



**ICMC Written Submission to the  
Day of General Discussion: Protecting the rights of all migrant workers as a tool to enhance  
development  
Third session of the Committee on Migrant Workers  
Geneva, 15 December 2005**

The International Catholic Migration Commission welcome the initiative of the Committee on Migrant Workers to discuss the issue of migration and development within the framework of “protecting the rights of migrant workers as a tool to enhance development”, and would like to offer some initial thoughts on this subject.

Despite a growing interest in international migration at the national, regional and international levels, most debates take place within a negative and control-oriented atmosphere. The nexus between migration and development has gained interest from most major international bodies – Bretton Woods Institutions, United Nations agencies and Secretariat, World Trade Organization and International Organization for Migration – in the last decade. National, regional and international meetings and conferences have been held to determine how migration relates to development. Indeed migration most often has an overall positive economic impact on the receiving country, whereas it can have a mixed impact on development in the country of origin, where on one hand remittances become a central part of the country’s economy, but where brain drain of skilled labour might further undermine the development efforts in the country.

What is strikingly missing from the actual debate on the development/migration nexus is a rights-based approach. Only recently has the need for a rights-based approach to migration and development been expressed within the UN system. In his address to the United Nations High Commissioner for Refugees Executive Committee on 6 October 2005, Secretary General Kofi Annan, highlighted the crucial nature of international migration, “one of the big issues facing our world.” He also stated that neither development nor security can be enjoyed without respect for human rights. The draft International Labour Organization Multilateral Framework on Labour Migration adopted a rights-based approach to labour migration. The Global Commission on International Migration also advocated for a rights-based approach to international migration in its report of October 2005, calling on States to adopt a human rights framework to deal with migration issues. Yet, to date, plans for the 2006 General Assembly High Level Dialogue on International Migration and Development do not contain a specific human rights component. This is where the Committee on Migrant Workers can make a fundamental contribution, recommending that international human rights standards be the necessary framework for setting the foundation of the nexus between migration and development.

Over the years, a number of landmark documents have been elaborated within the United Nations on relevant issues. As per Article 1 of the 1986 Declaration on the Right to Development, “the right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.” This was reaffirmed by consensus at the World Conference on Human Rights in 1993. All persons thus have the right to find economic, political and social opportunities in their country of origin to live in dignity and achieve a full life. Further, the Declaration also states “the human person is the central subject of development

and should be the active participant and beneficiary of the right to development.”

The rights of migrant workers and members of their families are directly derived from the Universal Declaration of Human Rights. They were explicitly formalised in the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The Convention builds upon the two International Covenants on economic, social and cultural rights, and civil and political rights and reflects the non-discrimination approach embedded in all human rights instruments.

The Committee on Migrant Workers should therefore approach the nexus between development and migration through the intersection between the right to development and all other human rights to which all migrants are entitled.

Looking at the nexus between the right to development and all other human rights, the Committee should also take into consideration, and build upon, the efforts made within the human rights system of the UN to bridge development and human rights. In this respect, the paper prepared by Philip Alston as a contribution to the work of the Millennium Project Task Force on poverty and Economic Development entitled: “A human rights perspective on Millennium Development Goals”, provides a useful analytical framework. The Committee could take part in efforts to integrate human rights in meeting the Millennium Development Goals (MDGs), focussing on migration and the rights of migrants and their families. In particular, Goal 8, “Develop a global partnership for development”, can provide a substantial entry point for international migration. This global partnership encourages actors to actively work together, and could foster collaboration between countries of origin and countries of employment. It is worth recalling that, as foreseen in the 1994 Programme of Action of the United Nations International Conference on Population and Development, one of the objectives of international migration and development is “to encourage more cooperation and dialogue between countries of origin and countries of destination, in order to maximize the benefits of migration to those concerned and increase the likelihood that migration has positive consequences for the development of both sending and receiving countries.”

ICMC recommend that a fruitful contribution of this Committee to the High Level Dialogue on International Migration and Development could be a General Comment articulating the elements for a rights-based approach to migration and development. A General Comment would also be the basis for future collaboration with other human rights Treaty Monitoring Bodies. Ultimately, such a collaborative and integrated approach would bolster the protection of the rights of migrants within the UN system as a whole.

### **1) Migrants in the country of origin:**

Often the lack of opportunities for a life in dignity and the lack of protection are the root causes of migration. The ideal situation for which the world must strive is one in which migration flows are driven by choice - as happens in North/North and North/South migration - and not by necessity. Paramount to this goal is the need to develop the economies of sending nations. Elements to be considered for a human rights-based approach to the migration/development nexus in the country of origin include:

- Root-causes of migration: development of societies in countries of origin to help improve the general context for migration. Exploring transnational responsibilities of States to ensure that, especially, economic, social and cultural rights are fulfilled.
- Migrants have the right to leave any country, including their own and to return (art. 8 and art. 67 ICRMW)
- Migrants as actors in the development of their countries of origin including but not limited to economic development.
- Family members remaining in the country of origin: mitigate risks of exclusion from community development.

- Reintegration of returning migrants: importance of a community development approach; attention to the specific needs of forcibly returned migrants.
- Follow-up of migrants' proceedings of legal problems in the country of employment upon return to the country of origin.
- Remittances: regulation of fees; more efficient modes of transfer; support and encourage migrants' initiatives to invest some of their earnings in community development, including building of infrastructures in the countries of origin.
- Migrant recruitment agencies: regulation of agencies in country of origin as well as in country of employment.
- Feminization of migration: attention to the special vulnerability of women migrant workers and their protection needs, in particular in domestic work, and at all stages of the migration process.

## **2) Migrants in the country of employment:**

Full respect for the human rights of migrant workers and members of their families in the country of employment benefits development of both the country and its people. It strengthens social cohesion. It encompasses the social, cultural, economic, civil and political dimensions of life:

- The principle of non-discrimination forms the bedrock of the protection of the rights of migrants and members of their families: it not only guarantees access to rights, but contributes to the empowerment of migrants and their families in all aspects of their lives in the country of employment.
- Access to self-employment for migrants as an example of good practice.
- Respect for cultural rights as a two-way process for integration.
- Right to education, including access to higher education as a factor of development for countries of origin and of employment.
- Family as the natural and fundamental group unit of society (UDHR Art. 16.3): right to family-based migration.
- Legalisation of undocumented.
- Regardless of their legal status, migrants, like all persons, possess inherent human dignity that should be respected. Policies and practices that negate the dignity of migrant workers and members of their families are obstacles to the development of host societies and migrant communities.
- Legal avenues for all migrant workers and members of their families in the country of employment as a means to counter trafficking and smuggling of people and to avoid migrants getting indebted.
- Attention to the elderly migrants, including preservation of full pension rights upon return to country of origin
- Brain drain – obligation of receiving country to mitigate the negative impact of the loss of highly skilled labour; explore good practices in co-responsibility of States.
- Remittances are private money: their contribution to development can not be regularised; fees from the transfer of remittances could be partly used for development.
- Obligations of countries of employment and their consequences on the development of countries of origin: exploring the concept of transnational responsibility of States regarding respect for the human rights of citizens of other countries, especially with regard to economic, social and cultural rights.

Finally, we wish to emphasize that the current recommendation to allow one NGO representative only into the High Level Dialogue on International Migration and Development at the General Assembly in 2006 does not do justice to the rich and multi-faceted collective expertise shared amongst hundreds of NGOs around the world. We urge the Committee on Migrant Workers to advocate for a large NGO representation, along the lines of traditional United Nations regional groupings, and take into consideration the work done by relevant international NGOs. In addition, the High Level Dialogue should make space for participation of representatives of migrant workers.