
INTERLINKAGES BETWEEN THE RIGHT TO DEVELOPMENT AND THE RIGHT TO FREEDOM OF MOVEMENT

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Migration had become a subject of an active inter-state dialogue during the last two decades. The first such high level dialogue on international migration and development took place in 2006. Migration and development are highly interdependent processes. The article analyses their interlinkages.

Key words: the right to development, the right to freedom of Movement, international migration, migrant workers.

The International Covenant on Civil and Political Rights [2] (hereinafter referred to as «the ICCPR») was adopted and opened for signature, ratification and accession by the General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force on 23 March 1976, 167 state parties [3]. The ICCPR is a multilateral treaty; it is part of the International Bill of Human Rights.

The right to freedom of movement is fixed in paragraph 2, article 12, which states, «Everyone shall be free to leave any country, including his own». Citizens of a State are always lawfully within the territory of that State [6. P. 2]. The Human Rights Committee (hereinafter referred to as «the CCPR») assert that an alien who entered the State illegally, but whose status has been regularized, must be considered to be lawfully within the territory for the purposes of article 12. Paragraph 3, article 12, provides for exceptional circumstances in which rights under paragraph 2 may be restricted. This provision authorizes the State to restrict these rights only to protect national security, public order, public health or morals and the rights and freedoms of others. To be permissible, restrictions must be provided by law, must be necessary in a democratic society for the protection of these purposes, and must be consistent with all other rights recognized in the ICCPR.

Freedom of movement is also fixed in article 13 of the Universal Declaration of Human Rights (1948) [7].

The United Nations Declaration on the Right to Development was adopted by the General Assembly resolution 41/128 of 4 December 1986 [1]. Paragraph 1, article 1 states that «The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized». The human person is the central subject of development (paragraph 1, article 2).

Liberty of movement is an indispensable condition for the free development of a person. Realization of the right to freedom of movement from one state to another is international migration. Migration and development are highly interdependent processes [4]. Different branches of international public law such as human rights law, humanitarian law, labour law, refugee law, consular law and maritime law regulate international migration [5]. States set the conditions under which foreigners may enter, stay or exercise an economic activity in their territories, thus creating different categories of migrants (for example Migrant workers) [8]. Today, the world hosts an estimated 232 million international migrants [9]. Large numbers of foreigners are admitted (to the Organization for Economic Co-operation and Development (OECD) countries) in categories other than as migrant workers. Nevertheless, irrespective of category of admission, migrants often join the labour force. That is, migrants become workers even if they are not admitted specifically as migrant workers. Migrants admitted for purposes of family reunification, as refugees or even as students may join the labour force. Both men and women in the different migrant categories may work. It can be concluded that people migrate first of all for employment.

Interlinkages between international migration and Development

Development: 1. Economic, 2. Human and 3. Political

1. Economic development:

– The foreign exchange inflows associated with remittances improve the creditworthiness of receiving countries, lower their borrowing costs and provide reliable financing in times of instability.

– Migrants promote foreign investment in countries of origin, as investors themselves, and also by reducing reputational barriers to trade and tapping their business connections. Networks linking scientific and technical personnel at home with their migrant counterparts abroad enable the transfer of knowledge and of productive and technological know-how.

– Migration reduces poverty on an extraordinary scale. Migrants play an important role in the global economy, helping meet critical needs for skills and labour. Destination countries rely on them to fill gaps in the labour market at all levels and to open up new markets.

– Migrants contribute as entrepreneurs, starting businesses and employing others.

– Immigrants represent an important and growing force for innovation and entrepreneurship, especially in the fields of science, technology, engineering and mathematics. Since 1975, patents obtained in the United States by persons of Chinese and Indian descent increased from less than 2 per cent to 9 per cent and 6 per cent, respectively, while patents registered by inventors of European descent fell from 90 per cent to 76 per cent.

– Remittances to developing countries declined by 4.8 per cent in 2009 during the financial crisis, after growing by 16.5 and 22.9 per cent in the two previous years. They recovered quickly, however, and are expected to grow by an annual average of 8.8 per cent for the next three years, reaching \$515 billion in 2015.

Negative Impact

– Recent evidence also shows substantial migration of talented and educated people between developing countries. The negative effects of emigration of the highly skilled, the so-called «brain drain» has been well documented, with the loss of human capital affecting the provision of basic services, draining fiscal resources and reducing economic growth in some contexts. Emigration of teachers and health-care workers has weakened service delivery in some countries.

Emigration may also induce upward pressure on wages and reduce unemployment or underemployment in origin countries, especially in times of high joblessness and economic stagnation.

2. Human development:

– Migrants' remittances increase family incomes and help defray education and health costs, thereby improving human capital. Households receiving remittances from migrant relatives are not only more likely to invest but also, by spending more, help to raise incomes elsewhere in the economy. Because of multiplier effects, the economic impact of remittances is mostly found in the broader economy and depends on the ability of households to make productive investments.

– When they move, some migrants multiply their income and double the school enrolment rates of their children. The monies they send to family members back home help them attend school, pay for medical care and equip houses with water and electricity. Formal remittance flows to developing countries alone grew to \$401 billion last year.

– Remittances are an important source of income for households in developing countries. A recent study of the United Nations Conference on Trade and Development, using data from 77 developing countries, found that a 10 per cent rise in remittances was estimated to lead to a 3.1 per cent reduction in the poverty headcount ratio (Eradicate extreme poverty and hunger is one of the goals of the Millennium Development Goals).

3. Political development:

– Governments understand that their citizens working abroad can be development assets and are strengthening ties with them.

– The benefits of international migration, not only for migrants themselves, but equally for receiving societies, are contingent on the protection of migrant rights. Labour rights are the mainstay in the prevention of exploitation and ought to be fiercely safeguarded. Migrants in an irregular situation are even more vulnerable, particularly with respect to employment.

– Meaningful international cooperation is already evident. Remittance fees have been nearly halved. New norms are being established: the Domestic Workers Convention will help protect some of the most vulnerable migrants. Many countries, meanwhile, are beginning to integrate migration into their development strategies.

– The contributions of migrant and diaspora communities are increasingly recognized in countries of destination and origin in the form of remittances, innovation, trade and investment, and through the transfer of technology, skills and knowledge.

– International migration, development and human rights are intrinsically interconnected. Respecting the human rights and fundamental freedoms of all migrants is

essential for reaping the full benefits of international migration. Migrants in an irregular situation are particularly vulnerable to discrimination and abuse [10].

By June 2012, 83 States had ratified at least one of three international instruments related to migrant workers, namely, the 1949 International Labour Organization (ILO) Convention concerning Migration for Employment (Revised) (No. 97), the 1975 ILO Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers (Supplementary Provisions) (No. 143) and the 1990 United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Member States that had ratified at least one of the three international instruments hosted approximately 68 million international migrants in 2010, almost one third of the global migrant population.

– In follow-up to the 2006 High-level Dialogue, the United Nations system has stepped up efforts to assist Member States in building institutional capacities to develop, formulate and implement evidence-based policies on international migration and development.

It can be concluded that the impact of migration on development can be both positive and negative. In those areas where migration can be identified as a challenge (for example «brain drain»), the international community needs to develop migration management strategies in order to address the negative effect of migration on development.

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ВЗАИМОСВЯЗИ МЕЖДУ ПРАВОМ НА РАЗВИТИЕ И ПРАВОМ НА СВОБОДНОЕ ПЕРЕДВИЖЕНИЕ

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За последние двадцать лет миграция стала предметом активного межгосударственного диалога. Первый подобный диалог на высоком уровне состоялся в 2006 г. Миграция и развитие являются взаимозависимыми процессами. В статье рассматриваются их взаимосвязи.

Ключевые слова: право на развитие, право на свободное передвижение, международная миграция, работники-мигранты.