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Towards a world where migration is a right, migrants are accorded the full range of human rights, and their sustainable contribution to further development is realized

Submission to the General Assembly High-level Dialogue on International Migration and Development 2013

Submitted by: International Migrants Alliance (IMA)¹

Introduction

To date, it is a foregone conclusion that the world is far behind in achieving the outcomes targeted by the Millennium Development Goals. Despite its popularity, high commitment and general optimism when it was first introduced, countries are still hard-pressed to meet the targets of the MDGs – eradicate extreme hunger and poverty; achieve universal primary education; promote gender equality and empower women, reduce child mortality; improve maternal health; combat HIV/AIDS, malaria and other diseases; ensure environmental sustainability; and, global partnership for development.

While the UN remains positive in achieving the MDGs with UN Secretary General Ban Ki-Moon emphasizing on the MDG-8 (global partnership for development) as a key towards achieving the MDGs, the Millennium Development Goals Report 2012 also indicated that the advances in the MDGs are unequally distributed among regions and among countries and that the multiple crises that continue to impact the world have actually slowed down the progress of the MDGs (United Nations, 2012).

The impacts of the financial crisis that exploded in 2008 remain in most of the countries, from the highly developed to the least, in the world. Touted as comparable to the Great Depression in the 1930s, the crisis has led to displacement, job loss, even more aggressive plunder of the natural resources, severe austerity measures, cutbacks on social services, and other adverse impacts to the lives of peoples. While the people clamored for social protection, many states chose to bailout and support businesses, banks and financial institutions with the hope that the economy could be reinvigorated and ultimately, the benefit would trickle down to the ground.

But five years after the financial crisis, the world is still mired in serious economic, social, political and even environmental problems. There is no clear resolution in sight for the multiple crises plaguing the world as countries continue to use the same neoliberal economic paradigm to pull the world from crisis – the same framework that, ironically, brought forward the crisis itself.

¹ IMA is a global movement and alliance of grassroots im/migrants, refugees' and displaced people of different nationalities in more than 25 countries including 32 NGO's and institutions that work for the protection and promotion of migrants' rights and their empowerment. Website: <http://ima2008.wordpress.com/>

Thus, when it comes to the completion of the MDGs by 2015, hope is a hard sell if not totally improbable. Slowly, the people are already being conditioned to look forward to the post-2015 development agenda that may be called an indirect admission of the failure of the MDGs.

Parallel to the heightened crisis, more regular discussions on the interrelationship between international migration and development have also been conducted by United Nations agencies, the Organisation for Economic Cooperation and Development (OECD) and by the international financial institutions such as the World Bank (WB) and the Asian Development Bank (ADB).

Although migration has been a recurring theme for the past two decades, with its relevance to socio-economic development and other basic concerns of countries highlighted in the later years, it was only after the first UN High Level Dialogue on International Migration and Development in 2006 that attempts to explore deeper the migration-development nexus have intensified with more states, international agencies, and private actors participating in the discussions.

Most notable of such meetings were the annual Global Forum on Migration and Development (GFMD) that was put into motion by the first UN HLD. The GFMD that had its first meeting in Belgium in 2007 continued and is only taking a break this year to give way to the UN HLD 2013. It became the broadest and most regular platform for discussion on themes revolving around the migration-development nexus. Currently, state participants in the GFMD are in the process of evaluating the GFMD and the implementations of its resolutions.

It is of no coincidence that the discussions on migration have steadily been revolving around its relationship to development. In a crisis-ridden world, states are scrambling to find solutions to mitigate if not resolve the frequent economic shake ups that the world experiences.

With 215 million of the world's people living and working as migrants in countries other than their country of birth, and remittance as a financial capital source outpacing the rate of increase of official development assistance and now ranking second only to foreign direct investments, states, intergovernmental institutions and international finance institutions are turning their eyes towards using migration to contribute in achieving the MDGs and even for the post-2015 development agenda (The World Bank, 2011).

The pragmatism of migration for development

In past meetings on migration and development, states have vowed not to make migration a substitute for genuine development. For instance, when the first GFMD was convened after the UN HLD 2006, its avowed objective was *"to enhance the positive impact of migration on development (and vice versa) by adopting a more consistent policy approach, identifying new instruments and best practices, exchanging know-how and experience about innovative tactics and methods and, finally, establishing cooperative links between the various actors involved"* (Global Forum on Migration and Development website).

While the so-called potential of migration to contribute to development is exhaustively discussed, extensively researched and widely promoted, no similar effort is made on looking at how migration, in reality, an outcome of underdevelopment.

States, international financial institutions, intergovernmental bodies and even some civil society organizations are choosing to take the pragmatic view that since migration is already present, it might as well be maximized for its potential benefits to development.

Current discussions on migration and development are focused on migration as a process. Thus, most of the recommendations and actions implemented revolved around better management of the migration process – from recruitment to sending of remittance - that is considered as key towards maximizing the developmental benefits of migration and reducing its negative costs.

With the said operative framework, migration tends to be seen as a process to be reformed and not an economic, political, and social development concern that must be addressed. An extreme result of this framework on migration is the linking of migration and security concerns that is currently implemented in the forms of militarization of borders, arbitrary surveillance and tracking of movements, restrictive visa policies and procedures, and even development of unjust prejudices towards migrants.

While there are sporadic discussions on the rights and welfare of migrants, these are not sustained and no effective action is conducted, thus putting to question the seriousness of states to address the violations of the rights of migrants.

It is important to note that the report of the 2006 UN HLD stated that,

Participants felt that it was essential to address the root causes of international migration to ensure that people migrated out of choice rather than necessity. They observed that people often had to migrate because of poverty, conflict, human rights violations, poor governance or lack of employment. There was widespread support for incorporating international migration issues in national development plans, including poverty reduction strategies. Participants noted that international migration could contribute to the achievement of the internationally agreed development goals, including the Millennium Development Goals, but cautioned against viewing international migration by itself as a long-term development strategy. The need to generate jobs with decent working conditions and to ensure that sustainable livelihoods were possible in all countries was emphasized. (United Nations General Assembly or UNGA, 2006, p2, para # II.9)

Meanwhile, the UN Secretary General in his report to the General Assembly prior to the UN HLD on International Migration and Development in 2006 said that,

A major principle of migration policy is that everyone should have the option of staying and prospering in her or his own country. To that end, all countries should strive to create more jobs and decent jobs for their people. (UNGA, 2006a, p17, para # C.82)

Furthermore, it was reiterated in the UNSG Report in 2008 that,

Although the High-level Dialogue stressed that international migration could contribute to development, it recognized that international migration was not a substitute for development. All too often, migrants were compelled to seek employment abroad because of poverty, conflict or violations of human rights. Peace and security, good governance, the rule of law and the provision of decent work in countries of origin ensured that people migrated out of choice instead of necessity. (UNGA, 2008, p4, para # II.5)

While these are noteworthy expressions of noble sentiments, these were merely presented as caveats to the agenda of making migration play a major role in development.

Arguments favoring the utilization of migration for development can be classified into two broad points: a) Migration results to remittances that can spur beneficial economic activities from the individual remittance recipient household level (consumption, human capital development, capital for entrepreneurship) to the macroeconomic level thru remittance's multiplier effects; and b) transfer of knowledge and skills upon return of migrants to country of origin.

But these arguments failed to account the basic condition where migration exists right now – that is the prevalence of poverty and the perpetuation of neoliberal economic development agenda that are unsound, unsustainable and keep the world’s economy tethering on the brink of crisis, if not massive collapse.

While private consumption, human capital development and, in some cases, creation of small businesses can be seen as immediate impacts of remittance to households, basic structural weaknesses of countries of origin make it hard for remittance recipients to make these immediate impacts prosper. Even the transfer of skills and knowledge require a suitable environment to be fully realized.

Moreover, actual negative impacts to development of reliance on migration far outweigh its potential benefits.

The influx of large sums of foreign currency fosters over reliance of countries of origin on remittance for economic growth instead of adopting development plans that are dependent on national capacity, responsive to national needs, and sustainable in the long-term. The development of labor export programs and the overemphasis on remittance to inflate the GDP reflect this overreliance on migration to address the structural problems of poverty, unemployment, weak economic fundamentals, etc.

Aside from the quasi-Dutch Disease² that remittance creates, it can also push inflation further in countries of origin with the creation of demands for consumption goods and real estate. Coupled with income inequality that results from migration, the condition further erodes the economic capacity of the non-recipients of remittance that still constitute the majority of the population of countries of origin, as well as of migrants who come from poorer families.

Meanwhile, the potential for the transfer of skills and knowledge is outweighed by the actual brain drain phenomenon that is part of the current migration trend.

On top of the abovementioned consequences, the negative social impacts of migration to families and communities should also be noted.

Remittance as a motor for development

Remittance is at the crux of the migration for development argument.

In 2010, total remittance reached US\$440 billion that was noted by international financial institutions such as the World Bank and the Asian Development Bank to be at par with pre-2008 crisis levels (Asian Development Bank or ADB, 2012). It is projected to increase, albeit slower than before.

With the growing attention on remittance and its projected increase in the future, the Group of Eight (G-8) in July 2009 agreed to work on the reduction of the global average of transmitting remittances from the current 10% to 5% by the year 2014 (“5 by 5 objective”). It was estimated that a reduction of 5% in remittance cost would increase global remittance by US\$15 billion more (G20 France, 2011).

In the face of the huge financial gains, previous intergovernmental meetings concerning migration and researches and recommendations of international financial institutions inevitably emphasized on further

² Dutch Disease is a term used to describe negative consequences arising from a country’s large increase in income. Though used mainly after discovery of natural resources reserves, it can pertain to any large increases in finance. In the research *Global Crisis, Remittances and Poverty in Asia* by the Asian Development Bank in 2012, the term “quasi-Dutch Disease” was used to mean complacency as an effect of remittances to governments. They tend to reduce efforts to strengthening the domestic economy and reduce reliance on labor export.

systematization of remittance sending. Even moves to reduce transmission charges are aimed to encourage remitting through official channels (i.e. private banks) as informal channels are harder to track down.

But the excitement towards remittance is not only due to the fact that it is a huge source of finance capital, but also because it is considered more resilient during crisis periods than other financial sources. In fact, the ADB (2012) even noted the “altruistic” character of remittance remarking on its increase in times of disasters and calamities.

However, the resilience of remittance is not due to the stability of condition of migrant workers but from their forced acceptance of their adverse living and working condition that is an almost reflexive response to survive the storm. According to the ADB study on Global Crisis, Remittances and Poverty and in Asia in 2012:

This (stability of remittance) is partly because migrant workers themselves are very resilient despite the economic crises and other difficulties in the destination countries. They are willing to do the 3D jobs—dirty, dangerous, or demeaning (or demanding or difficult) — that many locals refuse to do. Therefore, even during economic downturns in the host countries, migrant workers manage to keep their jobs despite their foreign status and are less vulnerable to layoffs. They also keep sending part of their income home regardless of their economic situation. This commitment to their family back home further improves the resilient growth of the home country economy. (p13, para 1)

Remittance as a motor for development is still highly suspect and widely unproven.

Remittance goes directly to the household. This is acknowledged even by the first meeting of the UN HLD in 2006. In its report, the 2006 UN HLD said that, “*There was consensus that remittances were private flows and should not be considered a substitute for official development assistance, direct foreign investment or debt relief* (UNGA, p3, para # II.12).” Households receiving remittance utilize this for private consumption, education, health, housing and small businesses.

While the economic benefit of remittance to households is undeniable, its contribution to the macroeconomy stands on very loose ground. The same ADB study also noted that while there are reports of increase in the GDP, income inequality is a documented consequence of remittance – meaning families who are already better off benefit more from remittance than those who are relatively poorer.

Even the human capital investment that is an argument in favor of remittance is also not sufficient. While it is true that remittance-receiving households can send their children to school or receive medical treatment when needed, the macroeconomic condition in the migrant-sending country is not conducive for long-term benefits to be reaped from such human capital investment as jobs appropriate for graduates get scarcer every year while access to health also contracts due to privatization of hospitals or shortages in health professionals due to migration.

Recommendations for the 2013 UN High Level Dialogue on International Migration and Development

Under the overall theme “*Identifying concrete measures to strengthen the coherence and cooperation at all levels, with a view to enhancing the benefits of international migration for migrants and countries alike and its important links to development, while reducing its negative implications*”, the UN HLD on International Migration and Development gears to level up the previous discussions on international migration and development and set guideposts for future meetings, including the future of the HLD itself.

A crucial question to be answered in the upcoming UN HLD is whether international migration will be included in the post-2015 development goals.

Migration should not be treated as an end-goal for development nor be considered as an instrument for development goals. Any discussion on the post-2015 development agenda should instead treat migration as a development concern that should be addressed by relevant development goals and strategies.

Migration, in its current form, is still very much a product of underdevelopment. Poverty, unemployment, political conflict and general displacement of peoples including displacement due to environmental factors are the major causes of migration. To put migration in the development agenda after the MDG is to perpetuate the current migration practice that is not a free exercise of the right to migrate but an economic, political and social issue that pictures underdevelopment worsened by the neoliberal economic paradigm advanced by the more powerful countries of the world.

Current migration should actually be a barometer to measure whether the MDG and its implementing plans are on the right track or not. More people being pushed to work outside of their country of birth, leaving their families behind is an indication that the development plan is not working but, on the contrary, is worsening the situation on least developed and developing countries.

In this regard, a new paradigm for development is needed. Such a paradigm should not follow the development framework that pushes the MDGs to a crawl or makes the goals meet a wall if not totally pushes the MDGs to failure.

The post-MDG development goals must be geared towards the elimination of the reliance of migrant sending countries to the migration out of necessity of its people. They must be directed towards veering away from the further systematization of its labor export program that violates the most fundamental of human rights of migrants, that is, to be treated as human beings. This must include industrialization that generates enough jobs, where labor rights are respected, and which will foster sustainable development.

As the genuine development framework is followed, the clear and present violations of the rights of migrants should also be addressed.

In this regard, the UN HLD 2013 must work to:

1. Uphold the people's development goals

Article 1 of the United Nations Declaration on the Right to Development stated 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."* This is the cornerstone of the development design that states must strive to achieve.

Present development strategies that utilize neoliberal economics and are being used to address the recurring crises in the world are profit-driven, business-oriented and are constructed to perpetuate development divide among countries and the economic and social gaps among the people.

The People's Goals for Sustainable Development is a comprehensive and alternative development framework being advanced by various CSOs from different sectors and in different levels. It calls on governments and the international community to adopt concrete commitments and targets, consistent with the principle of common but differentiated responsibilities and respective capacities (www.peoplesgoals.org).

It calls for a development agenda that is equitable and sustainable that, for the migrant workers, will resolve structural weaknesses and imbalances that create and perpetuate the condition where people migrate out of necessity and not of free choice. The achievement of these goals will create an environment that shall realize migration as a right and not a necessity. In turn, this will enable migrants to reach their potential to make genuine sustainable contribution to further national development.

The themes that the People's Goals for Sustainable Development revolve around and the accompanying recommendations to governments are:

- a. **Human Rights** that include the adoption and enforcement of laws that protect, promote and realize the full and comprehensive rights of the people; realization of human rights through international cooperation; and, respect for the rights of nations to their own development and natural resources
- b. **Poverty and Inequality** that include implementation of asset redistribution and reform; implementation of income distribution through progressive fiscal policy; rectification of bias against disadvantaged sectors including migrant workers; and implementation of reforms to redress inequality of countries
- c. **Food Sovereignty** that includes adoption of food sovereignty as policy framework; implementation of agrarian reform and securing the democratic rights of farmers, workers and rural peoples, as well as their access to finance and infrastructure support; and, reforming rules and policies in trade, investment and finance to support food sovereignty
- d. **Full Employment and Decent Work** that include ensuring and full and decent employment for all (including development of a country's productive capacity); and, the protection of the rights of workers
- e. **Universal Social Protection** that include achieving universal social protection in line with but not limited to the recommendations set in the Bachelet Report and ILO Recommendation 202; and, the protection and assistance to workers through labor market intervention
- f. **Gender Justice** that includes taking steps to ensure implementation of international commitments for gender equality and women's rights ensuring equal access and opportunities for women; and, pursuing policies to realize the rights of LGBT people
- g. **Environmental Sustainability** that includes committing to adequate action on climate; ensuring the sharing of safe, appropriate and ecologically and socially sound technologies and, achieving sustainable production and consumption
- h. **New International Economy** that includes reforming trade relations to promote equality among trade partners, uphold special and differential treatment of developing countries and help economic development in poor countries; and, implementing democratic and pro-developing country reforms of international financial and monetary system.
- i. **Democracy and Good Governance** that include strengthening rights and opportunities of peoples especially those traditionally underrepresented to take part in governance in all levels; instituting measures for accountability, transparency, democracy and justice in governance; and, strengthening corporate accountability and human rights adherence
- j. **Peace and Security** that include promotion of inclusive and equitable development processes; and, adoption of policies to eliminate nuclear arms and other weapons for mass destruction, and arms trading.

Under the abovementioned themes and recommendations, indicators to be set for the post-2015 development agenda must fully incorporate migration-related indicators wherever they may be relevant, both quantitative (e.g. decreasing number of deployment overseas vis-à-vis increasing decent domestic employment) and qualitative (e.g. changes in labor export policies).

2. Protect the full range of human rights of migrants

Alongside the implementation of genuine development program for the people, the human rights condition of migrants is in need of immediate actions both by countries of origin and countries of destination of migrants.

While the GFMD attempted to incorporate discussions on human rights in its annual meetings, it has utterly failed to address the human rights concerns of migrant workers, refugees, permanent migrants, returned migrants and dependent families of migrants. As shown by the findings of the International Migrants' Tribunal on the GFMD in November 2012, the GFMD has been more focused on managing the economic components of migration – mainly remittance – and has fallen short in promoting standards for human rights among countries of destination and of origin of migrants and their families.

It was reported by the UNSG in 2012 that as of June 2012, only 83 States had ratified at least one of the 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 (UNGA, 2012).

Meanwhile, only four States have ratified the 2011 ILO Convention on Decent Work for Domestic Workers (No. 189).

Various gatherings especially of grassroots migrant organizations have exposed the on-the-ground human rights concerns of migrants. Violation of economic, political, social and cultural rights of migrant workers are rampant and neither sending government nor receiving government are exerting enough political will to implement the spirit and letters of international instruments that protect migrants and their families.

For countries that send migrants, the stability of the labor market is usually the topmost consideration in facing human rights concerns of their nationals. Meanwhile for countries that receive foreign labor, migrant workers are most often excluded from policies that promote human rights. The status of migrants is considered below that of the general population and many of their rights are severely limited by the status of their citizenship, their economic level, cultural understanding, and their political and civil rights to participate in governance.

In line with addressing the human rights of migrants, the UN HLD must:

- a. **Institute a mechanism to periodically review adherence of states to instruments for the human rights of migrants** of the United Nations particularly, but not limited to, the Universal Declaration on Human Rights, the UN Convention for the Protection of the Rights of All Migrant Workers and Their Families, the International Convention on Economic, Social and Cultural Rights, the International Convention on Civil and Political Rights and the UN Convention for the Elimination of Discrimination Against Women. This periodic review must be conducted under the purview of the United Nations with the conducting body (whether standing or to be created) has the mandate of the UN General Assembly to call the attention of states on violations of the rights of migrants and to also propose necessary policy recommendations for consideration of states concerned.
- b. **Promote dialogues of cooperation between particular countries of origin and countries of destination** that will focus on joint actions and services for migrants in distress.
- c. **Promote the regulation of states of private recruitment agencies and private financing agencies** providing loans to migrants. Effective investigation and prosecution of private actors exploiting the vulnerability of migrants must be conducted.

- d. **Adopt and implement policies that shall protect sectors migrants in vulnerable condition** including domestic workers, migrants in irregular situation, low- and semi-skilled migrants, migrants in conflict situation, migrant youth and children.
 - e. **Reform the framework of migrant-receiving countries that migrants are threats to national security.**
 - f. **Urge states to amend laws to be consistent with provisions of relevant UN and ILO conventions.**
- 3. Promote transparency and democratic participation by increasing the involvement of grassroots migrant workers in governmental and intergovernmental policy-making processes**

From the national, to regional and international levels, participation of grassroots migrant workers to policy-making and policy evaluation is severely limited. Trade unions of migrants, grassroots-based CSOs and community organizations of migrant workers and their families are restricted by rules governing their mobility as well as their financial capacity to affect a sustained and meaningful participation in decision-making processes that impact on their rights.

In the UN HLD 2013 and the preparatory processes set, discussions and especially negotiated outcomes must be made open to grassroots and CSO intervention. It should be made available for scrutiny and inputs from non-state stakeholders must be properly accounted and seriously considered. This should be done both in the national and international levels, from the preparatory period to the actual meeting/dialogue.

The UN HLD must not replicate the experiences of CSOs, especially grassroots organizations of migrants, in the Civil Society Days (CSD) of the GFMD. Aside from being prohibitive from grassroots migrant groups, the CSD of the GFMD is also discouraging for many other CSOs due to stringent accreditation process, lack of timely and sufficient information and lack of financial support.

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