

Migration: the human rights perspective

Seminar for members of parliamentary committees on human rights
and other committees addressing migration issues

organized jointly by the Inter-Parliamentary Union (IPU), the International Labour Organization (ILO)
and the Office of the United Nations High Commissioner for Human Rights (OHCHR)

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SUMMARY AND RECOMMENDATIONS PRESENTED BY THE RAPPORTEUR OF THE SEMINAR

Mr. Jeremy Corbyn, Member of the House of Commons (United Kingdom)

We have met here at the invitation of the Inter-Parliamentary Union, the International Labour Organization and the Office of the United Nations High Commissioner for Human Rights to discuss the theme of migration from a human rights perspective.

We are some one hundred participants: parliamentarians working on human rights, including migration questions, and experts from 36 countries from all over the world. We want to thank the experts for the quality and breadth of their presentations. We hope that this seminar will provide an impetus for further exchanges of views in which a growing number of receiving countries will participate.

In the course of the seminar, we have focused on the human rights dimension of migration. We have dealt with its pull and push factors and how they impact on human rights. We have explored ways of managing irregular migration in a human rights-compatible way and of fighting inhuman or discriminatory treatment of migrants. For each of these situations, we have placed a strong focus on the international legal and policy framework that exists to safeguard human rights norms and the contribution that parliaments and their members can make.

Migration as a phenomenon has always existed. While the absolute number of migrants has risen in the past decades to reach some 200 million, they continue to make up around three per cent of the world population. Notwithstanding, migration has become intrinsically linked to globalization and its effects. Foreign-born workers represent 10 per cent or more of work forces in many Western European countries, 15 per cent in North America, and even higher proportions in Africa and the Middle East. Indeed, migration has become a key feature of meeting economic, labour market and productivity challenges in a globalized economy. It serves as an instrument to adjust the skills, age and sectoral composition of national and regional labour markets. Moreover, due to economic, demographic and technological changes, migration is central to the future economic survival of the North as well as the South.

Migration poses a number of challenges. It is often the result of lack of decent work, human rights violations and poverty in countries of origin. Migrant workers still largely perform dirty, dangerous and degrading jobs to sustain sectors of economic activity that are no longer attractive for local work populations. These include agriculture and food processing, construction, cleaning and maintenance, hotel and restaurant backroom services, labour-intensive assembly and manufacturing, the sex industry, and domestic labour. In addition, there is a higher need for highly educated and skilled labour, which has led to a significant "brain drain" in countries of origin.

It is becoming increasingly apparent that migration can and should be a mutually beneficial situation for both sending and receiving countries, and most importantly, for migrants and their families. So what do we need to do to make this a reality?

First of all, we need to be ready to take a critical look at ourselves. In this regard, all countries in the migration chain have a responsibility to fulfil. In this regard, many countries may be classified as being of origin, transit or destination. Moreover, the challenges that come with migration are not exclusive to any one continent: migratory flows take place not only from the South to the North, but also increasingly within the South. More and continuous study is needed to analyse the full scale and impact of migration, as well as its changing face as rising numbers of highly educated workers leave their countries in pursuit of a better life.

Second, we as parliamentarians and opinion leaders need to speak more clearly and publicly of the important - and often indispensable - contribution of migrants to growth and prosperity. This also requires us to confront fellow parliamentarians when they appeal to emotional negative stereotyping of "the immigrant" for political gain. We have spoken much about the negative role the media plays in stereotyping immigrants as criminals or bogus asylum seekers. It is our duty, given our privileged access to the media, to ensure that they refrain from doing so, and rather report on the positive real-life stories of immigrants and their contribution to society.

Parliamentarians who appeal to xenophobic sentiments often do so because they think they reflect the sentiments of their electorate. Therefore, if we want to change this situation, we must change attitudes through education. We have a responsibility to ensure that education promotes a culture of tolerance, understanding and equality and recognize that school curricula can play a decisive role in this respect. In particular, history must be taught in an objective manner.

Third, we need to ensure that the rights of migrants are fully respected by applying a rights-based approach to our laws and policies on immigration. Migrants are not "commodities" of international trade. Yet commercial interests and market forces that create jobs for migrants are often unconcerned about the legality or ethical standards of employment. We have paid particular attention to the situation of domestic migrant labour, which, together with agricultural work, often falls outside the protection of national labour laws. We are particularly concerned that forced labour thrives in the absence of labour law protection. Fellow parliamentarians may draw inspiration from the British "Gang masters Act", which protects migrant workers from gross exploitation.

Having said that, fundamental international labour and human rights norms apply to migrants without exception. In addition, ILO Conventions, in particular Nos. 97 and 143, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, collectively provide an international charter on migration by setting out a broad legal framework that specifically addresses their situation. Much remains to be done to ensure wide ratification of these conventions and to respond to unjustified misconceptions that continue to exist, in particular about the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. We as parliamentarians have a crucial role to play in securing ratification of these conventions and passing them into national law. We have a particular responsibility to help ensure that they are fully implemented and do not exist simply on paper. In order to exercise such oversight effectively, we should assert ourselves vis-à-vis the government in order to receive all the necessary information and to take part in the international migration policy dialogue.

Fourth, when it comes to adopting laws to protect migrants, parliaments must ensure that it includes an enforcement mechanism to ensure their effective implementation, in particular by allocating adequate resources, such as in the case of labour inspections. Parliaments should also make sure that laws are adopted in a timely manner, are complete and consistent by ensuring that different branches of law, such as civil and labour law, do not contradict each other. We should ensure that these laws comply with international human rights and labour standards.

Fifth, we as parliamentarians should draw on the international policy frameworks that exist, in particular the ILO Multilateral Framework on Labour Migration, which provides practical guidance and action to help maximize the benefits of labour migration for all parties. Indeed, many countries

have adopted policies that can be a source of inspiration for others. We have heard about the extensive steps taken in the Philippines, where the parliament has played a major role. In July 2007, it enacted Act No. 9422 to strengthen the regulatory functions of the Philippine Overseas Employment Administration, the central government agency mandated to manage the overseas employment programme. The Act requires the Administration to inform migrant workers of their rights not only as workers but also as human beings and instruct and guide them to assert their rights abroad. A significant provision of the law is the deployment of Filipino workers through the Administration only to countries with which the Philippines has concluded bilateral labour agreements or arrangements protecting their rights. The use of bilateral agreements between sending and receiving countries has been considered useful by a number of other participants in the seminar. There are also best practices with regard to maximizing the contribution that migrants can make in their country of origin. In Mexico, under the "3 for 1" programme, Mexican authorities commit themselves to invest triple the amount of money coming in through remittances into local social services and infrastructure. Moreover, a bill is under discussion to ensure that no commission is charged when remittances are transferred to Mexico. On a more general note, it was also suggested that efforts be made to limit to the extent possible the costs of the transfer of remittances and to make sure that migrants are not doubly taxed.

Sixth, we have also spoken about the role that international organizations can play in the field of migration, not just in standard-setting, but also in providing technical assistance and other services. Clearly, we must realize that these organizations can only play the role that their members want them to play. We as parliamentarians can help to ensure that they have appropriate resources at their disposal and function in the most effective way possible. We recognize how - as a reflection of the complexity of migration - a number of international organizations are working together on migration questions. We have touched upon the question of the pros and cons of having a single international agency to deal with migration, a debate that is ongoing. We have also discussed how we as parliaments can join forces internationally by considering the setting up, through or in close relationship with the IPU, a parliamentary network on migration.

Seventh, in today's global market, in stark contrast with the near lack of limitations on the flow of capital and goods, there is no free flow of people. This is partly explained by unfounded fears that migrants may take away jobs from nationals. However, as proved in the case of Spain and other countries, migration actually creates new jobs and wealth. Indeed, if countries are to truly function at the universal level, they have to come together, first of all at the regional level, to facilitate human mobility as part of achieving economic integration and development. In this regard, we recognize that, like the European Union, other regional bodies have also concluded agreements on the free circulation of persons, but these have yet to be fully implemented. We as parliamentarians have a role to play to ensure this happens in our regions.

We recognize that until there is a free flow of people, irregular migration will continue to exist and, in the light of growing economic disparities, the number of people leaving their countries to find a better future elsewhere is only bound to increase. It is our responsibility to respond to this challenge by helping ensure that admission systems are in place for migrants that are transparent, clear and coherent. In this respect, we emphasize the importance of creating sufficient opportunities for people to migrate legally. As regards external border controls of target countries, we recognize that they are not only ineffective in the final analysis in the absence of a comprehensive rights-based approach to migration, but also come at a significant human cost. We are appalled by the large numbers of people who have died trying to reach their destination by sea or land, sometimes at the hands of unscrupulous people smugglers. We should take firm action to ensure that effective legislation is in place and implemented to address the trafficking of persons.

We also recognize that a large number of irregular migrants live in receiving countries, many of whom do not enjoy the most basic rights to which they are entitled. We have heard how regularization can be an option worth pursuing to make these migrants part and parcel of society.

We all should resist policies, including those advocated by our fellow parliamentarians, that create a divisive society, and should use our powers in favour of the rights of all migrants to promote a diverse and cohesive society. We should not forget that by restricting and violating the human rights of migrants, the fundamental rights of all will be diminished.

The question of migration is on the agenda of the 118th IPU Assembly, to be held in South Africa in April 2008. We request the IPU to see to it that the deliberations of our seminar are fed into the debate and subsequent action that will be taken by the IPU. We also call on our governments to ensure that a rights-based approach to migration will continue to guide the work of international fora on migration, in particular the Second Global Forum on Migration and Development, which is scheduled to take place in the Philippines next year. We also call on the organizers of the seminar to help us, where needed and requested, with the ratification and implementation of international human rights treaties and labour standards for migrants.