

# POLICY BRIEF

## HIV and International Labour Migration

### Context

International labour migration—the movement of people across national borders for employment—is an increasingly important aspect of global, regional and national economies. Recent estimates indicate that 86 million people are international labour migrants.<sup>1</sup> This policy brief focuses on the HIV-related needs and rights of international labour migrants,<sup>2</sup> regardless of their status as regular or irregular,<sup>3</sup> or the duration of their migration.

Migrant workers benefit from increased employment opportunities. Origin and destination countries both benefit, the former as remittances are a reliable source of income and the latter because of the important contribution labour migrants make to the economy and society in which they live.<sup>4</sup> Yet migrant workers experience particular HIV risks and needs, which must be addressed in striving towards universal access to HIV prevention, treatment, care and support services by 2010.<sup>5</sup>

### International labour migration and HIV risk

Social, economic and political factors in origin and destination countries influence the risk of HIV infection of international labour migrants. These include separation from spouses, families and familiar social and cultural norms, language barriers, substandard living conditions, and exploitative working conditions, including sexual violence. The resulting isolation and stress may lead migrant

workers to engage in behaviours, e.g. unsafe casual or commercial sex, which increase HIV risk. This risk is exacerbated by inadequate access to HIV services and fear of being stigmatized for seeking HIV-related information or support.<sup>6</sup>

Female migrant workers may be particularly vulnerable to HIV. Many are employed in relatively unskilled jobs within the manufacturing, domestic service or entertainment sectors, often without legal status and little access to health services. They are often susceptible to exploitation and/or physical and sexual violence, in some cases by their employer, and have few alternative employment opportunities. Women left behind by their spouses, faced with the same economic challenges, and other challenges besides (e.g. food insecurity) that contributed to their husband's migration, may be forced to exchange sex for food or money and thus become vulnerable to HIV. They may also be at risk if their husband returns infected with HIV.<sup>7</sup>

### International labour migration and people living with HIV

International labour migrants who acquire HIV in transit or destination countries, or who are already living with HIV, often cannot access HIV services. Migrant workers rarely have the same entitlements as nationals to insurance schemes that make health care affordable, particularly if their status is irregular.

<sup>1</sup> International Labour Conference, 92nd Session, 2004. Report VI. *Towards a fair deal for migrant workers in the global economy* ILO Geneva

<sup>2</sup> This policy brief does not focus on internal migrants and trafficked persons, while recognizing they also have similar risk factors for HIV

<sup>3</sup> Migrant workers are considered undocumented or in irregular status if they are not authorized to enter, stay and engage in remunerated activity in the State of employment (Article 5, *International Convention of the Protection of the Rights of All Migrant Workers and Members of their Families* 1990).

<sup>4</sup> Beath A (2007). Migration. In: Goldin I, Reinert K, eds. *Globalisation for development: trade, finance, aid, migration and policy*. World Bank.

<sup>5</sup> 2006 *Political Declaration on HIV/AIDS*. Article 20.

<sup>6</sup> Asia Pacific Migration Research Network, UNDP (2004). *No safety signs here: research study on migration and HIV vulnerability from seven South and North East Asian countries*; UNDP; Anarfi J (2004) "Women's migration, livelihoods and HIV/AIDS in West Africa" In: *Women migrants and HIV/AIDS: an anthropological approach* UNESCO Paris

<sup>7</sup> CARAM (2004). *The forgotten spaces, mobility and HIV vulnerability in the Asia Pacific – abridged version*; CARAM, Kuala Lumpur; Brummer, D (2002) *Labour migration and HIV/AIDS in Southern Africa*. Geneva, Regional Office for Southern Africa, IOM.

Culturally and linguistically appropriate HIV programmes are often scarce in host countries; additionally migrant workers may be living in geographically isolated areas (e.g. construction and mining sites) with little provision of health services.

More than 100 countries restrict people living with HIV from entering or remaining in a country for any purpose; international labour migrants may be refused entry or face deportation if they are found to be HIV-positive.<sup>8</sup> Where HIV testing occurs in the context of migration, internationally agreed standards for informed consent, confidentiality and counselling are not routinely applied.<sup>9</sup> Migrant workers receiving antiretroviral treatment in the destination country may also have their treatment disrupted by deportation, if, in the country to which they return, they cannot access HIV services.

The main government rationales for HIV-related travel restrictions are to protect public health and to avoid excessive health care and other economic costs perceived to be generated by HIV-positive non-nationals. There is no public health justification for such restrictions. HIV is not transmitted casually and everyone, whether HIV-positive or -negative, national or non-national, can prevent further transmission by practising safer behaviours. Thus, travel and migration by HIV-positive people in itself does not entail a risk to public health.

Given the economic benefits of international labour migration, and the extended productivity of people living with HIV from improved therapies, it is increasingly difficult to argue that people living with HIV will incur more costs to the destination country compared to the benefits they contribute over a long-term stay. Where refusal of entry or deportation is based on HIV status alone, these measures are discriminatory and unwarranted.

## Policy position

The 2001 United Nations General Assembly Special Session *Declaration of Commitment on HIV/AIDS*, adopted by all Member States, calls for “national, regional and international strategies that facilitate access to HIV/AIDS prevention programmes for migrant and mobile workers”. Addressing HIV among international labour migrants will also contribute towards reaching the universally agreed Millennium Development Goal and target of halting and beginning to reverse the spread of HIV by 2015.

International labour migrants have the same human rights as everyone else,<sup>10</sup> and HIV status in itself is not an indication of fitness to work. Migrants workers, irrespective of their HIV status, can and do make important economic and social contributions to both origin and destination countries. To maintain this, they need access to culturally and linguistically appropriate HIV programmes in origin, transit and destination countries at all stages of migration—before departure, on arrival, while in the destination country, and upon return and reintegration into the origin country.

States retain the right to determine who enters their country, so long as their policies are consistent with international human rights norms. Yet international labour migrants, whether in regular or irregular status, should have the same human right to health as nationals. Promoting migrants’ health is essential for achieving universal access to HIV prevention, treatment, care and support, besides improving the productivity and economic independence of individuals and families.

Effectively addressing HIV requires both HIV-specific actions and actions aimed at the root causes of HIV risk behaviours, including poverty, gender inequality and human rights violations among international labour migrants in both regular and irregular status.<sup>11</sup> UNAIDS, the International Labour

<sup>8</sup> For further information on specific country requirements see <http://www.eatg.org/pages/article.php?id=1080>

<sup>9</sup> CARAM (2007). *State of health of migrants 2007: mandatory testing* CARAM Kuala Lumpur

<sup>10</sup> These include the right to work (Article 23 of the Universal Declaration of Human Rights), the right to the highest attainable standard of physical and mental health, and the right to a healthy and safe working environment (Article 12 of the *International Covenant on Economic, Social and Cultural Rights*).

<sup>11</sup> All actions should be in line with An ILO code of practice on HIV/AIDS and the world of work (2001), the *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families* (1990), the *International Guidelines on HIV/AIDS and human rights* (2006); ILO (2005) *Multilateral framework on labour migration; non-binding principles and guidelines for a rights-based approach to labour migration; Migration for Employment Convention (Revised), 1949 (No. 97); and Migrants Workers (Supplementary Provisions) Convention, 1975 (No. 143)*.

Organization and the International Organization for Migration urge partners in origin, transit *and* destination countries to collaborate on the following actions.

## Actions for governments

- Ensure that national laws recognize the right to health for international labour migrants and do not create barriers to accessing health and HIV-related services.
- Include international labour migrants in national development, health and HIV-related policies, strategies and plans.
- Ensure, through funding public health services, nongovernmental and private organizations, that international labour migrants and their families (including those left behind) have the same access as nationals to gender-, language- and culture-sensitive HIV services.
- Integrate HIV services into pre-departure, post-arrival, return and reintegration processes.
- Ensure there is no discrimination on the grounds of HIV status in the context of entry requirements, immigration, employment or reintegration procedures<sup>12</sup>, and where testing is done to assess future health-care costs, ensure HIV infection is treated equally to comparable health conditions and not singled out as a basis for discrimination.
- Ensure that laws, policies and programmes respect the rights of both workers living with HIV and international labour migrants and their families.
- Enforce minimum national labour standards for both nationals and non-nationals.
- Collaborate to implement regional strategies for addressing HIV-related issues among international labour migrants.

## Actions for workers' organizations

- Promote sound HIV workplace policies.
- Support the formation of associations by

international labour migrants, their inclusion in existing organizations, and the incorporation of HIV-related issues into programmes implemented by these bodies.

- Support efforts to eliminate discrimination both against people living with HIV and international labour migrants.
- Advocate ratification and implementation of international conventions on migrant workers.

## Actions for businesses

- Develop and implement sound workplace policies in line with the ILO Code of Practice on HIV/AIDS and the World of Work.
- Reduce financial costs for migrant workers in sending remittances to their families and communities.

## Actions for civil society

- Support international labour migrants to access HIV-related services and broader appeal mechanisms, e.g. migration, labour or human rights boards.
- Establish gender-, language- and culture-sensitive HIV programmes for international labour migrants and their families.
- Conduct and disseminate research on international labour migrants and HIV risk,
- Advocate for equal treatment of international labour migrants and nationals, and challenge stigma and discrimination against migrants, including that perpetuated by the media.

## Actions for international partners

- Support national AIDS programmes, civil society and other organizations, in origin, transit and destination countries, to provide health and HIV-related services to international labour migrants, including those in irregular status.
- Conduct and support research on migration and HIV to inform policies and programmes.

<sup>12</sup>UNAIDS does not support mandatory testing of people under any circumstances, see UNAIDS & WHO (2004). *UNAIDS/WHO policy statement on HIV testing* UNAIDS and WHO Geneva

## First Person Voices

*Brian Brink, Senior Vice President - Medical, and Edward Bickham, Executive Vice President, External Affairs, AngloAmerican*

AngloAmerican is a global leader in mining and natural resources. Labour migrants, including those from surrounding countries, constitute a significant proportion of our workforce in South Africa.

We maintain a strict policy of non-discrimination between migrant and local workers. Since 2002, all employees have been encouraged to seek voluntary counselling and testing, and if HIV-positive are eligible for wellness programmes and free anti-retroviral treatment. We have made good progress in moving away from a hostel system and towards providing family-friendly accommodation or housing allowances, so that migrant workers can bring their families with them if they wish.

If AngloAmerican didn't provide these programmes, we would have faced the premature death of many workers and been party to a humanitarian disaster. Instead, our HIV programmes are now largely self-funding via reduced absenteeism and skills loss, and because 95% of employees on treatment are fit to do their normal work. A good HIV response represents, quite simply, good management practice.

*Marianito D. Roque, Secretary of Labor and Administrator of the Overseas Workers Welfare Administration (OWWA), Philippines*

OWWA is the lead Philippine government institution looking after the welfare of overseas Filipino workers (OFWs). In 1995, OWWA conceived and implemented a Medical Care Program for overseas Filipino workers and their families. In 2002, OWWA responded to the rising incidence of HIV among OFWs by strengthening its information campaign against HIV and providing other related services throughout the migration process.

Applicants must receive information on HIV before they can be issued clearance to work overseas. OWWA assists OFWs by ensuring that foreign employers respect contract provisions, including health-care benefits. Repatriated OFWs are provided with personal, economic and community reintegration services and encouraged to undergo voluntary HIV counselling and testing. These services are free.

Working abroad is full of challenges and threats – and one of the threats is HIV. We must help ensure our OFWs come home with success stories and are HIV free; after all, their sacrifices help keep the Philippine economy afloat. We must likewise assist them deal with the consequences if they do become HIV-positive.

*Ana Avendaño, Associate General Counsel, American Federation of Labor and Congress of Industrial Organizations (AFL-CIO)*

AFL-CIO is a voluntary federation of 56 labour unions, representing 10 million people of every ethnicity and walk of life across the United States.

In 2002, AFL-CIO adopted a policy in support of legalizing the status of undocumented workers and their families in the United States. If there are exploited workers, this leads to substandard wages and conditions for everyone. Currently, migrant workers in both regular and irregular status have little access to health and HIV services, and are often forced to use emergency departments when in need of care.

AFL-CIO never asks a worker to reveal their immigration status when they come to us for help. As unionists, we must focus on the rights of all workers, regardless of their status. We must also continue, with other international partners, to find trade union-based strategies for addressing HIV.

*A longer version of this policy brief is available at [http://data.unaids.org/pub/Manual/2008/jc1513a\\_policybrief\\_en.pdf](http://data.unaids.org/pub/Manual/2008/jc1513a_policybrief_en.pdf)*