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Roundtable 2: Migrant Integration, reintegration and circulation for development

Session 2.2: Reintegration and circular migration-effective for development?

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Labor migration remains a controversial issue as governments struggle to develop migration policies that fit their own national interests and the reality of the global economy. Around the world, workers and their organizations are forcefully engaging in the migration debate, which for too long has centered almost exclusively on the needs of business. This paper examines the current labor migration discourse, provides a critique of the “circular migration” frame, and suggests an alternative approach based on an agenda for shared prosperity.

There is overwhelming, if not universal, agreement among worker advocates worldwide that temporary worker programs operate to the detriment of workers. Advocates have not reached this conclusion lightly; it is the product of our long, common experiences with workers who have labored in these programs -- both at home and in host countries—as well as our experiences in working with local governments and

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communities, who are left to deal with the poverty, social unrest, and other social problems that these programs have caused. Indeed, as a report published by the Southern Poverty Law Center, a US-based NGO whose mission is to fight racism and inequality, makes clear one of the most popular temporary worker programs in the United States (the H2B program) is “close to slavery.” (Bauer 2007.)

Policymakers appear to have distanced themselves from the label “temporary worker programs.” Instead, the discourse now centers on “circular migration programs,” which, as many well-known and well-respected scholars insist, are not temporary worker programs, but reflect a new understanding of labor migration. The Migration Policy Institute, for example, explains that “circular migration is different from temporary migration in that circular migration denotes a migrant’s continuous engagement in both home and adopted countries; it usually involves both *return* and *repetition*.” (Newland 2008.) That is now the dominant frame.

Worker advocates are naturally suspicious of this new frame. For one, the programs that are now being touted as examples of successful circular migration programs are, in fact, the very same programs that were being touted as successful temporary worker programs—with the Canadian agricultural program most often cited as the example of a “best practice.” For another, the purported benefits of “circular migration” are the same that were promoted in relation to temporary worker programs, which did not value workers’ rights, but rather treated them as bundles that may be traded away in exchange for access to labor markets where wages are higher than in home countries.

The predominant frame—the “win-win-win solution,”—promotes circular migration as: (1) benefiting sending countries by ensuring the flow of remittances for development; (2) benefiting receiving countries by plugging labor shortages and ensuring that temporary migrants leave; and (3) benefiting employers by allowing them to recruit from a known and reliable pool of workers, retaining trained and experienced people and keeping wages low. (Vertovec 2007). Some scholars have attempted to include migrants in the triple-win solution, arguing that workers are able to support their families with wages far above what they could earn at home, and that structured temporary migration is less risky for migrants than irregular migration, which sometimes results in death. (Shuker, Standnyk, 2008, Newland et al. 2009). As discussed below, so far, migrants are not winners in current circular migration models.

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The fundamental problem with the current approach is that it is based on values that are antithetical to social and economic justice. It treats migration as a problem to be solved, migrants as little more than commodities who are justifiably not accepted as full members of their host countries, and workers rights as fungible. The current approach continues to enforce low-wage competition and appears to accept that xenophobia and racism are naturally occurring conditions--factors that pose a serious threat to successful integration of migrants. A selling point of the triple-win solution, for example, is that it does not encourage permanent settlement, thus making it more readily acceptable to national constituencies. In other words, the model feeds the xenophobic instincts of those who don't want foreigners among them. The sociologist Doug Massey has recently released a study that concludes that "the greatest threat to the successful assimilation of immigrants comes from the rejection, exclusion, and discrimination that immigrants experience in the United States." (Massey 2009).

Consider a different frame, one that doesn't treat migration as a problem but as a human condition that has existed throughout time, which should be addressed through a strategy for shared prosperity and not merely "managed."

The shared prosperity strategy proposes that nations compete by improving value added (productivity and quality), not merely by continuing downward pressure on wages. A value added strategy emphasizes the need for creativity and innovation, which result from a diverse population and ambitious people seeking to improve their lives—all of which are enhanced by migration, which requires significant national and international investment in policies and programs that fight racism and xenophobia and promote social, cultural and economic integration. The shared prosperity strategy also assumes that international wage convergence will be better achieved by improving both value added and wages in developing economies and less by reducing wages in developed nations to those of low-wage economies. The shared prosperity strategy likewise implies heavy attention to improving the education and skills of all workers including those in receiving countries and recent immigrants, rather than exclusively relying on importing skilled workers from other countries, thus mitigating the "brain drain." And the shared prosperity strategy emphasizes measures to protect the wages and working conditions of foreign and domestic workers. (Marshall 2009).

The shared prosperity approach also meets the legitimate needs of business. As Edward Potter, Director of Global Labor Relations for the Coca-Cola Company explains,

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“[c]ompanies are increasingly realizing that good human rights practices can be a source of competitive advantage.” Indeed, “businesses increasingly understand that positively impacting human rights is in the interests of their employees, the communities in which they operate, and their own bottom line.” (Potter 2009.)

Rethinking the Current Frame

The predominant approach to circular migration does not advance a shared prosperity strategy. As proof, one need look no further than the Canadian model, which is often touted as the “gold standard” in circular migration programs. The Seasonal Agricultural Workers Program (SAWP) brings in approximately 20,000 workers from Mexico and Central American and Caribbean countries to work on Canadian farms. Workers are in Canada from early January to mid-December and individual contracts may last up to eighteen months. Visa restrictions bind workers to a single employer, but workers can be transferred to another employer with the approval of the Canadian government.

Some of the factors considered by scholars and commentators in measuring the success of a circular migration program are: a high rate of voluntary return to the program, a low rate of forced return to the home country, and a high rate of employer participation. These factors score particularly well with fans of the SAWP.

A high rate of voluntary return to the program, for example, is often used as evidence of the SAWP’s success, as is the low rate of forced return home. Indeed, the high rate of return is something that gains particularly high marks from academics, who note that employers “benefit from the return of experienced workers, thus lowering their training costs and increasing productivity.” (MPI 2008). The fact that Mexican officials conduct inspections in Canada and are designated to defend worker rights is also put forth as an attribute. In theory, if workers are unhappy with their conditions, they will not return to the program, or they will leave mid-stream. And if abused, they will complain to their own government’s agents, who are readily accessible and whose mission it is to protect Mexican citizens. Thus, voluntary return and lack of complaints to the Mexican authorities are seen as indicators of worker satisfaction.

In reality, those factors are the product of a structure that keeps workers silent and dependent on the program for their economic well-being. For example, Mexican officials

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designated to defend worker rights have a dual role of ensuring worker protection and ensuring that the country stays in the program. Given that employers can switch from Mexico to any other country in the SAWP, for any or no reason at all, Mexican officials work very hard to please employers so that they will not leave. (Preibisch 2004.) In order to avoid “losing the farm to another country,” Mexican officials often dissuade workers from reporting substandard workplace conditions or abuse, as is vividly shown in the documentary *El Contrato* produced by the National Film Board of Canada. In one scene, Mexican government representatives are in an informal meeting with workers who are complaining about lack of water, proper housing and other conditions. The agents remind workers that they are the face of Mexico in Canada and that they are responsible for making Mexico look good. In other words: keep your complaints to yourselves. In another scene, the same representatives are shown cozying up to and socializing with employers. The film makes clear the priorities of the Mexican government.

The failure of Mexican officials to monitor compliance with labor standards and living conditions is particularly troubling because workers in the SAWP have no formal grievance or dispute resolution mechanism to enforce their rights under their contracts. Farm workers do not have the right to bargain collectively. If a SAWP worker is fired, which can happen for “non-compliance, refusal to work, or any other sufficient reason,” the worker must leave Canada as soon as his employment ends, making it impossible for the worker to seek redress from a Canadian court or employment tribunal. (Brem 2006.)

Similarly, rates of forced return are low not because workers have nothing to complain about, but because the threat of repatriation is an effective mechanism of control. The Canadian sociologist Kerry Preibich and others have documented instances where workers were repatriated for falling ill, refusing work, complaining about housing and working conditions, or having unauthorized visitors on the property. (Brem 2006, Preibisch 2004, Basok 2002, UFCW 2002, Cross 2003, Preibisch 2000, Smart 1998). Workers thus learn quickly that they shouldn't complain because if they do, they'll lose their job, a punishment they can ill afford. Indeed, as Preibich notes, it is estimated that Mexican workers earn five to six times more per year in Canada than what they would earn in Mexico.

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Other practices in the SAWP that gain high marks from circular migration proponents are that employers are allowed to request the workers they wish to recruit by name each year, and that at the end of every season, each worker must submit a sealed evaluation completed by the employer to Mexico's Ministry of Labor, in Mexico, in order to remain in the program. Employers like the ability to choose workers by name because, they claim, it reduces turnover (and thus the cost of training). They like the evaluation process because, they say, it fosters a high degree of worker self-discipline. In reality, those practices give employers the power to silence workers: a negative evaluation means that a worker will not be chosen by name (that is, will be blacklisted) or transferred to a less attractive placement. (Preibisch 2004, Basko 2002).

An often ignored structural flaw in temporary worker programs is very much alive—and equally ignored—in the circular migration model, that is, that the programs allow employers to bypass national human rights and employment laws by using employment practices that are clearly contrary to national law. The SAWP again provides a useful example. Canada prohibits discrimination in employment, including hiring and recruitment, through its constitution and human rights legislation.¹ Illegal discrimination “takes place when an employer restricts employment opportunities for particular positions on the basis that do not affect the ability to do the work.” (Long 2003.) If a Canadian employer were to advertise for married men with dependents in Canada, for example, that would clearly be in violation of law. Yet, the SAWP preference in recruitment has been for married men with dependents, which is something that academics reviewing the program appear to consider a positive, as it “helps maintain circularity,” (MPI 2009), or in other words, the characteristics of those workers prevent them from attempting to stay in Canada through marriage or illegally. (Preibisch 2004).

It is also important for policymakers to note that social inclusion has been virtually non-existent for workers in the SAWP. Workers in the program are invisible to the larger community. For example, in Ontario (where 85% of the workers are employed), employers make efforts to conceal workers' living quarters so that the community will not complain. (Preibisch 2004.) The sociologist Tanya Basok has concluded that “[because of the isolation of the work environment and housing arrangements, Mexican

¹ See *Canadian Charter of Rights and Freedom*, Part I of the *Constitution Act*, 1982, being Schedule B of the *Canada Act 1982* (U.K.) 1982, c. 11.

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workers are excluded from the social world of the community [in which they live and work.]” Moreover, workers’ long hours and demanding physical tasks prevent them from exercising a social life, and the very low wages that workers actually receive makes them less likely to spend money on socializing. (Preibisch 2004.) The result is that workers are isolated and marginalized.

Thus, the attempt of some scholars to portray the program as beneficial to workers misses the mark. The claim that “SAWP participants (who are mostly poor farmers or day laborers) have a higher quality of life because they avoid the dangers and high cost of illegal immigration” (MPI 2009) shows that workers are in a no-win situation: risk death or accept exploitation. Indeed, as various scholars who have studied the SAWP have concluded, workers accept their conditions of employment because of economic necessity and limited social mobility. (Preibisch 2004, Knowles 1997, Basok 2002).

Similar problems exist with other models touted by the proponents of the new circular migration frame, including programs in Asia and Africa.

The Alternative Model: Migration Policies as Component of an Agenda for Shared Prosperity

As noted above, the shared prosperity model focuses on improving productivity and quality; limiting wage competition; strengthening labor standards, especially the right of workers to organize and bargain collectively; and providing social safety nets and high-quality lifelong education and training for workers and their families. (Marshall 2009). At its core, it ensures that workers migrate with full rights and social protection.

The shared prosperity approach does not *per se* demand drastic reduction of migrant flows. It provides a normative framework for labor migration policy, which may or may not result in increased (or reduced) flows. The framework encourages just and humane economic integration, which will eliminate the enormous social and economic inequalities at both national and international levels that create strong pressures to emigrate. In other words, the shared prosperity framework recognizes that migration should be a choice, not a necessity.

The starting point for a shared prosperity approach is reference to international instruments that codify human rights into legal standards, which is in line with the recommendations of the 2008 GFMD (Session 1.1 Protecting the Rights of Migrants—A

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Shared Responsibility.) The ILO has established a broad normative framework for managing migration through a rights-based approach. ILO Conventions 97 and 143 and the 1990 International Convention on the Protection of Rights of All Migrant Workers and Members of their Families provide comprehensive “values-based” definitions and legal bases for national policy and practice. In addition, the ILO has adopted a Multilateral Policy Framework for Labour Migration which provides detailed practical guidelines and best practices. The rights-based Multilateral Framework provides: (1) A rights-based approach for national migration policies and practices; (2) informed and transparent migration administration; (3) institutional mechanisms for dialogue, consultation and cooperation, and; (4) action against discrimination and xenophobia. (ILO 2006.)

The AFL-CIO and the Economic Policy Institute (EPI), together with former US Secretary of Labor Ray Marshall, have developed a proposed mechanism to manage migrant flows into the United States—both temporary and permanent—that is based on an agenda for shared prosperity and fully consistent with the normative framework discussed above. (Marshall 2009.) The mechanism—which relies on an independent commission to gather and assess labor market data-- will likely dramatically reduce both irregular migration and the number of temporary workers in regular jobs; increase legal immigration; more quickly adjust the number of permanent settlers and temporary workers to the economy’s needs; and make the whole system much more transparent and flexible than it is now. The process resembles the British Migration Advisory Committee’s (MAC) “top-down” quantitative analyses complemented with “bottom-up” assessments from professional associations, industry experts, labor organizations, and detailed case studies of particular industries, occupations, and places.

This commission-driven system will satisfy the legitimate needs of employers to fill labor shortages. In healthy economic times, when the Commission establishes that labor shortages exist, the Commission will recommend to the U.S. Congress increased levels of immigration. Conversely, during economic slow-downs, when there are few labor shortages, the Commission will recommend reduced levels of immigration. This process provides a rational alternative to irregular migration by providing much needed flexibility and by tying the numbers of foreign workers to the actual needs of the economy. One lesson that we have learned in the United States is that having a rigid system based on arbitrary caps--such as our current system--invites irregular migration.

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The commission-driven system will also reduce the number of temporary foreign workers in regular (non-temporary) jobs because it will match the status of the worker to the status of the job. Thus, if there is a long-term labor shortage (as many claim that there is currently for IT professionals, for example), the Commission will recommend long-term visas for workers in those shortage occupations. In the event that the Commission finds a short-term or spot-labor shortage, the Commission will recommend temporary visas.

The shared prosperity model is naturally skeptical of temporary work visas, with good reason.² As a recent report by the Drum Major Institute for Public Policy (a non-partisan, non-profit US think tank) recognizes,

Guest workers' temporary status undermines their potential economic contribution over the long term. Because they are temporary, guest workers have less incentive (and less time) to gain skills on the job . . . and become more productive employees. After a few years, they cycle out of the nation's workforce rather than moving up the job ladder and increasing their income, which would have resulted in increased tax revenue and increased consumption. In addition, temporary workers have less of a stake in the future of their communities and are less likely to make long-term investments by starting a business or buying a home (Traub 2009).

One of the commission-based system's primary functions will be to ensure adequate labor market data collection, which dovetails the recommendations of the 2008 GFMD (3.1 Strengthening Data and Research Tools on Migration and Development.) The data and analyses currently available are inadequate for purposes of developing or improving migration policies (on national and international levels), as well as for business decision purposes. In the United States, for example, we have no accurate data on how many foreign workers are present, where they work, what type of work they do, or what their impact is on the economy. (Marshall 2009). Canada suffers from the same problem. (Preibisch 2004.) This lack of transparency gives unscrupulous employers a competitive advantage: they are able to manipulate the immigration system to drive down workplace standards, to the detriment of workers and employers who play by the rules. It has also allowed employers to displace regular workers with temporary foreign workers, which has pitted workers against each other, adding to the anti-immigrant backlash.

² This scepticism is in line with the 2008 GFMD Recommendations concerning temporary worker programs (3.2 Policy and Institutional Coherence in Migration and Development within Government)

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Thus, a major advantage of the commission-based approach is that it would provide for much more transparency (by basing migrant flows on actual and credible data that would be available to the public), labor market efficiency (by matching migrant flows to labor market shortages), and fairness, all of which would reduce public opposition to employment-based immigration.

Equally important, the commission-based approach moves the dialogue away from the long-standing “temporary vs. permanent” debate, and opens opportunities for creative thinking on what types of visas guarantee shared prosperity. Of course, the classical permanent settlement visa is one such visa, but it may not be the only one. The Migration Policy Institute has recently made the case for a new system of “provisional visas,” which have the option of ripening into permanent settlement visas. (Papademetriou et al. 2009.) If those visas are allocated in a way that doesn’t undermine labor standards, (for example, by going to the employers who offer the highest wages and best working conditions) and as an integral part of the commission-based approach (for example, by supplementing the Commission’s determinations when there is a data lag), those visas might well fit the shared prosperity frame.

As governments and civil society explore what other types of visas fit the shared prosperity model, special attention must be paid to transparency and fairness. Those values are significantly advanced by the participation of trade unions and other civil society organizations dedicated to social and economic justice in the design and implementation of migration mechanisms. These organizations have shown that they play a significant role in holding employers as well as receiving and sending countries accountable for ensuring that workers’ rights are respected and thus have played a significant role with regard to social inclusion of migrants. (Preibisch 2004). Examples include:

- The AFL-CIO has established formal partnerships with workers centers —NGOs rooted in local communities whose mission is to improve the lives of migrants and their families—across the U.S. to implement legislative, legal and other strategies to promote and protect workers’ rights.
- UFCW Canada has established Migrant Agricultural Worker Support Centers across Canada. These centers provide workers the services that the

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- government should be providing: legal referrals, assistance with compensation for workplace injuries and other employment related advice. (Verma 2006.)
- UFCW Canada has also begun to deal directly with Mexico, Jamaica and Barbados with the aim of improving the SAWP. (UFCW 2007.) For example, the union has participated in delegations to Mexico where meetings with Mexican ministers and other government officials resulted in a commitment for further dialogue and specific proposals to improve the SAWP. Most recently, UFCW entered into an agreement with the Mexican state of Michoacan by which both parties pledge to work together to ensure compliance with international labor standards in the SAWP.
 - The European Trade Union Confederation (ETUC) is working with its affiliates to promote migrant worker rights throughout Europe. Its efforts include the development and implementation of the ETUC Action Plan on Migration, Integration and Combating Discrimination, Racism and Xenophobia; promoting freedom of association for migrant workers regardless of status; and exploring ways to establish an ETUC membership card to develop mutual aid across borders.
 - The Irish Congress of Trade Unions has partnered with the ILO to develop a series of educational materials on migration, racism, xenophobia and migrant worker rights and has launched a campaign to promote social inclusion of migrants.
 - With the assistance of the ILO, unions in sending and receiving countries have entered into partnership agreements to protect the rights of migrant workers. The most recent partnership agreement is between the Malaysian Trade Union Congress (MTUC)(destination country) and KSBSI Indonesia (origin country.) Among other things, the unions pledge to share labor market information, establish information centers for migrants in both countries to educate workers on their rights, and actively campaign against racism and xenophobia in both countries. In addition, the unions agree to jointly promote a series of policy recommendations that include cooperation between the Malaysian and Indonesian governments to enhance the governance of migration, strengthen labor inspection mechanisms, cooperate to develop legal strategies in the case

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of trafficking and other abusive situations and work to control activities by recruitment and employment agencies. Unions in three Arab countries (Bahrain, Jordan and Kuwait) recently entered into similar agreements with four Sri Lankan trade unions aimed at granting Sri Lankan migrant workers “the full panoply of labour rights included in internationally-recognized standards.”

- The American Center for Labor Solidarity (“Solidarity Center”) has implemented various programs to protect migrant worker rights around the world. For example, in Indonesia, the Solidarity Center trained government labor inspectors on recognizing signs of human trafficking for labor exploitation, focusing on inspecting and monitoring migrant worker holding centers.
- Public Services International (PSI)(the global union federation for public sector trade unions) has established bilateral partnerships between member unions in origin and destination countries, with the goal of defending better pay and working conditions for migrant health care workers. PSI runs a program on women and international migration in the health sector in 18 countries: Ghana, Kenya, South Africa, Sri Lanka, Philippines, Fiji, Tonga, New Zealand, Japan, South Korea, USA, Canada, Ecuador, Chile, Barbados, Trinidad and Tobago, UK and the Netherlands.
- Building and Woodworkers International (BWI)(the global union federation that includes workers in the building, building materials, wood, and forestry trades) has established a migration program, which aims to organize migrant workers, integrate them into trade union structures and develop and strengthen national and regional networks to, among other things, draft policy proposals and bilateral and multilateral agreements on migration.

Conclusion

The GFMD offers a unique opportunity for dialogue among the social partners. The approach proposed here can serve as the basis for fresh approaches to the complex issue of migration. Suggestions for discussions are:

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1. Some commentators believe that governments (particularly those of developed nations) are reluctant to adopt an agenda for shared prosperity. What can/should civil society do to raise awareness of the benefits of shared prosperity, particularly with reference to migrant workers?
2. The approach suggested here (shared prosperity) is a universal one in that its principles apply anywhere in the world. The details of implementation are provided from the U.S. perspective. What factors/issues should be considered in developing implementation strategies for different Regions and among countries that have different levels of development?

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