



**International Dialogue on Migration
Inter-sessional Workshop on Developing Capacity
to Manage Migration
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**Break Out Session I
Migration and Labour
(EMM Section 2.6)**



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- Labour migration in context
- Terminology, definition and categories of migrant workers
- Significance, causes and impacts of labour migration
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Labour migration in context

Labour migration is a broad topic intersecting with many other aspects of migration management

Migration and development

- importance of remittances as a tool for development

Migration and demography

- labour migration as “replacement migration” to address demographic trends in destination countries such as aging populations and low rates of fertility

Migration and trade

- General Agreement in Trade and Services (GATS) and temporary movement of service suppliers under Mode 4

Migration and health

- work conditions; occupational health and safety

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Labour migration in context

Migration and security

- especially in the context of large-scale irregular labour migration movements

Migration and gender

- increasing feminization of labour migration; health workers; domestic workers

Migration and family

- family reunion issues

Migration and statistical data

- need for statistics on extent of labour migration shortages in destination countries; numbers of migrant workers in specific sectors; estimates of irregular labour migration movements; remittance flows, etc.



Migration and Labour

Terminology, definition, and categories of migrant workers



Terminology

These terms are often used interchangeably

- Migrant workers
- Foreign workers
- Labour migrants
- Economic migrants (a broader notion)

When migrant workers are discussed the following groups are often also included

- Irregular migrant workers
- Family members of migrant workers



Definition

- There is no universally accepted definition of a migrant worker or labour migrant
- But one widely referred to international definition is
“A person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national”

UN Migrant Workers Convention, Article 2(1)



Categories of migrant workers

Business travellers

Foreigners admitted temporarily for the purpose of exercising an economic activity that is remunerated from outside the country of admission.

Immigrating investors

Foreigners granted the right to long-term residence on the condition they invest a minimum amount in the country of destination or start a business employing a minimum number of persons in the country of destination.

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Categories of migrant workers

Established migrant workers

Migrant workers who, after staying some years in the country of employment, have been granted permission to reside indefinitely and to work without major limitations in that country. Established migrant workers are not required to leave the country of employment when unemployed and are usually granted the right of being joined by their immediate family members, provided certain conditions regarding employment and housing are met.

Highly skilled migrant workers

Migrant workers whose skills subject them to preferential treatment regarding admission to a country other than their own, and therefore subject them to fewer restrictions regarding length of stay, change of employment, and family reunification.

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Categories of migrant workers

Contract migrant workers

Persons working in a country other than their own under contractual arrangements that set limits on the period of employment and on the specific job held by the migrant. Once admitted, contract migrant workers are not allowed to change jobs, and are expected to leave the country of employment upon completion of their contract, irrespective of whether the work they do continues or not. Although contract renewal is sometimes possible, departure from the country of employment may be mandatory before the contract can be renewed.

Project-tied workers

Migrant workers admitted to the State of employment for a defined period of time to work solely on a specific project carried out in that State by the migrant workers' employer. The employer is responsible for providing the resources needed to complete the project. The employer or an agent who may have acted as an intermediary must ensure that project-tied migrant workers leave the country of employment once the work is completed.

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Categories of migrant workers

Temporary migrant workers

Persons admitted by a country other than their own to work for a limited period of time in a particular occupation or a specified job. Temporary migrant workers may change employers and have their work permit renewed without having to leave the country of employment.

Seasonal migrant workers

Persons employed in a State other than their own for only part of a year because the work they perform depends on seasonal conditions.

Service Providers

Companies posting workers to another country for the provision of services

- **BUT** the General Agreement in Trade and Services (GATS) does not consider the movement of service providers as labour migration



Migration and Labour

Significance, causes and impacts of labour migration



Significance, causes and impacts of labour migration

- In 2000, there were approximately 86 million migrant workers world-wide
- While the liberalization of international flows of goods, capital, and information is well underway, **progress toward the freer movement of persons is harder to achieve**
- Labour emigration is likely to **continue and increase** due to:
 - differences in employment opportunities and living standards between countries
 - increased education and broader access to information on living conditions and employment opportunities abroad
 - established inter-country networks based on family, cultural and historical ties

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Significance, causes and impacts of labour migration

- On the demand side, changing demographics and labour market needs in many industrialized countries will put pressure on many governments to consider **more open approaches to labour migration**
- **The impact** of labour migration varies from country to country
- Impacts will also vary depending on the skill level, geographical source, employment situation, age, and gender of the migrants
- Labour migration may have **significant potential for countries** at both ends of the migration spectrum



Question

How many of you would consider yourselves as coming from a country of labour immigration, country of labour emigration, or both?



Migration and Labour

Issues and policy for sending countries



Issues and policy for sending countries

- Regulating labour emigration with a view to protecting migrant workers and enhancing development
- Protecting migrant workers' rights and interests
- Increasing the positive impact of labour migration on the economies of sending countries



Issues and policy for sending countries

Regulating labour emigration

- Sending countries usually acknowledge that **policies aimed at limiting emigration often result in increased irregular migration**
- A more efficient approach is to **manage emigration in a way that benefits migrants, their families, and the economy alike**
- The International Labour Organization distinguishes **four main approaches to State intervention in emigration for employment**
 1. **A regulated system** - the State elaborates legislation and regulations on recruitment for employment abroad and identifies proscribed recruitment practices
 2. **A State-managed system** - the State regulates foreign employment and sets up State enterprises to recruit and place workers abroad
 3. **A State monopoly system** - the State assumes full responsibility for organizing labour migration
 4. **Laissez-faire** approach



Issues and policy for sending countries

The protection of migrant workers' rights and interests

- Many States **direct protection measures to more vulnerable groups**, for example, lower skilled workers and women workers
- Sending States need to consider, as much as possible, programmes and policies that can benefit **the entire community**
- Policy **interventions in countries of origin need to address three broad aspects of labour migration:**
 1. migrant recruitment
 2. preparation for deployment overseas, and
 3. protection issues while citizens are abroad

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Issues and policy for sending countries

- Some States have introduced **standard/specified model contracts** and negotiated with the employing countries to accept these as the minimum for all their workers abroad
- Some States require prospective migrants to **register their contract** as a means to check if conditions are acceptable and meet fixed criteria
- **Exit controls** are also used to ensure that workers leaving the country have legitimate job offers and fulfill set criteria
 - **BUT** such controls have to be compatible with the right of citizens to leave their own country
- Other strategies include **restriction on foreign employment of certain categories of persons**, for example restricting women below a certain age from domestic employment

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Issues and policy for sending countries

- In order to prevent malpractices in recruitment, **standards for international recruitment and penalties** as appropriate should be included in national legislation
- Other instruments for monitoring the activities of private agents are
 - **licences** based on a system of guarantees and penalties and
 - regulations limiting the recruitment fees that can be levied

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Issues and policy for sending countries

- **Support services**, sometimes financed through a welfare fund paid into by the migrant workers and sometimes by employers as well, usually cover important aspects of labour migration, including
 - lowering the cost of emigration through a system of loan guarantees to broaden access to bank credit
 - negotiation of flights and discounts with airlines
 - information and counselling prior to departure
 - negotiating bilateral agreements with receiving countries on social security and contributions to national schemes
 - support to families left behind
 - return and reintegration measures
- Protective measures **must not inadvertently create incentives for irregular migration** by being too lengthy, costly, and complicated



Issues and policy for sending countries

Increasing the positive impact of labour migration on the economies of sending countries

- An increasing number of developing countries and countries with economies in transition are adopting policies, legislation, and structures to **promote the foreign employment of some of their workforce** as a way to reduce unemployment and to increase their share of remittances
- **Brain drain** is one of the major concerns of sending countries
 - Therefore it is important to devise strategies on how to limit brain drain and enhance “brain gain”
 - One strategy is to mobilize migrant diasporas as a tool to development



Questions

In your view, which is the principal “policy dilemma” sending countries face and why?

What measures has your government adopted to address this policy dilemma?



Migration and Labour

Issues and policy for receiving countries



Issues and policy for receiving countries

- Assessing labour market needs
- Regulating the number of foreign workers and protecting the local workforce
- Admission and post-admission policies in respect of migrant workers
- Temporary labour migration
- Addressing irregular migration



Issues and policy for receiving countries

Assessing labour market needs

- Immigration is one of a number of mechanisms available to policy makers to respond to potential labour shortages
- Additional **responses to potential labour shortages include**
 - increasing the participation in the labour market of specific groups, including women and resident foreigners
 - shifting the retirement age
 - encouraging geographic mobility within the country
- **Labour shortages are difficult to measure**, and it seems that demand for foreign workers is rarely established on the basis of projections, but rather on the basis of current reported difficulties in filling labour market needs (employers' surveys, vacancy tests, etc.)



Issues and policy for receiving countries

Regulating the number of foreign workers and protecting the local workforce

- Countries normally introduce **instruments to regulate** the number of foreign workers
- **The goal of regulations** on the number of foreign workers is usually **twofold**
 1. to meet labour market needs
 2. to avoid negative impacts on the local workforce
- The **three main regulating mechanisms**, sometimes used in combination, are
 1. quotas and ceilings
 2. labour market tests
 3. special fees

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Issues and policy for receiving countries

Quotas and Ceilings

- can be set for the country as a whole, for the country's regions or administrative districts, for certain sectors of the economy, for specified occupations, and/or for individual employers or enterprises
- The main advantage of quotas is the establishment of a clear framework that also reassures public opinion
- However, quotas can sometimes be too rigid
- The level of quotas is decided by public authorities, often in consultation with social partners, through a process that also takes political considerations into account
- **Ceilings** can be imposed on companies to limit the percentage of foreigners that can be hired as part of their total workforce

Labour market tests

- may be used at the individual level, or on regional or State levels
- One way of selecting foreign workers while also protecting the local labour force is to test each application against the available pool of eligible workers interested in the job opening
- Some countries have decided to establish **State or regional level occupation lists** for which the authorities have determined that there are insufficient eligible workers able, willing, qualified, or available for employment

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Issues and policy for receiving countries

- Governments can consider **imposing a fee** on employers for each foreign worker employed as a test of the real need to recruit a foreigner over a local person
- **A policy to protect the local workforce** may include legislative provisions that ensure that migrant workers are employed under the same conditions as local workers in terms of working conditions, remuneration, and social security



Issues and policy for receiving countries

Admission and post-admission policies in respect of migrant workers

- States have developed labour migration systems that can be broadly categorized as **demand-driven or supply-driven**
- **In demand-driven systems**, employers request permission to hire the foreign workers, thereby triggering a decision to admit the migrant
- **In supply-driven systems**, the migrants themselves launch the admission process and can apply without necessarily having a job offer
- States usually distinguish between **several categories of workers** according to the duration of the stay, their skills, and their legal status in the admission framework

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Issues and policy for receiving countries

- Management of labour migration may make use of **three types of authorization**
 - an entry visa
 - a work permit to engage in paid activities
 - a permit of stay or residence permit
- National policies may also need to reflect **commitments contained in regional agreements**
 - For example, regional economic integration frameworks, such as the European Union, which provides for free movement of workers

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Issues and policy for receiving countries

- The traditional immigration countries (Australia, Canada, and United States) have long offered **the possibility for migrant workers to apply directly for permanent residence**
- The **highly skilled usually benefit from**
 - facilitated admission
 - the possibility to change status to permanent migration
 - more relaxed rules on family reunification
- States generally are **more reluctant to create opportunities for less skilled workers**, and when they do, entry is often limited numerically through quotas/ceilings (see above)

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Issues and policy for receiving countries

Integration of migrant workers

- Integration of immigrants is **not only a question of social cohesion but also of economic efficiency**
 - For example, unemployment figures in many industrialized countries indicate that a greater proportion of foreigners than nationals is unemployed
- **Access to social benefits will normally depend on the length of stay** and the length of employment of the migrant worker



Issues and policy for receiving countries

Temporary labour migration

- States are relying more and more on the **flexibility provided by temporary admission** because future labour market needs are difficult to forecast accurately
- Some States tie a **temporary work permit to a specific job with a specific employer, or impose geographical restrictions** (right to live and work only in a certain area)
- The **economic and social rights of migrant workers are often limited temporarily and according to the length of stay**
- Experience has shown that it can be **difficult to ensure that temporary migration remains temporary**
- When the economic demand is long-term, temporary schemes can prove costly both for the employer requesting repeated recruitment and for the public administration managing the temporary admission policies



Issues and policy for receiving countries

The significance of irregular migration for labour and labour markets

- It is difficult to assess whether opening up legal channels for migrant workers helps to stem irregular migration
- **Left unattended**, irregular migration
 - challenges the legitimacy of the government
 - fuels xenophobia and increases anxiety about foreigners
 - reinforces informal labour markets undermining employment protections
 - undermines the integrity of any immigration regime
- **Migrant receiving countries are increasingly trying to strengthen the role of countries of origin** in decreasing irregular migration by
 - fostering bilateral agreements on return (readmission) of irregular migrants combined with
 - provision for some access to labour markets
- **Sanctions against employers and enforcement of labour standards** can play an important role in deterring illegal employment of foreigners



Questions

In your view, which is the principal “policy dilemma” receiving countries face and why?

What measures has your government adopted to address this policy dilemma?



Migration and Labour

Inter-State cooperation



Inter-State cooperation

Important Points

- **Inter-State cooperation** can take place on **bilateral, regional or multilateral levels**
- **Bilateral labour agreements** or less formal bilateral arrangements, such as MOUs, are the most common mechanisms used to regulate inter-State labour migration
- Within the framework of regional economic integration processes, **migration policy is sometimes linked to economic and trade policy**
 - For example, see the EU free movement of workers regime and also the recent European Commission Green Paper on an EU approach to managing economic migration (from third countries)

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Inter-State cooperation

- There is **no global agreement or convention in place to manage labour migration flows at the multilateral level**
- But a limited number of instruments cover specific aspects of cross-border mobility for economic purposes
 - Supply of services involving the temporary movement of service suppliers under GATS Mode 4
- Efforts by the international community to develop norms on labour migration through legally binding conventions protecting the rights of migrant workers have had limited success
 - UN Convention on Migrant Workers 1990 (33 State parties)
 - ILO Convention No. 97 of 1949 (43 State parties)
 - ILO Convention No. 143 of 1975 (18 State parties)

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Inter-State cooperation

- A number of intergovernmental processes focus specifically on labour migration
 - Draft ILO Framework on Labour Migration
 - Given ILO's tripartite composition, social partners will also play an important role in the development of this framework
 - Colombo Process – Labour Migration Ministerial Consultations in Asia (facilitated by IOM)
- A number of more general intergovernmental processes on migration also devote attention to labour migration
 - Global Commission on International Migration
 - Berne Initiative
 - International Dialogue on Migration



Questions

Does your country cooperate with other countries on labour migration?

In your view, which is the best form of inter-State cooperation?

Can you provide some examples of successful cooperation in this regard?