

BACKGROUND PAPER WMR 2010

The Future of Migration Policies in the Americas



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The Future of Migration Policies in the Americas

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FOREWORD

This paper is one of 19 background papers which have been prepared for the IOM, 2010 World Migration Report which is entitled the “Future of Migration: Building Capacities for Change”. The 2010 report focuses on likely future trends in migration and the capacities that will be required by States, regional and international organizations, civil society and the private sector to manage migration successfully over the coming decades.

Over the next few decades, international migration is likely to transform in scale, reach and complexity, due to growing demographic disparities, the effects of environmental change, new global political and economic dynamics, technological revolutions and social networks.

The 2010 World Migration Report focuses on capacity-building, first because it is good governance to plan for the future, especially during a period of economic downturn when the tendency is to focus on immediate impacts and the short-term period of recovery. Second, capacity-building is widely acknowledged to be an essential component of effective migration management, helping to ensure the orderly and humane management of migration.

Part A of the World Migration Report 2010 focuses on identifying core capacities in key areas of migration management. The aim is not to recommend “one size fits all” policies and practices, but to suggest objectives of migration management policies in each area, to stimulate thinking and provide examples of what States and other actors can do.

Part B of the World Migration Report 2010, provides an overview of the latest global and regional trends in migration. In recognition of the importance of the largest global economic recession since the 1930s, this section has a particular focus on the effects of this crisis on migrants, migration and remittances.

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Migration trends on the American continent can be briefly summarized as consisting of three main flows: South–North continental flows originating in Latin America and directed towards the United States and Canada; neighbouring-country, subregional flows, of which there are several subsystems; and transoceanic migration, with distinct patterns in North and South America: in North America, immigration prevails, and Asia is playing a growing role; in South America, emigration is more relevant, aimed particularly at Spain and, to a lesser extent, Japan. Several factors and periods have been shared by a number of countries undergoing socio-political upheavals, economic crises and, more recently, sustained economic growth. This has led to some common economic and demographic trends (Velásquez, 2009). As with other international migration flows, the return of stability and growth to a number of Latin American countries has not meant that flows triggered by former crises have stopped; however, they are being modified by new conditions.

The continent hosts two significant Regional Migration Conferences – one in North America and the Caribbean, and one in South America. These non-binding forums have played a major role in strengthening migration dialogues on the continent. In addition to a significant role played by the United Nations (mostly the Office of the United Nations High Commissioner for Refugees, (UNHCR)), the International Organization for Migration (IOM) has provided technical, research, political and capacity-building support to those regional processes, and has helped achieve national and subregional migration agreements. Today, significant progress has been made with the common Andean Community passports, with Central American visa-free movement, and with specific binational passport- and visa-free movements. However, significant challenges remain.

This paper deals with the current nature and scope of the major flows, and the current challenges faced by migration policy. It refers to the latest figures for stocks and flows found in the literature and in IMILA¹ or national databases (in some cases, updated with newer information). In terms of trends, the focus is mostly on the last 10–15 years, although some current phenomena are contrasted with those analysed in the seventies.

FLOWS AND TRENDS

From the sixties to the early nineties, migration in the Americas was marked by a very disparate development between the United States and Canada and the rest of the continent, aggravated by the so-called “lost decade”, which stretched until the early nineties, and civil conflicts in Central and South America. North–South developmental asymmetry explained the large population flows, with a slower rate of development resulting in a decline in migration from Europe and the Middle East² to Latin America. On the other hand, war and conflict made for

¹ Investigación de la Migración Internacional de América Latina y el Caribe – an initiative of the Latin American Center for Demography, at the Economic Commission for Latin America and the Caribbean (ECLAC), in Santiago.

² In addition to large flows from these regions to the United States and Canada, there were significant flows from the Middle East to South America and Mexico from the thirties and until the seventies, with the constitution of several

large numbers of internally displaced persons (IDPs) and international migrants seeking refuge from violence and its accompanying losses of life, property and opportunity – particularly among the rural poor and the lower urban classes. During this earlier stage, migration in the Central America–Mexico region passed from intra-regional to South–North, albeit with a substantial component of IDPs. These two main factors (disparate development and conflict) had attenuated substantially by 2000, and this is beginning to be perceived in the many migration flows.

By 2005, there were 51.1 million international migrants in the Americas, 44.5 million of whom resided in North America and 6.6 million in Latin America and the Caribbean. South–North migration on this continent amounted to 87 per cent of the regional total – the largest of all South–North flows in the world (IOM, 2008).

The United States is the world’s largest immigration country in absolute terms, with 38.3 million migrants, 55 per cent of whom were born in the Americas, and roughly 1 million new legal immigrants per year. The largest number and proportion of immigrants are Mexicans (10.8 million), followed by the total of other Latin Americans and the Caribbean-born (4.6 and 3.2 million, respectively). The Hispanic community in the United States has expanded faster than all other large immigrant groups, becoming the largest minority group in that country in 2004 (IOM, 2008). Asia ranks second in terms of migrant origins, with 27.3 per cent of US immigrants originating there. Those born in China, India, the Philippines and Viet Nam comprise the largest share. Europe comes third, with 13.1 per cent – down from 74.5 per cent in 1960 (MPI, 2009). A substantial fraction of these immigrants lack regular immigration status. According to Passel and Cohn (2009), 30 per cent (12 million) of all foreign-born residents of the United States are unauthorized migrants, two-thirds of them from Mexico and Central America. Immigration slowed during the current economic downturn and is likely to increase as growth returns. However, trends cannot be clearly identified at this time.

The foreign-born population of Canada rose by 0.75 million between 2000 and 2005. By 2005, 20 per cent of the Canadian population was foreign-born (UNDESA, 2009). The main recent inflows are from Asia (China, India and the Philippines), the United States and Latin America. Among temporary workers, Mexicans predominate.

Relative to 2001, all countries and territories on the continent have witnessed an increase in migration, in absolute and relative terms (IOM, 2008).

early “transnational communities”. Chinese diasporas in Central America and Mexico maintained very significant links to Hong Kong, Macau, China and Continental China (Barreno, 2009).

Latin America

After a period of immigration from Europe, Africa, Asia and the Middle East, extending from the sixteenth to the mid-twentieth centuries, Latin American societies show two main patterns today: emigration towards North America and Europe and, in a distant second place (but gaining importance), emigration towards other Latin American countries. By 2004, the Latin American-born population of the United States amounted to 18 million – or over 50 per cent of the total foreign-born population (CEPAL, 2006b).

Intra-Latin American flows are smaller than those aimed at developed nations, but they have grown considerably: by 1990, they comprised 2 million persons and, by 2000, they rose to 3 million. Although economic factors obviously affect migration, violence and insecurity also remain significant factors, although generally much less visible than in the seventies or eighties. Colombia has made significant gains in securing the sovereignty of the State over its territory, but Colombians still leave for Venezuela and Ecuador. These flows appear to be diminishing, but they are still significant. Peace has also returned to Central America, but those leaving still mention insecurity as a factor in their departure. Insecurity is also increasingly visible in Mexico,³ although its role in emigration can so far only be traced to small and specific groups. Another significant flow occurs in the form of the brain drain. Colombia, Ecuador and Venezuela are well-known sources of engineering and medical professionals for Canada, the United States and, to a lesser extent, Europe.

Argentina remains an immigration country, although less so than prior to 2000. However, other countries have reversed their net migration balance, from negative to positive. Chile was the first to change; more recently, Brazil and Uruguay have also shown consistent positive balances. Economic growth seems to be a key factor in reversing the flows, although Peru is an exception to this rule; in spite of its improving growth rate, it is still an emigration country.

The origin and destination matrix can be characterized as follows: Colombians migrate largely to the United States and Spain (from mostly secondary schools and professional backgrounds), and to other Latin American destinations (from less educated, non-metropolitan groups). Venezuelans from all social groups (but mostly the health professions) leave predominantly for Spain and, to a lesser extent, Australia and Canada. Ecuadorians go to the United States and Chile (with a considerable number in the medical profession moving to Chile). Peruvians move to Chile, the United States and, to a lesser extent, Ecuador. Brazil receives migrants from neighbouring countries, and it is becoming a lesson in return migration from the United States and Europe. There is evidence that the numbers of return migrants are increasing and that these migrants are using savings and remittances to establish themselves independently and to settle. Costa Rica receives flows of unskilled workers from Nicaragua, but also a number of skilled groups from Colombia and other Central American countries, in the form of skilled replacement

³ Relative to the year 2000, the crime rate has fallen in Mexico. Nevertheless, some cities and rural areas have become more violent.

immigrants: middle-class, skilled Costa Ricans have migrated to the United States, Canada and Europe, and Costa Rica is simultaneously receiving other professional flows. Argentina is a significant destination for several other South American countries, especially Peru, Bolivia and Paraguay. Mexico and Puerto Rico, finally, send large flows almost exclusively to the United States, as they have done for many decades (CEPAL, 2006a).

Migration trends in Latin America can thus be summarized as follows: 1) sustained economic growth in a number of Latin American countries is changing the flows, with the rise of some significant immigration countries; 2) flows are differentiated not just geographically, but also socially; 3) Some countries can show significant emigration of some groups, together with significant immigration of similar social groups – or replacement migration; and 4) the overall situation is significantly fluid. The global economic crisis, particularly acute in Canada, Costa Rica, Mexico and the United States, has clearly had an impact on some flows, but it is hard to tell exactly what will change in the near future.

Forced migration, displacement, asylum⁴

During the eighties and nineties, IDPs rose significantly in Central America. A state of peace led to a reduction in the number of refugees and the internally displaced, but recent conflicts in Colombia, Peru and Southern Mexico (mostly), as well as insecurity and continuing social unrest, have caused the numbers to rise to 3.3 million persons. The vast majority of those considered to be IDPs – approximately 3 million – are Colombian.⁵ At this time, this is the largest such population in the world (UNHCR, 2002–2007).

The majority of Colombians who have left their country have fled to Costa Rica, Ecuador, Panama and Venezuela. Ecuador replaced Venezuela as their most frequent destination, since the low cost of movement makes displacement more feasible for poor peasants and small-town inhabitants; this is the case for both refugees and other low-income groups who seek refuge as a result of the destruction of their livelihood or extortion by armed groups, and because refugee status seems to be their best chance of gaining legal recognition in other countries. It is relatively infrequent for them to apply for legalization through other means, largely because of the cost of other options. The time taken to gain legal status through refugee procedures is relatively short (one to two years) but, in the meantime, the lack of legal documents makes them particularly vulnerable. The problem is compounded by the fact that these Colombian migrants often lack the time and money to gain and maintain legal status through other means. Colombians with human and financial resources have other options, even if their motivation for

⁴ The debate on the difference between refugees and displaced persons has long been on the table, without a clear agreement. The difference is relevant mostly because it helps to assist each kind of migrant differently. Full, detailed and differentiated counts would also be useful in developing policies for the pertinent groups.

⁵ A good survey of this situation was derived from the seminar on this subject held in 2004 (UN, 2004), together with the work of IOM (2002), a valuable attempt to characterize this population.

migration is the same. There is some stigma associated with would-be refugees, because some groups in the host societies associate them with violent groups (Velásquez, 2009). Since armed conflict has long played a role in these movements, it is unlikely that they will be reversed in the short term. Solving a 50-year-old problem will take time, particularly when unrest has triggered diverse movements to neighbouring countries and farther afield. Progress is nevertheless being made.

The Mexico Declaration and Action Plan for the Strengthening of the International Protection of Refugees in Latin America, adopted by 20 governments in 2004, constitutes a significant framework for the protection of the victims of forced displacement. This plan intends to enhance national capacity for refugee protection, through training and the strengthening of asylum procedures, and the strengthening of networks throughout the region. The Plan includes three long-term processes, which have led to the creation of solidary frontiers, the establishment of solidary cities and the development of solidary resettlement (UNHCR,⁶ 2002–2007).

Canada and the United States remain significant hosts for refugees, although their absolute numbers have dropped recently. This is contrary to what seems to be happening in South America, where the number of refugees seems to have grown but may soon diminish, thanks to increasing stability in rural Colombia.

Human rights

The protection of the human rights of migrants is a growing concern. Although efforts are under way to harmonize national laws so that common definitions of trafficking and smuggling can be agreed, there is less consensus on the minimum standards required to protect the rights of all migrants. This is particularly important in intercountry relations, since the number of migrants lacking regular status has grown in the past 10 years, in both North America and Latin America. The growing significance of irregular migration, which tends to feed discrimination and social opposition to migrant groups in host countries, suggests that agreeing on minimum standards should be a priority. This is in addition to a variety of sources stating that trafficking (of women and children, mostly) and smuggling are on the increase. The potential benefits of migration heralded by most international organizations cannot be realized in a context in which irregular migration has increased, with irregular migrants being increasingly smuggled and trafficked, without proper recognition of their rights or access to services (Martínez, 2008).

It is disappointing that only 26 countries have ratified the International Convention for the Protection of the Rights of Migrant Workers and their Families (Martínez, 2005). In the Americas, a number of immigration *and emigration* countries have failed to sign the Convention, which suggests that this framework will not soon serve as the main instrument for bilateral or

⁶ Known as the Alto Comisionado de las Naciones Unidas para los Refugiados (ANCUR) in Spanish.

multilateral negotiations on these issues.

Special UN rapporteurs on migrant rights, as well as treaty oversight committees, have stressed that, recently, there is evidence of below-minimum wage levels, forced labour, dangerous work and living conditions, and a lack of access to social services, among other factors, which can aggravate other situations, such as gender inequality. Increasing penalties against irregular migrants may complicate, rather than help resolve, these problems.

Inadequate domestic interagency coordination, as well as varying degrees of constitutional or de facto State and local autonomy on these matters, complicates the fair and dignified governance of migration flows. Local governments and law enforcement bodies must deal with the consequences of irregular migration, smuggling and trafficking, and they increasingly do, but their capabilities and roles have not been sufficiently recognized, defined or enhanced in national migration laws and policies.

Some researchers insist that improving migration governance will, in addition, require substantial educational policies, defined with the help of a diversity of social groups, and aimed at society in general (Courtis and Martínez, 2007).

A binding, efficient and capacity-building agreement, together with better national laws and policies, is urgently needed to allow governments to generate significant results in terms of the prevalence of regular flows and a significant decrease in the number of unauthorized, trafficked and smuggled migrants.

Labour migration

Over the past few decades, labour migration has unequivocally risen. On the American continent, the tendency has been clearly dominated by South–North migration, with the United States as the main destination for these flows. The proportion of foreign-born workers in its labour force rose from 4.8 per cent in the seventies to 10 per cent in 2008 (Terrazas and Batalova, 2009). In the aggregate, it is also the largest destination for skilled and unskilled temporary workers, with at least 200,000 arriving annually. Skilled workers have relatively smooth access to residency, after a period of temporary contracts. Nevertheless, there is room for improvement in both recruitment practices and workplace oversight.

Canada is the largest destination of labour migrants relative to its population. In addition to its significant openness to potentially permanent immigrant workers, it is also recognized for its temporary worker programmes. These programmes operate significantly above international standards. A good indication of the performance of the Canadian immigration system is that, in spite of very high immigration levels, residents continue to view immigration in a positive light. Nevertheless, critics and observers recommend improvements, especially with regard to “freeing” the workers from a single employer, in the case of temporary worker programmes

(Goldring et al., 2007; Basok, 2007), and increased regulation of worker recruitment agencies (Verduzco, 2008). The very high levels of asylum-application fraud by Colombian, Mexican and other immigrants are explained by the lack of regulation of overseas recruitment agencies promising employment and resident status in Canada. In addition to the promotion of irregular migration and asylum fraud, these agencies foster the development of substandard work practices. This is another instance of the close relationship between the labour and asylum components of immigration systems.

Neighboring-country labour migration in Latin America is triggered significantly by low labour income, not the absolute lack of employment. But violence and insecurity also play a role. Some countries are significant destinations. This is the case of Argentina, where flows from Paraguay, Bolivia and Peru come together. A significant factor in these increased flows seems to have been the parity of the Argentine peso and the US dollar, which made remittances from Argentina particularly productive in the country of origin. The situation changed radically with the Argentine crisis of 2001, the loss of convertibility and a lower exchange rate (Cerrutti, 2005). Flows continue, although in smaller amounts. A similar trend is now evident in Colombia–Ecuador flows.

Highly skilled migration

A full 65 per cent of all skilled workers on the continent reside in Canada and the United States. Of all the skilled international migrants on the continent, 23 per cent were born in other American countries. Most of these (80%) have left a Latin American country. The United States is the major host society. By 2000, it was estimated that the largest skilled immigrant group in the United States was Asian-born (41%), with Latin American- and Caribbean-born in second place (29%) (Docquier and Marfouk, 2006).

According to this source, Central America and the Caribbean show significant emigration rates of the highly skilled. This can impact their development, from the point of view of both their future economic needs and their ability to train new generations of professionals. Beine et al. (2008) analysed the impact of this kind of emigration on the human capital training capabilities of sending countries. They concluded that these flows may benefit the source countries, provided that they do not exceed 20 per cent and that return migration takes place. With higher emigration or low return rates, development prospects are jeopardized.

Low-skilled migration

In social and policy terms, low-skilled migration (or the migration of the poor) is the most serious challenge to migration policy on the American continent today. The bulk of unauthorized migrants are today made up of low-skilled workers and their families. This combination of minimal skills and unauthorized status makes these migrants a particular concern for origin and destination societies. They are also undoubtedly the most vulnerable and their numbers have

grown. A significant immigration reform in the United States would probably change their situation substantially. Significant action must be taken to a) deal with their irregular status; b) provide significant incentives for return migration; and c) foster social integration, and recognition of the rights, of those settling in host societies.

Gender

According to the United Nations (UNDESA, 2009), women will represent 49 per cent of all international migrants by 2010 – a proportion unchanged since 1990. In the Americas, these proportions show gender parity, both in Latin and in North America.

Although, in the past, migrant women were considered to be reuniting with their families, the history of their flows has increasingly shown that their role as workers and as remittance senders is similar to men's. Increasing globalization has meant that they often leave their children behind, and the role of grandparents and other family members as caretakers of children seems to be growing, as is the proportion of "hourglass" family structures, made up of grandparents and their grandchildren (Díaz and Kunher, 2007; Escobar and Gonzalez, 2005). In spite of their apparent convergence with male roles, international women migrants do tend to be less skilled and more poorly paid in the host society labour markets, with domestic work still the most significant occupation. Other industries employing larger-than-average shares of women include the services in general, health care, and manufacturing, particularly electronics (Pessar, 2005). Household work is the most precarious of these, because it often lacks most benefits and provides few guarantees in terms of pay, security and working conditions.

According to the *American Community Survey* (U.S. Census Bureau, 2005, 2006), 49 per cent of all foreign-born individuals in the US are women. Their participation rate is lower than men's (55% vs 81%) (BLS, 2009; Mosisa, 2002). But it is likely that their work and income are significantly underestimated, since domestic employment often goes unreported.

Women make up 40 per cent of the unauthorized population in the United States (Passel and Cohn, 2009). Although the proportion of men in this category is higher and rising, the number of women remains significant. In Mexico, these findings were confirmed by a study based on a small sample of mostly Central American women in Mexican detention centres, who arrived from third countries intending to migrate to the US (Díaz y Kuhner, 2007). They were young, 50 per cent of them were single, and 75 per cent had children. Their main aim was to send home remittances to help provide for their children. Only 13 per cent travelled with a child. Almost all found some support in social networks. Their gender vulnerability was compounded by increasing border enforcement in the United States, and most had been victims of some kind of abuse (including sexual abuse) while in transit.

In Canada, there are currently more immigrant men than women. However, the proportion of migrant women is increasing, and a temporary-worker programme aimed at assisting female

migrants may attract even more women to the country. The programme, which provides for the care of children and the elderly, promises resident status after two years' work with the same employer (CIC, 2009).

Unlike the relative stability observed in the United States, in Latin America women constitute an increasing proportion of the flows. The United States has already been mentioned as a destination, but there is evidence of increasing flows of women migrating to Europe and to other Latin American countries (ECLAC [CEPAL], 2006b). The increase in the number of women migrating to Spain has been particularly notable (Rico, 2006), with the most recent data indicating an increase in the number of female Latin American domestic workers.

Intra-Latin America flows are mostly made up of women. The masculinity indices for the foreign-born in Argentina are 73 men per 100 women and, in Chile and Venezuela, 91 and 92, respectively (Rico, 2006). Women have comprised the majority of the flow in Argentina since the sixties, when they migrated for labour, not family, reasons. This flow persisted, on a much smaller scale, after the crisis of 2001.

Emigration to other continents

Emigration trends in Latin America show an increasing number of significant destinations. ECLAC (CELADE-CEPAL, 2006) reports their increased presence in Canada, Japan and Spain, as well as in other European societies (France, Italy, the Netherlands, Portugal and the United Kingdom⁷) and other areas of the world (Australia and Israel). France and Italy, in particular, have hardened their immigration policies, and intra-European border controls have been tightened up.

Spain is the most frequent destination outside the continent. This reverses the trends of earlier centuries, when flows moved from Spain to Latin America. There was a marked surge in the nineties. A few Latin Americans have recovered the citizenship through their ancestry. Others have benefited from programmes designed by the Spanish Government (CELADE-CEPAL, 2006). Almost one third of all Latin American immigrants in Spain have gained citizenship. Their full social and political incorporation seems to be a significant issue for the Spanish Government. Nevertheless, they still make up a majority of unauthorized immigrants in that country. Bolivian, Colombian and Ecuadorian migrants are estimated to account for 7 per cent, 8 per cent and 20 per cent, respectively, of the unauthorized. Brazilians constitute 6 per cent of unauthorized migrants in Portugal (IOM, 2008).

Latin American (mainly Andean) immigrants in Spain are mostly young, of recent arrival, and work in low-skilled jobs. There is a tendency to being underemployed. Women make up the majority, but men are increasing their share of the immigrant population. They contrast with the

⁷ According to the most recent IMILA statistics, the stock of Latin American and Caribbean immigrants in Portugal amounts to 75,000, two thirds of whom were from Brazil.

native population, among whom women have taken more jobs, ageing is advancing rapidly, and improvement in educational levels is quite significant (Gil and Domingo, 2007). Due to these factors, to their command of Spanish and to less discrimination of Latin American immigrants relative to other groups (such as those from Africa and other non-EU regions), Spain has become, and is likely to remain, the second-most important destination for Latin American migrants, after the United States.

CHALLENGES FOR POLICY

The future of migration policies in the Americas can be divided into two broad fields. First, the structural underpinnings of the current level and kinds of migration flows need to be recognized so that some challenges can be efficiently addressed by specific policies. Second, a number of migration-specific actions need to be strengthened or revised.

I. Socio-structural challenges and the future of immigration policy

There are two societal challenges for the future of migration policies in the Americas: one is labour regulation and the other is uneven development.

Since the late seventies, high- and low-wage nations have reduced their ability to regulate employment, disemployment and work conditions. There have been some gains in labour market flexibility but this has affected workers in general through falling coverage of pay standards, pension funds, health benefits and job security. It has hurt national fiscal systems, has favoured the growth of smuggling and trafficking, and is related to the establishment of indentured labour and sexual servitude. Restoring the ability of governments to regulate the world of work will ensure that vulnerable native and foreign-born groups do not slide into destitution, as well as ensuring that the unauthorized do not experience a decline in working and pay conditions at the bottom of the labour market through unregulated competition. The most vulnerable groups are the disadvantaged native-born.

Improved regulation will therefore reduce the social tensions caused by a rise in the employment of foreign-born workers in the low-skilled, low-security and low-pay strata of the market, where they compete with poor native-born persons. Improved regulation will also reduce the availability of these jobs to undocumented workers, and the willingness of employers to hire them at below-market rates and/or to work in conditions that are below legal standards. Thus far, most analysts have viewed employment deregulation as a given and it is time to address its relationship to socially unacceptable immigration.

In this sense, labour and human rights need not be treated as opposites. Ensuring that legal conditions are met in the workplace will go a long way towards improving the enforcement of the human rights of immigrants and natives alike, while lowering the numbers of unauthorized

migrants working for abusive employers, although other, non-work-related, forms of right-enforcement will be necessary, in accordance with national laws and the international instruments signed by each government.

Naturally, the challenges differ between high- and low-income societies. In most of Latin America, labour regulation has always been a challenge for significant sectors of the economy, but the crisis and stagnation of the eighties and nineties exacerbated the problem. Several countries have recently improved their ability to regulate employment, as a result of their economies growing and generating formal jobs. Weak growth fosters informality, which threatens employment regulation, and clearly points to the need for disparities in development to be addressed.

However, such disparities cannot be readily or easily resolved, although government and private stakeholders in low-income, migrant-sending countries have an interest in promoting certain aspects of their economies, and initiatives that facilitate exchanges, investment and trade providing opportunities to developing economy exports should be fostered. Uneven development levels have been at the source of the kinds of migration that challenge social and legal institutions. Good migration practices can have positive impacts on development, but development necessitates a more global approach, and considerably more political consensus. Recent trade-based approaches to integration in the Americas have been positive but insufficient in terms of bridging the development gap. While such achievements should be recognized, other instruments will be necessary. Sustained economic growth is already taking place in several Latin American countries but other countries are lagging behind. Governments and policymakers need to make significant efforts to enable their countries to grow and to supply more and better jobs to their citizens.

In socio-structural terms, therefore, the future success of immigration policies depends significantly on reinforcing governments' abilities to enforce labour law, on the one hand, and to take a stronger, more pervasive approach to regional development, on the other.

Migration-specific policies

As elsewhere, effective migration governance remains an elusive goal in the Americas, although there have been several significant, positive developments. The future of immigration policy on the continent will be largely affected by the decisions and policies adopted by the main three countries of destination – Canada, Spain and the United States – as well as by the future of the regional forums and the specific (binding) agreements that they may give rise to. On the other hand, commitments by migrant-sending countries will depend on their perception that agreements are not one-sided – in other words, that administrative and legally-binding reforms are in their national interest, and that agreements do lead to the fulfillment of promises made by migrant-receiving countries.

Any significant immigration or immigration-related reform in the United States will shape the future of the largest continental flows. Although, in the current context, an expansive, pro-immigration reform is out of the question, significant progress could be made for future migration governance if such a reform improved the rule of immigration and labour law, if it dealt with the large undocumented and unauthorized population, and if it improved and expanded temporary-worker programmes gradually, with the assurance that enlargement would not lead to an increase in visa abuse. Some initiatives discussed recently included a role for sending countries.⁸ The success of any large US immigration reform will depend on international collaboration – and, in particular, on Mexican collaboration.

An emerging issue on the continent centres around the intermingling of refugee and labour flows. Although some persons are still being effectively expelled from their home country by direct threats to their lives, many more are moving because of the economic consequences of violence and insecurity. Some succeed in attaining refugee status, but many more face extremely long processes that may provide short-term security but can result in legal refugee status subsequently being refused. Many of these migrants cannot return home and countries receiving these migrants need an effective status and policy for dealing with them. The migrants will remain in the host country, but unless they are provided with some kind of legal status that allows them access to services and facilitates their contribution to the tax and other social systems, their situation will continue to deteriorate. The cooperation of UNHCR, IOM and regional governments in this domain has been, and will remain to be, significant in the near future.

In addition, labour flows need to be recognized as such. The labour rights of migrants are, in many instances (including some related to legal migration), unenforced or unrecognized. International labour migrants need receiving governments to recognize and implement their rights to access the court system and to be provided with access to their labour-related contributions. They also need sending and receiving governments to agree on mechanisms for effective tax refunds and for the recognition of their access to pensions through totalization agreements. Today, hundreds of thousands of migrants dividing their working lives between countries run the risk of always contributing but never enjoying the pensions or the rights they are helping to build.

The management of unskilled, poor labour migrants will remain the most significant challenge to migration policies in the region. Permanent immigration policies pay little attention to them, in spite of unskilled worker demand; they comprise by far the largest share of the unauthorized population in all immigration countries; and minimum standards need to be agreed and implemented in the areas of labour, health and education. This is an area in which migration and local or regional development policies clearly interact. Safe return and repatriation programmes can help, but much more needs to be done to ensure successful reintegration of returning

⁸ This is the case of the Comprehensive Immigration Reform initiative proposed by McCain and Kennedy in 2006.

unskilled migrants, whether authorized or not. In this sense, the development of social policies in sending countries that welcome migrants instead of discriminating against them may be significant (Escobar and Martin, 2008), as would be comprehensive, universalist institutions providing social protection in migrant-sending countries. Catastrophes, illnesses, robberies, debt and other life crises trigger significant levels of low-skilled migration. Returns can also be made much more attractive through these policies, matching fund programmes and streamlined registration for social programmes and services such as education and health (ibid.).

In contrast, skilled migrants enjoy many more rights and greater security, and they are less vulnerable to social tensions. Their numbers are on the rise in every direction – North–North, South–North, North–South and South–South. While the status quo of skilled migration is much less of an issue in the Americas than in Africa or Europe, some smaller countries are feeling the effects of scarcity in some professional areas, in spite of their training. A number of policies meant to alleviate skilled worker scarcity have already been tried in many sending countries, some of them involving co-development – a term first coined in France for policies aimed at reintegrating skilled return migrants into ex-colonies, or promoting the seasonal involvement of skilled expatriates in their countries of origin. It is time for regional agreements to be established for the effective implementation of these policies on a larger scale.

Smuggling and trafficking are increasingly recognized as a threat to large immigrant groups. In source countries, the prosecution of smugglers has not traditionally been a priority. This is compounded by the fact that, increasingly, smuggling organizations have become larger and better organized, and they have better access to information on migrants and their families. Families can be threatened and blackmailed through a simple mobile-phone call. The migrants are therefore unlikely to come forward and help pursue smugglers. For many years, smugglers were not considered to be a threat to migrant rights. They were simply seen as market agents. Fortunately, this is changing, and there is increasing recognition that the dividing line between smuggling and trafficking has become thinner. Smugglers are increasingly involved in trafficking, and migrants who may think they are choosing a safe smuggler are often deceived and end up being trafficked. International collaboration is crucial to addressing this problem and it needs to be greatly improved to successfully pursue smuggling organizations. Such collaboration could be fostered by implementing binationally or internationally agreed standards for immigration agencies, together with guarantees that migrant information will not be supplied to smuggling groups. Increasing and maintaining binational or international agreements on day-to-day exchanges will help governments detect weak areas and gather data about those in which trust can be generated for further mutual benefit. These agreements exist, but they are less systematically enforced than would be necessary to effectively reduce this threat. Although trafficking and smuggling should be condemned and eradicated wherever possible, there are two areas, in particular, in which legislation, the judiciary and enforcement bodies must cooperate internally and internationally: the sex trade and adoption. Today, trafficking benefits from allies in both areas. The cooperation of countries receiving adopted children (such as in

North America and Europe) and young women as migrants is crucial to the management of this aspect of migration.

Improvements in cooperation have been very significant since 1996, when the first regional conference on migration was launched. Community passports and visa-free travel are being extended as the outcome of positive policies. In some cases, frequent travellers enjoy hassle-free border crossings.

There have also been significant successes in terms of technical cooperation. Record-keeping has been much improved, admissions are now online in several countries, and individual movements across borders can be traced in some countries. Immigration procedures are being streamlined, but many land borders often remain unmanned after office hours, allowing migrants to enter a country unchecked. Inadequate services also result in frequent travellers having to go through the same screening procedures as other border crossers. Although, in some cases, enhanced security has seriously disrupted travel, it also serves as a significant incentive to improve immigration procedures and generate more bilateral or multilateral cooperation.

It must be said, however, that the two non-binding regional migration forums have been affected by the perceptions that such forums are influenced by powerful immigration countries in America and Europe (Martínez, 2003), and by the non-binding nature of most agreements. These perceptions must be changed, with a renewed emphasis being placed on communication, effective quid pro quo within the framework of these forums, and a more active stance by migrant-receiving governments regarding anti-immigration stances, whereby immigrants are wrongly blamed for a host of social ills.

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