

Migration, Refugee and Conflict

Week 10– International Initiatives in Migration

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May, 2023

Why discuss on migration for employment?

- Migration for employment is an important global issue.
- It affects most countries in the world. The reason behind employment differs as per the contexts.
- Both origin and destination countries are benefitted by employment; economic growth and development.
- The issue of migration interlinks with diverse cross-cutting issues.
- Remittances is one of the key aspect to focus on. As remittances plays a key role in the upliftment of the individual, family and national economy.
- Diverse human rights issues are another integral discussion.
- Considerations of labour rights as human rights.

- The initiatives on migration has been witnessed in diverse forms by diverse actors.
- The national, regional and , international initiatives.
- Both binding and non-binding principles and guidelines to labour migration.
- Several national and international forums on Labour migration.
- Diverse international agencies interest in Labour migration.
- International Legal frameworks are another global level initiatives.
- Sustainable Development Goal as a global agenda also has a focus on labour migration.

International Labour Organization (ILO)

- ILO is tripartite U.N. agency that was established in 1919 A.D.
- The members of ILO include 187 states.

What does ILO do?

- It brings together government, employers and workers of 187 member states for
 - a) Setting standards
 - b) Developing policies
 - c) Planning programs to promote decent work for all women and men.
- ILO has 10 fundamental conventions, 4 governance conventions and rest are technical conventions.

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- According, to International Labour Organization (ILO) two Labour market forces are in operation resulting in increased migration for work;
 - a. Many people of working age either cannot find employment or cannot find employment adequate to support themselves and their families in their own countries. Some other countries whereas, also have a shortage of workers to fill positions in various sector of their economies.
 - b. The other factors include; demographic change, socio-economic and political crises and widening wage gaps within, as well as between, developed and developing countries.

The Labour Provisions of the Peace Treaties, 1920

- The peace conference on 25 January, 1919 decided to appoint a commission on International Labour Legislation.
- The League of Nations was established for the universal peace and it focused that such peace can be established only based upon the social justice.
- It further has emphasized on the improved conditions at work for labour; regulation of the hours of work, establishment of a maximum working day and week, the regulation of labour supply, the prevention of unemployment, the provision of an adequate living wage, the protection of workers against sickness, disease and injury arising out of the employment.
- Moreover, also focuses on the protection of children, young persons and women, provision for old age and injury, protection of the interests of workers when employed in countries other than their own.
- It also prioritizes the recognition of the principle of freedom of association, the organization of vocational and technical education and other measures.

1st meeting of Annual Labour Conference

- Five Agenda was set that included;

1. Application of the principle of the 8 hours day or of the 48 hours week.
2. Question of preventing and providing against unemployment.
3. Women's employment: This focuses on three aspects
 - a. Before and after child-birth, including the question of maternity benefit.
 - b. During the night
 - c. In unhealthy processes

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4. Employment of children : This focuses on three aspects :

a. Minimum age convention

b. During the night

c. In unhealthy processes

- The extension and application of the International Conventions adopted at Berne in 1906 on the prohibition of night work for women employed in industry .
- In addition, also the prohibition of the use of white phosphorus in the manufacture of matches.

The Governance and Technical Convention of ILO includes

- Labour Inspection Convention , 1947 (No.81)
- Employment Policy Convention, 1964 (No.122)
- Labour Inspection (Agriculture) Convention, 1969 (No.129)
- Tripartite Consultation (International Labour Standards) Convention , 1976 (No.144).

Few important aspects of technical convention includes as follows:

hours of work, occupational safety and health provisions, social security related schemes, equality of treatment at work, practice of principal of non-discrimination, wages related and also concerns on violence and harassment at workplace.

ILO on Migrant workers

- The international labour standards that have been adopted by International Labour Conference of ILO are considered as an integral entity towards protecting the rights and dignity of migrant workers.
- The set international labour standards are applicable to migrant workers.
- Basically , it includes the fundamental rights convention of ILO.
- It also includes the ILO declaration on fundamental principles and rights at work (1998).

Fundamental convention includes

- Forced Labour Convention, 1930 (No.29)

P029- protocol of 2014 to the Forced Labour Convention 1930

- Freedom of Association and Protection of the Right to Organize Convention, 1948 (No.87)

- Right to Organize and Collective Bargaining Convention , 1949 (No.98)

- Equal Remuneration Convention, 1951 (No.100)

- Abolition of Forced Labour Convention.1957 (No.105)

- Discrimination (Employment and Occupation) Convention,1958 (No.111)

- Minimum Age Convention , 1973 (No.138)

- Occupational Safety and Health Convention , 1981 (No.55)

- Worst Forms of Child Labour Convention, 1999 (NO.182)

- Promotional Framework for Occupational Safety and Health Convention, 2006 (No.187)

ILO Declaration on Fundamental Principles and Rights at work (amended in 2022)

- All members even if have not ratified the conventions has an obligation to the convention in consideration to being a member of an organization with due respect and good faith.
- The fundamental principles and rights at work includes;
 - a. Freedom of association and the effective recognition of the right to collective bargaining.
 - b. The elimination of all forms of forced or compulsory labour
 - c. The effective abolition of child labour
 - d. The elimination of discrimination in respect of employment and occupation
 - e. A safe and healthy working environment.

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Few instruments also consists specific provisions on migration.

They include;

Private Employment Agencies Convention , 1997 (No.181),Domestic Workers Convention. 2011 (No.89),Employment policy and tripartite consultation and Social security related instruments.

- The Migration for Employment Convention,1939 (No.66) was withdrawn by decision of International Labour Conference at its 88th Session (2000).

- ILO has specific instruments on Migrant Workers

Migration for Employment Convention (Revised), 1949 (No.97)

Migration for Employment Recommendation (Revised), 1949 (No.86)

Migrant Workers (Supplementary Provisions) Convention, 1975 (No.143)

Migrant Workers Recommendation,1975 (No.151)

Convention No.97

The Migration for Employment Convention (Revised), 1949 requires

- States that have ratified this convention to facilitate international migration for employment by establishing and maintaining free assistance and services for migrant workers.
- Also includes the provisions relating to medical services for migrant workers and also focuses on transfer of earnings and savings.
- It also indicates that States have to apply principle of non-discrimination in considerations to condition of employment, freedom of association and social security.
- This clearly indicates the treatment to the migrant workers no less favorable than own nationals.
- Non-discrimination and equality of treatment between migrants and national in terms of wages/working conditions, trade union rights, accommodation, social security, employment taxes and access to courts.

Convention No.143

- Migrant Workers (Supplementary provisions) Convention , 1975 (N0.143) emphasizes on measures to combat clandestine and illegal migration in considerations to respect the basic human rights of all migrant workers.
- It also focuses on the equality between legally resident migrant workers and national workers.
- What it ensures is?
 - a. Equality of opportunity and treatment in respect of employment and occupation
 - b. Social security
 - c. Trade union and cultural rights
 - d. Individual and collective freedoms for persons who as migrant workers or as members of their families.
 - e. Lastly, the ratifying states to facilitate the reunification of families of migrant workers legally residing in their territory.

Migrant Workers (Supplementary Provisions) Convention , 1975 (No.143)

- This convention facilitates and regulates labour migration flow.
- It prioritizes on providing minimum protection for all migrant workers.
- This convention has a concern on Migrations in abusive conditions.
- The promotion of equality of opportunity and treatment of migrant workers specifically protecting them.

The ILO and Migrants : Summary

- ILO has a mandate to protect migrant workers. It promotes fair treatment of migrant workers and prioritizes the equality of treatment.
- ILO has a goal to create a productive employment and decent jobs for all in countries. It emphasizes that the poor working conditions and lack of job are often considered as the origin of migration.
- ILO has adopted a number of binding and non-binding instruments.
- The multilateral framework on Labour migration is the non-binding instrument adopted by ILO that focuses on the protection mechanism related to migration.
- Furthermore also takes an initiatives for the sound governance of labour migration.
- The tripartite governance system of ILO has a representatives from workers and employers organizations and from the government.
- Moreover, ILO also has a two-fold intervention strategy that focuses on the employment and labour market side of migration as well as protection of migrant workers and their equality of treatment.

International Organization for Migration (IOM)

- IOM in Nepal was established in Nepal after signing the cooperation agreement with the Government in 2007.
- Its operation began by facilitating the resettlement of Bhutanese refugees to receiving countries.
- Its main focus is to manage migration
- Its dedication is to help ensuring the orderly and humane management of migration to promote international cooperation on migration issues, to assist in searching the practical solutions to migration problems and to provide humanitarian assistance to migrants in need; refugees and internally displaced people.
- The IOM constitution recognizes the link between migration and economic, social and cultural development along with right of freedom of movement.

IOM

The four broad areas of migration management includes

- Migration and Development
- Facilitating migration
- Regulating migration
- Forced migration

Promoting international migration law, focusing on policy debate and guidance, protecting migrants rights , focusing on migration health and having concerns on gender dimension of migration is the areas of focus.

Moreover the Migration Governance Framework (MiGOF) has adopted 3 principles

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Principles of MiGOF

- 1) Adherence to international standards and the fulfilment of migrant's right
- 2) Migration and related policies are best- formulated using evidence and whole-of-government approaches
- 3) Good migration governance relies on strong partnerships.

Principle 1

- Humane and orderly migration in obedience to international law.
- The practice of respect towards individuals and protecting and fulfilling the rights of an individual.
- This above is applied to all individuals within states territory irrespective of their nationality or migration status.
- The non-discrimination principle is a focus to ensure their safety, physical integrity, well-being and dignity.
- In addition, protecting the rights of an individual also includes combating xenophobia, racism and discrimination. This basically focuses on the principle of equality and non-discrimination while ensuring access to protection.

Principle 2

- The importance of migration policy is considered as it depicts the contemporary scenario and connects with political debates.
- What State needs to do to govern migration fits in this principle 2. It includes ;
- State using credible data sources and information to collect data and analyze it. The data extracted could be through demographics, cross-border movements, internal displacements, diasporas, labour markets, seasonal trends, education and health
- The cross-cutting linkages of migration trends will be reflected in policies in considerations to the contextual necessities.

Principle 3

- The importance of multiple actor is highlighted.
- The multiple actors includes;
 - states, neighboring countries, subnational authorities, local communities, diasporas, migrants and their families, employers and unions.
- Both inter-governmental and non-governmental organizations that focus on migration and humanitarian actions.

Objectives of MiGOF

- Objective 1: Good migration governance and related policy should seek to advance the socioeconomic well-being of migrants and society.
- Objective 2: Good migration governance is based on effective responses to the mobility dimension of crises.
- Objective 3 : Migration should take place in a safe, orderly and dignified manner

Objective 1

- Those who are pushed to migrate undergo undesirable conditions or dangerous condition such as accessing services of unethical recruiters, smugglers or traffickers.
- This objective emphasizes on the promoting stability, education and employment opportunities that reduces the drivers of forced migration.
- It mentions that migration related law and policy need to be designed towards gaining socioeconomic outcomes for migrants and communities of origin, transit and destination.

Objective 2

- The crises creates long-term effects on migrants and society.
- This objective emphasizes on the
 - a. prevention and preparation for crisis
 - b. support migrants, displaced persons and communities affected by crisis in consideration to humanitarian principle
 - c. promote durable solutions to end displacement.

Objective 3

- The safe and orderly migration means mitigating the risks associated with the movement of people.
- Strengthening public health strategies to prevent diseases and to protect health of migrants.
- Also emphasizes on detecting irregular migration and to prohibit illegal cross-border activity.
- The migration and border agencies has an important role to play to collect, analyze and use information intelligence that includes addressing terrorism related issues, trafficking in person, smuggling in migrants and other trans border criminal activity.

UNHCR

- The United Nations High Commissioner for Refugees has identified three durable solutions for Refugees. This includes

1. Voluntary Repatriation

2. Local integration

3. Resettlement

Human Rights Perspectives of Migrant Workers

Few things to be considered includes;

- Principle of non-discrimination
- Provision of access to justice
- Rescue and immediate assistance
- Border regulation and governance
- Human Rights-Based Return
- Protection from violence and exploitation
- Ending immigration detention

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- Right to health
- Right to an adequate standard of living
- Right to work
- Right to Education
- Right to Information
- Monitoring and Accountability
- Obligation of Human Rights Defenders
- Migration Governance and Cooperation

International human rights initiatives includes

Zacatecas Declaration, 2004

- This was international workshop of national institutions for the protection and promotion of human rights: causes, effects and consequences of migratory phenomenon and human rights protection.

Santa Cruz Declaration, 2006

- This was 8th international conference of national institutions for the promotion and protection of human rights.

Rabat Declaration on Migration and Human Rights, 2008

- This was the 3rd Arab-European NHRI's Dialogue on Migration and Human Rights

Seoul Guidelines

- NHRIs for the protection and promotion of Human rights of migrants in Asia; International Conference of Human Rights of Migrants and Multicultural society.

Edinburgh Declaration, 2020

- This was the 10th International Conference of National Institutions for the Promotion and Protection of Human Rights.

Colombo process

- Is an informal and non-binding consultative process.
- It prioritizes safe and orderly migration, focuses on managing recruitment processes and protects the rights and interest of migrant workers.
- It is a ministerial consultation program that includes labour migration-origin countries to facilitate the dialogue and cooperation on issues of common interest relating to foreign labour migration. It highlights on the safe, regular and managed migration.
- 10 countries are a part of Colombo process; Bangladesh, China, India, Indonesia, Nepal, Pakistan, the Philippines, Sri Lanka, Thailand and Vietnam.
- It also insists the importance of distinction between labour migration and large scale movement of populations (including refugees) in crisis situations.

ABU DHABI Dialogue (ADD)

- It is an inter-governmental process of both labour sending and labor-receiving Asian countries.
- It is also voluntary and non-binding in nature.
- Countries of origin includes: Afghanistan, Bangladesh, China, India, Indonesia, Nepal, Pakistan, the Philippines, Srilanka, Thailand and Vietnam.
- Countries of Destination includes: Bahrain, Kuwait, Malaysia, Oman, Qatar, Saudi Arabia and the United Arab Emirates.
- ADD has three pillars of governance
 1. ensuring migrant workers protection
 2. Empowering migrant workers to achieve their goal and aspirations
 3. Providing them with the opportunity to benefit equitably from labour migration.

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- It has four major areas of cooperation . It includes;
 - a. developing and exchanging information about the patterns of labour markets, skills profiles, workers, and policies and transfer of remittances
 - b. enhancing capacities for harmonizing the supply and demand of labour
 - c. Restricting irregular recruitment process and ensuring social security and welfare schemes for migrant worker and
 - d. developing a framework to address the interests of both the labour-sending and -receiving countries.

SAARC

- South Asian Association For Regional Cooperation comprises of Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan ,Srilanka and Afghanistan.
- The 18th SAARC summit in Kathmandu in 2014 included points on labour migration. It clearly stated in its Article 21 “ to collaborate and cooperate on the safe, orderly and responsible management of labour migration from South Asia to ensure safety, security and wellbeing of their migrant workers in the destination countries outside the region.
- Later, in 2016 SAARC plan of Action on Labour Migration was prepared by Government of Nepal.
- The zero draft on “ SAARC Declaration on Labour Migration” . It is a draft with seven commitments of the member states. Few commitments is on skills qualification, pre-departure preparations, standard contract and minimum wages, fair and ethical recruitment, strengthening justice mechanisms, welfare and protection of migrant workers.

BALI Process on People Smuggling, Trafficking in persons and related Transnational Crime

- It is a voluntary , inclusive and non-binding regional forum.
- It provides space for policy dialogues in Asia-Pacific region in regards to irregular migration.
- It is a forum for information sharing and practical cooperation to address the migration related issues in the region.
- It has effectively raised the regional awareness of the consequences of people being smuggled, trafficked and related transnational crime.
- This process is a multilateral; process .

Sustainable Development Goals (SDGs)

- SDGs is a global agenda. It has a slogan “Leave no one behind”
- It has 17 goals with 169 targets and 232 indicators.
- Goal 8 and Goal 10 are more related to labour and migration. However, few other goals also has interlinkages.
- Goal 8 includes promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all.
- Target 8.5 includes : By 2030 to achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value.
- Target 8.7 includes: Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms.

SDG

- Goal 10 is reduced inequality within and among countries.
- Target 10.7: Facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies.
- Goal 16 talks about peaceful societies in its target 16.2 focuses on peaceful societies which focuses on ending all forms of violence, ending abuses, exploitations and trafficking. It highlights on safe and sustainable reintegration.
- Goal 17 focuses on partnerships and it also has a focus on migratory status.
- The other Goals that also focuses on migrant workers includes;
- Goal 3 : Health, Goal 4: Education, Goal 5: Gender Equality, Goal 11: Sustainable Cities, Goal 13: Climate Action.

Few other initiatives includes

- Global Forum on Migration And Development (GFMD)
- Global Compact for Safe , Orderly And Regular Migration (GCM)
- Association of Southeast Asian Nations (ASEAN)
- Global Compact For Refugees (GCR)
- Arab Regional Consultative process on Migration and Refugees Affairs
- Kampala Convention
- The New York Declaration for refugees and Migrants
- The Addis Ababa Action Agenda (AAAA)
- Dhaka Principles that emphasizes on responsible recruitments and employment of migrant workers.
- International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families
- Universal Declaration of Human Rights and Core Human Rights Conventions

References

- Dhungana,R.,& Baniya,J.((n.d).*LABOUR MIGRATION Nepal in Regional and Global Processes. Centre for the Study of Labour and Mobility.*
- International Labour Office.(1920). *The Labour Provisions of the Peace Treatise.*
- ILO.(2006). ILO MULTILATERAL FRAMEWORK ON LABOUR.
- International Labour Organization. (2019). *International Labour Organization.*
Ilo.org. <https://www.ilo.org/global/lang--en/index.htm>
- ILO.(2022). *ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up.*
- IOM.(2018). *Migration Governance Framework (MiGOF).*
- Mc Brien,J.L.(2017). Refugees,asylum seekers, and other immigrants: Help for teachers with problematic *definitions.Social Studies Research and Practice.* <https://doi.org/10.1108/SSRP-03-2017-0001>

References

NHRC.(2018). *Initiatives of Commission on protection of Human Rights of Migrant Workers.*

Refugees and Migrants. (2016). *Refugees and Migrants.*
<https://refugeesmigrants.un.org/>

United Nations. (2023). *The 17 Sustainable Development Goals.* United Nations.
<https://sdgs.un.org/goals>