



Issue paper for Session 3

Migration for work, within borders and internationally

Securing the benefits, diminishing the risks of worker mobility

Introduction

International labour migration today is a central element of the process of globalization and in efforts to create decent work opportunities for all. The forces of globalization have facilitated linkages of national labour markets through vast improvements in information and communications technology and strengthened the push and pull factors in migration. Internal migration, resulting from a global shift of population from rural areas to cities and from agricultural employment to jobs in manufacturing or services, is often a preliminary to international migration.

Deficits in decent work and aspirations to decent work are part of the driving forces in cross-border migration. Migration for employment results from the failure of the global economy in general and individual countries in particular to generate adequate and rewarding decent work opportunities where people live. It is also a response to differences between countries' position in the demographic balance, with populations and labour forces growing in some and declining in others.

Most of the world's migrants – estimated at 191 million in 2005¹ – are workers and their families in search of employment. Women represent 50 per cent of international migrants, now increasingly migrating on their own. The ILO estimates migrant workers to number some 94 million in 2005,² who with their families accounted for almost 90 per cent of total international migrants. Refugees, asylum-seekers and others formed about 10 per cent of migrants. Almost one-third of movements are among developing countries (South to South).

¹ United Nations Population Division (2006), *Trends in total migrant stock: The 2005 revision*, New York, 2006.

² Extrapolated from ILO estimates for 2000 reported in ILO (2004). ILO, 2004, Report VI, *Towards a fair deal for migrant workers in the global economy*, International Labour Conference, 92nd Session 2004, ILO Geneva, June 2004.

Issues of concern at international level

Migration–development nexus

There is increasing convergence of views at the international level that labour migration has the potential to serve as an engine of growth and development for all parties involved – host and source countries and the migrant workers themselves. A recent World Bank simulation showed that a modest 3 per cent increase in the migrant numbers would boost global incomes by US\$356 billion – much more than trade liberalization. Most governments acknowledged these contributions at the United Nations High-level Dialogue on International Migration and Development (HLD) in September 2006, and the follow-up Global Forum on Migration and Development (GFMD), July 2007, Brussels. Thus the thrust of policy should be to maximize positive impacts and minimize negative aspects of international migration.

Yet there is no agreement on the precise mechanisms via which migration impacts on development and growth.

In receiving countries, labour migration rejuvenates workforces, renders economic many labour-intensive sectors such as agriculture and services, promotes entrepreneurship, supports pension schemes, and meets the demand for skills for emerging high-tech industries. There are many examples of benefits from migration. Historically, societies such as Australia, Argentina, Canada and the United States have been built on migration. Southern Europe provides more recent examples of the contribution of labour migration to sustaining dynamic economies. The Government of Spain has estimated that 30 per cent of average annual economic growth between 1996 and 2005 was due to immigration.³ The Spanish study and studies by the British Home Office have confirmed the positive fiscal contribution of migrants to the national economy besides other positive impacts.

In the developing regions where most migrants come from, positive contributions of migration are reflected in remittance flows, investments, technology and critical skills through return migration and diverse contributions of transnational communities (diasporas).⁴ At the same time, with the human capital of skills and learning increasingly recognized as critical for development, origin countries are paying close attention to the risks of a brain drain.

Remittances are the most tangible contribution of migration to countries of origin. In 2006, they amounted to US\$206 billion, and total remittances including informal transfers may be close to US\$300 billion.⁵

³ Oficina Económica del Presidente, Inmigración y economía española: 1996–2006. 15 de noviembre de 2006. http://www.redri.org/new/images/archivos/2006-11-15_msebastian_apie-inmigracin_y_ec_espaola_1996-2006.pdf.

⁴ ILO (2004), *A fair deal for migrant workers*, op. cit.; Global Commission on International Migration (2005), *Migration in an interconnected world: New directions for action*, Geneva, United Nations (2006); International migration and development: Report of the Secretary-General. New York, Sixtieth Session: Agenda item 54(c) – Globalization and interdependence: International migration and development, A/60/871, United Nations. <http://www.un.org/ga/61/second/item55summary.shtml>.

⁵ See World Bank, *Migration and Remittances Factbook*, Development Prospects Group, The World Bank, Washington, DC, 2007. <http://go.worldbank.org/QGUCPJTOR0>.

Migration policies towards skilled and low-skilled labour

Developed countries welcome mostly skilled workers from developing countries while offering few opportunities for low- and semi-skilled workers despite the strong demand for such workers in sectors such as agriculture, construction, domestic service, and hotels and catering, which act as a magnet for undocumented workers. These policies have often led to a brain drain from developing countries on the one hand, and to growth in irregular migration and trafficking on the other. In the face of limited opportunities for legal migration, trafficking in persons and smuggling of migrants flourishes, adding to irregular migration flows.

There is increasing interest by receiving countries in promoting temporary migration schemes, which admit workers to fill specific jobs for a limited duration, following which they are expected to return to their home countries with added skills, experience and savings. Circular migration – repeat movements between two or more countries – has also been advanced as a means of reducing both permanent migration and irregular migration. The European Commission has proposed directives for legal migration and circular migration, but mainly for skilled persons.⁶ Good working models of temporary programmes for low-skilled workers are few, with the exception of some seasonal worker programmes. While there are a number of skilled worker admission programmes, they tend to intensify brain drain concerns.

Protection issues

According to the ILO, gains from migration and protection of migrant rights are indeed inseparable. Migrant workers make the best contribution to economic and social development in host and source countries if they enjoy decent working conditions, and if their fundamental human and labour rights are respected.

The protection of migrant workers internationally continues to be a major cause for concern. The labour market position of migrant workers, including the second generation in receiving countries, is reflected in their unequal access to employment, higher unemployment rates, wage differentials, discrimination and xenophobia, and poor integration. Recent ILO studies have shown discrimination rates close to 35 per cent in a number of European countries. Among the most vulnerable groups are women domestic migrant workers, trafficked persons and those in irregular status.

The international community has devised a wide array of instruments to define the policy framework for international migration in the form of Conventions, Recommendations, codes of practice and guidelines. These consist of universal human rights instruments developed under the United Nations, ILO core Conventions, and migrant-specific Conventions. They are reviewed below.

⁶ European Commission (2005), *Policy plan on legal migration*, Brussels, Communication from the Commission, COM (2005) 669 final, Brussels, 21 Dec. 2005; European Commission (2007), *Circular migration and mobility partnerships between the European Union and third countries*. Brussels, Communication from the Commission, COM (2007) 248 final, Brussels, 16 June 2007.

Decent work at home and reducing the pressure to migrate

There exists a shared responsibility for reducing migration pressures through the creation of productive, freely chosen employment and decent work, which should allow workers to exercise their right to work in their own countries and to contribute to their development. Migration would thus become a matter of choice, not one driven by necessity.

Migration as a political issue in countries of destination

In many receiving countries, there is wide public concern about migration. Public opinion considers that migration pressures are beyond the capacities of their countries. Despite research proving the contrary, many assume that migrant workers displace local workers and are causes of unemployment. Migration becomes a subject of heated debate and an important topic in political elections.

International and multilateral cooperation

While States have the sovereign right to determine their own migration policies, closer cooperation among them, such as through bilateral agreements and multilateral treaties, and regional consultative processes, can contribute to more effective labour migration processes and employment promotion leading to poverty reduction.

There is increasing convergence of ideas on the need for a multilateral regime and cooperation to govern international labour migration. The World Commission on the Social Dimension of Globalization, the activities of the Global Migration Group, the International Agenda for Migration Management of the Berne Initiative, the Global Commission on International Migration, the ILO resolution on Migrant Workers (92nd Session of the ILO International Labour Conference, 2004), the 2006 ILO Multilateral Framework on Labour Migration, the UN High-level Dialogue on International Migration and Development, and the Global Forum on International Migration have all underlined the need for multilateral cooperation to maximize the potential benefits of labour migration and minimize its drawbacks.

The International Policy Framework

All ILO labour standards, including core Conventions enshrined in the ILO Declaration on Fundamental Principles and Rights at Work, apply to migrant workers unless stated otherwise in the instruments. The two ILO migrant-specific Conventions – the ILO Migration for Employment Convention, 1949 (No. 97) and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) – together with the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families – provide a comprehensive legal framework for migration policy and practice covering most issues of treatment of migrant workers and of inter-State cooperation on regulating migration.

Ratification of these instruments and their enforcement are crucial for the protection of migrant workers. To date, 80 countries have ratified at least one of these three Conventions. The ILO Multilateral Framework on Labour Migration has drawn upon these and other international instruments and best practices to compile a set of principles, guidelines and best practices to guide countries in the formulation and implementation of

labour migration policies.⁷ It offers all countries considerable scope to apply the principles and good practices contained in the above instruments for improving their migration policies and practices. The Multilateral Framework is the first of the seven elements included in the ILO Plan of Action for Migrant Workers decided by resolution of the International Labour Conference in 2004. The plan of action brings together elements related to rights, promotion of employment and decent work at the national level, capacity building and improving the information and knowledge base. The ILO's Decent Work Agenda and the Global Employment Agenda define the framework towards achieving employment creation. ILO standards for the promotion of employment include the Employment Policy Convention, 1964 (No. 122), the Employment Policy Recommendation, 1964 (No. 122) and the Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169). They explicitly mention migrant workers.

Issues for discussion

A number of issues in the migration debate are of particular relevance to the ILO's Decent Work Agenda and the contribution it can make to shaping a fair globalization.

Maximizing migration–development linkages

A range of issues relate to remittances including enhancing their poverty-reducing impact, lowering transfer costs and patterns of utilization, among others. The question is: How can the potential of remittances and return migration be tapped to generate decent work opportunities in local communities through small enterprise development and other income-generating activities?

How to promote temporary employment for migrant workers – both skilled and low skilled – to meet labour market needs in receiving countries

Temporary migration is at present promoted by destination countries. However, concerns arise in this respect. First, for receiving countries a major concern is how to ensure that temporary migration remains effectively so by guaranteeing the return home of temporary migrant workers at the end of their employment relationship. Second, temporary migration raises the issue of the protection of migrant workers, their right to equality and non-discrimination, and their workplace integration. This is especially applicable to the General Agreement on Trade in Services (GATS) Mode 4 movements which cover individuals travelling from their own country to supply services in another (e.g. an actress, an accountant or a construction worker). Third, temporary schemes may run contrary to an employer's interest in retaining migrant workers in whose skills, training and adaptation he/she has invested. Fourth, portability of social security benefits is necessary for the success of temporary and circular migration, but there are few concrete examples.

⁷ ILO (2006), ILO Multilateral Framework on Labour Migration: Non-binding principles and guidelines for a rights-based approach to labour migration, Geneva. http://www.ilo.org/public/english/protection/migrant/download/multilat_fw_en.pdf.

Policy coordination and coherence in labour migration policies

Reconciling objectives of migration and development policies in countries of origin and destination is an important issue. In practice there is limited coordination at the national and international levels between migration policies and development policies, aid and trade policies. The brain drain is a clear example of the contradiction in policies. Objectives of poverty reduction and development also require that doors be opened to low-skilled migrant workers, not only for the highly skilled.

The effective protection of migrant workers

There is a large unfinished agenda in relation to protection of migrant rights with pronounced gaps in protection afforded to temporary migrant workers, women migrants, workers in irregular status and trafficked persons. While there are many instruments at the international level, their ratification by receiving States leaves much to be desired. Similarly much more remains to be done regarding enforcement and ensuring access to redress mechanisms even where they have been ratified. The links between migrant rights, development impact and decent work also need to be explored further.

Freedom of association and social dialogue

Encouraging migrant workers to form and join organizations of their choice is an essential foundation for improving respect for their rights and legal protections as well as enabling progress through dialogue. Social dialogue is necessary to formulate labour migration policies that are realistic, respectful of national and international standards and applicable. This requires reinforcing the capacities of the social partners. Associations representing migrant workers and other civil society organizations should be associated in the dialogue.