Global governance and the rights of economic migrants

In recent years, there has been a shift towards greater global governance of labour migration, alongside a growth in migrant and civil society associations which aim to promote and uphold a rights-based approach to migration. However, the new global governance structures offer few opportunities for migrants’ rights advocacy, and migrants’ organisations are therefore struggling to make much headway in improving the position of migrant workers and asserting their basic human rights.

KEY MESSAGES

- Economic migrants are often subject to persistent and multiple forms of rights abuse, and their opportunities for collective activism inside the countries in which they are working are very limited.

- Economic migrants often find themselves in precarious and dangerous jobs, or in sectors that are unprotected or under-protected by national labour laws.

- Trade unions have generally been unreceptive to the needs of migrant workers.

- Although there have been developments towards greater global or multi-sited, governance of migrant labour, these mechanisms still fail to take both migrants and migrants’ rights issues sufficiently seriously, and have not solved the problems that migrants and migrant advocacy groups face in relation to social activism.

- This means that the exclusion of economic migrants continues to go unaddressed, and in some cases even unchallenged. The emergent global regime around migration reproduces and sustains, rather than mediates, existing practices of exclusion and inequality.
BACKGROUND
Demographic shifts, the restructuring of the global economy, financial crisis and climate change are all factors which have contributed to richer countries from the North experiencing a greater need for migrant workers from the South, and to these resource-poor countries experiencing a greater pressure to increase their levels of out-migration. At least 86 million people are estimated to work outside their county of birth, the majority of whom are low-skilled, and international migration implicates most countries in the world as either places of origin or destination or both.

Despite its global significance, the governance of migration has been a piecemeal affair which, until very recently, has lacked any depth, coherence or coordination. In recent years, there has been a gradual shift towards greater global governance of labour migration and, at the same time, a growth in migrant and civil society associations which aim to promote and uphold a rights-based approach to migration.

However, there are question marks over the extent to which this has impacted on policy making, and there are fears that the needs, concerns and rights of migrant workers are still largely ignored in global policy.

THE DIFFICULTIES OF SOCIAL ACTIVISM BY AND FOR MIGRANT WORKERS
Both countries of origin and destination find reasons to avoid their responsibilities towards the many migrants who form part of a vulnerable and ill-paid workforce.

Destination countries have traditionally based their immigration policies on the perceived use to the economy of different labour migrants, with the primary aim of managing migration flows. Meanwhile, in many origin countries in the South, migration is an outcome of failed or unequal development.

Countries of origin are thus keen to encourage out-migration because of economic benefits such as remittances sent home by migrant workers. However, they do little or nothing to protect migrant workers once they are outside their country of origin.

Individual migrants therefore find themselves trapped between the restrictive policy frameworks established by destination countries and an emerging culture of emigration in their countries of origin.

Once in a destination country, migrant workers are often locked into short-term employer-controlled permits, which make them subject to control in their place of work and less able to engage in collective action. They are largely ignored by trade unions in their
destination country, and at the same time unions located in the often resource-poor origin countries tend to view migrants as better off than local workers simply because they are employed, with the result that they also often ignore them.

THE GLOBAL GOVERNANCE OF MIGRATION

Currently, there is a lack of coherence or consistency in migration policies at the global level. There are an almost bewildering range of actors involved, and the ‘migration industry’ is based on a large number of often unconnected decisions and policies.

Policies by individual states – or policies between specific pairs of countries (origin and destination) still play an important role as regulators or shapers of international migration. There are also increasing numbers of regional and inter-regional agreements that offer additional governance mechanisms. Some important global initiatives have also emerged in the past few years, as international institutions finally begin to address economic migration.

Progress is slow and there is as yet no comprehensive international legal framework governing the international movement of people for work. However, there are now a range of global institutions that attempt to set standards, produce technical knowledge, compile statistics and try to set the migration agenda, although they have, so far, been ineffective in protecting migrant workers.

For example:

- The International Organization of Migration (IOM) is the only organisation solely and directly devoted to migration, but it does not have a standard setting mandate, and does not provide for any meaningful input from trade unions, NGOs or migrants themselves.

- The International Labour Organisation (ILO) is the main standard setting agency with regards to migrants in their role as workers, and has produced two migrant specific conventions: C 97 dating from 1949 and C 143 from 1975. ILO’s Declaration on Fundamental Principles and Rights at Work 1998 relates to core labour standards such as the right to association and the freedom to organise. These freedoms are crucial for migrant workers as for other workers, however they are rarely put to work to defend migrants’ rights by the ILO or other global institutions.

- Under the General Agreement on Trade in Services (GATS), Mode IV relates to ‘individuals travelling from their own country to supply services in another’, thus linking migration to the management of trade and bringing it into the orbit of the World Trade Organisation (WTO). However, GATS Mode IV applies only to a very narrow group of migrants, and migration is dealt with strictly in terms of quotas and technicalities, without any mention whatsoever of social protection.

- The Office of the High Commission for Human Rights (OHCHR) monitors the implementation of the UN Convention on the Rights of All Migrant Workers and Their Families (CRM), which was passed by the General Assembly in 1990, and is the one migrant worker-specific instrument within the UN. The CRM sits alongside other
international human rights treaties but is, by a long way, the weakest in terms of ratification and implementation

RECOMMENDATIONS

- A comprehensive international legal framework is needed to govern the international movement of people for work.
- Origin and destination countries need to ensure that the UN Convention on the Rights of All Migrant Workers and Their Families is properly ratified and implemented.
- Global policies need to move away from focusing solely on the management of migration flows, and incorporate a much stronger understanding of rights-based governance for migrant workers, and in particular:
  - The right of migrant workers to development – migration governance needs to challenge the underlying structures of unequal development that currently sustain migration
  - The rights of ‘the left behind’ – there is a need to rethink what the right to a family life means in the context of families living across various countries. It is important to consider not only the rights of the migrant workers, but also the rights of those left behind who are dependant, emotionally or financially, on parents or carers working abroad.
  - The portable rights of migrant workers – Migrant workers have particular difficulties when it comes to claiming benefits, payments and investments, and there is a need for these entitlements to become ‘portable’ between countries.
  - The employment rights of migrant workers - trade unions in both origin and destination countries need to ensure that they better protect the rights of migrant workers.
- Non-state actors and civil society advocacy will need to ensure that they take a coordinated and cooperative approach, and that they gain more effective access to governance bodies, in order to ensure that rights are moved up the agenda in migration policy

FURTHER READING


CREDITS
This policy/research briefing was written by Jean Grugel, Professor in Development Studies and co-director of the SIDNET and the Public Services Academy at the University of Sheffield, and Nicola Piper, senior research fellow, Arnold-Bergstraesser-Institute at Freiburg University, Germany. It was edited by Jess McEwen.


International development is valued as an integral cross-cutting theme across the University of Sheffield, and SIDNET is an interdisciplinary network involving staff from the department of Economics, Geography, Law, Music, Politics, the School of Health and Related Studies, Sociological Studies, and Town and Regional Planning. The network extends far beyond Sheffield and involves professional collaboration with a range of international organisations. For more information about SIDNET, please visit http://www.shef.ac.uk/internationaldevelopment.

The Public Services Academy (PSA) serves as the Knowledge Exchange Hub for the Faculty of Social Sciences at the University of Sheffield. The PSA bridges the gap between practitioners and social scientists, delivering collaborative research and knowledge exchange activities tailored to the needs of a range of organisations and agencies across the public, private and third sectors. For more information on the PSA, please see http://www.shef.ac.uk/psa