



International Labour Office

PRESENTATION

# The challenge today: beating back discrimination and xenophobia

by  
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at the

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## I. INTRODUCTION

It is now evident that the biggest single danger to social cohesion today is the rising tide of xenophobia and violence against foreigners. This is true everywhere, in Africa, Asia, the Americas, the CIS, Europe and elsewhere.

Scratch a headline and behind it is a story of hostility, attacks, tensions, conflict involving foreigners, usually migrants, migrant workers although sometimes it is refugees or other outsiders.

I live in place where a political party just swept local elections on a campaign characterizing people from neighbouring towns —across a border—as “*scum*” which said that the solution to the housing crisis is to expel foreigners and whose campaign posters depicted black and brown people as drug dealers and criminals. But we should not forget that last year, on the other side of the world, nearly 100 foreigners will killed by mobs and 10,000 others forced into hastily erected so-called refugee camps in their host country.

Name a large city in Europe, or the CIS, or Asia, or the Middle East and I can tell you of recent incidences of violence against foreigners, of campaigns to 'nationalize' jobs, or of complaints of daily hostility suffered by those perceived to be foreign.

The global employment crisis —following the financial crisis—is only beginning. The latest update of the 2009 Global Employment Trends report (GET) issued by ILO estimates an increase in global unemployment in 2009 compared to 2007 by more than 50 million persons. Most predictions are that layoffs and downsizing of employment will continue for some time, and that job recovery will be slow. Very slow. A review of economic crises over the last 70 years shows that it usually takes four to five years or more for employment levels to reach the pre crisis levels. And in between, unemployment levels can go very high.

In times of crisis, migrants are victims of the shame that has no name, or rather, the shame that is not named. Migrants become the first to be blamed; they are the scapegoats for unemployment, insecurity, crime, even rising disease and ill health. And angry, frustrated citizens follow the lead of politicians and sometimes governments that concur in blaming migrants by taking direct action. The reported body count of murdered migrants for last January in just one city in an industrialized country was 24. The problem won't simply go away soon. Rather, we can anticipate it may get worse.

Now more than ever, action is needed. By governments, by employers, by trade unions, by politicians, by civil society. But what action?

The Durban Declaration and Programme of Action once again show themselves to be a comprehensive and visionary blueprint, especially regarding preventing discrimination and fighting xenophobia.

## **I. CRISIS IMPACT ON MIGRANT WORKERS:**

News stories from around the world show that xenophobic sentiments and discrimination against migrants are on the rise. Assuming that the employment crisis will get worse, and that it will last a long time means anticipating that widespread frustrations will prompt blaming and targeting foreigners. This alone presents one of the most formidable challenges for social peace and cohesion, and therefore for governance, in hard times.

This crisis is more than anything an employment crisis. In addition to dramatically rising unemployment, conditions are getting worse for those fortunate enough to keep working. The number of working poor – people earning below the US\$2 per person, per day poverty line in poor countries -- may rise up to 1.4 billion, or 45 per cent of all the world's employed. In 2009, the proportion of people in vulnerable, precarious employment – either contributing family workers or own-account workers who are not likely to benefit from safety nets that guard against loss of incomes during economic hardship – could rise considerably to reach a level of 53 per cent of the employed population, according to the worst case scenario (ILO, GET, January 2009).<sup>1</sup>

Migrants tend to be among the workers most hit by economic downturns for several reasons. Migrant labour is often used as a cyclical buffer, like other

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<sup>1</sup> For more details on possible scenarios and prospects for regional developments, please refer to [http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms\\_101461.pdf](http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_101461.pdf)

macroeconomic policies aimed at maximizing growth and minimizing unemployment. For migrants, this means they are often the last to be hired and the first to be fired and their employment relationships are frequently non-standard, and in poorly regulated sectors or activities.

Data compiled by ILO confirms a number of premises about the impact on migrant workers:

- 1) Migrants and persons of foreign origin are hard hit, they are disproportionately among those already laid off or rendered unemployed.
- 2) Those migrants remaining employed are often affected by reductions in pay, working time, and worsening working conditions.
- 3) Migrant workers have less access to social safety net support. This is especially true for migrants in irregular situations.
- 4) However, many migrant workers are not returning home, unless forcibly expelled. This is the case even when they are being offered financial incentives to voluntarily depart. Simply put, conditions in home countries are even worse. While there may be opportunities for some kind of work in host countries, there are simply none at all at home.
- 5) Migrant workers are thus compelled to take whatever work they can find. They may accept even more substandard pay and abusive conditions than before. This fact presents an immediate policy challenge for governance and for stabilization of labour markets and working conditions.

- 6) Scapegoating of migrants and xenophobic violence against foreigners is already on the rise throughout the world. It is expressed in dramatically increased murders and lynchings of migrants in some countries, in generalized expressions of anti-foreigner sentiment, in hostile political discourse, and in calls for exclusion of migrants from access to labour markets and emergency social protection benefits.
- 7) Many countries have reduced quotas or intake of foreign workers; some countries have embarked on deliberate policies of exclusion and expulsion of migrant workers.
- 8) Migrant remittances home are declining.
- 9) The further deteriorated situations in home countries make whatever amount of remittances migrants can send an even more crucial lifeline for their families and local communities.
- 10) What employment opportunities existed earlier for those remaining at home are also evaporating, meaning even fewer options for persons coming back from abroad. This also makes the return of migrant workers potentially a greater threat to labour market stability and ultimately, social stability at home.

## **II. THE CONTEXT: LABOUR MIGRATION TODAY**

Let's put this in context. Why is the question of properly addressing xenophobia and discrimination against foreigners vital?

First question, what is the role and importance of migration to economies and societies worldwide?

Migration is about labour and employment. ILO estimates that 95 to 100 million of the total 200 million people living outside their countries of birth or citizenship are economically active, engaged in the world of work. This involves most working-age adults, taking into account that the migrant population includes children and aged dependents. In Western European countries, the foreign born proportion of the work force is ten percent or more, nearly 15% in Ireland, 25% here in Switzerland. In the USA, one in every six workers is foreign born. In some Arab states, migrant workers represent 50 to more than 80% of the work force.

Migration today is about meeting labour market and economic development needs. Labour migration serves as an instrument to adjust the skills, age and sectoral composition of national and regional labour markets. Migration provides responses to fast-changing needs for skills and personnel resulting from technological advances, changes in market conditions and industrial transformations. In countries of aging populations, migration offers a potential to replenish declining work forces as well as to inject younger workers, increasing dynamism, innovation and mobility in work forces.

This will not change because of a crisis.

Due to economic, demographic and technological changes, increasing numbers of jobs in industrialized economies simply cannot be filled by native-born workers. Ageing of native work forces combined with declining populations is an important factor. Latvia and Lithuania have already seen reductions of population since 1989 –including of working age adults. Fertility rates in Spain

and in the Ukraine are now far below replacement.<sup>2</sup> Rates in most of the European Union countries are at or below replacement.

Migrants are often perceived as exploitable and expendable, a source of cheap, docile and flexible labour, apt for the 3-D -- dirty, dangerous and degrading-- jobs nationals are unavailable for and/or unwilling to take. The vulnerability of migrant workers makes them attractive because they can be underpaid, provided with little or no workplace safety and health protections, hired and dismissed on a moments notice, and union organizing can be impossible. The crisis does not change this; in fact it makes migrant labour even more attractive, when some employers seek to obtain advantage in paying vulnerable foreigners less than prevailing wages and ignoring basic safety and health protections.

Indeed, even without the crisis, underpayment or non-payment of wages, physical abuse, sexual harassment and violence against women workers, denial and repression of trade union rights are widespread situations.

ILO has estimated that, globally, some ten to twenty percent of international migrant workers are in irregular situations, without legal authorization or undocumented. An on-line database on irregular migration in the European Union provides detailed estimates indicating that migrants in irregular situations number between 2.8 and 6 million, giving a range of 11% to 23% of total stocks.<sup>3</sup> Migrants in irregular situations are even more vulnerable to exploitation and abuse. However, the presence of migrants in irregular situations appears to have been tolerated by authorities in certain circumstances

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<sup>2</sup> For example, the UN Population Division World Population Report shows fertility rates in Spain at 1.29 in 2000-2005 and averaging slightly higher at 1.43 over the period 2005-2010

<sup>3</sup> CLANDESTINO *Undocumented Migration: Counting the Uncountable. Data and Trends Across Europe*. Research project funded by the European Commission, DG RTD, FP6, 2007-2009. For more information, visit <http://clandestino.eliamep.gr> (country reports and research briefs), and <http://irregular-migration.hwwi.net> (database).

in some countries. This coincides with the fact that absence of legal recognition heightens the exploitability and lowers the costs of migrant labour, in some cases allowing marginally competitive economic activity to remain in business.

The flow of low-skilled migrants is channelled by clandestine means precisely because of the non-existence of legal migration categories that would allow for their legal entry in destination countries. Once they are in host countries, they remain confined to jobs in unstructured or informal sectors, in irregular work and under exploitative conditions of employment.<sup>4</sup> In contrast, ILO research underlines that legal labour migration channels contribute to both reducing trafficking and the smuggling of migrants.

Historical experience shows that regulation providing protection for migrants cannot be left alone to market mechanisms. After all, migrant workers are not commodities, they are not just factors of production. They are human beings, with all of the attributes and vulnerabilities that that implies. When highly competitive and globalized market pressures are brought to bear in the absence of protections and appropriate regulation, migration is usually characterized by:

- Abuse and exploitation of migrant workers
- Irregular migration, and ultimately, trafficking in migrants
- Fear of loss of jobs blamed on immigration
- Increasing anti-immigrant sentiments
- Ultimately, communal violence

### III. THE NORMATIVE AND POLICY FOUNDATION

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<sup>4</sup> Abella, M.I., "Mondialisation, marchés du travail et mobilité", in *Migrations et avenir*, CIEMI, Paris, Vol. 14, No. 79, January-February 2002.



The singular accomplishment of the 2001 World Conference against Racism and Xenophobia was adoption of a comprehensive, viable and effective agenda for action on xenophobia and discrimination against foreigners, whether migrants or refugees, contained within the larger Durban Program of Action. Based on proven experience from around the world, this agenda provides a far more comprehensive approach than any other.

Central points in this agenda are:

- Strengthen the rule of law by adoption of relevant international standards.
- Make racist and xenophobic discrimination, behaviour and action unacceptable and illegal.
- Elaborate administrative measures to ensure full implementation of legislation, and accountability of all government officials.
- Provide for independent national human rights/anti-discrimination institutions with powers to address non-citizens.
- Promote respect for diversity and multicultural interaction.
- Encourage communications media to emphasize positive images of diversity and of migration
- Incorporate multi-cultural and diversity training in educational curricula.
- Mobilize civil society cooperation.

The necessary normative standards exist. In addition to CERD and ILO Convention 111 on discrimination in employment and occupation, three specific instruments address migrants: ILO Conventions 97 and 143 and the 1990 International Convention on the Protection of Rights of All Migrant Workers and Members of Their Families. These instruments comprise an *international charter on migration* providing a broad normative framework covering both treatment of migrants —including non-discrimination—and inter-State

cooperation on regulating migration. They provide comprehensive “values-based” definitions and legal bases for national policy and practice. They lay out a comprehensive agenda for national policy and for consultation and cooperation among States on labour migration policy formulation, exchange of information, orderly return and reintegration. And by the way, 82 different States have ratified one or more of these three complementary standards to date.

International law established three fundamental notions that characterize protection for migrants, particularly migrant workers and members of their families:

- Non-discrimination and equality of treatment between regular migrant workers and nationals.
- Core universal human rights apply to all human beings, including all migrants.
- A broad array of international labour standards providing for protection in treatment and conditions at work (including occupational safety and health, maximum hours of work, minimum remuneration, non-discrimination, freedom of association, and maternity leave) apply to all workers.

However, protecting migrants—and national workers—and ensuring functional labour markets while upholding social cohesion requires deliberate policy attention and a comprehensive set of measures and institutions to achieve.

Policy and action need to cover administration of immigration, legal protection measures, labour market regulation, labour inspection, social security, and much more. In short, an array of measures are needed to prevent abusive practices and promote decent and productive work for women and men migrants in conditions

of freedom, equity, security, and human dignity. This is all the more so in these disruptive times of crisis.

The International Labour Organization has developed useful guidance for all those involved in the development, strengthening, implementation and evaluation of national, regional and international labour migration policies and practices. This guidance for the implementation of international norms is contained in the *ILO Multilateral Framework on Labour Migration: Non-binding principles and guidelines for a rights-based approach to labour migration*.<sup>5</sup>

#### ***IV. ELEMENTS FOR POLICY RESPONSES***

Immediate measures and policy responses are required to ameliorate the impact of the crisis on migrant workers. Action is imperative to prevent these impacts, if unchecked, from destabilizing labour markets, working conditions and social cohesion in migrant employment countries, and from destabilizing economically, socially, and ultimately, politically, migrant origin countries.

Three broad areas for intervention are: (1) shoring up decent work conditions and protection of migrant workers —and vulnerable national workers— in migrant employment countries; (2) enhancing employment creation and social safety net protections for returning migrants and populations as a whole in migrant source countries; and (3) resolutely repressing xenophobic violence while explicitly discouraging nationalist anti-migrant discourse and action.

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<sup>5</sup> ILO Multilateral Framework on Labour Migration: Non-binding principles and guidelines for a rights-based approach to labour migration, Geneva, International Labour Office, 2006.

Migration and increased labour mobility represent long term solutions to labour and skills needs in evolving economies throughout the world. Thus short term crisis responses need to be taken in context of reinforcing the long term efforts to ensure adequate protection and integration of migrants and institutionalised regulation of labour migration.

### Lines of Response

Immediate lines of crisis response should include:

1. Avoiding forced expulsions or returns of migrant workers, and maintaining intakes of foreign workers for agriculture and other sectors where labour and skills remain necessary and will be required for recovery.
2. Increasing capacity and extending labour inspection, particularly to sectors and workplaces where migrant workers may be concentrated, to ensure decent treatment in the face of pressures to cut pay and increase exploitation –and thus prevent unfair competition with national workers.
3. Strengthening anti-discrimination measures and discourse
4. Using all appropriate legal and administrative means to repress racist violence and xenophobia against foreigners, and to prosecute perpetrators of violent acts to the fullest extent of the law.
5. Explicitly discouraging scapegoating of migrants in public discourse

6. Expanding international support for employment intensive recovery measures, employment creation, and extension of social protection measures to affected populations.

These points propose an initial agenda. This forum is an opportunity to contribute to defining an effective programme of crisis response measures to protect migrant workers and ensure that labour migration ultimately contributes to recovery and future economic and social progress.

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