

Towards a Fair Deal for Migrant Workers in the Global Economy Executive Summary¹

This report will be the sixth item on the agenda for the 92nd International Labour Conference to be held in Geneva June 2004

Overview

Each year, millions of men and women leave their homes and cross national borders in search of greater human security for themselves and their families. Most are motivated to migrate by the quest for higher wages and better opportunities, but some are forced to do so because of famine, natural disasters, violent conflict or persecution. Cross-border flows of people have been on the rise in recent decades so that by 2000 there were 175 million international migrants – equivalent in number to the world's fifth most populous country. Of these, 86 million were migrant workers. Added to traditional movements from South to North is growing immigration within the developing world.

Current migration patterns are closely linked with features of globalization, including cheaper and easier travel and the greater awareness of lifestyles in wealthy countries spread by media and communications. A widening income gap between the rich and poor parts of the world also spurs people to seek economic opportunities elsewhere. These factors, combined with aging populations in many developed countries, mean migration is likely to continue to increase.

Historically, immigration has been economically beneficial to host countries as well as to the migrants themselves. Many of the fears surrounding the impact of immigration on developed economies are unfounded or exaggerated. For example, there is no evidence that immigration significantly reduces wages or pushes up unemployment. The economic picture is less clear-cut when it comes to the countries left by migrants. Advantages include migrants' remittances, lower unemployment, less population pressure and knowledge brought by returning migrants. On the downside, emigration often entails loss of skilled workers and dynamic young people. It also can reduce a country's output and tax revenues. Nonetheless, policy makers in most developing countries have tended to see the balance as favourable.

Causes for concern

There are, however, considerable causes for concern about the way in which migration is unfolding. The increase in clandestine migration, including trafficking, threatens human rights and creates new challenges for governments and the international community. A growing number of migrants are in vulnerable situations, mainly because of their irregular status or the kind of work they do, and many face discrimination. The social upheavals that migration produces in both sending and receiving countries can be far-reaching and destabilizing. There have been difficulties

¹ The Governing Body of the ILO decided at its 283rd Session in March 2002 to place on the agenda of the 92nd Session (2004) of the International Labour Conference a general discussion on migrant workers based on an "integrated approach." The issues to be covered include: labour migration in an era of globalization; policies and structures for more orderly migration for employment; and improving migrant worker protection through standard-setting. This is a summary of a paper prepared by the Office for the ILC discussion.

surrounding integration of people from different cultures, backgrounds and race. The rise of political extremist movements espousing racism and xenophobia is a worrying development.

Meanwhile, systems for managing migration are disjointed and, in many instances, they are not functioning. Traditionally, countries cooperated on migration through bilateral agreements, and the ILO encouraged this. Such bilateral accords, however, have a limited scope given the varied sources of today's migration flows. Moreover, while there are many international standards aimed at protecting the rights of migrants, these are not adequately applied.

As shown by regional efforts to work together on migration, managing flows and protecting rights of migrants entail multilateral cooperation. This can also help to reinforce the benefits of migration and reduce negative impacts. It is necessary to build support for national and international policies that help ensure migration serves as a force for growth and development, not exploitation and human rights violations. Such policies need to be coherent and trade-offs must be acknowledged. If backing for these measures is to be broad-based, a number of groups, institutions and interests should be involved. The social partners are particularly important in this respect.

The ILO can play a role in this process – by promoting international standards, providing data and analysis of the complex issues linked to contemporary migration, offering a platform for discussion and encouraging the involvement of social partners. In addition, responses to the International Migration Survey carried out in preparation for this report show a high level of demand from ILO constituents for policy advice and technical cooperation regarding labour migration. Following discussion of this report, the International Labour Conference might wish to propose a plan of action that mobilizes all the ILO's constituents, reaches out to other organizations and builds on existing ILO work, including with international bodies. The creation of an international forum on migration for work could be part of this process.

Trends in Labour Migration

It is estimated that today there are more than 86 million migrant workers throughout the world, with 34 million of these in developing regions.² Taking into account those not economically active, about 175 million people were residing outside their country of birth or citizenship by 2000, three per cent of the world's population.³ Over the past decade, the number of migrants increased by six million a year, a faster rate of growth than that of the world's population. However, international trade has grown at twice the rate of growth of world GDP, while investment flows in the 1990s have grown by more than eight times their volume in the 1980s.

Migration of workers from developing to developed countries has also been on the rise, although in 1998 migrants still represented no more than 4.2 per cent of the

² It is difficult to know the full magnitude of migration flows, because not all countries monitor such movements and those that do have different systems and capacities for compiling statistics.

³ United Nations. Department of Economic and Social Affairs. Population Division (2003). *International Migration 2002*. New York.

latter's total work force. The increase was concentrated in the U.S., which absorbed 81 per cent of these new migrants, and Canada and Australia, which took in 11 per cent. In the European Union, migrants from developing countries went mostly to France, Germany, Italy and the United Kingdom.

At the same time, not all migration is between regions with disparate income levels. Nearly half of all reported migrants go from one developing country to another, with large movements of workers taking place among neighbouring countries on several continents.

Today's migrant work force spans the unskilled, professionals and managers. Although migration flows remain dominated by people moving to fill unskilled jobs vacated by native workers, patterns are not uniform. In a number of OECD nations, for example, arrival of highly educated immigrants outpaced that of the unskilled during 1995-2000.

In recent years, more women have migrated on their own as the primary income earner for their families. The aging of developed country populations has increased the demand for female health workers, while rising prosperity in some developing countries has created jobs for domestic workers. In addition, female participation in the workforce has expanded greatly, with women accounting for the majority of workers in many labour-intensive industries and services.

Why people migrate

Forces driving migration are many and complex, and global explanations may not apply to individuals. Poverty, wars, famine and repression play an important role but the other important forces are: population pressures on scarce natural resources; growing wage or income inequality between poor and rich countries; rapid ageing and labour shortages in a number of countries; accelerating urbanization; rapidly declining cost of travelling and communicating; increasing linkages among countries through trade and tourism; denial of human rights in some countries; and formation of networks established by previous migrants.

Migration partly reflects the fact that the economic gains from the progressive integration of the global economy have yet to materialize for many of the world's poorest countries and peoples. Despite the progress made by the more populous developing countries, China and India, the gap in per capita incomes between rich and poor countries remains large and is widening.⁵ To quote the ILO Director General Juan Somavia: "...If you look at the global economy from the perspective of people, its biggest structural failure is the inability to create enough jobs where people live."⁶

An important facet of migration now involves workers in an "irregular status." The term covers a variety of situations, ranging from those who arrive in a country without

⁴ These statistics cover 19 OECD countries. Recent members – the Republic of Korea, Czech Republic, Iceland, Hungary, Mexico, Poland and Turkey – were not included.

⁵ A recent ILO study shows that inter-country inequality as measured in GDP per capita has increased. See Ajit K. Ghose, Trade and international labour mobility, ILO Employment Papers, 2002/33, International Labour Office.

⁶ Statement to the International Co-operative Alliance General Assembly (Oslo, 3 September 2003).

valid immigration documents to those who work while on a tourist visa or remain after their visa has expired. Information obtained from regularization programmes and other sources suggest that 10 to 15 per cent of migrants are irregular.⁷ Both developing and developed countries have irregular migrant workers.

The extent of the flows of irregular migration is a strong indication that the demand for regular migrant workers is not matched by the supply, with migrants bridging the gap. To travel long distances, irregular migrants often pay for the services of smugglers, who can charge two to three hundred dollars to cross a land border or about \$30,000 for transport from East Asia to North America or to Europe.

Quest for decent work

Migration growth looks set to continue for a variety of reasons. In addition to the widening economic disparities mentioned already, there is a decent work deficit in many developing countries, with job losses or insufficient job creation. In a number of cases, the situation has been aggravated by freer trade undercutting domestic industries and agriculture at the same time as structural adjustment programmes restrict government spending to cushion the resulting unemployment. The worsening plight of farmers in many developing countries is encouraging movement to urban centres, and some of these ex-rural dwellers may find it more attractive to move abroad, especially if there are not enough opportunities in the increasingly crowded cities of their own country.

Meanwhile, population in less developed regions is rising nearly six times more quickly than that of the developed world, and similar differences are forecast until about 2050.⁸ And while populations are aging in many parts of the world, the process is much more marked in Europe and Japan. Given current fertility rates immigration in some European countries would have to triple to keep the population at 1995 levels.⁹

Current migration patterns, which mostly reflect individual or family initiatives, are in marked contrast to the 1950s and 1960s, when a significant proportion of migration took place under the aegis of bilateral agreements between governments. This involved national programmes aimed at bringing in immigrants, and the state was actively involved in organizing and closely supervising recruitment, employment and return. By the mid-1970s the bilateral system was on the wane, as demand for immigrant workers declined following the oil shock and global recession. Today, most labour migration policies are unilateral, with destination countries announcing programmes to admit migrants without seeking to conclude an accord with sending nations. This means sender countries are also obliged to act unilaterally in trying to manage the process of emigration. Some Asian countries, including Indonesia, the Philippines and Sri Lanka, closely regulate and supervise the recruitment of their nationals for employment in foreign countries.

⁷ Timothy J. Hatton; Jeffrey G. Williamson (2002), NBER Working Paper 9519. *What fundamentals drive World Migration?* September 2002, p. 3.

⁸ United National Population Division, (2003): *World Population Prospects: The 2002 Revision*.

⁹ Calculations by the UN Population Division for France, Germany, Italy and the U.K.

Multilateral action has focused primarily on establishing international standards. The ILO pioneered two Conventions – Migration for Employment No. 97 (1949) and the Migrant Workers (Supplementary provisions) No. 143 (1975) and in 1990 the UN General Assembly adopted a new Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, which entered into force in 2003. A Global Commission on Migration was launched in December 2003 and migration was included in the work of the Commission on Human Security and the World Commission on the Social Dimension of Globalization established by the ILO. There are also regular consultations between international agencies concerned with migration.

Migration and its consequences

Migration is a part, or aspect, of economic development that can have both positive and negative consequences for sending and receiving countries. A review of the evidence indicates that it would depend on how successfully countries are able to devise adjustment policies to make migration more of a win-win proposition.

Impact on source countries

Emigration can help to ease population and employment pressure in source countries, although the impact usually is modest because those who leave do not represent a large proportion of total population. In fact, some of the nations with high net emigration rates are also the ones with intractable unemployment problems.

Of much larger consequence are migrants' remittances. A recent World Bank Study, *Global Development Finance 2003*, showed that remittance flows were the second largest source of external funding for developing countries after foreign direct investment. Remittances also appear to be less volatile than capital flows. Given that remittances go directly to households with a high propensity to consume, they have a multiple effect on a country's economy..

In addition to such direct financial contributions, migration leads to formation of trans-national communities that bolster economic development. Migrant communities abroad, as well as returning migrants, become conduits for new ideas and investment. For example, 55 million overseas Chinese have invested an estimated \$60 billion in China. Returning migrants bring back savings and skills. Governments of origin countries are increasingly interested in the potential value of trans-national communities, while migrants themselves are forming associations and networks abroad. One example is the African Union, which has invited Africa's diaspora to take part actively in the region's development and has agreed to amend the organization's charter to this effect.

There is considerable focus on emigration of skilled persons, often known as the brain drain, which has been on the rise since the early 1990s. Its impact on sending countries varies according to levels of development, types of sectors involved, the way of financing education and whether migration is temporary, permanent or circular.

The brain drain can provoke vicious circles that slow development. For example, the emigration of African doctors and nurses leads to poorer health at a time of increased

need for health care due to AIDS and immunization drives. The ability to develop industry and academia can also suffer. According to one estimate, there are at least 400,000 scientists and engineers from developing countries working in research and development in industrial nations, compared with about 1.4 million still at home.¹⁰ In addition, companies that fund training may find it hard to recoup on investment if trained workers regularly leave.

Nonetheless, the outflow of educated people can also set in play forces that help promote economic growth.¹¹ Returning migrants bring back skills and work experience from abroad. The promise of higher incomes through migration may encourage more investment in education, public and private, than might otherwise have been the case. In addition to remittances, expatriates can transfer knowledge, technology and investments to countries of origin. The large scale emigration of IT workers from Asia has had several benefits for source countries, including skills transfer, outsourcing arrangements and investment flows.

It is hard to draw firm conclusions about the impact of emigration on overall economic performance. Relationships between migration and trade, exports, growth rates and per-capita income are complex. For example, remittances can push up the external value of a country's currency, making exports less competitive and increasing reliance on imports. Increased economic integration, especially through removal of trade barriers, can reduce migration pressures, as has been the case in the European Union. On the other hand, in North America, NAFTA's immediate aftermath appears to have involved led to greater migration from Mexico to the U.S. Other factors, including geographical proximity, migration within countries and budgetary transfers, clearly come into the equation.

Similarly, there is not much positive evidence that countries receiving large quantities of remittances have better economic performance measured by annual per-capita income growth. Nonetheless, policy makers in developing countries tend to view emigration as economically beneficial, at least in the short term, with gains through remittances and other linkages offsetting losses in human capital.

There are, however, considerable social costs to labour migration in terms of fractured families and communities. In addition to difficulties faced by one-parent families, the departure of women workers can mean children brought up without either parent. Some of these children may drop out of school and find themselves in vulnerable situations of neglect and abuse. Some women migrants also face traumatic experiences, such as sexual abuse, violence or family dislocation.

Consequences for host nations

¹⁰ Meyer B. and M. Brown (1999). *Scientific Diasporas: A new Approach to the Brain Drain*, Management of Social Transformations, Discussion Paper No. 41 Paris, UNESCO.

¹¹ Lowell, L.B. and A.M. Findlay (2002). *Migration of Highly Skilled Persons from Developing Countries: Impact and Policy Responses – Synthesis Report*. International Migration Papers No. 44, Geneva, International Labour Office. Wickramasekara, P. (2003). *Policy responses to skilled migration: Retention, return and circulation*, Perspectives on Labour Migration, 5E. Geneva, International Labour Office.

In receiving countries, public attention usually focuses on the social, rather than economic, effects of immigration. There can be difficulties in adjusting to people of different ethnic origin, who may not share the same cultural values. Many societies have managed this process, and some countries, such as Canada, celebrate increasing diversity. Social transformations can come about very quickly – today, there is much greater ethnic diversity in places not considered as countries of immigration only a decade so ago. But reactions to immigration can also be very negative, involving racism and xenophobia, especially where migrants are perceived to be taking away jobs from native workers.

The economic effects of immigration on receiving countries are mainly beneficial, with the newcomers rejuvenating populations and stimulating growth without inflation. Following World War II, immigrant workers contributed to Europe's sustained growth for thirty or so years. In East and West Asia, from the 1970s migrant workers helped to transform cities into gleaming metropolises almost overnight. And in North America, immigrants to Canada and the United States have for generations renewed and re-energized the population and the economy.

However, certain groups of native workers can find themselves disadvantaged, most notably the less skilled, who may include earlier migrants. The overall impact of immigration on wages and employment depends on existing labour market conditions, the skills levels of migrant workers and whether they are temporary workers or not.

There is concern in many countries that immigration of the unskilled reduces the wages of all unskilled and consequently worsening income distribution. But studies in both Western Europe and the U.S. indicate very little change in wages due to immigration, with some suggesting that wages of better skilled workers have actually gone up during times of high immigration. Regarding employment, there is no doubt that firms at times hire foreign workers who displace native workers. This does not necessarily mean a rise in overall unemployment, however. Immigration has been credited with spurring economic expansion and job creation, thus reducing overall unemployment. OECD studies looking at the correlation between unemployment and immigration in a number of countries were inconclusive.¹²

Another economic concern involves the degree to which immigrants draw on, or contribute to, state coffers. Much depends on the age of immigrants and characteristics of welfare and tax systems. A study in Germany, for example, shows that someone who immigrates at age 30 will make a net contribution of €10,000 during his or her lifetime, while a baby of less than a year creates a net burden on public finances of €60,000 in its lifetime. In the UK, a study by the British Home Office estimated that in 1999/2000 migrants in the UK contributed £ 31.2 billion in taxes while they consumed £28.8 billion in benefits and state services. As in most countries, immigrants in Germany tend to be of working age, and their contribution therefore is likely to well outweigh costs. In some countries, however, welfare dependency of immigrants is significantly higher than that of natives, prompting curbs on benefits that new immigrants can claim.

¹² SOPEMI (1997). *Trends in International Migration*, Paris, OECD,.

It is essential that economic calculations surrounding immigration also take into account demographic situations in host countries. Given Europe's aging population, there is much concern over how to maintain current standards of living and social security. An analysis carried out by the ILO shows that with unchanged policies, the 15 EU countries (before enlargement) would need a net increase in population of about 388 million over the next 50 years to continue with current social security systems and standards of living. Increasing the retirement age to 65, however, would reduce the number of immigrants needed to about 112 million. Such numbers suggest that for regions with aging populations, controlled immigration is likely to be one element in a careful policy mix. They will have to find a balance between accepting lower economic growth, accommodating replacement migration and increasing labour force participation rates, including investing in increased productivity of older workers.

Just as policy choices will play a role in Europe's future levels of immigration, government decisions also influence the social outcomes of migration. Similar levels of immigration have affected different countries in different ways, depending on a country's history, policies and national identity. The emergence of minority ghettos, for example, does not need to be a natural result of immigration. It can signal insufficient emphasis on integration, including when drafting well-intentioned programmes for low-cost housing. The degree of social mobility of immigrants also has varied from country to country, despite similarities in the economic and education background of newcomers compared with native workers. This indicates that policies and attitudes in host countries can play an important role in determining how immigration unfolds.

Migrant Workers – Conditions and Treatment

As discussed so far, international migration for employment is likely to increase in the future, with potential benefits for countries of origin and destination, as well as for the migrants themselves. A major precondition for harnessing these gains is ensuring decent working conditions for migrants. Despite the positive experiences of many migrants, an unacceptably large proportion face abusive and exploitative situations. These can include forced labour, low wages, poor working conditions, virtual absence of social protection, denial of freedom of association and union rights, discrimination and xenophobia, as well as social exclusion.¹³

Gaps in working conditions and treatment exist between migrant workers themselves and between migrants and national workers. While some of these disparities can result from migration status, skill profiles, type of job and sector of employment, some are due to deliberate differential treatment.

Unemployment rates, job security and wages often differ between migrants and native workers. For example, jobless rates for migrant men and women in OECD countries

¹³ ILO (2003), Summary of Conclusions, ILO Regional Tripartite Meeting on Challenges to Labour Migration Policy and Management in Asia, 30 June-2 July, 2003 Bangkok; ILO (2002). Summary Report and Conclusions. Tripartite Forum on Labour Migration in Southern Africa, Pretoria, South Africa, 26-29 November 2002.

averaged almost twice those of non-migrants during 2000-2001.¹⁴ Compared with nationals and most permanent migrant workers, the working conditions of temporary migrants tend to be highly insecure. Their status more often than not precludes access to social security and employment benefits. The precarious situation of migrants with irregular status and trafficked or smuggled persons is even more blatant and they are frequently exposed to adverse working conditions and treatment.

During the days of bilateral agreement on labour migration, public employment services played significant roles in recruiting migrants and ensuring they had contracts laying out wages and conditions. Today, private fee-charging recruitment agencies increasingly handle cross-border movements.¹⁵ They can engage in unethical practices and promote irregular migration, causing immense hardship to migrants. Some send workers to non-existent jobs or provide false information. Many charges excessive fees for services.

There are legal and practical barriers to the right to organize and to form trade unions for many migrant workers. Those in an irregular situation are usually not in a position to demand any rights. Legal protection from discrimination is also lacking for many migrants. According to the ILM Survey, nearly half of the countries surveyed had national legislation protecting all workers from discrimination at work. In about a third of countries, this right applied only to nationals and regular migrant workers. The ILO's own research in a series of industrialized countries found systematic refusal to employ young, male applicants of migrant or ethnic minority origin for semi-skilled jobs.¹⁶

Specific sectors

Migrant workers tend to be concentrated in some sectors of the economy that are less attractive to native workers. Common features of such sectors are seasonal work, small-scale production at the highly competitive end of global chains, low technology and rapid company turnover. Among the most prominent are agriculture, construction, labour intensive manufacturing and services. Employment in these areas includes some of the most vulnerable migrant workers, especially women domestic workers, those with irregular status and trafficked persons.

Agricultural work is very hazardous, accounting for over half of fatal workplace accidents each year, according to ILO estimates. There is a high incidence of child labour, including that of migrant children. Moreover, wages and job protection for hired farm workers have been declining, due in part to increased global competition pitting developing country farmers against their heavily subsidized counterparts in the developed world. During the 1990s, there was a shift toward use of labour contractors to supply seasonal workers, resulting in deteriorating conditions of employment in

¹⁴ OECD (2003). Trends in international migration: continuous reporting system on Migration: Annual report, 2002 Edition. Paris, Organization for Economic Co-operation and Development. Tables 1.13 and 1.14.

¹⁵ Of the 90 respondents to the ILM Survey, just under half of respondents granted private recruitment agencies the authorization to bring in migrant workers. Twenty-three respondents replied that private recruitment agencies were entitled to charge fees. The respondents also reported on malpractices in this area.

¹⁶ Roger Zegers de Beijl, Documenting Discrimination Against Migrant Workers in the Labour Market. A comparative study of four European Countries, ILO 2000.

both developed and developing countries. Likewise, work in the construction industry has become increasingly temporary and insecure as subcontracting and privatisation have replaced relatively large employers who invested in skills and training. Changing patterns of employment also have led to a decline in health and safety conditions¹⁷ and reduced collective bargaining and training provision. The construction industry has a long tradition of employing migrant labour from lower-wage economies.

In manufacturing, meanwhile, globalization helps to reduce pressures for migration, with international capital mobility and outsourcing bringing factories to developing countries. At the same time, however, “sweatshops” have re-emerged in the developed world, based on low-paid migrant labour. Trafficking of workers and other human rights violations are linked to these clandestine workshops, which also can pose a threat to the viability of legal enterprises.

Growth of the services sector, which accounts for 64 per cent of the world’s gross domestic product,¹⁸ has been accompanied by increased reliance on foreign workers. They are employed in fields ranging from nursing and care to hotel, catering and tourism. Undeclared labour and workers with irregular status are frequent in these areas. While conditions vary enormously, domestic workers can face severe exploitation and situations amounting to virtual slavery and forced labour. Wage discrimination based on nationality, rather than experience, also exists.

Policy responses

Given the extreme difficulties faced by migrant workers in these areas, it is important to encourage policies and methods to improve working conditions and treatment. These include informing workers about their rights, tightening regulation of contractors responsible for hiring immigrants and cooperation among trade unions, employers, government and the public to fight abuses. Examples of existing efforts are information centres established jointly by trade unions in sending and receiving countries and anti-sweatshop campaigns bringing together consumer groups, trade unions, employers and government. One way to regulate contractors more effectively would be through joint liability and seizure laws, under which final employers would share liability with contractors for paying wages and abiding by labour laws. Other options include involving retailers in the drive to combat exploitation of migrant workers.

It is also necessary to tackle the issue of migrants’ irregular status, which vastly increases the vulnerability of such workers. “Migrant workers face the gravest risks to their human rights and fundamental freedoms when they are recruited, transported and employed in defiance of the law,” according to the UN Commission on Human Rights.¹⁹ A common response to irregular migration has been tighter border controls and deportation of workers – more policing as opposed to better policies. Experience

¹⁷ ILO (2001). The construction industry in the twenty-first century: Its image, employment prospects and skill requirements, Report for discussion at the Tripartite Meeting on the Construction Industry in the Twenty-First Century. Geneva, Sectoral Activities Programme, International Labour Office.

¹⁸ World Bank (2001). World Development Report 2002: Building Institutions for Markets. Washington DC.

¹⁹ UN Commission on Human Rights (1996). The rights of migrant workers, Human rights Fact Sheet No. 24. Geneva, Switzerland, UNOHCHR.

shows, however, that such a stance is of limited effectiveness. “Few if any states have actually succeeded in cutting migrant numbers by imposing such controls. The laws of supply and demand are too strong for that. Instead, immigrants are driven to enter the country clandestinely, to overstay their visas, or to resort to the one legal route still open to them, namely the asylum system,” says UN Secretary-General Kofi Annan.²⁰ The alternative, backed by ILO constituents²¹, is the creation of more opportunities for legal migration. This includes allowing those already in a country to obtain regular status.

Similarly, measures to combat trafficking of persons have tended to focus on law enforcement and control. If strategies are to be more effective in the long term, it is necessary to combine treating trafficking as a distinct crime with comprehensive policies on migration. These include creation of productive employment in countries of origin and access to legal migration channels.

Integration of migrants into host societies also helps to ensure protection of fundamental rights. This is a difficult challenge that is closely linked to questions of discrimination and race relations with which many countries are currently grappling. Successful integration depends on combating racism and xenophobia. It is also necessary to consider issues such as citizenship and immigration rules. For example, temporary migration makes integration more difficult. The social partners have an important role to play in this area. To this end, the ILO has developed methodology facilitating integration in workplaces.

International Regulation and Guidelines

International regulation and guidance provide an essential foundation for the national laws, policy and practices required to address migration issues. An array of standards and instruments exists in this field, ranging from measures dealing specifically with migration to those covering related matters.

ILO and UN instruments

The ILO developed standards specifically regarding migrant workers following the end of World War II and in the wake of the 1973 oil crisis. The Migration for Employment Convention, 1949 (No. 97) and its supplementing Recommendation (No. 86) focus on the standards applicable to the recruitment of migrants for employment and their conditions of work.

By 1975, governments were increasingly concerned about unemployment and the increase in irregular migration. The focus shifted from facilitating migration of labour surplus to bringing migration flows under control. This led to adoption of two new ILO standards: the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) and Recommendation (No. 151). These represented the first multilateral

²⁰ Anna, Kofi (2003). Emma Lazarus Lecture on International flows of Humanity, Columbia University, New York, 21 November 2003.

²¹ILO (2003), Summary of Conclusions, ILO Regional Tripartite Meeting on Challenges to Labour Migration Policy and Management in Asia, 30 June-2 July, 2003 Bangkok. ILO (2003). Workers’ Consultation on Migrant Workers, Organized by the Secretariat of the ILO GB Workers’ Group and ILO-ACTRAV, Nyon, Switzerland, 15-16 December 2003.

effort to deal with irregular migration and call for sanctions against traffickers. Convention No. 143 reiterates that member states have a general obligation to respect the basic human rights of all migrant workers. Both conventions call for equal treatment of all migrant workers, while Convention No. 143 also stipulates equality of opportunity for regular migrant workers. The ILO instruments advocate bilateral regulation of migratory flows, including the development of model contracts to govern the situation of migrant workers. Forty-two countries have ratified Convention No. 97, while 18 have ratified Convention No. 143.

In 1998, the Committee of Experts on the Application of Conventions and Recommendations examined in detail the ILO's provisions on migrant workers. It concluded that the international context had changed and identified certain gaps in the standards. Regarding changing circumstances, it cited the declining role of state leadership in the world of work, increasing numbers of women migrants, the shift toward temporary migration, the increase in illegal migration and the development of new forms of transport. The CEACR also noted that the ILO conventions lacked binding provisions calling for the development of a migration policy in consultation with employer and workers' organizations.

In addition to these specific measures, many of the ILO's other instruments include provisions relevant to migrant workers. Under the 1998 Declaration on Fundamental Principles and Rights at Work and Its Follow-Up, ILO members states have an obligation to respect four categories of principles and rights at work, regardless of whether they have ratified the relevant conventions. These are: freedom of association and collective bargaining, abolition of forced labour, elimination of child labour and equality of opportunity and treatment. The latter is of particular relevance to migrant workers. All other labour standards apply, in principle, to migrant workers. Among these, ILO standards on social security aim at ensuring equality of treatment between nationals and foreign workers.

In 1990, the United Nations adopted the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, which recently entered into force. The ILO and UN instruments are similar in scope, although the UN Convention's definitions of "migrant worker" and "family" are somewhat broader than the ILO's. (The UN Convention also covers frontier workers and, in certain respects, self-employed migrant workers.) As with UN conventions relating to the rights of women, children and the victims of racism, the Convention on migrant workers sought to extend protection of universal rights to vulnerable groups by providing explicit normative language suitable for national legislation.

Other relevant UN instruments include the 1948 Universal Declaration of Human Rights, The Convention on the Elimination of All Forms of Discrimination Against Women (1979) and the newly adopted Convention Against Trans-national Organized Crime, which is supplemented by two protocols concerned with labour trafficking and smuggling.

Other measures

The World Trade Organization has developed an important set of international provisions governing migration, which include requirements that individuals must

fulfil to move and work abroad. Although it accounts for just over 1 per cent of world services trade,²² the presence of natural persons (known as Mode 4) is one of the four possible forms of providing a service under the General Agreement on Trade in Services. This only covers temporary migration, however.

Regional and sub-regional bodies include the management of international migratory flows in their work. For example, the European Union has an elaborate set of measures covering labour migration. Other regional groupings in South America and Africa also have drafted or reached agreements covering migration. As mentioned earlier, many of the bilateral agreements that previously governed migration lapsed following the economic downturn of the 1970s and were replaced by much looser framework accords, memoranda of understanding and declarations of cooperation. Since the 1990s, there has been renewed growth in bilateral accords. These have a wide range of objectives, including limiting illegal migration. Some address broader economic and social questions while others focus on issues related to seasonal work in agriculture.

Building on existing framework

While the ILO's body of standards is rich and varied, certain categories of migrant workers do not benefit from adequate protection. Moreover, many ILO member states have not ratified either of the two Conventions dealing specifically with migration. Meanwhile, existing international arrangements do not fully address the changing nature of migration or fill the gap left by the decline in bilateral agreements regulating migration flows. The Conventions do not prescribe the elaboration of migration policies in conjunction with the social partners.

The present discussion aims to allow constituents to look at ways of improving the coherence, relevance and impact of ILO activities related to migrant workers. To facilitate the discussion, this paper lists possible options for future action. These include: a campaign to promote ratification, coupled with technical assistance; the adoption of complementary measures, such as a protocol or guidelines; drawing up a new instrument that would serve as a "promotional engine" and include a follow-up mechanism and technical assistance; revision of existing standards, perhaps by merging them into a single Convention. A ratification campaign could be combined with the ongoing promotion of the UN Convention on migration.

The ILM survey asked member states for their views on possible future ILO actions related to standards on migration but the rate of response was so low that it was not possible to speak of a general trend.

How the ILO Fits In

The ILO's core agenda in addressing labour migration comprises five main components:

1. Developing and monitoring international standards to protect rights of migrant workers, including fundamental human rights at work.
2. Monitoring migration and the conditions of migrant workers.

²² Based on recent estimates reported by the WTO Secretariat (Joint WTO-World Bank Symposium on Movement of National Persons (Mode 4) under the GATS, WTO, Geneva, 11-12 April 2002.

3. Supporting the development of coherent national policies and measures on labour migration, based on ILO principles.
4. Assisting Member States to enhance their capacities for managing migration, including through the establishment of structures and mechanisms for consultation with social partners.
5. Promoting social and economic integration of migrant workers.

The activities of the Office have evolved to reflect this agenda. They are grouped in the following main themes:

- Building a global knowledge base on labour migration through research and the International Labour Migration database.
- Promotion and supervision of relevant ILO standards.
- Promoting and strengthening social dialogue on migration and integration questions.
- Technical cooperation to help governments and the social partners enhance their capacities for policy-making and administration.
- Special action programmes to combat trafficking and forced labour of children and adults, to protect groups at risk against HIV/AIDS and to promote integration and non-discrimination.
- Building an international framework for cooperation on migration.

Carrying out this agenda draws on work going on throughout the ILO. The ILO's employment policy activities address the factors that contribute to migration pressures as well as migrant workers' conditions of employment. The programme on Fundamental Standards and Principles at Work is central to promoting a rights-based approach to managing migration. Actions aimed at promoting safe and better working conditions and extending social security to more people are as relevant to migrants as to national workers, if not more so. And establishing and strengthening social dialogue is of critical importance to devising, and building support for, sound migration policies.

It is the central task of MIGRANT, the ILO's specialized technical unit for migration, to build an integrated programme based on this array of activities. This is a major challenge, given limited resources and fast-growing demands for ILO involvement in a wide range of migration issues.

In 2003, for example, the ILO worked on regularizing the status of migrant workers in Thailand, harmonizing policies to support free movement of labour in West Africa and identifying and documenting best practice for reducing discrimination against migrants in western Europe. The Office's work also included improving the management of recruitment in places as diverse as Nepal and Tanzania, advising on how to induce migrants to invest in their origin communities in Mexico, assessing conditions of migrant domestic helpers in Central America and developing strategies to combat trafficking in young women from a number of states in the CIS region. Responses in the ILM Survey indicated a very strong demand from member states for further technical support and policy advice from the ILO.

Regional and field offices implement a growing proportion of the ILO's work on migration. ILO activities have yielded results likely to lead to improved conditions for migrants in many parts of the world. For example, the ILO's technical assistance

project on migration management in Thailand resulted in the signing of a Memorandum of Understanding with Myanmar, Lao PDR and Cambodia calling for migrant workers to receive wages and benefits at the same rate as national workers. There is new legislation in the Republic of Korea on temporary admission and employment of foreign workers, based in part on ILO advice. The Office had identified problems with the previous trainee system and advised the Ministry of Labour on best practices. In Belgium, ILO research on combating discrimination against migrant and ethnic minority workers helped to shape legislation adopted in 2003 putting into effect the EU Directive on Racism. During the same year, the ILO helped the Irish government and social partners draft an action plan on anti-discrimination and integration.

The value of such activities was further confirmed by the large number of Member States that had indicated their interest in receiving technical assistance in a variety of fields, from the design of migration policy and legislation to developing statistics on migration. These suggest that the adequacy of resources devoted to the ILO's International Migration Programme needs to be reviewed.

Managing Migration

Governments seeking to devise migration policies must balance a complex set of issues and interests that span economics, politics and society. At the heart are questions of difference and equality. While differences between countries fuel migration, the protection of migrants demands equal treatment for all workers regardless of nationality.

Unlike other aspects of globalization, such as increased trade or investment, migration of labour, even for temporary periods, provokes significant social and political adjustments. These can be stressful and have implications for a range of economic and social policies – from education to health, social welfare and international development. This makes it necessary to go beyond mere gate keeping and integrate migration policy into mainstream planning.

Experience shows that it is often not possible to turn migration on and off like a water tap in response to economic cycles. Policies based on the assumption that migrants can be brought in when needed and then sent home are bound to fail. To quote Swiss writer Max Frisch: “We brought in labour but we ended up with men.” As social beings, men and women have needs that go beyond physical maintenance. Moreover, host societies and economies adjust to their presence and come to depend on their services.

Need for coherence

Lack of coherence in policy often reflects conflicting pressures on political leaders, who are concerned about losing support from key constituencies. One consequence is a contradiction between political statements and what happens on the ground. For example, a government may stress its opposition to the use of unskilled foreign labour and its determination to stop irregular migration, but in practice may be subsidizing and protecting sectors that absorb unskilled foreign labour, such as agriculture. It also may fail to regulate wages and working conditions, giving some employers an

incentive to hire irregular workers to reduce costs, or allow firms legally to pay below-minimum wages to foreign “trainees” who are in fact workers. Politicians who fail to develop clear policies on migration run the risk of appearing hypocritical and losing public support, leaving policy at the mercy of extremist pressure groups. In many countries, it is not clear that a more liberal immigration platform can win votes.

For policies to be coherent, it is necessary to take a long-term view about economic and social requirements that avoids changes for political expediency. In addition, policies and programmes in migration and other sectors should not undermine each other, either directly or unintentionally. For example, there is a contradiction between discouraging immigration from rural communities in the developing world while at the same time reducing their scope for exports by providing subsidies and protection to developed country agriculture.

Principles underlying migration policies should be to support equitable and legal migration, ensure that foreign workers receive the same treatment as national workers and discourage the employment of irregular workers, including through sanctions. Governments also must acknowledge the trade-offs inherent in migration policies. They must argue the rational economic case for migration, while at the same time ensuring that migration does not lead to exploitation of the migrants as well as marginalizing weaker segments of the labour market – the old and less skilled, who may include earlier immigrants.

One way to promote coherent policies that do not fall victim to short-term political considerations is through informed debate aimed at achieving a broad social consensus. In effect, this involves reaching agreement among those who stand to gain and those who stand to lose. There is a crucial role for social dialogue in such an effort. Responses to the International Migration Survey indicate that most countries hold regular consultations with representative employers’ or workers’ organizations when amending or passing immigration laws. There are, however, only a few examples where formulation of labour migration policies, laws and regulations occurs through formally established tripartite structures.

This type of dialogue is also necessary in countries of origin, especially when the government has responsibility for regulating the recruitment and contracting of nationals. Where an origin country establishes appropriate policies and structures for managing emigration, workers usually opt to migrate through established legal channels and receive better protection. In the Philippines, for example, there are two agencies responsible for migration policy, which both operate with tripartite advisory boards.

Comprehensive approach

While temporary migration can meet the needs of both origin and destination countries, conventional guest worker programmes have come under considerable suspicion because of the difficulty of enforcing short-term immigration. If temporary work programmes are to be successful, there should be recognition that some people will move to permanent status and governments must provide for such a possibility. At the same time, temporary schemes must function; otherwise, they will be viewed as a failure of policy. One strategy involves dialogue and closer cooperation between

source and destination countries. Another is to have contract labour migration through carefully selected private contractors, although this only applies to certain sectors.

A comprehensive approach also must encompass the issue of irregular migration, which has been growing since the 1980s and is estimated at 5 to 20 per cent of annual admissions to OECD countries. Repatriating irregular migrants is often difficult, because of either legal issues or lack of administrative resources. In practice, only small percentages of asylum applicants and migrants whose applications are refused are ever removed. In many cases, authorities order people to leave the country, but never enforce the decision, leaving migrants in an irregular situation for years.

Regularizing the status of workers who cannot be sent home is a better solution. One way to do this is through “earned adjustments” giving migrants the right to legal status if they meet certain minimum requirements. Nonetheless, the amnesty programmes that governments sometimes declare for those with irregular status can be complex and difficult to enact. Authorities must convince migrants that it is in their interest to take part while at the same time not divulging intentions so far in advance as to encourage clandestine immigration. Regularization works best when the process is straightforward, without heavy demands on funds or time.

In addition to enforcement of international and national standards, other policies can improve the protection of migrant workers and help in managing migration. These include the licensing of recruitment agencies and making employers and recruiters jointly liable for violations of employment contracts. Inter-country cooperation, meanwhile, can help in the management of migration. Such efforts range from economic integration and free movement of labour to bilateral agreements on recruitment, employment and managing return programmes. Governments in destination countries also could consider helping to reduce migration pressures countries through development aid to source countries targeted at increasing employment opportunities and improving the levels of human capital.

As this suggests, managing migration is inherently a multilateral issue. Today’s international scale of migration flows and the global reach of migration networks makes it all the more compelling for countries to look to partnership overseas, through bilateral and multilateral agreements and treaties. At the same time, the majority of cross border movements still occur within regional spaces, hence the value of regional migration accords and processes for managing migration.

The Way Forward

1. As the World Commission on the Social Dimensions of Globalization has underscored, cross border movements of workers in search of employment and security are likely to grow in the coming decades especially if globalization fails to generate jobs and economic opportunities where most people live. The differences that drive migration have widened over the past several decades and the trend is likely to continue unless fundamental changes in the global economy occur to spur growth, more equitable income distribution, and less economic instability in the world’s lagging regions.

2. Migration is an integral part of growth and development processes - more significant at some times and in some countries than others. Nevertheless, like many aspects of development there are both positive and negative impacts for the migrants themselves and for the countries of origin and destination. There is increasing recognition of the role that migration plays in meeting the demographic deficit and labour shortages in the more advanced economies, in global exchanges of technology and know-how, and in stimulating development through remittance flows and investments, especially from diaspora communities. The challenge is how to manage migration in such a way that the positive effects are maximized, making it beneficial for all.
3. Although migrants and their families mostly benefit from migration, large numbers still toil under abusive and exploitative employment conditions without effective access to legal protection. Migrant women in particular often face multiple forms of discrimination. There is an urgent need for efforts at national and international levels to ensure respect for the rights of migrants in conformity with applicable international standards.
4. If international and national standards are to have a tangible impact on the conditions of most migrants, migration processes must be better managed. Unregulated migration puts many migrants, especially women, in positions of vulnerability and their status often effectively excludes them from social protection.
5. A rights-based international regime for managing migration must rest on a framework of principles of good governance developed and implemented by the international community that are acceptable to all and can serve as the basis for cooperative multilateral action. Existing international Conventions defining the rights of migrant workers provide many of the needed principles, but a sound framework would have to include principles on how to organize more orderly forms of migration that benefit all.
6. To be effective such a regime for managing migration must be accompanied by an appropriate follow-up mechanism to support actions by governments and their social partners in the implementation of these principles.
7. The ILC General Discussion might also specify how the ILO's various means of action can be used to strengthen further and expand assistance to governments and employers' and workers' organizations in translating such principles into policy and practice at national levels in a number of areas including:
 - Creating alternatives for gainful employment in countries of origin;
 - Establishing orderly processes of labour migration;
 - Maximizing the contribution of migration to development.
 - Treatment of migrant workers based on international standards;
 - Social protection of migrant workers and members of their families;
 - Combating xenophobia and discrimination;
 - Social and economic integration of immigrant workers;
 - Addressing the problems of migrants workers in an irregular status.

8. To this end, the ILC 2004 General Discussion could propose a well-defined plan of action that engages all of ILO's constituents. Such an action plan could include the establishment by the ILO of an international forum on migration for work bringing all relevant actors together on a regular, frequent and tripartite basis to address the response to issues raised by growing migration.