



## **Background Paper**

(Original version: English)

### **Roundtable 1 - Partnerships for migration and Human Development: shared prosperity – shared responsibility**

#### **RT Session 1.2: Joint Strategies to address irregular migration**

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This background paper has been prepared by the co-chairs Ecuador and the Netherlands, in close collaboration with the RT Coordinator and with substantial input from the RT team members. The paper is based on open sources and does not aim to be exhaustive. It does not necessarily reflect the views of the GFMD organizers or the governments or organizations involved in the Roundtable sessions. Any reproduction, partial or whole, of this document should cite the source.

## **1. Executive Summary**

This paper supports the preparation and discussion of RT 1.2, which examines joint strategies to address irregular migration in the context of enhancing the development outcomes of migration. It looks at partnerships and agreements between governments, migrants, organizations, companies and all stakeholders in countries of origin, transit and destination, which can effectively manage irregular migration.

The paper gives recognition to the fact that irregular migration is a complex and controversial phenomenon. It presents different perspectives and opinions to stimulate frank and open discussion towards a more comprehensive vision and a strengthening of potential linkages between the different approaches. It proposes a comprehensive approach that considers not only economic, policy and regulatory aspects, but also the human side of the problem. Irregular migration cannot be resolved only by decrees and repressive measures; these may often achieve the opposite effect. Irregular migration is a controversial issue, but not a taboo and should be treated in a frank and comprehensive manner in the GFMD, to find joint solutions.

The paper is divided into five parts. The first examines the extent of irregular migration; the second approaches this complex social phenomenon from various perspectives, the third looks at the vulnerable situations in which irregular immigrants often find themselves; the fourth part goes into the relationship between development and irregular migration and the fifth concludes with examples of policy analysis and strategies to manage irregular migration.

RT 1.2 is directly related to RT 1.1 which looks at the flipside of the migration phenomenon, namely regular and orderly forms of mobility that can better protect migrants and their families. Managing one can directly affect the management and beneficial outcomes of the other.

## **2. Objectives**

Analyze irregular migration in a comprehensive way across the different phases of the migration cycle - in origin, transit, and destination countries – taking account of the factors that influence both the regular and irregular status of migrants (working conditions, labor markets, human rights, access to basic services, gender, family issues, etc) in these countries. A holistic perspective allows for the possibility of joint actions between different stakeholders; and the analysis of the various facets of the phenomenon can lead to more tailored joint solutions.

Identify joint strategies to address irregular migration by looking at best practices and holding an open discussion about the pros and cons of these practices. Within this discussion, the perspective of all parties involved should be taken into account.

## **3. Background and context: the numbers and the perceptions**

At a global level, irregular migration is estimated to be a marginal phenomenon that comprises only 10% to 15% of the total recorded migrant population. The majority of the 240 million migrants world-wide have legal status. However, the minority of irregular migrants are concentrated in certain countries and regions of destination, where their situation has become a serious challenge. Irregular migration is a fact that cannot be hidden and must be analyzed in its true dimensions. Thus it is imperative to have exact information about both stocks and flows of migration, its characteristics, and whoever is involved in order to take appropriate policy measures to meet this challenge.

Historically, the management of irregular migration has been discreet. In some cases, it has been tolerated, and solutions sought only when the phenomenon was considered excessive or politically or socially untenable. The criteria to define irregular migration vary from case to case, from country to country, from year to year, and according to the economies and politics involved. There are also different criteria for tolerating such migration, depending on the type of migrants, their social and familiar condition, country of origin, ethnicity and religion. The way irregular migration has been managed in the past has a direct bearing on the present and future. From the perspective of countries of destination, the challenges that irregular migration causes should not be underestimated.

Irregular migration is a difficult subject to analyze due to its clandestine nature and because it is a dynamic phenomenon that changes constantly. However, important advances have been made in finding the right methodology to better measure the influx and stock of irregular migrants.

In Europe, the media suggests that “recent estimates of irregular migrants in the EU range between 4.5 million and 8 million”. However, the last report by the Clandestine Project of the European Commission (2009) has smaller figures: “Keeping the geographical space of the EU15 constant, the aggregate estimates indicate that the irregular migrant population has declined considerably in the EU15, with an estimated 3.1 to 5.3 million in 2002 and 1.8 to 3.3 million in 2008. Current perspectives do not indicate this effect but point to an increase of the irregular foreign resident population. Looking at the enlarged EU27 in 2008, the aggregation results of that estimate are not much higher than the estimate of the EU15. It is estimated that about 1.9 to 3.8 million irregular foreign immigrants reside in the territory of the EU27 in 2008”<sup>1</sup>

The Clandestine Report is the most complete and sophisticated study ever undertaken on irregular migration in Europe. However, the report identifies a number of limitations with the information, and methodological problems that in the future will have to be overcome in order to understand more accurately irregular migration.

On the other hand, the U.S. has advanced in the measurement of the influx and stock of undocumented migrants over the last decade. This is no longer a controversial subject between countries of origin and destination. Demographers and researchers on the subject are studying this phenomenon consistently. And reputable organizations such as the Pew Hispanic Center refer to those studies, even when their conclusions may be controversial:

“The Pew Hispanic Center also estimates that inflows of unauthorized immigrants averaged 800,000 a year from 2000 to 2004, but fell to 500,000 a year from 2005 to 2008 with a decline year-to-year trend. By contrast, the inflow of legal permanent residents has been relatively steady this decade. Although the growth of the unauthorized population has slackened, its size has increased by more than 40% since 2000, when it was 8.4 million. In 2005, the Pew Hispanic Center estimated there were 11.1 million undocumented immigrants in the United States. The most recent estimate, 11.9 million, indicates that unauthorized immigrants make up 4% of the U.S. population”.<sup>2</sup>

Scientific advances in migration studies are vital in order to define adequate public policies. However, there is an ongoing tension between reality and perception about this subject. In many cases, public policy follows both data from scientific research and perceptions and interpretations by the media and in political debate. True solutions are those based on facts and reality.

Often there is limited or distorted information about taxes, access to social services, local wages, unemployment, and the demand for workers in certain areas of the labor market. It is only on the basis of

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<sup>1</sup> [http://clandestino.eliamep.gr/wp-content/uploads/2010/03/clandestino-final-report\\_-november-2009.pdf](http://clandestino.eliamep.gr/wp-content/uploads/2010/03/clandestino-final-report_-november-2009.pdf) (p.105).

<sup>2</sup> <http://pewresearch.org/pubs/978/undocumented-immigration>.

knowledge we have about irregular migration and its characteristics that we can develop joint strategies between countries of origin, transit, and destination involving all stakeholders.

The perception of migration is still fraught with stereotypes, the main source of xenophobia, racism, and discrimination. We must avoid simple stereotypes that see migration as linked to crime, insecurity, and terrorism. A lot of work needs to be done in countries and communities, where there is contradictory or inadequate information, and where new projections do not reflect the realities of irregular migration.

In sum, we reinforce the previous recommendations of the GFMD to take into account more and better sources of information, standardized indicators (as proposed for Migration Profiles), and the development of local, regional, and global studies about regular and irregular migration.

#### **4. Different perspectives on irregular migration**

Recognizing that irregular migration should be dealt with openly in the context of the GFMD means we must accept that there are different perspectives, interpretations and solutions. Migration is a dynamic and changing process in all phases and in all contexts of its life cycle, countries of origin evolve over time into host countries, while destination countries become countries of origin. Europe in past centuries was a region of emigration, just as the Americas were a region of immigration. Now Latin America and the Caribbean are no longer only countries of destination, but migrants from these countries travel to the United States, Europe and other destinations.

The current situation goes far beyond the simple dichotomy between origin regions and destination countries. Now both dynamics merge within one country, and transit and return processes are part of the cycle. The design of public policies must consider the different parts of the migration cycle and need to apply the principle of institutional coherence and shared responsibility. Respecting the rights of migrants in the country of destination *means* respecting the rights of immigrants who may be in transit, and those who return. Applying the law in the case of irregular migrant workers also means enforcing the law in the case of irregular employers.

In the same way that countries are reorienting their flows, irregular migrants also often regularize their situation, and legally admitted migrants may change status and become irregular. Having a regular or irregular status is not a final status. Laws, requirements, criteria, and conditions that define the various forms of migration change. There have even been changes in the constitution of some countries to permit the acquisition of citizenship (including dual citizenship). Migration is a phenomenon where rules need to be adapted to specific cases, countries, political and economic situations, and demographic change. To understand the migration process and define appropriate public policies is essential for a comprehensive view of the phenomenon and the participation of all stakeholders. Migration has many causes, but we need to focus on the conditions and circumstances that generate irregular migration and the various perspectives and interpretations of this phenomenon.

One of the future challenge of irregular migration is to achieve a balance between demand and supply of labor at the international level; between the requirements for professional, scientific, skilled and unskilled personnel in developed countries and the urgent needs of developing countries; among young workers who pay taxes and adults in need of pensions and social services: among migrants and their families who are separated, between youth populations and aging societies. In all these processes legal, safe, regulated and orderly migration plays a key role. In order to achieve this, we need to find joint strategies among all actors in the migration process, and to reconcile their different perspectives, positions and interests.

Some countries focus on the human side of migration and the importance of migrant rights: "... mobility is a natural trend in human beings, and it takes place for various reasons; however, and in general terms,

persons leave their places of birth in search of better opportunities. Depending on the ease of emigration (i.e., financial resources, the need for workers or high qualifications required by countries of destination, among other factors) persons choose either regular channels depending on the degree of restrictions for persons to enter or remain at a given destination, or are forced into irregular options” (Ecuadorian contribution for RT 1.2).

For both countries of origin and destination, it is important to highlight the contribution of migrants, both regular and irregular. Migrant involvement in key growth sectors such as agriculture, construction and services, contributes significantly to the welfare of the population. For example, domestic work and care of children and the elderly, usually poorly paid and stigmatized, is a fundamental contribution of migrants to the welfare of families at both ends of the migration spectrum.

For some countries, it is fundamental to focus on the economic aspects: “There are enough international instruments and standards to address the acts or situations of irregular migration. What is lacking is an international instrument or mechanism to address the imbalance between supply and demand in the international labor market that triggers irregular migration. Unless the imbalance in supply and demand is adequately addressed, irregular migration will continue and efforts to combat irregular migration will only force the operation deeper underground with grave consequences for victims. In this regard, while there are firm rules on trade in goods, discussions on the movement of natural persons have not progressed” (Philippines contribution for RT 1.2).

It is also important to take into account the political factors. While in some cases migration is mostly regular, there is also a great deal of irregular migration, or migrants who overstay and become irregular. How they succeed to make a living in the host country can differ, but a number of these irregular migrants have jobs and pay taxes. They therefore contribute to the host society but have no legal rights to social security benefits. Given the apparent need for these migrants, it could be argued that they should be legalized to overcome the negative effects of irregular migration. Other solutions may be more appropriate to solve the basic imbalances in the formal labor markets: for instance broadening the opportunities for legal migration (e.g. circular migration schemes); and identifying and better matching real labor market needs with the right kind of labor. These might offer more viable alternative to irregular migration, and help diminishing its negative effects.

In this context, it is important to clarify that the situation of irregular migrants differs widely among host countries. In some cases, irregular migrants work and pay taxes, but do not benefit from social security schemes. In others, the work of irregular migrants is also irregular, and they do not pay taxes. For these cases, regularization schemes or granting irregular migrants the same social rights as citizens and regular migrants, would be extremely expensive. The pressure of irregular migration on host countries should also be taken into account in the debate. Addressing irregular migration goes further than regularization and the (social) rights of (irregular) migrants (Netherlands contribution for RT 1.2)

All these perspectives represent ways of analyzing the phenomenon of irregular migration. They do not necessarily contradict, but rather complement, each other. The human perspective is important, as are the economic and political ones, to understand how imbalances in international labor markets can negatively impact human development; while the realities of origin, transit and destination countries should be taken into account.

To sum up, irregular migration is a negative phenomenon, and its eradication/reduction in the medium to long term is the best solution for optimizing human development and social cohesion. But partnerships between countries of origin and destination as well as the private sector can also ensure that irregular migrants transfer their money back home in safe and inexpensive ways, without fear of prosecution or criminalization, thereby assuring their constructive development impacts, at least in the short-term.

## **5. Irregular migration, vulnerable groups and development strategies**

Human trafficking and smuggling issues are directly linked with irregular migration; however, they may lead the discussion to other types of problems and solutions related to criminal behavior (Palermo protocol). We propose to focus this part of the discussion on vulnerable groups and on the possible cooperation between countries of origin, transit and destination and organizations to combat trafficking and smuggling.

Transit migration is a topic that has not been treated in depth in the GFMD and requires further research, debate and public policy. Transit migrants are exposed to many dangers, and desperation often leads them to take risks that can cost them their lives. In different geographical regions, migrants venture into the sea in flimsy boats, or out into deserts, traverse inhospitable areas or opt for secondary roads and dangerous routes in the hope of being admitted to another country. Transit migrants are highly vulnerable, due to their foreign and irregular status, often in debt and under the control of traffickers and exposed to extortion by mafia and other organized criminals.

Excessive controls and requirements by countries of destination have significantly increased the costs and risks of irregular migration. In some cases, this has been part of a calculated strategy or policy to discourage irregular migration. In recent decades, the difficulties of clandestine border crossing have increased its cost and with it, the proliferation of gangs engaged in human trafficking and organized crime. These tap into, and operate parallel remittance systems as an easy and effective way to extort money from relatives in the place of origin and destination. The helplessness of the migrants caught up in trafficking networks is aggravated by a lack of immigration policies specific to transit migration.

This issue should be addressed on a multilateral basis and in a context of shared responsibility, since transit countries pay the cost of migration control and take responsibility for prosecuting and enforcing justice on behalf of other countries. They also take on the political costs. in situations of humanitarian crisis.

Due to their irregular status, migrant workers are at greater risk of working in insecure environments, holding dangerous jobs, working extra hours, being exploited, and receiving wages below the minimum. Labor laws need to be applied in each country without distinction and without discrimination against irregular migrants.

In this context, there is a number of recent normative developments at the national level that help safeguard the basic rights of irregular migrants, such as the decision of the Greek Supreme Court to provide compensation to irregular migrant workers in terms of fair market value wages for work performed, or the Spanish Constitutional Court's recognition of the unhindered right of undocumented workers to join trade unions. The Mexico-Canada Seasonal Agricultural Workers Program (SAWP) a bi-national cooperation strategy with over thirty years of experience offers temporary agricultural farm workers from Mexico a legal, safe and orderly framework for working abroad and sending remittances home. However, issues of labor rights, payment of different taxes, access to social services and the ability to unionize, continue to be discussed time and again.

Irregular migrants receive better wages abroad than in their places of origin, and in some contexts and countries have better access to services, health, and education. There is a lot of discussion regarding the cost of maintaining these services in destination countries for irregular migrants and their families, and if they have the right to use them (see also the RT 2.1 Background Paper). We need more and better information on this subject, both from the use of services by irregular migrants, as well as their contributions through payment of taxes.

There are also differing positions and perspectives on this issue:

Some countries argue that migrants already at the countries of destination—even if under irregular conditions—are nonetheless human beings to whom the States must guarantee their rights. Failing to do so, increase their vulnerability and further marginality for these persons. Under such circumstances access to health and education—among other rights—are unattainable for them, even if they (undoubtedly) do contribute to the economy of the receiving countries (Ecuador’s contribution to RT 1.2).

Some other countries affirm that providing irregular migrants the same social rights as citizens and regular migrants is very expensive. There are countries that grant irregular migrants formal access to basic health services (e.g. Argentina, Italy and Spain), and there is little evidence to suggest that this approach is prohibitively expensive for them. Indeed, they are likely to cost savings in the long term, i.e. curtailing preventive health care and meeting public health concerns. Moreover, it would appear that despite the possibility of lawful access to health care and attempts to delink access from immigration enforcement, many irregular migrants in need of health care are still not accessing it because of lack of information, fear of deportation and bureaucratic and other practical obstacles. (see RT 2.1)

In other countries, social assistance covers not only the medical expenses but also the cost of living (food, clothing), housing, scholarships for children and so on. These costs are covered through taxes and paid premiums. Because irregular migrants in e.g. the Netherlands do not pay taxes or premiums, these costs are not covered. Granting irregular migrants social rights is therefore expensive in these countries.

It also only treats the symptoms of irregular migration, without addressing the root causes and hence cannot be seen as the ultimate solution.

Irregular migration is also connected to the phenomenon of mixed flows. Individuals move for a variety of reasons (and usually in an irregular manner), including persons seeking asylum from persecution, escaping from vulnerable situations involving conflict or environmental degradation or disaster, or simply searching for better work and/or living conditions. IOM takes the view that irregular migration and mixed flows are best addressed in the context of a holistic and comprehensive approach to migration management, involving policy and programmatic interventions at all stages of the migration lifecycle in partnership with a range of stakeholders.

Such interventions include joint information activities in countries of origin and transit as well as measures in destination countries to combat racism, discrimination and xenophobia, which affect all migrants regardless of immigration status. Such measures need to be targeted not only at the general public but also at state authorities (where deficiencies have been identified), as well as other stakeholders. The Diversity Initiative (2009 IOM Council paper) in the Ukraine, which *inter alia* involves building up the capacities of law enforcement agencies to better deal with cases of racism, discrimination and xenophobia, may be considered a good practice.

## **6. Relationship between irregular migration and development**

One of the goals of the GFMD is to help achieve the Millennium Development Goals (MDG’s). Irregular migration should therefore also be approached from the development perspective. Looking at the overall theme of this Roundtable, this approach raises the issue of development of countries of origin, especially how development assistance could help to reduce irregular migration flows.

The exact way in which development could affect migration is still unclear. The results of some studies show that development can initially lead to more migration; while in the long run migration will probably

decrease with development growth. Although a lot of research still needs to be done, strengthening the development of countries might eventually have a diminishing effect on the extent of migration. Over the longer term, however, development could help overcome the reasons for migrants to undertake the dangerous journey of irregular migration and make migration a free, positive and legal choice.

Addressing irregular migration from the development angle is also important because of the possible loss of labor potential, which irregular migration can cause for countries of origin. Losing labor force and expertise to other countries poses challenges for the development of countries of origin. In some parts of Africa, the draught of medical personnel is already very serious; and the emigration of medical personnel in large numbers (as already happens) has exacerbated the problem. The brain drain phenomenon applies more to regular migration, but nevertheless losing work force because of irregular migration could lead to similar challenges in the labor market. Finding joint strategies between countries of origin and destination can help mitigating the need to migrate, and keep the necessary expertise and knowledge for development in the country of origin.

Migration and development can focus on economic development, but it can also focus on capacity building and migration partnerships. Exchanging expertise between countries of origin and destination could increase mutual understanding about the different aspects of the problem and also help countries improve their legal system, border control, migration services, administrative procedures and how to address the problems of internal displaced persons (IDP's).

## **7. Questions to guide the discussion**

In order to have an open discussion about the different themes and approaches mentioned above, the Roundtable will have two discussion rounds. One will be brief, introduced by the Ecuadorian co-chair and moderated by the Dutch co-chair. The other one will be introduced by the Dutch co-chair and moderated by the Ecuadorian co-chair. The main questions for the discussions are:

*Discussion round i) (Ecuador):*

1. What measures can we consider to improve the perception of the migration phenomenon in places of origin and destination?
2. Xenophobia, racism, and discrimination affect both migrants and receiving society. What measures can we take into account to eliminate such practices?
3. Is it possible to identify mechanisms that combine the possibility of guaranteeing the rights and access to social services by irregular migrants, with the pressure which this sort of migration may exert upon destination communities?
4. Is it possible to identify new mechanisms aimed to seek a solution to irregular migration? Or, are such regulations and deportation the only viable options?

*Discussion round ii) (The Netherlands):*

1. What are the negative causes for irregular migration?
2. Bearing these causes in mind, could we identify joint strategies (among countries of origin, transit and destination) to address these causes?
3. What are the best practices concerning the way in which cooperation could address the negative causes of migration? What are the views of countries of origin, transit and destination in this regard?



## Appendix I

### Inputs to the discussion

In general, joint strategies to address irregular migration could be approached from two perspectives: a) the search of options for documented migration, e.g. by regularization programs or guest workers programs; b) through partnerships for better and humane irregular migration management.

#### a) Netherland's contribution

As mentioned in other sections of this document, irregular migration has a number of different negative aspects. Mostly, irregular migrants do not have the same rights as regular migrants and inhabitants of countries of destination. On the other hand, irregular migration is related to human smuggling and trafficking as well as the exploitation of migrants. These are all cogent reasons for advocating that irregular migration should be minimized.

A possible solution is to lift all boundaries to migration. We all know that this is neither feasible nor desirable, at least not in the near future; and simply does not eradicate irregular migration. Another possibility is to have regularization schemes for those who have entered countries of destination irregularly or become irregular by overstaying their visa. For some countries, this would be a solution, but particularly so from the perspective of the migrants. This is not the case for the Netherlands (and similar destination countries), where immigration regulations are decided upon in a broadly democratic manner and for specific reasons. The answer for those who ignore these regulations cannot simply be a regularization scheme. In the European context, this would also create a pull factor pressure on the Dutch society. Such a scheme could only come into force in a democratic way, and this is not always easy. There is clearly not sufficient public support for such a measure in the Netherlands. Another reason why regularization schemes are not a desirable solution is because the extensive social security system in the Netherlands would become too expensive.

The Netherlands are therefore interested in other solutions to address irregular migration. From IOM, we learn that partnerships and cooperation to prevent and address irregular migration can and do occur between countries of origin and destination as well as by bringing in other stakeholders. A good example is the Migrant Resource Centre in Cape Verde. Another example of addressing irregular migration is the Technical Cooperation on Migration projects.

In 2008, the Dutch Ministries of Foreign Affairs and Justice issued a policy paper on the Netherlands approach towards migration and development<sup>3</sup>. It lists 6 priority areas where the Netherlands could make a difference:

1. Focus more on migration in the development dialogue and on development in the migration dialogue
2. Foster institutional development in migration management
3. Promote circular migration/brain gain
4. Strengthen the involvement of migrant organizations
5. Strengthen the link between remittances and development
6. Encourage sustainable return and reintegration

As already mentioned, the exact way in which development could affect migration is still unclear. Although there is still a lot of research that needs to be done, strengthening the development of countries might eventually have a diminishing effect on the extent and the negative reasons for migration (and therefore in the end also the number of people that migrate irregularly).

Since these 6 policy priorities aim to have a developmental impact, they could have (indirect) consequences for irregular migration. For instance, in the dialogue on migration and development it is important to address both issues at the same time and in a coherent way. By making use of the development potential of migration (knowledge transfer, investment of remittances, business start ups, capacity building) we can contribute to the sustainable development of the country of origin, reduce poverty and contribute to brain gain. In the long run, this could help reduce the root causes of/incentives leading to irregular and involuntary migration.

The Netherlands' pilot on circular migration will give about 160 migrants, all professionals with vocational training, an opportunity to gain working experience for a period of two years in Dutch companies. They are employed in regular vacancies in sectors where there are shortages in the Dutch labor market. The training will be based on a personal development plan, focusing on return. Upon return in their home countries the migrants will be assisted in finding a (better) job, starting up their own business and investing their remittances.

For three years, the migrants, their families and their employers in the Netherlands will be surveyed. The socio-economic impact of migration in the countries of origin will be analyzed. Indicators will be developed to measure these impacts, data will be collected e.g. on return, a control group with identical qualifications will be selected to correctly analyze the effects of the migration experience on the migrants, their families and their employers. The pilot will investigate whether or not circular migration can lead to a 'triple win' (win for home country, country of destination, migrant). The pilot will contribute to answer the question whether or not circular migration can be a new tool in development cooperation. The pilot will show whether or not cooperation with third countries on the issue of migration in general is strengthened.

Migrant organizations could play a useful role in giving a clear and honest picture of the lives of migrants in countries of destination, spreading information about regular migration or the dangers of irregular migration. Migrant organizations can also help turn individual "development" initiatives into a larger and possibly more effective development project.

The fifth priority is increasing the effectiveness of remittances in strengthening the development of the country of origin and thus reducing poverty (MDG1). Finally, for the irregular migrants who have reached the country of destination and are not eligible to stay, the Netherlands tries to find measures to ensure sustainability of return and reintegration in the country of origin.

## **b) Argentina's Contribution**

### Changing perceptions of migrants in society

It has been argued that the presence of migrants from different backgrounds can pose challenges especially in societies that were traditionally homogeneous. These challenges or concerns can be distinguished as three main types: related to security and crime, socio-economic factors and cultural factors. But are these perceived stereotypes common in popular debates reflected in concrete data? They probably are not, so it is worthwhile to take a closer look at this issue.

In Europe, a survey conducted in 2002 by the European Social Survey showed that 70 percent of respondents believed immigrants worsen a country's crime problems. Stereotypes of migrants associated

with crime have long been diffused through popular media. However these perceptions very often do not stand the test of statistics. Take for instance data from the 2002 US Census that show how for every ethnic group, incarceration rates among young men are lowest for immigrants. Similarly in Argentina migrants are clearly under-represented in crime rates and their share of convictions has dropped dramatically, since being able to regularize their migration status between 2004 and 2010. Consistently, non-resident foreigners are still very much present in crime rates related to drug-trafficking offences across international borders where regularized, resident immigrants play no role. Clearly, misrepresenting the evidence criminalizes and demonizes all irregular migrants, encouraging them to remain underground. Misrepresentations also often spill over to regular migrants and long-term residents.

There are also fears in some countries that migrants undermine the socio-economic conditions of nationals, e.g. by taking jobs away from them. Especially in times of economic downturn, there may be finger-pointing by some media and trade unions. Migrants can be held responsible for the worsening situation and become easy scapegoats for political extremists. Yet data show once again that migrants - often irregular - respond to genuine labor market needs, and take on jobs for which there are insufficient candidates among legal residents and natives. This was clearly the case in Argentina before and after the regularization of regional migrants, where vast economic sectors such as domestic work, construction, retail trade and agriculture would simply have collapsed without the contribution of Bolivians, Paraguayans and Peruvians.

Finally, it is commonly accepted that migrants can affect the ethnic and cultural diversity of a society. Some developed countries with persistent demographic deficits, and under pressure from certain political groups, have championed circular migration programs intended to provide labor for their markets on a temporary or seasonal basis without having to face integration challenges. Under these schemes, migrants are at risk of becoming a commodity, and having their human rights curtailed, e.g. the right to family reunification. On the other hand, the existence of several nations would not have been possible without the large and continuing influx of migrants. Many of them have been very successful in absorbing migrants and giving them a common sense of belonging to a new national identity.

From this perspective, a case urgently needs to be made for more diverse and inclusive societies, and anti-discriminatory measures need to be strengthened and diversity promoted. Some experiences like the INADI in Argentina (National Institute against Xenophobia and Discrimination) show that innovative interface mechanisms with immigrant diaspora can be an effective tool to detect and address discrimination and xenophobic trends still present in some host societies.

### **Argentina's regularization processes: "Patria Grande"**

The pros and cons of regularization programs have been extensively debated. The benefits for the destination country relate to security and the rule of law, while for the migrants and their families once they are regularized they are clearly better positioned to overcome social and economic exclusion. In this respect regularization, once other political and controversial options such as mass deportation are excluded, seems an adequate tool to address irregular migration, acknowledging its useful contribution to society and to the protection of migrants themselves.

Some countries have recognized the positive socio-economic impacts of regularization programs, particularly on wages, mobility and integration. One such case is the regularization program "Patria Grande" carried out by Argentina in 2006-2010. Unlike the Argentine migration law passed in 2004 that provides a general policy framework, "Patria Grande" was aimed essentially at migrant workers from MERCOSUR countries (full members and associates) residing irregularly in Argentina before June 2006. The program has to date benefited 221,845 migrants, who have been granted permanent and temporary residence, and a further 423,645 who have started regularization procedures.

Argentina has a long-standing tradition of immigration. It therefore seems appropriate to put current Argentine good practices in an historical context. Several currents of European migration impacted Argentina throughout its history: 1) 1870-1914; 2) 1919-1939; 3) 1945-1960. This was due mainly to relatively high wages, economic prosperity and a liberal legal framework, which attracted immigration. At the 1914 National census, 1/3 of the population of the country was born in Europe. In Buenos Aires the rate was well over 50 %.

Later in the 1980s-1990s Argentina witnessed the arrival of regional migrant flows, attracted by job opportunities and high exchange rates. Paradoxically, the national legal framework and the country's migration policies were increasingly restrictive. The National Constitution of 1853 was adamant on the promotion of European immigration, and the new reality of Latin-American migration was at best ignored. Notwithstanding this fact, during the 1990s several studies clearly demonstrated that regional migrants were making a useful contribution to Argentine society. Among the nationalities concerned were Paraguayans, Bolivians, Peruvians, Chileans and Uruguayans. Their presence was particularly felt in the economic sectors, Construction, Domestic work, Textile industry, Retail trade and Services.

By the end of the 1990s, some predictable consequences were noted: The situation was clearly creating a two-tier society in which a growing underclass had few or no rights (labor, education, access to health). Besides, their stigmatization was favored by current legislation encouraging administrative denunciation of irregular migrants. Even some powerful national trade unions (UOCRA, construction) would at that time single out regional migrants for «stealing jobs». In addition, regional migrants were becoming ideal scapegoats for an increasingly complex economic situation.

This macroeconomic trend led to the national economic downturn of 2002-2003: 300 % devaluation of the national currency; unemployment rate rose to 20%; under-employment rate was 17%, the population under poverty line: 42% and extreme poverty: 27 %. By then, regional migrants were overtly targeted as responsible for high crime rates and unemployment.

A new migration policy was introduced in 2003. The turning point was the political decision that year to introduce radical changes for the protection of migrants. There was a clear shift from national security considerations to a migrant-as-human being centered policy. Today, the policy has two main pillars: New national migration law 25.871 (2004); Regularization program «Patria Grande» (2006). The former:

- Recognizes the human right to migrate, drawing heavily from the 1990 UN Convention of Migrant Workers.
- Provides equal treatment between nationals and foreigners.
- Guarantees the right to family reunification.
- Guarantees access to health, education and social assistance to foreigners irrespective of their migration status.

The National Program of Documentary Normalization «Patria Grande» 2006:

- Focuses on nationals of MERCOSUR & Associated countries: Brazil, Bolivia, Colombia, Chile, Ecuador, Paraguay, Peru, Uruguay and Venezuela.
- Guarantees the right to stay, leave and re-enter Argentina.
- Guarantees the right to study and obtain working permits.
- Offers a first step to permanent residence.

Facts & figures: 221,845 regional migrants have been granted permanent and temporary residence and a further 423,645 have started regularization procedures.

An evaluation of these good practices in Argentina should take into account the following facts and figures:

- Since 2004, unemployment has fallen to 8 %, underemployment to a similar rate.
- Poverty indexes diminished from 54 % to 23.4 %, extreme poverty from 27.7 % to 8.2 %
- The incidence of foreigners in the total number of criminal convictions has stayed around 28 % but currently 70 % of them represent drug-trafficking and connected crimes and concern mainly foreigners in transit, not regular residents.
- 59.1% of the Argentine population agrees that migrants should benefit of the same human rights as nationals (health, education, access to justice).<sup>4</sup>

### **c) Mexico: regularization programs and irregular migration management**

Recognizing the positive effects of documented migration, since 2000 Mexico has implemented six Programs of Migratory Regularization (*Programa de Regularización Migratoria*) by which the foreigners living in Mexico can obtain a migratory document if they have at least one of the following requirements: a licit job, have married a Mexican or a resident in Mexico, have a relative in first degree residing documented in Mexico, or have one year or more of cohabitation with a Mexican or a resident in Mexico. The main beneficiaries of the program have been Central American nationals. In total, 23 thousand foreigners have been regularized since 2000.

For the repatriation of undocumented foreigners from Mexico, on the 5<sup>th</sup> of May 2006 a MoU was signed between Mexico and the main Central American countries of origin of migratory flows (Guatemala, Honduras, El Salvador and Nicaragua). In annual average since 2007 to 2009, 59 thousand Central Americans have been repatriated within this scheme.

Mexico also signed a MoU with the U.S for safe, ordered and humane repatriation of Mexicans, which allowed the reception by the INM of 570,000 Mexicans repatriated by the Border Patrol annually from 2007 to 2009.<sup>5</sup> Around 14,000 of which were transported to Mexico City within the Program of Voluntary Repatriation to the Interior (*Programa de Repatriación Voluntaria al Interior*). This is a partnership carried by the governments of Mexico and the U.S. since 2004, for the protection of Mexican migrants in the corridor Sonora-Arizona during the summer season, when the higher number of deaths occur due to high temperatures.

In addition to the former, the Program of Humane Repatriation (*Programa de Repatriación Humana*) was started in 2008 by the INM in partnership with the state and local governments, local entrepreneurs and civil society organizations. The program is now active in all states of the Northern Frontier, in order to assist repatriated Mexicans with food, shelter, communication with their families, medical care in emergencies, travel to their places of origin and information about job vacancies in Mexico. During 2009, 182,000 repatriated Mexicans accepted one or more services offered by this program.

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<sup>4</sup> Infobarómetro survey, May 2010.

<sup>5</sup> Several local agreements for repatriation of Mexicans were sign between local authorities from Mexico and the United States for example: Baja California, Mexico with Calexico and San Diego, U.S.; Sonora, Mexico with Nogales, Phoenix, Tucson and Douglas, U.S.; Chihuahua, Mexico with Presidio, U.S.; Coahuila, Mexico with Eagle Pass, U.S; etc.

The Beta Groups<sup>6</sup>, or migrant protection groups (*Grupos BETA de Protección a Migrantes*), have been operating in Mexico since 1990. These are groups comprise officials from Federal, state and municipal governments, trained to rescue, protect and orient migrants in vulnerable situations. They do not arrest undocumented migrants. The 16 Beta Groups are displayed in key sites of the Northern and Southern frontiers of Mexico and in some identified transit locations. Since 2007 to 2009 they assisted around 250,000 migrants per year, either Mexicans or undocumented foreigners in transit to the U.S.

#### **d) IOM contribution**

Joint information strategies in countries of origin can provide warnings about the risks of irregular migration and the benefits of moving through legal migration channels. A good practice is the Migrant Resource Centre in Cape Verde, operated with the assistance of the principal destination country, Portugal. Such strategies may be targeted at particular regions prone to greater irregular migration, and need to be carried out in partnership with regional or state government and civil society.

In large countries such as India with numerous remote regions, information strategies are most successful when carried out in collaboration with local NGOs. This is an important finding of a 2010 workshop on preventing irregular migration organized by IOM with the Ministry of Overseas Indian Affairs under the auspices of an EU-funded project on labor mobility between the three South Asian countries of Bangladesh, India and Nepal, and the European Union (see also WMR 2008, chapter 8, textbox 8.4 concerning initiative aimed at preventing trafficking of girls from Nepal to India); (For an initial assessment of Migrant Resource Centers, see the recent IOM research paper, MRS No. 40).

In the context of regularizing the status of irregular migrants in host countries, some recent interesting examples of joint approaches exist, such as the bilateral regularization agreement between Portugal and Brazil, and a small IOM-funded project on regularization of Peruvians in Ecuador which has included joint training of border officials on regularization. While there are clearly differences of opinion about the scope, value and impact of regularization programs, particularly in respect of the unsubstantiated assertion that they encourage more irregular migration, legalizing the unauthorized employment situation of irregular migrants clearly has a positive development impact, in terms of both human development/security and development outcomes for origin and destination countries.

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<sup>6</sup> According to the Regulations of the General Law of Population (Reglamento de la Ley General de Población) on it's Article 137, it is established that the Ministry of the Interior (Secretaría de Gobernación) can create migrant protection groups in the Mexican territory. Also, on it's Article 138, it is established that the INM will coordinate the operation and function of these groups.