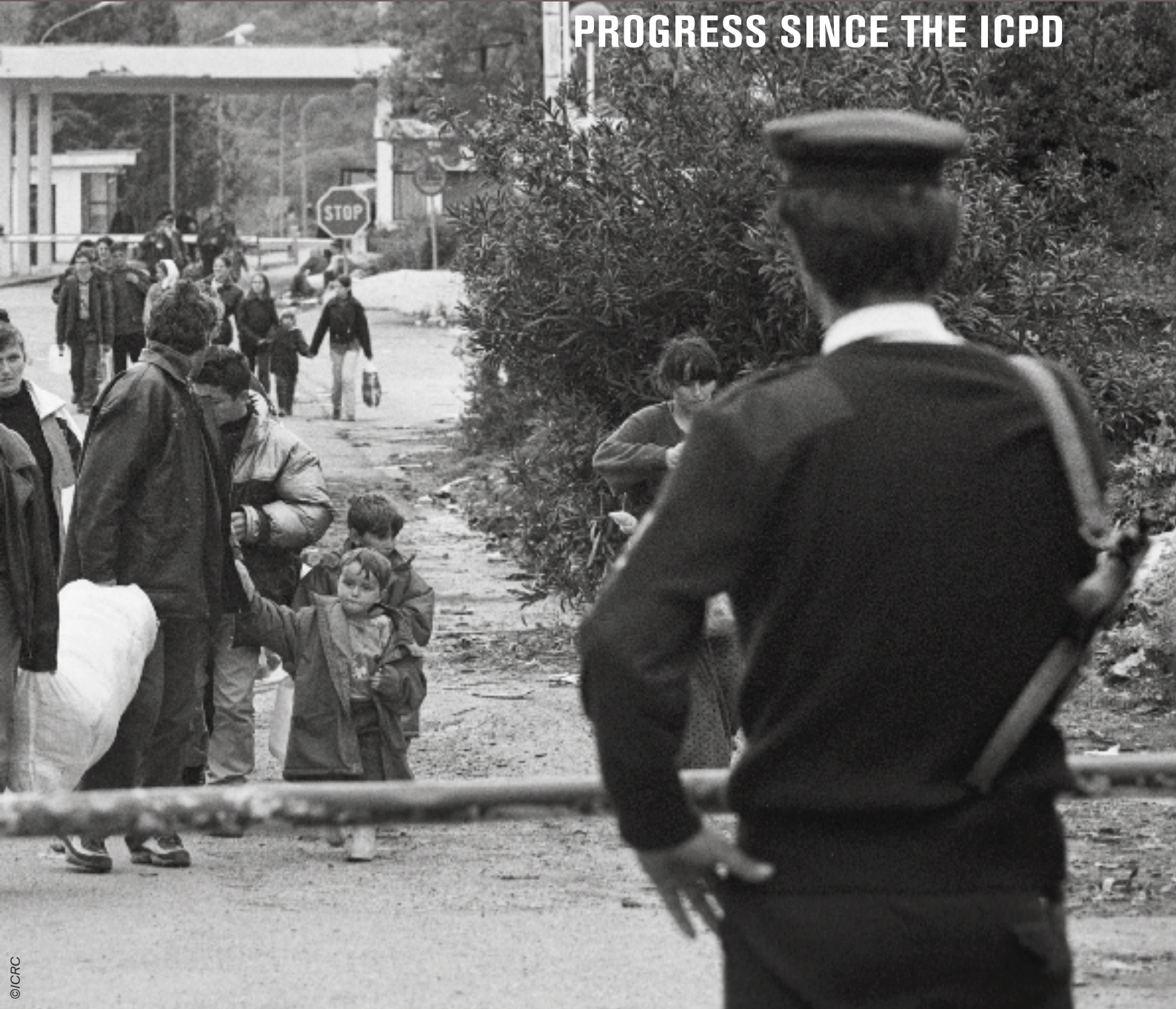


# MEETING THE CHALLENGES OF MIGRATION

## PROGRESS SINCE THE ICPD



United Nations Population Fund



THE INTERNATIONAL MIGRATION  
POLICY PROGRAMME (IMP)





**MEETING THE CHALLENGES  
OF MIGRATION  
PROGRESS SINCE THE ICPD**

## Foreword

In 1994, 179 countries gathered in Cairo, Egypt for the International Conference on Population and Development (ICPD), organized by the United Nations Population Fund (UNFPA) and the Population Division of the United Nations Secretariat (UNPD). The Programme of Action of the International Conference on Population and Development (ICPD PoA) constituted a landmark achievement, setting out a 20-year, progressive action plan and creating a comprehensive basis for national and international action on population and development issues, including internal and international migration. These topics are discussed in Chapters IX and X, respectively, of the action plan. During the 10 years that have transpired since governments committed themselves to the ambitious goals set out in the ICPD PoA, significant developments have occurred in the field of migration. The 10<sup>th</sup> anniversary of the Cairo Conference, the mid-point of the 20 year ICPD PoA, thus constitutes an ideal moment to take stock of these developments and identify future challenges in terms of migration policy development and related activities. This publication—*Meeting the Challenges of Migration: Progress Since the ICPD*—prepared by the International Migration Policy Programme (IMP) in collaboration with UNFPA, offers an overview of these developments and future challenges.

As noted at the Cairo Conference, 10 years ago, migration, both internal and international, has important implications in terms of poverty, development, demographic and gender dynamics, national and international security and inter-State relations. It presents complex and interlinked

policy challenges for governments and the international community. The increasing importance of migration is evident on several levels. The number of people migrating is rising, and has reached an all time high. At the international level, 175 million persons are estimated to be living outside their country of origin. This number is expected to grow as migration pressures, created by the development gaps between poor and rich countries and fuelled by the process of globalization and demographic dynamics, will result in further migration. Wars and violence continue to displace persons across borders and within their own countries. Also, internal migration from rural to urban settings is evident in the explosive growth of major cities across the globe, with implications for urban environments, development and poverty.

Over the past decade, national and international responses to the growing challenges of migration have been making important headway. Notably, migration is more systematically being incorporated into the development agendas of international and national actors. The global development agenda, adopted in the form of the Millennium Development Goals (MDGs) in 2001, builds on the ICPD PoA. Increasingly, efforts aimed at achieving the MDGs and the ICPD PoA embrace migration as a development force, not a development failure, and governments and other actors are focusing attention on how to maximize development benefits of migration. International efforts to enhance protection of migrants have also yielded results with the adoption and entry into force of new conventions on the rights of migrant workers

and in the context of human trafficking and smuggling; the elaboration of international standards for protection and assistance for Internally Displaced Persons (IDPs) also have received universal endorsement. The United Nations' focus on inter-linkages between human habitat management, gender, anti-racism, health and environment reflects the growing understanding of the important relationship between migration and environment, poverty and development. Lastly, the recent establishment of the Global Commission on International Migration (GCIM) is a reflection of the determination of migrant origin, transit and destination countries, the United Nations and other concerned institutions, to enhance international governance of migration and to develop new, innovative responses to the complex challenges that migration currently poses to the international community. On 9 December 2003, at the launch of the GCIM, the UN Secretary-General expressed his vision for the international community's outlook on migration when he stated that "win-win outcomes are possible, if we approach this issue rationally, creatively, compassionately and cooperatively."

*Meeting the Challenges of Migration: Progress Since the ICPD* draws in part from the activities and experiences of IMP—an inter-agency activity of UNFPA, the United Nations Institute for Training and Research (UNITAR), the International Organization for Migration (IOM) and the International Labour Organization (ILO), and implemented in collaboration with the United Nations High Commissioner for Refugees (UNHCR) and other global and regional bodies. Since 1998, IMP has facilitated migration and refugee policy capacity building for government officials in developing regions. Recognized by the UN General Assembly (UNGA) for its work in this area, IMP has gathered a wealth of knowledge mainly from developing regions' perspectives. This publication draws on this source of information, and more specifically reflects on migration priorities shared by all countries. It contends that as more

countries exhibit characteristics of origin, transit and destination for migrants, so too do they share more synergies and a greater desire to strengthen their cooperation and collaboration in this field.

Through this joint publication, IMP and UNFPA are providing readers with an overview—in an accessible and user-friendly manner—of the salient developments in migration, primarily international migration, since the adoption of the ICPD PoA 10 years ago. It also points to some of the challenges ahead in the coming years. In doing so, it draws on migration-related findings described in the UNFPA Report, *Investing in People: National Progress in Implementing the ICPD Programme of Action 1994-2004*, the results of which are based on the 2003 Global Survey sent to 187 countries to assess progress on all ICPD PoA recommendations since 1994. *Meeting the Challenges of Migration: Progress Since the ICPD* goes into greater depth on migration developments focusing on: migration trends; migration policy developments; migration and development; migration and human rights; economic migration; refugee protection; human trafficking; internal migration; and migration data.

*Meeting the Challenges of Migration: Progress Since the ICPD* is by no means an exhaustive study nor does it pretend, by this limited volume, to explore the depths of the topics covered. Rather, it draws out a select number of migration issues where considerable developments have occurred since 1994. *Meeting the Challenges of Migration: Progress Since the ICPD* should be of interest to migration practitioners and academics but also to others working on international issues affecting and/or affected by human mobility.

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This publication is the fruit of collaboration with a number of migration researchers and practitioners, who generously contributed their time, effort and expertise towards making this publication a reality.

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# List of Acronyms

<b>AU</b>	African Union	<b>IMILA</b>	Investigation of International Migration in Latin America
<b>AIDS</b>	Acquired Immunodeficiency Syndrome	<b>IMP</b>	International Migration Policy Programme
<b>APC</b>	Inter-Governmental Asia-Pacific Consultations on Refugees and Displaced Persons	<b>INGOs</b>	International Non-governmental Organizations
<b>CDC</b>	Centers for Disease Control and Prevention	<b>IOM</b>	International Organization for Migration
<b>CAT</b>	Convention Against Torture and Other Cruel Inhuman and Degrading Treatment or Punishment	<b>IT</b>	Information Technology
<b>CEDAW</b>	Convention on the Elimination of All Forms of Discrimination Against Women	<b>MDGs</b>	Millennium Development Goals
<b>CELADE</b>	Latin American and Caribbean Demographic Centre	<b>MIDA</b>	Migration for Development in Africa
<b>CEMAC</b>	Central African Economic and Monetary Community	<b>MIDSA</b>	Migration Dialogue for Southern Africa
<b>CIP</b>	Comprehensive Implementation Plan	<b>MPRP</b>	Migration Policy and Research Programme
<b>CIS</b>	Commonwealth of Independent States	<b>MRI</b>	Migrants Rights International
<b>CRC</b>	Convention on the Rights of the Child	<b>MPR</b>	Migration Policy Research
<b>CRS</b>	Country Reporting System	<b>MWC</b>	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
<b>CSOs</b>	Civil Society Organizations	<b>NAFTA</b>	North American Free Trade Agreement
<b>DDA</b>	Doha Development Agenda	<b>NATO</b>	North Atlantic Treaty Organization
<b>DYB</b>	UN Demographic Yearbook	<b>NEPAD</b>	New Partnership for Africa's Development
<b>ECE</b>	Economic Commission for Europe	<b>NGO</b>	Non-governmental organization
<b>ECLAC</b>	Economic Commission for Latin America and the Caribbean	<b>NRC</b>	Norwegian Refugee Council
<b>EEA</b>	European Economic Area	<b>OAU</b>	Organization of African Unity
<b>ECOWAS</b>	Economic Community of West African States	<b>OCHA</b>	UN Office for the Coordination of Humanitarian Affairs
<b>EFTA</b>	European Free Trade Areas	<b>ODA</b>	Official Development Assistance
<b>ESCSWA</b>	Economic and Social Commission for Western Asia	<b>OECD</b>	Organization for Economic Co-operation and Development
<b>EU</b>	European Union	<b>PARInAC</b>	Partnership in Action Programme between NGOs and UNHCR
<b>FAM</b>	The Project on the Future of Asylum and Migration	<b>RET</b>	Foundation for the Refugee Education Trust
<b>FAO</b>	Food and Agriculture Organization	<b>RCPM</b>	Regional Consultative Processes on Migration
<b>FDI</b>	Foreign Direct Investment	<b>RH</b>	Reproductive Health
<b>FP</b>	Family Planning	<b>ROAN</b>	Return of Qualified African Nationals Programme
<b>GATS</b>	General Agreement on Trade in Services	<b>SADC</b>	Southern African Development Community
<b>GCIM</b>	Global Commission on International Migration	<b>SARS</b>	Severe Acute Respiratory Syndrome
<b>GDP</b>	Gross Domestic Product	<b>SID</b>	Society for International Development
<b>HIV</b>	Human Immunodeficiency Syndrome	<b>STDs</b>	Sexually Transmitted Diseases
<b>HTAs</b>	Home Town Associations	<b>STIs</b>	Sexually Transmitted Infections
<b>ICESCR</b>	International Covenant on Economic, Social and Cultural Rights	<b>UDHR</b>	Universal Declaration of Human Rights
<b>ICCPR</b>	International Covenant on Civil and Political Rights	<b>UNCTAD</b>	United Nations Conference on Trade and Development
<b>ICERD</b>	International Convention on the Elimination of All Forms of Racial Discrimination	<b>UK</b>	United Kingdom
<b>ICMC</b>	International Catholic Migration Commission	<b>UN</b>	United Nations
<b>ICPD</b>	International Conference on Population and Development	<b>UNAIDS</b>	Joint United Nations Programme on HIV/AIDS
<b>ICPD+5</b>	The five-year review of ICPD	<b>UNEP</b>	United Nations Environment Programme
<b>ICPD PoA</b>	The Programme of Action of the International Conference on Population and Development	<b>UNFPA</b>	United Nations Population Fund
<b>ICRC</b>	International Committee of the Red Cross	<b>UNGA</b>	United Nations General Assembly
<b>ICVA</b>	International Council of Voluntary Agencies	<b>UN-Habitat</b>	UN Human Settlements Programme
<b>IDP</b>	Internally Displaced Person	<b>UNHCR</b>	United Nations High Commissioner for Refugees
<b>IFAD</b>	International Fund for Agricultural Development	<b>UNHCHR</b>	United Nations High Commissioner for Human Rights
<b>IGC</b>	Inter-governmental Consultations on Asylum, Refugees and Migration Policies in Europe, North America and Australia	<b>UNITAR</b>	United Nations Institute for Training and Research
<b>ILC</b>	International Labour Conference	<b>UNPD</b>	United Nations Population Division
<b>ILO</b>	International Labour Organization	<b>UNSD</b>	United Nations Statistics Division
<b>IMF</b>	International Monetary Fund	<b>US</b>	United States
		<b>USD</b>	United States Dollars
		<b>WCAR</b>	World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance
		<b>WHO</b>	World Health Organization
		<b>WOCCU</b>	World Council of Credit Unions
		<b>WTO</b>	World Trade Organization

## Executive Summary

The migration landscape has changed quite dramatically since 1994. Exacerbated disparities between the North and South, an expanding global economy, geopolitical transformations, wars, ecological disasters, and many other occurrences, have had and continue to have a profound impact on people and on their choices to stay at home or to go abroad. Today, it is estimated that 175 million people live outside their country of birth. Some of the current trends in migration are described in *Chapter 1*. And, though the figure seems relatively insignificant, constituting just 3 per cent of the world's population, the field of migration has nevertheless taken on significant importance since the ICPD.

**«given the fact that countries are facing a growing set of common migration priorities, emphasis is placed on encouraging cooperation at all levels including between and within countries»**

As a result, there is a growing interest from governments, organizations, civil society, the private sector and many other groups affected by migration, to look further into how the benefits of migration can be maximized, while minimizing negative effects. *Chapter 2* looks into current stages of migration policy development based on regional and international initiatives to strengthen dialogue and understanding in this field. It also takes a preliminary look at the impact that such efforts are having on migration

systems (policy and capacities) of countries at the national level. Some noteworthy developments over the past decade include many countries establishing migration systems with legislation, structures and cooperative arrangements on migration; an abundance of regional consultative fora for inter-governmental discussions on migration; and international initiatives undertaken by organizations, governments and civil society to strengthen cooperation and understanding of migration issues.

An important milestone at ICPD was the recognition that migration can in fact assist countries in forwarding their development agenda. Since that time, the link between migration and development has been an important focus of research and policy discussion. *Chapter 3* concentrates on the contemporary debate underpinning the relationship between migration and development. In particular, it reviews the costs and benefits of migrating for development such as the impact of remittances on poverty and development, and *brain drain* or the exodus of skilled professionals. What is commonly referred to as "resourcing the diaspora" is described in *Chapter 3* as more



"At Play" ©Liv Halperin

attention is being drawn to considering creative ways that migrants can contribute to development in their countries of origin. *Chapter 3* points to an important consideration when looking at the “migration/development nexus,” one that is becoming increasingly relevant in this decade. This is to ensure that migration does not replace governments’ dedication to generating employment opportunities at home so that nationals are not obliged to go abroad in order to be able to sustain their livelihoods and that of their families.

A driving impetus for strengthened governance in this field is the protection of migrants’ rights. *Chapter 4* looks into the particular vulnerabilities faced by migrants, which today still resemble those identified in 1994. These include discrimination in the workplace, subjugation to racism and xenophobia, problems with integration, and the particular challenges of migrants with an irregular or undocumented status. Migrants are more susceptible to health risks, but also less likely to have access to adequate medical attention. *Chapter 4* highlights the successful campaign to ratify the Migrant Workers Convention (MWC) which came into effect in 2003, and which focuses on the rights of documented and undocumented migrants. While considered a major achievement, this instrument enjoys a limited support base amongst countries where migrants work. *Chapter 4* also outlines other instruments forming part of the international human rights architecture that make explicit or implicit references to the rights of non-nationals. Underpinning these instruments is their universality—they are applicable to all human beings regardless of their status in a particular society.



“Spinning Wool” ©Liv Halperin

Labour migrants constitute the fastest growing group of migrants in the world currently estimated at 86 million. Since the beginning of time, people have moved to improve economic conditions for themselves and their families. *Chapter 5* describes how, today, more than ever, this holds true for women as well. Despite the fact that the gender dimension is often overlooked from policy making, the feminization of migration means that many issues which are unique to female migrants also must be considered. *Chapter 5* also looks at different regional models of human mobility. It describes how encouraging economic migration through regulated agreements can work towards protecting migrants’ rights. In addition, *Chapter 5* explores how integrating migrants often takes various forms from full assimilation to promotion of cultural diversity. It looks at how political, social and cultural variables can assist with the integration of migrants, but these can also cause strain and lead to negative images of migrants.

Refugees are a separate category of people who are entitled to international protection as a result of the persecution that they face in their home country, persecution which is based on specific criteria, according to Article 1 (2) of the Geneva Convention Relating to the Status of Refugees (1951): “race, religion, nationality, membership of a particular social group or political opinion.” *Chapter 6* describes the major effort to strengthen international protection for refugees through UNHCR’s launch of the Global Consultations on International Protection in 2000. Its outcome, in the form of the Agenda for Protection (2002), seeks new ways to ensure refugee protection and to find durable solutions to refugees’ plight, emphasizing in part the need for multilateral approaches. The agreements to be reached, based on the principles established in the Agenda for Protection, build on the Refugee Convention of 1951. As described in *Chapter 6*, these are intended to address current refugee challenges such as protracted refugee situations and the “migration/asylum nexus.” This chapter also highlights the particular needs of women, children and elderly refugees.

**«Since the beginning of time, people have moved to improve economic conditions for themselves and their families»**

An acute migration-related concern is the plight of (international) trafficking victims. Due to the elusive nature of this international crime, trafficking figures are hard to obtain. Estimates suggest that half a million people become victims of international trafficking each year. *Chapter 7* describes the principal causes of trafficking, which apply across the globe: poverty, war and the status of women and girls in society. Trafficking causes major psychological trauma and physical damage. While the status of trafficked persons

as victims in need of protection is internationally recognized since 2000 with the UN Trafficking Protocol, trafficking victims often do not receive the treatment to which they are entitled. Broadly, a three-pronged approach to counter trafficking is being adopted in most countries. As explained in *Chapter 7*, these prongs consist of: prevention of trafficking; protection of victims of trafficking; and prosecution of traffickers and their accomplices.

Internal migration has received scant international attention, as it is considered an area of national interest. This is despite the fact that the number of internal migrants outweighs international migrants. Further, movements from rural to urban areas have a dramatic impact on all aspects of life, and create major concerns in the areas of basic services, such as health-care and education—all of which affect the welfare of internal migrants in particular women and children. Internal migration is a result of a variety of causes. Often, it is voluntarily or economically based. However, it can also be involuntary generally due to one or a combination of the causes touched upon in *Chapter 8*: environment-, development- and conflict-induced migration. For those facing involuntary displacement, they have no choice but to leave their dwellings and communities behind, which can cause intolerable levels of hardship. As described in *Chapter 8*, a major achievement in the field of protecting IDPs that has come about since ICPD is the development and promotion of *Guiding Principles on Internal Displacement* (1998), which establish standards of protection for IDPs.

Finally, in order to gain greater understanding of migration’s causes and consequences, its particular inter-play with development and with other international issues, adequate migration data are essential. *Chapter 9* describes some of the challenges to collecting, analyzing and disseminating timely and reliable data on migration. One challenge is the differing definitions for specific

categories of migrants, which often results in comparisons between “apples and oranges.” The United Nations Population Division (UNPD) and the United Nations Statistics Division (UNSD) are making important contributions in this regard beginning with the *Recommendations on Statistics of International Migration, Revision 1* (1998), which consist in a firm attempt to develop common definitions for specific migrant categories. The Recommendations also serve as a training tool for governments and, in particular, national statistics offices containing information on statistics and statistic resources. *Chapter 9* also gives an overview of developments in the field of migration research, an area which has grown in interest in parallel with the field’s prominence on the international scene.

*Chapter 10* concludes with remarks on the most salient developments since 1994. It highlights the progress and points to certain directions to ensure that progress is sustained and furthered. In particular, given the fact that countries are facing a growing set of common migration priorities, emphasis is placed on encouraging cooperation at all levels including between and within countries. Ironically, the latter can sometimes be more or equally difficult to achieve. *Chapter 10* also identifies constraints to meeting the challenges of migration. The element of political will, both a constraint but also a key facilitator for progress, is discussed.



“Young Afghan Workers” ©Jørgen Sandstrom

# 1. Trends in Migration

Since the Cairo Conference, much has happened in the world to influence migration patterns and recast the environment in which people migrate. After several years of uninterrupted prosperity, profound economic crises hit the economies of East Asia in 1997-1998, followed by the United States (US) in 2001, and Europe soon thereafter. From the mid 1990s onward, the global community has suffered from the repercussions of extraordinary humanitarian crises and emerging threats to global security.

***«States are exhibiting the characteristics of countries of origin, transit and destination with implications on how they perceive and address migration issues»***

Millions of individuals have been indiscriminately slaughtered, raped, brutalized and displaced due to conflicts around the world, including those in Rwanda, Timor-Leste, Kosovo, Sierra Leone, Sudan, Burundi, Congo, Afghanistan, Iraq and the occupied territories of the ongoing Israel-Palestinian conflict. In addition, one set of events, the terrorist attacks in the US on 11 September, 2001, have led to a tightening of immigration laws, particularly in the US, and a renewed skepticism towards migrants. Furthermore, the migration debate has increasingly been influenced by what is termed the “demographic deficit” due to many countries’ fertility rates having dipped so low that deaths exceed births, and resulting in a declining labour force and a threat to long-term economic productivity.<sup>1</sup>

## Figures

All of these factors are affecting human mobility. Between 1990 and 2000, the number of migrants in the world increased by 14 per cent, and the 175 million migrants in the world are projected to reach 230 million by 2050. While South-South migration persists, more migrants are moving from developing to developed regions with an annual average of 2.4 million migrants moving from the less developed to the more developed areas. Currently, 60 per cent of migrants live in the more developed regions, where migrants make up almost one in every 10 persons. By contrast, migrants make up nearly one of every 70 persons in developing regions.<sup>2</sup>

Due to marked differences in fertility rates between North and South, migrants as a percentage of the total population growth vary considerably between more developed and less developed regions. Migrants represent 3 per cent of the overall population growth of the less developed regions, but 56 per cent of the overall population increase in the more developed regions during the same period. Between 1990 and 2000, net immigrants represented 89 per cent of the population increase in Europe.<sup>3</sup>

## Growing Scope and Complexity

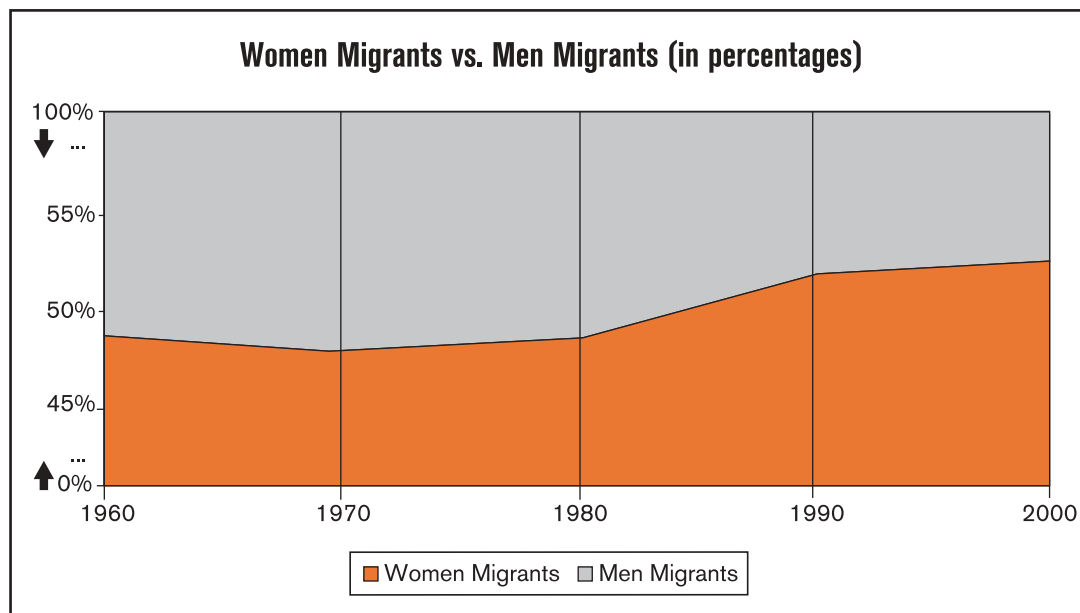
The effects of the globalization process facilitate human mobility by providing easy access to information about life and opportunities abroad, low cost travel, and quick communication with diaspora family members. More countries are affected by migration than had been in the past. In addition, migration patterns are more complex.

It is no longer possible to draw a simple trajectory between points of departure and arrival of migrants or to classify countries and their migration priorities into just one of these three categories: States are exhibiting the characteristics of countries of origin, transit and destination with implications in terms of how they perceive and address migration issues.

### Women Migrants

There has been a steady increase of female migrants over the last five decades. According to the UNPD data, the stock of female migrants has actually grown faster than the stock of male migrants in the most important receiving countries, industrialized as well as developing. According

to the ILO, women now constitute more than half of the migration population worldwide and between 70 and 80 per cent of the migration population in some countries.<sup>4</sup> While migration can lead to female empowerment this does not always occur. Women's opportunities to migrate legally have been more limited than men's often because legal, official recruitment efforts are frequently aimed at male-dominated employment in construction and agriculture. Women are more exposed to forced labour and sexual exploitation than men and also are more likely to accept precarious working conditions and poorly paid work. They often work in gender-segregated and unregulated sectors of the economy, such as domestic work and entertainment and sex industries.

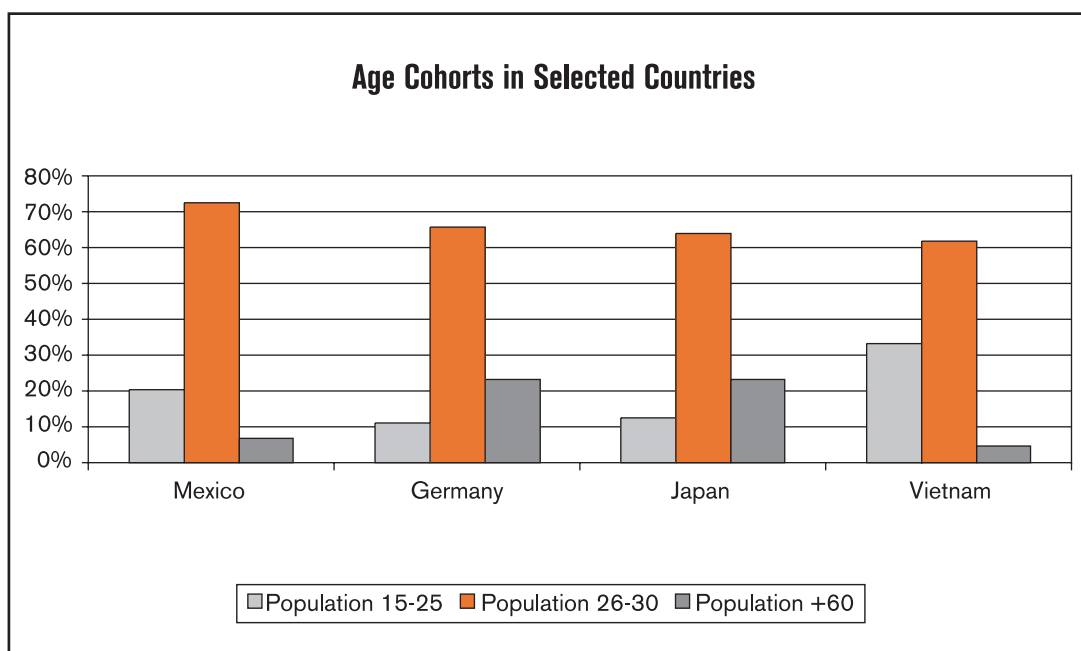


Source: Zlotnik, Hania. "The Global Dimensions of Female Migration." Paper presented at the Migration Policy Institute (1 March 2003)

## Demographic Shifts

With declining fertility rates and ageing populations in developed countries, there is greater demand for younger workers from abroad to sustain their economies. The contrast can be illustrated by the following example: population growth in the 15 Member States of the European Union (EU) was 300,000 for 2003; in India, it took just seven days for a similar population increase of 294,000!<sup>5</sup> In addition, Japan and some of its neighbours in East and

Southeast Asia are leading Europe as rapidly ageing countries. Interacting with these demographic trends in the developed world are the population pressures and poverty of developing countries, which will add 700 million young people to their labour force in the next decade.



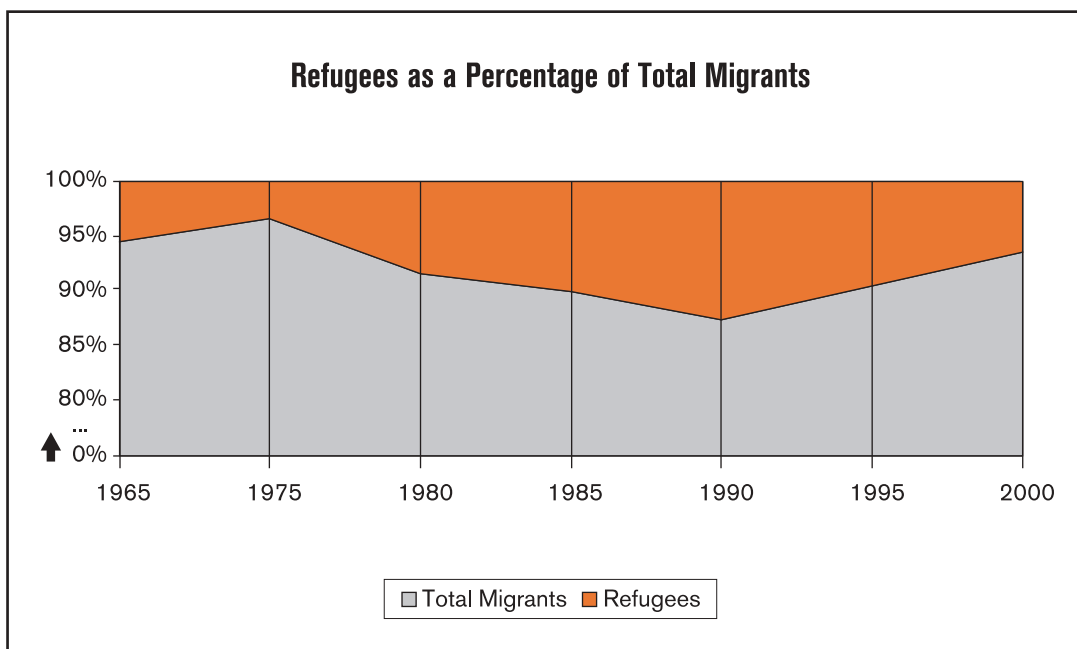
Source: UN Department of Economic and Social Affairs Population Division. "World Population Prospects: the 2002 Revision"



### “Migration/Asylum Nexus:” Flows of Refugees and Migrants

With increasingly restrictive immigration barriers, some migrants are attempting to secure entry and/or stay in a country by making recourse to asylum procedures, without fulfilling the conditions for refugee status or other forms of protection. Figures in 2003 indicate that 10 billion United States dollars (USD) were spent to process 400,000 asylum claims in Inter-governmental Consultations on Asylum, Refugees and Migration Policies in Europe, North America

and Australia (IGC) countries versus UNHCR's budget which was less than 1 billion USD and intended to cover the 17 million persons of concern to the Organization.<sup>6</sup> A growing perception that asylum systems are being abused is undermining their ability to provide protection to those for whom they are intended.



Source: UN Department of Economic and Social Affairs Population Division. “International Migration Report 2002,” and UNHCR. “Statistics at a Glance 2003”

## Irregular Migration

Although precise figures on irregular migration remain elusive, irregular migration, like legal migration, is on the rise. According to IOM, people who have migrated without proper authorization (i.e., without documents or with false documents) account for one third to one half of new entrants into developed countries, which is an increase of 20 per cent over the past 10 years.<sup>7</sup> The actual number of migrants in an irregular situation within countries, which also includes those who entered legally but whose legal stay has expired, is equally difficult to estimate. Estimates suggest that in the US, where the population totals approximately 294 million,<sup>8</sup> the total number of irregular migrants is as high as 12 million. The EU, home to approximately 454 million,<sup>9</sup> is estimated to host 500,000 irregular migrants each year.<sup>10</sup>

## Smuggling and Trafficking

While irregular migration can and does occur without the aid of facilitators, smuggling and

trafficking are major criminal enterprises that fuel and enable irregular movement of persons, often with strong elements of exploitation and abuse. Such groups have thrived and have been able to create sophisticated channels of irregular migration because of the demand for illegal commodities. Until the entry into force of the Convention against Transnational Organized Crime in 2003, the sanctions for traffickers and smugglers in human beings were low relative to other forms of international criminal activity.

Smuggling and trafficking presently constitute the third largest source of profits, for international organized crime, behind drugs and guns. The U.S. Department of State estimates that criminal organizations reap 9.5 billion USD in profits per year from trafficking and smuggling of persons across international borders.<sup>11</sup> According to recent estimates, between 600,000 and 800,000 persons are trafficked across borders annually.<sup>12</sup> The most likely victims of trafficking are women and children.



“On the Road to Work” ©Jörgen Sandström

## Migration and Health

Increasing levels of migration have engendered a new focus on migrants' health. Migrants can suffer from health and reproductive health (RH) problems associated with nuclear disasters (ex. Chernobyl), or natural calamities such as earthquakes, droughts and floods. Migrants also may be exposed to health risks relating to the migration process; trafficking victims, for example often experience long-term physical and psychological afflictions. And, due to legal, procedural, linguistic and other barriers, migrants often face difficulties in obtaining access to health services (See Chapter 4 on Migration and Human Rights). Moreover, "brain drain", resulting in large numbers of health professionals emigrating, can place detrimental pressures on national health-care systems.

Furthermore, a growing health concern relates to the transmission of infectious diseases and its relationship with human mobility. Many countries have been successful in containing and eliminating diseases through strong detection

and treatment programmes. Nevertheless, infectious diseases constitute a significant and growing threat, due in part to rapid and diverse population movements and the lengthy incubation periods associated with some infectious diseases. For example, according to the World Health Organization (WHO), 2003 was marked by the largest number of countries with populations suffering from polio due to importation of the disease, a phenomenon which translated into costs exceeding 20 million USD in "emergency mop-up activities."<sup>13</sup> In addition, there are significant and growing concerns related to migration and diseases such as, Human Immunodeficiency Syndrome/Acquired Immunodeficiency Syndrome (HIV/AIDS), tuberculosis, and hepatitis B, and diseases transmitted through insects and animals such as the West Nile virus and Mad Cow disease.

### The Cost of SARS

Severe acute respiratory syndrome (SARS) is a recent example of an outbreak in one country that spread within weeks along the routes of international air travel to over 25 countries and five continents. As a result, the WHO established SARS-related travel advice, requiring travelers to postpone all but essential travel in affected areas, in order to protect global public health and reduce further opportunities for the disease to spread internationally. There are important lessons to be learned from this experience. Mismanagement of mobility and of public health can do more than exacerbate a disease. The cost to societies can go beyond health to affect trade, political relationships, financial loss in a global economy, decline of tourism in affected regions, cancellation of major events, closure of schools and passengers who exhibit generalized symptoms being denied from boarding an aircraft. SARS has demonstrated the importance of integrating global public health into a strategy of comprehensive management of population mobility.

Source: IOM, WHO, and CDC - "Population Mobility and Health, The Case of SARS: Lessons Learnt." Seminar on Health and Migration, (9-11 June 2004).

## 2. Developments in Migration Policy: National, Regional and International

Greater attention is being focused on international migration and its effects on policy development. This has been precipitated by a number of factors that have included, inter alia: migration's widening impact; the involvement of a greater number of actors; growing recognition of migration's mutual benefits; and its inter-linkages with other issues. Migration policy remains largely a matter of countries' sovereign prerogative. This notwithstanding, there is mounting consensus that strengthening international co-ordination and cooperation in this area is necessary, if not essential, to ensuring that the benefits of migration are maximized.

The ICPD PoA endorses this objective, "encouraging more cooperation and dialogue between countries of origin and countries of destination in order to maximize the benefits of migration." In Cairo, governments recognized that effective strategies for managing migration rely upon a framework of complementary policies and programmes at the national, regional, and international levels. Further, Chapter XVI calls on national governments to "commit themselves at the highest political level to achieving the goals and objectives" of the ICPD PoA and to "take the lead role in coordinating the implementation, monitoring and evaluation of the follow-up actions..."

A number of developments are occurring to strengthen countries' migration policies at national, regional and international levels. Since 1994:

- *At the national level*, migration systems have been established and/or strengthened in most countries around the world.

- *At the regional level*, almost all regions now host or are in the process of establishing regional consultative fora on migration.
- *At the international level*, new initiatives have emerged that are yielding concrete results in strengthening countries' dialogue, cooperation and ultimately, their understanding of migration.

### National

In all parts of the world, countries have been strengthening their migration "systems." Such systems refer to States': legislative base; national structures and personnel (i.e., technical capacities); cooperation within ministries and between countries; and with other stakeholders including non-governmental organizations (NGOs), international organizations such as IOM, ILO and UNHCR and regional bodies.

In an on-going evaluation exercise undertaken by IMP, with the financial support from UNFPA, IMP is able to track the progress of countries in given regions to implement recommendations geared towards strengthening their migration capacities. Since 2002, IMP's "Country Reporting System" (CRS) has been implemented in regions in Africa, Central Asia, and parts of the Commonwealth of Independent States (CIS)—countries whose migration systems are developing, yet could be described as being in a nascent stage at the time of ICPD in 1994.

Progress in the development of migration systems can be observed through governmental reports in the context of the CRS. These have shown progress in the following areas:

- Legislative developments such as accession to international instruments, adoption of national legislation;
- Establishment of new structures such as counter-trafficking units;
- Training activities provided by relevant institutions such as border training from IOM; and
- Strengthened cooperation, such as new partnerships with NGOs on migrant health issues and an exchange of migration data between countries and regions.

*Legislation:* On the legislative front, many countries have signed international legislation addressing migration issues, such as the ILO Conventions No. 97 and 143 and Migrant Workers Convention (MWC) (1990). However, integrating their provisions into national legislation and ensuring compliance is proving to be more difficult.

*Structures:* In terms of structures, for many countries around the world, migration offices constitute a new bureaucratic development. Other structures also have emerged. For example, due to the grave challenges posed by human trafficking, many countries are adopting national action plans to counter trafficking, which include anti-trafficking units.

*Training:* A growing number of actors offer support to countries in strengthening their migration systems. Importantly international organizations, including IOM, ILO and UNHCR, are providing technical support, operational assistance, and research on migration issues. NGOs also are becoming key players in countries' abilities to address their migration challenges.

*Cooperation and Coordination:* Legislation, structures and growing awareness of migration issues also require greater coordination amongst the various ministries affected by migration: foreign affairs, labour, defense, health, etc. Given the nature of migration, intra-ministerial coordination must be combined with inter-State cooperation.

**«due to the grave challenges posed by human trafficking, many countries are adopting national action plans to counter trafficking which include an anti-trafficking unit»**

In June 2004, UNFPA released a report entitled, *Investing in People: National Progress in Implementing the ICPD Programme of Action 1994-2004*. The Report summarizes progress that has been made so far in achieving *all* the goals established in Cairo. It highlights the success of population, maternal health and family planning programmes of previous decades and identifies future needs and challenges of the 21<sup>st</sup> Century. Specifically on migration, it covers actions taken by countries both in terms of policy and programmatic measures, and mechanisms for coordination (See Table "Investing in People"). The results are based on findings of the Global Survey conducted by UNFPA in 2003 to appraise national experiences 10 years after Cairo.<sup>14</sup>

## Investing in People

The UNFPA Report, *Investing in People: National Progress in Implementing the ICPD Programme of Action 1994-2004*, indicates that 73 per cent or 110 countries surveyed have taken some action aimed at addressing international migration. This is in stark contrast to 18 per cent of countries that had done so in 1994.

**Table 2.7 Measures Taken by Countries to Influence International Migration**

Measures Taken	Number and Percentage of Countries	
	No.	%*
<b>A. Policy or Programmatic Measures</b>		
Plans/programmes/strategies on international migrants and refugees	50	45
Laws/legislation on international migrants and migrant workers	41	37
Adoption of policy on international migration	36	33
Enforcing conventions on refugees, asylum-seekers and illegal migrants	12	11
Law/legislation on trafficking of human beings	11	10
<b>B. Mechanisms for Coordination</b>		
Intergovernmental policies on migration	36	33
Inter-institutional cooperation on migration (govt., NGOs, donors)	13	12
Intra-governmental	13	12
<b>Total</b>	<b>110</b>	<b>100</b>

\*Based on multiple responses; therefore percentages add up to more than 100.

Source: UNFPA, *Investing in People: National Progress in Implementing the ICPD Programme of Action 1994-2004* (June 2004).

The UNFPA Report indicates areas where further action is required:

- Intensify advocacy activities targeted at governments and NGO leadership on the linkages between population and poverty;
- Strengthen data collection and analysis for monitoring the living conditions of the poor; for contributing to the formulation of social development policies; and for designing programmes targeted at poverty reduction, especially for vulnerable groups;
- Strengthen capacity, at the national level, for robust analyses of the causes and consequences of emigration and immigration, as well as of internal migration in individual country contexts, with a view to helping countries develop appropriate migration policies. At the international level, studies need to be undertaken on the levels and trends, as well as on the macro-and micro-implications, of international migration;
- Conduct national and sub-national policy studies of changing age structures and of population ageing by incorporating structural and societal changes associated with ageing into the formulation of social development policies; and
- Further promote and strengthen protection of, and respect for, human rights, individual dignity and ethical values, with sensitivity to cultural differences, in the implementation of the ICPD agenda.

## Regional

*Regional Consultative Processes on Migration ("RCPMs")*: Over the past decade, countries have been participating in non-binding regional consultative fora. These have brought countries, international organizations and NGOs together to discuss migration issues in a cooperative manner. The first such forum was established in 1985, known as the "IGC" for Europe, North America and Australia.<sup>15</sup> Since that time, a num-

ber have emerged in most regions of the world including Northern and Central America through the "Puebla Process,"<sup>16</sup> in Asia through the "Manila Process,"<sup>17</sup> in Southern Africa through the "Migration Dialogue for Southern Africa (MIDSA) Process,"<sup>18</sup> and in Europe with the "Budapest Process."<sup>19</sup>

RCPMs have been established with a view to providing a forum that is flexible, informal, open and efficient for discussing migration issues within a specific region. Such fora function in parallel to more formal structures dealing with migration such as the United Nations (UN) and regional groupings such as the EU.

As discussed in an IOM publication on this issue, RCPMs are conducive to constructive discussions in part because of their:

- *Informality*- they are processes, not institutions, meaning that working toward an eventual final goal is an important aspect of the process;
- *Openness*- since agreement on all issues is not required, all options can be explored openly, thus increasing the number of possible solutions to issues; and
- *Efficiency*- since there is a minimum level of administration, direct communication is more easily possible between high level officials and experts.<sup>20</sup>

## International

At the international level, new initiatives to strengthen countries' dialogue, cooperation and ultimately understanding of migration have emerged, and are yielding concrete results. Such initiatives seek to respond to elements that are lacking in the present international migration, inter-State, cooperative context. These initiatives call upon countries to review their obligations towards migrants, refugees and IDPs, and also to strengthen their obligations towards one another and to cooperate more thoroughly and

systematically on these issues. In most cases, such initiatives also attempt to extend their scope over multiple aspects of migration. Many initiatives have resulted from the actions of international organizations, governments and/or civil society. Importantly, UN World Conferences also have addressed migration issues, most notably of course, the ICPD in 1994.

### International Organizations

*International Organization for Migration (IOM):*<sup>21</sup> In 2001, IOM launched an international dialogue on migration policy with the creation of the Migration Policy and Research Programme (MPRP/MPR).<sup>22</sup> The purpose of this international dialogue has been to enhance: (1) understanding of the complexity of migratory phenomena, and (2) inter-State cooperation in managing migration.<sup>23</sup>

Since 2002, MPR-facilitated dialogue has served to reflect on a variety of issues including: instances and means of inter-State cooperation, the merits of regional consultations, sharing of best practices and lessons learned in consultative processes. Other issues have included specific themes in migration policy development such as integration, labour migration, irregular migration, rights of migrants, trafficking and the migration/asylum nexus (sharing best practices in managing migration).<sup>24</sup> MPR has also become the Secretariat for the “Berne Initiative,” a States-owned consultative process (described below).

*International Labour Organization (ILO):*<sup>25</sup> The ILO elaborates and supervises international labour migration standards, develops policy guidance, conducts research, as well as provides technical assistance on labour migration management to governments and social partners. In June 2004, its annual International Labour Conference focused on: international labour migration and globalization; policies and structures for more orderly migration for employment; and improving migrant workers’ protection through standard-setting. The Conference was hailed as an important achievement in ensuring that migrant workers are covered by the provisions of international labour standards, while benefiting from applicable national labour and social laws. Among others, the Plan of Action adopted at the Conference calls for the development of a non-binding multilateral framework for a rights-based approach to labour migration and the establishment of an ILO dialogue on migration amongst ILO constituents and in partnership with international and multilateral organizations. The ILO is to present the framework document to its Governing Body at its November 2005 session.<sup>26</sup>

*United Nations High Commissioner for Refugees (UNHCR):*<sup>27</sup> The UNHCR Global Consultations on International Protection which were launched in 2000, aimed at strengthening discussion on migration and more specifically on

### United Nations Calls for Strengthened Regional Cooperation

The value of fostering regional and sub-regional dialogue and cooperation processes has been recognized and commended by the United Nations General Assembly (UNGA), which in 1999, encouraged interregional, regional and sub-regional mechanisms to continue to address the question of migration (and development). In its Resolution on Migration and Development, the UNGA called upon specialized UN and non-UN institutions, including IOM, ILO, and IMP, to enhance their efforts in this field, in conjunction with regional organizations and expert bodies.

The most recent UNGA Resolution on International Migration and Development, adopted in December 2003, notes again, the work undertaken by IMP and collaborating UN and non-UN agencies to strengthen the capacity of governments to manage migration flows at national and regional levels and thus to foster greater cooperation among States towards beneficial and orderly migration.

Source: *UN General Assembly Resolutions on International Migration and Development (A/RES/54/212) and (A/RES/58/208).*



refugee matters (also in the context of larger migration flows). Given large and protracted refugee situations, the high costs of asylum systems in industrialized countries, the real or perceived abuse of asylum systems, and the burden on developing countries of hosting refugees, the UNHCR Consultations were intended to promote the full and effective implementation of the 1951 Refugee Convention and to develop complementary new approaches, tools and standards to ensure the availability of international protection where the 1951 Refugee Convention and its 1967 Protocol need to be buttressed.

Deriving from the entire Global Consultations process, UNHCR completed an Agenda for Protection in 2002.<sup>28</sup> The Agenda is the first comprehensive framework for global refugee policy in five decades, combining clear goals and objectives with suggested activities to strengthen refugee protection.<sup>29</sup> It is widely regarded as providing an excellent basis for future cooperation among States, UNHCR, UN and other intergovernmental organizations, and non-governmental organizations (See Chapter 6 on Refugee Protection).

*United Nations Population Fund (UNFPA):*<sup>30</sup> UNFPA supports activities relating to the collection of data on migration and policy-oriented studies on international migration. UNFPA also is assisting countries in their review of operational experiences in implementing ICPD PoA, including in the area of migration. In collaboration with ILO, IOM and UNITAR, UNFPA supports IMP activities. In 2001-2002, UNFPA funded IMP's regional *"Migration Data and Definitions Projects"* to assist governments in strengthening their capacity to gather and analyze migration data. This was achieved in part through the use of the *Recommendations of Statistics on International Migration, Revision 1* (1998). The Projects also facilitated data dissemination between countries in the region. UNFPA also funds IMP's CRS.

*International Migration Policy Programme (IMP):* Largely inspired by the ICPD PoA, IMP was created in 1998 as a global inter-agency activity for government capacity building and cooperation. UNITAR, IOM, UNFPA and ILO are its co-sponsoring partners and other relevant global and regional organizations participate in its activities, which include mainly organizing regional inter-governmental meetings on migration priorities. Under its global migration policy approach, the concept underpinning IMP is based on the importance of promoting and formulating regional approaches to migration and forced displacement challenges.<sup>31</sup>

**«At the international level, new initiatives to strengthen countries' dialogue, cooperation and ultimately understanding of migration have emerged, and are yielding concrete results»**

Within a period of six years, IMP activities have benefited some 850 senior and middle level government officials from 125 developing and transition countries. Over 200 international and government experts, as well as numerous government observers from Western and other countries, have offered their support in these meetings.

### UN World Conferences

*International Conference on Population and Development (ICPD):* Of course, the first attempt to institutionalize international cooperation on migration was initiated through the convening of the ICPD and Chapter X of its PoA. This document offers a comprehensive set of guidelines for national and international action in the field of international migration policy, management and

cooperation. Still today, Chapter X constitutes the single global blueprint outlining how States and concerned international institutions should address the multiple causes, consequences and long-term implications of international migration and human displacement.<sup>32</sup>

A five-year review of the progress made since the Cairo Conference was undertaken in 1999 at the ICPD+5, which took place at the UNGA in New York. In the UNGA Report on the *“Key Actions for Further Implementation of the Programme of Action of the ICPD,”* resulting from ICPD +5, emphasis was placed on a number of areas relating to international migration that were considered in particular to need greater inter-State coordination and cooperation.

In addition, international migration and inter-State cooperation also have been addressed in major UN World Conferences, which deal with environment,<sup>33</sup> human rights,<sup>34</sup> social development,<sup>35</sup> the advancement of women,<sup>36</sup> human settlements,<sup>37</sup> ageing,<sup>38</sup> and sustainable development.<sup>39</sup> In 2001, the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR), which was held in Durban South Africa, pointed to “the situation of vulnerability in which migrants frequently find themselves, owing, inter alia, to their departure from their countries of origin and to the difficulties they encounter because of differences in language, customs and culture, as well as economic and social difficulties and obstacles faced by migrants who are undocumented or in an irregular situation.”<sup>40</sup>

### IMP's Contributions to Migration Policy Development and Government Capacity Building

Since its inception, and through its regional conferences, seminars and workshops, IMP:

- Disseminates in-depth, consistent and comprehensive information to senior government officials on global and regional migration policies; management of migration flows; and asylum, refugee protection and human rights standards to be applied by governments;
- Successfully engages origin, transit and destination countries with often differing political and migration interests and perspectives in constructive dialogue on migration policy and inter-State cooperation;
- Operates the *“Country Reporting System”* (CRS) for the purpose of measuring concrete action taken by participating governments on conclusions and recommendations adopted at IMP regional meetings;
- Contributes to raising awareness among governments on the fact that migration is today a principal global, regional and national issue that should be addressed collectively and through best management practices;
- Provides developing countries with a better understanding of migration and related policies applied in industrialized countries, and seeks to promote new models of dialogue and cooperation among origin and destination countries; and
- Facilitates and fosters coordination and cooperation among the principal institutions dealing with migration, asylum, population and related issues, thus providing governments in developing regions with a comprehensive and holistic picture on essentially all aspects and implications of human mobility.

### The MDGs and Migration

In September 2000, all Member-States of the UNGA adopted a global development agenda at the Millennium Summit in New York. The resulting MDGs, are inextricably linked to migration as their fulfilment both impacts and is impacted by efforts to effectively manage migration. The eight MDGs are the global community's commitment to:

1. Eradicate extreme poverty and hunger
2. Achieve universal primary education
3. Promote gender equality and empower women
4. Reduce child mortality
5. Improve maternal health
6. Combat HIV/AIDS, malaria and other diseases
7. Ensure environmental sustainability
8. Develop a global partnership for development

In order to devise a strategy for achieving the MDGs by the target date of 2015, the UN Secretary-General, with the support of the UN Development Programme, launched the Millennium Project. The Project draws on the expertise of policy makers, academics, and practitioners from both developed and developing countries to review existing practices, analyze policy options, and evaluate financing options. Moreover, since 2004, the Project has been working to implement 3- to 5- year poverty reduction strategies in the following countries: Cambodia, the Dominican Republic, Ethiopia, Ghana, Kenya, Senegal, Tajikistan and Yemen.

Source: *Millennium Project Information Material* at [URL: [www.unmillenniumproject.org](http://www.unmillenniumproject.org)].

## Global Commission on International Migration (GCIM)

*Global Commission on International Migration (GCIM):* GCIM was established as an independent body on 1 January 2004 by governments. Upon the encouragement of the United Nations Secretary-General and stemming from an internal report produced by the UN in 2002, the Commission works towards analyzing gaps in current approaches to migration, examining inter-linkages with other issues, and identifying areas of emerging consensus in this field. In doing so, it seeks to promote a global debate on migration amongst all relevant actors and develop a broader understanding of international migration.

The Commission, comprised of 19 internationally renowned Commissioners, is actively supported by an open-ended group of governments.<sup>41</sup> With its Secretariat headquartered in Geneva, and its broad-based regional hearings taking place around the world, GCIM relies on existing governmental, non-governmental, institutional and academic expertise. By mid-2005, GCIM is intended to incorporate information garnered from its policy analysis and research programme, as well as its regional consultations and other meetings, into a Final Report. The Final Report will be presented to the United Nations Secretary-General and other concerned stakeholders, highlighting the Commission's findings and proposing concrete action to be considered by the international community.

## Government

The *"Berne Initiative."* In June 2001, the Swiss Government, in cooperation with other entities, launched what is known as the "Berne Initiative," a States-owned consultative process with the goal of obtaining better management of migration at the regional and global levels through cooperation between States. It is intended to enable governments from all world regions to

share their different policy priorities and identify their longer-term interests in migration, and offers the opportunity of developing a common orientation to migration management based on notions of cooperation, partnership, comprehensiveness, balance and predictability.<sup>42</sup>

At the Berne Initiative Symposium in 2001 and during on-going regional consultations organized by the Berne Initiative Secretariat, and through other fora such as regional IMP meetings, governments have shared their views on the elaboration of a possible framework of guiding principles that would shape inter-State cooperation in the management of migration. This process is leading towards the elaboration of "An International Agenda for Migration Management," a topic, which was further discussed during International Berne Initiative Consultations held in July 2003. In 2003-2004, additional regional consultations are underway and will culminate with a second International Symposium on Migration, "Berne II," on 16-17 December 2004.<sup>43</sup>

## Civil Society

*The Project on the Future of Asylum and Migration (FAM):* Between 2000-2002, FAM, a non-governmental initiative was developed with the aim to promote positive policies and practices, by supporting new initiatives and basic research relating to asylum and migration. It was initiated by the Netherlands' Chapter of the Society for International Development (SID NL)—a group of some 500 persons with different backgrounds from all parts of the world working in various capacities (government, supranational bodies, intergovernmental organizations, academia, faith groups and civil society) on asylum and migration issues. Specifically, SID attempted to encourage a positive view and international perspective on asylum and migration matters; and to emphasize the distinction between refugees and other migrants by continuing to recognize



Regional Discussions on Migration ©Jørgen Sandström

the needs and protections of refugees while seeking parallel options and solutions for other categories of migrants. The “Declaration of The Hague,” resulting from the FAM Project, is being followed up by work undertaken in the context of the “Club of The Hague” to translate its principles into action.<sup>44</sup>

*The International Metropolis Project:* Launched in 1996 by Citizenship and Immigration Canada, Metropolis consists of a set of coordinated activities carried out by a membership of research, policy and NGOs, which share a vision of strengthened migration policy by means of applied academic research. The Metropolis members are now from over 20 countries and a number of international research, policy, and intergovernmental organizations, representing a wide range of policy and academic interests. The underlying idea is that the members will work collaboratively on issues of immigration and integration, always with the goal of strengthening

policy and thereby allowing societies to better manage the challenges and opportunities that immigration presents. To this end, Metropolis has: stimulated and funded empirical research on important policy issues, some of it international and comparative; organized major international, national and regional conferences on migration issues, involving representatives from policy, research and civil society; organized highly focused seminars, round tables and workshops; and disseminated research results and policy discussions in the Metropolis publication, *The Journal for International Migration and Integration*, and in other print and electronic media.

### 3. Migration and Development

The link between migration and development is not a new one. Economic improvements in countries of origin are tied to easing migration pressures. More recently, this assertion is qualified by the fact that a “migration hump” exists such that economic development can, at least over the medium term, spur migration as acquisition of skills and means offers greater access to foreign markets. Nevertheless, it stands to reason that improving economic conditions in countries of origin, in particular through job creation, will reduce migration pressures by providing people with the option to work domestically. Part of this debate pertains to trading practices between States, since it is argued that more balanced trading relations between developed and developing countries would in fact assist in promoting States’ economic competitiveness and development potential. Thus, the potential for reducing migration pressures in countries of origin could be enhanced through a more equitable trading system (see Chapter 5 on Economic Migration).

***«migration is no longer seen merely as a failure of development, but rather as an integral aspect of the global development process»***

Another important dimension to this discussion relates to migration as a development tool for countries of origin. It is in this context that development implications of international migration have become a key topic in public discourse today. To be sure, the debate on migration and development reflects a radical change in percep-

tions of migration, a change that was signalled in the ICPD PoA, namely that migration is no longer seen merely as a failure of development, but rather as an integral aspect of the global development process.

Underpinning the notion of a migration-development linkage is the observation that migrants maintain vigorous economic, social and cultural ties to their countries of origin. They return home for longer or shorter periods of time, send remittances and goods, invest in their home countries including in education, housing and health-care for needy family members, and sometimes they return home for good, bringing with them new knowledge, skills and their accumulated savings. These links result in reverse flows of financial, technological, social and human capital back to their countries of origin. In the debate on international migration, many experts argue that these “feedback effects” contribute significantly to the development of migrants’ home countries. To take one example, new empirical research has revealed a strong positive correlation between remittances and poverty reduction in developing countries.<sup>45</sup>

At the ICPD, governments recognized the connection between migration and development. In particular, Chapter X of the PoA states that “orderly international migration can have positive impacts on both the communities of origin and the communities of destination, providing the former with remittances and the latter with needed human resources. International migration also has the potential of facilitating the transfer of skills and contributing to cultural enrichment.”<sup>46</sup> Five years later, at ICPD +5, go-

vernments reiterated their call “to maximize the benefits and manage the challenges posed by international migration.”<sup>47</sup>

Today, the debate on migration and development has only become more vigorous and reflects the interests of an ever-widening spectrum of stakeholders, not least of which are migrants themselves who are becoming well organized and a significant civil society voice. Clearly contributing to the salience of this debate is the fact that international migration stands now at an all time high with around 3 per cent of the world population living and working outside their country of origin.<sup>48</sup> Against this backdrop of significant human mobility, dramatic economic disparities continue to prevail between the “North” and the “South” making increased migration pressures a future certainty. Finding solutions to the development gap between migrant origin and destination countries by harnessing the development potential of millions of present and future migrants has become an international policy priority. Indeed, the recently established GCIM has identified migration-development issues as a central feature of its planned research activities.<sup>49</sup>

Migration is a complex and fluid socio-economic, political and cultural phenomenon involving millions of individuals in motion at any given point in time. The extent to which migration has development impacts for origin and destination countries depends upon a variety of interacting factors, including volume, patterns and dynamics of migration flows.<sup>50</sup> Development impacts also vary across regions for similar reasons. A better understanding of the implications of migration

for development will clearly require sustaining further study and research activities. In this connection, experts have universally pointed to the need for better data on migrant stocks and flows (See Chapter 9 on Migration Data).

**«While the average size of an international remittance may be quite modest, when added up, the hundreds of thousands of transfers occurring every month reflect significant amounts of capital being transferred from developed countries to the developing world»**

The international dialogue on the migration-development linkage has identified both positive and negative developmental effects of migration. For instance, in the context of the IMP's regional capacity-building exercises on international migration for developing country governments, one of the most frequently voiced concerns of government officials relates to the issue of “brain drain,” or the flight of skilled human capital from their countries.<sup>51</sup> Clearly while migration creates positive feedback effects, it may also have negative repercussions; whether and to what extent the beneficial effects of migration outweigh its negative effects is still the subject of heated debate amongst scholars and policy makers.

Despite the complexity of the subject, much of the migration-development debate has tended

to focus on a specific set of observations which are believed to carry particular promise for development, including migrant remittances, human capital, social and technological transfers, long and short-term return migration and the establishment of supra-national diaspora networks. The following section will focus on remittances and the issue of brain drain, which reflect financial and human capital aspects of the migration development nexus.

### Migrant Remittances

It has been argued that, "a logical consequence of the migration of workers is a reverse flow of remittances to support dependent relatives, repayment of loans, investment and other purposes."<sup>52</sup> Broadly speaking, remittances are private transfers of money from migrants to family members in the countries of origin. While the average size of an international remittance may be quite modest, when added up, the hundreds of thousands of transfers occurring every month reflect significant amounts of capital being transferred from developed countries to the developing world. Additionally, even a small amount of money, say 100 USD a month, may make a world of difference to a poor rural household in Somalia, Philippines or Haiti. Thus, remittance

transfers are having a profound impact on the quality of life of millions of poor households in Africa, Asia, Latin America and the Middle East, and experts generally agree that remittances are one of the key aspects of the migration and development linkage.

Figures show that the sheer volume of money transferred annually by migrants to their families in developing countries is astounding. The World Bank recently estimated that the global annual flow of remittances to developing countries in 2002 was 88 billion USD.<sup>53</sup> Remittances are estimated to have exceeded 90 billion USD in 2003, although actual figures are much higher when informal transfers are taken into account. This implies that remittances exceed Official Development Assistance (ODA) and constitute the largest single source of financial flows to developing countries after Foreign Direct Investment (FDI), in some cases even exceeding FDI flows in many countries.

In 2002, some of the biggest receivers of remittances were India (11.5 billion USD), Mexico (6.5 billion USD), Philippines (6.4 billion USD), Egypt (3.7 billion USD) and Morocco (3.3 billion USD). If calculated as a share of gross domestic product (GDP), lower middle-income and low-income countries were the biggest recipients with remittances constituting on average 2 per cent of GDP. Regionally speaking, South East Asia and sub-Saharan Africa were significant recipients of remittances relative to size of GDP.<sup>54</sup>

In addition to their sheer volume, remittances manifest several other key characteristics which make them interesting as a development tool, namely:

*Stability:* Remittance flows have been characterized by experts as "counter-cyclical" in nature, meaning that they appear to be less vulnerable to economic up and down turns than other sources of external funding, such as FDI, ODA



"Saving Money to Send Back Home" ©FreeFoto.com



and capital market flows. In other words, even in hard times, migrants will continue to remit money to their families and might even remit more money in response to the greater need of their family members in times of crisis.

*Growth:* Global remittance flows are increasing in tandem with growing migration. Because of more global migration caused by persisting income inequalities between origin and destination countries, increasing temporary migration, greater South-South migration, easier and lower cost travel and other factors related to globalization, remittances are projected to continue to increase well into the foreseeable future. Indeed, observers are pointing out that the rise in remittance flows is even outpacing the increase in global migration flows, although improved financial reporting practices may be part of the reason underlying this observation.

Lastly, remittances are unilateral transfers that do not create liabilities unlike other types of financial flows such as debt and equity flows. Also, unlike foreign aid, remittances go directly to the people who need them and to whom they were directed without any intervening and costly bureaucracy. Thus, some scholars suggest that international migrants have themselves become one of the biggest and most stable sources of foreign aid to developing countries.<sup>55</sup>

### Poverty and Development Impacts

Emerging empirical evidence suggests that remittances have significant impacts on poverty and potentially also on long-term economic development. In a study of 74 low and middle-income developing countries, the World Bank has demonstrated a statistically significant correlation between remittances and declines in poverty.<sup>56</sup> Specifically, the study found that a 10 per cent increase in the share of remittances in a country's GDP leads to a 1.2 per cent decline in poverty. This study also found that a 10 per cent increase

in the number of migrants leaving a sending country will lead to a 1.8 per cent decline in the share of people living on less than 1 USD per day.<sup>57</sup> Other studies tend to confirm the importance of remittances noting that they often constitute a very large share of the recipients' total income. According to the ILO, remittances constitute up to 90 per cent of household income for recipients in Senegal, and more than half of household income for recipients in Bangladesh.<sup>58</sup>

Beyond significant poverty alleviation effects in the developing world, remittances play a life sustaining role in post-conflict settings where migrants' families with little or no other sources of income depend on them for their survival. In places like Somalia and Somaliland—recipients of an estimated 1 billion USD a year<sup>59</sup>—remittances have been critical in averting complete humanitarian disasters.

At the individual and family levels, remittances enhance economic security and well-being of the poor by providing critical resources for spending on immediate subsistence needs such as food and shelter, as well as improved health-care, education and housing. Remittances also provide income for investment; they support purchases of land, entrepreneurial activities and savings which in turn have stimulating effects on local and national economies. At the national level, remittances increase foreign exchange receipts, finance imports and improve national credit ratings.

*Maximizing Benefits:* Governments have long recognized the benefits of remittances and have encouraged remittance flows through proactive legislative and regulatory policies. For instance, governments have adjusted their foreign exchange and other financial sector regulations, and have provided a variety of incentives such as tax breaks, investment options and preferences on land purchases to stimulate flows. Deliberate strategies of foreign employment coupled with

outreach to diaspora communities through the facilitation of dual citizenship, the posting of labour attachés in host countries and other measures have also been applied.

Local governments and migrants themselves have also supported collective investment initiatives such as the Home Town Associations (HTAs) and matching funds schemes in Latin America, to promote migrant investment in local infrastructure projects such as building roads, schools and other public facilities.

Experts generally agree that ensuring that remittances are sent through formal channels is of critical importance to enhancing their development impacts. Firstly, by using banking channels, rather than informal systems, migrants are better able to manage their assets and thus to increase savings and investments in productive activities. Secondly, the local economy is stimulated when banks in turn can finance loans with capital bolstered by remittances, and lastly, national economies profit from increased foreign currency reserves.

Despite the advantages of formalized remittances, migrants often face particular challenges in accessing financial institutions. Host country regulations often impose cumbersome requirements relating to proof of identity and domicile ("know your customer" rules) which in many cases prevent migrants, even those with valid status, from opening bank accounts or using other formal transfer services. Recent money laundering and anti-terrorist legislation in western countries have made migrant access to formal financial institutions even more difficult.

Some initiatives have been successful in responding to this trend. The Mexican Government's initiative to issue identity documents through their consulates ('matriculas consulares') to enable Mexican immigrants in the US to open bank accounts has been particularly successful in boosting remittances, and several other coun-

tries in Central America are now also considering such identity card programmes.<sup>60</sup>

Although much of the remittance debate has focused on effects of international remittances, the contribution of internal transfers to national development should not be underestimated. In China, the transfers of an estimated 100 million internal labour migrants are having a dramatic impact on the country's rural economy.<sup>61</sup> Evidence from other countries and regions show similar positive effects.<sup>62</sup> Moreover, some argue that internal remittances target families which on average are poorer than those receiving international remittances.

Although a disproportionately large percentage of migrants remain "unbanked" as compared to the native population of their host countries, recent findings show that remittances constitute an important point of entry for migrants to the financial system. The fact that migrants and their families open bank accounts in order to send or receive remittances is significant because it gives them access to a range of other financial services and products they might not otherwise have benefited from including savings, credit and insurance options with significant implications for long-term improvements in economic well-being. To take one example, the World Council of Credit Unions (WOCCU) has observed that 14 to 28 per cent of remittance transactions using their credit union network (IRnet) in Latin America result in the opening of a transaction account with a financial institution and that more than one third of recipients using credit union services save a portion of the remittance money received.<sup>63</sup>

*Regulating Transfers:* In the wake of the 11 September, 2001 terrorist attacks on US soil, national financial regulators in the Western world have become increasingly concerned about the potential security implications of global financial flows especially with respect to their potential use in terrorist financing and

money laundering activities. In this connection, much attention has been focused on informal remittance systems—commonly known as the Hawala or Hundi systems—because of their anonymous and unregulated nature. Informal systems are still widely used because they offer very efficient, low-cost and speedy services. According to a recent International Monetary Fund (IMF) study, it takes only 6 to 12 hours to transfer funds between major international cities, at the very low average direct cost of 2 to 5 per cent. These systems function well even in post-conflict and other settings where formal financial infrastructures are non-existent.<sup>64</sup>

While initial post-11 September reactions to informal transfer systems focused on prohibition of everything that was unregulated, more nuanced approaches are gaining ground which recognize the need to strike a balance between appropriate levels of regulation aimed at minimizing financial abuse and promotion of cost-efficient and accessible transfer services. Clearly, regulation is needed in the interest of transparency, however, regulatory and supervisory policies which inhibit transfers by driving up costs and reducing access to financial services, may have counterproductive effects and prejudice against those who need remittances most.<sup>65</sup>

The cost of sending a remittance has been declining during the past few years as more private sector actors are entering the remittance marketplace and offering increasingly competitive remittance services. Technological innovations have contributed to this trend as well and have improved outreach to underserved communities. Nevertheless, universal access is still not a reality. The existence of a vibrant informal remittance sector is testimony to the fact that obstacles to cost efficient, rapid and transparent remittances services are substantial. Foremost is the lack of adequate financial infrastructures in developing countries and the concomitant lack of proper outreach to rural areas where many of

the recipients of remittances reside. Restrictive and/or inadequate foreign exchange and financial sector regulations, unsound macro-economic environments and poor investment climates, compound the problem.

***«Clearly, regulation is needed in the interest of transparency, however, regulatory and supervisory policies which inhibit transfers by driving up costs and reducing access to financial services may have counterproductive effects and prejudice against those who need remittances most»***

On the remitting end, migrants' access to the formal financial sector needs to be improved through increased outreach activities by all concerned stakeholders including the private sector. Thus "banking the unbanked" at both ends of the remittance lifeline constitutes a fundamental aspect of fostering remittances, maximizing their long-term benefits to migrants and enhancing development impacts for recipient national economies.<sup>66</sup>

Protecting migrants' human rights and ensuring that labour standards are respected in host countries is another often overlooked aspect of the remittance equation; migrant workers are more likely to fully realize their potential as remitters in environments where, at minimum, internationally recognized labour standards are respected and domestic labour laws are adequately enforced.

### “Brain Drain”

The cross-border movement of skilled and highly skilled labour constitutes an integral aspect of globalization. Driving this process is the enhanced integration of regional and global labour markets. Today the demand for highly skilled labour in key industry and service sectors has become borderless. Generally, highly skilled labour migration refers to the movement of persons who have attained a tertiary level of education, (i.e., university or equivalent technical training).

***«the establishment abroad of a highly skilled diaspora may give rise to a vicious cycle of human capital flight by constituting a pole of attraction for other highly skilled workers, motivating them also to migrate»***

The ability of developed countries to attract skilled workers with promises of higher wages, higher living standards and better prospects poses a problem for developing countries when it results in the flight of large numbers of their “best and brightest,” a phenomenon most commonly referred to as the “brain drain.” Indeed, for many years, developing countries have voiced concerns relating to the adverse economic effects of brain drain and sought to raise awareness of this problem among the advanced economies, as well as enhance inter-State cooperation on this issue.

Generally, it is argued that the loss of skilled personnel widens the development gap between origin and destination countries by slowing GDP growth in the former. Since economies are dependent on the highly skilled, a shortage of

human capital in key sectors such as industry, communications, health and other service sectors depresses productivity, slows economic growth and drives down wages for the unskilled. Wages of the remaining high skilled workers increase in response to their increasing scarcity giving rise to higher rates of income inequality in the labour force.<sup>67</sup> Moreover, the establishment of a highly skilled diaspora may give rise to a vicious cycle of human capital flight by constituting a pole of attraction for other highly skilled workers, motivating them also to migrate.

The cost of losing qualified nationals encompasses not only the lost future productivity of the skilled migrant but also the loss of investment in the education and training of the migrant incurred by the country of origin. Quantifying such a loss is of course speculative. However, it has been calculated that with respect to brain drain from the developing world to Organization for Economic Cooperation and Development (OECD) countries, it costs developing countries on average 20,000 USD to educate someone to a tertiary level. Consequently, the 3 million highly skilled migrants in OECD countries constitute a total loss to developing countries of 60 billion USD in educational investment alone.<sup>68</sup>

Furthermore, brain drain is associated with significant social costs, as it deeply impacts families. In many cases, men pursue job opportunities abroad, while leaving their wives and children behind, effectively creating one-parent families. According to a 2004 conference report by the ILO, when mothers migrate, the consequences can be even more serious as their children oftentimes “drop out of school or find themselves in vulnerable situations of neglect and abuse, including incest.”<sup>69</sup>

Although data on brain drain is highly fragmentary, several recent studies point to the magnitude of the phenomenon. For instance, according to ILO estimates, developing countries



“People on the Move” ©FreeFoto.com

are currently experiencing a 10 to 30 per cent loss of skilled manpower through brain drain.<sup>70</sup> In some regions, the proportion of skilled and highly skilled manpower within the total pool of migrants seeking opportunities abroad is particularly high. In the African case for instance, ILO research reveals that up to 75 per cent of persons emigrating from Africa to the US, Canada or to OECD countries have completed university level, or equivalent technical training.<sup>71</sup> By comparison, the figure for the Asia-Pacific region is slightly more than 50 per cent, and around 47 per cent of migrants from Latin America have completed tertiary level education.<sup>72</sup> At the national level, several smaller countries in Central America, Africa and the Caribbean lost more than 30 per cent of their skilled workforce to migration.

***«The flight of skilled health workers is of course in part a result of aggressive recruitment policies of developed countries seeking to address skills shortages in their own health workforces»***

In some regions, certain sectors of the economy are hard hit by skilled migration. The emigration of health professionals (i.e. doctors, nurses) within and away from Africa is one such example, creating internal mal-distributions and critical shortages of health professionals. This is especially problematic because many African countries already are experiencing national health crises of tremendous proportions. A recent study shows vacancy levels in the public health sector to range between 7.6 per cent for doctors in Lesotho, 72.9 per cent for specialists in Ghana and 52.9 per cent vacancy level for nurses in Malawi.<sup>73</sup> The consequences of these shortages are clear; inadequate health coverage for domestic populations which may lead to

even further degradation of the human capital resource base when public health crises, such as the HIV/AIDS epidemic, cannot be effectively addressed.

The flight of skilled health workers is of course in part a result of aggressive recruitment policies of developed countries seeking to address skills shortages in their own health workforces. Recently, some developed countries have become more attuned to the effects of such recruitment and have taken various initiatives to help address this problem. In 1999 and 2001, the Department of Health of the United Kingdom (UK) elaborated guidelines to better regulate recruitment of foreign nurses. More recently these policies have been supplemented with bilateral labour agreements. For instance, the governments of the UK and South Africa have signed an agreement to allow South African doctors and nurses to work in the UK on time limited projects which have a focus on educational and training elements.<sup>74</sup> The agreement also contemplates UK nurses and doctors working on a temporary basis in South Africa. This arrangement highlights a two-pronged approach which serves both to counter human capital flight by ensuring that employment abroad is temporary, and at the same time foster skills acquisition through the incorporation of training elements in the temporary program, thus enhancing the human capital resources of both origin and host countries.

A problem related to brain drain is that of "brain waste" which occurs when highly skilled migrants work as unskilled labour in host countries. For instance, it is not uncommon for doctors and engineers from Africa and Latin America to be working as janitors or taxi drivers in Europe and America. Tackling this problem requires more concerted efforts by governments to establish the educational equivalencies of foreign diplomas, as well as efforts to effectively integrate foreign professionals into domestic labour forces so that their full potential is maximized. A

recent study conducted in Sweden shows that the unemployment rate for migrants (defined as persons born abroad) with a tertiary level education is twice as high as that of the native born population with similar qualifications. Also, it shows that a considerable number of highly educated migrants consider themselves to have jobs for which they are overqualified.<sup>75</sup>

The migration of skilled workers also can create positive feedback effects which mitigate the impact of brain drain by fostering remittances, exchange and transfer of ideas and skills and technologies back to countries of origin. Indeed, some scholars have argued that these feedback effects are so strong that the term brain drain may in fact be a misnomer and should be replaced with terms such as “brain circulation.” Also, others have suggested that since the emigration of highly skilled creates incentives for populations in origin countries to pursue

higher education in the expectation that it will result in high returns through future migration possibilities, the end result is that the overall levels of human capital are enhanced since most of the highly educated nevertheless remain in their native countries. Indeed some countries, such as the Philippines, have even promoted migration of the highly skilled, including health professionals, with the expectation of enhancing flows of remittances and promoting skills acquisition of labour abroad.

In the debate on brain drain, a number of policy responses have been elaborated of which the following three—retention, return, and resourcing—tend to characterize the debate.<sup>76</sup>

*Retention:* From the perspective of developing countries, retention of skilled labour appears to be an optimal solution to the brain drain problem although it might be the most difficult one to im-



plement successfully in the short— or mid—term because it requires addressing the root causes of human capital flight, namely, economic under-development. Skilled workers migrate in response to demands of overseas labour markets offering job opportunities which better match their skill levels, professional objectives and financial expectations than those of their domestic labour markets. Of course this pull factor exerted by international markets is especially strong when domestic labour markets have little or nothing to offer. Retention therefore requires creating attractive opportunities at home which in turn entails economic development and possibly also targeted development of specific sectors including education, high tech, information technology (IT) and health-care.

Interestingly, modern communications technology may be reducing the need for highly skilled workers to migrate by allowing them to provide services through the Internet from their home countries. An ILO study of migration from the Philippines observes that “[t]he pervasive use of the Internet as real time communications media has effectively closed the gap between users and suppliers of highly skilled work without actual physical dislocation. In particular, programming and software services are being transacted through the Internet without the necessity of worker migration.”<sup>77</sup> Exploiting modern communications technology to achieve virtual mobility of the highly skilled may constitute one innovative strategy worthy of future exploration.

*Return.* Return is often seen as a natural conclusion to the migration cycle. A large portion of migrants in fact intend to return to their home countries when the purpose of their stay abroad has been accomplished, whether that be at the conclusion of their job contracts, educational programmes, or when they have saved enough capital to start anew in their home country or simply retire comfortably. Skilled migrants who return home bring with them enhanced skills,

ideas and knowledge acquired abroad, business contacts, accumulated savings and other human and capital assets thus making significant contributions to local economies. However, experience reveals that it is difficult to influence a migrant's decision to return through policy intervention, and permanent return policies face many of the same challenges as those aiming at retention. If they are to be successful in the long run, developing countries need to create environments where the highly skilled are able to use their potential fruitfully. In other words, on some level, the professional opportunities offered by their home countries need to be equivalent to those migrants are forfeiting by moving away from their host countries.

Policies to encourage return migration of skilled migrants have had mixed results and the focus of attention of policy makers has shifted from strategies aimed at permanent return, to strategies to encourage temporary return migration where the emphasis is on the sharing and transfer of knowledge, skills, ideas and technologies or “brain circulation.” Thus, for example, IOM's Return of Qualified African Nationals Programme (RQAN) has recently been replaced by the Migration for Development in Africa (MIDA) programme. Building on the idea of mobility of skills, IOM's MIDA programme seeks to match sectoral skill needs of African economies with qualifications of African migrants of the diaspora for consultancy and other temporary missions requiring sequenced or repeated visits, teaching assignments and virtual/telework.<sup>78</sup>



### Resourcing the diaspora

Mobilizing the diaspora as a development force is an option gaining increasing currency among policy makers. Beyond the significant transfers of capital through remittance flows, migrant diasporas have also been instrumental in channelling flows of FDI to their home countries. According to a recent IOM study on migration and development in Asia the Indian diaspora contributed 9.15 per cent of FDI flows to India in 2002. The Chinese diaspora contribution to FDI in China was even higher. Flows of FDI from the highly skilled diaspora also are closely linked with the emergence of high tech industries in developing countries. For instance, the migrant Indian IT community in Silicon Valley, California, has been a driving force behind the development of the Indian software industry. Similarly, the Chinese diaspora has played a central role in the explosive growth of high tech industries in Taiwan and mainland China. Thus, through capital flows, exchange of information and a burgeoning entrepreneurial activity the diaspora is widely considered to have become an important driving force behind economic development of countries of origin.

Governments are therefore seeking to enhance diaspora related contributions to their domestic economy through a variety of means. Principally, they have sought to cultivate ties with their migrant diasporas by liberalizing dual citizenship and other immigration laws, facilitated diaspora investments and financial linkages with the home country.

Source: IOM, *Migration and Development: A Perspective from Asia*, IOM Migration Research Series, No. 14 (November 2003).

## 4. Human Rights of Migrants

Human rights are the most basic components of individual freedom. They transcend cultural, geographic and socioeconomic differences to establish a threshold of obligations, which States assume with respect to their own “body politic.” Through guarantees—such as freedom of expression and association—and protections—such as freedom from cruel and inhuman treatment, arbitrary detention, and discrimination, human rights empower individuals to pursue their respective visions of life and happiness. They foster a social infrastructure where it is more likely that boys and girls will have access to education, women will enjoy equal economic opportunities, and individuals from all walks of life will receive adequate health-care services.

At the ICPD in Cairo, participating governments agreed that respect for migrants’ human rights is one of the most basic determinants of migrants’ well-being and essential to the achievement of greater social and economic development. Consequently, they adopted a comprehensive set of objectives in Chapter X of the ICPD PoA, aimed at safeguarding human rights for all migrants, documented as well as undocumented, refugees, asylum seekers and displaced persons. Specifically, the PoA commits governments to taking steps towards addressing the root causes of irregular migration, eliminating discriminatory policies and practices, providing protection against racism and xenophobia, and hastening the social and economic integration of documented migrants. In addition, it encourages promotion of the general welfare of migrants, especially as it relates to women, children and the elderly.

Moreover, countries gathered at the ICPD underscored the universal right to “the highest attainable standard of physical and mental health” in the context of migration. The PoA calls on governments to “consider extending to documented migrants . . . access to health, education, and other social services.” Furthermore, in Chapter VII, it stresses the importance of reproductive rights for migrants, asserting that “all couples and individuals have the basic right to decide freely and responsibly the number and spacing of their children and to have the education, information, and means to do so.” The emphasis of the ICPD on the human rights of migrants reflects an appreciation for the vulnerabilities of migrants to rights abuses and the necessity for proactive national and international engagement in this area.

### Growing International Attention

Since the Cairo Conference, there have been several significant developments towards advancing migrants’ human rights. In July 2003, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (MWC) entered into force. As of July 2004, 26 States were party to the agreement, which is the first international convention addressing the human rights of migrants. Specifically, it promotes protection of migrant workers through binding international standards relating to the rights of both documented and undocumented migrants, and establishes a committee to monitor its implementation. While the entry into force is hailed as a major achievement in human rights protection, the signatories are almost exclusively migrant countries of

origin and not the destination countries where migrants' rights are often at peril. Nevertheless, its provisions and those of ILO Conventions No. 97 and No. 143, constitute standards for best practice for all States.

Since ICPD, other international efforts to protect the rights of migrant workers include non-standard setting activities, such as the establishment, by the UN Human Rights Commission, of the Working Group on Migrants (1997) and the appointment of a Special Rapporteur on the Human Rights of Migrants in 2000. Although the mandates of the Special Rapporteur and the Working Group relate to migrants generally, their work has served, in important ways, to highlight the plight of migrant workers. Particularly, the reports of the Special Rapporteur have frequently raised issues related to migrant worker exploitation and abuse in various parts of the world. In addition, the GCIM is specifically mandated through 2004-2005 to examine, among other things, migrants' human rights.<sup>79</sup>

Related international events which have highlighted migrants' human rights issues include the WCAR held in Durban, South Africa in 2001. Xenophobia, discrimination and racism faced by migrant workers often prevent them from fully integrating into the labour markets of their host countries. Studies conducted by ILO and others show that unemployment rates for migrants in the developed world are much higher than for national workers. Ensuring that workers are not disadvantaged because of discrimination and ensuring that migrant workers are able to work and exercise their professions in host countries will require governments to make more

concerted efforts to counter xenophobia and discrimination and effectively integrate migrant workers into their societies. At WCAR, the United Nations High Commissioner for Human Rights (UNHCHR) was specifically called upon to combat discrimination against migrant workers. In response, the UNHCHR has created an anti-discrimination unit and organized multiple seminars on implementing the Durban Declaration.<sup>80</sup>

At the most recent session of the UN Human Rights Commission in April 2004, the Commission took action on an array of issues relating to the human rights of migrants, including: appointing a Special Rapporteur on Trafficking (see Chapter 7 on Trafficking); outlining the development of human rights education (specifically stressing tolerance, respect, and non-discrimination); enhancing the role of the judiciary in this area; and passing a resolution on racism, xenophobia and intolerance.<sup>81</sup>

More generally, the UNGA heightened the visibility of migrants and their plight by proclaiming December 18 as International Migrants Day.<sup>82</sup> Its message invited "States, as well as intergovernmental organizations and NGOs, to observe International Migrants Day, through, inter alia, the dissemination of information on the human rights and fundamental freedoms of migrants, the sharing of experience and the design of actions to ensure their protection."<sup>83</sup>

Increasingly, this international attention to human rights is inducing the translation of international agreements and treaties into national laws and practices. For example, since the UNHCHR came into being in 1994, it has expanded the scope of technical cooperation by working to

strengthen institutions, through activities such as the incorporation of human rights provisions in constitutions and legislation, as well as stepping up monitoring efforts, through the establishment of field offices, which study human rights patterns and formulate plans of action to address violations.<sup>84</sup> UNHCR also has recently noted its growing emphasis on empowering refugee women. To this end, it has decided to place gender equality at the centre of policy decisions and has created a Women, Children, and Community Development Section to provide policy and technical assistance in support of country-level operations.<sup>85</sup>

### Civil Society

In 1994, a large number of NGOs were present at the ICPD, as indicated in Chapter XV of the PoA, "Partnership with the Non-governmental Sector". Specifically, the chapter calls on governments to integrate NGOs in their decision-making and calls on NGOs to, inter alia, "participate in the implementation of population and development programmes and actively contribute to the national, regional and international debate on population and development issues."

Three categories of NGOs deal with migration issues. The first category is traditional operational NGOs working on refugee, displaced person and migrant assistance that have an advocacy branch focusing on specific aspects of migration policy. The International Catholic Migration Commission (ICMC), an operational arm of the Catholic Church, for instance, coordinates Catholic assistance activities for refugees, migrants and other displaced persons of all faiths. It also is involved in advocacy work focusing on different aspects of migration policy including human rights, racism issues, international protection of refugees and migrants and counter-trafficking.<sup>86</sup>

The second category is traditional advocacy NGOs whose mandate covers a specific issue

and that are expanding their scope to include different aspects of migration policy. Amnesty International,<sup>87</sup> for instance, has a "Forced Migration Project," Human Rights Watch<sup>88</sup> covers "global issues" including "Refugees," and smaller NGOs such as Migrants Rights International (MRI)<sup>89</sup> are developing their purview to cover different aspects of migration policy including the challenges of the "migration/asylum" nexus, the "migration/trade" nexus, et alia.

Some advocacy NGOs falling into these categories are coming together to take a common position on migration and refugee issues before international organizations whose mandates deal with migration issues. For instance, in June 2001, during the Global Consultations on International Protection in Geneva, Human Rights Watch, ICMC and the World Council of Churches in consultation with other NGOs developed a background paper on "the refugee and migration interface" ("nexus").<sup>90</sup>

The third category is based on networks that have been created amongst civil society to strengthen its voice, and to address migration and refugee challenges. Umbrella NGOs such as the International Council of Voluntary Agencies (ICVA) consists of an advocacy network for humanitarian NGOs and acts as a focal point on UN bodies such as the UN Inter-Agency Standing Committee, and within the Partnership in Action (PARinAC) programme between NGOs and UNHCR.<sup>91</sup> Another initiative described in Chapter 2 on Migration Policy is entitled the FAM, headed by the SID through one of its national chapters based in the Netherlands. Though other actors, in addition to civil society organizations (CSOs), are members of SID, this initiative is largely perceived as one emanating from civil society to "encourage a positive view and international perspective on asylum and migration matters."<sup>92</sup>

Some work undertaken by NGOs is thus moving towards a more comprehensive agenda on

international migration policy. However, most advocacy is still largely segmented into sub-categories of migration, for instance migrants and human rights, or the protection of trafficked victims. Advocacy rarely encompasses the whole migration field.<sup>93</sup>

### Vulnerability of Migrants

Why is there an increasing emphasis on the human rights of migrants? In part, the answer lies in the demographic and developmental implications of migration. However, many recent events, popularized by the media, have also enhanced the visibility of migrants' human rights by highlighting their extreme vulnerability to rights abuses. Today, it is difficult to follow current events without encountering stories of: the harrowing journeys undertaken by migrants often ending in death in unventilated trucks and containers, in the desert or at sea; the slavery-like conditions under which many migrants work—in sweat shops and as domestic workers; the abuse and sexual exploitation of trafficked women and children; the acts of xenophobia and racist violence which many migrants face on a daily basis; and the arbitrary detention and deportation of large numbers of non-nationals in the name of national security. In a resolution on the Human Rights of Migrants in 2003, the UN Human Rights Commission expressed its deep concern "at the manifestations of violence, racism, racial discrimination, xenophobia and other forms of intolerance and inhuman and degrading treatment against migrants, especially women and children, in different parts of the world."<sup>94</sup>

Migrants also face difficulties in enforcing their rights. Many migrants are socially and economically marginalized, living in poor, physically segregated communities and oftentimes without access to social services. Many migrants work in what are commonly referred to as "dirty, difficult and dangerous jobs." They can be powerless to obtain health-care services, which

is especially problematic because migration is associated with an increased susceptibility to health risks. Migrants are at much greater risk of HIV/AIDS. A report by the Joint United Nations Programme on HIV/AIDS (UNAIDS) confirms that the prevalence of HIV/AIDS is particularly high among migrant workers.<sup>95</sup> Moreover, effective access to the legal system is often hampered by linguistic and cultural obstacles, fear of public institutions and ignorance on their part of human rights principles and State practice. Where effective remedies are non-existent or inaccessible at the national level, international justice remains elusive because of the lack of effective international enforcement mechanisms and monitoring activities. Often enough, deportation cuts short attempts to seek legal redress for rights violations.

**«many recent events, popularized by the media, have also enhanced the visibility of migrants' human rights by highlighting their extreme vulnerability to rights abuses»**



“Seeking Essential Services” ©UNFPA

## Women Migrants

While both men and women migrate for many of the same reasons—for example, to improve their access to social and economic opportunities—women often have a very different migration experience. During the migration process, they are frequently at a much higher risk of gender discrimination, violence, human trafficking and sexual abuse. Upon arrival in their host country, women are often relegated to gender specific occupations, which translate into jobs in sweatshops or as prostitutes. Moreover, at all stages of the migration process, they are particularly vulnerable as the spread of HIV/AIDS is higher among migrant than non-migrant populations. Women, in particular, are physiologically at a greater risk of HIV/AIDS infection than men.

## Human Rights and National Security

The terrorist attacks in the US on 11 September 2001 and events that have followed have exacerbated some human rights abuses by contributing to heightened levels of xenophobia and suspicion of migrants in a number of countries. The European Monitoring Centre on Racism and Xenophobia has documented changing attitudes towards Muslims in the “*Summary Report on Islamophobia in the EU After 11 September 2001.*” The report shows an increase in hostilities directed at those who *appear* to be Muslim or of Arab descent, as measured by several indicators, including opinion polls, documented physical and verbal attacks, and news media analyses.<sup>96</sup> Similarly, the profiling of migrants in some countries has had negative consequences on migrants, for example, in some cases programmes have required males of predominantly Arab and Muslim countries to register with immigration authorities upon arrival in the country.<sup>97</sup>

In addition, greater security concerns have translated into more restrictions on mobility including more thorough checking of immigra-

## Focusing on Women

During the Fourth World Conference on Women in Beijing (1995), the Special Rapporteur for the Commission on Human Rights on Violence Against Women identified various remedies aimed at alleviating the vulnerability of female migrants, calling on States to:

*Act* affirmatively to regulate private recruitment agencies for women migrant workers;

*Establish* outreach programmes for migrant women, providing legal, social and educational assistance;

*Ensure* that police stations have trained female officers charged with helping migrant women to report cases of abuse;

*Equip* embassies to help their migrant citizens effectively, both when they seek refuge and when they are held in custody;

*Include* migrant women in the protection of national minimum labour standards and actively to prosecute employers for violation of those standards;

*Ensure* conformity between States' national labour standards and the various guidelines and recommendations put forth by the ILO; and

*Encourage* trade unions to help realize the rights of migrant women.

Source: *Commission on Human Rights, Preliminary Report Submitted by the Special Rapporteur on Violence Against Women, Its Causes, and Consequences (22 November 1994): E/CN.4/1995/42, paragraph 233.*

tion applications against criminal and terror databases. In the US, for example, the backlog of immigration applications has increased by nearly 60 per cent between 2001 and 2003, for a total of 6.2 million applications.<sup>98</sup> Furthermore, security changes have raised a host of questions with regard to the lawful detention and treatment of individuals who can be mistreated and falsely charged.<sup>99</sup> Tightening of security measures also is associated with the declining use of regular migration channels, such as the amnesty application processes, and an increase in irregular migration channels, such as human trafficking and smuggling.

### International Human Rights Architecture

In December 2003, at the launch of the GCIM,<sup>100</sup> the UN Secretary-General stated that “migrants are often vulnerable to human rights abuse—on their journey, at borders, and in the countries to which they migrate. Greater international cooperation is needed to fight smuggling and trafficking, and to build more comprehensive regimes to protect the human rights of migrants.”<sup>101</sup> The UN Secretary-General’s statement illuminates migrants’ distinct need for human rights protection. It also highlights the wide range of rights issues migration raises, relating to specific aspects of the migration process itself, such as entry and expulsion. Some of these protections are universally recognized and codified, the premier example of which is the right to seek asylum from persecution, which has become one of the most universally recognized human rights in both national and international law today.

Nevertheless, there exists no comprehensive codification of human rights obligations with respect to migrants per se. While some human rights treaties address specific aspects of the migration process and help to further clarify migrants’ human rights, migrants must primarily rely on national laws and international human rights conventions for protection.

*The United Nations Charter and the Universal Declaration of Human Rights (UDHR):* The UN Charter and UDHR form the basis of the international human rights architecture. Both of these documents reflect the international community’s efforts, in the wake of the tragedies of World War II, to extend fundamental human rights protections to all persons—without distinctions of any kind. Both the UN Charter and the Universal Declaration reflect this principle.

The UN Charter, in Article 1, paragraph 3 explicitly states that one of the aims of the UN is to promote “respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion.” The UDHR states in Article 2, paragraph 1 that: “[e]very one is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

**«greater security concerns have translated into more restrictions on mobility including more thorough checking of immigration applications against criminal and terror databases»**

The principles of equality and non-discrimination are reflected in the three international human rights instruments adopted in 1965 and 1966, which were intended to give legal effect to the UDHR, namely the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).

*International Covenant on Civil and Political Rights (ICCPR):* The ICCPR provides several protections for migrants as it prohibits, inter alia, torture, cruel, inhuman or degrading treatment, slavery, forced or compulsory labour and retroactive criminal penalties. In addition, it guarantees the right to life, recognition as a person before the law and freedom of thought, conscience and religion. Furthermore, in 1986, the UN Human Rights Committee issued General Comment 15,

**«The MWC clearly requires States to ensure that migrant workers benefit from the same terms of work as nationals, including remuneration, hours of work, overtime pay...»**

seeking to further clarify the status of non-nationals under the ICCPR.<sup>102</sup> The ICCPR applies to all persons without distinction, as it asserts in Article 2, paragraph 1, that Member-States “undertake to respect and ensure, to all individuals within its territory and subject to its jurisdiction, the rights recognized in the present Covenant without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

*International Covenant on Economic, Social and Cultural Rights (ICESCR):* The ICESCR guarantees a comprehensive set of rights. It goes beyond covering what traditionally are considered basic human rights, such as freedom of religion and association, and includes protections relating to employment, just and favourable working conditions, establishment of trade unions, social security, adequate living standards, education and participation in cultural life. More and more, these non-first tier human rights are gaining prominence in policy discussions, as evidenced by the 19 countries that have ratified ICESCR

since the ICPD in 1994. In addition, agencies, such as the independent Swiss foundation, the Refugee Education Trust, have been appearing specifically to provide some of the broader human rights protections, such as the right to education for refugees so that they can lead productive lives (see Chapter 6 on Protection of Refugees).<sup>103</sup> Under ICESCR, these rights are guaranteed to “everyone without discrimination of any kind,” as stated in Article 2, section 2.

*International Convention on the Elimination of All Forms of Racial Discrimination (ICERD):* The ICERD establishes a comprehensive international legal regime for the protection, prevention and punishment of racial discrimination.<sup>104</sup> It applies to all persons, including migrants. It is especially important for migrants because they are often targets of racial discrimination.

*International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (MWC):* Since the adoption of these instruments, several additional human rights treaties have come into effect, which affect migrants, with as mentioned, the most notable being the recently adopted MWC. The MWC clearly requires States to ensure that migrant workers benefit from the same terms of work as nationals, including remuneration, hours of work, overtime pay, weekly rest and holidays with pay. The Convention also provides that migrant workers may claim their wages and other entitlements owed to them even if they have been expelled from the State of employment. The MWC includes a number of specific protections such as same health and safety standards for migrant workers as for nationals; special measures to promote and protect the rights of women migrants; and specific provisions against trafficking making explicit references to debt bondage and slavery-like practices.

*Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW):* CEDAW,



while not making explicit reference to race or national origin, clearly indicates that States have an obligation to proactively prevent and redress acts of racism and xenophobia aimed at women. CEDAW provides the most robust protections for women requiring States to ensure that women have equal rights in the exercise of the freedom of movement, the same rights as men in the field of employment and education, and protections against gender-based violence including sexual assault and harassment.

*Convention Against Torture and Other Cruel Inhuman and Degrading Treatment or Punishment (CAT):* CAT formalizes the agreement of all signatories to criminalize torture, provide relevant training to law enforcement and certain public officials, and create a restitution process for victims of torture.

*Convention on the Rights of the Child (CRC):* The CRC commits States to protecting children from all forms of human rights abuses and provides guarantees relating to their physical and psychological growth and development.

Both CAT and CRC constitute significant developments for migrants because they forbid the return of migrants to States under circumstances in which their rights would otherwise be violated.

**«The CRC commits States to protecting children from all forms of human rights abuses and provides guarantees relating to their physical and psychological growth and development»**



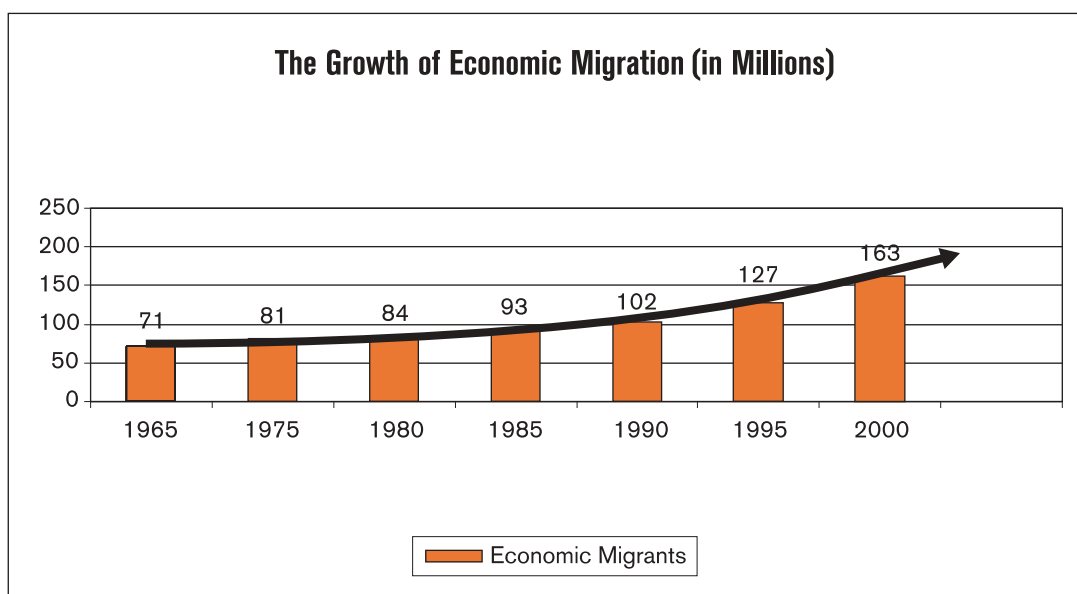
©School Kids ©JNFPA

## 5. Economic Migration

Economic migrants constitute the fastest growing category of migrants. ILO estimates that there are 86 million migrants workers worldwide not including family members who move with them or to join them. Indeed, subtract global refugee figures<sup>105</sup> from the 175 million people living outside their country of birth in 2000, and we are left with approximately 163 million individuals who have “voluntarily”<sup>106</sup> chosen to cross borders, in search of better economic and/or social opportunities. This figure is growing fast: it is estimated to have increased by 36 million in the last five years, or by 61 million during the last decade. This expanding stock of economic migrants is sustained by rising inflows and outflows, with more people emigrating than going back home.

Overall, international migrants represent a powerful economic constituency. In addition to contributing to the economy of their host countries, they also sent over 90 billion USD in remittances to their countries of origin in 2003. To this non-negligible amount should be added migrants’ savings channelled through FDI or portfolio investment, holidays’ expenses, etc (See Chapter 3 on Migration and Development).

At ICPD, there was an emphasis on how economic migration can match the needs of countries of origin and countries of destination. Chapter X of the ICPD’s PoA recommends that countries of destination consider “certain forms of regular migration, such as short-term and project-related migration as a means of improv-



Source: UN Department of Economic and Social Affairs. “International Migration Report 2002”

ing the skills of [migrants]" and that countries of origin should "facilitate the return of migrants, and their reintegration into their home communities and to devise ways of using their skills."<sup>107</sup>

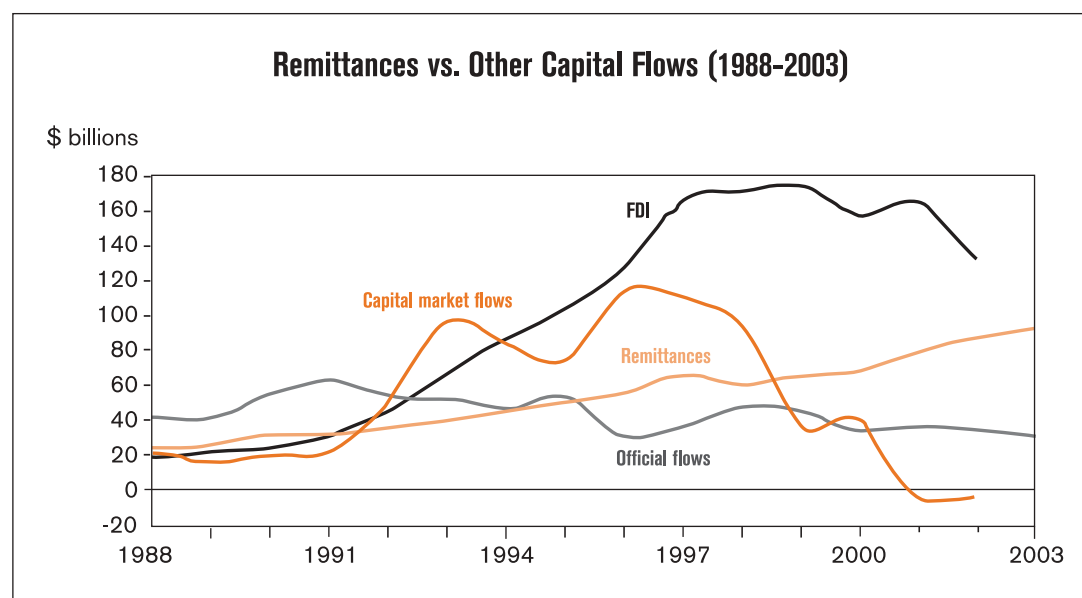
Since ICPD, policymakers worldwide have been wrestling with the challenges of enhancing national and inter-State capacities to manage economic migration effectively. However, this task poses a significant challenge because global labour movements are complex and defy easy characterization.

### Who Moves and Why

Broadly speaking, economic migration is caused by an inter-play of "push" and "pull" factors in

origin and destination countries causing large numbers of unskilled, semi-skilled and highly skilled persons to seek livelihoods abroad for longer or shorter periods of time.

Economic migration is expected to grow in importance over the coming decades for several reasons. Many developed economies are experiencing declining fertility and mortality rates, two lasting trends that lead to scarcer and older working-age populations, and create a demand for younger workers from abroad to sustain national economies. The UNPD has predicted that in a number of developed countries, "the levels of migration needed to offset population ageing (i.e., maintain potential support ratios) are extremely large, and in all cases



Source: World Bank. "Global Development Finance 2004"

entail vastly more immigration than occurred in the past.<sup>108</sup> Evidence from around the world seems to confirm this observation. For instance, a recent government funded study in Sweden—a relatively small European country—concluded that maintaining current support ratios would require the immigration of at least 30,000 young foreigners per year between 2010 and 2030.<sup>109</sup> While migration may solve this issue over the short-term, migration alone cannot solve it over the long-term.

Interacting with these demographic trends in the developed world are the population and crisis pressures of developing countries. Wage and perspective differentials induce economic migration. Factors associated with globalization have facilitated the mobility of labour by providing easy access to information about life and opportunities abroad, quick communication with diaspora family members and low cost travel.

***«Appropriate policies should ensure that the migration of women does not result in disempowerment and exploitation of women»***

Having said this, economic migration is not exclusively a South–North phenomenon as it has traditionally been described. Rather, existing trends attest to significant levels of South–South migration, reflecting the number of economic migrants seeking opportunities in neighbouring countries with faster growing economies. Patterns and flows of economic migration also are changing: many countries, such as South Africa and Thailand, have become both countries of origin and destination for migrant labour.

Women play an important part in the migrant labour force. Despite this fact, the gender di-

mension of migration is often overlooked from policy making. Important qualitative differences exist between the conditions and impact of female migration versus male migration. And, while migration can result in female empowerment, this does not always occur. Appropriate policies should ensure that the migration of women does not result in disempowerment and exploitation of women. Opportunities should be balanced such that alternatives are provided for women who do not wish to migrate, while preserving the right of women to migrate if they choose to do so.<sup>110</sup>

Economic migration also includes significant and what are considered to be rising numbers of persons moving without authorization often referred to, for lack of a better term, as “irregular migrants.” Though by definition difficult to calculate, IOM reports that irregular migrants account for one third to one half of new entrants into developed countries, which is an increase of 20 percent over the past ten years. In the EU, irregular migration was estimated to be approximately 500,000 persons per year in 1999, a nine-fold increase over a period of six years.<sup>111</sup> Current policies designed to control and restrict immigration preclude levels of migration sufficient to satisfy the demand for workers. As a result, these policies fuel markets for smuggling and trafficking and contribute to the high influx of irregular migrants. For instance, estimates from the UK, suggest that over 75 percent of its illegal entrants used the services of smugglers.<sup>112</sup>

**Weighing the Benefits of Mobility**

Economic migration can lead to the exodus of skilled nationals with detrimental effects on national economies (see Chapter 3 on Migration and Development). Further, by bolstering the size of domestic labour markets, economic migrants arguably create greater competition for jobs and influence a downward pressure on wages and prices in affected industries. In the US, for example, it has been argued that immigrants impose

costs on public services that exceed the level of taxes they pay; and, "immigration shifts about 160 billion USD a year from workers whose wages are depressed by the presence of migrants to US employers who benefit from lower wages."<sup>113</sup>

Economic migration can also yield significant benefits to origin and destination countries and of course to migrants themselves. For destination countries, labour migration rejuvenates the workforce and expands the human capital resource base, thus enhancing productivity and prosperity. For countries of origin, labour migration relieves labour market pressures (unemployment and underemployment) while generating remittances, transfers of skills, knowledge, FDI and creating other positive feedback effects. For migrants, the ability to seek economic employment abroad constitutes an opportunity to improve economic standing, enhance skill levels, and it provides a means for migrants to support family members in their home countries. Furthermore, labour mobility through regular channels also may reduce irregular migration, migrant trafficking and smuggling.

### "Managing" Economic Migration

Central features distinguishing economic migrants are: their skills levels; length of stay in countries of destination; and related to this, their contractual arrangement, (i.e., the rules under which they move).

In most developed economies, an average of half of all economic migrants migrate through family reunion rights and therefore are not moving within the parameters established by labour migration programmes. These migration flows tend to be fairly permanent.

For traditional immigration countries, such as Canada and Australia, a point based immigration system favours the permanent migration of skilled workers and their families. Other "non migration" countries, such as Switzerland, for example, have



“Professionals Working Abroad” ©Jörgen Sandström

a quasi automatic up-grading permit mechanism that allows for a gradual permanent settlement of formally temporary foreign workers.

Much like what was discussed at ICPD, the focus today is on how best to “manage” economic migration to the benefit of all concerned. Economic migration is often regulated through a wide variety of policies adopted by countries, including: temporary labour migration schemes (bilateral agreements); regional agreements; and multilateral agreements.

*Temporary Labour Migration Schemes:* In the 1960s, many countries experimented with temporary labour migration schemes to satisfy employers' demand especially in sectors requiring low skilled personnel. The *Gastarbeiter* programme in Germany and the *Bracero* programme in the US constitute past examples of such initiatives. Today, the demand for low skilled labour continues unabated with, for instance, the recent proposed legislation, which would allow foreign workers to fill jobs in cases where American workers cannot be found. To-

day you also find recruitment of temporary but highly skilled labour as the focus of such hiring schemes. In Europe, the traditional emigration of health-care professionals from ex-colonies and Commonwealth countries in Asia and Africa has witnessed a rebound. In the US, the H1-B Visa programme has been used mainly by IT professionals and other highly qualified scientists and teachers.

Temporary labour migration schemes, if well designed, carry significant advantages. Firstly, many developed countries historically have been reluctant to allow permanent migration of unskilled and semi-skilled migrants to their territories despite growing domestic demand for such labour. As such, temporary schemes may provide a solution to domestic labour shortages which is politically viable to destination countries. Secondly, the difficulties inherent in forecasting labour market needs necessitate flexible approaches to which temporary schemes may be better adapted.

Opening up channels for legal migration through temporary schemes also may provide an important means of undercutting irregular flows. Developed countries have erected increasingly restrictive barriers to legal migration since the 1990s. The resulting tension created by the pull factor of domestic demand for labour, on the one hand, the push factor of supply, on the other, is widely believed to be one of the causes of the considerable rise in irregular migration to developed countries.<sup>114</sup> Indeed, it has been suggested that, "immigration restrictions in many situations have inhibited regular labour migration to meet measurable labour demands. Given these demands, employers and migrants are willing to pay increasingly higher prices to meet each other in an internationalized labour market."<sup>115</sup>

Nevertheless, temporary labour migration schemes also have posed significant chal-

lenges for migrants. In many cases, participants have left their families, oftentimes for extended periods of time, to pursue work opportunities abroad. People in such programmes often fall into a "circular migration" pattern by which migrants enter a country to work, go home for some time, and return again for work. Family separation strains the family unit, particularly in cases in which migrants remain in the destination country for an indefinite period of time. In addition, migrants also have experienced difficulty in accessing all of the benefits included in the temporary programmes. Some programmes have led to the exploitation of its participants where they were not fully compensated for the work they performed.

Temporary labour migration schemes often are formalized through bilateral agreements. States are increasingly entering such binding agreements so as to secure temporary and orderly flows of foreign workers targeted toward certain industries. Bilateral agreements for short-term employment in seasonal industries such as agriculture, tourism and construction exist between a number of countries in Asia, Europe and North America.<sup>116</sup> One example of such a programme, widely regarded as being successful for the 10,000 workers concerned in 2002, is the Mexican Seasonal Agricultural Workers Programme with Canada.<sup>117</sup>

Bilateral agreements also increasingly involve highly skilled and "qualified" labour, such as temporary programmes for Filipino nurses in Norway and the Netherlands. Beyond establishing the basic parameters for overseas employment such as specifying employment conditions, recruitment procedures, quotas and the like, these agreements provide a means for countries to enhance cooperation on migration issues and extend basic protections to their nationals abroad while making commitments to safeguard the well-being of foreign workers on their own soil. In some cases, they also offer

## Trade and Labour Mobility

Labour mobility is tied to an important migration and trade consideration, one which is located at the forefront of current discussions in multilateral trade negotiations: trade in services through (human) service providers, or what is referred to as Mode 4 of the GATS.

Much attention is drawn to Mode 4, including by migration specialists who are relatively unfamiliar with trade issues. Mode 4 is considered to be the smallest of all the modes of service supply defined in the GATS. Although in practice, commitments by WTO members are limited to the higher skilled.

While it is argued that Mode 4 is not an issue about developed versus developing countries as many developing countries receive service providers, it is nevertheless an issue for which developing countries see development-related potential. Indeed, while developed countries dominate services trade overall, developing countries are particularly successful in a number of sectors, such as audiovisual services, port and shipping services, construction services and health services. As stated by the United Nations Conference on Trade and Development (UNCTAD) Secretariat: "developing and least developed countries are likely to receive substantial gains from the ongoing GATS negotiations if meaningful liberalization of market access for temporary movement of natural persons providing services under the GATS is achieved."

Indeed, high hopes exist. As stated in a brief prepared by the OECD: "...mobility of labour has emerged as one of the 'tests' of whether the negotiations deliver on the development promise laid down in the Doha Development Agenda (DDA) agreed by WTO members."

These expectations are based on the extent to which sending service suppliers abroad in the context of Mode 4 can help put pressure on labour markets and can increase both capital flows and human capital. Acquisition of skills and skill transfer are an important development-related result of the migration process. So too are remittances generated by the wages earned by migrants working abroad (see Chapter 3 on Migration and Development).

States should thus recognize the growing relevance of short-term migration and the movement of persons in the context of trade of services, and work towards developing greater information on the movement of highly-skilled workers and on the "trade value" of such moves, in terms of loss or gain for origin and receiving countries, and in order to assess their impact on future trade agreements.

Sources: *OECD Policy Briefs*. "Service Providers on the Move: Labour Mobility and the WTO General Agreement on Trade in Services and Opening up Trade in Services: Opportunities and Gains for Developing Countries," (August 2003) at [URL: [http://www.oecd.org/publications/Pol\\_brief/](http://www.oecd.org/publications/Pol_brief/)]; "Where Next for Labour Mobility Under GATS?," in *GATS 2000. New Directions in Services Trade Liberalization* 184, 187 (Pierre Sauvé & Robert M. Stern eds., 2000), p.184-210; "Increasing the Participation of Developing Countries through the Liberalization of Market Access in GATS Mode 4 for Movement of Natural Persons Supplying Services," note by the UNCTAD Secretariat to the Trade and Development Board, (Geneva, Switzerland, July 2003) TD/B/COM.1/EM.22/2.

### Towards a Fair Deal for Migrant Workers

In June 2004, at the 92<sup>nd</sup> ILC, the ILO adopted a new plan to ensure that international labour standards apply to the 86 million migrant workers in the global economy. Specifically, the conferees agreed to develop a multilateral framework with international guidelines on best practices related to the following:

- Promoting managed migration such as admission procedures, flows, social security, family reunification possibilities, integration policy and return;
- Licensing and supervision of recruitment and contracting agencies for migrant workers;
- Promoting decent work for migrant workers;
- Preventing abusive practices, migrant smuggling and trafficking in persons;
- Protecting and promoting the human rights of all migrant workers;
- Promoting measures to ensure that all migrant workers benefit from the provisions of all relevant international labour standards;
- Promoting awareness of migrant workers' rights;
- Preventing and combating irregular labour migration;
- Improving labour inspection and creation of channels for migrant workers to lodge complaints and seek remedy without intimidation;
- Promoting guidelines for ethical recruitment of migrant workers and exploring mutually beneficial approaches to ensure the adequate supply of skilled health and education personnel that serve the needs of both sending and receiving countries; and
- Addressing the specific risks for all migrant workers, men and women in certain occupations and sectors with particular emphasis on dirty, demeaning, and dangerous jobs, and on women in domestic service and the informal economy.

Source: *International Labour Conference Conclusions on Migrant Workers (June 2004)*.

migrants the opportunity to further their skill level thereby leading to significant transfers of skills and technology to their home country when they return.

*Regional Agreements:* The establishment of enlarged "free labour movement areas" is noticeable and gaining momentum in a number of regions. The best example of this lasting trend has been the creation and recent expansion of the single European labour market. In a few years, total internal freedom of movement will be granted to the 450 million citizens of the EU. Bilateral agreements also have been signed with the countries belonging to the European Free Trade Areas

(EFTA) and the European Economic Area (EEA) so that most of Western and Central Europe will soon be integrated into a single labour market.

In Oceania, the Trans Tasman Travel Arrangement gradually established a de facto common labour market between New Zealand and Australia. In South America, the Mercosur countries are discussing a treaty on free movement of workers.<sup>118</sup> On the African continent, regional economic communities also are promoting freer movement of labour within economically integrated areas. The Economic Community of West African States (ECOWAS), the Central African Economic and Monetary Community (CEMAC),





“Woman Working” ©UNFPA

and the Southern African Development Community (SADC) are all studying such agreements.<sup>119</sup>

A similar trend is visible within Free Trade Areas Agreements that routinely integrate some dispositions concerning the free movement of certain categories of professionals, such as in the North American Free Trade Agreement (NAFTA) linking the US, Canada and Mexico.

*Multilateral Agreements:* Although multilateral agreements exist for the trade of goods and services across borders under World Trade Organization (WTO) negotiated rules, the movement of natural persons to provide services—referred to as General Agreement on Trade in Services (GATS) Mode 4—has not yet yielded concrete results. Nevertheless, this Mode is subject to an on-going negotiation process since the Marrakech agreement, and some of the concessions demanded or proposed at this stage are far reaching.<sup>120</sup>

### Migrant Workers Rights

International efforts to extend human rights and labour rights protections to migrant workers have met with limited success, in part, because of the low number of ratifications of relevant ILO and UN treaties, especially by migrant receiving countries (see Chapter 4 on Human Rights of Migrants). As a result, the forces of supply and demand have largely guided migration patterns and allocated the labour forces in such a way that contributes to the tide of irregular migration and leaves migrants wanting adequate protections.

Regular and irregular migrants' acceptance of low wages, dire working conditions and harsh socio-economic conditions bolsters the linkages, whether real or simply perceived, between migration and job losses, pressure on social programmes, and threats to public safety.

At the 2004 ILO International Labour Conference (ILC), the responsibility of States to safeguard the rights and well-being of migrant workers under national laws as well as international agreements was emphasized.

### Integration of Elderly Migrants

In 2002, at the Second World Assembly on Ageing, participating governments adopted the Madrid International Plan of Action on Ageing, which calls for the integration of older migrants within their new communities, including:

- Encouraging supportive social networks for older migrants;
- Designing measures to assist older migrants to sustain economic and health security;
- Developing policies and programmes that facilitate, as appropriate, and as consistent with national laws, the integration of older migrants into social, cultural, political and economic life of countries of destination and encourage respect for migrants; and
- Removing linguistic and cultural barriers when providing public services to older migrants.

Source: *Madrid International Plan of Action on Ageing, Report of the Second World Assembly on Ageing. (Madrid, Spain, 8-12 April 2002): paragraph 34.*

## Migration, Social Cohesion and Diversity

Countries have different approaches to the presence of migrants on their territory. Some actively promote integration through assimilation (or “one-way integration” whereby newcomers renounce their cultural habits and values in favour of the culture of the receiving society); others through a multi-culturalist approach (whereby several cultures can peacefully co-exist); and others do not attempt to integrate migrants at all.

From the migrants’ perspective, integration can be viewed in varying degrees. Migrants may try very hard to integrate, but face obstacles whether at the national and/or local levels. Other migrants, at least initially, are torn by trying to preserve their own customs. In addition, some migrants have a strong footing in their home country and/or belong to a well-established migrant community. Indeed, one of the most significant migration trends of the late 20<sup>th</sup> century is the emergence of trans-national communities. In such cases, integration must be considered in the context of actively belonging to two different societies.

In 2001, at the WCAR, countries singled out the need to combat manifestations of a generalized rejection of migrants and actively discourage all racist demonstrations and acts that generate xenophobic behaviour. The Durban Declaration urges States to take measures in order to foster greater harmony and tolerance between migrants and host societies, to review and revise, where necessary, immigration laws, policies and practices so that they are free of racial discrimination.

How host communities react to the presence of newcomers constitutes an essential element in ensuring successful integration. National and local administrators are generally encouraged to emphasize open and participatory discourse on societal transformations. Church groups, migrant associations and NGOs play an important role in



“Moving” ©UNFPA

facilitating integration and fostering understanding between newcomers and host communities. However, social cohesion is often difficult to achieve and maintain, in particular during periods of economic strain, and/or when migrants are considered “different” from nationals in their cultural habits, religious faith and political beliefs. Migration then becomes an extremely sensitive and emotional issue; it is often politicized, as politicians play on the fears of the electorate, pitting them against migrants as the source of their problems and predicament.

## 6. Refugee Protection

In 1994, when government officials met at ICPD in Cairo, the world counted some 15 million refugees. Just a few months prior to ICPD, more than one million Rwandans had fled to what was then Zaire, in one of the fastest and largest refugee movements ever seen. Reflecting the continued concern for the plight of refugees, the ICPD PoA States: "Governments should address the factors that contribute to forced displacement and strengthen their support for international activities to protect and assist refugees...Adequate international support should be extended to countries of asylum to meet the basic needs of refugees and to assist in the search of durable solutions."<sup>121</sup>

**«Just a few months prior to ICPD, more than one million Rwandans had fled to what was then Zaire, in one of the fastest and largest refugee movements ever seen»**

The world currently counts 9.7 million people who have fled their homes in need of international protection. The total number has witnessed a sharp decrease over the last two years, including a 10 per cent decrease between 2002 and 2003.<sup>122</sup> In order to ensure that refugees receive adequate protection, the international community works under the guidance of UNHCR, the principle body dealing with refugee protection. Such safeguards include strengthening legal protection for persons fleeing persecution, enhancing assistance to

those most in need, and providing durable solutions to refugee situations.

### The International Protection Regime

As of February 2004, 145 States were parties to one or both the 1951 Geneva Convention, relating to the Status of Refugees, and the 1967 Protocol.<sup>123</sup> These instruments provide the basis for the international protection of refugees. Although the 1948 Universal Declaration of Human Rights affirmed the individual's right to seek and enjoy asylum, States have nevertheless maintained their sovereign rights to grant asylum to those seeking it. There is no mention in the 1951 Convention of a 'right to asylum.'<sup>124</sup> Yet this international framework does afford those who flee dangerous and life threatening situations a level of protection previously not enjoyed.

The word 'refugee' is a term of art, a term with content verifiable according to principles of general international law. In its ordinary usage it has a broader and looser meaning signifying someone in flight, who seeks to escape conditions or personal circumstances found to be intolerable.<sup>125</sup> States have rested upon a relatively restrictive interpretation of the term 'refugee' and identified specific criteria for identifying those who benefit from refugee status, asylum or local protection. With determination of status comes internationally recognized protection.<sup>126</sup>

Under the 1951 Convention, a refugee is a person who as a result of a well-founded fear of being persecuted for reasons of *race, religion, nationality, membership of a particular social group or political opinion*, finds himself or her-

self *outside* his/her country of nationality and is unable or unwilling, owing to such fear to avail him/herself of the protection of that country; or who, not having a nationality and being outside the country of his/her former habitual residence, as a result of such events, is unable to return. Crucial to this definition is the fact that international protection regimes do not apply unless the individual has moved across an international boundary. This definition has been developed by a number of regional instruments. Most notably in the 1984 Cartagena Declaration on Refugees and the Organization of African Unity (OAU) 1969 Convention on the Specific Aspects of Refugee Problems in Africa. The latter extends the definition to every person who leaves his habitual place of residence or country of nationality, owing to *external aggression, occupation, foreign domination or events seriously disturbing public order*. The Cartagena Declaration further enlarges the concept by including persons who have fled their country because their lives, safety or freedom have been threatened by *generalized violence, foreign aggression, internal conflict, massive violations of human rights or other circumstances, which have seriously disturbed public order*. More recently the term environmental refugee has been used to describe a person who has been displaced across an international border as a result of some environmental disaster or degradation.<sup>127</sup>

In 2000, UNHCR launched the Global Consultations on International Protection in order to promote the full and effective implementation of the 1951 Refugee Convention and to develop complementary new approaches, tools and standards to ensure that those in need of

international protection receive it. As stated by the Director of UNHCR's Department of International Protection, "The Global Consultations reflect[ed] the heightened recognition over the years of the fact that the refugee problem is an international one and that crafting responses to address many of today's issues is best approached on the basis of multilateral cooperation, fully informed by the protection concerns at stake, as well as the dilemmas and challenges in addressing them in all regions."<sup>128</sup>

**«States have rested upon a relatively restrictive interpretation of the term refugee and identified specific criteria for identifying those who benefit from refugee status, asylum or local protection»**

The Agenda for Protection, adopted in June 2002, and resulting from the Global Consultations, emphasizes this need for greater multilateral cooperation. It constitutes the first comprehensive framework for global refugee policy, and combines six goals and numerous objectives with suggested activities to strengthen refugee protection.<sup>129</sup> Among these, are multilateral "special agreements"<sup>130</sup> or "Convention Plus" agreements to complement the Refugee Convention. These agreements would facilitate multilateral commitments thereby clarifying the apportioning

“Providing Protection” ©UNFPA



of responsibilities, promoting a better sharing of responsibilities by States and maintaining a constructive dialogue amongst all concerned.<sup>131</sup> Though no formal agreement has yet been concluded, different issues have already been identified as lending themselves to special agreements that include: how to ensure better responses to mass influx; how to target development assistance to achieve more equitable burden-sharing and to promote self-reliance of refugees; and how to establish multilateral commitments for resettlement.<sup>132</sup>

Some current regional efforts complement the objectives of the Agenda for Protection. In Africa, for instance, where refugee flows pose serious challenges, a Comprehensive Implementation Plan (CIP) for protection of refugees in Africa was endorsed by the OAU Council of Ministers in 2000. Composed of several action-oriented recommendations it aims at ensuring the effective protection of refugees, focusing in particular on addressing the root causes of refugee flows in Africa, enhancing refugee protection and national protection capacities, and finding durable solutions.

### ‘Strategic Framework for Migration Policy’ for Africa

On migration and refugee policy, in January 2003, based on the African Union (AU)<sup>133</sup> request, IMP assisted in the development of a draft Plan of Action towards the emergence of a ‘Strategic Framework for Migration Policy’ in Africa. This document highlights priorities in migration and refugee policy for the Continent. It was endorsed by African governments as a blueprint for future action in these areas at the IMP Follow-up Conference to the International Migration Policy Conference for East Africa, the Horn of Africa and the Great Lakes Region in Addis Ababa, in June 2003.

An updated version of this document was presented at the meeting of the Labour and Social Affairs Commission of the AU in Cotonou, Benin, in April 2004.

### Challenges to Ensuring Protection

Despite continued international and regional efforts that focus on the plight of refugees, ensuring their protection is often difficult to attain. This remains true because the granting of asylum is effectively based on States' prerogative and is a matter within their sole domestic jurisdiction. This is often further complicated by local conditions particularly where refugees find themselves in countries with limited financial and material capacities to provide for them.

In recent years, factors adding to the complexity of refugee protection include the "migration asylum nexus" reflecting a growing awareness that it is increasingly difficult to distinguish between forced and voluntary migration, and reduced access to asylum systems due to heightened security considerations.

States have responded to increases in international migration flows by implementing restrictive immigration and strengthening border control policies, which have reduced the possibilities of legal entry. As a result, significant numbers of both economic migrants and refugees are using similar modes of travel and methods of entry, reflected in part through expanding and increasingly sophisticated smuggling and trafficking rings (See Chapter 7 on Trafficking).<sup>134</sup> One consequence of this growth in irregular migration is the progressive undermining of asylum systems. Most alarming is the notion that international protection based on persecution of individuals unable to avail themselves of their own State's protection, has lost much of its humanitarian appeal.<sup>135</sup> Furthermore, the link between mobility and international crime

(whether the traffic of arms, drugs or the smuggling of persons) has reduced the number of persons who are granted asylum in what are still considered major asylum countries.

In addition, security considerations following the terrorist attacks on 11 September 2001 in the US have resulted in significant challenges to protecting refugees. In particular, discriminatory policies targeted towards asylum-seekers from specific regions and adopted in destination countries have been criticized by human rights groups as people are detained under inhumane living conditions, sometimes for several years.<sup>136</sup>

### Protracted Refugee Situations

Protracted refugee situations represent particular challenges for the international community. At ICPD+5, two main issues were identified as requiring special attention: providing assistance to countries hosting a protracted presence of refugees and the needs of refugee women and children.

Refugees can be regarded as being in a protracted situation "when they have lived in exile for more than five years, and when they still have no immediate prospect of finding a durable solution to their plight by means of voluntary repatriation, local integration or resettlement."<sup>137</sup> These situations can be frequently identified, but they are particularly common on the African Continent, where around 3 million people find themselves under these conditions. Examples of protracted refugee situations in Africa include Liberian refugees in Ghana and in Côte d'Ivoire, Somali refugees in Kenya, Djibouti, Ethiopia and Yemen, Sahrawi refugees in Algeria, Sudanese

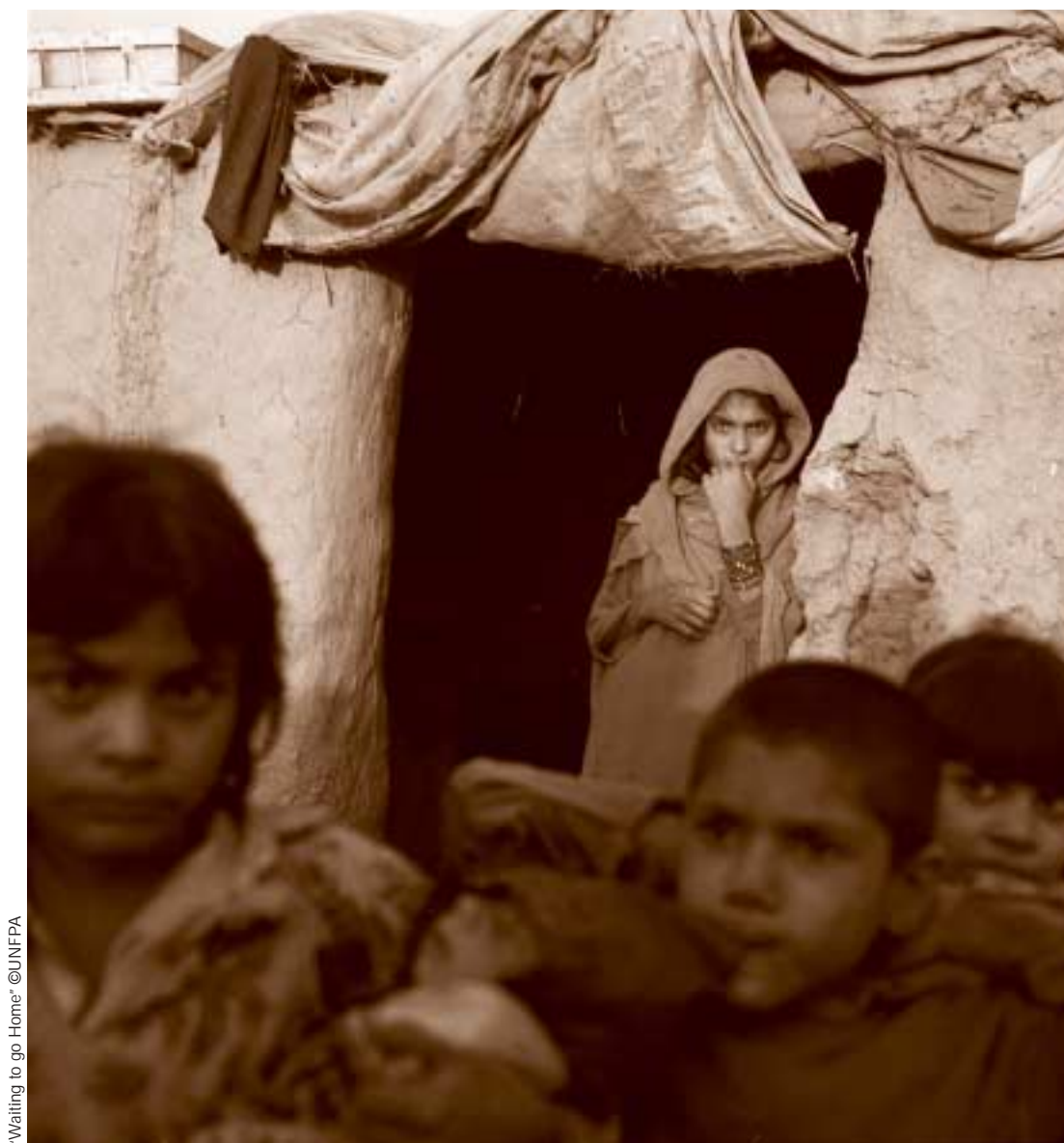
***«One consequence of this growth in irregular migration is the progressive undermining of asylum systems»***

refugees in Uganda, Kenya, Chad and Ethiopia, Angolan refugees in Zambia, Burundi refugees in Tanzania, Eritrean refugees in Sudan and Sierra Leonean refugees in Guinea.

For various reasons, protracted refugee situations often seem to be intractable. Armed conflicts, often lasting many years, frustrate the repatriation process. As repatriation is often seen as the favoured solution<sup>138</sup> (as opposed to local integration or resettlement), refugees can find

themselves trapped in camps for many years. Despite successes in repatriating refugees in some regions, many are unable to make the journey home because of continued security fears, or lack of capital or because they are too old, too young or too sick. These “residual case-loads” are more than not left behind and become trapped in the limbo of a protracted situation.

While most refugees face immeasurable hardship, persons living in protracted situations



“Waiting to go Home.” ©UNFPA



endure particularly difficult living conditions for extended periods of time. This has both short and long-term consequences for them. Camps are often located in remote, insecure, socially and economically marginalized areas. Refugees tend to suffer from increased poverty and are confronted with situations of physical insecurity, attacks or recruitment by armed elements, tension with local host communities, and other types of violence. Refugees often face limited freedom of movement, limited right to education, limited civil and political rights, and limited legal rights. They also are habitually given access to unproductive (if any) land<sup>139</sup> and have only very limited employment opportunities. Given the high levels of deprivation, refugee camps often are characterized by tension and violence. Finding themselves without freedom of movement and only limited economic and educational opportunities, and progressively losing the hope of finding a solution to their plight, young male refugees, in particular, are prone to engage in various forms of delinquent behaviour, exposing the refugees to greater risks and hardships.

### Strategies to Address Protracted Refugee Situations

Long-term strategies to tackle protracted refugee situations include conflict prevention, conflict resolution, poverty reduction programmes and development projects. In highlighting these objectives, the Agenda for Protection calls on States, intergovernmental organizations and UNHCR to give greater priority to dealing with the root causes of refugee movements. It encourages support for the UN's work on conflict prevention, conflict resolution, peace-keeping and peace-building in war-torn States.<sup>140</sup> It indicates that more intensive mediation should be undertaken by regional organizations such as the AU, as well as by States which have an influence in the conflict-affected countries. It points to how reconstruction of countries in post conflict situations can be a way of facilitating vo-

luntary repatriation and thus address protracted situations. In conceiving poverty reduction programmes and development projects, the Agenda for Protection calls on States to include refugee-hosting areas in their development plans.<sup>141</sup>

***«Refugees who led a productive life in exile, received an education and developed practical skills may be better prepared to return home and contribute to the reconstruction of their home country»***

Furthermore, more immediate measures can be undertaken to enhance refugee capacities and benefit host countries. Research undertaken by UNHCR encourages a move away from a minimum standards strategy (i.e., providing security, shelter, water, food, health and sanitation) to an essential needs strategy (providing elements required to lead a safe and dignified life, which go beyond minimum standards). This strategy includes minimum protection and assistance standards, as well as measures to improve the quality and standard of life within camps and to provide refugees with a greater degree of control over their affairs, such as income-generation, community self-management programmes, and other "self-reliance pending return" programmes.

The Agenda for Protection calls on States and UNHCR to consider ways to enable refugees to use their skills and capacities, in recognition that empowered refugees are better able to contribute to their own and their communities' protection. It recognizes the need to consider expanding possibilities for education, vocational training, agriculture and other income-generating programmes, benefiting men and women equitably.<sup>142</sup> At the IMP meeting for East Africa, the Horn of Africa and the Great Lakes Region

in June 2003, African States recommended adopting measures to enhance self-sufficiency of refugees residing in camps, including granting rights to employment, access to land, freedom of movement and other social-economic rights; and ensuring that refugees have access to education in order to facilitate their eventual (re)integration into host and/or home communities.<sup>143</sup>

**«education, training and literacy programmes for all refugees must be seen as vital and as second only to the provision of food and health-care»**

Refugees who led a productive life in exile, received an education and developed practical skills may be better prepared to return home and contribute to the reconstruction of their home country than those who have lived in camps for years, surviving on minimal levels of humanitarian assistance. Therefore education, training and literacy programmes for all refugees must be seen as vital and as second only to the provision of food and health-care. Refugees and host countries involved in protracted situations could potentially capitalize on this otherwise wasted opportunity. Refugees who are placed in situations of economic constraint could clearly benefit from a more comprehensive strategy, and host communities, who miss an opportunity to profit from the diverse skills and knowledge base refugees bring with them, could also benefit.

Finally, to address protracted refugee situations, the international community in accordance with the burden sharing commitment, can enhance resettlement opportunities, at least for refugees where voluntary repatriation is not an option. For example, this has been done over the last years with thousands of Sudanese “lost boys” and Bantu Somalis, resettled in the US.<sup>144</sup>

**Vulnerable Groups**

At ICPD +5, participants recognized that women, children and the elderly often comprise the majority of refugees in camp populations. They often face higher risks for malnutrition, infectious diseases, physical and sexual exploitation, discrimination and neglect. Consequently, the ICPD PoA emphasized that special attention must be given to vulnerable groups’ specific needs, and that adequate international support was necessary to meet the basic needs of refugees including the provision of and access to adequate accommodations, education, protection from violence, health services and other basic social services. The Agenda for Protection also acknowledges these vulnerable groups, by calling on States to meet protection needs of refugee women and children and to ensure that emergency responses to mass influxes include community-based activities addressing the specific protection needs of refugee women and children.<sup>145</sup>

*Women:* In most regions of the world, women and girls constitute between 45 and 55 per cent of the refugee population. Modern-day warfare has witnessed heightened levels of gender-based and sexual violence. According to a report by the UN Secretary-General in 2002, contemporary conflicts are often characterized by “rape, forced impregnation, forced abortion, trafficking, sexual slavery and the intentional spread of sexually transmitted infections (STIs), including HIV/AIDS.”<sup>146</sup> Indeed, given the widespread violence against refugee women and girls, UNHCR’s 2002 Guidelines on International Protection on Gender-Related Persecution assert that “even though gender is not specifically referenced in the refugee definition, it is widely accepted that it can influence, or dictate, the type of persecution or harm suffered” and consequently “the refugee definition, properly interpreted . . . covers gender-related claims.”<sup>147</sup>

In addition to the core public health interventions for all refugees (e.g., water, food, sanitation, shelter, preventive and curative care), the RH needs of women and adolescent girls must be addressed to reduce maternal mortality and morbidity, unwanted pregnancies, unsafe abortions, and to prevent STIs/HIV/AIDS. Moreover, as many households become headed by women due to the breakdown of family and social networks, women and girls may be forced to offer sex in exchange for food, shelter or protection. Thus, specific measures to prevent and manage consequences of gender-based violence are required. These include ensuring that basic services and facilities in the camp are located in easily accessible places so that women are not vulnerable to attack; improving lighting in the camp; monitoring the nutritional status of women (to identify potential problems in food distribution); consulting with refugee women about the type and location of water points and about the means of collecting fuel for cooking and heating; involving refugee women in the design of health programmes to guarantee that women have equal access to health services; and guaranteeing that women have equal access as men to educational programmes and to programmes designed to increase economic self-sufficiency.<sup>148</sup> In terms of providing long-term care for refugee women and girls, specific programmes include: education and awareness campaigns to reduce the threat of exploitation and facilitate reintegration and initiatives aimed at advancing equal rights to housing, property and land restitution.

*Children:* Children fleeing their homes in search of refuge comprise about half of the world's refugee population. The percentage of children who are refugees, as part of the total refugee population, ranges from 57 per cent in Central Africa to 20 per cent in Central and Eastern Europe. Their exacerbated vulnerability, in the wake of social and political instability, renders them prime targets for age-specific violence, most

notably, violence associated with the recruitment of child soldiers. Consequently, their status as children, particularly if they are separated from their families, has increasingly been recognized as a basis for persecution and has engendered efforts on the part of the international community to provide child refugees with greater levels of protection. Specifically, in February 2004, the UNGA resolved that "unaccompanied refugee minors are among the most vulnerable refugees and the most at risk of neglect, violence, forced military recruitment, sexual assault, abuse and vulnerability to infectious disease, such as human immunodeficiency virus/acquired immunodeficiency syndrome, malaria and tuberculosis." Moreover, it noted that "the ultimate solution to the plight of unaccompanied minors is their return to and reunification with their families."<sup>149</sup>

**«contemporary conflicts are often characterized by "rape, forced impregnation, forced abortion, trafficking, sexual slavery and the intentional spread of STIs, including HIV/AIDS"»**



“Older Generation Left Behind” ©Liv Halperin



In protecting children in refugee camps, it is important to ensure that they have access to drinking water, shelter, basic health-care and that they receive adequate quantities of nutritious food. The International Symposium on Post-Primary Education for Refugees and IDPs held in Geneva in 2002, emphasized that although access to primary education is absolutely crucial for refugee children, more and better post-primary education also is an urgent necessity in camps. Only a very small percentage of refugee children go to secondary school and have the opportunity to participate in vocational training programmes.<sup>150</sup>

*Elderly:* As stated by the former High Commissioner for Refugees, Sadako Ogata, in 1999, older refugees have been invisible for too long. Based on 2002 figures, refugees above 60 years of age constituted more than 15 per cent of the refugee population in Eastern Europe and the Balkans; in Africa they have generally represented less than 5 per cent. At the Second World Assembly on Ageing in Madrid 2002, it was recognized that older refugees of different cultural backgrounds growing old in new and unfamiliar surroundings are often in special need of social networks and extra support. It called for efforts to ensure their physical access to such services, and for a more targeted inclusion of older refugees in all aspects of programming and implementation.<sup>151</sup>

Moreover, measures to protect elderly persons, thereby avoiding chronic dependency, should incorporate strategies that ensure older refugees are included in education, training and income-generating activities, both as recipients and as providers, and in giving special attention to their health. UNHCR has found that older refugees can best be assisted within overall protection programmes closely tied to the context of family and the community rather than through the establishment of separate services.<sup>152</sup>

### Women Refugees in Cairo: In a Class of their Own

For many of the 3,400 Sudanese refugee women struggling through the tiresome rhythm of Cairo life, their daily routine revolves around surviving the wounds of the past, sustaining a basic living, and anticipating a better future. This routine may now, at last, begin to change.

The Sacred Heart Church in Sakakini, east of Cairo, has started a refugee women's training centre within its Adult Literacy Programme. The formal education and training programme offers sewing, beauty, English and Arabic classes, plus courses on primary health and computer skills.

The initiative is especially important for refugees who see no durable solution to their plight in the near future. For refugees in Cairo, as with refugees elsewhere, it takes time for UNHCR to determine their status. In some cases, resettlement to the US, Canada, Australia or other destinations can take up to two years. In general, resettlement to the west has become a longer process after the 11 September, 2001 attacks on the US.

Meanwhile, many of the Sudanese refugee women work without authorization as domestic help in the houses of middle- and upper-class Egyptians, competing in a labour market that includes hundreds of thousands of Egyptian women. With a monthly salary averaging 90 to 150 USD, these jobs give the refugee women the opportunity to survive economically. However, the high costs associated with formal training in private schools, for courses such as English-language training, make it impossible for them to enroll.

As a consequence of this delay in the resettlement process, the need for these refugee women to adapt to a new environment and improve their living conditions has driven the need for provision of training programmes. For the refugee women, the classroom is not just a place to learn but also a place to meet other women in the same situation. Asked about her reasons for enrolling in the courses, one refugee woman, stated, "Besides learning, this is the best way to know that you are not alone in this very difficult situation." She adds that learning English provides her with greater prospects, especially in other countries.

For the teachers, who are recruited from within the refugee community, this is their best chance to help other refugees while simultaneously helping themselves. Tania, a Sudanese refugee with a Master's degree in Business Administration and an excellent command of English, says, "I'd rather teach English to other refugees than continue working as a house help."

The salaries the training centre pays are minimal, but they constitute the sole income for many of the refugee women.

The courses are almost free, but a minimum charge is requested. For the organizers, the most difficult task is not just to start the project, but to ensure it is sustainable as well to keep the women participating and enthusiastic about it.

Source: (Excerpts from) Fikry, Hanzada (UNHCR), "Women Refugees in Cairo: In a Class of their Own." *Behind the Headlines* (Cairo, Egypt, 4 April 2003).

## 7. Human Trafficking

Trafficking today is often characterized as a modern form of human slavery. Alarmingly, the number of trafficking victims, especially women and children, are multiplying due to factors that include poverty, war, social disruption, natural disaster and the status of women and girls in certain societies. According to some estimates, between 600,000 and 800,000 men, women, and children are trafficked across international borders each year.<sup>153</sup> This figure does not account for the large number of people trafficked within countries. Trafficking victims fall prey to international criminals who reap profits estimated to be in the region of 9.5 billion USD annually, making trafficking in humans the third

**«According to some estimates, between 600,000 and 800,000 men, women, and children are trafficked across international borders each year»**

top revenue source for organized crime, after trafficking narcotics and arms.<sup>154</sup> These profits come at a heavy human cost; many victims suffer extreme violence, illnesses and diseases, and irreparable physical and psychological harm. An estimated 80 per cent are female and 70 per cent of those females are trafficked for purposes of sexual exploitation.<sup>155</sup>

Though human trafficking has gained greater attention in the last half decade, participants in Cairo were already concerned with this phenomenon. In Chapter X, the ICPD PoA calls on

countries to “prevent all international trafficking of migrants” and “adopt effective sanctions against those who. . . engage in trafficking,” especially for cases involving women and children. An important development, however, is that at the time of the Cairo Conference, the legal distinction between “trafficking” and “smuggling” had not yet been established in international law.

It would be another six years after ICPD, before the UN Convention against Transnational Organized Crime would be signed by States, and would include three protocols, two of which deal directly and exclusively with trafficking and smuggling. These are the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children<sup>156</sup> and the Protocol Against the Smuggling of Migrants by Land, Sea and Air<sup>157</sup>—which entered into force in December 2003 and January 2004 respectively. As a result of these instruments it is no longer accurate to use the terms “trafficking” and “smuggling” interchangeably as was done in 1994.

Smuggling refers to assisting illegal entry into another country in exchange for financial gain. While trafficking also may be initiated by an individual's request for assistance in passing to another State where s/he has no right of residence, trafficking is distinct in that it is driven by the motive to profit from an individual's labour and to force them into slavery-like conditions or involuntary servitude. A trafficked person also may enter a country legally but become an illegal resident after his or her visa expires. Most often, a trafficked person is coerced, abducted, deceived or otherwise induced into the trafficking chain. Importantly, while the ICPD PoA

makes specific references to prostitution as a dominant reason for trafficking, trafficking may also result in other forms of exploitation that are non-sexual in nature.

Frequently, trafficked victims are moved to an alien environment, often to another country, to a place where they know no one nor speak the language. Being in an unfamiliar and insecure environment, they are extremely vulnerable. Children are even more vulnerable. Importantly, the criteria for trafficking in children, stipulated in the Trafficking Protocol, is less stringent as the element of force or coercion is not needed— simply that the child has been recruited, transported, harboured or received with the intent to exploit.

In addition to the Trafficking Protocol, other human rights instruments also contain provisions to prevent trafficking. CEDAW<sup>158</sup> requires States to “take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.”<sup>159</sup> Measures include “modifying the social and cultural patterns of conduct of men and women” in order to eliminate all practices based on the idea of “superiority or inferiority of either of the sexes”<sup>160</sup> and “to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education,”<sup>161</sup> encouraging the equality between women and men before the law and on every national legal matter (civil, contracts, freedom of movement and residence).<sup>162</sup> The CRC prohibits economic, sexual and all other forms of exploitation. In addition, the CRC encourages States to combat illicit transfer of children abroad<sup>163</sup> encouraging

them to adopt appropriate national, bilateral and multilateral measures to prevent the abduction, sale or trafficking of children for any purpose or in any form.<sup>164</sup>

### Causes of Trafficking

Trafficking often results from one or a combination of the following:

*Poverty and Underdevelopment:* The most prevalent cause of trafficking is the systemic and enduring poverty in countries of origin. In some cases, being trafficked is seen as a last chance to flee misery, to be able to feed one’s children or assist one’s parents. A recent study in the Balkan region indicates that over 85 per cent of women trafficked out of some countries is due to low salaries and scarce employment opportunities found at home.<sup>165</sup>

**«A recent study in the Balkan region indicates that over 85 per cent of women trafficked out of some countries is due to low salaries and scarce employment opportunities found at home»**

*War and Social Disruption:* War contributes to the increased vulnerability of women and children. As has been observed in Liberia, Sierra Leone and Colombia children often can be re-

cruited into militia and armed forces against their will. Women in this context can also lose their usual forms of protection exposing them to lures of false promises and job opportunity abroad.

Overcrowded refugee camps have become an emerging black market for the trade in women. According to an IOM study on trafficking in the Republic of Armenia, for example, displaced ethnic Armenian refugee populations have provided a steady supply of women, desperate to secure opportunities abroad.<sup>166</sup>

*Status of Women:* National laws often place women at a greater risk of abuse and violence. In many countries, women (and girls) do not have full legal status or are considered as minors in customary, religious or secular law. Discrimination against women is still widespread because of traditionally patriarchal societies, cultural acceptance of violence against women, and the stigmatization of prostitution. In some countries, women and girls are vulnerable to abduction and forced marriages, being sold by families for debt alleviation, exchanged for dispute settlements, and kidnapped for domestic and sexual servitude.<sup>167</sup>

Notwithstanding a growing awareness of trafficking, and increased efforts to combat the trade, there remains a deficiency in the public policy framework to adequately address such abhorrent practices. Immigration laws in several countries treat victims of trafficking as illegal immigrants, who, lacking the proper immigration papers are subjected to fines and imprisonment. Moreover, many trafficked individuals also face criminal charges associated with the types of activities in which they are forced to engage, such as prostitution. Criminalizing trafficking victims exacerbates their trauma and fails to provide them with needed protection. National authorities, including the police and border authorities, are often ill-informed of the special status that should be afforded to victims of trafficking.

## Combating Trafficking

Most recently in April 2004, the UN Human Rights Commission appointed a Special Rapporteur on trafficking in persons, especially women and children. The Special Rapporteur is responsible for gathering and sharing information, reporting to the UN Commission on Human Rights, and advising governing bodies on anti-trafficking programmes.

The Trafficking Protocol delineates a comprehensive international response to trafficking that includes measures relating to prevention, prosecution and protection:

**PREVENTION:** In the area of prevention, the Protocol encourages measures aimed at: strengthening, or in some cases adoption of, national anti-trafficking legislation; increased sharing of information on trafficking; targeted information and awareness campaigns to educate vulnerable constituencies; and coordination amongst authorities to counter trafficking threats.

*Legislation.* Countries around the world are adopting counter-trafficking legislation. Others are strengthening their legislation to ensure protection for trafficking victims and prosecution of traffickers. Legislation is progressively being adopted in the context of National Action Plans to combat trafficking.

*Information Sharing.* Part of prevention comes from increased information on trafficking routes, traffickers and trafficking victims' profiles. Countries, and in particular law enforcement agencies, are encouraged to share in a timely manner vital information on trafficking so as to apprehend traffickers.

*Information Campaigns.* Information campaigns are considered a critical element in prevention strategies. Attempts are made to target the most vulnerable groups and to inform them of the dan-



gers of trafficking. For example, in Kyrgyzstan, IOM has developed an identity document which also provides information on the dangers of being trafficked, directs potential victims towards contacts in the event that they are caught in a trafficking ring, and encourages potential victims to verify the authenticity of employment contracts prior to departure for a foreign land.

*Coordination Amongst Authorities.* Coordination amongst law enforcement authorities is considered critical to reducing incidents of trafficking. In March 2004, the first North Atlantic Treaty Organization (NATO) conference on trafficking in persons was held to develop strategies for developing a common policy against trafficking in persons. International and regional bodies, including IOM and Interpol, provide assistance in this regard.

**PROSECUTION:** The Trafficking Protocol encourages measures that aim to: criminalize trafficking; create penalties that take into account the grave nature of these offences; and, promote the investigation, prosecution and conviction of traffickers. In addition, the Protocol extends responsibility to persons who commit, co-conspire, or direct other persons to commit trafficking. More specifically, prosecution measures should promote:

*Anti-Trafficking Legal Instruments:* National laws specifically criminalizing trafficking are essential to the prosecution of traffickers. In addition, measures encouraging States to ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and other human rights instruments are crucial to the fight against trafficking. So far, 64 States have ratified the Trafficking Protocol.<sup>168</sup>

*Improved Detection of Criminals:* Trafficking is organized by clandestine criminal groups, varying greatly from loose associations of amateurs to internationally structured organizations. They prey

upon the particularly vulnerable. Such groups have managed to thrive and create sophisticated channels of irregular migration caused by the market demand for trafficking. Measures targeting trafficking groups are essential to bringing traffickers to justice, including those designed to enhance cooperation between law enforcement entities. In the Balkans, for example, a region considered to be a major hub for trafficking of human beings to Western Europe, the Stability Pact for South Eastern Europe, an organization of more than 40 countries and organizations, developed a taskforce to combat trafficking in human beings.

A recent study points to the challenges of ensuring that traffickers are prosecuted, over and above ensuring proper legislation is in place and that authorities are working to catch traffickers and put them behind bars. The report describes how victims of trafficking can develop an emotional attachment to their trafficker; and feel that they face a lack of alternatives due to the situation in which they find themselves.<sup>169</sup>

**«The right to protection for trafficked persons is often still a source of controversy»**

**PROTECTION:** Equally important to counter-trafficking strategies is the assistance and protection of victims. The right to protection for trafficked persons is often still a source of controversy. It can be and often is challenged, for example, on the grounds that the person knew that s/he would be employed in the sex entertainment industry and or as a prostitute. While in practice this often leads trafficked persons to be charged and treated as criminals, the Trafficking Protocol nevertheless stipulates that consent of the victim to be trafficked is not relevant to the protection that s/he must be accorded by a State.

In particular, the Trafficking Protocol enumerates the following protections for victims: privacy; information and assistance relating to proceedings; provisions for physical, psychological, and social recovery; recognition of particular needs specific to age and gender; physical safety; measures to avoid immediate deportation; and safe repatriation.<sup>170</sup>

*Availability of Shelters:* The Trafficking Protocol calls on States to consider implementing measures that provide appropriate housing for victims.<sup>171</sup> Worldwide, shelters have been proliferating, not only providing victims with a venue to seek help, but also rehabilitation and reintegration services including counselling, medical, legal and vocational assistance.



“Keeping Safe” ©Liv Halperin

*Temporary Residence Permits:* Temporary residence permits are considered a positive step in the protection of victims of trafficking. Allowing trafficked victims to remain in the country where they find themselves permits time for rehabilitation assistance, time to recuperate, and also in some cases, time to assist in the prosecution of traffickers by acting as witnesses. Despite their benefits, temporary residence permits are rarely granted to victims of trafficking. Some countries, however, including the Netherlands, Italy and Belgium, do grant residence permits to victims of trafficking under certain conditions. Yet, in some cases, these countries provide temporary residence permits in exchange for an agreement to cooperate with law enforcement and provide testimony against traffickers during criminal trials. The EU has been grappling with this issue since the late 1980s and has adopted several resolutions which specifically deal with the provision of residence permits for trafficked persons. One of the resolutions, adopted in 2000, calls on countries to provide victims with residence permits even if they choose not to testify against their traffickers.<sup>172</sup>

*Witness Protection Programmes:* Due to the brutality of the traffickers, witness protection for victims who choose to testify is generally considered essential. Witness statements and witness protection provides victims with the opportunity to apply for permanent residence, diminishes fear of immediate deportation, and can encourage cooperation in prosecuting traffickers. However, tying witness protection to the issuance of residence permits is also a source of controversy. Some advocates for victims' rights perceive the conditionality tied to such assistance as discriminatory, and worse, as a source of double victimization. Victims may be coerced into testimony, yet also may fear for the security of their family members if they testify.

*Reintegration of Victims at Home or in Other Communities:* Regardless of whether victims



"Sharing Vital Information" ©UNFPA

remain in the host country or return home, victims need assistance in re-establishing their lives. This involves facilitating victims' access to reparation and other services. Ideally, reintegration assistance can include vocational training in sectors that are in high demand.

*Health:* Many victims desperately need access to health services. Victims often require treatment for harm incurred as a direct consequence of the difficulties they faced during their journey, the working conditions they endured at destination or even at transit points, and the permanent psychological and physical coercion they suffered. Common problems of trafficking victims include substance abuse, violence, occupational illness, psychological illness and communicable diseases. In addition, many trafficking victims working in the sex industry contract sexually transmitted diseases (STDs), including HIV/AIDS. This is particularly problematic because the spread of HIV/AIDS further exacerbates the trafficking problem. Misinformation, such as the belief that sexual intercourse with virgins constitutes a cure for HIV/AIDS, contributes to the trafficking of young girls, including babies and small children. For this reason, recent efforts to address the health of trafficking victims have included a focus on prevention through education and awareness campaigns.

### UNFPA Focus on Gender and Health Aspects of Trafficking

Although some lucky women are able to escape their horrendous ordeal, they often find themselves subject to great psychological trauma. UNFPA is taking an increasing interest in the health of trafficking victims. In 2002, UNFPA organized a Consultative Meeting on Trafficking in Women and Children in Bratislava, Slovak Republic. Thirty countries from all regions including government and NGO representatives, UN agencies and others participated in the meeting, which inter alia, sought to build a common understanding of trafficking issues and their impact on RH and rights; identify approaches, methods and good practice in tackling these issues; and identify UNFPA's comparative advantages, as well as possible partners, for implementing action at the country level.

*Source: UN Population Division, Department of Economic and Social Affairs, UNFPA Support Activities in the Area of International Migration, Second Coordination Meeting on International Migration, United Nations, 15-16 October 2003.*

## 8. Internal Migration

Internal migration refers to the movement of persons within national boundaries, such as voluntary movements from rural to urban areas for purposes of capitalizing on greater economic opportunities. It is induced by a complex matrix of economic, social, environmental and demographic “push” and “pull” factors which compel people to migrate from one place to another in search of new homes, safer communities and more promising livelihoods.

**«Since the Cairo Conference, the international community has taken important steps towards addressing the problem of IDPs»**

It includes forced movements stemming from environmental degradation, development, and conflict. In particular, nearly 25 million individuals are currently displaced due to conflict, and are scattered throughout more than 50 countries.<sup>173</sup> Many would be entitled to the legal and humanitarian assistance and protection afforded to refugees if they were to cross an international border and seek sanctuary in another country. However, these IDPs remain within the borders of their own country, at the mercy of their own government, warring sides and other controlling authorities, and oftentimes beyond the reach of international agencies.

Participants at the Cairo Conference recognized that a balanced spatial distribution of population is critical to ensuring sustainable economic development. In particular, Chapter IX on Internal

Migration of ICPD's PoA states that this objective can be realized “by promoting in an integrated manner the equitable and ecologically sustainable development of major sending and receiving areas, with particular emphasis on the promotion of economic, social and gender equity based on respect for human rights, especially the right to development.”<sup>174</sup> Furthermore, participants were concerned with protecting IDPs as their experiences are wrought with grievous human rights violations. The PoA specifically calls upon States “to offer adequate protection and assistance to persons displaced within their country... and to find solutions to the root causes of their displacement in view of preventing it and, when appropriate, to facilitate return or resettlement.”<sup>175</sup>

Since the Cairo Conference, the international community has taken important steps towards addressing the problem of IDPs. Notably, the Office of the UN Special Representative on Internal Displacement elaborated *Guiding Principles on Internal Displacement* (1998), which constitute a framework for protection and assistance to IDPs and have served to raise international awareness of the severity and magnitude of the displacement crisis worldwide.

More broadly, the management and understanding of internal migration processes has become a priority for national and international policy makers because of its widely recognized implications for development. To this end, 189 countries signed the Millennium Declaration (2000), which recognizes the importance of population stabilization to an array of development issues and serves as the basis for the eight MDGs, re-

lating to, inter alia, poverty alleviation, economic development, gender equality and environmental sustainability. Moreover, one year later, the *UNFPA's State of World Population Report* emphasized that changes in the size, growth rate and distribution of populations significantly impact development and prospects for achieving the MDGs. It specifically underscored the effect of demographic changes on the environment and social development and called for actions aimed at improving the lives of individuals, such as fully implementing the ICPD PoA, encouraging more sustainable production processes, and bolstering information on sustainable population, development and environment practices.

### Urbanization

Urbanization has been reshaping the lives of hundreds of millions of people worldwide since the Industrial Revolution, when individuals began moving to cities in large numbers in search of economic opportunities. As a result, over the past two centuries, the world's urban population has increased from one in 30 of the earth's inhabitants to every second inhabitant, or from 30 million to 3 billion people.<sup>176</sup> The UN Human Settlements Programme (UN-Habitat) estimates that urbanization will continue unabated and that by 2030, as much as 60 per cent of the world's population will be living in cities, or 4.9 billion out of a total population of 8.1 billion.<sup>177</sup> Today there are 19 cities with populations of 10 million or more. This number is expected to grow in the coming years with most of the new mega-cities located in developing countries. The Chinese city of Shanghai is a good example of explosive urban growth: in 2003, the population

of Shanghai reached 20 million inhabitants, fuelled by the arrival of 3 million internal migrants that year alone.<sup>178</sup>

As stated in the ICPD PoA, urbanization is an "intrinsic dimension of economic and social development" and reflects the rational decisions of millions of internal migrants worldwide to "seek new opportunities in life" in the cities. Cities are magnets of economic growth and natural focal points for cultural, social and political developments. As highlighted in a recent UN-Habitat study on cities, in terms of economic output, cities represent a much larger share of the GDP than their share of the population.<sup>179</sup> For instance, with 12 per cent of Thailand's population, Bangkok produces almost 40 per cent of Thailand's GDP.<sup>180</sup> Similar relationships exist in many other countries.

***«over the past two centuries, the world's urban population has increased from one in 30 of the earth's inhabitants to every second inhabitant, or from 30 million to 3 billion people»***

However, it is becoming increasingly evident that the rapid growth of cities caused by migration as well as natural population increases has far outpaced governments' abilities to provide basic services and economic opportunities to the ever expanding urban populations. Instead, population growth has strained existing urban infra-

structures and caused severe housing shortages, congestion, higher crime rates, increased pollution and other problems. In many cases, migrants have had to settle in shanty towns and slums under appalling conditions characterized by extreme poverty and lack of access to decent housing, sanitation, health-care and education. Today, the UN estimates that 928 million people live in slums.<sup>181</sup> Unless concerted action is taken to address the root causes of rapid urbanization including rural–urban migration, this figure will grow in the coming years leading to even more desperate levels of urban poverty.

Developing countries are particularly affected by the growth in urban poverty associated with urban expansion. Africa, for instance, has the fastest rate of urbanization compared to other continents, which is driven largely by rural to urban migration.<sup>182</sup> Not surprisingly, Africa also has the highest rates of urban poverty, estimated at “40 per cent and rising.”<sup>183</sup>

### **«urbanization is having an increasing impact on women as more and more women are migrating from rural to urban areas»**

Further, urbanization is having an increasing impact on women as more and more women are migrating from rural to urban areas. In the *UNFPA's State of World Population Report* (2003), urban migration offers young women around the world “unprecedented opportunities to earn money, save for dowries and postpone marriage.”<sup>184</sup> In Kenya, for example, women aged 15 to 39 years currently comprise 53 per cent of the urban female population. Indeed this is a global trend: by 2020, there are expected to be more women in urban than rural areas aged 15 to 39 years worldwide.<sup>185</sup> These women generally migrate seeking, among other things, better health-care and reproductive services, which

ultimately contributes to the increasing demand for clinics and health-care centres.

Addressing global problems of growing urban poverty will entail redoubling efforts to enhance local governments' capacities to foster sustainable economic development and deliver the much needed basic services to the urban poor. Indeed, the issue of urbanization has come to the forefront of the international debate on poverty and development. In fact, one of the goals identified by world leaders in the UN Millennium Declaration is to improve the lives of at least 100 million slum dwellers by 2020.

Beyond bringing the benefits of development to poor urban dwellers, the root causes of internal migration also must be addressed. As stated in Chapter IX of the ICPD PoA, managing population distribution issues will involve reducing “the role of the various push factors as they relate to migration flows.”<sup>186</sup> Many internal migrants are poor rural populations who are compelled to seek out opportunities in cities. Driven off their land by grinding poverty, environmental degradation, reduced agricultural yields and ecological disasters, they make up a large percentage of the new urban dwellers.

Therefore, spreading economic development more equitably between rural and urban settings constitutes a priority. Promoting development in rural areas through sustainable agricultural practices, sound environmental management, and other policies is needed to ensure that rural populations can survive without having to consider migration to cities as their only viable option.

Follow-up actions specifically identified in ICPD+5 include the recommendation that “governments should improve the management and delivery of services for the growing urban agglomerations and put in place enabling legislative and administrative instruments and adequate financial resources to meet the needs

of all citizens, especially the urban poor, internal migrants, older persons and the disabled.”

In line with this recommendation, several developing countries, particularly in Africa, have embarked on processes of decentralization in an effort to bring development also to rural areas, smaller and mid-sized cities, and to empower municipal and local governments to deal with growing urban pressures. Several specialized UN agencies and other international bodies are assisting governments in formulating and implementing national policy agendas reflecting these goals, including UN-Habitat and others.

#### Urbanization and the Environment

Rapid industrialization paired with urbanization has contributed to water contamination, as raw sewage and industrial wastes often find their way into local water supplies and many developing countries lack the resources to adequately treat water. As a result, communities worldwide have been forced to obtain water from increasingly distant locations. Moreover, automobile exhaust and the common practice of burning garbage pollutes the air, leading to dangerously high levels of suspended particles in the atmosphere. Urbanization also has contributed to problems surrounding greenhouse gases, acid rain, and the loss of farmland.

Source: UNFPA, *State of World Population Report (2001)*.

#### Environment and Migration

Environmental degradation resulting from natural disasters, after war effects, or over-exploitation, is an increasingly important cause of internal migration. In 1998, the World Bank estimated

that 25 million people were displaced by environmental degradation.<sup>187</sup> Indeed, while much attention in the past has focused on persons displaced by conflict rather than persons displaced for other reasons, future research and attention will have to concentrate on other forms of displacement as well.

***«while much attention in the past has focused on persons displaced by conflict rather than persons displaced for other reasons, future research and attention will have to concentrate on other forms of displacement as well»***

Of particular importance are issues relating to degradation of land and unsustainable agricultural practices, two factors which render rural populations unable to make a living off the land and serve as an impetus for migration to the cities. For instance, according to the United Nations Environment Programme (UNEP), over 300 million hectares of land have been degraded in Latin America and the Caribbean region, mainly due to erosion caused by non-sustainable land use, nutrient depletion, chemical pollution, overgrazing and deforestation.<sup>188</sup> Similar processes are occurring in most other parts of the world with serious implications for internal rural–urban mobility. Indeed, UNEP estimates that as much as 40 per cent of all arable land worldwide has lost productivity due to soil degradation, and that in some areas productivity loss is as much as 75 per cent.<sup>189</sup> Accelerating climate change also has increased vulnerability to ecological disasters.

As recognized in the ICPD PoA, management of land is particularly important in order to

### Populations Displaced by Natural Disasters and Other Environmental Pressures

Poor people, especially women and children, are susceptible to the impacts of natural disasters and other environmental pressures. For women in such situations, complicated pregnancies and deliveries can become life threatening if left untreated.

In 2001, an earthquake in El Salvador affected about 1 million people or one sixth of the population. Consequently, access to RH care, including family planning (FP), was severely hampered. To address emergency RH concerns, as well as the spread of HIV/AIDS and other STDs, UNFPA provided safe motherhood and RH supplies to cover the needs of the displaced population.

In Uganda, refugees, displaced persons and victims of drought lack access to potable water, food, shelter, income and other basic services. The UN agencies are cooperating to provide basic social services, re-integrate ex-combatants and returnees and restore livelihoods and infrastructure. UNFPA has focused on primary health-care service delivery for displaced persons, with an emphasis on RH for women, men and adolescents.

Source: Excerpts taken from UNFPA, "Population, Environment, and Poverty Linkages: Operational Challenges" (2001).

"ensure economical land use, protect fragile ecosystems and facilitate the access of the poor to land in both urban and rural areas."<sup>190</sup> Several UN agencies such as the UNEP, Food and Agriculture Organization (FAO) and the International Fund for Agricultural Development (IFAD) are assisting developing countries to set agendas for sustainable agricultural development. Such assistance is often channelled through regional efforts and initiatives, such as the New Partnership for Development in Africa (NEPAD).<sup>191</sup>

### Development-Induced Migration

Population redistribution also can be caused by development projects, such as dams, roads, power lines, mines, pipelines and other infrastructure projects, which force people off their lands. Some estimates place the numbers of persons displaced by dam construction alone to be between 40 million and 80 million persons worldwide.<sup>192</sup> As development reduces access to arable land, rural populations are forced to migrate to cities in greater numbers. Although government resettlement policies may attempt to preserve traditional livelihoods by resettling displaced populations on land near their former homes where they could resume their traditional farming practices, these policies have not always been successful. One example is the Three Gorges Project of China's Yangtze River which will displace an estimated 1.2 million people, both rural and urban, by 2009.<sup>193</sup> The Chinese government's promise of granting equivalent amounts of new land has had to be abandoned in the face of limited availability of land and economic resources. Instead, the Chinese government is creating incentives to motivate hundreds of thousands of displaced persons to accept distant resettlement in other parts of China.<sup>194</sup>

### Conflict-Induced Migration

Migration induced by war and other conflicts is by definition uncontrolled and often is associated with significant destruction and/or abandonment of human settlements, loss of traditional livelihoods and increased urban pressures. A salient characteristic of persons who are forced to leave their places of usual residence because of violence is their heightened state of vulnerability; they often have little or no access to economic opportunities or to basic services, such as health, education, housing, food and tend to live in conditions of physical insecurity. Women, children and the elderly who constitute the majority of the world's IDPs, face particular challenges



in this regard since displacement leads to the breakdown of social support networks. Specific threats include brutal acts of sexual violence against women and girls and in many countries, displaced children being recruited as child soldiers. Moreover, displacement often is associated with elevated occurrences of HIV/AIDS.

Internal conflicts often victimize rural and indigenous populations who are displaced from their lands and seek shelter and protection in towns and cities. For instance, the civil war in Mozambique displaced about 4.5 million persons from rural areas to the cities.<sup>195</sup> As land has become

an increasingly valuable commodity, combatants in internal conflicts have at times used internal displacement as a deliberate strategy of war, that is to say, as means to extend their control over strategic geographical areas. In the context of the internal armed struggle in some countries, combatants have deliberately caused displacement of rural populations through acts of terror in order to gain control over strategically located areas.<sup>196</sup> In other cases, governments have deliberately acted to displace their own nationals in order to change the ethnic population, control natural resources, implement land reform or simply gain military advantage.

### UNFPA Provides Assistance in Emergency and Post-Conflict Situations

Crisis situations carry widespread risks to RH—in particular to women and adolescents. Protecting pregnant women is a top priority in an emergency. For many others, help is needed in preventing STIs and sexual violence.

Since 1994, UNFPA has supported emergency RH projects in more than 50 countries and territories, including immediate humanitarian responses followed by post-emergency development assistance to restore and improve RH health services. Partners in this humanitarian response included governments, other UN agencies and NGOs.

In 2002, UNFPA established its Humanitarian Response Unit as part of the Office of the Executive Director and opened a branch in Geneva. This enhanced its ability to provide services to meet the emergency RH needs of refugees, the internally displaced and others affected by crisis.

Technical assistance also was provided to UN peacekeepers. Of particular concern were complex emergencies that combine drought, famine, poverty, HIV/AIDS and gender-based violence.

Assistance was offered to ongoing emergency and post-conflict reconstruction programmes in numerous countries, including Afghanistan, Angola, Burundi, Congo, Côte d'Ivoire, Democratic Republic of the Congo, Ecuador, Kosovo, Liberia, Malawi, the Occupied Palestinian Territory, Rwanda, Sierra Leone, Somalia, Sudan, Timor-Leste and the United Republic of Tanzania.

Source: *UNFPA. Annual Report (2002)*.

### UN Special Representative on Internally Displaced Persons

In tackling this daunting challenge, the Special Representative on IDPs is focused on four main “pillars:” developing and promoting a normative framework for responding to internal displacement; fostering effective institutional arrangements at the international, national and regional levels; focusing attention on specific situations, including through country missions; and undertaking research to deepen understanding of the problem of internal displacement and identify means for addressing it most effectively.

Source: *Deng, Francis M, Report of the Representative of the Secretary-General on Internally Displaced Persons. “Specific Groups and Individuals: Mass Exoduses and Displaced Persons,” submitted pursuant to Commission on Human Rights Resolution 2002/56. United Nations Economic and Social Council, E/CN.4/2003/86 (21, January 2003).*

### Protection for IDPs

Assisting and protecting IDPs has been a difficult task for the international community for a variety of reasons, including inadequate resources, lack of cooperation between different agencies, lack of clarity and consensus over the definition of “IDP;”<sup>197</sup> contradictions between short-term relief aid and longer-term developmental assistance, limited access to displaced populations and insufficient political will to engage or allow engagement in internal matters of sovereign States. Furthermore, responding to the needs of IDPs remains politically determined. As stated by the Norwegian Refugee Council’s (NRC) Global IDP Project Database, the most extensive database on the issue: “IDPs in strategically valued Afghanistan, like Southeastern Europe in 2000, received much greater funding per capita than needier African IDPs.”<sup>198</sup>

International agencies have stressed that return and resettlement of IDPs must always be voluntary—in line with non-refoulement, a well-established principle in refugee law, which prohibits the forcible return of asylum seekers.<sup>199</sup> This principle notwithstanding, there lacks a uniform response to this problem. Indeed, much remains to be done to implement a collaborative approach, avoid duplication and create clear lines of responsibility and accountability.

**«International agencies have stressed that return and resettlement of IDPs must always be voluntary—in line with non-refoulement, a well-established principle in refugee law, which prohibits the forcible return of asylum seekers»**



\*Preparing to Return\* ©UNFPA

Several UN agencies deal with IDPs: UNHCR, UNHCHR, IOM, the Office of the Special Representative on IDPs, and the IDP Unit within the UN Office for the Coordination of Humanitarian Affairs (OCHA), which was established in 2002. While cooperation among various agencies has been improving since the appointment of the UN Special Representative, international agencies lack funding mechanisms for programmes to address the specific needs of IDPs and coordination remains a major obstacle to implementing strategies.

Meanwhile, the Red Cross movement and humanitarian NGOs have provided invaluable assistance, on many occasions taking the lead in operational activities. Their presence on the ground next to IDPs often has served as the best protection against possible harm and

an important reminder to responsible parties, particularly governments, that they have obligations to fulfil.

Effective return involves complicated and long-term developmental efforts to rebuild infrastructure, create jobs, encourage local capacity and address protracted medical problems such as post-traumatic stress.<sup>200</sup> Post-conflict social reconciliation also requires looking into the causes of displacement. These factors and more make the lives of many returnees no less challenging than their initial experience of displacement. In any event, they can rarely face these challenges on their own.

## 9. Migration Data

It has been proven time and again that no useful exchange on migration issues can take place without reliable figures on population movements. Sound data are required for good migration policy and management. Migration data, contribute to informed debates on immigration and emigration policies; form a partial basis for formulating, implementing and evaluating migration-related policies; assist in the protection of migrants and with efforts geared at fighting racism and xenophobia; integrate effects of migration into national development planning; and target policies to reduce migration pressures.<sup>201</sup>

***«As it is often very difficult to compare migration data due to different terminology, definitions and categories used, it is critical to work towards ensuring that government ministries apply the same or similar definitions for specific migrant categories»***

In all regions of the world, attempts to build sustainable, comprehensive and effective systems for national and regional migration management necessarily entail the development of reliable data gathering, analysis and exchange. Compatible definitions are required in order to effectively exchange data and statistics among governments and learn from other countries' migration data. At IMP meetings over the years,

government participants have systematically cited the lack of migration data as a major impediment to developing effective migration policy and legislation and to attempts at greater information sharing amongst countries in the region.

At the Cairo Conference, participating governments recognized the necessity of reliable migration data and called on States, in Chapter XII of the ICPD PoA, to "strengthen their national capacity to carry out sustained and comprehensive programmes on collection, analysis, dissemination and utilization of population and development data." In addition, the PoA asserts that programmes should give due consideration to gender and account for linkages between population, health, poverty, family, environment and development.<sup>202</sup>

In 1999, at its 21<sup>st</sup> Special Session, the UNGA responded to the ICPD by reiterating calls for strengthened international action in the field of migration including improving data collection and analysis on all aspects of migration. Its Report states: "Governments, with the assistance of the international community, should intensify their efforts to improve data collection and analysis, including gender-based analysis, in the area(s) of international migration..."

Two years later, at the 56<sup>th</sup> Session of the UNGA on international migration and development, there was continued concern relating to data quality and comparability: "Statistics that allow characterizing accurate migration flows and monitoring changes over time are still far from complete. Considerable heterogeneity also exists in terms of the nature of data and definitions

used. Statistics often serve as a solid basis for the formulation and implementation of international migration policy and programmes. The dynamics of international migration cannot be fully understood without the guidance of migration statistics.”

In an attempt to address some of these challenges, the UNSD issues guidelines and recommendations on concepts and methods to help countries in the collection and dissemination of their data.<sup>203</sup> The recommendations are developed with a view to improving the quality of data and promoting the application of common definitions and concepts by countries to enhance the comparability of data at the international level. The latest revision of the set of recommendations on international migration, *Recommendations on Statistics of International Migration, Revision 1*,<sup>204</sup> was published in 1998.

The Recommendations document reviews new international definitions and relevant data sources and proposes a revised taxonomy of

inflows and outflows of international travellers. It also presents a framework for the compilation of flows statistics, giving particular attention to the compilation of policy-oriented statistics from existing data. In addition, the document gives emphasis to the topics of asylum-seekers and refugees and presents definitions of relevant concepts and recommended tabulations.<sup>205</sup>

### Obstacles to Collection, Analysis and Exchange

There are numerous serious obstacles to collecting comprehensive, accurate and timely migration data. Some difficulties are tied to, inter alia:

- Gathering specific and compatible definitions and comparability of data sources;
- Operational problems of how data are retrieved including the incompleteness of information over time; and
- Political motivations that may influence how statistics are reported within and among governments.<sup>206</sup>

#### UNFPA/IMP Migration Data and Definitions Projects

In the context of the “UNFPA/IMP Migration Data and Definitions Projects (2001-2002),” the *Recommendations on Statistics of International Migration* proved to be a useful “training tool” for exercises involving discussions on migration data. The Recommendations were distributed to national government focal points in order for them to compare their national definitions for certain specific migrant categories with the UN recommended definitions. It also served as a reference for listing the data sources that their ministries’ rely upon for migration data. Through the focal points, countries were then able to share information on the extent to which their definitions and data sources varied between countries, and with the international standards set out in the *Recommendations on Statistics of International Migration*.

*Compatibility:* As it is often very difficult to compare migration data due to different terminology, definitions and categories used, it is critical to work towards ensuring that government ministries apply the same or similar definitions for specific migrant categories, or at the very least, that they are aware of existing differences. In this respect, the *Recommendations on Statistics of International Migration, Revision 1*, includes a glossary of definitions for different migrant categories, which is intended to assist countries in applying common definitions and concepts.

*Collection:* There are a number of operational problems tied to the collection of migration data. One problem is legal rather than operational and is associated with definitional difficulties outlined above. Indeed, many countries do not have clear laws or regulations outlining who is a migrant or specifying various categories of migrants and their corresponding status, rights and obligations.

Furthermore, some categories of migration data, by their very nature, are particularly difficult to calculate including, irregular migration, temporary/return migration and the gender dimension of migration.<sup>207</sup> For instance, in 2001 at an IOM/IMP meeting for West Africa, it was argued that virtually no statistics exist in West Africa as in other parts of the world for two types of migration that are particularly difficult to measure: trans-border labour migration and illegal or irregular migration (i.e., clandestine movements).<sup>208</sup> Despite these difficulties, certain categories of migration data are in increasingly high demand. UNFPA, for instance, has called for more efforts to break down migration data in order to gain a better picture of the “feminization of migration” through more accurate statistics on female migrants.

Another problem is that no single source of data exists to provide comprehensive figures on migration data. Instead, a combination of different sources of data collection must be referred

to including border data, permits and registers. Data sources outlined in the Recommendations document include:

- Administrative registers (e.g., population register, register of foreigners);
- Other administrative sources (e.g., residence permits, work permits, application for asylum, exit permits, clearance of migrant workers);
- Border collection; and
- Household-based field inquiries (e.g., census, household surveys).<sup>209</sup>

Countries often use a combination of methods. Frequently, countries use identification documents, residency permits, census taking and border points. However, each of these methods has shortcomings.

The issue of whether to impose national identification documents on foreigners (and on nationals for that matter) can be controversial. On the issue of residency permits, these constitute an effective way of counting the numbers of non-citizens living in the country at a given time, however, they often reflect the number of newcomers (flows) rather than the totality of foreigners (stock) living in the country. In addition, increasingly, residency permits often do not apply within free-trade areas, and therefore may constitute a defunct method for information on specific nationalities in given regional areas.

A census—a photograph in time of the stock of who is in the country at a given moment—often is considered an effective means of migration data collection. However, as migration is by nature a dynamic phenomenon, instruments for observing migration flows must be continuous and systematic.

It is for this reason that most countries also gather statistics from border points, although this method also carries operational challenges ranging from how to cover all points of entry and

departure; the possibility of double counting; and whether to question migrants on their motivations for movement, or simply to gather statistics on the number of foreigners and nationals entering and exiting the country.

At the international level, UNSD collects and disseminates migration data through the UN Demographic Yearbook (DYB), a 54-year old annual publication, for 230 countries and areas in the world based on information retrieved from a series of questionnaires that are completed by national statistics offices.<sup>210</sup> The last three decades, however, have witnessed low levels of responses to the questionnaire.<sup>211</sup> As this document comes to print, a review of the process of collection and dissemination underpinning the DYB is underway.

*Dissemination:* A third challenge is tied to the exchange or dissemination of migration data. Political motivations, for instance, may influence how statistics are reported within and among

governments. Indeed, migration statistics remain a politically sensitive topic both within and amongst countries. While entirely de-politicizing the significance of migration statistics is unlikely, on-going dialogue and efforts at exchanging migration data are underway to curtail this potential obstacle.

A number of regions have or are in the process of institutionalizing cooperation and dialogue in the area of migration data dissemination by creating regional information systems.<sup>212</sup>

UN Regional Commissions have also been engaged in a growing number of activities in the field of international migration statistics. For example, the Economic Commission for Europe (ECE), in collaboration with Eurostat, the Council of Europe, and others, regularly collects international migration statistics among ECE countries. The Latin American and Caribbean Demographic Centre (CELADE) of the Economic Commission for Latin America and the Caribbean (ECLAC)



\*Counting People\* ©UNFPA

### Population Data and Research: Strengthening National Capacities

According to UNFPA, on balance countries are making progress in developing capacities for population data and research. Based on the 2003 Global Survey conducted, UNFPA reports that:

“Responding to a question on measures taken to strengthen national capacity for population data, 96 per cent of the countries stated that they had taken action. Globally the measures adopted were: strengthening the capacity of institutions for data collection, processing, analysis and utilization (93 countries); supporting the development of national databases and management information systems (75 countries); the training of staff on database management (61 countries); and the creation/strengthening of a national statistical service (in 61 countries).”

With regard to research, UNFPA noted that:

“According to the findings of the Survey, 90 per cent of countries had taken some action [towards attaining national capacity for research] . . . The most common measures taken were: supporting surveys and the generation of research reports (92 countries); supporting research by a national commission/secretariat/council (57 countries); supporting consultative and participatory research (38 countries); and supporting expansion of research to include ‘overlooked’ groups (28 countries). These efforts often included the recruiting and training of human resources and the setting up of necessary infrastructure.”

Source: *UNFPA. Investing in People: National Progress in Implementing the ICPD Programme of Action, 1994-2004 (2004).*

collects international migration statistics and compiles them in a regional data bank, known as Investigation of International Migration in Latin America (IMILA).

And, the Economic and Social Commission for Western Asia (ESCWA), also works on collecting migration data in particular through the Population Section of the Social Development Issues and Policies Division.

Through regular activities and the review process for the DYB, the UNSD has stated its commitment “to work in collaboration with interested agencies and national statistical offices that have experience in this field.”<sup>213</sup>

### Migration Data and Research

Migration data are the basis for migration research. In 1999, the UNGA described how better data would assist in “encourag[ing] studies designed to assess the causes of international migration and displacement and the positive contribution that migration makes to both countries of origin and countries of destination; and improv[ing] understanding of the links between relevant factors that have an impact on international migration.”



In the last few years, there has been a proliferation in the number of research centres around the world, which address migration-related issues. Many governments also are targeting greater resources to migration research. This is particularly true in developed countries. In most cases, the work is commissioned from private research bodies though some countries such as Canada and Australia have “in-house” research programmes that are linked to their migration departments.

Developing countries, however, have devoted few if any resources to developing migration research programmes. At the IMP meetings in different parts of Africa, for instance, government representatives have explained that more immediate needs often have placed research on migration at the bottom of the pile in terms of national priorities.

This regional imbalance is regrettable not least because research priorities often differ. According to the government reports at the IOM workshop on *Enhancing the Contribution of Migration Research to Policy Making* (2004), developed countries suggested that research on asylum, irregular migration and migrant traffick-

ing topped the list, while developing countries pointed to further research on the whereabouts and numbers of diaspora, and on how to strengthen collaboration between origin and destination countries.<sup>214</sup>

**«In the last few years, there has been a proliferation in the number of research centres around the world, which address migration-related issues»**

Through 2004-2005, the GCIM's research is focusing on a wide scope of topics that are considered to be relevant to the international community as a whole: migrants in the global labour market; migration, economic growth, development and poverty reduction; irregular migration, State security and human security; migrants in society; international migration and health; international migration and human rights; the legal normative framework of international migration; and the governance of international migration.<sup>215</sup>

## 10. Conclusion

Migration developments described in the nine preceding chapters confirm that many of the objectives set forth a decade ago remain the goals of today. Progress, as the title of this work suggests, has been made in a number of key areas. National governments in all world regions have or have begun to adopt migration related law and to establish migration structures including personnel dedicated to migration issues. Regional and international efforts to cooperate and coordinate on migration issues, first and foremost through the exchange of information and experiences, also have become an important feature of governance in this field.

Migration is increasingly perceived as a development tool. As a result, migration considerations are more frequently incorporated into poverty reduction strategies and broader development policies. How to capitalize on the benefits of migration is certainly gaining credence by the sheer volume of remittances, and through the economic benefits generated by diaspora. There is a concurrent effort to avoid constraining what is perceived to be a fruitful flow of capital, information, ideas and opportunities. Attention is also being drawn towards counteracting the negative effects of “brain drain.”

Though progress is evident in the area of migrants' human rights, on the whole it is largely on the advocacy and awareness side over the implementation side. Indeed, the last decade has witnessed a considerable amount of activity in terms of incorporating the international human rights architecture into national systems. Nevertheless, upholding migrants' human rights, implementation of such principles and agreement on

the appropriate mechanisms and tools to protect migrants' rights represent an on-going challenge.

Economic migrants are the fastest growing category of migrants and an increasingly important economic constituency. States and industries attempt to “manage” economic migration so as to respond to labour market demands. Some regions in the world have made substantial progress towards developing arrangements to facilitate labour mobility of nationals within a given space. Progress in terms of ensuring economic migrants' rights and adopting positive approaches to migrants' integration, whether short-term or long-term, is still needed.

In addition to traditional political, material and financial constraints, contemporary factors such as the “asylum-migration nexus” and greater attention to national security considerations, are posing challenges to ensuring the protection of refugees. As a reaction to these undercurrents and in an attempt to rally support around multilateral efforts to strengthen refugee protection, greater attention is being brought by the international community to complementary and supplementary solutions so that refugees receive the protections that they are afforded under international law.

Human trafficking is undoubtedly one of the migration-related areas that has gained the most international interest since 1994. As a result, many developments have been made, including the ratification of the Trafficking Protocol, which among other things, establishes an international legal definition for trafficking. Many States, based in part on the Protocol's provisions, have

adopted measures to prevent trafficking, to prosecute traffickers and to protect victims of trafficking. Nevertheless, the widespread scope of trafficking, and the fact that public perception generally still does not consider human trafficking a crime and its subjects as victims, means that more progress is required.

While not the focus of this book, internal migration is an equally important area of consideration both in terms of its scope and its impact. Various factors incite internal mobility, and indeed, moving within borders is often a trampoline towards crossing them. A wide range of causal factors including environment, development and conflict, incite internal migration. An important international development in the area of internal mobility was the establishment of the 1998 Guiding Principles on Internal Displacement, which now provide States with a framework for protection and assistance to IDPs and have served to raise international awareness of the severity and magnitude of the displacement crisis worldwide.

More migration data, information and research to assist policy makers and migration practitioners are being generated by an increasing number of governments and migration research bodies. However, despite the fact that reliable data are essential for developing effective policy, there is still insufficient reliable and compatible migration data. Some progress has been made with the establishment of the *Recommendations on Statistics of International Migration, Revision 1* (1998) that provide a basis for improving the quality of migration data. Another area of progress is the growing inter-State efforts to share information on migration.

These points of progress reflect positively on States' attempts to devise strategies that maximize the benefits of migration and minimize its negative effects in given areas of migration. They also clearly suggest that much more work is required in all these areas to devise such strategies.

A starting point is to continue to strengthen cooperation in this field. As States become points of origin, transit and destination for migrants, they share greater common ground in terms of their migration interests, concerns and priorities. Consequently, and as highlighted in the UNFPA Report, *Investing in People: National Progress in Implementing the ICPD Programme of Action 1994-2004*, furthering progress in addressing the challenges of migration requires a "high degree of coordination of different types... including intra-sectoral, inter-sectoral, inter-institutional, international and inter-functional (encompassing policies, programmes and strategies)."<sup>216</sup> Many efforts are underway to strengthen inter-State cooperation and collaboration both regionally and more recently at the international level. However, as frequently cited by government representatives at migration meetings hosted by IMP and others, intra-State coordination between ministries and between different fields of expertise is proving more difficult. Indeed, simple cooperation between compatible ministries across countries often seems more feasible than cooperation within countries' various ministries dealing with migration. This is particularly true today when so many fields are considered to affect or be affected by migration including: foreign affairs, interior, health, labour, trade, security and defense.

There are additional factors that hinder further progress in meeting the challenges of migration. These include a lack of: awareness and understanding of the social and economic implications of migration; political will to manage migration flows and address the consequences of migration; trained or qualified staff; institutional capacity; and resources to manage migration flows, especially irregular migration and human trafficking.

***«To be sure, at the midway point of the ICPD PoA, it is perhaps the issue of political will, which is likely to be most difficult to address in the second half of the implementation cycle»***

The mandate of the GCIM is to identify priority areas and to recommend concrete steps that can be taken by governments and other actors in formulating more effective migration policy and practice. One important step in this direction is simply to provide a vehicle for constructive, coherent and comprehensive dialogue on international migration. To be sure, at the midway point of the ICPD PoA, it is perhaps the issue of political will, which is likely to be most difficult to address in the second half of the implementation cycle. Sustaining and furthering progress on all the various aspects of migration that are described herein rest in part if not entirely on governments' commitment towards achieving the objectives set forth in the ICPD PoA.

## Annex

### Relevant International Conventions

Convention	Year Passed	Year of Entry into Force
ILO Convention 97: Migration for Employment <sup>218</sup>	1949	1952
Geneva Convention relating to the Status of Refugees • Protocol relating to the Status of Refugees <sup>219</sup>	1951 1966	1954 1967
International Convention on the Elimination of All Forms of Racial Discrimination <sup>220</sup>	1966	1969
International Covenant on Civil and Political Rights <sup>221</sup>	1966	1976
International Covenant on Economic, Social, and Cultural Rights <sup>222</sup>	1966	1976
Convention on the Specific Aspects of Refugee Problems in Africa <sup>223</sup>	1969	1974
ILO Convention 143: Migrant Workers <sup>224</sup>	1975	1978
Convention on the Elimination of All Forms of Discrimination Against Women <sup>225</sup>	1979	1981
Cartagena Declaration on Refugees <sup>226</sup>	1984	1985
Convention Against Torture and Other Cruel Inhuman and Degrading Treatment or Punishment <sup>227</sup>	1984	1987
Convention on the Rights of the Child <sup>228</sup>	1989	1990
Convention Against Transnational Organized Crime • Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children • Protocol Against the Smuggling of Migrants by Land, Air and Sea <sup>229</sup>	2000 2000 2000	2003 2003 2004
International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families <sup>230</sup>	1990	2003

## Endnotes

### CHAPTER 1 (Trends in Migration)

- <sup>1</sup> ILO. "Towards a Fair Deal for Migrant Workers in the Global Economy." *International Labour Conference, 92<sup>nd</sup> Session* (Geneva, Switzerland, 2004): p. 14.
- <sup>2</sup> UN Department of Economic and Social Affairs Population Division. *International Migration Report 2002* (New York, US, 2002): pp. 9-16. Figures cited are for period 1990-2000.
- <sup>3</sup> Ibid.
- <sup>4</sup> ILO. *The Importance of Considering Gender Issues in Migration*, ILO website [URL: <http://www.ilo.org/public/english/protectio/migrant/projects/gender/index.htm>].
- <sup>5</sup> UN News Centre. *Migration has moved to the Forefront of Population Policy Discussion, UN Official Says* (28 January 2004). Remarks by Joseph Chamie, Director of the UN Department of Economic and Social Affairs Population Division.
- <sup>6</sup> Inter-governmental Consultations on Asylum, Refugee and Migration Policies in Europe, North America and Australia (IGC). Speech given by Gerry van Kessel, Coordinator, IGC, *IMP's Fourth Meeting of the Issyk-Kul Dialogue* (Bishkek, Kyrgyz Republic, January 2004).
- <sup>7</sup> IOM. *World Migration 2003: Managing Migration Challenges and Responses for People on the Move, Vol. 2*. (Geneva, Switzerland, 2003): p. 58.
- <sup>8</sup> UN Department of Economic and Social Affairs Population Division. *World Population Policies 2003* (New York, US, 2003): p. 433.
- <sup>9</sup> Ibid., figures compiled from EU member country pages.
- <sup>10</sup> IOM, op. cit., pp. 58 and 60.
- <sup>11</sup> US Department of State. *Trafficking in Persons Report* (Washington, D.C., June 2004): p. 14.
- <sup>12</sup> Ibid., p. 7.
- <sup>13</sup> WHO. *Global Polio Eradication Strategy, 2004-2008* (Geneva, Switzerland, 2003): p. 9.

### CHAPTER 2 (Developments in Migration Policy)

- <sup>14</sup> An overall response rate of 92 per cent was achieved for developing and countries in transition. For donor countries, the response rate was 82 per cent.
- <sup>15</sup> IOM. "The Role of Regional Consultative Processes in Managing International Migration;" *IOM Migration Research Series, No. 3* (Geneva, Switzerland, 2001); IGC refers to the "Inter-governmental Consultations on Asylum, Refugees and Migration Policies in Europe, North America and Australia." Its first meeting took place in 1985, initiated by UNHCR.
- <sup>16</sup> Ibid.; The "Puebla Process" refers to the "Regional Conference on Migration;" initiated in 1996. With the Lima Declaration (1999) a consultative process was also initiated for South America, known as the "South American Meeting on Migration, Integration and Development."
- <sup>17</sup> Ibid.; The "Manila Process" refers to the "IOM Regional Seminar on Irregular Migration and Migrant Trafficking in East and South-East Asia." In addition to two other consultative processes for Asia: APC ("Inter-Governmental Asia-Pacific Consultations on Refugees and Displaced Persons") and the "Bangkok Declaration on Irregular Migration."
- <sup>18</sup> "MIDSA" stands for "Migration Dialogue for Southern Africa." A more nascent consultative process for West Africa began in October 2000 ("Dakar Declaration"), with the assistance of IOM and was followed by a second meeting in December 2001 organized jointly by IOM and IMP. For this Activity Report, consult IMP's Website at [URL: <http://www.impprog.ch>].
- <sup>19</sup> Other processes include the "Commonwealth of Independent States (CIS) Conference and Follow-Up Process for Countries of the CIS and Relevant Neighbouring Countries" and the "Conference of Uncontrolled Migration Across the Baltic Sea for Baltic, Scandinavian and Some European Countries."
- <sup>20</sup> IOM, op. cit. 2001.
- <sup>21</sup> IOM is mandated to enhance understanding of migration issues and facilitate efforts to find cooperative solutions to migration challenges. The activities of IOM can be largely grouped into six main service areas, namely: movements; assisted returns; technical assistance and capacity-building; public information campaigns; counter-trafficking; and medical services. IOM's website [URL: <http://www.iom.int>].

- <sup>22</sup> Established as IOM's Migration Policy and Research Program (MPRP) in 2001; it has since been renamed Migration Policy Research (MPR).
- <sup>23</sup> IOM. "Role of the Council as a Forum for Migration Policy Dialogue;" Paper distributed at the *Informal Meeting of the IOM Council Steering Group* (Geneva, Switzerland, 30 April 2002).
- <sup>24</sup> IOM., "International Migration Policy Road Map: Enhancing Understanding and Enhancing Co-operation," Document distributed at the *Informal Meeting of the IOM Council Steering Group* (Geneva, Switzerland, 30 April 2002).
- <sup>25</sup> The ILO seeks the promotion of social justice and internationally recognized human and labour rights. Its tri-partite constituency includes: government labour ministries, national employer organizations and national trade union federations. ILO's website [URL: <http://www.ilo.org>].
- <sup>26</sup> ILO., "ILO Adopts Plan to Give Fair Deal to 86 Million Migrant Workers," ILO's website [URL: <http://www.ilo.org/public/english/bureau/inf/pr/2004/31.htm>].
- <sup>27</sup> UNHCR's mandate is to provide international protection and humanitarian assistance to refugees and to seek solutions for refugee problems. UNHCR's website [URL: <http://www.unhcr.ch>].
- <sup>28</sup> UNHCR., *Global Consultations*. UNHCR's website [URL: <http://www.unhcr.ch/cgi-bin/texis/vtx/global-consultations>]; The Agenda for Protection has six main goals: strengthened implementation of the 1951 Convention and 1967 Protocol; protecting refugees within broader migration movements; sharing of burdens and responsibilities more equitably and building of capacities to receive and protect refugees; addressing security-related concerns more effectively; redoubling the search for durable solutions; and meeting the protection needs of refugee women and children.
- <sup>29</sup> The Agenda for Protection was presented to the 53<sup>rd</sup> session of UNHCR's Executive Committee for endorsement.
- <sup>30</sup> The UNFPA extends assistance to developing countries, countries with economies in transition and other countries at their request to help them address reproductive health and population issues, and raises awareness of these issues in all countries. UNFPA's three main areas of work are: to help ensure universal access to reproductive health, including family planning and sexual health, to all couples and individuals by the year 2015; to support population and development strategies that enable capacity-building in population programming; and to promote awareness of population and development issues and to advocate for the mobilization of the resources and political will necessary to accomplish its areas of work. UNFPA's website [URL: <http://www.unfpa.org>].
- <sup>31</sup> IMP distinguishes itself from RCPMs, as it is neither a process nor the Secretariat for one. Since its inception, this inter-agency programme has emphasized the value of identifying and establishing regional priorities and "common understandings" between senior government officials in developing and transition regions from all ministries dealing with the multi-disciplinary facets of migration and forced displacement. By facilitating dialogue amongst governments, and concerned international, regional and local bodies, IMP meetings help governments to achieve a level of familiarity and confidence considered invaluable for strengthening cooperation on migration.
- <sup>32</sup> UN. "Programme of Action," *International Conference on Population and Development (ICPD)*, (Cairo, Egypt, 5-13 September, 1994); Chapter X: "International Migration" provides the bases for action relating to: A) international migration and development; B) documented migrants; C) undocumented migrants; and D) refugees, asylum-seekers and displaced persons.
- <sup>33</sup> UN. *UN Conference on Environment and Development* (Rio de Janeiro, Brazil, 1992).
- <sup>34</sup> UN. *World Conference on Human Rights* (Vienna, Austria, 1993).
- <sup>35</sup> UN. *World Summit on Social Development* (Copenhagen, Denmark, 1995).
- <sup>36</sup> UN. *Fourth World Conference on Women* (Beijing, China, 1995).
- <sup>37</sup> UN. *Second UN Conference on Human Settlements (Habitat II)* (Istanbul, Turkey, 1996).
- <sup>38</sup> UN. *Second World Assembly on Ageing* (Madrid, Spain, 2002).
- <sup>39</sup> UN. *World Summit on Sustainable Development* (Johannesburg, South Africa, 2002).

- <sup>40</sup> UN. "Programme of Action of Final Declaration," *World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR)* (Durban, South Africa, 2001): §§ 182-183; With the WCAR, the current migration debate was approached from the perspective of how to harmonize law enforcement and control measures and human-rights. Consequently, WCAR asked States, in consultation with civil society, to support or establish regional dialogues on the causes and consequences of migration that focus not only on law enforcement and border control but also on the promotion and protection of the human rights of migrants, and on the relationship between migration and sustainable development.
- <sup>41</sup> The open-ended core group of the Global Commission on International Migration (GCIM) includes: Australia, Bangladesh, Brazil, Canada, Egypt, Germany, Hungary, India, Mexico, Morocco, Netherlands, Pakistan, Philippines, South Africa, Sri Lanka, Sweden (co-chair), Switzerland (co-chair), Sri Lanka, Turkey, UK, Holy See and the EC/EU.
- <sup>42</sup> MPRP. *The Goal of the Berne Initiative* (Geneva, Switzerland, April 2003).
- <sup>43</sup> Klein Solomon, Michele and Bartsch, Kerstin, IOM. "The Berne Initiative: Toward the Development of an International Policy Framework on Migration," *Migration Policy Institute* (Washington D.C., April 2003).
- <sup>44</sup> *Declaration of the Hague on the Future of Refugee and Migration Policy* (Hague, Netherlands, 22 November 2002).

### CHAPTER 3 (Migration and Development)

- <sup>45</sup> Adams, Richard and Page, John. *The Impact of International Migration and Remittances on Poverty*, World Bank (forthcoming 2004).
- <sup>46</sup> UN. "Programme of Action," *International Conference on Population and Development (ICPD)* (Cairo, Egypt, 5-13 September 1994): §10.1, Basis for Action.
- <sup>47</sup> UN. *Key actions for the further implementation of the ICPD Programme of Action*, ICPD+5: A/S-21/5/Add.1.
- <sup>48</sup> UN Department of Economic and Social Affairs Population Division. *International Migration Report 2002* (New York, US, 2002).
- <sup>49</sup> GCIM. *The Mandate*, (Geneva, Switzerland, December 2003) GCIM's website [URL: [http://www.gcim.org/a\\_mandate.htm](http://www.gcim.org/a_mandate.htm)]; "[GCIM] will address the relationship between international migration and such areas as economic development, labour supply and demand, demography, remittances, trade, poverty alleviation..."
- <sup>50</sup> IOM. "Harnessing the Potential of Migration and Return to Promote Development," *Migration Research Series No. 5* (Geneva, Switzerland, August 2001): p. 6.
- <sup>51</sup> Addy, David Nii, Vijkström, Boris, and Thouez, Colleen, "Migrant Remittances—Country of Origin Experiences: Strategies, Policies, Challenges, and Concerns," *IMP Position Paper tabled at the International Conference on Migrant Remittances* (London, UK, 9-10 October 2003): p. 21.
- <sup>52</sup> Wendell, Samuel. *International Migration Policy Seminar for the Caribbean Region* (Kingston, Jamaica, 28- 31 May 2001).
- <sup>53</sup> Ratha, Dilip (World Bank). *The International Conference on Migrant Remittances* (London, UK, 9-10 October 2003); Ratha, Dilip. "Workers' remittances: An important and stable source of external development finance," *Global Development Finance 2003* (World Bank, Washington, D.C., 2003): Chapter 7.
- <sup>54</sup> Ratha, 2003, op. cit.
- <sup>55</sup> Kapur, Devesh (Harvard University). "Remittances: The New Development Mantra?," *Paper prepared for the G-24 Technical Group Meeting and presented at the International Conference on Migrant Remittances* (London, UK, 9-10 October 2003).
- <sup>56</sup> Adams, Richard, and Page, John (forthcoming 2004) op. cit.
- <sup>57</sup> Ibid.
- <sup>58</sup> *Report and Conclusions of the International Conference on Migrant Remittances* (London, UK, 9-10 October 2003): p. 6.
- <sup>59</sup> Horst, C, and Van Hear, N. "Counting the cost: refugees, remittances and the 'war against terrorism,'" *Forced Migration Review* (14 July 2001).
- <sup>60</sup> Pew Hispanic Center & Multilateral Investment Fund. *Billions in Motion – Latino Immigrants, Remittances and Banking* (Washington, D.C., 2002).
- <sup>61</sup> "Chinese Workers Transform Fortunes of Home Towns," *New York Times* (9 November 2003).
- <sup>62</sup> Afsar, Rita. "Internal migration and the development nexus: the case of Bangladesh," *Regional Conference on Migration Development Pro-Poor Policy Choices* (2003).
- <sup>63</sup> Grace, David. *Exploring the Credit Union Experience with Remittances in the Latin American Market* (forthcoming 2004).
- <sup>64</sup> El Qorchi, M, Maimbo, S, and Wilson, J. *Informal Funds Transfer Systems: An Analysis of the Informal Hawala System* (International Monetary Fund, 2003): pp. 7-8.
- <sup>65</sup> See generally *Report and Conclusions of the International Conference on Migrant Remittances* (London, UK, 9-10 October 2003).
- <sup>66</sup> Ibid.
- <sup>67</sup> Lowell, L, ILO. "Some Developmental Effects of the International Migration of Highly Skilled Persons," *International Migration Paper No. 46* (Geneva, Switzerland, 2001): p.17.
- <sup>68</sup> Stalker, P. "The Impact of Migration in Countries of Origin," (abstract of) *The Link Between Migration, Globalisation and Development, Report of Novib Expert Meeting* (13-14 March 2003).
- <sup>69</sup> ILO. *Towards a Fair Deal for Migrant Workers* (Geneva, Switzerland, 2004): p. 23.
- <sup>70</sup> Lowell, L, Findlay, A, ILO. "Migration of Highly Skilled Persons from Developing Countries – Impact and Policy Responses, Synthesis Report," *International Migration Paper No. 44* (Geneva, Switzerland, 2002).
- <sup>71</sup> ILO, "Mobilizing the Diaspora," *26<sup>th</sup> Meeting of the Regional African Labour and Social Affairs Commission* (Mauritius, 10-15 April 2003).
- <sup>72</sup> Lowell, L and Findlay, A, op. cit.
- <sup>73</sup> Stilwell, B, Diallo, K, Zurn, P, Dal Poz, M, Adams, O, and Buchan, J. "Developing evidence-based ethical policies on the migration of health workers: conceptual and practical challenges," *Human Resources for Health* (October 2003): p. 6: citing to Dovlo, 1999.
- <sup>74</sup> BBC News. *NHS and SA Strike Deal Over Staff* (24 October 2003), BBC website [URL: [www.bbc.com](http://www.bbc.com)].
- <sup>75</sup> Nyheter, Dagens. "Slöseri med högutbildade invandrare," *DN Debatt* (Stockholm, Sweden, 9 December 2003).
- <sup>76</sup> See e.g., Wickramasekara, P, ILO. "Policy responses to skilled migration: Retention, return and circulation," *ILO Perspectives on Labour Migration* (Geneva, Switzerland, 2002).
- <sup>77</sup> Alburo, F, and Abella, D, ILO. "Skilled Labour Migration from Developing Countries: Study on the Philippines," *International Migration Papers No.51* (Geneva, Switzerland, 2002).
- <sup>78</sup> IOM. *MIDA* (Geneva, Switzerland, 2002): p. 5.

### Chapter 4 (Human Rights of Migrants)

- <sup>79</sup> GCIM. *The Mandate* (Geneva, Switzerland, December 2003), GCIM website [URL: [http://www.gcim.org/a\\_mandate.htm](http://www.gcim.org/a_mandate.htm)].
- <sup>80</sup> UNHCHR. "Follow-up to the Durban Declaration and Programme of Action." *Fourteenth Meeting of Chairpersons of the human rights treaty bodies, Item 10 of the Provisional Agenda* (Geneva, Switzerland, 24-26 June 2002), UNHCHR Website [URL: [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/65df9d2f0b2af43fc1256bd700533522?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/65df9d2f0b2af43fc1256bd700533522?Opendocument)].
- <sup>81</sup> UNHCHR. *Commission on Human Rights Concludes Sixtieth Session*, UNHCHR Press Document (23 April 2004): UNHCHR Press Document [<http://www.unog.ch/news2/documents/newsen/cn04061e.htm>].
- <sup>82</sup> UNGA. (A/RES/55/93): (28 February 2001).
- <sup>83</sup> Ibid.
- <sup>84</sup> UNHCHR. *Human Rights in Action: Promoting and Protecting Rights Around the World* (Geneva, Switzerland, 16 July 2003).
- <sup>85</sup> UNHCR. *The Global Appeal 2004* (Geneva, Switzerland, 2004).
- <sup>86</sup> ICMC website [URL: <http://www.icmc.net/docs/en/programs>]; Some operational INGOs' advocacy work focuses on forcible displacement only, such as the ICRC and the NRC. ICRC website [URL: <http://www.icrc.org>]; NRC website [URL: <http://www.nrc.no>].
- <sup>87</sup> Amnesty International website [URL: <http://www.Amnesty.org>].
- <sup>88</sup> Human Rights Watch website [URL: <http://www.hrw.org>].
- <sup>89</sup> MRI was founded in 1994 during ICPD to promote the recognition and respect for the rights of all migrants and members of their

- families. A membership organization, MRI played a central role in the campaign for the ratification of the MWC. MRI also supports the efforts of migrant associations and other NGOs in advocating migrants' rights and monitoring trends and developments of migrants' rights and welfare. MRI is currently expanding the purview of its human rights work to include other migration-related topics such as trade and remittances. Like some other NGOs listed below, it is working to tie a broad set of issue areas including in this case, human rights, trade, globalization and migration. The following statement published in its report from the WTO Ministerial Conference in Cancun, illustrates this inter-linkage: "To illustrate by example, the violation of economic, social and cultural rights of people in extreme poverty, resulting from failed trade and economic policies, forces them to leave their home countries and become migrant workers abroad. A whole migration cycle is triggered, which simultaneously intersects with human rights violations occurring within the dominant context of corporate globalization." Genevieve Gencianos, MRI (Geneva), "Migration and Trade: A Report from Cancun," *Fifth WTO Ministerial Conference* (Cancun, Mexico, 10-14 September 2003): p. 5.
- <sup>90</sup> UNHCR. "Composite Flows and the Relationship to Refugee Outflows, including Return of persons not in need of international protection, as well as facilitation of return in its global dimension," *UNHCR Standing Committee, 12<sup>th</sup> meeting* (Geneva, Switzerland, May 1998); (EC/48/SC/CRP.29).
- <sup>91</sup> ICVA website [URL: <http://www.icva.ch>].
- <sup>92</sup> It is important to note that though the SID Process and its "Declaration of the Hague on the Future of Refugee and Migration Policy" (2002) share a comprehensive focus on migration issues, one of the key elements of the Process is to "emphasize the distinction between refugees and other migrants by continuing to recognize the needs and protections of refugees while seeking parallel options and solutions for other forms of migrants."
- <sup>93</sup> For additional research on this topic, see Colleen Thouez, *The Role of Civil Society in Shaping International Migration Policy*, Duke University, October 2003.
- <sup>94</sup> United Nations Commission on Human Rights. *Human Rights of Migrants* (Geneva, Switzerland, 2003); (E/CN.4/RES/2003/46).
- <sup>95</sup> Of the Filipinos reported to be living with HIV/AIDS, 28 per cent are workers who have returned home after working in other countries. About 41 per cent of HIV-positive Bangladeshis have been migrant workers. Research among truck drivers at five South African truck stops reveals an overall prevalence of 56 per cent, well above the national adult prevalence rate. The beginning of the HIV epidemic in rural Mexico can be traced to the return of agricultural labourers who had been working in the US. See UNAIDS. *Report on the Global HIV/AIDS Epidemic* (Geneva, Switzerland, July 2002): p. 114.
- <sup>96</sup> Allen, Christopher, and Nielsen, Jorgen S., European Monitoring Centre on Racism and Xenophobia (EUMC). *Summary Report on Islamophobia After 11 September 2001* (Vienna, May 2002), EUMC's website [URL: [http://eumc.eu.int/eumc/material/pub/anti-islam/Synthesis-report\\_en.pdf](http://eumc.eu.int/eumc/material/pub/anti-islam/Synthesis-report_en.pdf)].
- <sup>97</sup> Human Rights First (formerly the Lawyers Committee for Human Rights). *Human Rights First Welcomes Partial Suspension of 'Special Registration' Requirement Aimed at Arab and Muslim Visitors* (2 December 2003).
- <sup>98</sup> General Accounting Office (GAO). *Immigration Application Fees: Current Fees Are Not Sufficient to Fund US Citizenship and Immigration Services' Operations*. (Washington, DC, 5 January 2004).
- <sup>99</sup> One such story is highlighted here. CBC News Online. In depth: Maher Arar. (21 June 2004); CBC's website [URL: <http://www.cbc.ca/news/background/arar/>].
- <sup>100</sup> GCIM, op. cit.
- <sup>101</sup> UN Press Release. *Win-Win Outcomes Possible if Approach to Migration is Rational, Compassionate, Secretary-General Annan Tells New Global Commission*, Statement by Kofi Annan, United Nations Secretary-General. (Geneva, Switzerland, 9 December 2003); (SG/SM/9064).
- <sup>102</sup> UN Human Rights Committee. *CCPR General Comment No. 15: The Position of Aliens Under the Covenant* (Geneva, Switzerland, 1986).
- <sup>103</sup> The Foundation for the Refugee Education Trust (RET) was established in 2000 by the former UN High Commissioner for Refugees, Mrs. Sadako Ogata.
- <sup>104</sup> ICERD defines the term "racial discrimination" to mean "any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life."

## Chapter 5 (Economic Migration)

- <sup>105</sup> Excluding Palestinian refugees.
- <sup>106</sup> Insofar as economic constraints can be defined as free choice, or «voluntary» choices.
- <sup>107</sup> UN. "Programme of Action," *International Conference on Population and Development (ICPD)* (Cairo, Egypt, 5-13 September 1994): Chapter X §§10.1, and 10.5.
- <sup>108</sup> UN Department of Economic and Social Affairs Population Division. *Replacement Migration: Is it a solution to declining and aging populations* (New York, US, 21 March 2000); (ESA/P/WP.160).
- <sup>109</sup> Nyheter, Dagens. "Slöseri med högutbildade invandrare," *DN Debatt* (Stockholm, Sweden, 9 December 2003).
- <sup>110</sup> UNIFEM. *Human Rights Protections Applicable to Women Migrant Workers: A UNIFEM Briefing Paper* (New York, US, 2003).
- <sup>111</sup> IOM. *World Migration 2003: Managing Migration Challenges and Responses for People on the Move* (Geneva, Switzerland, 2003): p. 58.
- <sup>112</sup> *Ibid.*, in reference to the IOM citation on the United Kingdom Home Department (2002).
- <sup>113</sup> Migration News. "Borjas: Heaven's Door." (U.C. Davis, California): Migration News website [URL: [http://migration.ucdavis.edu/mn/comments.php?id=2528\\_0\\_5\\_0](http://migration.ucdavis.edu/mn/comments.php?id=2528_0_5_0)]
- <sup>114</sup> Taran, P, and Moreno-Fontes Chammartin, G, ILO. "Getting at the Roots: Stopping Exploitation of Migrant Workers by Organized Crime," *Perspectives on Labour Migration 1E* (Geneva, Switzerland, 2003).
- <sup>115</sup> *Ibid.*, p. 1.
- <sup>116</sup> IOM. *Labour Migration in Asia, Trends, challenges and policy responses in countries of origin* (Geneva, Switzerland, 2003).
- <sup>117</sup> Consejería agroalimentaria de Mexico en Canada, National Association of State Departments of Agriculture NASDA website [URL: <http://www.nasda-hq.org/accord/Mx-CanProgTrabAgr.pdf>].
- <sup>118</sup> ILO, Session III-B: "Regional Grouping and their role in employment policy."
- <sup>119</sup> SADC. Draft Protocol on the Free Movement of Persons in the Southern African Development Community (SADC).
- <sup>120</sup> WTO. *Communication from India, Proposed liberalization of the movement of professionals* (2000).

## Chapter 6 (Refugee Protection)

- <sup>121</sup> UN. "Programme of Action," *International Conference on Population and Development (ICPD)* (Cairo, Egypt, 5-13 September 1994): Chapter X, § D.
- <sup>122</sup> UNHCR. *Sharp Decline in Refugees, others of Concern in 2003*. UNHCR Press Release (17 June 2004); The decline is associated with the repatriation of refugees, including 1.1 million to Afghanistan, Angola, Burundi, Iraq, and other countries.
- <sup>123</sup> According to UNHCR, as of February 2004, 145 are State parties to one or both of the instruments.
- <sup>124</sup> Although technically there is no "right to be granted asylum" (as such a right does not appear in any legally-binding international document), the Universal Declaration of Human Rights asserts that everyone has "the right to seek and to enjoy in other countries asylum from persecution" (Article 14).
- <sup>125</sup> Goodwin-Gill, Guy. *The Refugee in International Law*, Second Edition (Oxford: Oxford University Press, 1998).
- <sup>126</sup> Such protection has as a corner stone the fundamental principle of non-refoulement- that is the prohibition on forcibly returning refugees to situations where they might be persecuted.
- <sup>127</sup> Trollalden, Jon Martin. "International Environmental Conflict Resolution," *World Foundation for Environment and Development* (Washington, DC, 1992): Chapter 9.
- <sup>128</sup> UNHCR's website [URL: [www.unhcr.ch/cgi-bin/texis/vtx/home](http://www.unhcr.ch/cgi-bin/texis/vtx/home)].
- <sup>129</sup> According to the United Nations High Commissioner for Refugees, Ruud Lubbers, the Agenda emphasizes both refugees' needs and solutions, to enable refugees to start a new life with dignity and to bring an end to their need for international protection (foreword to the third edition of the Agenda for Protection, October 2003).
- <sup>130</sup> Special agreements would be written arrangements worked out by Governments and UNHCR, intended to reflect an important degree of political commitment (and sometimes even be legally binding),



and concluded ultimately for the benefit of refugees. They would be generic or situation-specific.

- <sup>131</sup> UNHCR. *Opening Statement of the UNHCR at the Briefing/ Consultation on "Convention Plus" and the Forum* (Geneva, Switzerland, 7 March 2003).
- <sup>132</sup> A Convention Plus unit was created in Spring 2003. This UNHCR structure is in charge of disseminating information on the initiative and on detecting whether special agreements can be put in place.
- <sup>133</sup> The Organization of African Unity (OAU) founded in 1963 was replaced by the African Union (AU) in 2002.
- <sup>134</sup> UNHCR and IOM. "Refugee Protection and Migration Control: Perspectives from UNHCR and IOM," *Global Consultations on International Migration* (Geneva, Switzerland, 31 May 2001).
- <sup>135</sup> Further developed in IMP, "Reconciling Refugee Protection and Migration Control: Can it be Done?" *Twenty Fifth Round Table of The International Institute of Humanitarian Law on Current Problems of Humanitarian Law "Refugees: A Continuing Challenge"* (San Remo, Italy, 6 to 8 September 2001).
- <sup>136</sup> For additional information, see stories posted on UNHCR's website, including "Japan: Court Repeals Ministry Decision Denying Refugee Status for Afghan," (*Japan Economic Newswire*: 26 February 2004), "Australia Detention Center Criticized" (*Associated Press*: 6 February 2002), "Australia Eases Immigration Policies to Invite Thousands to Stay" (*Agence France Presse*: 13 July 2004), "Canada: Important Court Ruling" (*UNHCR Briefing Notes*: 15 January 2002), UNHCR's website [URL: <http://UNHCR.org>].
- <sup>137</sup> Definition given by Jeff Crisp, UNHCR. "No Solution in Sight: the Problem of Protracted Refugee Situations in Africa," *UNHCR Working Paper #75* (Geneva, Switzerland, January 2003). The concept of protracted refugee situation has also been defined by the UNHCR Africa Bureau as a situation "where, over time, there have been considerable changes in refugees' needs, which neither UNHCR, nor the host country have been able to address in a meaningful manner, thus leaving refugees in a state of material dependency and often without adequate access to basic rights... even after a substantial number of years spent in the host country".
- <sup>138</sup> The 1990s are often referred to as the "decade of repatriation" (as opposed to other durable solutions). Especially in Africa, the option of repatriation is seen as the preferred solution, rather than the local integration one, because refugees are often perceived as an economic and environmental burden, and sometimes also as a security threat, by countries that host them.
- <sup>139</sup> According to Jeff Crisp, as a result of limited access to land, refugees in protracted situations might resort to unsustainable farming practices to make ends meet or might encroach on land which they have no right to use.
- <sup>140</sup> Agenda for Protection, goal 1.
- <sup>141</sup> Agenda for Protection, goal 3, objective 5.
- <sup>142</sup> Agenda for Protection, goal 3, objective 4 and goal 5, objective 7.
- <sup>143</sup> *Report and Conclusions from IMP Follow-up Conference to the International Migration Policy Conference for East Africa, the Horn of Africa and the Great Lakes Region* (Addis Ababa, Ethiopia, 23-26 June 2003).
- <sup>144</sup> See also the Agenda for Protection, goal 3, objective 6, and goal 5, objective 5, which calls on States to examine ways in which resettlement capacities can be enhanced.
- <sup>145</sup> Agenda for Protection, goal 6 and goal 1, objective 10.
- <sup>146</sup> UN Secretary-General. *Women, Peace, and Security* (2002).
- <sup>147</sup> UNHCR. *Guidelines on International Protection: Gender-Related Persecution within the Context of Article 1A(2) on the 1951 Convention and or its 1967 Protocol Relating to the Status of Refugees* (Geneva, Switzerland, 7 May 2002): (HCR/GIP/02/01).
- <sup>148</sup> For more details, see UNHCR and Partner NGOs, *Protecting Refugees: A Field Guide for NGOs* (Geneva, Switzerland, May 1999).
- <sup>149</sup> UNGA. *Assistance to Unaccompanied Refugee Minors* (24 February 2004): (A/RES/58/150).
- <sup>150</sup> As part of the sixth goal of the Agenda for Protection, States commit themselves to accord greater importance to primary and secondary education for refugees, in recognition that education is an important tool of protection.
- <sup>151</sup> UN. "Madrid International Plan of Action on Ageing," *Second World Assembly on Ageing* (Madrid, Spain, 8-12 April 2002): § 55.
- <sup>152</sup> UN. "Building a Society for All Ages," *Second World Assembly on Ageing* (Madrid, Spain, 8-12 April 2002).

## Chapter 7 (Human Trafficking)

- <sup>153</sup> US Department of State. *Trafficking in Persons Report* (Washington, D.C., June 2004): p. 6. US Department of State website [URL: <http://www.State.gov/documents/organization/34158.pdf>].
- <sup>154</sup> *Ibid.*, p. 6 and 14.
- <sup>155</sup> *Ibid.*, 23.
- <sup>156</sup> UN. *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Protocol Against Transnational Organized Crime* (2000), G.A. res. 55/25, annex II, 55 U.N. GAOR Supp. (No. 49) at 60, U.N. Doc. A/45/49 (Vol. I, 2001).
- <sup>157</sup> UN. *Protocol Against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention Against Transnational Crime* (2001). G.A. res. 55/25, annex III, 55 U.N. GAOR Supp. (No. 49) at 65, U.N. Doc. A/45/49 (Vol. I) (2001).
- <sup>158</sup> UNGA Resolution 34/180 (18 December 1979): UNTS Vol. 1249, p.13; entry into force on 3 September 1981.
- <sup>159</sup> UN. *Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)*: supra at note 4, Article 6.
- <sup>160</sup> UN. CEDAW: Article 5 (a).
- <sup>161</sup> UN. CEDAW: Article 10.
- <sup>162</sup> UN. CEDAW: Art. 15.
- <sup>163</sup> UN. *Convention on the Rights of the Child (CRC)*, G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entry into force on 2 September 1990: Article 11.
- <sup>164</sup> UN. CRC: Article 35.
- <sup>165</sup> Stability Pact for Southeastern Europe. "Taskforce for Trafficking in Human Beings," *Annual Report on Victims of Trafficking in South Eastern Europe* (Vienna, Austria, September 2003).
- <sup>166</sup> IOM. *Trafficking in Women and Children from the Republic of Armenia: a Study* (Geneva, Switzerland, September 2001).
- <sup>167</sup> IOM. *Trafficking in Persons: An Analysis in Afghanistan* (Geneva, Switzerland, January 2004).
- <sup>168</sup> UN. Trafficking Protocol.
- <sup>169</sup> Anti-Slavery International. *The Migration-Trafficking Nexus: Combating Trafficking Through the Protection of Migrants' Human Rights* (November 2003).
- <sup>170</sup> UN. Trafficking Protocol, Article 6.
- <sup>171</sup> *Ibid.*
- <sup>172</sup> European Commission. *For further actions in the fight against trafficking in women*, Resolution on the Communication from the Commission to the Council and the European Parliament. (COM (1998) 726); (European Commission, Brussels, Belgium, 19 May 2000).

## Chapter 8 (Internal Migration)

- <sup>173</sup> NRC. *Internally Displaced People: A Global Survey* (Geneva, Switzerland, 2002).
- <sup>174</sup> UN. "Programme of Action," *The International Conference on Population and Development (ICPD)*, (Cairo, Egypt, 5-13 September 1994): Chapter IX, §9.2 (a).
- <sup>175</sup> *Ibid.*, Chapter IX, § 9.19.
- <sup>176</sup> UNCHS (UN Habitat). *State of World's Cities Report 2001* (Nairobi, Kenya, 2001): p.6.
- <sup>177</sup> *Ibid.*
- <sup>178</sup> "Shanghai's Population Swells to 20 Million," *International Herald Tribune* (8 December 2003).
- <sup>179</sup> UNCHS (UN Habitat) 2001, op. cit. p. 8.
- <sup>180</sup> *Ibid.*
- <sup>181</sup> UNCHS (UN Habitat). *The Challenge of Slums—Global Report on Human Settlements* (Nairobi, Kenya, 2003).
- <sup>182</sup> UNCHS (UN Habitat) 2001, op. cit., p. 12.
- <sup>183</sup> *Ibid.*, p. 18.
- <sup>184</sup> UNFPA. *State of World Population Report 2003* (New York, US, 2003): p. 7.
- <sup>185</sup> UNFPA. *State of World Population Report 2001* (New York, US, 2001): p. 34.
- <sup>186</sup> UN. "Programme of Action," *The International Conference on Population and Development*, (Cairo, Egypt, 5-13 September 1994): Chapter IX, §9.2(b).
- <sup>187</sup> UNFPA, 2001, op. cit., p. 36.
- <sup>188</sup> UNEP. "Global Environment Outlook – 3, Latin America and the Caribbean," *UNEP Fact Sheet*. (Nairobi, Kenya, 2002).
- <sup>189</sup> UNEP. *UNEP in 2002* (Nairobi, Kenya, 2002): p. 49.
- <sup>190</sup> UN. "Programme of Action," ICPD, (Cairo, Egypt, 5-13 September 1994): Chapter IX, §9.8.



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