



International Labour Office

**UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS
UN Committee on Migrant Workers, 8th session**

Celebration of the fifth anniversary of the entry into force of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

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PRESENTATION

**GLOBALIZATION AND MIGRATION: THE IMPERATIVE FOR A RIGHTS BASED
APPROACH**

Introduction

Migration is a central challenge of our time. International human mobility has become a key feature in meeting economic, labour market and productivity challenges in a globalized economy. Migration serves as an instrument to adjust the skills, age and sectoral composition of national and regional labour markets. Migration provides responses to fast-changing needs for skills and personnel resulting from technological advances, changes in market conditions and industrial transformations. In countries of aging populations, migration offers a potential to replenish declining work forces as well as to inject younger workers, potentially increasing dynamism, innovation and mobility in work forces.

On the other side of the supply and demand equation, ILO Director General, Juan Somavia, recently highlighted that, *if you look at globalization from the point of view of peoples' concerns, its single biggest failure is its inability to create jobs where people live*. In sum, migration pressures on the "supply side" are increasing as possibilities for employment and economic survival at home disappear.

Today, some 200 million people live outside their countries of birth or citizenship. That would be the fifth most populous country in the world if these people were together in the territory of one State. Our ILO estimates indicate that 95 million of these persons are economically active, engaged in the world of work. In other words, this involves nearly all working-age adults, taking into account that this global migrant population includes children and aged dependents.

In most Western European countries, the foreign born proportion of the work force exceeds or is approaching ten percent. This proportion is also substantial and growing in numerous countries in Africa, Asia and the Americas. In places as diverse as Ivory Coast and Switzerland, it is 25%. It is as much as 60 to 80% in certain Arab Gulf States.

What we are talking about is a fundamental definition of the countries represented here. It is about the future economic viability of countries around the world, indeed most countries. It is about social

relations and social cohesion, about what kind of place companies will be doing business in, about what kind of societies we and our children will live in tomorrow.

While each individual on the move has his or her own motivations, own expectations, or own dreams of safety, security or opportunity, migration today is certainly driven by bigger factors. In this age of globalization, inevitable economic, technological and demographic trends have combined to make labour mobility an essential component of development, productivity and prosperity in most of the industrialized world. Indeed, in much of the world overall.

As a result, the very composition of many societies has changed rapidly in an incredibly short period of time in historical terms. And it will continue changing in coming years.

An illustration of the importance of getting this question right comes from Europe, since it has become a major region of labour immigration again. However, this example is increasingly relevant to a growing number of countries in all regions of the world.

Already some time ago, the International Labour Office ran a simulation using the methodology its actuarial section used over the last ten years to predict –quite accurately—the future performance of social security systems. This simulation carried forward calculations to the year 2050 based on presumed continuity of current trends in population aging and decline, retirement age, female workforce participation rates, immigration numbers, and modest economic growth and productivity rates. The simulation outcome suggested that some 40 years from now, the standard of living of Western Europe, as measured by per capita income of gross national product, may be 78% of what it is today. That is to say, 22% lower.¹

This challenge is not limited to just one or two regions. Due to economic, demographic and technological changes, increasing numbers of jobs in industrialized and emerging economies simply cannot be filled by native-born workers. Ageing of native work forces combined with declining populations is an important factor. By current projections, the populations of Italy and the Ukraine will be 25% less in 2050 than in 2000. But this dilemma is no longer a monopoly of Europe. The work force of Russia will decline by 5 million workers by 2010 compared to 2000. Tunisia reached the fertility rate of zero population growth last year.

The current projection for Europe is that while today the average social security dependency is 2 retired persons for seven economically active, the ratio will rise to 4 per 7 by 2050: meaning either twice the contributions per working person or halving the income for retirees. What is striking is that the figures of this looming crisis in social security dependency rates are similar for China.

In this historical period, immigration emerges as one of the key components to ensure a reasonably stable future and general welfare. While it is certainly not the only factor, it is the only variable with significant potential for adjustment at present.

Migrant labour is now a key factor of production and services. Labour itself increasingly represents the only significant variable where costs of raw materials, goods, technology and equipment and access to capital have become increasingly equalized across the world. The cost and conditions of labour represent the most important competitive difference.

But the big difference with other factors of production is that migrant workers are human beings. They require protection and regulation of their treatment and conditions of work. International

1
ILO. Towards a Fair Deal for Migrant Workers in the Global Economy. International Labour Conference 92nd Session June 2004. Report VI. P. 37-38.
Available on line at: <http://www.ilo.org/public/english/standards/reim/ilc/ilc92/pdf/rep-vi.pdf>

migrants are the more so as they work and live outside the territories that offer the protection afforded to citizens in their home States. They are often treated as less than rather than equals, in many places explicitly excluded from protections of certain human and labour rights. They are seen as exploitable and expendable, a source of cheap, docile and flexible labour, apt for the 3-D -- dirty, dangerous and degrading-- jobs nationals are unavailable for and/or unwilling to take.

Policy Challenges

The fundamental challenge is the tension between the imperative of equality of treatment and non-discrimination versus the enormous competitive pressures to exploit vulnerable labour. The history of capitalist industrial development has shown that equality of treatment across national work forces is essential to assure functional national labour markets, capital-labour equilibrium, labour peace and social cohesion.

The reality of globalization is increasing pressures especially on developed economies to lower labour costs and social protection in order not just to maintain competitiveness, but simply to retain economic activity itself: production and services that are ever more easily moved away to lower labour cost countries and regions.

Clear and present danger

But the tension between high skilled well paid work and cheap, flexible labour –and the attendant divisions in societies between haves and have-nots, is an increasingly generalized feature of Western societies. Indeed, in the American and European contexts, migration is the vector for the expanding dichotomy between a so called social economy characterized by highly quality, highly skilled production and a land of low paid unskilled workers among whom are many migrants in irregular situations and in so-called atypical employment. In the USA, 37% of labour is categorized as *bon marché* –low cost. For Germany, this figure is 43% and for Sweden 34% according to the Financial Times. The FT further notes that if accurate figures for immigration were available, it is likely that the overall proportion of low cost --I add low protection—labour would be similar in much of Europe to that of the US economy.

As it is, migrant labour in both developed and developing countries largely fills “three-D” jobs: dirty, dangerous and degrading. Efforts to fill 3-D jobs and to acquire economic competitiveness through high productivity at low cost produce a continuous demand for cheap and low-skilled migrant labour in numerous economies. These sectors commonly include agriculture and food processing, construction, cleaning and maintenance, hotel and restaurant services, labour intensive assembly and manufacturing, the sex industry and others. Indeed, immigrant labour has long been utilized as a low cost means to sustain economic enterprises and sometimes, entire sectors of economic activity that are only marginally competitive.

Small and medium size companies and labour-intensive economic sectors do not have the option of relocating operations abroad. Responses include downgrading of manufacturing processes, deregulation, and flexibilization of employment, with increased emphasis on cost-cutting measures and subcontracting². In a number of countries, these measures are expanding the number of jobs at the bottom of the employment scale. Such employment needs are met only partially or not at all by available or unemployed national workers, for reasons of minimal pay, degrading and dangerous conditions, and/or low status in those jobs and sectors. As well, the unemployed in some countries have access to social welfare and unemployment insurance.

2 Lean Lim, Lin; “Growing Economic Interdependence and its Implications for International Migration” in *United Nations: Population Distribution and Migration*, New York, 1998, p. 277.

The resulting demand for migrant workers provides a significant impetus to labour flows and facilitates the incorporation of undocumented migrants³. ILO research in Southern European countries demonstrates the extent to which “the migrants take jobs that the locals refuse. It’s simply a matter of substitution.”⁴ A recent study noted, “We can conclude that migrants are in competition only with marginal sections of the national labour force ...when they are not sufficiently sustained by welfare provisions, in specific sectors, and/or in the less-developed areas inside these countries.”⁵

For the less qualified jobs, employers demand workers who will not exercise pressures on the salary structures. Given that, at least initially, immigrant workers won’t challenge the relation between salary and the social status attached to specific occupations, contracting migrant workers avoids the economic risks – particularly structural inflation – that national workers induce when they demand salary increases.

Discrimination and employment remain intimately intertwined in today’s globalized capitalist economic order. The stratification of work forces remains a salient feature; indeed it is being accentuated. This stratification remains highly coincident with racial-ethnic hierarchization. Placement in the stratification corresponds to colour and presumed ethno-geographic origins, as if generalized characterizations and presumed characteristics predestine groups to assigned roles and capabilities; these roles having specific and differentiated access to employment, to mobility and to the benefits and services provided by society.

Discrimination plays an important role in maintaining –and justifying–stratification and segmentation in the labour market. It contributes and mutually reinforces attitudes that relegate or constrain certain identifiable groups to certain roles and strata in the work force.

There is considerable research documenting the impact of discrimination. Repeated, reinforced discrimination leads to depression, apathy, resignation, and marginalization. When people—and groups-- are consistently denied employment opportunities, and when they are also confined to ghettos, provided inferior education or training opportunities, perceive law enforcement as providing little protection, and face discrimination in other aspects of community life, the combination adds up to a powerful recipe for exclusion, the antithesis of inclusion that is the fundamental notion of integration.

Unequal starting points or disadvantages, together with discriminatory behaviour, are the key reasons why migrant and ethnic minority workers face greater obstacles than the majority population.⁶ In contrast to individual acts of discrimination, societal discrimination consists of arbitrary barriers against the advancement of minorities; the whole “system” disfavors individuals because they are members of a certain group.

Today, in a period of increasingly internationalized demand for and dependence on foreign labour, and thus increased labour mobility, there appears to be a pronounced shift regarding national versus foreign identities. This shift appears to be reinforcing discrimination and exploitation on an increasingly polarized basis between national versus foreign or so-called alien identities. Periods of

3 Escobar Latapí, A., “Emigration Dynamics in Mexico, Central America and the Caribbean”, 12th IOM Seminar on Migration, Managing International Migration in Developing Countries, Geneva, April 1997, p. 4.

4 Reynieri, E., “Migrants in Irregular Employment in the Mediterranean Countries of the European Union”, International Migration Paper No. 41, ILO, Geneva, 2001.

5 *Ibid.*

6 Additional explanations for the high under- and unemployment of migrant and ethnic minority workers can be found in macro-economic developments, including the constant reduction of unskilled industrial manual labour. See Abella et al. (1997), p. 9.

anti-immigrant sentiment have swept countries in the past, usually in periods of recession and widespread unemployment.

The rise in xenophobic phenomena is both associated with and clearly driven by the resurgence and generalization of terminology of illegal alien, illegal immigrant, illegal worker in discussing migration and minorities, and implementation of official policies and practices of total exclusion of populations so described from legal and social protection. This is despite --or maybe because of-- the increased importance of foreign labour generally to national economies around the world.

With legal and some practical advances in accommodation of national minorities and the increased generalized need for foreign labour, *foreignness* becomes the new, justifiable characterization of demarcation for relegation to the roles of flexible, cheap and marginal labour. This is increasingly the case both in countries of aging work forces and declining populations, and in growth economies where national populations no longer provide sufficient work force and where those national populations – including minority groups-- have increased expectations of inclusion and access to decent work.

A generalized accentuation of xenophobic behavior by authorities, by populations and in labour market conditions is by no means characteristic today of one main region; it is also globalized, with notably and sometimes dramatic manifestations in countries in every region.

Meanwhile, new proposals relativizing human and labour rights are emerging specifically in the arena of international migration. A “utilitarian consequentialist” approach argues for an explicit trade-off of lowered application of rights and unequal treatment for non-national workers in exchange for increased opportunities for employment in potential host countries.⁷ Rights are commodified as negotiable bundles that may be traded, sold or renounced in exchange for economic benefits in form of access to foreign labour markets. This approach is explicitly based on the premise that certain bundles of rights that can be forfeited or traded to “earn” access in temporary and otherwise limited circumstances to employment in developed country labour markets; it also suggests that trade-offs can be negotiated with organizations representing native workers to address their economic and political concerns.

Market mechanisms don't suffice

In this context, regulation of labour migration, let alone labour markets, cannot be left primarily to market mechanisms. When highly competitive market pressures are brought to bear in the absence of protections and appropriate regulation, migration becomes all too easily characterized by:

- Return of slavery-like conditions of forced labour
- Trafficking
- Increasing anti-immigrant sentiments
- Generalized fear of loss of jobs and livelihoods blamed on immigration
- Communal violence

As the International Labour Conference of 2004 accurately highlighted:

Despite the positive experiences of migrant workers, a significant number face undue hardships and abuse in the form of low wages, poor working conditions, virtual absence of social protection, denial of freedom of association and workers' rights, discrimination and xenophobia, as well as social exclusion. Gaps in working conditions, wages and treatment exist among migrant workers and between migrant and national workers. In a significant number of cases unemployment rates, job security and wages differ between regular migrant workers and national workers.

⁷ An elaboration of this approach appears in *International Organization* 58:1 (February 2004), article titled “The Ethics of Labour Immigration Policy”, by Martin Ruhs and Ha-Joon Chang.

The situation has not improved since.

The challenges of preventing exploitation and ensuring equality of treatment are essential elements of building the democratic governance of societies, necessarily built on a foundation of the rule of law.

The importance of protecting foreign workers and regulating migration has been formally acknowledged for nearly a century; it was specifically addressed in the Treaty of Versailles that ended world war one in 1919. The first international conventions on the protection of migrant workers were elaborated in the 1930s. This setting of basic norms advanced substantially just before and then after World War II, notably with the adoption of ILO Convention 97 in 1949, sixty years ago next year.

International standards and national legislation based on these provide themselves neither the structures nor the practices to put into effect the principles and norms contained in this law. Laws and codes on public health need hospitals, clinics, inspectorates, training of doctors and nurses, public education, and more to obtain health of populations, prevent diseases, treat illnesses and heal victims of accidents. Similarly so it is with migration.

Lack of coherent policy

However, it has been long evident that explicit, coherent policy and administration on migration remains lacking in many if not most countries. This lacuna includes the lack of a legislative foundation, absence of a coherent policy, a dearth of competent administrative institutions, few practical measures, and often no coordination among the different branches of government and other stakeholders concerned.

Indeed, it often appears in international dialogue that many countries have two or three distinct and sometimes contradictory sets of policies and practices, depending on whether representatives come from interior, labour or foreign affairs ministries.

Migration today is essentially a labour issue. As noted earlier, nearly 90% of all migrants are economically active or the dependents of those economically active in the world of work. This includes those who have moved for a variety of motivations: most refugees once resettled and persons joining relatives in family reunification also go to work sooner or later.

All this is to say that a comprehensive set of laws, policies, institutional structures, programmes and practical measures are required to effectively regulate –govern—migration. And these need to cover a broad range of related concerns, both in terms of migratory movements, admission, labour market insertion and so on, as well as covering domains as diverse as public health, education, housing, law enforcement, labour inspection and so on.

With few options available for legal migration in the face of strong pull-push pressures, irregular migration channels have become the only alternative, one which presents lucrative “business” opportunities for helping people arrange travel, obtain documents, cross borders and find jobs in destination countries. The flow of low-skilled migrants to more developed regions is channelled by clandestine means precisely because of the non-existence of legal migration categories that would allow for their legal entry in destination countries. Once they are in host countries, they remain confined to jobs in unstructured or informal sectors, in irregular work and under exploitative

conditions of employment.⁸ In contrast, ILO research underlines that legal labour migration channels contribute to both reducing trafficking in children and women and the smuggling of migrants.

Tolerance of restrictions on freedom of movement, long working hours, poor or non-existent health and safety protections, non-payment of wages, substandard housing, etc. all contribute to expanding a market for trafficked migrants who have no choice but to labour in conditions simply intolerable and unacceptable for legal employment. The absence of worksite monitoring, particularly in sectors such as agriculture, construction, domestic service, sex-work and others where migrants are concentrated further expands the space and opportunities in which forced or compulsory labour can thrive.

At the level of domestic politics and national government administration, promoting an agenda of migration control has become a viable vehicle to capture political attention and budgetary resources. Pursued to the detriment of other considerations, that focus has subordinated fundamental humanitarian and human rights considerations as well as economic and developmental factors to secondary roles.

Development

Development gains from migration for the countries involved and the protection of migrant workers' rights are inseparable. It is increasingly being recognized that such development gains are significant not only to origin countries, but also to destination countries where migrant workers provide their labour. Migrant workers contribute to development in origin countries by, among other things, alleviating pressures on labour markets, by sending remittances home, by acquiring increased skills, and through investments, all of which help to alleviate poverty. In destination countries, they contribute to development by meeting the demand for workers, by increasing the demand for goods and services, particularly where they receive decent wages, and by contributing their entrepreneurial skills. In some of the most critical service areas for development and growth in origin and destination countries, women migrant workers predominate, for example, in nursing, domestic work, and care-giving.

Migrant workers can best contribute to the economies of both destination and origin countries when they have decent working conditions and when their fundamental human and labour rights are protected by the countries from which they come and those in which they work. This additionally benefits destination countries by preventing the development of an unprotected working underclass of migrants which harms national workers by undercutting their pay and working conditions. It is in the best interests of destination countries to prevent the emergence of migrant dependent economic sectors. Measures should be taken to warn against and prevent irregular migration, which is an obstacle to the development benefits of migration, as those migrant workers in irregular status are most often excluded from labour and social rights. Of course, for the migrant worker himself or herself, protection of human and labour rights furthers their earning capacity and personal development and that of their families in many ways. These benefits return in indirect ways to benefit the larger society.

A Rights-Based Approach

The central notion of human rights is "the implicit assertion that certain principles are true and valid for all peoples, in all societies, under all conditions of economic, political, ethnic and cultural life." Human rights are *universal* - they apply everywhere; *indivisible* - in the sense that political and civil rights cannot be separated from social and cultural rights; and, *inalienable* - they cannot be denied to

8 Abella, M.I., "Mondialisation, marchés du travail et mobilité", in *Migrations et avenir*, CIEMI, Paris, Vol. 14, No. 79, January-February 2002.

any human being. This is the basis of the concept of «human rights for all» articulated in the Universal Declaration of Human Rights (UDHR), which codified in a single instrument, norms common to major religious and historical traditions worldwide.

A corollary notion is that universal principles of human rights implemented in the rule of law provide the foundation for governance—governance of nations, of community relations, and of international migration. This notion reflects historical experience that social cohesion and social peace can only be sustained under conditions of democratic rule, which in turn requires the accountability, the credibility and the enforceability provided under rule of law.

Elaboration in normative instruments of “universal” human rights represents the evolution and legal codification of moral values generally common to world’s major religious systems, themselves developed over thousands of years.

These values are increasingly reflected and codified in development of law as nation States emerged and were consolidated as primary political-territorial entities over last two centuries. Declarations of US independence and elaborations of constitutions in both Europe and “New World” made explicit values base foundation of emerging modern States

Reflection of values-based norms in international treaties emerged with development of Red Cross and its codes of humanitarian principles applicable to armed conflict in the mid-19th Century, codes intended to influence behaviour and legal mechanisms of individual States.

International instruments explicitly establishing principles and defining norms for protection of human and labour rights emerged at the beginning of the 20th century. Among the most notable were principles incorporated in the Treaty of Versailles concluding World War I and establishing the International Labour Organization.

A series of complementary leaps forward occurred during and in the aftermath of World War II with the adoption of the Declaration of Philadelphia in the context of the International Labour Organization in 1944, the foundation of the United Nations System in 1945 and the immediately subsequent elaboration of the Universal Declaration of Human Rights, adopted by the UN General Assembly in 1948.

The Declaration of Philadelphia was elaborated around the fundamental notion that “[A]ll human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity”⁹

While not a binding legal instrument in itself, the UDHR has subsequently been adopted or formally endorsed by nearly all the World’s nation-States. It has acquired the legal status of customary international law—generally universally applicable as legal norm.

Two major International Covenants elaborated the principles of the Universal Declaration into binding normative standards on political and civil rights, and economic, social and cultural rights in the 1960s¹⁰. These Covenants, together with the UDHR, are often referred to as the "International Bill of

9 Declaration of Philadelphia concerning the Aims and Purposes of the International Labour Organization (ILO). The Declaration was adopted by the International Labour Conference in 1944 and incorporated as an annex into the revised ILO Constitution of 1946 (when the ILO also became the first specialized agency of the UN). For the Constitution and Declaration, see <http://www.ilo.org/public/english/about/iloconst.htm#pre>

10 International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights.

Human Rights", and generally considered applicable to all human beings. The extension of application of these universal human rights to vulnerable groups has been a long and difficult process.

While the two Covenants were widely ratified, in practice it became evident that the norms of these instruments were not applied to a number of important groups. Despite the premise of the universality of the *International Bill of Rights*, practice demonstrated that applicability of these rights to groups commonly marginalized in national political and juridical concepts needed to be articulated explicitly, to ensure that these groups at risk of denial of and violations of their rights actually were protected in national law and practice.

As a result, specific conventions explicitly extending the *universal* rights to victims of racial discrimination, women, children, and migrants were elaborated over the three decades from 1960 to 1990: the Convention for the Elimination of Racism and Racial Discrimination (CERD), the Convention Against Torture (CAT), the Convention for the Elimination of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child (CRC), and the 1990 Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. (CRMW)¹¹

These seven instruments --the two Covenants plus the five Conventions cited above-- have been characterized as the seven fundamental human rights instruments that define basic, universal human rights and ensure their explicit extension to vulnerable groups world-wide.¹²

In the field of those rights applying specifically to workers and work-places, the ILO Declaration of Fundamental Principles and Rights at Work of 1998 was another step in the direction of insisting that there are certain --values-based-- principles and specific norms that apply to all States, whether or not they have ratified the specific Conventions. The Declaration establishes respect --and reporting on compliance-- regarding these principles and specific normative instruments as a function of membership in the organization --which counts 178 Member States, nearly the entire UN Membership.

A rights-based approach to migration is placement of universal human rights norms defined by the relevant international instruments as central premises of national migration legislation, policy and practice founded on the rule of law. Application of these norms is conditioned by historical, economic, social and cultural factors.

Migrant Specific Instruments

Three fundamental notions characterize the protections in existing international law for migrant workers and members of their families.

- Equality of treatment between regular migrant/immigrant workers and nationals in the realm of employment and work.
- Core universal human rights apply to all migrants, regardless of status. This was established implicitly and unrestrictedly in ILO Convention 143 on Migration for Employment (supplemental provisions) of 1975 and later delineated explicitly in the 1990 International Convention on the Protection of Rights of All Migrant Workers and Members of Their Families.
- The broad array of international standards providing protection in treatment and conditions at work --safety, health, maximum hours, minimum remuneration, non-discrimination, freedom

11 Texts and status of ratifications of these conventions are available on the website of the Office of the UN High Commissioner for Human Rights, at: www.unhchr.ch

12 Noted in the Report of the (UN) Secretary General on the Status of the UN Convention on migrants rights for the 55th Session of the UN General Assembly. Doc. A/55/205. July 2000

of association, maternity, etc.—apply to all workers. This notion was upheld in an Opinion issued by the Inter-American Court in 2003.¹³

The foundation is laid out in the relevant international standards, particularly the three international standards on migrant workers that were discussed earlier: the ILO Convention 97 on Migration for Employment (of 1949), ILO Convention 143 on migrant workers (Supplementary Provisions) (of 1975), and the 1990 International Convention on the Protection of All Migrant Workers and Members of Their Families. These three instruments comprise an *international charter on migration*, providing together a broad and comprehensive framework covering most issues of treatment of migrants and of inter-State cooperation on regulating migration.

81 countries have ratified at least one of these three complementary conventions. As of December 2008, the 1990 International Convention is ratified by 40 countries, ILO Convention No. 97 is ratified by 48 countries and ILO is ratified by 23 countries. In addition, 14 countries have signed the 1990 Convention, a preliminary step to ratification which requires general compliance. A number of States have ratified both of the ILO Conventions; several have ratified one or both ILO Conventions plus the 1990 International Convention. And a considerable number of other countries have legislation on migration inspired or at least consistent with the normative principles in these instruments.

Furthermore, there is an already large and growing body of practices putting into practical effect the basic normative principles on migration contained in these and other legal norms.

However, until recently, there was simply no collection or compilation bringing together the normative principles, policy guidelines and practical measures, despite increasingly strident calls for “comprehensive, coherent and sustainable” approaches to regulating or managing migration.

In the last five years, two global efforts made important contributions to compiling general international guidelines on regulating migration. These were the Berne Initiative process initiated by the Swiss government and managed by the International Organization for Migration (IOM), which produced the International Agenda for Migration Management, and the report and recommendations of the UN-established Global Commission on International Migration. However, neither of these products succeeded in explicitly linking the foundational principles on migration in international norms with broad guidelines on policy and with the derivative specific practical measures needed to give effect to the normative principles.

Rather, these processes highlighted further the need for a comprehensive effort to do just that: put the principles, policy and practices together in one comprehensive guide.

The ILO Multilateral Framework

In taking a comprehensive approach to analyzing the challenges of contemporary labour migration and setting out a comprehensive Plan of Action on migrant workers for ILOs’ tripartite constituents, the International Labour Conference in 2004 agreed that a comprehensive policy framework needed urgently to be established.¹⁴

13 Corte Interamericana de Derechos Humanos: *Condición Jurídica y Derechos de los Migrantes Indocumentados*. Opinión Consultativa OC-18/03 de 17 de Septiembre de 2003, solicitada por los Estados Unidos de México. In its conclusions, “The Court decides unanimously, that...the migrant quality of a person cannot constitute justification to deprive him of the enjoyment and exercise of his human rights, among them those of labor character. A migrant, by taking up a work relation, acquires rights by being a worker, that must be recognized and guaranteed, independent of his regular or irregular situation in the State of employment. These rights are a consequence of the labor relationship.”

14 ILO: *Resolution and Conclusions on Migrant Workers*. International Labour Conference. 92nd Session. Geneva, 2004. Available on line at: www.ilo.org/migrant/download/ilcmig_res-eng.pdf

A very extensive two-year research and development effort went into collecting policy and practice examples from around the world, elaborating the *Multi-lateral Framework for Labour Migration*¹⁵. A very thorough review of the draft framework was conducted by a tripartite expert group meeting over three days in November 2006, with representation including government, employer and trade union experts from over 30 countries in all regions.

The objective of the non-binding Framework is to provide practical guidance to governments and to employers' and workers' organizations with regard to the development, strengthening, implementation and evaluation of national and international labour migration policies. It was expected that such a framework would be “of particular interest to countries emerging either as origin, destination or transit countries”, and also guide other parties interested in labour migration issues.

The ILO multilateral framework:

- is the only comprehensive collection of principles and guidelines on migration policy and management which is firmly grounded in international instruments and best practices (and thus is rights based).
- takes a positive perspective on labour migration - not limited to protection issues alone. It emphasizes the contribution of migrant workers to economic growth and development to both source and host countries and benefits to migrant workers themselves if properly managed.
- recognizes the role of social dialogue and value of social partner participation in migration policy.

It offers virtually everything any government needs to know –and do— along with social partners to effectively and sustainably address migration –for the mutual benefit of host and home countries and their populations, and for migrants themselves.

It gives policy makers, stakeholders and analysts the knowledge, guidance, and guidelines you need to construct or improve national policy and practice on migration. Some countries have developed explicit national policy statements or plans on migration –a useful exercise to ensure the consultation and coherency needed. This framework provides the model or guide to do so, recognizing of course that some measures in this document apply more to host or to origin countries, and some may be more relevant to industrialized as distinct from developing countries.

Four broad themes underlie the framework: decent work for all; management and governance of migration; promotion and protection of migrant rights; and, migration and development. The Framework itself is composed of 15 broad principles, derived or summarized from existing international conventions and labour standards, and the corresponding policy guidelines to give effect to these principles.

Concluding Comment

Maintaining social cohesion in the context of inevitably greater diversity and migration requires advancing a policy framework that assures respect for migrants' rights, dignity and equality of treatment in the law and practice of States and societies.

This requires adhering to basic international human rights standards, addressing labour market needs and composition, ensuring *decent work* opportunities for all, enacting legislation and measures to combat discrimination and promote integration, and elaborating accompanying practical measures.

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15 Multi-lateral Framework for Labour Migration. ILO. Geneva. 2006. Available on line at: www.ilo.org/migrant/download/tmmflm-en.pdf

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