

JOINT APPROACHES TO ADDRESS IRREGULAR MIGRATION OF VULNERABLE GROUPS

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Abstract

Irregular migration is essentially a result of the mismatch between the labour demand in destination countries and the ability or will of governments to establish legal migration channels. Migration has become highly politicised in many countries, and politicians often claim to keep out low-skilled migrants so that they appear to be defending national sovereignty, while turning a blind eye to dangerous and exploitative forms of irregular migration that meet employer demands. This contradictory approach is most obvious in the USA, where there are over 11 million irregular residents, but irregular migration can be found all over the world. This article explores the reasons for irregular migration, the forms it takes and its extent in different regions. No migration wants to have an irregular status, because it leads to denial of worker and human rights. It is up to governments to work together with migrant associations and the other civil society organizations to ensure that migration can take place under conditions of legality, safety and dignity, and that the rights of migrants and their communities can be fully recognized.

Keywords: Irregular Migration, destination countries, exploitation worker rights, migrant associations

INTRODUCTION

The vast majority of the world's 214 million international migrants have regular, legal immigration status. Indeed, as further noted below, estimates suggest that only between 10 and 15% of migrant populations are in "irregular" status at any given time (OECD in GCIM, 2005.)

Irregular migration takes place when a person enters or lives in a country of which he or she is not a citizen, in violation of its immigration laws and regulations. An irregular migrant is thus a person entering or residing in a country of which he or she is not a citizen, in violation of its immigration laws and regulations. Many irregular migrants are workers, but not all enter the labour market: people migrating to join family members or for lifestyle reasons may become irregular. Rejected asylum seekers may also fall into irregularity.

Many social scientific analyses and policy documents seek to provide comprehensive definitions (see for instance Abella, 2005; Clandestino, 2009; IOM, 2008). However, irregular migration is a multi-faceted phenomenon, which is hard to define (Düvell, 2006).

A large proportion of irregular migrants, i.e., more than half in some countries, actually enter the country legally, but become irregular by staying longer than permitted or by working without permission. Some migrants pass in and out of irregular status (Reyneri, 2001). Others are 'semi-compliant': they seek to conform to national laws and rules, but are unable to do so fully for various reasons (Ruhs and Anderson, 2006). As the IOM points out: 'The category of semi-compliance – the "space between" strict legality and (il)legality – is extremely broad...' (IOM, 2008, 203). Many irregular migrants strive to become regular (or 'legal'); some governments facilitate this through 'regularization', 'legalization', amnesty' or 'registration' programs (Castles and Miller, 2009, 181-6). In other cases, migrants try to assert regular status by buying or even renting false documents (Vasta, 2010 (forthcoming)).

Thus, rather than a strict dichotomy of regular and irregular status, it would be more accurate to see migrants as being somewhere on a continuum from regularity to irregularity.

Other terms are often used in political and media discourses as synonyms for irregular migration, such as ‘illegal’, ‘undocumented’, ‘unauthorized’ or ‘clandestine’ migration (see Clandestino, 2009). It should not be forgotten however that public perceptions of irregular migration have become highly politicized, so that terms may be value-laden and often negative. In this paper, the term irregular migration will be used as the most neutral descriptor. ‘Undocumented migration’ is also a relatively neutral term. In principle it is wrong to speak of ‘irregular migrants’ – no person is ‘irregular’ since all have human rights and dignity that must be respected. Moreover, the great majority of migrants would prefer to conform to the law. To speak of an ‘illegal migrant’ or ‘unlawful non-citizen’ (the official Australian terminology) is even worse. No person is illegal or unlawful. Nonetheless, following international practice, the term irregular migrant will be used in this paper.

Irregular migration occurs in most regions of the world. Reliable statistics do not exist, due to the very nature of such movements. Moreover, estimates are often manipulated for political reasons, e.g., blaming irregular migrants for social problems has become a widespread practice of populist politicians. One ILO expert writes that irregular migration ‘probably accounts for 15 per cent of all migration movements today’ (Abella, 2005, 93) – which is as good a guess as any. Numbers of irregular migrants can vary for economic reasons (e.g. the current Global Economic Crisis has affected migration patterns), but also due to changes in laws.

Previous GFMD meetings have addressed the issue of irregular migration. The most specific proposals are to be found in the recommendations of the Manila Forum’s Roundtable 2.2 Managing Migration and Minimizing the Negative Impacts of Irregular Migration.

However, irregular migration has been a constant theme in debates on many aspects of migration at all previous meetings. Many recommendations in the areas of protection of the rights of migrants and linking migration to development of origin countries are particularly relevant for irregular migrants.

Clearly, irregular migration is a complex phenomenon, which cannot be adequately explored here. This paper merely seeks to provide a brief

overview of the causes, the types, the available data for various world regions, and, finally, some policy approaches to the issue.

What causes irregular migration?

The causes of irregular migration may be summarised in five categories:

- National laws and regulations
- Contradictions arising from neo-liberal globalization
- The individual and collective agency of migrants
- The activities of the ‘migration industry’
- Vulnerability of specific groups

NATIONAL LAWS AND REGULATIONS

If we lived in a world of freedom of human movements – a demand both of liberal economists (Bhagwati, 2003; Nayar, 1994; Straubhaar, 2002) and human rights advocates (Harris, 2002; Hayter, 2001; Pécoud and de Guchteneire, 2007) – there could by definition be no irregular migration. Open borders would be the simplest way of eliminating irregular migration – but political considerations hinder governments from adopting this remedy.

Irregularity can therefore be seen as a consequence of laws and regulations, which label certain forms of mobility as legal and desirable, and others as illegal and unwanted. A state’s right to control entry to its territory is often seen as an enduring aspect of national sovereignty. The concerns of states to decide who could be a citizen and who would be allowed to enter a state’s territory may be linked to processes of nation-building. These took place in western nations in the 19th and early 20th centuries, but rather later in post-colonial countries in Latin America, Asia and Africa.

However, concern with ‘illegal migration’ is a quite recent phenomenon, connected with the tightening up of border controls and passport regulations in the 20th century. An historical survey by Düvell (2006, 21-9) reveals very little use of the concept of illegal migration before World War II. It emerged most strongly after the abandonment

of migrant labour recruitment schemes by European nations in the mid-1970s. The politicization of migration and asylum became dramatic after 2001: the media and right-wing in particular have portrayed ‘uncontrolled migration’ as a threat to security, and public opinion in many immigration countries became increasingly hostile. As a result of the ‘securitization’ of migration (Bigo and Guild, 2005; Guild, 2009), the public generally has highly-inflated ideas of the volume of irregular migration, while centrist and left-wing politicians often fear that they will be seen as ‘soft’ on migration if they do not take strong control measures.

Modern states do not treat all migrants the same, but instead select and differentiate according to perceived national interests. Selectivity means privileging certain people as suitable for entry and residence and rejecting others, sometimes on the basis of nationality, ethnicity or race. For instance, until the 1960s, the USA, Australia, Canada broadly excluded non-Europeans. Today, regional organizations – such as ECOWAS in Africa and MERCOSUR in Latin America – have preferential rules for admission of nationals of other member states. The EU goes furthest with its legislation on freedom of movement of EU citizens to other member states, combined with strict regulation of entry of ‘third country’ citizens. Differentiation refers to discriminating between potential entrants on the basis of economic criteria such as education and skills (often referred to as ‘human capital’), type of migration or gender. Virtually all industrialized countries have introduced preferential entry and residence rules to attract students and highly-skilled migrants for the information technology (IT), engineering, scientific and medical sectors. At the same time, industrialized states widely claim that they have little or no need for lower-skilled workers from other countries. Yet employer demand for such workers remains strong (CEC, 2005) and substantial numbers of workers continue to arrive to meet that labour demand, even without legal immigration status.

A central issue at the national level is thus the contradiction between state and market: policy-makers seek to admit only those migrants that they and/or the public think are economically productive and socially acceptable, while employers demand workers of all types and skill levels. Often migration rules signal migrants to stay out, while the market

signals that they are welcome. Governments sometimes use ‘crack-downs’ on irregular migrants as a way of appeasing public opinion, while tacitly permitting irregular labour migration to meet employer demand – the USA, Malaysia, Japan, the UK and many other states have done this in various ways. Some employers actually prefer irregular migrants, because they lack rights, cannot complain to authorities or trade unions and are therefore easily exploitable.

Similarly, many states have restricted entry for asylum seekers, despite being signatories to the UN Nations 1951 Refugee Convention and its 1967 Protocol. This creates another paradox: asylum seekers have a right to apply for asylum, but cannot enter legally to do, and therefore have to enter in an irregular way, sometimes using people smugglers. The problem is particularly acute in the case of ‘mixed flows’, such as irregular movements of Africans across the Mediterranean to EU-countries. In such flows, refugees and economic migrants are intermingled. Indeed some migrants actually have mixed motivations: they are both seeking refuge from persecution or violence and economic betterment. This has made it necessary for the United Nations High Commissioner for Refugees (UNHCR) to issue special guidelines for differentiating between economic and forced migrants, while respecting the human rights of both (Feller, 2006; UNHCR, 2006).

Differentiation on the basis of gender is also common: some states have treated women migrants as essentially dependents of men, wont to be admitted in their own right. Britain in the 1970s subjected Asian women entering for marriage purposes to virginity tests (Lutz et al., 1995). While there are a host of gender issues in even so-called “gender-neutral” migration policies (see the background paper for RT 2.4, by Helen Schwenken), open gender discrimination regarding entry and residence is less frequent today. Singapore however, still makes migrant women workers takes pregnancy tests and deports those found to be with child, while other Asian countries admit migrant woman specifically for marriage to local men (Bélanger et al., 2010). In other cases, women are preferred for domestic service (Lutz, 2008), lower-level health service jobs and other forms of poorly-paid and exploitative work. Irregular migration is very common in occupations seen as ‘typically female’, such as domestic service, care work and entertainment.

CONTRADICTIONS ARISING FROM NEO-LIBERAL GLOBALIZATION

Globalization creates the conditions for increased human migration in two ways. First, it provides the technological and cultural basis for mobility. Electronic communications diffuse knowledge of migration routes and work opportunities. Long-distance travel has become cheaper and more accessible. Once migratory flows are established they generate 'migrant networks': previous migrants help members of their families or communities with information on work, accommodation and official rules. 'Transnational communities' emerge: people have a sense of belonging to two or more nation-states and have economic, social, political and cultural relationships that go across borders (Portes, 1999). Migrant networks and transnational communities can cut across affiliations to traditional nation-states.

This may encourage irregular migration: while governments remain focused on national control models, migrants may follow the logic of globalized labour markets and transnational relationships.

Second, the neo-liberal mode of globalization since the late 1970s has led to vast increases in inequality both between the Global North and South, and within countries and regions.

Global inequality by the mid-2000s was 'probably the highest ever recorded' (Milanovic, 2007, 39). The income differential marked by North-South borders, for instance between the USA and Mexico, or the EU and North Africa, is particularly large. Another form of inequality is the gulf in human security between North and South, which finds its expression in poverty, hunger, violence and lack of human rights in the South. Growing numbers of people have to flee their homes in search of protection and better livelihoods. This is the reality in the observation of the Global Commission on International Migration (GCIM) that international migration is driven by 'development, demography and democracy' (GCIM, 2005, 12). That is why so many people are willing to take the enormous risks of irregular border crossings, or to accept the high level of exploitation frequently encountered in irregular employment.

Irregular migrants help provide the labour market flexibility central to neo-liberal globalization: they can be easily hired and fired, without

complex processes or high costs to the employer. Manufacturing production processes can often be divided, so that high-productivity and high-skilled activities are carried out in advanced economies, while low-productivity, low-waged segments are outsourced to the South (Delgado Wise, 2007).

However, where economic activities must be carried out close to their consumers – especially construction and service tasks – labour market deregulation has opened the way for trends towards informalization. In Africa, Latin America, the USA and parts of Europe and Asia, the informal (or ‘shadow’) economy is a major sector, where migrant workers often suffer exploitative work relationships (Jones, 2000; Martin, 2004; Mingione and Qassoli, 2000; Reyneri, 2001; Sadiq, 2005). Even in countries with strict immigration control – such as the UK, Germany and Japan – the growth of sub-contracting, casual employment and temporary employment reflects an expansion of the informal sector (Martin et al., 2006; Ruhs and Anderson, 2006). Neo-liberalism’s ‘new economy’ is thus often the result of processes of differentiation and informalization on the basis of race, ethnicity, gender, national origins and legal status (Schierup et al., 2006, Chapter 9).

THE INDIVIDUAL AND COLLECTIVE AGENCY OF MIGRANTS

Official policies on irregular migration are generally based on the idea of migrants as economic beings, with motivations determined by narrow economic motivations. They ignore the social relationships of migrants as members of families and communities, as well as the way personal characteristics and goals change over the human life-cycle. Anthropologists and sociologists use the concept of migrant agency to analyse the ways in which migrants actively shape migratory processes to achieve better outcomes for themselves, their families and their communities.

Migration decisions are often made not by individuals but by families. In situations of rapid change, a family may decide to send one or more members to work elsewhere, in order to maximise income and survival chances. Remittances sent home by migrants—both regular and irregular—can help lift families out of poverty and may contribute

to investments and economic development. Family linkages often provide both the financial and the cultural capital (that is the knowledge of opportunities and means of mobility), which make migration possible. Motivations change over the migrants' life-cycle: in economic migration, the migrant is usually a young man or women in search of temporary work, who often intends to return home once certain savings targets have been reached. Difficulty in achieving such targets may lead to prolonged stay. This in turn encourages family reunion or formation in the new country. People start to see their life prospective in the new country. Once migrants' children go to school in the new country, learn the language, join peer groups and develop bicultural or transcultural identities, it becomes very difficult for the parents to leave.

Migration laws and rules generally ignore the social nature of the migratory process, and fragment communities into individuals assigned to specific bureaucratic categories, each with specific rules regarding entry, residence, employment, family unity and other rights. These categories may not correspond to social realities. In such cases, irregular migration and residence are likely to arise. People lucky enough to enjoy a middle-class position in developed countries tend to have a positive view of the state and the law. The large proportion of the world's population, who live in inefficient, corrupt and sometimes violent states, may see things differently. They have to cope despite the state, not because of it. From this perspective, migration rules become just another barrier to be overcome in order to survive. Potential migrants do not decide to stay put just because the receiving state says they are not welcome – especially if the labour market tells a different story.

THE ACTIVITIES OF THE 'MIGRATION INDUSTRY'

As so often in contemporary life, if the rules imposed by governments and bureaucracies become too complex, it may be necessary to seek professional help. The migration industry includes migration agents, travel bureaus, bankers, lawyers, labour recruiters, interpreters and housing brokers. It may also include members of a migrant community such as shopkeepers, priests and teachers, who help their compatriots

on a voluntary or part-time basis. Facilitating migration is a major and mainly legal international business (Salt and Clarke, 2000, 327). For example, most recruitment of migrant workers for Gulf oil states and emerging East and Southeast Asian economies are organized by migration agents and labour brokers: According to an ILO study:

The high degree of commercialization of migration processes in Asia not found in other regions explains the rapid expansion and relative efficiency of the system. But there have been serious problems with fraud and abuse, making migration a costly and risky undertaking' (ILO, 2006, 43).

While some agents carry out legitimate activities, others deceive and exploit workers. There is sometimes no clear division between organizations providing legitimate recruitment and travel services, and those indulging in people smuggling or trafficking. The migration industry may become one of the driving forces behind irregular migration. If a government decides to stop labour migration or to ban family reunion, such policy changes may fail to achieve their objectives, or lead to unforeseen consequences. The migration industry consists of people who make their living by facilitating migration. They are likely to go on doing so, even if government policies change. The form of migration may change – for instance from legal worker recruitment to asylum migration or undocumented entry – but the volume may be undiminished.

VULNERABILITY OF SPECIFIC GROUPS

The probability of becoming an irregular migrant varies according to criteria of origins, social situation, human capital, gender and age. Citizens of highly-developed countries holding universally-recognized passports and possessing high human capital (that is educational and professional qualifications) are highly unlikely to become irregular, since most destination states welcome them and provide legal entry and secure residence status. People from poorer countries, but belonging to the middle classes and possessing high human capital, are also often able to migrate in a regular manner.

But people affected by multiple forms of vulnerability are far more likely to find legal migration routes barred, and to become irregular migrants. Lower-skilled migrants from less-developed countries often find that they need visas to move across international borders, and that these visas are not available. Where labour demand is not matched by legal migration opportunities, irregularity ensues. People fleeing violence or persecution, particularly in poorer countries are often not permitted to enter a state's territory, even if that state has signed the UN Refugee Convention. Irregularity and use of people-smugglers may be the only way to make a protection claim. Women and children from poor and conflict-affected countries are particularly vulnerable to trafficking and exploitation, since they lack formal entitlements, resources and social power.

TYPES OF IRREGULAR MIGRATION

The popular image of the irregular migrant seems to be of groups of people crossing the sea in small boats and landing on deserted beaches, or walking through deserts and climbing fences. Such illegal entry does take place, but affects only a minority of irregular migrants and residents; most irregular migrants arrive legally (often by air), but then take up residence or employment without the necessary permits. The public is fixated on 'boat people', who seem to evoke archaic fears of invasion, while remaining oblivious to the considerably higher number among the legal entrants arriving by air that later drift into irregularity by exceeding limitations in their visas or other authorisations. In Australia for example, there was media outrage about 4-5000 asylum seekers arriving by boat in the first half of 2010, while almost no attention was paid to the much larger number of irregular residents – an estimated 48,900 in mid-2009 (DIAC, 2009).

The European Union's Clandestino project (Clandestino, 2009) differentiates between irregular foreign residents and irregular foreign workers. The former live in EU countries without official permission, while the latter work without official permission. There is an overlap between the two categories, as Clandestino's list of the main types of irregularity shows:

Irregular foreign residents who are not irregular workers

- Seemingly regular foreign registered foreign nationals with falsified papers
- Non-working children without residence status
- Non-working aged family members without residence status.

Irregular foreign residents who are also irregular foreign workers

- Foreign nationals without residence status in regular tax-paying jobs
- ‘Tourists’ from non-EU countries in irregular unregistered jobs
- Foreign nationals without residence status in irregular unregistered jobs

Irregular foreign workers who are not irregular residents

- Foreign nationals with residence status and without work permission, in irregular unregistered jobs
- Foreign nationals with residence status and work permission, in irregular unregistered jobs

If the reference to ‘EU-countries’ is removed, these categories may be applied throughout the world. However, the Clandestino Project does not cover people smuggling or trafficking. It is therefore necessary to add the following categories (based on ILO, 2006; IOM, 2010):

- Smuggled migrants use people-smuggling organizations to obtain illegal entry to a state. People smugglers may provide transportation or guidance to cross a single border (e.g. from Morocco to Spain or Mexico to the USA), or organize long-distance migration across many borders (e.g. from Pakistan to the UK, via Iran, Turkey, Greece, Italy and France). People smugglers may be motivated by the desire to help migrants, as well as by profit. Once smuggled migrants arrive in a destination

country, their situation may or may not be different to that of other irregular residents.

- Trafficked migrants are transported across and within international borders, often against their will, for the purpose of exploitation and forced labour. Trafficking involves the use of violence, coercion or deception, and means treating people as commodities to be traded and controlled beyond the migration itself. Trafficking may involve forcing both men and women into forms of slavery, and notoriously includes providing women and children for the sex industry. Trafficking often involves organized criminal gangs. Trafficked migrants may be detained against their will in the destination country, forced into debt bondage or prostitution (or both), and subjected to sexual assault and other forms of violence. Legal definitions of people-smuggling and trafficking are provided in the Vienna Protocols to the United Nations Convention against Transnational Organized Crime, adopted by the UN General Assembly in 2000 (UN Office on Drugs and Crime, 2004). The IOM stresses the importance of distinguishing between people-smuggling and trafficking (IOM, 2010). In principle, smuggled migrants are buying a service from the smugglers, and their relationship should end once they have arrived in the destination country. Trafficked persons, by contrast, face long-term bondage and exploitation. However both smuggled and trafficked persons face the risks of imprisonment, deportation, violence and even death while trying to cross borders illegally. Moreover, smuggling can lead to trafficking if the migrants are held in debt bondage to pay off their smuggling fees.

Not infrequently, both people-smuggling and trafficking networks include former migrants and corrupt officials of both sending and receiving countries, as well as middlemen along the route. The leaders of smuggling and trafficking organizations are rarely apprehended. Indeed they are often not present in the countries where crimes are committed, while more subaltern members of the gangs may end in gaol.

DATA ON IRREGULAR MIGRATION

Statistics about irregular migration are inherently unreliable (IOM, 2008,2007-8). Since irregular migrants lack valid residence or work permits, and are usually not registered by the authorities, figures are at best estimates based on coherent methodologies, and are at worst mere guesses. This absence of hard data opens the door for the wildly inflated accounts disseminated by sections of the media. In any case, the distinction between regular and irregular migration is far from clear in many regions of the world, where spontaneous migration is the norm. The best way to gain a rough statistical picture is to look at regional and national data.

North America

US estimates are probably the most accurate available. They use a 'residual method', based on official censuses and population surveys (see Passel and Cohn, 2009, 38-42). A study by the Pew Hispanic Center (Passel and Cohn 2010) put the 2009 unauthorized population at 11.1 million (almost 4 per cent of the total US population.) The 7 million Mexicans made up 59 per cent of irregular immigrants. Significant regional sources of unauthorized immigrants included Asia (11 per cent), Central America (11 per cent), South America (7 per cent), the Caribbean (4 per cent) and the Middle East (less than 2 per cent) (Passel and Cohen 2009).

The largest concentrations of irregular residents were in California, Texas, Florida, and New York. Most lived with spouses and children, often with US-born children who held US citizenship. An estimated 7.8 million irregular migrant workers made up 5.1 per cent of the total US workforce. Irregular migrants were 10 per cent or more of the workforce in California, Arizona and Nevada. They were over-represented in low-skilled jobs. In 2008, some 25 per cent of farm workers and 17 per cent of construction workers in the USA were undocumented (Passel and Cohn, 2009, ii-iii). The Pew Report found that both the irregular population and workforce had grown rapidly from 1990 to 2006, but had stabilized since (Passel and Cohn, 2009, 1) - presumably as a result of the economic crisis, which hit the construction industry

particularly strongly (Ruiz and Vargas-Silva, 2009). Irregular migration is particularly sensitive to economic conditions, since irregular workers are not entitled to unemployment pay or other social benefits (McCabe and Meissner, 2010). The number of irregular migrants in Canada was estimated at about 200,000 in 2006, mainly employed in construction and other blue-collar jobs (IOM, 2008, 213).

Central America and the Caribbean

Data on irregular migration for this region is far less comprehensive and reliable than for North America. Many people seek to migrate to the USA, often using Mexico as a transit country. This route is difficult and risky: many migrants are apprehended and sent back, while others fall victim to crime. Increasing numbers remain in Mexico and seek work there.

About half the 500,000 migrant workers in Costa Rica have irregular status, many coming from neighbouring countries like Nicaragua. As elsewhere they are concentrated in agriculture and other low-skilled jobs, such as construction, tourism and domestic work. In the past, many Haitians have sought to travel to the USA, often using small boats to reach Florida. Enhanced US border protection measures have led to a decline in such movements.

Traditionally, large numbers of Haitians have gone to the Dominican Republic to work in the sugar plantations. Today some between 500,000 and 700,000 Haitians are thought to live in the Dominican Republic, mostly with irregular status. Another destination is the Bahamas, where 40,000 – 50,000 Haitians are believed to live (IOM, 2008).

South America

Historically, South America was a region of immigration from Europe. With uneven economic growth from 1945, intra-continental movements became important. Then, following the economic slow-down of the 1980s, out-migration from the continent to North America and Europe became more important. There was little migration regulation until recently, and most flows were spontaneous. For example, labour flows from Bolivia,

Paraguay and Chile to Argentina emerged from the 1940s to the 1960s. Foreign workers spread from agricultural areas to major urban centres. Single, mainly male, migrants were soon joined by families, creating neighbourhoods of irregular immigrants in some cities.

Their entry and employment was tolerated as long as they were seen as contributing to economic growth and prosperity. Today Argentina remains a country of both immigration and emigration. Most irregular migrants work in domestic service, construction and in textile factories. Venezuela has also experienced a great deal of irregular immigration. By 1995, it was estimated there were 2 million irregular residents, most of them Colombian. In addition to the oil industry, agriculture, construction and other industries attracted migrants. However, as a result of political and economic instability following the attempted coup against President Chavez in 2002, emigration from Venezuela became significant, with increased flows to the USA and Spain (Castles and Miller, 2009, 170-8).

Outmigration from South America to North America and Spain is also mainly irregular. The largest flows have been from Ecuador, Peru, Brazil and Argentina (IOM, 2008, 213).

However, Spain has set up regularization procedures, often giving preference to people of Spanish origin over African immigrants. A recent study of Latin American migration indicates that the global economic crisis has led to declines in mobility to the USA and Europe, but no slowdown in flows of intraregional migration within the continent (Mazza and Sohnen, 2010).

Europe

The Clandestino Project was established by the EU specifically to improve estimates of the irregular migrant population. It uses a variety of methods for the different EU-member states, and the quality of estimates is therefore uneven (see Clandestino, 2009). One reason for uncertainty is the lack of exit controls in most EU countries: even if arrivals are accurately recorded, the number of departures can only be conjectured. The Clandestino data base provides estimates for 2002, 2005, 2008. The data show that irregular migration is not as extensive as often claimed: the 2008 estimates for all

irregular residents in the EU15 (the EU countries prior to the 2004 and 2007 extensions) range from 1.8 to 3.3 million. Irregular residents make up less than 1 per cent of the EU's total population (Clandestino, 2009, Table 1). Estimates for some of the largest EU countries in 2008 are as follows: UK, 417,000 – 863,000 persons; France, 178,000 – 400,000; Germany, 196,000 – 457,000; Poland, 50,000 – 300,000; Italy, 279,000 – 461,000; Spain, 280,000 – 354,000 (Clandestino, 2009, 5). The wide ranges given in the estimates are a reflection of the lack of exact knowledge. The number of irregular residents declined substantially between 2002 (when the range of estimates was 3.1 to 5.3 million persons) and 2008. The main reasons for the decline were the 2004 and 2007 EU expansions that turned large numbers of irregulars (such as Polish workers in the UK and Ireland) into legal residents; and regularization programs in certain countries – notably Italy and Spain – which helped some 1.8 million persons to move into regular status in the EU as a whole.

The vagueness of the data permits only limited conclusions on the characteristics of irregular residents. In some countries, irregular residence is dominated by one country of origin (e.g. Albanians in Greece or Ukrainians in Poland). In other countries (e.g. UK and Germany), irregular migrants are of many origins. Men are overrepresented among irregular residents, but the numbers of women and children are increasing. Clandestino gives no information on irregular employment, but other sources indicate the predominance of low-skilled employment, high levels of erratic and precarious work, and concentration in agriculture, construction, and lower-skilled service occupations (Berggren et al., 2007; Jordan and Düvell, 2002; Reyneri, 2001; Ruhs and Anderson, 2006). Recruitment of irregular migrant women for domestic service has led to a revival of this sector at a time when it seemed to be disappearing (Anderson, 2000; Lutz, 2008).

Africa

Knowledge on irregular migration in Africa is particularly weak. This reflects both poor data collection, and the predominantly spontaneous nature of migration. Important migration systems have evolved,

centring on areas of economic growth such as Libya in the North, Côte d'Ivoire, Ghana and Gabon in the West, and South Africa and Botswana in the South (Bakewell and de Haas, 2007, 96). Trafficking of women and children for sexual exploitation and bonded labour is rife: for instance in Côte d'Ivoire some 1500 boys from Mali were said to be working on plantations (Abella, 2005).

West Africa is often seen as the most mobile part of the continent. A UN study showed an international migrant population of 6.8 million (2.7 per cent of W. Africa's total population) in 2000 (Zlotnik, 2004). The largest movements are from the northern inland to the southern coastal regions, and especially to fast-growing cities like Lagos, Dakar and Accra. In periods of rapid growth, governments have welcomed spontaneous labour migrants, while in times of economic crisis, migrants have often been expelled. In the 1950s and 1960s large numbers of migrants from Togo and Nigeria were attracted to Ghana. After the 1966 coup in Ghana and the subsequent economic decline, the government ordered a mass expulsion of some 200 000 migrants, mainly Nigerians. Due to Nigeria's oil wealth after 1973, millions of Ghanaians and other West Africans sought work there. But corruption and misguided economic policies precipitated a crisis, and in 1983-5 an estimated two million West Africans were deported, including over one million Ghanaians (Bakewell and de Haas, 2007, 104). From the 1980s, West African migration patterns changed dramatically due to economic decline and civil wars (Bakewell and de Haas, 2007). Mass flows of refugees and internally-displaced persons took place, and labour migration patterns were disrupted. Today, multi-directional patterns of labour migration within the region persist. However, increasing numbers of West Africans, both highly skilled and less-skilled, now seek work outside the region.

Post-apartheid South Africa is the economic powerhouse of sub-Saharan Africa, and draws in migrants from the rest of the continent, including mine-workers recruited on a temporary basis from neighbouring countries – as previously under Apartheid (Crush, 2003). After 1994, unauthorized entry grew enormously. Africans from as far away as Ghana, Nigeria and DR Congo flocked to the South African 'Eldorado'. Many brought with them qualifications and experience in

medicine, education, administration and business. Others joined the informal economy as hawkers, street food-sellers or petty traders. There are no accurate figures on irregular migrants, with wildly conflicting estimates. Over a million migrants have been deported since 1994 (Crush, 2003). Most irregular migrants enter legally, although some risk injury crossing the border fence illegally. However, hostility to immigration – including outbreaks of violence – has hindered the development of legal mechanisms for employment and regularization.

Historically, African migration has been predominantly intra-continental. Today, despite media hysteria on the growth of African migration to Europe, actual numbers seem quite small (de Haas, 2008). However, migration of Africans to Europe and the Middle East has increasingly involved irregular labour migrants. The areas receiving the most international attention include those closest to the Mediterranean coast – namely Spain, Italy, and Malta.

An estimated 31 000 illegal migrants arrived in the Canary Islands (part of Spain) in 2006, a 600 per cent increase from 2005. At least 6000 others were thought to have died in their attempts to reach the islands. This movement has since declined – partly as a result of EU financial support for preventive measures by African states. Africans who successfully reach Europe often face unemployment, racism, and homelessness. Some low-skilled Africans have gone as far afield as Russia and Japan in search of work, while Ghanaian traders have been reported in China (Castles and Miller, 2009, 156-8).

Asia-Pacific Region

This vast region, which is home to over half the world's population, has experienced a great many migratory flows over the last half-century. These have included refugee flows triggered by colonial and East-West wars, post-colonial population movements to European countries, migration of skilled workers to North America, Oceania and Europe, massive labour deployment to the Gulf oil states from the mid-1970s, and, since the 1980s, large-scale labour movements from countries experiencing slower economic growth (such as Philippines, Indonesia, Burma and Bangladesh)

to Japan and the new 'tiger economies' (Taiwan, South Korea, Singapore, Malaysia and Thailand) (Castles and Miller, 2009, 125-47). Many of the movements have been spontaneous and irregular. Even where migration appears to be highly regulated – for instance in Japan and South Korea – the authorities tolerate 'side doors' such as training schemes, or the 'back door' of irregular migration to meet labour needs. Similarly, the conditions of Asian migrant workers recruited for the Gulf oil states appear to be highly regulated, but this only applies to control of entries and residence, not to protection of the human rights of workers. Workers are not allowed to settle or bring in dependants, and are often segregated in barracks. Employers may retain migrants' passports and sometime trade (illegally) in work visas. Migrants can be deported for misconduct and often have to work very long hours. The big attraction is the wages: unskilled workers from Sri Lanka can earn eight times more in the Middle East than at home, while Bangladeshis earn 13 times more (IOM, 2000, 119). Many migrant workers are exploited by agents and brokers, who take large fees (up to 25 per cent of wages), and often fail to provide the jobs and conditions promised.

Irregular migration within Asia has grown rapidly since the 1980s. Malaysia was estimated in 2006 (Skeldon, 2006) to have around 1 million undocumented workers, mainly from Indonesia, the Philippines and Thailand in its total migrant labour force of about 2.6 million. Thai workers move to Malaysia and other countries for work, while Thailand itself hosts up to 1.7 million undocumented workers, mainly from Burma (IOM, 2005, 110-12). Hugo points to the complexity of irregular migration, arguing that there is a continuum from voluntary individual movement, through use of middlemen, to trafficking and bonded labour (Hugo, 2005, 25). The growth of irregular migration is linked to the unwillingness of governments to effectively manage migration and to the desire of employers for easily available and exploitable workers. Spontaneous undocumented migration can meet labour needs effectively, but creates a situation of insecurity and rightslessness for workers. Moreover, they can become scapegoats for social problems like crime, disease and unemployment.

Recently, governments' enhanced desire to combat drug trafficking and terrorism have led to attempts at multi-lateral cooperation to prevent irregular migration (IOM, 2005, 111-2).

CONCLUSIONS

Irregular migration seems to be an almost universal phenomenon, although it has only been seen as a matter for concern in relatively recent times. Efforts at enhanced border control and prevention of irregular employment have mainly been made by destination states. Origin states have tried, if unevenly, to regulate emigration to prevent exploitation of vulnerable migrants by agents and employers. However, in a situation of global surpluses of lower-skilled workers, most of the market power has lain with employers and destination states.

Lack of international cooperation together with restrictionary national policies towards low-skilled labour has led to massive black markets for irregular migrant labour. Paradoxically, the more states do to control migration, the more irregular migrants there seem to be (Bhagwati, 2003).

The size and fluctuations of irregular populations are largely a reflection of national laws and enforcement practices. These vary from country to country, and over time. For example, France based its migrant labour system up to the 1960s on allowing spontaneous labour migration, and then legalizing workers once they could show work contracts. Today, the French government is strongly opposed to irregular migration, and enforces rigid entry rules.

Similarly, for much of the last 20 years, southern European countries (notably Italy, Spain and Greece) have largely tolerated irregular labour migration, followed by subsequent legalization programs. The governments of Germany and the UK, by contrast, have long insisted on strict control of entries, and are strictly opposed to irregular employment.

Nonetheless, such employment is widespread, and seems to be tacitly tolerated by the authorities, especially in the UK. This is partly because politicians are aware of unmet employer demand for lower-skilled labour, but also a reflection of neo-liberal policies of cutting expenditure on regulatory agencies, which might otherwise apprehend and deport irregular workers.

Migration policies can reduce the rights of migrants and exacerbate their insecurity. Where states refuse to create legal migration systems

despite strong employer demand for workers, migrants experience high levels of risk and exploitation. Smuggling, trafficking, bonded labour and lack of human and worker rights are the fate of millions of migrants. Even legal migrants may have an insecure residence status and be vulnerable to economic exploitation, discrimination and racist violence. Sometimes legal shifts can push existing migrants into illegality, as happened in France in the 1990s: changes in immigration law turned many legal foreign residents into *sans papiers* (undocumented persons).

Existing policy approaches have often been lacking in vision, and have not been based on an adequate understanding of the underlying drivers of migration, and the long-term and collective characteristics of migratory processes. Simplistic policy solutions often have perverse effects. For example, when West European states suspended labour migration in the mid-1970s, the unexpected result was that many former 'guestworkers' stayed on, brought in their families and settled permanently. Similarly, one effect of increased control on the US-Mexico border is that temporary labour migrants have decided to settle permanently in the USA. Another effect is the serious violation of the human rights of migrants, who are exposed to considerable risks through environmental factors (heat, dehydration, drowning), actions of vigilantes, and exposure to criminal gangs (robbery, rape, violence, murder). When the Clinton Administration tightened border control through Operation Gatekeeper, the annual death rate on the US-Mexico border went up to about 500 a year (Cornelius, 2001).

Further tightening under the Bush Administration pushed mortality to 1000 a year and beyond (Bradley, 2005).

Together with other cross-border flows – of commodities, capital, intellectual property and culture – human mobility is an integral part of globalization. At a time when regulatory frameworks for finance, trade and many other aspects of international cooperation have become important, global governance of migration remains weak. Most of the world's nations – and especially the so-called 'labour importers' – have refused to sign the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, as well as earlier ILO Conventions. There is no global body to manage

cooperation and standard-setting on international migration, in the same way as the World Bank and the International Monetary Fund (IMF) for finance, or the World Trade Organization (WTO) for trade.

This is a time of potential change. The 2007-10 global economic crisis has disrupted patterns of migration and brought about declines in remittances to poor communities that had become dependent on them. However, migration and migrant populations have proved more resilient than many expected. Developed countries and newly-industrialising countries are competing for scarce skills, while even the supply of lower-skilled labour is beginning to appear finite in view of the demographic transition taking place throughout the world. The traditional destination-employment countries – after many years of refusal – have begun to talk to governments of migrant-origin countries through such mechanisms as the UN High Level

Dialogue on Migration and Development in 2006, and the annual meetings of the Global Forum on Migration and Development.

A fundamental change in attitudes would be an important step towards fairer and more effective migration policies. Migration should be seen not as threat to state security, but as a result of the human insecurity that arises predominantly through global inequality.

Throughout human history, people have migrated in order to improve their livelihoods and to gain greater security. Migration is an important aspect of human development. This approach to migration corresponds with social philosopher and economist Amartya Sen's principle of 'development as freedom' (Sen, 2001) where mobility is a basic freedom, and has the potential to lead to greater human capabilities. Reducing migration restrictions and ensuring that people can move safely and legally helps enhance human rights, and can also lead to greater economic efficiency and social equality (UNDP, 2009). This human development approach could provide a new frame of reference when thinking about migrant rights, as well about state policies and public attitudes.

POLICY OPTIONS

Irregular migration has become a highly political issue. There seem to be five main positions in policy debates:

1. *Laissez-faire* (or muddling through): the idea that irregular migration is inevitable, and that current policies and approaches, despite their fragmented, contradictory and ad hoc nature, can provide acceptable compromises to meet the needs of the various stakeholders. This is effectively what is happening in most destination countries. However, the approach ignores the human rights of migrants, by accepting a system based on high levels of risk and exploitation.

2. *Strict control*: the belief that rigid control of entry and residence, combined with rigorous policies of deportation of irregular migrants could eradicate the phenomenon. This line is publicly favoured by many politicians because it plays well with the media, but rarely carried out, because it would have very high implementation costs and could lead to serious problems of unmet labour demand.

3. *Open borders*: this policy would eliminate irregular migration by allowing freedom of movement for all. Many economists believe this approach would lead to optimal efficiency in labour markets and would hence bring large economic benefits. A number of human rights advocates also favour open borders although for quite different reasons: as a way of respecting the human rights of potential migrants. But this approach is very unlikely to be accepted by political leaders, because they fear serious economic and social impacts and a political backlash.

4. *Managed migration* based mainly on the economic and political objectives of destination countries. This means reformulating migration rules to optimize economic outcomes through a mix of measures, including permanent admissions as well as temporary and circular migration programs to meet labour demand, restricting migrant workers' labour rights (such as the rights to change jobs, to live with their families and to enjoy equal conditions with nationals); targeted and even large-scale regularization programs to integrate existing irregular migrants; and strict entry rules and use of deportations to

prevent future irregular migration. This seems to be the suggested reform thrust of such bodies as the EU.

5. Managed migration based on cooperation with all stakeholders and on the principle of recognition of the human rights of all migrants. This would mean setting up cooperative arrangements (or institutions) which would give a voice not only to stakeholder groups in destination countries (governments, employers, trade unions, affected communities), but within the same processes also to similar groups in origin countries and to the migrants themselves. The key principle would be the recognition of the human rights of migrants, including the right to move across borders in safety and dignity, and to fully participate in political, economic, social and cultural affairs. A pre-condition for this would be the fair assessment of labour needs in destination countries, and the enforcement of equal pay and working conditions for all workers.

It is important for civil society organizations to debate these options, and to develop cooperation strategies at various political levels to achieve reform. Clearly the fifth approach offers the best prospect for solutions that benefit migrants and their communities of origin.

However, it is important also to recognize the needs and perspectives of various stakeholder groups in destination countries. Civil society organizations need to make the case that cooperative approaches offer the best prospect of sustainable solutions for all.

RECOMMENDATIONS

1. Combating the demonization of irregular migrants: Civil society organizations (CSO's) in origin, transit and destination countries should work together to raise public understanding of the positive role of migration in economic and social affairs, and to call for migration rules and policies which guarantee opportunities for regular migration in conditions of safety and dignity.

2. Improving global governance of migration: Governments, CSO's and international agencies should work together to develop mechanisms and institutions of international governance of migration, designed to

set standards and to monitor implementation of human and labour rights for all migrants, whether regular or irregular.

3. Realistic national labour market planning: Government agencies and policy-makers in destination countries should establish national planning mechanisms to assess demand for migrant labour in relevant economic sectors, and to ensure that this demand is met through regular migration. Such national planning processes should be transparent and inclusive of all relevant stakeholders including employers, trade unions, migrants and community representatives. Planning of migrant labour recruitment should be based on dialogue with countries of origin and transit.

4. Preparing and protecting migrants: Government agencies and policy-makers in origin countries should develop policies and institutions to prepare citizens for migration and to provide protection and support to them while abroad. Such policies and institutions should be designed to ensure regular migration, in cooperation with destination country authorities. All such arrangements should be based on participation of relevant social groups, including employers, trade unions, migrants and community representatives.

5. Safe transit routes: International agencies and CSO's should collaborate with transit country governments to ensure provision of safe transit routes for migrants, and to prevent exploitation of or criminal attacks on migrants.

6. Regularization without criminalization: When designing measures to combat irregular migration and employment, national authorities should avoid criminalization of migrants.

Legal sanctions should be imposed not on irregular migrants but on people who profit by exploiting them, such as certain employers, people-smuggling organizations and traffickers. Irregular migrants living and working in destination countries should be offered opportunities of regularization.

7. Free movement within regions: Regional Consultative Processes and Regional Agreements should include free movement provisions for citizens of the countries involved. While this would eliminate irregular migration concerning those citizens, RCP's and Regional Organizations should also take steps to ensure respect of the rights of intra-regional

migrants and to prevent exploitation of vulnerable groups. At the same time, measures to safeguard the rights of third country citizens should be included in RCP's and Regional Agreements.

Questions for discussion:

- Why do politicians and employers in certain immigration countries seem to prefer irregular migration to regular migration – at least for some types of work?
- If there is a continuum between regularity and irregularity, what are the factors that cause migrants to change their positions on this continuum?
- How could cooperation between countries of origin and countries of destination in the planning of international labour migration be improved, and what social actors should be involved in such processes?

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