

COMMEMORATION OF 20TH ANNIVERSARY
1990 INTERNATIONAL CONVENTION ON THE PROTECTION OF ALL
MIGRANT WORKERS AND THEIR FAMILIES

PROTECTING MIGRANTS, BUILDING COOPERATION

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(draft)

SPEAKING POINTS FOR ILO EXECUTIVE DIRECTOR GUY RYDER

Introduction

The challenges of protection of migrant workers and regulation of migration are central issues for decent work, for economic performance and for governance around the world.

Migration continues to grow in numbers because it is essential for the present and future well-being, if not economic survival, of many countries. Nearly a century of efforts by the ILO amply show that protection of migrant workers rights is inseparable from obtaining decent work and consequently, achieving human and economic development.

On behalf of the International Labour Organization and its tripartite constituents, I add our voice to this commemoration of the 20th anniversary of the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Their Families. This year is also the 35th anniversary year for the complementary ILO Convention 143 on migrant workers.

These two Conventions, together with the pioneering ILO Convention 97 on migration for employment of 1949, provide the foundation to govern international migration today.

The 1990 International Convention rightly emphasizes migrant workers in its very title. In fact, it is the core international human rights treaty which most amply and most explicitly incorporates labour rights into a core international human rights instrument.

This is no more than a reflection of the reality of migration today, and of the risks migrants face as workers or members of their families.

A recent ILO estimate indicates that some 105 million of the total 214 million people living outside their countries of birth or citizenship in 2010 are economically active.¹ That is to say that most if not nearly all migrants of working age are employed, self employed or otherwise engaged in remunerative activity. Taking into account an average of one accompanying dependent per economically active migrant, we count more than 200 million persons of concern, around 90% of the total population of people living outside their country of origin.

Migration is an essential feature of globalization

Migration today has become an essential feature of globalization. It is the internationalization of labour mobility. It is about the increasing demand for skills and labour in countries with ageing populations and undergoing industrial and technological transformations. Sadly, migration also remains a consequence of lack of development and, sometimes, lack of respect for human rights in some countries.

This internationalized labour and skills mobility provides a growing number of countries with people –professionals and workers—they need to keep economies working. In turn, remittances, skills and knowledge transfers, investments, and international business activity accelerated by migration contributes significantly to economic and social advances in origin as well as destination countries.

However, the migratory and employment experience for many migrants is lack of respect for their rights and dignity as human beings. This means abuse and exploitation in work places, absence of health and safety protections, and often non-payment of wages. It also means denial of fundamental freedom of association and collective bargaining rights. Migrant workers in irregular situations are even more vulnerable to exploitation and abuse.

We see that the presence of unauthorized migrants seems all too often tolerated in certain circumstances –such as where national workers are unavailable or to sustain economic activity

¹ ILO. A Rights Based Approach to Labour Migration. 2010.

that would otherwise disappear. Flows of low-skilled migrants are channelled by clandestine means precisely because of non-existence of legal migration regimes that allow for legal entry of needed labour in destination countries.

International Standards for a rights based approach

Historical experience shows that reducing exploitation and ensuring equality of treatment are essential elements for building prosperity, social cohesion and democratic governance. A comprehensive body of law recognizing and providing for protection of rights of migrants evolved over the last century. Several instruments --each building on the previous-- reflect historical experience that well-being and social peace can only be sustained by democratic rule and under the rule of law.

In contrast, non-protection of a substantial group of people poses a serious challenge to the rule of law, to democratic governance and to social cohesion. The non-application of international standards risks formalizing socially marginalized, legally unprotected and often racially differentiated groups, a differentiation all too often justified by reinforcement of exclusive ethnic and national identities. Recent manifestations of discontent and sometimes-violent protests along with police repression in communities of immigrant origin around the world highlight the threat to social cohesion arising from exclusion.

International law provides protections for migrant workers that are essential for maintaining social cohesion and supporting migrants' contributions to development. These principles and their application to non-nationals are universal norms laid out in fundamental international human rights instruments and in complementary International Labour Standards.

Migrants in authorized status are entitled to equality of treatment and non-discrimination vis-à-vis nationals in employment and work; only this will prevent unfair competition, ensure equitable labour markets and decent work for national and foreign workers alike.

Universal human rights apply to all migrants, regardless of immigration status. All are human beings, and must be treated as such in law and policy; doing otherwise is license for exclusion and social conflict. Use of such terminology as "illegal" migration and "illegal migrants"

exacerbates the exclusion of migrants in irregular situations because it denies their humanity – implying that they are not entitled to human rights protection.

As emphasized by the Inter-American Court of Human Rights, International Labour Standards providing protection in treatment and conditions at work –safety, health, working time, remuneration, non-discrimination, freedom of association, etc.—apply to all workers.

The 1990 Convention and its partners

While the 1990 Convention is the broadest of three international instruments that define human and labour rights of migrant workers, it was built on and inspired by the earlier ILO Conventions 97 and 143 on migration for employment. We have long said that these three instruments comprise together an *international charter on migration* that provides a broad and comprehensive framework covering most issues of treatment of migrants.

We highlight that 83 countries have now ratified at least one of these three complementary instruments, meaning that nearly two-thirds of the 130 some countries for which migration is an important feature have incorporated international standards as a basis for migration law and policy.

The protection for migrants and guidelines for international cooperation provided by these instruments becomes more essential than ever in the context of the global financial crisis, which has evolved into a deepening global employment crisis.

Data compiled by ILO, IOM and other institutions confirms that the crisis has had especially serious impacts on migrants around the world: migrants and persons of foreign origin are disproportionately among those rendered unemployed; migrants remaining employed face reductions in pay and working time, and worsening working conditions. Migrant workers have less access to social safety net support; and migrants find themselves compelled to take whatever work they can get, often at more substandard pay and abusive conditions than before. Of particular concern, scapegoating of migrants and xenophobic violence against foreigners are clearly on the rise across the globe.

Marking progress

This 20th anniversary is an occasion to mark progress already made. This progress is certainly in part due to the indefeatable efforts of social partner and civil society organizations, often working in partnership with governments. Here I salute the inspiration and guidance provided by the Steering Committee for the campaign on the Convention, a unique body comprising international NGOs, trade union federations and several international organizations. We are proud that ILO has had an active and sometimes leading role in this cooperative effort.

Wider ratification and application of these Conventions will properly set migration policy and practices on a foundation in the rule of law. It is also urgent to call for strengthening anti-discrimination measures and discourse. This means engaging all appropriate legal and administrative means to repress racist violence and xenophobia against foreigners, and to prosecute perpetrators to the fullest extent of the law, wherever this ugly scourge appears.

May I assure you of our ILO commitment to assist member countries in implementing the rule of law for people on the move.

The challenges of meeting economic needs in a globalized world, ensuring productivity and competitiveness, and improving well-being necessarily mean migration and increasing diversity everywhere. However, how our societies treat migrants will determine whether we succeed in building societies of justice, dignity, decent work, and human security for all.

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