 2006 'Ougadougou Action Plan to Combat Trafficking in Human Beings, Especially Women and Children'.

In relation to the GCM, while African countries were actively engaged in the process of its development, in a 'Common African Position' they also expressed concerns that the emphasis on irregular migration within the Compact was driven by security and border control considerations rather than broader development concerns (African Union, 2017). The statement is supportive of the need for gender-responsive policies and reiterates the importance of an approach fully grounded in human rights. Following the adoption of the GCM, a range of similar concerns were expressed by civil society organisations, for example in a list of seven priorities submitted to the first meeting on the implementation of the Compact in which the importance of intra-African labour migration and the need to "negotiate mobility agreements respectful of African citizens between [the] African Union and its American, Asian and European partners" were also emphasised (West African Observatory on Migrations, 2019). However, neither they, nor the African Union in its joint statement, concentrate in any detail on gender and migration or the specific challenges faced by women migrants.

In contrast – and in a marked difference to the action plan for the African Union migration framework – the GCM implementation plan of action for Africa 2020-2022 does contain a substantial focus on promoting gender equality and addressing the needs of women migrants (African Union, 2020). This includes a commitment to develop a "policy framework to promote women in cross-border trade at national regional and continental levels" (2020, pp. 14-15) as well as points related to diaspora and development, return and reintegration policies and the implementation of the Maputo Protocol on the rights of women in Africa. However, while these commitments may indicate an increasing focus on gender and migrant women within policy at the continental level, it remains to be seen to what extent this will translate into concrete action at the sub-regional and national level, as well as in bilateral negotiations and consultative fora that engage with other regions of the Global South.

In the first African regional review of implementation of the GCM held in August 2021, there was no substantial focus on gender within the main programme or side-events, and only two passing references to 'gender responsiveness' within the key findings of the 'continental report' which framed discussions (UNECA, 2021). More substantial attention was given to trafficking along with a brief discussion of the

gendered challenges that women labour migrants experience as a result of facing “double discrimination as women and as migrants”. (Ibid, p. 19). The African Migration Report (African Union and IOM, 2020) published – like the Asian report above – in the run-up to the GCM regional review, does contain analysis of the gendered dynamics of migration throughout the migration cycle and pays particular attention to the role of women migrants in cross-border trade. However, it contains only one reference to gender-responsiveness in relation to the Migration Policy Framework for Africa and in combination with the 2021 regional review, as the first opportunity to highlight and foster action on key issues for Africa within the GCM, this suggests that a sustained focus on ‘gender responsiveness’ in African migration policy at the continental level cannot be taken for granted.

Finally, it is important to note that, as with the example of Asia above, there is considerable diversity at the sub-regional level in Africa. For example, Southern Africa has a long history of labour migration with roots in colonial labour regimes and – since the foundation of the Southern African Development Community (SADC) in 1992 – a commitment to the progressive introduction of intra-regional free movement (Kitimbo, 2014). Attempts to coordinate and harmonise migration governance within the SADC have, however, faced very significant challenges (Dodson and Crush, 2015; Nshimbi and Fioramonti, 2014). In this context, longstanding concerns about gendered discrimination within the immigration policies of South Africa, the region’s primary country of destination, remain largely unaddressed, resulting in migration policies that are either gender neutral or specifically focused on male migrants (Dodson, 2001; Mbiyozo, 2018). A comparative perspective on sub-regional approaches within Africa is beyond the scope of this paper. However, within MIDEQ’s work on gendered inequalities, the focus is primarily on the Ghana-China migration corridor and for this reason we will now briefly explore the West African context in greater detail.

### 3.2.1 ECOWAS AND GHANA

Within West Africa and ECOWAS, migration is a well-established theme for regional collaboration. Most activities focus on intra-ECOWAS migration flows and those with North Africa and the EU. The two major regional dialogues are the Migration Dialogue for West Africa (established in 2001) and the Euro-African Migration and Development Process (the ‘Rabat Process’, established in 2006). Linked to the latter are the Migration, Mobility and Employment Partnership with the EU (which ran from 2008 to 2013) and, more recently, the mandate given to the Rabat Process to monitor implementation of the Joint Valetta Action Plan (JVAP) with the European Union. The JVAP aims to enhance migration governance between Europe and Africa and is supported by very significant financial resources through the European Union Emergency Trust Fund for Africa which has invested nearly EUR 2 billion into projects across the Sahel and Lake Chad region (which

encompasses ECOWAS and some additional countries in the Sahel) to “fight the root causes of destabilisation, forced displacement and irregular migration.” (Immenkamp, 2021).

Within the region itself, a long-standing Treaty and Protocol on free movement and migration within ECOWAS was signed in 1979, while a subsequent ‘Common Approach’ agreed in 2008 was intended to frame intra-regional cooperation on migration to and from other regions (ECOWAS, 2008). Half of ECOWAS member states have bilateral agreements with other countries on migration, but most are with African or European states (Devillard, Bacchi and Noack, 2016). The exceptions to this are Burkina Faso with Jamaica; The Gambia with Qatar; Senegal with Saudi Arabia and Kuwait; and – exceptionally – Sierra Leone with Cuba, China and India. The latter case serves only to highlight how few formal policies or programmes there are related to migration between Asia and West Africa, despite its growing scale<sup>12</sup>. For example, while there are increasing links between China and ECOWAS (both the regional body and its member states), those formal collaborations that exist are generally focused on broader economic development, trade or political cooperation (e.g. China is financing a new \$32 million headquarters for ECOWAS (Marsh, 2018)).

Historically, there has been a lack of focus on gender and migration as a priority within the ECOWAS region. For example, in a 2013 survey for the High Level Dialogue only two states identified this as a priority (Guinea-Conakry and Cape Verde) (Devillard et al., 2016). However, the ‘gender dimension of migration’ is one of six key areas in the ECOWAS Common Approach, which calls for improved data, the inclusion of gender dimensions in migration policies, support for female entrepreneurs and the removal of all illegal trade barriers which hinder their entrepreneurial activities (ECOWAS, 2008). The subsequent ECOWAS Gender and Migration Framework and Plan of Action 2015-2020 aimed to promote a ‘gender sensitive’ approach to migration and considers intra-African, European and North American migration flows specifically. It prioritised cross-border trading and labour migration, trafficking, involuntary migration, tourism and international labour migration, and domestic work. However, while the 33 page plan contained substantial detail it had no implementation mechanisms, monitoring structure or stakeholder platform and – as of 2019 – there had been no coordinated action to implement its provisions (Bisong, 2019).

In Ghana, alongside its engagement with regional activities through ECOWAS, a first National Migration Policy was approved in 2016. The Policy is explicitly framed

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<sup>12</sup> Good overall data on migration is lacking, but between 2011 and 2017 the number of students from Ghana and Nigeria studying in China grew 272% and 406% respectively. With over 12,000 students in total in 2017, they represent the two biggest markets for Chinese universities in Africa as a whole (ICEF, 2021).

in relation to the concept of the ‘migration-development nexus’ and references the 2008 ECOWAS Common Approach on Migration (Government of Ghana, 2016). Gender concerns are incorporated as a ‘cross-cutting theme’, with the objective of mainstreaming gender into migration management and development planning. Additional strategies include promoting inter-agency and multi-stakeholder collaboration on human trafficking and migrant smuggling, strengthening social protection (presumably for migrant women or in a gender equitable manner, although this is not made explicit) and to promote the “positive outcomes and mitigate the negative consequences of the migration-gender nexus.” (Government of Ghana, 2016, p. 58). Women are also incorporated separately into the document as a ‘vulnerable group’ alongside children, the elderly and people with disabilities, notably regarding concerns about human trafficking. However, while the framing frequently reflects broader global policy developments around migration and gender, the overall approach is quite inconsistent throughout.

Although it is framed in the foreword as a ‘comprehensive policy’ in regard to internal, intra-regional and international migration flows, the document is largely orientated towards internal, intra-ECOWAS and Ghana-EU migration. Notably in this regard, it was European donors – the EU, the UK and Germany – who provided funding for its development. China only receives one specific mention within the document and there are no further discussions about Asia as a whole. In addition, while a comprehensive set of international conventions is listed, there are no bi- or multi-lateral agreements mentioned beyond discussions with the EU; and no specific agreements around gender (although CEDAW and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families are included in the list of ratified conventions). As a whole, this reflects the concern noted above, that while national policies such as those in Ghana may reflect both global and regional governance frameworks and policy agendas in their language, when it comes to gender the specifics are often lacking in terms of policies, regulations and concrete implementation plans. This also applies in relation to bilateral agreements with countries of destination, of which Ghana has relatively few in place, and none with Gulf States or countries in Asia (IOM, 2018).

### 3.3 LATIN AMERICA AND THE CARIBBEAN

The migration governance landscape in Latin America and the Caribbean is highly complex as a result of the existence of multiple regional bodies with differing historical and political backgrounds and remits. These include the Caribbean Community (CARICOM), the now inactive Union of South American Nations (UNASUR) and its attempted (and highly contested) successor the Forum for the Progress and Development of South America (PROSUR), the Andean Community (CAN), the Southern Common Market (MERCOSUR) and the Pacific Alliance. The main focus in regional migration governance to-date has been on free movement

agreements, in particular those agreed by MERCOSUR, CAN, the Central America-4 Border Control Agreement (covering El Salvador, Guatemala, Honduras and Nicaragua) and – most recently – the Pacific Alliance. In the case of MERCOSUR, for example, an agreement struck in 2002 enables citizens from ten countries to live and work across the zone for up to two years as well as providing routes to citizenship (Merke, Stuenkel and Feldmann, 2021). More recently, the Venezuela crisis has greatly affected the regional migration landscape, with an estimated 5.6 million Venezuelan migrants and refugees living outside of country, of whom at least 4.6 million are living across Latin American and the Caribbean (Chaves-González, Amaral and More, 2021). Regional responses to the situation are shaped in part by the Cartagena Declaration on Refugees (1984) and subsequent Cartagena Process, which broadened the definition of refugee beyond the scope of the 1951 Convention to incorporate those fleeing generalised violence and internally displaced people (Lavenex, 2019)<sup>13</sup>.

In addition to these agreements, regional fora and consultative processes play an important role in creating space for ongoing dialogue on migration, most notably the South American Conference on Migration (SACM or ‘Lima Process’), established in 2000, and the Regional Conference on Migration (the RCM or ‘Puebla Process’, covering Central and North America), established in 1996. Both of these processes aim to promote inter-state dialogue and meet on an annual basis. In 2018, the RCM approved ‘Guidelines on Assistance and Protection of Women in the Context of Migration’ (RCM, 2018), which aim to promote a comprehensive and rights-based approach to addressing gender-based inequalities in migration and emphasise – albeit briefly – the importance of adopting an intersectional approach to analysis, advocacy and policy making that recognises how multiple forms of discrimination compound each other. In the same year – with the support of IOM – the RCM convened the first ‘Congress on Women in the Context of Migration’ which explored, among other things, migrant women and work; gender-sensitive migration data; and the role of the GCM and SDGs in promoting gender equality. The SACM was less active until recently but has now established a Gender and Migration network to promote action on enhancing a gendered approach to migration policies within the region and, in 2021, published detailed recommendations on drafting guidelines for the “care and protection of migrant women, girls and sex/gender diverse people in South America”, covering a range of areas including information and data gathering, access to services, training and skills development and caregiving roles (CSM, 2021). Discussions are also under way to establish a new forum for the Caribbean building on the Caribbean Migration Consultations (CMC) process initiated in 2016,

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<sup>13</sup> The Declaration itself is legally non-binding and relies on countries incorporating this definition into their national legislation; although most countries in the region have done this, for a critical discussion of its application in practice see Blouin, Berganza, and Freier (2020); De Menezes (2016).

although these are still ongoing (see below for some discussion of ECLAC's role in this sub-region).

Within this context, Latin American civil society organisations play an active role in engaging with global and regional processes, both individually and in coalitions such as the Bloque Latinoamericano Sobre Migración and Alianza Americas, including organisations that focus on the rights of migrant women (Cymnet, 2021). These networks reflect a strong track record within the region of transnational and counter-hegemonic coalition building, most visibly through the World Social Forum on Migration – formally a global forum, but in practice with a strong Latin American regional focus (Delgado Wise, 2018b).

Other ongoing initiatives include the Research on International Migration in Latin America (IMILA) programme, which collects and disseminates migration data every ten years based on censuses across Latin America and the Caribbean, and the Internal Migration in Latin America and the Caribbean (MIALC) database. Both are maintained by the Population Division of ECLAC, the UN's regional commission. ECLAC has a substantial role at the regional level, providing technical cooperation and conducting research on regional migration issues. For example, in 2017 it published a study on women's empowerment and migration in the Caribbean which explored the challenges facing women throughout the migration cycle and a range of specific recommendations for countries of origin, transit and destination within the region, including legal and policy issues, gender equality and autonomy, and access to services (Platonova and Gény, 2017). A subsequent report explored gender equality in environmental migration and disaster displacement in the Caribbean, providing recommendations on how to develop gender-responsive policies and processes to address these issues (Bleeker et al., 2021). Most recently, it partnered with IOM in convening the first regional review meeting on the implementation of the GCM in April 2021, whose preliminary report repeatedly stresses the importance of incorporating a substantive and comprehensive gender perspective in migration analysis and policymaking, including in intraregional migration flows (ECLAC and IOM, 2021). However, despite foregrounding a rights-based approach in this role, ECLAC along with other international agencies at the regional level have previously attracted criticism for promoting migration management over rights-based approaches by focusing on anti-trafficking programs rather than migrant women's labour rights, especially through their support to programmes on the ground (Basok and Piper, 2012).

ECLAC also convenes the Forum of the Countries of Latin America and the Caribbean on Sustainable Development which is the regional mechanism for oversight on implementation of 2030 Agenda, including the link between migration and SDGs. In this role it will receive annual reports from the Regional Conference on Women, whose 'Montevideo Strategy' aims to guide implementation of the regional agenda on gender for the SDGs. The earlier Montevideo Consensus on Population

and Development in 2013 expressed concern at rights violations suffered by migrants in the region and the problems faced by women, girls, boys and adolescents. It recommended measures to protect human rights with a gender perspective, including action on the differential participation of migrant women and men, the transnationalisation of care, access to basic services (including sexual and reproductive health), and the need to reinforce intergovernmental cooperation mechanisms to “guarantee the exercise of the human rights of all migrants, regardless of their migration status from a gender-based perspective.” (ECLAC, 2013, p.17). The more recent Montevideo Strategy, agreed in 2017, arguably has a narrower focus in its approach to female migrants’ rights, concentrating primarily on the issue of migrant trafficking and smuggling (ECLAC, 2017).

Thus, in the most recent progress report on the Montevideo Strategy, while the challenges faced by migrant women were mentioned on a number of occasions, they did not feature in any substantial way in the report’s recommendations on policy design and implementation (ECLAC, 2019a). In contrast, however, a report prepared for the 2020 session on women’s autonomy in changing economic scenarios included substantial analysis of care-related challenges in the region and how these relate to the phenomenon of women’s migration (ECLAC, 2019b). This included a recognition of how migratory status, gender, socioeconomic class and race can intersect to make women migrants highly vulnerable (see, for example, Rojas Scheffer (forthcoming) on migrant domestic workers in Uruguay and Paraguay) and to create systems of oppression that “are determining factors in the normalization of violence” (ECLAC, 2019b, p. 146). Several migratory corridors are explored – such as Argentina-Paraguay-Peru and Costa Rica-Nicaragua – and attempts are made to reconfigure debates on care to fully account for its economic contributions. However, despite a welcome emphasis on multilateral governance and ‘comprehensive public policy for achieving women’s autonomy and rights’, it contains few concrete proposals – especially those directly concerning migrants – despite being framed as ‘policy guidelines’.

The COVID-19 pandemic has made the conditions more challenging for all migrants and had disproportionate impacts on women migrant workers (Foley and Piper, 2020). In Latin America, ECLAC has drawn attention to the heightened risks faced by migrant women as a result of existing inequalities and the impacts on domestic work, as well as other sectors such as tourism, entertainment and cleaning in which substantial numbers of migrant women work (ECLAC, 2020). Drawing on the Montevideo Consensus, they argue that the crisis is an opportunity to reaffirm and strengthen the commitment to migrants’ human rights, including those of women migrants. UN Women have also conducted analysis of the gendered impacts of COVID-19, incorporating migrants within an intersectional framework and calling for sustained action at the national level to mitigate these risks (CARE and UN Women, 2020; UN Women, 2020b).



It is too early to fully assess the response by governments across the region, although as with gendered domestic work in Latin America more broadly, there are reasons to be wary of a gap between regional calls for action and national programmes (Lines and Grugel, 2020). Within the Haiti-Brazil corridor for example, where MIDEQ is undertaking new research, a rise in anti-immigrant sentiments and xenophobia towards Haitian and other migrants in Brazil as economic conditions deteriorated after the 2014 World Cup and 2016 Olympic Games has been worsened by the pandemic and exacerbated further by the rhetoric of President Bolsonaro (INURED, 2020a, 2020b). Although there are certainly fewer female than male Haitian migrants in Brazil, their numbers may be under-estimated as they work mainly within the informal rather than formal labour market, further heightening their vulnerability to the economic shocks and job losses that have accompanied the pandemic (Izaguirre et al., 2021). In this context, the danger is that rather than an opportunity for re-affirming the rights of migrants, COVID-19 becomes an excuse for Brazil to hollow out existing frameworks of migrant protection (Filomeno and Vicino, 2020; Hoffmann and Gonçalves, 2020).

As a whole, migration governance in Latin America remains quite fragmented but nonetheless reflects a relatively strong emphasis on rights-based approaches within the region. Within this context, gender has been unevenly incorporated, although prior to the pandemic efforts to incorporate a gendered perspective were gaining momentum at the regional level. As with the Cartagena Process, these arrangements are not in themselves legally binding and require individual countries to take actions. For this reason, as the Brazilian case illustrates well, they are vulnerable to shifts in national policy, whether as a result of a change in government, a political or health crisis, or all three combined. Regional actors, especially ECLAC, continue to play a major role in migration policy and this is likely to be strengthened by their role in monitoring implementation of the GCM. Alongside the strong role of civil society organisations, the increasing attention paid to gender – and its intersections with race, class and other dimensions of oppression – within their work is thus quite promising. However, it is the extent to which these processes are concretely reflected in national policies that will determine whether the vulnerabilities faced by migrant women across the region are identified and addressed through practical policies and actions, both during and beyond the COVID-19 pandemic.

## 4. CONCLUSION

Globally, migration governance has been the focus of sustained attention over the last two decades, with the ‘migration management’ agenda occupying a dominant role in global policy debates about ‘mainstreaming’ migration within broader development agendas. The framing of the Global Compact for Safe, Orderly and Regular Migration, as well as the targets on migration in the Sustainable Developments Goals, reflect this emphasis on ‘well-managed migration policies’.

However, from the UN's Global Commission on International Migration onwards, these approaches have been challenged by a range of critical voices calling for rights-based migration governance that prioritises the needs of migrants as well as states. Importantly, much of this criticism has come from voices within the Global South, who have highlighted the implicit focus on South-North migration flows and called for greater attention to the gendered dynamics of migration in the Global South.

This review has explored how these debates and broader developments at the global and regional level have shaped the global landscape of migration frameworks, policy processes, rights-based conventions and multi-lateral agreements, as well as the institutional arrangements for their implementation. It has shown how the concern with 'gender-responsive' migration governance within the GCM reflects a growing – but uneven – focus on gender across this global landscape. In part, this reflects the role played by different institutions – such as UN Women, ILO and the WHO – in different geographical and sectoral contexts, and in relation to different types of migration (refugees, labour migrants etc.). Its unevenness, however, is also a product of broader tensions between top-down and bottom-up dialogue within UN policy making and state-led processes such as the Global Forum on Migration and Development, as well as the challenges of shifting the focus of policy and knowledge production on migration by the UN and other multi-lateral organisations away from migration flows to the Global North.

This paper has argued that South-North migration flows continue to dominate within global governance on gender and labour migration, albeit often implicitly rather than explicitly. This includes not only the overall framing of the GCM, but also associated policies, guidance and reports where the increasingly common recognition of the scale of South-South migration – both historically and in emerging flows – is rarely matched by detailed analysis of the gendered dynamics of South-South migration in particular contexts – whether this is cross-border trading in Africa or the movement of nurses, students or entrepreneurs within and between the Caribbean, Asia and Africa. In some cases, such as the gendered characteristics of intra-regional migration within Latin America, data is being collected and, while a much more coordinated approach is needed to address gaps and improve the comparability of migration data across the region as a whole (Fidalgo, 2020), efforts are nonetheless being made to analyse and understand these flows. In other cases, for example migration between Asia and Africa, there is very little data available and almost no policy focus on these flows or their gendered consequences for migration governance.

This limited explicit attention to gender and migration between countries of the Global South in global migration governance frameworks, policies, reports and data collection has a range of potential consequences in relation to gender and migration governance. We conclude here by identifying a number of these, although given the

wide scope of this initial review this is unlikely to be comprehensive and there is significant scope to develop each of these areas further through attention to specific regional, bilateral and national dynamics.

First, given the role of civil society organisations from the Global South in advancing the rights-based agendas on gender and migration during the development of the GCM, GR26 and other related frameworks, a lack of specific attention to their concerns arguably weakens the focus on rights-based approaches – often strongly supported by civil society organisations and women migrants’ groups from the Global South – and implicitly prioritises the dominant policy agendas of migration management and control. This may in turn make it easier for states to pursue policies that emphasise economic agendas over migrant women and men’s subjectivities and rights, such as temporary migration regimes within ASEAN or between Asian and African countries and the Gulf; or efforts to control rather than empower women’s mobility that reflect a paternalistic concern with ‘protection’ as the sole priority, rather than seeing migrant women as agents and ‘breadwinners’ in their own right – such as Nepal’s ban on migration for domestic work. It also risks marginalising the voices of migrants’ rights organisations and other advocacy groups in highlighting the value of an intersectional approach which problematises homogenous and essentialised social categories, such as ‘women’ and ‘men’, and is attentive to how gender and migrant status intersect with other axes of disadvantage and oppression including class, race, ethnicity and sexuality.

Second, there is a need to understand how global frameworks are influencing policy and practice at regional, bilateral and national levels across the Global South both within regions themselves and comparatively. As has been shown, this differs substantially between regions and sub-regions in Africa, Asia and Latin America. Thus, the temporary migration regime in ASEAN countries has profound gendered consequences for migrants and their families and these are the focus of sustained attention at the regional policy level. It is debatable to what extent these processes can address structural rights-based deficits within temporary migration regimes and there are also substantial gaps between how gender is incorporated into these regional processes and how it is reflected in national or bilateral policies. However, the strong role of civil society organisations within policy development and implementation creates the possibility that global frameworks on gender and migration can be deployed strategically in national and bilateral contexts. In Africa, in contrast, regional policies cite global agendas on gender responsiveness, but to-date there is little evidence that these are influencing concrete policies on intra-African migration or temporary migration to Gulf states even though fora for policy dialogue do exist. An over-riding development concern with migration between Africa and Europe has largely obscured these issues, with most funding directed to policy efforts on ‘managing migration’ between the two continents. By contrasting African

and Asian approaches it is possible to highlight some of these challenges and move beyond an implicit South-North framing.

In Latin America a focus on rights-based approaches to gender and migration is more apparent within regional frameworks and institutions. As with Southeast Asia, civil society organisations play a strong role in this context and have helped to shape a more nuanced regional understanding of gender and migration, including how migrant experiences are shaped by the intersection of gender with other dimensions of oppression, including race and ethnicity, as well as the challenges faced by sex/gender diverse migrants. In this case, however, a lack of visibility in global debates on gender and migration limits the influence of Latin American approaches across the rest of the Global South. This is perhaps best exemplified by the largely regional reach of the ‘World Social Forum on Migration’, whose spaces for counterhegemonic debate are not as influential as they perhaps otherwise might be. This suggests that benefits could be gained through collaboration and sharing across different regions of the Global South to identify and understand shared challenges in relation to gender and migration governance from a rights-based perspective less constrained by migration management framings.

These regional contrasts, however, highlight a further issue, which was touched on briefly above in discussing the report of the Special Rapporteur on the Rights of Migrants. Namely, that at the regional and national level, action on gender and migration is most effective when embedded in broader action at the societal level to promote gender equality. This, in turn, suggests that understandings of gender and migration governance in South-South migration will need to be embedded in analyses of broader gender regimes within regions and countries of origin and destination. This includes contexts, such as the Gulf, where gender relations at destination may be more oppressive than those at origin; but it also presents significant challenges in other contexts – such as, for MIDEQ, Nepal-Malaysia and China-Ghana – where there is little comparative analysis of the differing gender regimes between the two pairs of countries.

As this latter example demonstrates, in some cases there is an almost total absence of evidence on gender and migration governance, which reflects a lack of policy attention to-date at both the Ghanaian and Chinese ends of the corridor. COVID-19, which created very substantial challenges for both Ghanaian and Chinese migrants, highlighted the limitations of this ‘light touch’ approach. As Ghana and ECOWAS seek to embed and implement national and regional migration policy, and as China expands its role and influence within migration policy at the regional and global level, this is likely to change. Close attention will therefore be needed to how gender is incorporated into future agreements – whether these are migration focused, or broader political or economic agreements. In other contexts, such as Nepal-Malaysia, however, gendered policies on domestic work in Nepal combine with ‘gender neutral’ bilateral agreements between the two countries in ways that

create particular challenges for migrant women. Whether and to what extent global and regional agreements on gender and migration will begin to exert influence on these national and bilateral policies in the two countries remains an open question.

As these two examples suggest, there is substantial scope for further investigation of the articulation between global and regional migration governance frameworks and national level policies in relation to gender and migration. There is also a need for comparative studies of regional differences across the Global South that aim to shift the focus from current South-North dominated discussions. In doing so, they would not only reveal gaps and flaws within regional and national regimes, but potentially explore how alliances could be formed to promote rights-based agendas – such as the intersectional framing of gender and migration governance in Latin America – that harness migration governance to address – rather than reinforce – gendered inequalities across the Global South.

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## Contact author

Matthew Walsham, Global Development Institute,  
University of Manchester



## Suggested citation

Matthew Walsham (2022). Gender and global migration governance for South-South migration, MIDEQ Working Paper. Manchester: MIDEQ. Available at: <https://www.mideq.org/en/resources-index-page/gender-and-global-migration-governance-for-south-south-migration>

## Cover image

Labour Mobility between Asia and the Arab States: Sharing of Experiences and Progress under the Bali Declaration with specific focus on women migrant workers Bangkok. Photo by ILO/ Carina Uchida. CC BY-NC-ND 2.0.

## Funding

This work has been funded by the UKRI Global Challenges Research Fund (GCRF) [Grant Reference: ES/S007415/1]. The GCRF is a five-year £1.5 billion fund aimed at addressing the problems faced by developing countries.

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## Contact MIDEQ

Centre for Trust, Peace and Social Relations (CTPSR)  
Coventry University, IV5, Innovation Village  
Cheetah Road, Coventry, CV1 2TL UK

Tel. +44 24 7765 1182

E-mail: [mideq@coventry.ac.uk](mailto:mideq@coventry.ac.uk)