

SHARED RESPONSIBILITIES, COMMON INTERESTS AND CO-DEVELOPMENT

Policy Recommendations for the UN General Assembly High Level Dialogue on International Migration and Development

In his report to the General Assembly on migration and development, the Secretary-General notes that:

‘The benefits of international migration, not only for the migrants themselves, but equally for receiving societies, are contingent on the protection of migrants’ rights.’ⁱ

This paper builds on the Secretary-General’s report, and on the recommendation of the Global Commission on International Migration that:

‘(T)he role that migrants play in promoting development and poverty reduction in countries of origin, as well as the contribution they make towards the prosperity of destination countries, should be recognized and reinforced.’ⁱⁱ

It puts forward policies, which reflect human rights values and principles, to strengthen the role of international migration in economic and social development, to maximize its benefits and to minimize its negative impacts.

I. Migration Policy Making: The Context

Over the last decade, the attention given to security concerns in national migration policy has gone hand in hand with a growing social and economic interdependence between states of origin and ‘host’ states. These two trends - towards tighter national security and towards closer economic links between states – have tended to develop along parallel lines. The first has been highly visible and state led. The second has been less visible or understood, especially in developed states.

On the one hand, and particularly since September 2001, states have acted individually and collectively to tighten border controls.ⁱⁱⁱ They have built on policies previously put in place to restrict irregular migration flows, using new technologies to create stricter visa and passport regimes. The threat and commission of terrorist acts in a number of countries since 2001, combined with a rise in organized international crime, have also led states to act within their borders to increase security in relation to non-nationals, particularly those in an irregular status. The fact that migration policy making and implementation is often led by interior ministries and the police reinforces popular perceptions linking migration and crime.

On the other hand, the migratory process has created multidimensional links between countries of origin and destination, as the UN World Summit in 2005 recognized.^{iv} This has been emphasized further in the Secretary-General's Report. The links are not new, but their significance is only now being understood. Two key issues - the demographic deficit in Europe as a catalyst for new migration, and the dominance of remittance flows over ODA as a form of economic assistance – have been recognized only in the last decade, as have the economic benefits of migration to the economies of destination countries. Co-operative planning is urgently needed between and within governments for situations where better policy-making can unlock potential benefits for individuals and societies, as well as where skilled migration impacts asymmetrically on sending and receiving countries, as in the recruitment of health workers.

The Secretary-General has stressed both the importance of protecting migrants' rights, and the fact that this requires action by states – to enable migrants to integrate within host societies; to ensure equal treatment, prohibit discrimination, and prevent exploitation of migrant workers, especially those most vulnerable to gross violations of their rights. It also requires migrants, just as citizens, to abide by the laws of receiving states.^v

II. Universal Human Rights - Principles and Values

Human rights are sometimes wrongly seen as an 'add on' to policy making. This overlooks the fact that human rights values and principles lie at the core of equitable and effective policies. The recommendations which are made in this paper reflect human rights principles, and see the individual as the 'central subject' of development.^{vi}

Policies and practices which promote human rights include fostering participation by migrant and diaspora communities in development; realizing the right to education, to food or to adequate housing through the use of remittances to pay school fees, provide food or improve sub-standard housing; and the stimulus given by a more emancipated diaspora to end discrimination against women. Equality and non-discrimination are at the same time human rights in themselves, and catalysts for integration and development. The same is true of the rule of law:

'The poor often lack legal rights to empower them to take advantage of opportunities and provide them with security against arbitrary and inequitable treatment. Discriminatory laws and arbitrary enforcement of the laws deprive

protection of individual and property rights, raise barriers to justice and keep the poor poor.’^{vii}

Human rights principles are more than abstract values. They require practical measures to be taken, whether to maximize migrants’ participation in the development process, or to protect migrants from abuse throughout the migration cycle, at the hands of traffickers and smugglers while in transit, and in exploitative employment on arrival. The need for these measures was affirmed by the World Summit in 2005.^{viii}

These human rights principles have been voluntarily accepted by all UN members. States which have acceded to the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Their Families [CMW] have assumed very explicit duties to protect migrants’ rights, which are clearly set out in the text. Other UN members, including all EU members, have accepted the same duties because they are Parties to the six general human rights treaties,^{ix} which protect migrants, although they do not name them, because they apply universally.

The fact that a state has not yet ratified the CMW does not mean that its general protection duty towards migrants is any less, but only that the duty derives from several, rather than from a single, treaty. To take three examples, migrants are protected against discrimination, cruel or inhuman treatment, and forced labor, both under the CMW and under the six general treaties. And although states determine who may enter their countries, protection of migrants’ rights within the country is only exceptionally related to an individual’s legal status.

‘(E)ntering a country in violation of its immigration laws does not deprive migrants of the fundamental human rights provided by human rights instruments..... nor does it affect the obligation of states to protect migrants in an irregular situation.’^x

III. The Need for Coherence in Policy Making

Migration has not been considered a part of the development agenda, nor have development objectives been integrated into national migration policies. This situation, which is sometimes characterized as a lack of institutional ‘coherence’, is increasingly seen as unrealistic and even counter-productive.

Migration cuts across virtually every department of government – agriculture, budgets, housing, health, and social security, in addition to interior ministries. A deliberate link needs to be made by policy makers between migration and development.

‘Incoherent’ policy making is most counter-productive in situations where there are conflicting interests, for example between a *health ministry* which recruits migrant doctors and nurses to fill gaps in a national health system, the *immigration officials* who issue visas under a managed skilled migration program, and the *development agency* which is trying to address the impact on health, development, budget and productivity of

the developing country which bore the costs of training: a process sometimes compared to ‘asset stripping’. Frequently the issues cannot be addressed because the different elements of policy making - recruitment decisions, visa issues, and development assistance - operate as institutionally separate and parallel processes.

IV. Defining Common Interests and Shared Responsibilities

Today’s challenge is to move beyond reliance on restrictive policies as the ‘default’ tool of migration management, recognize the benefits of migration to countries of destination as well as countries of origin, and accept both as equal partners with common interests and shared responsibilities. While border control and law enforcement are necessary tools, these should be focused on limiting harm to individuals and communities, for example in reducing the incidence of trafficking, and ending employment that violates minimum wage laws.

Another shared – and mutually beneficial - responsibility is the protection of citizens from another country from labor exploitation and rights abuse. The need for this can be seen most clearly in relation to women, who now constitute half of the global migrant population. Migrant women domestic workers are among the world’s most vulnerable workers. Most move from poorer to richer countries for economic reasons, leaving their children behind. Their working conditions vary enormously. Some are treated as members of the employer’s family, while others are exploited and subjected to conditions which in some cases amount to virtual slavery and forced labor, having to work excessive hours of work (on average 15-16 hours a day), with no rest days or compensation for overtime. Domestic workers are also exposed to physical and sexual harassment and violence and abuse, and are in some cases trapped in situations in which they are physically or legally restrained from leaving the employer’s home by means of threats or actual violence, or by withholding of pay or identity documents.^{xi}

V. New Policies for Co-Development

The Secretary-General’s endorsement of co-development – which he defines as the concerted improvement of economic and social conditions at both origin and destination - is welcome recognition that well managed migration is a development resource for receiving countries as well as, generally, for countries of origin.

What should be the elements of these new policies of co-development, and how can migration be managed in ways which maximize its development benefits and minimize its negative impacts?

Policies to manage migration should recognize migrants and their diasporas as participants in development, and encourage this participation through enabling frameworks in both countries of origin and destination, and through greater integration. Policy making should be coherent, and reflect the interests of different parts of government. It should be able to plan for the foreseeable outcomes of migration flows, and encourage poverty reduction and good governance in areas of high migration. How

these approaches to co-development are applied will, of course, differ from situation to situation.

There is evidence that the old paradigm of permanent migration is progressively giving way to temporary or circular migration in some regions and in some sectors – for example, the highly skilled South Asian technology sector. In this specific situation, the migration of skilled workers reflects common interests, and produces a development ‘gain’ to the country of destination, while not removing essential skills from the home country.

The Example of Migration of Health Workers

The same is not always true in other sectors, notably health, where long term emigration from poorer to richer countries has the effect of further impoverishing developing country health systems. Here the loss of skilled health professionals through migration is a major contributor to a worsening development situation, notably in Sub-Saharan African countries whose health systems have been weakened by under investment and are now challenged by the HIV/AIDS pandemic. At the same time as it weakens health provision - and the right to health - in these countries, migration of health professionals strengthens health provision – and the right to health - in the richer countries of the north. Ghana is an example of this ‘perverse subsidy’ from poorer south to richer north: over half of the doctors trained in Ghana have migrated, and Ghanaian doctors and nurses deliver services in the UK valued at around \$50 million a year. It is increasingly accepted that:

‘...it is unfair, inefficient and incoherent for developed countries to provide aid to help developing countries make progress towards the MDGs on health ..., while helping themselves to nurses [and] doctors...who have been trained in, and at the expense of, developing countries.’^{xii}

Equitable solutions to this worsening dilemma are urgently needed, which recognize the shared responsibilities of home and destination countries.

One option is to recognize that emigration trends are likely to persist, and to assist southern countries to train more health staff to meet local needs, as India has done with its information technology sector. In this way richer countries would fund training of the skills they and countries of origin both need. This is then a development ‘gain’ for the local economy and the local health service, while northern countries gain because training costs are lower. One pilot project worth study is underway to train nurses in Malawi. At the same time, policy makers from different countries must accept that migration will continue, and then find ways in which health migration can be jointly organized by origin and destination countries; the UK/South African agreement is one example of how this process could be taken forward.

The Role of Diaspora Communities in Co-Development

One outcome of migration has been the emergence of national diasporas, settled outside their home countries. Increasingly, and assisted by the ease of travel and internet communication, members of these new diasporas live in ‘transnational’ communities, maintaining economic and personal ties both to the countries in which they live and work and to their countries of origin or nationality.

While any exact measurement is difficult, it is clear that diasporas make a major economic contribution. Some of the fastest growing Asian economies have been diaspora led; remittances to developing countries, now in excess of \$160 billion p.a., outstrip ODA, have doubled in the past 5 years, and are often better targeted at the poor, especially in unstable areas.^{xiii} It is now understood that migration brings a range of economic gains to countries of destination.^{xiv}

Policies which build on the GCIM’s recommendation that diasporas should be encouraged to promote development – through forms of co-development - may take a number of forms. The emphasis should be on benefits to both countries of origin and destination, and involving migrant diasporas as participants and agents, working with states and development agencies in the development process.

Enabling Frameworks include:

- Legal recognition of dual nationality, as has happened in a number of Latin American countries, and recently in Nigeria, and visa policies to encourage contact and return.
- Institutional arrangements – official and unofficial - to strengthen connections between diasporas and their countries of origin. Examples are India’s High Level Committee on the Indian Diaspora, and Mexico’s Presidential Office for Mexicans Abroad, or independent bodies with representatives from government, private sector, professional organizations, voluntary agencies and migrants^{xv}.
- Economic arrangements which enable migrants to support national development projects. Examples include LINKAPIL which channels funding to Philippine education, health care, and small scale infrastructure projects; financial instruments targeted at overseas migrant workers, like India’s Millennium Deposits; and high interest rates for foreign currency accounts, with tax incentives, as has been done in the Philippines.
- Lowering the costs, and facilitating the means, of remittance transfers. Mexico’s POFECO project monitors the remittance market, giving Mexicans in the US information about prices and consumer rights. DFID, the UK development agency is developing a code of conduct for finance houses to ensure more accessible and low cost transfers.^{xvi}
- Enabling migrants to channel remittances into public projects, and then matching individual and community migrant remittances with public money – as France has done to develop schools, health centers and infrastructure building in Senegal and Mali.

- Drawing on diasporas as human capital and ‘skills banks’: examples include IOM’s MIDAS and UNDP’s TOKTEN program^{xvii} assisting African professionals to provide short term technical assistance in their home countries.
- Actively encouraging the return of skilled diaspora members by assistance with housing, employment and reintegration.
- Facilitating the transfer of earnings, savings and pensions at such time as the migrant returns home.

Integration: Human Rights and Tackling Social Exclusion in Destination Countries

The protection of migrants’ rights is central to effective migration management, and to policies which tackle migrants’ social exclusion. It is also a pre-condition for their ability to lead economically productive lives. In the broadest sense, policies which promote legalization of status, access to health care and adequate housing, training, and language acquisition all build the capacity of diaspora communities to access the labor market and lead economically productive lives.

The ability of these diaspora communities to contribute to development in their countries of origin is greater where they are integrated in the country of settlement. Contributions to development are limited from communities in which many members face discrimination; fear the police and courts rather than seeking their protection against assault or exploitation at work; are not incorporated in the formal labor market; and do not get a quality basic education. These are all conditions which make it likely that their resources will be meagre and largely absorbed by their own daily survival needs.^{xviii} Equally important, where they have no secure legal status, they cannot maintain close contact with their home countries because once they have left for the destination country, return may be impossible.

VI. Conclusions and Recommendations

The General Assembly High Level Dialogue on International Migration and Development presents a unique opportunity to frame more constructive migration policies at national and international levels in years to come. The Secretary-General’s Report on International Migration and Development presents a long needed and constructive way forward in proposing a standing forum led by all UN Member States that will foster a common understanding of migration principles and encourage an integrated approach to migration and development policies. In addition, it is important that this forum have formal links to the UN system, actively involve the expertise and views of relevant stakeholders including non-governmental organizations and migrant organizations, and work toward eventually producing negotiated outcomes on specific issues when appropriate. This year also presents an opportunity for other parts of the UN system to play a meaningful role. For example, the Human Rights Council, in addition to renewing the mandate of the Special Rapporteur on the Human Rights of Migrants, might also incorporate migration as a cross-cutting issue for other thematic mandates, so that the rights of migrants are examined as part of wider work on issues such as poverty, torture, and religious tolerance.

This paper has identified four broad areas in which the development benefits of migration can be maximized and its negative impacts minimized, listed below. It is hoped that these areas can be emphasized within the institutional processes and structures as they are developed in 2006 and beyond.

A. *Protect the human rights of migrants*

- Respect for migrants' rights contributes to development: migrants who do decent and legal work contribute more to development than those who are exploited.
- These rights are not a matter of choice, to be selected and enforced *a la carte*, but are legal obligations under international law, which bind all governments.
- The fundamental rights of all migrants must be protected, regardless of their migration status.
- The human rights framework can contribute to the harmonization of States' attitudes through the acceptance of common basic principles. These are important foundations for the management of international migration.

B. *Increase the coherence of policy making*

- Migration cuts across almost every department of government, and because of this a coherent and deliberate link needs to be made between migration and development policies.

C. *Create a legal and policy environment for diaspora involvement which:*

- Strengthens migrants' participation in development in their countries of origin, for example through simplifying remittance transfers and lowering costs;
- Encourages financial investment;
- Supports links through legal and institutional measures;
- Recognizes that migrant integration and social inclusion maximizes their ability to do decent work and contribute to the development of both their countries of origin and the countries in which they live.

D. *Common interests and shared responsibilities: the example of health care*

- Countries of health worker emigration and of recruitment have common interests and shared responsibilities; in some cases where there is a pattern of health worker recruitment between two countries – for example Ghana and the UK - it is possible to speak in terms of a single health market in which both participate.
- The wastage of training costs and the loss of skilled workers are not only budgetary matters, but have wider development consequences, which include the negative effect on progress towards the MDGs.
- The gain to recruiting states should be recognized through forms of reimbursement, compensation or contribution.
- The push factors underlying health worker emigration include working conditions and low pay in the health sector, and wider aspects of poor governance,

- corruption and development deficits. Until these are reversed, health workers will continue to leave.
- Responsible and effective policies must coherently reflect the views of all stakeholders in this equation – sending and receiving governments, their health services, and budgetary and educational authorities. Consultation with organizations of migrants will also be important.
 - In a globalized world, the emigration of skilled workers is not necessarily wrong in itself, provided the negative effects upon the sending country are addressed.

ⁱ International Migration and Development, A/60/857.

ⁱⁱ Global Commission on International Migration report, *Migration in an Interconnected World: New Directions for Action*, 2005.

ⁱⁱⁱ SC resolution 1373 [paragraph 3(g)] required states to ‘prevent the movement of terrorists by effective border controls and controls on the use of identity papers and travel documents’.

^{iv} UN World Summit 2005 Outcome document, paragraph 61.

^v See above, Note I, paragraphs 77 & 260.

^{vi} Declaration on the Right to Development, A.2. Oslo: ‘The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized’. A.1.

^{vii} ‘(I)n order to achieve sustainable development, the development process must be comprehensive, and ... legal and judicial reforms are critical components of that process’. *Initiatives in Legal and Judicial Reform*, World Bank, 2001, p. 1.

^{viii} See note iii, above, paragraph 62.

^{ix} ICCPR, CESCR, CERD, CEDAW, CAT, CRC.

^x GCIM Report, 2005, *supra*, page 55.

^{xi} *Towards a Fair Deal for Migrant Workers in the global economy*, ILO, 2004, # 187-192.

^{xii} Report of the UK Parliament Select Committee on Migration and Development, 2003, paragraph. 39

^{xiii} *Global Economic Prospects 2006: economic implications of remittances and migration*, World Bank, p. xii.

^{xiv} ‘...it is estimated that migrants in the UK contributed £31.2 billion in taxes, and increased public expenditure by £28.8 billion through their receipt of public goods and services, resulting in a net fiscal contribution of around £2.5 billion.’ In other words, it is estimated that migrants in the UK reduced the amount that the existing population paid in taxes, or increased the amount they received in welfare and public services, by £2.5 billion. *The Migrant Population in the UK: fiscal effects*, Home Office RDS Occasional Paper No. 77, 2002, p.11. ‘There is little evidence that native workers are harmed by migration. There is considerable support for the view that migrants create new businesses, jobs and fill labor market gaps, improving productivity and reducing inflationary pressures’. *Migration: an economic and social analysis*, Glover et al, Home Office, RDS, London, 2001, p. viii. See also World Bank, *op cit*

^{xv} See Dharam Ghai, *Diasporas and Development: the case of Kenya*, Global Migration Perspectives, No. 10 2004, GCIM.

^{xvi} www.sendingmoneyhome.org.

^{xvii} MIDAS: Migration for Development; TOKTEN: Transfer of Knowledge through Expatriate Nationals.

^{xviii} *Beyond Remittances: the Role of the Diaspora in Poverty Reduction in their Countries of Origin*, Newland and Patrick, MPI, 2004.