



## Workshop “Migrant Workers: Protection of Labour Rights and Labour Market Programs”

Ottawa, Canada, November 28-29, 2006

### SUMMARY AND PROPOSALS FOR FUTURE WORK

This Workshop was attended by 28 countries of the Hemisphere, who shared best practices aimed at promoting labor rights of migrant workers, as well as bilateral programs and agreements.

The following are themes that emerged during the presentations and discussions that took place during the Workshop. The complete proceedings of the meeting, including presentations, speeches and documents are available in the following website: <http://www.sedi.oas.org/ddse/migrantes>.

#### I. Summary

##### Regarding labor migration policies in the Hemisphere

- The scope and significance of migration have increased in the hemisphere in the last decade, involving every nation of the Hemisphere and making it necessary for national governments to work towards transparent and orderly management of labor migration. Programs implemented by host countries and bilateral collaboration have, in some cases, contributed towards that end. Additionally, international human rights and labor rights instruments and frameworks (UN, ILO, OAS, regional organizations) can inform such programs and provide useful elements to protect migrants, recognizing that, as reaffirmed in the Declaration of Mexico and the Declaration of Mar del Plata of the IV Summit of the Americas, all migrants, regardless of their immigration status, should be accorded the full protection of human rights and the full observance of labor laws applicable to them.
- Policy articulation which recognizes the intersectoral nature of migration is desirable in the management of this phenomenon. Formulation and implementation of national migration policies often benefits from the involvement of diverse federal government branches (Labour, Foreign Affairs, Interior, Justice, Health, Education), as well as social actors and civil society. In this sense, the experience of the National Migration Council of Brazil is highlighted.
- National policies should attempt to address provincial and local realities, where relevant, and may benefit from programs and agreements undertaken at those levels.
- In accordance with domestic law, providing appropriate access to social security for migrant workers and their families requires bilateral and multilateral agreements between sending and receiving countries. These agreements should respect the rights of workers, as well as the principles of universality and equal treatment. Of particular note are pension agreements that take into account the issues of pension transference (pension exporting) and contribution periods.
- The discussion of migration includes other relevant issues, such as the impact of remittances and the possibility of developing programs designed to facilitate remittance transfers, while respecting national laws, as well as individual interests and decisions.
- Statistical information on migration is scarce or non existent; however, reliable, timely data is fundamental to understanding this phenomenon and informing policy. Useful information would include, *inter alia*, statistics by sector and disaggregated by gender and age.

### **Regarding the promotion and respect of labor rights of migrant workers:**

- Information dissemination and communication strategies are effective means to inform migrant workers of their rights and responsibilities. Some countries' experiences demonstrated the value of adapting information to the educational level and qualification of workers; making information available in the relevant language; and addressing the specific concerns of different sectors or economic activities
- The labor rights of migrant workers are also protected through: employer compliance with the applicable labor laws; government efforts to effectively enforce labor laws; and programs to inform and raise awareness on labor rights, addressed to the communities hosting these workers.
- Consulates and civil society organizations (including churches) often play a significant role in implementing these strategies.
- Training labor inspectors, consulate officers, local authorities and community leaders on labor rights of migrant workers has proven to be necessary constructive, useful and relevant. Schemes of "training the trainers" have been used towards this end.
- Cooperation between consulates (from sending country) and labor offices (from receiving country) results in improved outcomes for programs to promote labor rights of migrant workers.

### **Regarding the role of the Ministries of Labor**

Some of the Ministries of Labor or Human Resources or Employment have played the following key roles in the development and implementation of national migration policies:

- Provide information on the labor market (e.g. labor force shortages – needs of the productive sector) thereby enabling informed policy choices for managed migration at the national level (experience of Canada's FWP clearly shows this role).
- Promote, whenever possible and in accordance with their mandates, the participation of social actors in the formulation and execution of national migration policy and encourage participation of any stakeholder.
- Contribute as appropriate towards the policy development and implementation of national migration policies in relation to temporary and permanent migrant workers.
- Enforce labor laws and equal treatment in the application of labor standards that are applicable to migrant workers, regardless of their immigration status, in accordance with articles 26, 27 and 28 of the Declaration of Mar del Plata, approved by heads of State of the Americas in the IV Summit of the Americas in November, 2005.
- Undertake inspections of the labor conditions of migrants, giving special emphasis to occupational health and safety conditions and other issues that correspond with the Ministries' mandates.

**II. Suggestions from the Workshop participants for future work of the IACML -** To be considered by the IACML Working Groups in their meeting in May, 2007.

- Explore the possibility, together with COSATE and CEATAL, of organizing a tripartite workshop on how employers and workers might effectively participate in dialogue on these issues within their respective countries. This workshop would be organized jointly by the OAS and the ILO.
- The upcoming RIAL/IACML workshop on Social Security could include a discussion on bilateral and multilateral agreements related to social security, such as pensions, which would explore with greater detail how these agreements operate and what the lessons learned and challenges are. This discussion should also take into account the particular situation and capabilities of each country.
- Examine the possibility of cooperation between the North-South Institute and the OAS to broadly disseminate the former's grass-roots research methodology, as they are already doing with some Caribbean countries.
- Continue information exchange regarding the activities and discussions on this topic in other regional and international fora, to improve our understanding of the complexities of the issues and to avoid duplication of activities.
- Reiterate the importance of having the Technical Secretariat (DSDE/OAS):
  - o continue serving as liaison between the IACML and the Inter-American Program on Migrants (approved by the OAS General Assembly in 2004 – AG/RES.2141 – XXXV-O/05) and maintain on-going communication with the Special Rapporteur on Migrant Workers and their Families of the Inter-American Commission on Human Rights (IACHR); and present periodic reports on this topic, including at the XV IACML.
  - o provide reports and follow-up on the decisions and activities of other regional and international fora dealing with migration issues, such as the annual Regional Consultation Forum for North America and Central America (Puebla Process), the UN High-Level Dialogue on International Migration and Development, the Ibero-American Summit, the Global Forum on Migration and Development, among other; and
  - o follow-up on the mandates relating to labor rights of migrant workers and migratory processes contained in the Declaration and Plan of Action of Mar del Plata, approved in the IV Summit of the Americas in November, 2005, and in the Hemispheric Agenda for Decent Work of the ILO, noted by the XVI Regional American Meeting in Brasilia in May, 2006.