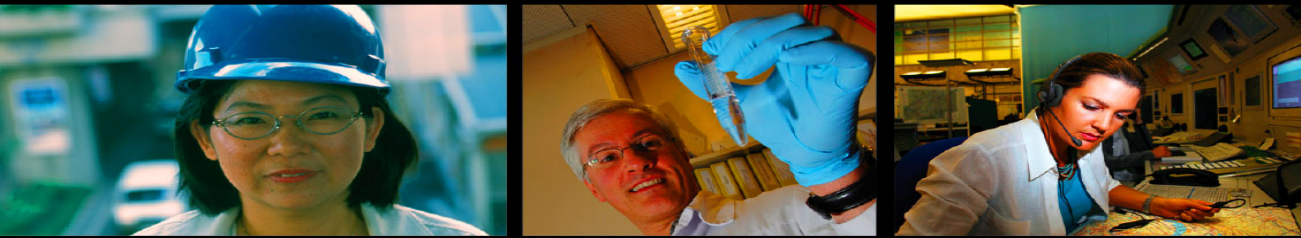


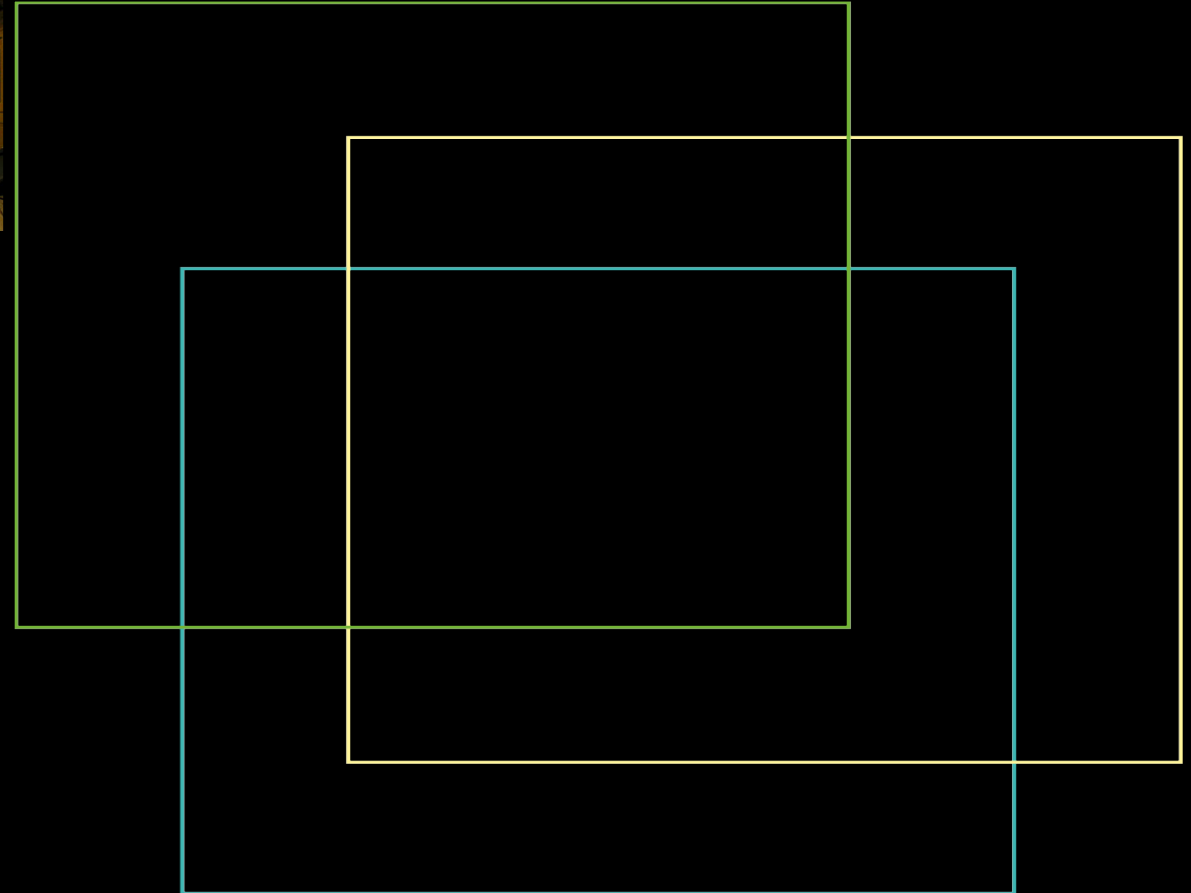


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Tackling irregular migration – Defining the problem, challenges and opportunity



Telangana 16-17 August 2016

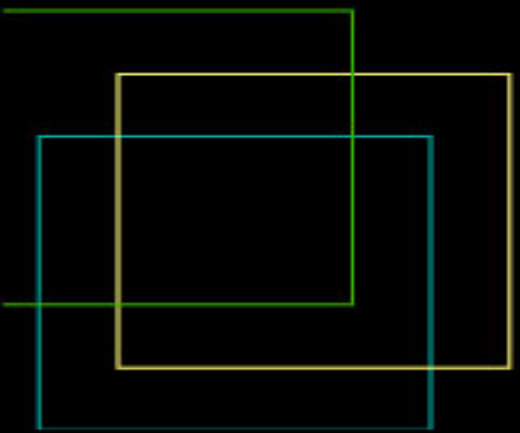




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Who are the irregular migrants?

- Migrant workers who
 - are on a tourist visa
 - over-stay beyond their visa
 - lose their status because their employers do not renew their visas
 - change employers without permission
 - are on a 'Free visa'
- Normally migrant workers position at destination defines their status. However, there is a debate at times about those not going through legal channels at origin being considered not regular and not eligible for benefits.

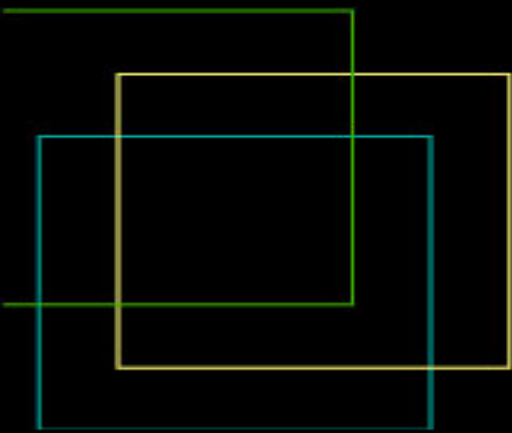




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Words matter

- Irregular – someone who is not admitted into a country through regular channels
- Undocumented - someone who is not able to produce evidence of their regular admission
- Illegal – term used often but people are not illegal, an act can be
- The most acceptable term is therefore irregular and international standards therefore use the term irregular.





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The scale

- **Irregular Indians in select countries**

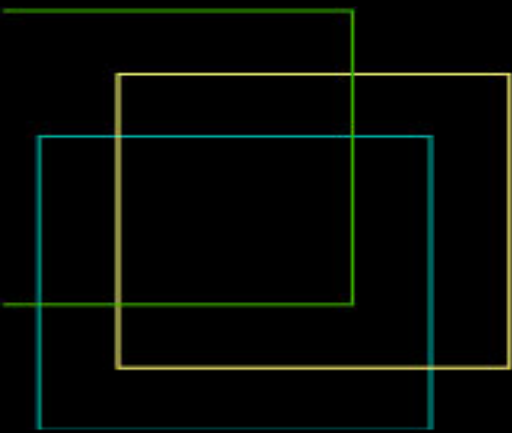
Difficult to estimate/ count

EU - 17,140 in 2014 (EU parliament briefing April 2015 –Irregular Immigration in the EU : facts and figures)

USA – 450,000 in 2012 (Pew research centre)

UAE – 40,000 - 45,000 and 36,000 legalized status from 2007 Amnesty left; (economic times, thehindu, gulfnews) 2012 – 40,

Saudi Arabia – 90,000 (during regularization linked to nitaqat in 2013)

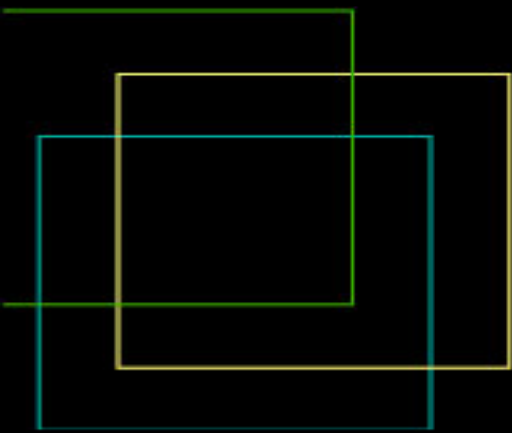




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Challenges at destination

- Labour relationship is superseded by the immigration relationship
- Businesses benefit by having irregular workers
- Not holding employers accountable; disproportionate penalties for workers rather than employers and intermediaries
- Kafala – restrictions on changing employers
- Access to justice

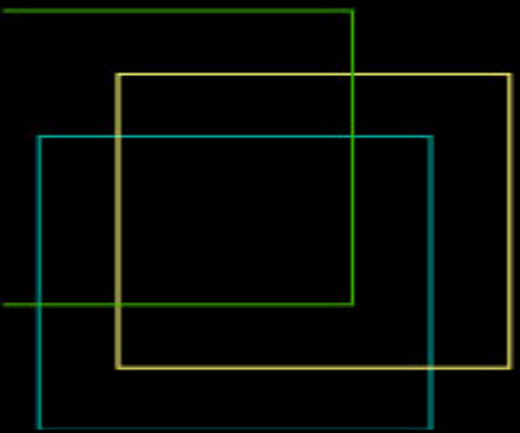




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Challenges at Origin

- Information asymmetry about job opportunities, regulations in destination countries – dependence on sub-agents
- Complex, costly, and lengthy procedures for obtaining visas, work permits and clearance
- Finding legal channels for workers – for eg women
- People migrate to countries with which there are no MoUs

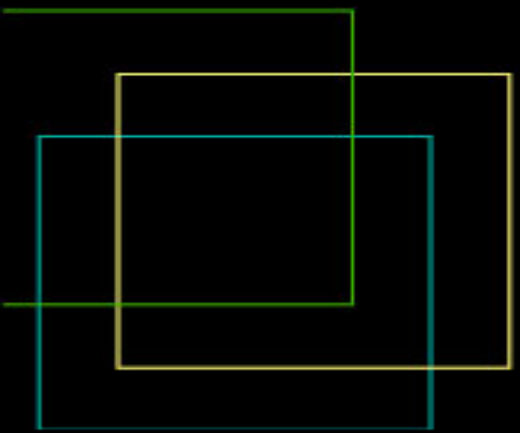




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ILS and Irregular migration

- International labour standards respect the sovereign right of countries to determine who enters the country and under what grounds.
- C97 – key principle is ‘equal treatment’. However, this applies only to those regularly admitted. C143 ensures irregular migrants have their fundamental rights protected.
- C143 – Deals with bringing migration flows under control and hence eliminating irregular migration and suppressing activities of organizers of clandestine movements of migrants.

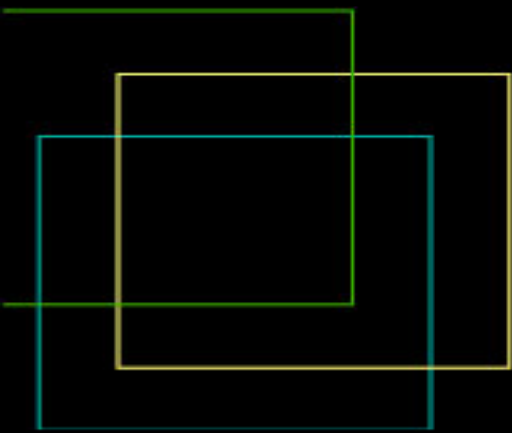




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ILS and irregular migration contd.

- C 143 consists of two parts: Part I -problems arising out of clandestine migration / illegal employment of migrants; and Part II - equality between migrant workers in a regular situation and nationals, in particular by extending it to equality of opportunity – allowing for greater job mobility.
- Calls on states to do more to penalize employers of irregular migrants, as well as smugglers and trafficking, rather than disproportionately penalizing migrants.
- Ensure that irregular migrants can obtain their due wages and benefits before being deported.





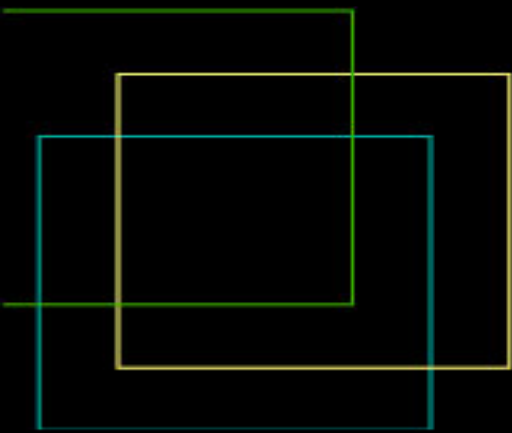
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HR and irregular migration

- **UN Convention on the Protection of the Rights of All Migrant Workers and Members of their Family**

Protection of fundamental rights for all migrants irrespective of their status— healthcare, education etc. and additional rights for regular migrants

There should be due process on an individual basis, and no mass expulsions; entitlement to challenge individually decisions to deport; access to competent interpretation and legal counsel; access to a review (ideally judicial) of negative decisions.

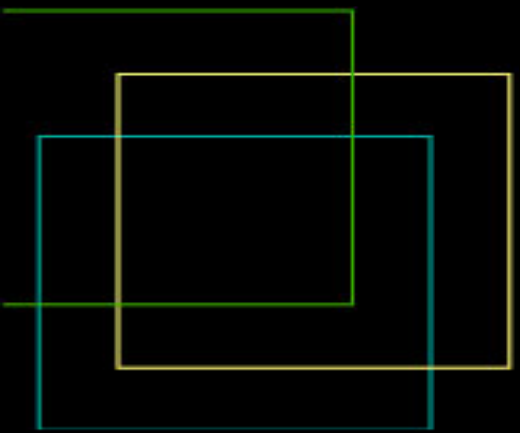




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Oppor- tunities at destination

- Explore Government to Government recruitment
- Negotiate with Gulf states for reforms - engage in MoU/ Joint Working Committees where state share of workers is high
- Amnesty/regularization specially for workers who become irregular for no fault of theirs
- Pressure on Gulf states to reform kafala
- Labour migration issues increasingly coming under the purview of labour agencies
- More inter-regional dialogue -ADD

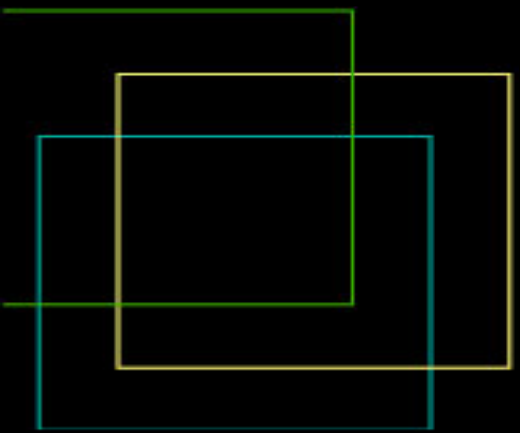




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Opportunities at destination

- Link with Chambers of Commerce for labour market projections
- Link diaspora with Embassies and encourage organizing of workers from Telangana for cultural links
- Post-arrival orientation by diaspora organisations
- Promote active engagement by diaspora organisations – eg in assistance in cases of detention could include formalize translation services with mission offices (roster of translators)

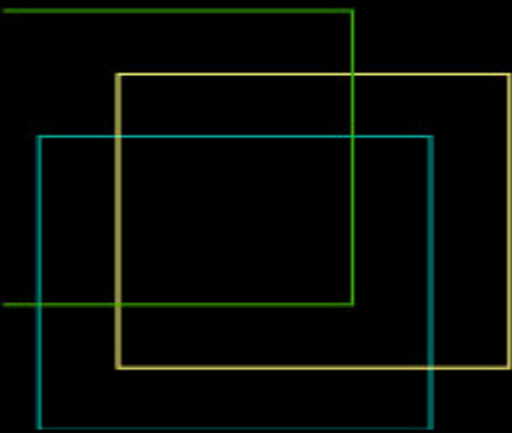




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Opportunities at Origin

- Explore internal labour market opportunities/ robust data sharing between states (NCS) – Kerala, Delhi eg nurses
- Link with recruitment agents for understanding overseas markets
- Facilitate legal migration – awareness, pre-departure orientation
- Simplify clearance processes
- Maintain database of migrants – encouraging them with incentive to use state airport –link with CSR to open bank accounts/ free call home for eg

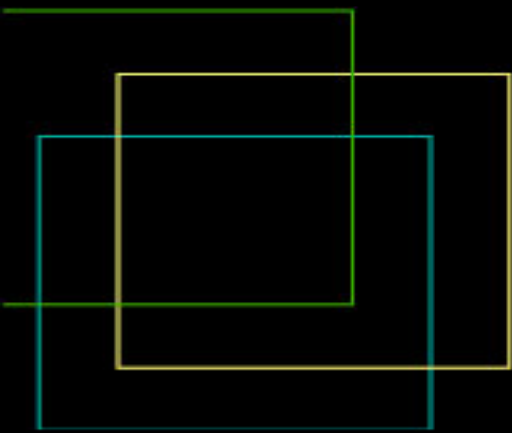




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Opportunities at Origin

- Regulate sub-agents through a pilot scheme
- Ensure portability of social protection – welfare boards
- Lift barriers for women migrants
- Attract project exporters / recruiters by incentives – tax benefits
- Data of returning migrants and their skills/ link to entrepreneurship programmes

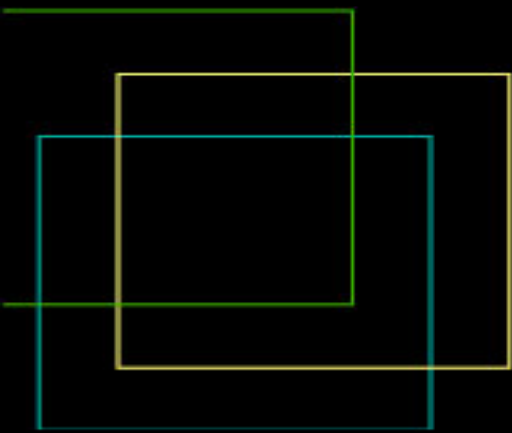




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Closing remarks

- Irregular migration gives rise to political tensions between countries, to national security concerns and critiques from the public that migration flows are out of control.
- The issue is discussed independently of regular labour migration and considered from a legal and security perspective rather than a labour market perspective
- Stringent border controls have not reduced flows but weakened their access to human rights protection





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Thank You!

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