



Conferencia Regional sobre Migración  
Regional Conference on Migration

# Seminar-Workshop Capacity Building for Consular Officials on the Protection of the Labour Rights of Migrant Workers

## RECORD OF PROCEEDINGS

Managua, Nicaragua, 3-4 May 2012



Organized by the government of Nicaragua and the IOM through the contributions of the IOM Development Fund and the project "Improving Labour Migration Administration in Central America and the Dominican Republic (ILMA-CA-DR)", financed by the government of Canada.



Improving Labour Migration Administration  
in Central America and the Dominican  
Republic (ILMA-CA-DR)

IOM Development  
Fund  
*Capacity Building in  
Migration Management*

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The Seminar-Workshop for the Capacity Building for Consular Officials on the Protection of the Labour Rights of Migrant Workers took place in Managua, Nicaragua, on May 3-4, 2012. It was organized by the government of Nicaragua and the International Organization for Migration (IOM) through the contributions of the IOM Development Fund and the project "Improving Labour Migration Administration in Central America and the Dominican Republic (ILMA-CA-DR)", financed by the government of Canada.

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Regional Conference on Migration (RCM)

RCM Technical Secretariat

Address: Avenida Central, streets 27 y 29, House #2775, Apdo. 122-2050

San José, Costa Rica

Phone: (506) 2222-0590

E-mail: [crmst@iom.int](mailto:crmst@iom.int)

International Organization for Migration (IOM)

Office in Costa Rica

Address: Avenida Central. 200 meters east from the Nicaragua Embassy. Barrio La California.

San José, Costa Rica

Phone: (506) 2221-5348

E-mail: [iomsanjose@iom.int](mailto:iomsanjose@iom.int)

Photographs:

RCM Technical Secretariat

The development of this Seminar-Workshop and the publication of this Record of Proceedings were possible thanks to the efforts and dedication of the following people:

Salvador Gutiérrez – Regional Policy and Liaison Specialist, IOM Costa Rica

Ricardo Cordero – Regional Specialist on Labour Migration / Migration and Development, IOM Costa Rica

Paola Zepeda – Officer in Charge, IOM Nicaragua

Alexandra Bonnie – Project Coordinator, IOM Nicaragua

Sofía Salas – Regional Coordinator for the project Improving Labour Migration Administration in Central America and the Dominican Republic, IOM Costa Rica

Karla Vilchez – Technical-Administrative Assistant for the project Improving Labour Migration Administration in Central America and the Dominican Republic, IOM Costa Rica

Karla Venegas – Consultant

RCM Technical Secretariat

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|         |   |
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| ICJ     | International Court of Justice  |
| IACHR   | Inter-American Court of Human Rights  |
| ILO     | International Labour Organization   |
| CONAMAJ | National Commission for the Improvement of the Administration of Justice (Costa Rica) |
| IOM     | International Organization for Migration  |
| RCM     | Regional Conference on Migration  |
| PROTEJE | Specialized Technical-Legal Programme   |
| UNHCR   | United Nations High Commissioner for Refugees   |
| VCCR    | Vienna Convention on Consular Relations   |
| VCDR    | Vienna Convention on Diplomatic Relations   |
| PTMT    | Temporary Migrant Workers Programmes  |

The Seminar-Workshop “Capacity Building for Consular Officials on the Protection of the Labour Rights of Migrant Workers” was held as a follow-up to the main results and recommendations obtained at the First and Second Workshops of the Regional Conference on Migration (RCM) regarding “temporary foreign worker programmes, held in San Salvador on April 23-24, 2009, and in Santo Domingo on April 27-29, 2011. Its purpose was to contribute to the formulation of a medium term work plan (within the framework of the Work Plan of the RCM’s Liaison Officer Network for Consular Protection) for promoting and defending the labour rights of migrants.

The proposal for the Seminar-Workshop was submitted to the Regional Consultation Group on Migration (RCGM) in the framework of the regional project entitled “Improving Labour Migration Administration in Central America and the Dominican Republic”, financed by the Government of Canada and implemented by the International Organization for Migration (IOM) in Costa Rica El Salvador, Panama, and the Dominican Republic.

The specific objectives of this Seminar were as follows: a) Build the capacities of consular officials regarding the promotion and protection of the labour rights of migrant workers in their destination countries, through the sharing of experiences, good practices, and lessons learnt; b) Promote cooperation among relevant authorities in countries of origin and destination; and c) Formulate work plans to address this issue.

The Seminar sought to provide input to the participants, particularly to members of the RCM’s Liaison Officer Network for Consular Protection, regarding the following topics:

1. Protection needs of migrant workers in the destination countries.
2. Good and bad practices and lessons learnt with regards to consular protection of migrant workers’ labour rights.
3. Mechanisms for strengthening cooperation among the governments of both origin and destination countries for the consular protection of the labour rights of migrants.

This publication compiles the presentations given during the Seminar-Workshop, which was held on May 3-4 in Managua, to demonstrate the importance of consular promotion and protection of migrant workers’ labour rights. This material also attempts to contribute to the adoption of solutions or concrete actions conducive to a modern, comprehensive, and effective management of labour migration, with a focus on human rights.



## REPORT

RAPPORTEUR: RICARDO CORDERO (IOM)

The Seminar-Workshop took place over two working days, with broad participation of government representatives from the Member Countries of the Regional Conference on Migration (RCM, or Puebla Process), along with international bodies and civil society organizations. The agenda included expert presentations with question-and-answer sessions, as well as the sharing of good practices and lessons learnt among the participating countries.

The activity was inaugurated by the Nicaraguan Minister of Governance, Ana Isabel Morales Mazón, and the IOM Regional Director for Central and North America and the Caribbean, Robert G. Paiva, who pointed out the following important aspects of this event: 1) The growing importance of labour migration within the context of the region; and 2) The need to address this issue with commitment and responsibility, emphasizing the important role that Consulates have begun to play in protecting the rights of migrant workers.

The Minister of Governance spoke on the importance of eliminating or reducing the violations of migrant worker rights, a message that in one form or another reflects the position of many countries that form part of the RCM.

The IOM Regional Representative spoke on the new realities and challenges posed by migration and migrants in the region. In this sense, he warned that the typical function of consular protection has to assume new responsibilities that have not traditionally been part of the consular activities, such as the protection of migrant workers. He also pointed out that the Seminar's theme is of great transcendence for the RCM Member Countries, since many of them have started undertaking a series of capacity-building actions for their Consulates.

This Workshop was held as a follow up to the Workshops held in San Salvador on April 23-24, 2009, and in Santo Domingo on April 27-29, 2011. Oliver Bush, RCM Technical Secretariat Coordinator, summarized the background leading up to this event by describing the principal results of the previous Workshops.

He also explained that the objective of this Workshop was to promote dialogue and agreements at the regional level regarding the protection of migrant workers by consular officials. Specifically, this effort seeks to offer practical and effective tools to consular authorities in destination countries.

The event Moderator then posed the following question to the Seminar participants: From a Consular perspective, where are we at the regional level regarding the protection of the labour rights of migrant workers in countries of origin, transit and destination?

In response, Luis Horacio Argueta from Nicaragua shared his country's experience regarding the protection of migrant workers' rights in origin and destination countries, with specific reference to the bi-national agreement "Costa Rica-Nicaragua Co-

Development” and the follow-up on migrant workers carried out through their Consulates. Said agreement allows compliance with rights to be monitored by way of a bi-national technical commission.

The delegation from the Dominican Republic mentioned the importance of raising awareness regarding the role that Consulates play in protecting rights, citing the case of the Consulate in Puerto Rico, which regularly deals with Dominican migrants and which signed an agreement with the Puerto Rican Federal Department of Labour to improve the conditions of workers with irregular immigration status.

Walter Fonseca, from the Costa Rican Ministry of Foreign Affairs, suggested that we start by asking what capacities our Consulates abroad have to address the issue of labour migration.

In this sense, he pointed out that consular relations are immersed in a context of administrative procedures of a legal and notarial nature, which limits the actions of consular agents to basically bureaucratic processes. He thus indicated the importance of identifying current weaknesses in the Consulates and evaluating the issue of resources.

Referring to the message of the Nicaraguan Minister of Governance and the IOM Regional Representative, the Moderator reiterated the need to move beyond the traditional paradigm of consular attention and address new challenges. She pointed out that in developing countries, people generally migrate due to structural problems, and in this context the growing flows of labour migration demand non-traditional strategies.

Upon conclusion of this exchange of viewpoints between the participants, the Moderator presented the Agenda for the Workshop and explained the methodology to be applied.

## DAY ONE

The second half of Day One was of a theoretical nature, with conceptual presentations focusing on practical cases and the sharing of good practices. The presentations addressed the following topics: the international legal framework for the protection of the rights of migrant workers; the design and implementation of explicit rights protection policies; and fundamental considerations for the design and implementation of protection policies and actions.

The first block included two presentations by Alexandra Bonnie of the IOM, who explained the obligations and powers of States regarding consular and diplomatic protection, and its relationship with the protection of foreign migrant workers. Ms. Bonnie explained the obligations, functions, and differences between diplomatic and consular protection, and emphasized the importance of bilateral agreements.

Berta Fernández of the ILO made reference to the international standards for the protection of workers' rights during the migration process, and explained the reasons why the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families should be ratified. She also reiterated the importance of involving all of the sectors with a role to play in the protection of migrant workers, including the private sector and labour unions.

The question-and-answer session consisted of a comment by a delegate from Nicaragua who mentioned that, beyond the existing international framework, in order to provide real protection it is necessary to ratify said instruments and update national legislation. The Delegate also commented on the need to provide better information to officials concerning procedures, resolutions, and applicable legal provisions in order to enable them to disseminate up-to-date and accurate information to all enquirers.

The second block focused on the design and implementation of explicit policies for protecting migrant workers. This session consisted of two presentations, focusing on both theoretical and practical aspects.

Salvador Gutiérrez of the IOM explained what migration policies are, how they are structured, and what they are used for. His presentation also made reference to the principles and guidelines that should be considered when designing and implementing migration policies.

Sara Castillo of the Costa Rica National Commission for the Improvement of the Administration of Justice (CONAMAJ) narrated the experience of the Judicial Branch regarding the design and adoption of an institutional policy concerning access to justice for migrant and refugee populations.

During the question-and-answer session, the Costa Rican delegation commented that a policy like the aforementioned undoubtedly reflects a government based on democracy, equality and law, all of which are pillars of Costa Rica's foreign policy. The doubt arises, however, on how to financially support such a policy. Sara Castillo replied that the issue of financing and limited resources represents an important challenge, but that it is necessary to continue implementing the policy and obtain resources along the way. Ms. Castillo reiterated that financial constraints should not affect policy creation and implementation.

The Nicaraguan delegation pointed out that the existence of such policies can be disseminated through the Consulates. In addition, they posed the question of whether it is possible to resolve many of the obstacles faced by migrants with irregular status by issuing an identification document (Consular ID Card) like the one currently issued to Nicaraguans by the Consulate of Nicaragua in Costa Rica. Sara Castillo mentioned that the Costa Rican Judicial Branch is studying the concept of a Consular ID Card. She also reiterated the importance of an effective dissemination effort of these policies, indicating that Consulates can provide strategic support for diffusion.

The Dominican Republic delegation spoke briefly on the experience of the Dominican Consulate in Puerto Rico regarding irregular migrants and deportations. The Guatemalan delegation stressed the importance of including the Judicial Branch as one of the key actors in the process of developing migration policies.

The third block, divided into two sections, consisted of presentations by Paola Zepeda, Berta Fernández, and Iury Orozco. The first section included a presentation by Paola Zepeda of the IOM regarding the crime of trafficking in persons, with specific regards to trafficking for the purposes of labour exploitation. Berta Fernández of the ILO stressed the importance of incorporating a gender perspective in the efforts undertaken to protect the rights of migrant workers.

Tasha Young, representative of the Ministry of Foreign Affairs of Belize, was the first to participate in the question-and-answer session by describing the efforts of her country on this matter. Horacio Argueta warned that legal limitations impede proper detection of labour exploitation of migrant domestic workers, given that the private nature of the workplace makes inspection difficult.

On this topic, Ms. Fernández agreed that labour inspection faces serious challenges and that, due to the absence of imminent solutions, a focus on prevention constitutes a good option. She also mentioned the importance of renewing the Costa Rica-Nicaragua dialogue on domestic service in order to achieve a bi-national agreement that includes a “model contract” stipulating minimum terms and conditions related to social security aspects, among others. Ms. Zepeda again stressed the strategic role of Consulates and Labour Ministries in the dissemination of relevant information, as well as the importance of having a national migration policy that acknowledges the different models of return migration and corresponding reinsertion programmes.

Walter Fonseca from the Costa Rican delegation pointed out that the issue of consular protection comes up constantly during the RCM Meetings. He mentioned that progress has been made and governments repeatedly present their ‘state of the art’ systems; however, the human dimension can often be lost amidst daily routine and paperwork. In this sense, he indicated that consular protection must be an specific agenda topic, with political directives that effectively start to tackle the problem wherever it occurs. He also mentioned the need to reinforce human-rights as a key component of foreign policy.

The Salvadoran delegation emphasized the importance of incorporating a gender perspective in governmental policies and actions. They briefly described the results of recent studies carried out by the Vice Minister for Salvadorans Abroad regarding sexual and reproductive health. According to the results, most adolescent and young migrants

are aware of the risks involved when migration but still choose to face them. These persons also feel that they have no rights, and thus 'don't want to know anything about Consulates,' despite the fact that consular assistance is provided by their own compatriots.

Lastly, the Honduran delegation described the bilateral Honduras-Spain agreement that allows Honduran nationals to obtain legal residency after three years of residing in Spain.

This block concluded with Nicaragua's presentation on Information Gathering and Analysis and its Importance for Designing and Implementing Policies and Actions for the Protection of Migrant Workers, given by Iury Orozco.

The Agenda for Day One concluded with a round of questions regarding the functioning of the Consular ID Card. In this respect, the Salvadoran delegation shared their experience with regards to the regularization of irregular migrants, emphasizing the vital support that Consulates can provide by issuing the necessary documentation.

Costa Rica raised awareness that the fear of deportation stops many migrants from approaching the Consulates. In response, Iury Orozco mentioned the success of "mobile consulates" in bringing consular services closer to the population and helping to overcome such fears and insecurity.

## DAY TWO

Day Two started with the fourth block, which included three presentations, focusing on the topic of Experiences on Protecting Migrant Workers through Consular Services: Policy Options for Countries of Origin.

This block started off with a presentation by Ricardo Cordero from the IOM on Best Practices in Protecting the Labour Rights of Migrant Workers through the Consulates.

Next, José Manuel Castillo from El Salvador described the Salvadoran experience with the Defence of the Labour Rights of Compatriots by Consular Authorities in the Framework of the Temporary Migrant Worker Programmes (PTMT).

Marta Olivia Gutiérrez from Nicaragua closed this block with a presentation on her country's experiences with regards to consular protection of migrant workers.

During the discussion in the Plenary, the Costa Rican delegation stressed the importance of Honorary Consuls in locations where there is no consular or diplomatic representation available to migrant workers. In this respect, it was recommended that Honorary Consuls receive the same training as General Consuls. Ms. Gutiérrez replied that the use of Honorary Consuls is currently under review in Nicaragua.

The Salvadoran delegation highlighted the work being carried out by consular agents of the Vice Minister for Salvadorans Abroad, indicating that training modules on human rights are being developed for government officials.

The fifth block started off with a presentation by Daniel Aguado from México on Experiences in Protecting Migrant Workers under Inter-Institutional Cooperation Arrangements: Policy Options for Countries of Origin and Destination, with specific reference to the case of Mexico.

Luis Gabriel Ferrer from Mexico then spoke about Advisory Opinion OC-18/03.

During the plenary dialogue, the discussion focused on the requisites, functioning, and formalities for requesting an advisory opinion. The Costa Rican delegation inquired about the United States position regarding the long-lasting debate on the balancing of protection of human rights of migrant workers against preserving national security. Luis Gabriel Ferrer responded that the freedom and sovereignty of each State must take precedence during this type of situations.

The Nicaraguan delegation asked if the NAFTA regime created a framework for protecting the labour rights of migrants.

The second and last workday concluded with the presentation of the results generated by the workgroups. Group One worked on developing conceptual guidelines for a policy on protecting the labour rights of migrant workers through the consular authorities in countries of origin, transit, and destination. Group Two developed conceptual guidelines for a policy on preventing and combating trafficking for the purposes of labour exploitation through the consular authorities in the countries of origin, transit, and destination.

## INAUGURAL ADDRESS

BY ANA ISABEL MORALES MAZÚN, NICARAGUAN MINISTER OF GOVERNANCE

**E**steemed Mr. Vice Minister of Foreign Affairs of Nicaragua  
Esteemed Madam Jeaneth Chavéz Gómez, Minister of Labour.  
Esteemed Mr. Robert Paiva, IOM Regional Director for Central and North America and the Caribbean.  
Esteemed Brigade Commander, María Antonieta Novoa Salina, General Director of Migration.  
Esteemed brothers and sisters of the Republic of Costa Rica, El Salvador, Honduras, and Guatemala.  
Esteemed ladies and gentleman of the IOM, RCM Secretariat.  
Participants in general.

I welcome you to the Workshop “Capacity Building for Consular Officials on Protecting the Labour Rights of Migrant Workers” that will take place on May 3rd and 4th of this year.

We are witnessing an era in which the border’s limits are broken by the global dynamics of the labour offer and demand. For this reason, the countries of the region should confront the issues related to these dynamics with commitment and shared responsibility. We are talking about migrant men and women looking for better quality jobs, who also need to have access to all of their rights as workers, including the moment when they are hired, their working conditions, and their rights and duties as workers.

Within labour dynamics, migrant women, without a doubt, constitute a vulnerable group. They face difficult situations, starting with the job offers they receive and the violations of their rights as women, as migrants, and as workers.

We must assume a commitment to eradicate discrimination and labour rights violations, such as the payment of minimum wage, maximum working shift times, social security registration, the payment of vacations, and other essential labour rights.

We have a great challenge as countries of the region to rescue and reactivate commitments acquired and to assume a preponderant, committed role to guarantee the protection and the rights of migrant workers.

It is an honour for us to host this Seminar, which seeks to strengthen the capacities of the RCM Member Countries to promote and protect the labour rights of migrant workers in countries of destination.

Here you will be able to share good practices and lessons learnt with regards to the promotion and protection of labour rights, and obligations in all origin and destination countries of the region.

In this context, the role of the consular authorities regains importance for the validation of labour rights of migrant workers, due to the closeness and trust that Consulates generally inspire in their nationals, and their capacity to interact with the labour and migration authorities in origin and destination countries.

The exchange of information during this Workshop will lead us to the creation of achievable and measurable work plans that will allow us to orientate our efforts on this issue in the region.



## INAUGURAL ADDRESS

BY ROBERT G. PAIVA, IOM REGIONAL DIRECTOR FOR CENTRAL AND NORTH AMERICA AND THE CARIBBEAN

**M**adam Minister,  
Mr. Vice Minister,  
Delegates to this Seminar-Workshop,  
Ladies and gentlemen,

I am honoured to be with you today at this Seminar-Workshop on “Capacity Building for Consular Officials on Protecting the Labour Rights of Migrant Workers”, which IOM has had the privilege of co-organizing jointly with the Government of Nicaragua, and which would not have been possible without the financial support of the Government of Canada.

The holding of this event was authorized during the last RCM Meeting in Santo Domingo, and it represents an outstanding milestone in the framework of the Conference’s work, being the first one to deal specifically with the consular protection of migrant workers. Even though other labour migration events have been held in the past, none of them dealt specifically and in a detailed manner with this topic, which is of growing importance due to the increased labour migration flows in the region, the strategic role of consular authorities, and the need for more comprehensive protection policies.

The subject matter of this Seminar is very important for the RCM Member Countries for two main reasons. First, because with the end of the armed conflicts in the region, migration movements have been essentially labour-oriented. At least 70% of all migration flows in the RCM Region during the last twenty years have been motivated by the pursuit of remunerated work.

According to available evidence, it is foreseen that the number of labour migrants in the region will increase at least during the next 5 to 10 years, particularly in areas where the demographic, productive, economic, and migration conditions have generated imbalances in the labour markets, either by increasing the labour force demand or by decreasing the availability of the national labour force. Some examples of this are given by the agricultural and livestock regions in El Salvador, the metropolitan area of Panama, and some regions in southeastern Mexico, which seem to be consolidating into areas of permanent attraction for migrant populations.

The new realities of migration and of migrants in the region, which as I said are strongly labour oriented, pose the need for a revision of policies in the region, which has progressively been undertaken by countries in the region.

Until rather recently, the role of consular authorities regarding attention and protection of their citizens used to be limited to ensuring the availability of travel and identification documents – particularly in the United States – and to providing assistance in the event of their detention or deportation. This idea of consular responsibilities has been changing to give way to more comprehensive views of what they should entail.

As a result of a highly interesting evaluation exercise regarding responsibilities with their nationals abroad, a number of countries in the region have enhanced their catalogue of services to include the protection and promotion of the rights of migrant workers. For that purpose, they have strengthened the capacities of their Consulates, particularly in countries with greater numbers of their nationals working abroad. The design and implementation of these changes has called for in-depth technical knowledge, leaving a large number of lessons learnt and good and bad practices.

This is precisely the second reason why this Seminar proves very relevant for the RCM Member Countries, as it will allow you to get acquainted with the theoretical and practical grounds and practices which have served as the basis and stimulus for these broadened protection strategies for migrant workers. You will learn this firsthand from the protagonists themselves, with whom you will be able to establish an open dialogue and ask your questions directly.

This will represent an excellent opportunity, as the handling of the protection of migrant workers at the Consulate level is a highly technical subject matter requiring not only conceptual soundness but also practical references. Based on this combination of theory and practice, group exercises will be held to promote dialogue and decision-making at the regional and inter-sectorial levels for the protection of migrant worker labour rights by consular authorities.

The IOM is convinced that this Seminar will contribute to identifying and defining joint actions among governments, allowing them to comprehensively address the huge challenges posed by the protection and promotion of migrant worker rights throughout the entire migration process.

The above proves particularly urgent in the current regional context, which is characterized by:

1. A high level of job insecurity which affects economies as a whole, but particularly those sectors where migrant population is usually found, i.e. agriculture, construction, services (including domestic service), commerce, and tourism.
2. A very lax control of labour rights, where responsible institutions are generally weak and the level of impunity among employers who violate labour rights and migration legislation is very high.
3. A generalized myth that migrant workers have no labour rights or at least no right to demand they be respected, be it at an administrative or judicial level.
4. A false debate on whether the enforcement of migration laws should prevail over the right of migrant workers to have their human and labour rights respected.

I would like to take advantage of this opportunity to reiterate the highest commitment of the IOM to promote and protect the human and labour rights of migrant workers, in association with all actors in the region: governments, civil society, academia, and international organizations.

Furthermore, I would not close my remarks without again expressing our gratitude to the Government of Nicaragua for the partnership we have created for the organization of this event, without which it would not have been possible. Our gratitude also goes to the Government of Canada for their support in co-financing this event.

Finally, I would like to wish you all much success in the work you are about to start today. I am positive that this Seminar-Workshop will serve to build understanding, but above all joint actions to benefit migrant workers in the region.

Thank you.

## EXECUTIVE SUMMARY

**T**his Workshop was held to follow up on previous Workshops held in San Salvador, El Salvador, in April 2009 and Santo Domingo, Dominican Republic, in April 2011.

Speakers at the opening session of the Seminar/Workshop included the following:

Ana Isabel Morales, Minister of the Interior, Nicaragua.

Robert Paiva, Regional Director for Central and North America and the Caribbean, International Organization for Migration.

Claude Beausejour, Head of Cooperation, Embassy of Canada.

### **BACKGROUND AND WORKSHOP OBJECTIVES OLIVER BUSH, COORDINATOR, RCM TECHNICAL SECRETARIAT**

Background on the two previous Workshops, highlighting the following:

During the first Workshop, the following steps were addressed to establish a Temporary Migrant Worker Programme:

1. Developing migration policy.
2. Labour market intelligence.
3. International cooperation.
4. A database and information management.
5. Information dissemination.
6. Recruiting of temporary migrant workers.
7. Migration and development (a direct link through remittances).
8. Return and reintegration.

During the second Workshop, a hypothetical or ideal temporary migrant worker programme was developed, establishing the key actors that should participate – on two levels: political and technical. The programme should be sustainable; should consider aspects such as social security, economic incentives, training, education, housing, and health; should include follow-up mechanisms through previously established indicators and inter-institutional groups at a national, bi-national, and regional level; should include return and reintegration programmes in communities of origin; communication strategies; and finally, legislative efforts.

Finally, the objective of this Workshop was to promote dialogue and reach regional agreements on the protection of migrant workers through consular authorities. The purpose was to provide consular authorities with the best possible tools to ensure the effective protection of the rights of migrant workers in destination countries.

## **SESSION I: INTERNATIONAL LEGAL FRAMEWORK FOR THE PROTECTION OF THE LABOUR RIGHTS OF MIGRANT WORKERS**

### **CONSULAR PROTECTION AND DIPLOMATIC PROTECTION: THE FUNDAMENTAL RIGHT AND OBLIGATION OF STATES TO PROTECT MIGRANT WORKERS ALEXANDRA BONNIE, IOM**

#### **Objective:**

Highlight the obligations and powers of States with respect to consular and diplomatic protection and the relation thereof to the obligation to protect migrant workers.

1. Protecting the labour rights of national citizens abroad: an obligation and a right of the State. An obligation and a right within the national and international legal framework.
2. Diplomatic protection: diplomatic protection and consular assistance, differences and similarities between both tools; however, these are the most effective tools for providing protection. Diplomatic protection is of a formal nature within the inter-State sphere and not very common, and in addition, it is less rapid than consular protection.
3. Consular protection, established in Article 5 of the Vienna Convention on Consular Relations. Leads to more comprehensive protection of migrants, specifically. Rights: To be informed regarding consular assistance, consular communication, and consular notification.
4. Mechanisms to protect the rights of migrant workers: Through consular authorities and in coordination with civil society.

Possibilities for the development of protection mechanisms: Training for consular officials, data collection, a network of lawyers providing free legal aid, cooperation with local and disperse NGOs.

### **INTERNATIONAL STANDARDS FOR THE PROTECTION OF THE RIGHTS OF MIGRANT WORKERS BERTA FERNÁNDEZ, ILO**

Ms. Fernández explained the motives or reasons why persons require protection – before migrating, while in transit, while working abroad, and upon their return.

Furthermore, she addressed the international framework for the protection of the labour rights of migrant workers: Conventions No. 97 & 143, Recommendations No. 86 & 151, fundamental ILO agreements, and other agreements. Basically all of them include productive employment, decent work, and protection of the rights of migrant workers irrespective of their migration status. ILO establishes standards for the protection of migrant workers. The State's sovereignty in regard to decisions on labour matters is not questioned, provided that the decisions are not discriminatory.

## SESSION II: POLICY DESIGN AND IMPLEMENTATION

### TOWARDS THE DESIGN OF COMPREHENSIVE POLICIES FOR THE PROTECTION OF THE RIGHTS OF MIGRANT WORKERS SALVADOR GUTIÉRREZ, IOM

Mr. Gutiérrez explained what migration policies are, how they are structured, and what they are used for. They are a concept still being developed, using the definition of Opinion 18/3.

In addition, he addressed the principles or strategic guidelines for developing migration policy, defining the State's position in regard to the phenomenon of migration.

Minimum considerations in designing and implementing migration policy:

1. Consideration of various dimensions, such as: economic, social, and cultural rights; a strategy for economic and social development; needs and capacities of the labour market; social and economic structure of communities of origin and destination; international relations and foreign policy; humanitarian obligations; the environment; and culture.
2. Key principles: non-discrimination and non-exclusion; recognizing the contribution of migrants; family unity; inter-sectoriality and collaboration between countries of origin, transit, and destination.
3. Essential requirements to consider: existing public policy; institutional jurisdiction; institutional capacity.

Basic process for designing and implementing a migration policy:

1. Where are we now? Determining the mission; defining principles; recognizing strengths and weaknesses; recognizing opportunities and threats.
2. Where are we going? Establishing the added value of participation; clarifying the extent in addressing certain topics; developing a 5-10 year institutional vision.
3. How will we get there? Establishing long-term strategic objectives; defining a strategy; establishing short-term objectives; determining actions to achieve objectives; and establishing who is responsible for implementation.

The answers to these questions are the basis for a plan of action to implement the strategy.

### INSTITUTIONAL POLICY TO PROVIDE ACCESS TO JUSTICE FOR MIGRANT AND REFUGEE POPULATIONS SARA CASTILLO, CONAMAJ

Ms. Castillo explained how Costa Rica came to establish this sectoral policy directly based on the Brasilia Rules (Summit of Heads of Judicial Systems, 2008).

The 2010 Immigration Act establishes access to justice as a right of migrants. A Migration and Refuge Sub-Committee was created to monitor access to justice for migrants and refugees.

Furthermore, Ms. Castillo presented the lessons learned and some limitations encountered during the process, and mentioned the following challenges: Awareness-raising, training, and dissemination; access to justice irrespective of migration status; changes in organizational culture; resource limitations.

### **SESSION III: FUNDAMENTAL CONSIDERATIONS FOR THE DESIGN AND IMPLEMENTATION OF POLICIES AND ACTIONS TO PROTECT THE RIGHTS OF MIGRANT WORKERS**

#### **OPTIONS FOR CONSULAR AUTHORITIES IN PREVENTING AND COMBATING THE CRIMES OF MIGRANT SMUGGLING AND TRAFFICKING IN PERSONS FOR LABOUR EXPLOITATION PURPOSES PAOLA ZEPEDA, IOM**

Ms. Zepeda took up again the legal framework for consular protection and key roles of Consulates in this regard. She talked about trafficking in persons, especially the mode of trafficking for labour exploitation purposes. In addition, she explained what migrant smuggling is and specified the similarities and differences between trafficking in persons and migrant smuggling. Furthermore, she mentioned different modes of trafficking in persons – internal, external, and derived from migration – as well as key limitations in detecting trafficking in persons for labour exploitation purposes. In addition, she pointed out the absence of labour attachés at Consulates.

Recommendations: Train consular officials; optimize networks and inter-institutional coordination to identify cases; create mechanisms to detect trafficking in persons for labour exploitation purposes within groups of returned migrants; information and dissemination actions at Consulates on the topic of trafficking in persons for labour exploitation purposes; coordinated actions between Consulates and relevant authorities in the destination country; record cases that are identified and assisted at Consulates; unlimited consular protection; provide information on employment offers and labour demand in destination countries; inform migrant workers about their labour rights; and improve bilateral coordination between origin and destination countries.

#### **IMPLEMENTING THE GENDER APPROACH IN POLICIES TO PROTECT MIGRANT WORKERS THROUGH CONSULAR AUTHORITIES BERTA FERNÁNDEZ, ILO**

Ms. Fernández explained why it is necessary to focus on gender and migration issues and why it is important to work with a gender approach in protecting the rights of migrant workers. In designing migration policy, the gender approach should be included, since female migrant workers face greater risks and are more vulnerable at different times throughout the migration process. The increased participation of women in migration processes should be considered, as well as the new roles and activities of women within migration processes and within the phenomenon of migration itself.

A gender analysis: Gender-specific migration data, identifying differences in available employment opportunities and protection; access to information and services; review of existing institutional capacities.

Planning in order to avoid gender-based inequality; improving prevention through orderly migration; studying labour markets with a gender approach; capacity-building for relevant involved institutions; improving intra- and extra-governmental coordination; reviewing legislation and policies restricting migrant women; involving gender experts; expanding labour and migration legislation to cover sectors and employments where women prevail; providing equal opportunities and equal treatment. Employing more women in migration management; raising awareness of migration officials and employers on the topic of human and labour rights; avoiding victimization and criminalization of migrants that end up in situations of irregular migration or forced labour.

#### DATA COLLECTION AND ANALYSIS AND ITS IMPORTANCE IN DESIGNING AND IMPLEMENTING POLICIES AND ACTIONS FOR THE PROTECTION OF MIGRANT WORKERS

IURY OROZCO, NICARAGUA

A process to implement consular records and issue Consular Identity Cards. The process began in Costa Rica in September 2009 and was implemented in the United States in 2011. The Consular Identity Card is used to keep a record of Nicaraguan nationals abroad and what they do, and thus monitor the protection of their rights. In addition, this document is used as an identity card in destination countries to enable access to services and ensure protection of the rights of migrant workers.

The Consular Identity Card is a means of protection for migrant populations. It is used as a means to normalize Nicaraguans abroad, keeping a record that allows rapid response in emergency situations. Furthermore, it is an information tool. Individual and family cards are available. To date, 41,336 Consular Identity Cards have been issued.

Ms. Orozco presented advances in implementing this procedure in El Salvador, Los Angeles, Houston, and Spain, and the difficulties in recording and issuing more identity cards, as well as potential actions to be implemented and proposals for actions based on the profiles of migrant populations.

#### SESSION IV: EXPERIENCES WITH THE PROTECTION OF MIGRANT WORKERS FROM THE CONSULAR AREA: POLICY OPTIONS FOR COUNTRIES OF ORIGIN

##### BEST PRACTICES FOR THE PROTECTION OF MIGRANT WORKERS FROM THE CONSULAR AREA: POLICY OPTIONS FOR COUNTRIES OF ORIGIN

RICARDO CASTILLO, IOM

Protection begins at home – in the country of origin – with clear and accurate information, and continues in the destination country through prevention of violations of the human and labour rights of migrant workers.



Mr. Cordero explained the cycle of temporary labour migration, from the development of migration policy to return and reintegration processes, and monitoring with a gender approach and including the protection component at all times. Consulates basically intervene throughout the entire process, but mostly in the last two stages of the cycle: during employment in the destination country and during the return and reintegration process. In regard to the latter, Consulates should be appropriately informed about the offers and opportunities that are available to migrants upon return to their country of origin. The only stage where Consulates do not participate is in the process of recruitment, preparation, and departure from the country of origin.

How can protection through Consulates be improved? Through labour attachés, who should be officials from Labour Ministries, working at embassies and Consulates. Mr. Cordero explained their key duties, primary protection actions, and the knowledge and skills required. Labour attachés coordinate efforts with the diplomatic mission and the headquarters of the Labour Ministry in the country of origin. In addition, they receive training on diplomatic matters

### Best Practice in the Philippines

The Philippines has a Department of Employment for Philippines Abroad and an Overseas Workers Welfare Administration.

The four central components of labour migration policy in the Philippines were explained:

1. Regulation of recruitment.
2. Management of the departure process.
3. Protection and representation throughout the entire cycle.
4. An integrated information system (database).
5. Excellent coordination between the Labour Ministry and the Ministry of Foreign Affairs.

Policy options for countries of origin:

1. Incorporation of protection for migrant workers and the gender approach into national migration policy as central themes.
2. Establishment of an inter-disciplinary group for the development of labour migration policy.
3. Improvement of internal and bilateral coordination.
4. Capacity-building for foreign service officials.
5. Ensuring that an adequate data collection and analysis system is in place.
6. Conducting of labour market studies in origin and destination countries.
7. Development of programmes to promote return and reintegration.
8. Maximization of the impact of remittances on local development..

### Conclusions:

Developing countries could face difficulties in allocating sufficient funds. Thus, a need exists to consider mechanisms co-financed by migrants, their employers, and recruiting agencies, as well as strategic alliances with the private sector, NGOs, and international cooperation agencies. Countries of origin should invest financial resources but, above all, political will is required.

## PROTECTING THE LABOUR RIGHTS OF NATIONAL CITIZENS THROUGH CONSULAR AUTHORITIES WITHIN THE FRAMEWORK OF TEMPORARY MIGRANT WORKER PROGRAMMES JOSÉ MANUEL CASTILLO, EL SALVADOR

### A programme for temporary workers abroad

With participation of the Ministry of Labour and Social Welfare, the Ministry of Foreign Affairs, and the IOM. Within the context of the migration dynamics in El Salvador, labour migration policy, policy on assistance and protection for migrants, restructuring the diplomatic and consular network of El Salvador, and migration management with a development approach. Clearly defines the scope, limitations, and responsibilities for all parties involved.

A Vice-Ministry for Salvadorans Abroad has been established, not only working with Salvadorans abroad but also with Salvadorans returning to their country of origin. Beyond addressing protection of the rights of migrant workers, it also seeks to promote development within the country. Establishes labour policy and has strategic objectives related to migration and development.

### A model for managing temporary work abroad

Manages temporary and cyclical labour migration; ensures hiring temporary workers under decent work conditions, in accordance with international norms; helps raise the labour profile of Salvadorans; and links actors of the programme with other sectors to implement development initiatives in communities of origin.

The model includes the role of Consulates, establishing certain responsibilities: receiving workers in the destination country, monitoring, visiting workers in the workplace, a migrant worker database, mobile consular services, monitoring the status and performance of workers, seeking employment offers, and conducting debriefing sessions with employers. Protecting the human and labour rights of Salvadorans abroad is the highest priority. This redefines the role of consular protection.

### Complementary programmes incorporated into migration management

1. Capacity-building of institutions coordinating the management model.
2. Distance education programmes (high school level).

3. A programme on talent and knowledge transfer.
4. A financial education programme.
5. A programme for maintaining family ties.

#### Lessons Learned:

Establishing roles, responsibilities, and obligations has become a priority. Capacity-building of government actors has a positive impact on programme operations. Entering into alliances with other actors in the country of origin helps strengthen programme management and increase benefits for migrants. Accompanying technical management with high-level political management helps support consular actions to protect Salvadorans and seek new employment opportunities. Highlight the importance of a comprehensive approach (migrants and their families), and the need to facilitate access to social security, etc.

#### EXPERIENCES WITH CONSULAR PROTECTION OF MIGRANT WORKERS: CHALLENGES AND PERSPECTIVES MARTHA OLIVIA GUTIÉRREZ, NICARAGUA

The experience is a joint effort with the ILO, specifically a project on gender-sensitive labour policy.

Ms. Gutiérrez presented the current context of migration processes in Nicaragua and challenges in consular protection. A national migration policy does not exist, but a position of the country is recognized and summarized in several elements, mainly the de-stimulation of migration through increased employment opportunities in the country. However, the fact is recognized that a significant number of Nicaraguan nationals already have migrated and are living abroad and need to be protected. Therefore, a national migration policy should be developed.

Primary experiences of consular protection within the new migration context:

**A joint development programme implemented by Costa Rica and Nicaragua (financed by the Spanish Cooperation Agency AECID and implemented by the IOM in both countries in 2006-2011)**

Co-development is the primary purpose, under several basic lines of action: regulate migration flows of Nicaraguan nationals in Costa Rica; promote favourable labour conditions; favour social reintegration, etc.

An essential requirement to regulate Nicaraguans in Costa Rica is to establish a consular record. This is an agreement for temporary workers, excluding household workers and persons who have lived in Costa Rica for a long time. The experience has been very valuable to both countries, since it opened up dialogue on the topic of labour migration, facilitated contact between different institutions, established the steps to follow throughout the process, and enabled specific knowledge to be gained on Nicaraguan populations in Costa Rica. This joint effort led to the signing of a bilateral agreement between both countries, facilitating better consular protection.

**Challenges:**

Develop a conceptual framework on co-development, identifying aspects of interest to both countries; address various aspects relating to implementation of the Bilateral Agreement, seeking strengths and common aspects in implementing the protocol for action; establish mechanisms for strengthening inter-institutional coordination and expediting actions to ensure the presence of workers in the workplace in destination countries; and implement a general information campaign about the Agreement on Temporary Migrant Workers.

**A project to normalize Nicaraguan nationals in El Salvador, with support from the IOM**

Focused on populations living in that country and established as a result of political will in both countries. A common fund was created to help cover the regularization costs of Nicaraguans who are unable to cover costs.

**Reflections:**

The establishment of prior agreements and identification of common interests of both countries were factors that enabled successful implementation of this effort. It is highly important that a database be in place that reflects the migration dynamics. Assistance for temporary migrant workers in El Salvador is still pending. The establishment of a Solidarity Fund to provide assistance to persons in vulnerable situations was a best practice.

**An agreement between the US Department of Labour and the Nicaraguan Embassy in the United States**

Under this Agreement, the Consulate in Houston signed a more specific agreement enabling all Nicaraguan nationals to enjoy all labour rights. Other elements included an educational programme to inform them about relevant laws and regulations that apply in the workplace, a mechanism for systematic contact, on-going information and training, and a mechanism to receive and follow up on complaints.

**Challenges relating to consular protection:**

1. Prevalence of gender stereotypes.
2. Individualized and isolated workplaces.
3. Employment situations based upon dependency.
4. Lack of organization and representation.
5. The need for training and awareness-raising for applicable officials.
6. Need to continue development of the consular record and Consular Identity Card.
7. Effective protection actions in cases of labour rights violations.
8. Need to develop programmes or strategies to support return and reintegration processes.
9. Need to work towards establishing the position of consular attaché, beginning with training existing staff and establishing alliances with other actors.
10. Need to secure additional resources to provide assistance and protection to migrant workers and need to establish strategic alliances with the civil society.

## **SESSION V: EXPERIENCES IN PROTECTING MIGRANT WORKERS UNDER INTER- INSTITUTIONAL COOPERATION ARRANGEMENTS: POLICY OPTIONS FOR ORIGIN AND DESTINATION COUNTRIES**

### **MEXICO – CANADA TEMPORARY AGRICULTURAL WORKER PROGRAMMES DANIEL AGUADO ORNELAS, MEXICO**

Mexico is the only country with which Canada has signed a bilateral agreement for a temporary migrant worker programme (in 1974). To date, 225,181 Mexican agricultural workers have participated in the programme. Both countries have very specific roles in the Programme and work under a Memo of Understanding. The requirements and profile of persons wishing to participate in the programme were presented. The programme guidelines establish obligations for both employers and employees. Extensive monitoring and reviews are conducted in each country at an inter-governmental level, and by both countries individually. A record of all agricultural workers and employers is kept at Mexican Consulates in Canada. In addition, Consulates provide consular assistance: upon arrival of workers in Canada; visits to farms where they work; procedures before authorities; assistance in case of accident or disease; legal aid.

Characteristics: Circularity of the programme (70% of the workers return to Canada); low number of complaints by migrant workers; continuous monitoring; strong and clearly defined legal framework; effective documentation.

Considerations: Various mechanisms are in place in the Temporary Migrant Worker Programme which reduce potential conflicts between workers and employers: the existence of a Memo of Understanding; clearly defined roles of the applicable authorities in both countries to ensure compliance with the programme; continuous programme review and monitoring; regular meetings between authorities at the national and international level; and timely intervention of consular officials to provide preventive information and protection.

### **LEGAL TOOLS FOR THE PROTECTION OF THE LABOUR RIGHTS OF MIGRANTS IN THE UNITED STATES DANIEL AGUADO ORNELAS, MEXICO**

In 2010, 526,000 documented temporary workers worked in the US. In that same year, the consular network provided assistance to 128,819 persons requiring protection. 2,809 of those cases were related to labour.

Labour protection mechanisms in the United States:

#### **I. Preventive Protection**

- » Orientation and dissemination of information on labour rights, and agreements with agencies of the U.S. Department of Labour to educate, communicate, and disseminate information on rights.
- » General questions and orientation on labour-related matters, promotion and dissemination of information on labour rights supported by U.S. legislation, and specific agreements.

## 2. Legal Aid

- » Programme of consulting attorneys appointed by the Government of Mexico.
- » Programme for external legal aid by attorneys specializing in different aspects of U.S. law.

## 3. Legal Actions

- » Specialized Technical-Legal Programme (STLP): A legal instrument to generate jurisprudence and thus set precedents in U.S. legislation for subsequent cases, therefore, allowing assistance and improved protection for migrant workers.

Several relevant cases were mentioned, such as cases of persons who did not receive compensation for labour accidents, labour discrimination, abuse, and trafficking in persons.

STLP is supported by a network of organizations involved in protecting the labour and civil rights of workers. These organizations help identify potential rights violations.

## THE EXPERIENCE OF ADVISORY OPINION OC-18/03 LUIS GABRIEL FERRER, MEXICO

Beyond the Opinion, the objective of the presentation by Mexico was to highlight the importance of participating at international forums such as the Inter-American Commission on Human Rights to protect the rights of migrants.

### Protecting nationals abroad before international justice institutions

Considerations to file a claim before an international organization: a well-structured legal strategy and political considerations (opportunities and potential alliances). This could be done together with other countries, international organizations, and civil society organizations. In OC 18/03, a significant block was presented before the Inter-American Commission on Human Rights, and various issues were resolved or ratified:

1. The obligation to guarantee and respect human rights and the fundamental nature of the principle of equality and non-discrimination.
2. Application of this principle to migrants.
3. Rights of undocumented migrant workers.
4. State obligations in developing migration policy in accordance with international instruments on human rights.

Which States are under an obligation to comply with this Advisory Opinion? Any State participating in OAS that has signed the American Declaration of Human Rights, the Universal Declaration of Human Rights, or any of the Pacts on Civil and Political Rights. In other words, this applies to all countries included in the Inter-American System.

States are under the general obligation to respect and guarantee fundamental human rights. Lack of compliance by a State generates international liability. The general obligation to respect and guarantee human rights is binding for States, regardless of circumstance or consideration, including the migration status of a person. The State is under the obligation to respect and guarantee the labour rights of all workers.

How is an Advisory Opinion implemented? This depends on the internal legal system in each country. In some countries it is easy to implement and in others it is not. It could even be inapplicable or not be included in a given internal system. It helps before the Inter-American System, but does not ensure that countries are obliged to fully comply with it.

Ricardo Cordero of the IOM presented a report on the morning sessions from both days. The methodology for group work was explained to participants and the groups were formed.

The participants divided into two workgroup:

1. The first group focused on developing a basic regional plan of action for the protection of the labour rights of migrant workers through consular authorities in origin, transit, and destination countries; and
2. The second group focused on developing a basic regional plan of action to prevent trafficking in persons for labour exploitation purposes through consular authorities in origin, transit, and destination countries.

Both workgroups were facilitated by Nicaragua and worked based on key questions that had previously been formulated by the Workshop organizers. The final results from each group are attached as annexes to this Report.

The Seminar/Workshop concluded at 5:00 p.m. on May 4th, 2012.

## PART I: International Legal Framework for the Protection of the Labour Rights of Migrant Workers

CONSULAR PROTECTION AND DIPLOMATIC PROTECTION: THE  
FUNDAMENTAL RIGHT AND OBLIGATION OF STATES TO PROTECT  
MIGRANT WORKERS  
BY ALEXANDRA BONNIE, IOM

The objective of this paper is to describe the obligations and powers of States in terms of consular and diplomatic protection and its relationship with the obligation of States to protect the labour rights of their citizens. To achieve this, the speaker discussed the following four topics:

1. Protecting the rights of migrant workers abroad: An obligation of States.
2. Diplomatic protection: Definition and mechanisms for protecting the rights of migrant workers.
3. Consular protection: Definition and mechanisms for protecting the rights of migrant workers.
4. Mechanisms and instruments for protecting the rights of migrant workers from a broader concept of consular assistance.

### Protecting the Labour Rights of National Citizens Abroad: An Obligation of States

First of all, it is important to recognize that nowadays migration is an important component of international relations and national legislations. Generally, constitutions establish that States have an obligation to protect their own citizens, regardless of where they may be located, inside the country or abroad.

The right to provide assistance to citizens abroad is recognized in international law:

“Migrant workers and members of their families shall have the right to have recourse to the protection and assistance of the consular or diplomatic authorities of their State of origin or of a State representing the interests of that State whenever the rights recognized in the present Convention are impaired.” (International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 1990)



### Diplomatic Protection

Diplomatic protection has two sources: Vienna Convention on Diplomatic Relations and the proposed Articles on Diplomatic Protection, a text adopted by the International Law Commission at its 58th Session in 2006.

According to the International Law Commission, the proposed Articles on Diplomatic Protection state that “diplomatic protection consists of the invocation by a State, through diplomatic actions or through other diplomatic means, of the responsibility of another State for harm caused due to an internationally wrongful act of that State to an individual or legal entity that is a national of the first State, with the aim of giving effect to this responsibility.” (Article 1).

Diplomatic protection differs from consular assistance in the following elements:

1. the State of nationality exercises diplomatic protection when international law has been infringed; works in the Inter-State/International field; has a compensatory nature; protects the interest of the State and political officials; and has a solemn nature.
2. In contrast, consular assistance acts within the framework of the legal system of the destination country; its aim is to protect individuals and non-political officials.

### Consular Assistance

Article 5 of the Vienna Convention on Consular Relations (1963) indicates that consular protection should ensure the protection of the interests of the State of origin and its nationals, by providing aid and assistance to nationals of the State of origin. The State must act as a notary, an official of the civil registry, and perform other functions of administrative nature; protect the interests of nationals in cases of succession due to death; protect the interests of children, adolescents, and other people who are disabled; represent nationals or take appropriate actions to represent them before courts and other authorities in the receiving State in order to see that temporary actions are implemented to preserve the rights of these nationals; and exercising other functions assigned by the sending State to the consular office.

Consular protection also establishes rights and obligations for the migrant, the country of origin, and the destination country within the context of arrest, detention, and criminal procedures (Article 36).

### Mechanisms to Protect the Rights of Migrant Workers

There are two types of mechanisms to protect the rights of migrant workers:

1. Measures related to the organization of consular missions.
2. Actions of international cooperation implemented by those missions and society.

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990) points out that:

“States Parties shall facilitate as appropriate the provision of adequate consular and other services that are necessary to meet the social, cultural and other needs of migrant workers and members of their families.” (Article 65.2).

Conclusions:

1. States are under the obligation to protect the rights of migrant workers abroad. This obligation and right is established in international law (Vienna Convention, 1990 Convention) and, above all, in State Constitutions.
2. Due to the difference between diplomatic protection (of a more political and solemn nature) and consular protection, consular protection mechanisms for migrant workers must be enhanced.

INTERNATIONAL STANDARDS FOR THE PROTECTION OF THE RIGHTS OF  
MIGRANT WORKERS  
BY BERTA FERNÁNDEZ, ILO

### Why Do They Require Protection?

Protection of migrant workers should cover the four phases of migration:

- 1. Before migrating:** At this stage they face inadequate access to accurate and reliable information on relevant labour markets, high costs and time required to obtain documentation, public administration inefficiency and corruption, informal recruiting agents, and mandatory health tests (HIV, pregnancy, etc.).
- 2. In transit:** They face a lack of knowledge regarding relevant requirements and procedures, trafficking in persons, and sexual abuse.
- 3. During employment:** Once in the destination country, migrant workers are faced with the absence of orientation services for initial adjustment, the changing of agreed contract terms, delays in payment of wages, retained payments, lack of payment, exclusion from national labour legislation (social security, minimum wage, freedom of association), loss of migration status due to unemployment.
- 4. Upon return:** Migrant workers face difficulties related to economic reintegration.

### Fundamental Agreements

The fundamental agreements ratified by ILO Member States are: Forced labour, 1930 (C. 29), freedom of association and protection of the right to organize, 1948 (C. 87), right to organize and collective negotiation, 1949 (C.98), equal remuneration, 1951 (C. 100), abolishment of forced labour, 1957 (C. 105), discrimination based on employment and occupation, 1958 (C. 111), minimum age, 1973 (C. 138), and worst forms of child labour, 1999 (C. 182).

The relevance of ILO Standards for the protection of migrants is that agreements and recommendations apply in general, including all workers regardless of nationality. States however can deny access to the national labour market based on nationality, and this is not considered to be discrimination.

### International Legal Framework for Labour Migration

#### ILO Agreement 97 (1949)

Agreement 97 has 49 ratifications to date (including Ecuador), and is complemented by Recommendation 86 (revised). Two basic principles of the agreement are: the State should accompany and regulate labour migration processes; and the State should recognize equal treatment for regular migrants and national citizens.

The Agreement implementation coverage (Article 11), includes facilitating the movement of excess labour as migrants seek employment in another country, and excludes trans-border workers, maritime workers, artists, and liberal professions who migrate for short periods of time.

Agreement 97 provides conditions of labour migration, such as free orientation services (Article 2), establishment of collaboration with employment services in other countries (Article 7), free public recruitment, introduction, and placement services (Appendix I, Article 4), and control of the activities of private employment agencies (Appendix I, Article 3).

Regarding general protection, this Agreement includes access to medical services (Article 5), authorization to transfer savings and salaries (Article 9), and prohibition against expelling migrant workers with permanent status in case of disability to work (Article 8). This agreement stipulates equal treatment of regular migrants and national citizens, with no discrimination based on nationality, gender, race, etc.

Recommendation 86 stipulates actions to ensure the well-being of migrant workers, such as appropriate accommodation, food, and clothes upon arrival in the destination country, as well as professional training to develop required skills, access to schools for migrants and their families, simplification of administrative formalities (travel, entry, residence, and settlement), and equal treatment (working conditions and accommodation, access to businesses and occupations, acquiring property).

#### Agreement 143 on Migrant Workers (Complementary Actions)

The fundamental principles of Agreement 143 seek to combat irregular and abusive migration, and recognize the basic human rights of all migrant workers, including irregular migrants. Equal treatment for regular migrants and national citizens translates into equal opportunities.

The first part of the Agreement focuses on the problems related to clandestine migration and irregular employment (Articles 2-7). Said articles require monitoring of irregular movements and the implementation of specific actions in collaboration with other States and in consultation with relevant social actors. Also mentioned are the punishment of migrant worker smugglers and employers who hire irregular migrant workers.

The second part has a narrower scope than the first part. The sphere of personal implementation is more restricted than Part I of the Agreement. Restrictions of Agreement 97 apply, plus two additional restrictions: people who have entered the country for training and education purposes, and workers sent by their employer to perform a specific task in another country.

According to this Agreement, the equality policy should be developed in consultation with the most representative worker and employer organizations.

Recommendation 151 provides protection measures for migrant workers in terms of equal opportunity and treatment, adaptation to the host society, and safety and family reunification.

To protect rights and ensure the welfare of migrant workers, social actors should take the following actions:

Government: Ratify and implement fundamental agreements (No. 97 and No. 143), develop a protection programme under the labour migration policy, and incorporate articles from various instruments. The programme should include the following: orientation and

assistance services, supervision of private recruitment agencies, and review and updating of national labour legislation on topics such as access to housing, education, language training, and assistance to find employment.

Employers: Awareness-raising on topics relating to migrant workers, especially in sectors where the majority of workers are migrants, to ensure participation in promoting the rights and well-being of migrants. Awareness-raising among employers on hiring practices and labour conditions to promote the principle of equal treatment. Cooperation with governments, unions, and NGOs to promote rights-based policies that are transparent and disseminated.

Finally, the role of unions consists of actively recruiting migrant workers to participate in unions or supporting them to establish unions, using existing formal means in the ILO supervision system to ensure rights, and cooperating with governments, employers, and NGOs to promote rights-based policies that are transparent and disseminated.

### A Brief Comparison of the ILO Agreements and the 1990 Convention

The 1990 Convention has a broader definition of migrant workers and advocates civil, political, social, and cultural rights applicable to migrant workers and their families regardless of their migration status.

Agreement 143 emphasizes equal employment opportunities, while the 1990 Convention admits some complementary restrictions to the freedom of migrants to choose employment.

Agreement 97 establishes the principle of free public recruiting and placement services.

The ILO Agreements require tripartite consultations for their implementation.

### Is the Ratification of Agreements 97 y 143 Relevant When the 1990 Convention Has Been Ratified?

Ratifying Agreements 97 y 143 gives less restrictions to the freedom of migrants to choose employment once they are in another territory in a regular manner (Agreement 143), and may serve as a tool to strengthen national tripartite dialogue on labour migration, to strengthen international tripartite dialogue on labour migration, and access to ILO control mechanisms.

### Some Reasons for Ratifying the 1990 Convention

1. Puts in place the legal foundation essential for national migration policy to regulate labour migration and ensure social cohesion.
2. Upholds and strengthens the rule of law by ensuring that legal norms define the basis of labour migration policy, its implementation, and its supervision.

3. Contributes to ensuring that legal parameters define treatment of all persons within the territory of a country by setting the extent and limits of human rights of migrant workers and members of their families.
4. To reinforce the sovereign exercise of a State's prerogative to determine labour migration policy by affirming conformity with universal legal and ethical norms.
5. To obtain public support for and compliance with labour migration policy and practice by demonstrating legal soundness and conformity with internationally accepted principles of social justice and human rights.
6. To strengthen social cohesion by establishing that all persons must be treated with respect by virtue of legal recognition and protection of their rights.
7. To explicitly discourage the 'commodification' and consequent abuse of migrant workers by legally asserting their human rights.
8. Reduces irregular migration by eliminating incentives for labour exploitation, work in abusive conditions, and unauthorized employment that fuels human trafficking and smuggling of migrants.
9. Facilitates the establishment of effective national policy by calling on advisory services as well as good practice examples provided by the relevant standards-based international organizations.
10. To obtain clear guidance for bilateral and multilateral cooperation for lawful, humane, and equitable labour migration.
11. To obtain international guidance on implementation of legal norms through the reporting of obligations and periodic review by independent expert bodies.

## PART II: Policy Design and Implementation

TOWARDS THE DESIGN OF COMPREHENSIVE POLICIES FOR THE PROTECTION OF THE RIGHTS OF MIGRANT WORKERS  
BY SALVADOR GUTIÉRREZ, IOM

Migration policies. What are they? How are they structured? What are they used for?

There are two common definitions of the term "migration policy" which are often confused and applied without distinction. One refers to its broad definition, which points to the acts and omissions with which the State responds to the migration phenomenon. The other is the narrow definition, which points to the stance taken by the State regarding the migration phenomenon, which generally is the result of a more or less strategic planning exercise.

### Migration Policies - The Broad definition

Firstly, it must be said that there is no universally accepted definition of the term “migration policy”; particularly, the broad definition of this term is a concept in ongoing construction. Nowadays the most accepted definition of migration policy resembles the following: “The State’s migration policy is constituted by any institutional act, measure, or omission (laws, decrees, resolutions, guidelines, administrative acts, etc.) that deals with the arrival, departure, or permanence of foreign or domestic populations within its territory”.<sup>[1]</sup>

#### *Migration Policies: How Are They Structured? The Broad Definition – Issues*

The existing different definitions of migration policy in its broad sense often considers as migration policy any institutional act or omission related with: a) the management of the arrival or departure of domestic and foreign populations; b) the regulations concerning who may remain in a State’s territory, for how long, and under what conditions; c) the acquisition of nationality; and d) the management of refugee populations and asylum applicants.

#### *Migration Policies: How Are They Structured? The Broad Definition – Limitations of the More Common Definitions*

The most common and accepted definitions of migration policy (broad sense) tend to be limited, since they fail to consider the transit and return of migration flows. In addition, the management of migration is generally limited to providing an immediate answer to the migration phenomenon. They fail to consider the State’s obligations regarding the general protection of migrants, not even the most vulnerable. They also fail to consider the migrants’ integration; migration is not properly linked with other spheres of social life, work most importantly. Under this scope, the protection of nationals abroad is overlooked.

### Migration Policies - The Narrow Definition of the Term

#### *Migration Policies: What are they? The Narrow Definition of the Term – A proposal*

The narrow definition of the term ‘migration policy’ refers to the group of strategic guidelines or principles used by an institution, government, or State to respond to issues directly involved in the immediate and short-term management of migration flows within, through, and towards a State. It also encompasses the implication that these flows have for a country or certain communities within a country. These guidelines tend to be integrated in a written document formally issued by a State’s institution or organ.

<sup>1</sup> IACHR (Inter-American Court of Human Rights); Advisory Opinion OC-18/03, September 17, 2003, requested by the Mexico.

### *Migration policies: What Are They Used For? The Narrow Definition – Policy Functionality within the Framework of Standards*

This definition implies shifting the viewpoint from the general to the specific. At the most general level are the policies, which establish overall principles and guidelines and guide the State's actions. At the middle point are the laws, which are of a general nature, offer practical support to the principles, and orient private and institutional actions. At the most specific point are the procedures, which are specific, concrete norms that detail and operationalize institutional actions.

### Minimum Considerations for the Design and Implementation of Migration Policies

#### Migration policies - Dimensions to Consider for Ensuring their Comprehensiveness

In order to be comprehensive, migration policies should take into account the economic, social, and cultural dimensions of rights, the economic and social development of a State's strategies, the needs and capacities of the labour market, the economic and social structure of the departure and destination communities, international relations and foreign policies, the humanitarian obligations, environment and culture.

#### Migration Policies - Principles to Ensure their Comprehensiveness

Some key principles on which migration policies should be based to be more comprehensive are: non-discrimination, non-exclusion, objective acknowledgement of migrants; contributions, the benefits of regulating and normalizing migration flows, the benefits of favouring family unification, humanitarian responsibilities of the State, the benefits of inter-sectoriality in the intervention of multi-dimensional phenomena such as migration, and the benefits of collaborating in the management of migration flows among countries of departure, transit, and destination.

#### Migration Policies - Key Requirements to Ensure their Implementation and Effectiveness

Some key requirements to consider when designing a comprehensive migration policy -in order to ensure its effectiveness during implementation- should be the study and analysis of existing public policies (general, sectorial, economic, social) and the necessary coherence and complementariness that should be present among them, as well as the different institutional jurisdictions, institutional capacities (budget and personnel), and the participation of non-migrant populations.

#### Migration Policies - False Assumptions to Avoid When Designing a Migration Policy

Some examples of common false assumptions are those that affirm that the State has the real possibility of controlling migration flows at will. This closed-system theory sees migrants as the only ones responsible for irregular migration, that irregular migrations only generate losses, that migration regularization is a grant from the State that only benefits the migrant, that cultural adaptation is a one-way process, and that injustice against migrants only impacts migrants.



### Basic Process for Design and Implementation of Migration Policies

To answer the question: Where are we at?, a series of aspects should be considered. First is determining the goal to be reached. This is done by describing the purpose of an institution regarding a given issue, with reference to the institution's reason for being, to the services it offers or could offer, and to the persons it serves.

Also, the principles that undergo the work should be defined, so that it can be classified in what the institution believes and the values it fights for. The institution's strengths and weaknesses with respect to addressing migration should be acknowledged.

Finally, the opportunities and threats that imply involvement in migration issues should be acknowledged.

To answer the question: Where are we going?, the added value that the institution has when involved with a specific issue has to be defined. In addition, there has to exist a definition of the institutional vision regarding a specific issue what is hoped to be achieved over the next 5-10 years with respect to that issue.

To answer the question: How did we get here?, there has to be a preliminary determination of the short-term strategic objectives that connect the institutional mission with its vision. Hence, a strategy must be defined that relates the institutional strengths with migrant needs and with the opportunities that migrants represent for the institution. Determine short-term objectives that manage to convert strategic objectives into more immediate concrete objectives. Actions have to be determined to fulfill objectives, which establish terms for achievement and who is accountable. The persons responsible for the execution of said objectives are identified by asking who manages and monitors the plan of action and how.

Any process of policy design and implementation should be oriented towards objectives that respond to the vision of each institution involved. It should be laid out in a systematic manner so that it can be divided into executables.

The elaboration of a migration policy implies a process:

- 1. Dynamic**
- 2. Realistic** (are there enough resources to implement?)
- 3. Inclusive**, taking into account all areas of the migration phenomenon
- 4. Understandable** for all involved

## INSTITUTIONAL POLICY TO PROVIDE ACCESS TO JUSTICE FOR MIGRANT AND REFUGEE POPULATIONS BY SARA CASTILLO, CONAMAJ

There are various institutional policies in Ibero-America that address the protection and legal access for migrant populations, such as the XIV Ibero-American Judicial Summit held in Brasilia in March 2008. With the representation of Judicial Systems and Constitutional Courts from Spain, Andorra, Portugal, Latin America, and the Caribbean, this Summit approved the Rules for Access to Justice for Persons in Vulnerable Situations.

All of these offer effective protection to the rights of people who are in a vulnerable position and therefore require effective access to justice administration as a fundamental right. In the case of Costa Rica, a law has been passed to ensure protection and access to justice for this population. As an example, the Brasilia Rules were approved in Special Session 17-2008 of the Costa Rican Supreme Court, held on May 26, 2008 (Article II).

Implementation of these rules has been delegated to the Commission for Access to Justice. In addition, units and departments have been identified and designated for applying the Rules for populations in vulnerable situations. The Brasilia Rules establish that the movement of a person out of the territory of their State could be a cause of vulnerability, especially in the case of migrant workers and their families.

### National and International Regulations

Costa Rica is a signatory and ratifying party of international conventions and treaties concerning migration and refugees that protect the right to equality, non-discrimination, access to justice, and special protection, among others. In March 2010 the Migration and Immigration Act (Law No. 8764) took effect. Article 31 of the Act states: "All foreign people have the right to access to justice, to the guarantees of due process, the right of defence, and the right to petition and response".

This law has a strong comprehensive approach, a new aspect in Costa Rican migration legislation.

### Work Process

The Costa Rica National Commission for the Improvement of Administration of Justice (CONAMAJ) was appointed to advance efforts relating to migrant and refugee populations.

After consultations, more in-depth research, and a specialized approach to highly technical issues, in 2010 a research document was produced.

The Final document was submitted to the Supreme Court approved in session 32-10 on November 8, 2010.

### Limitations

The main issue identified is the difficulty faced by undocumented migrant workers to access justice (with expired documents or no documentation at all). During the process of policy approval and implementation, the main limitations have been the fight against the stereotypes associated with these populations, internal budgetary support, institutional structure and bureaucracy, and the adherence to administrative norms to the detriment of effective service.

### Policy Goal

To guarantee access to justice for every person with migration or refugee status, regardless of their social or legislative condition, based on the implementation of an institutional culture that promotes and protects the human rights of migrants and refugees. The lines of action that the policy gives more importance to are research, information, legal procedural action, timely communication, follow-up on cases of migrants and refugees within and outside the country, and inter-institutional coordination. .

### Progress and Monitoring

The Sub-Committee for Immigration and Refugees, the department in charge of coordination and implementation of this policy, commenced operations in 2011. This inter-sectorial body is comprised of multiple actors. It is chaired by the Presiding Judge of the Constitutional Court, due to her close relationship with the protection of human and fundamental rights. CONAMAJ operates as a Technical Secretariat.

Two action plans focusing on “training” and “communication” within the Judiciary have been developed to make progress in these sensitive issues. Other topics in the work plans include: coordination actions needed to improve access to services for migrants and refugees; standardization of services and treatment for migrant and refugee users; inter-institutional sharing of information; and updated data on relevant migration issues.

### Main Challenges and Key Factors to Tackle Them

The main challenges relating to access to justice for migrant and refugee populations is the lack of awareness, training, and dissemination of the new policy guidelines within the Judiciary (2012-2013).

Full compliance with the spirit of this policy must be ensured: access to justice regardless of immigration status. To successfully overcome these challenges, the coordinating group in charge of this policy's implementation must be comprised of representatives from different sectors.

In addition, the support of other public institutions and international agencies is vital. The participation of an independent judicial authority gives strength to the initiative. The involvement of civil society representatives creates a balance and provides an “expanded vision” of the needs and realities of these populations.

PREVENTION AND COMBATING OF THE CRIMES OF ILLEGAL MIGRANT SMUGGLING AND TRAFFICKING OF PERSONS FOR THE PURPOSES OF LABOUR EXPLOITATION, THROUGH THE CONSULAR AUTHORITIES  
BY PAOLA ZEPEDA, IOM

Legal Framework of Consular Protection: Trafficking of Persons for the Purposes of Labour Exploitation and Illegal Migrant Smuggling

Important legal norms that protect against labour exploitation and illegal migrant smuggling include the Vienna Convention on Consular Relations (1963; Article 36), Advisory Opinion 16/99 (ICHR), the Palermo Protocol (2000), and ILO Convention 29.

Consular Protection: trafficking in persons for the purposes of labour exploitation and illegal migrant smuggling

To understand the major issues surrounding “trafficking in persons” and “migrant smuggling”, we need to, first of all, define what constitutes each of these crimes. Trafficking in persons is defined as “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs” (article Article 3, paragraph (a) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons).

This perspective is broadened when referring to persons trafficked for labour purposes, whether in conditions of exploitation, forced labour, or slavery, which have to be conceptually differentiated. “Trafficking in persons for the purposes of labour exploitation” is understood as the forced labour that takes place within the broader context of trafficking.

ILO Convention 29 (1930) defines forced labour as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.”

It should be taken into account that illegal migrant smuggling generally takes place in the context of trafficking networks who recruit migrant workers for unscrupulous employers.

### Similarities and Differences between Trafficking in Persons and Migrant Smuggling

Regarding the divergent and convergent points between trafficking in persons and illegal migrant smuggling, the following can be mentioned:

1. Both practices imply movement or travel of human beings in a commercial operation to obtain an economic benefit. In the case of smuggling, the price is agreed upon and paid by the irregular migrant. In the case of trafficking, the trafficker obtains economic profit by exploiting the victims.
2. Both activities are carried out by criminal organized groups.
3. The crime of migrant smuggling ends with the illegal entry of the person into a State, whereas trafficking in persons entails the persistent exploitation of victims.
4. Trafficking does not require an illegal border crossing, nor is it necessarily transnational, such as in cases of internal trafficking. Illegal migrant smuggling always involves an illegal border crossing.

Despite these differences, it is important to understand that a situation of illegal migrant smuggling can lead to trafficking in persons.

### Challenges in the detection of human trafficking cases for the Purposes of Labour Exploitation

The most important limitations include:

1. In an economic context of tolerance, exploitation conditions may be perceived as “normal”.
2. Sub-registry and few number of complaints filed.
3. Inadequate national legislations

Also, there are limited resources and personnel for the prosecution of these crimes in police agencies, as well as a limited capacity of labour authorities to identify situations of trafficking for the purposes of labour exploitation.

Another important factor is the absence of appropriate mechanisms at the disposal of consular and immigration authorities to identify victims of trafficking among groups of irregular migrants.

## Recommendations

1. Training for consular officials and labour attachés on current legislation regarding labour rights and trafficking in persons for the purposes of labour exploitation.
2. Existing networks and inter-institutional articulations should be strengthened to allow the identification of trafficking in persons for the purposes of labour exploitation.
3. Mechanisms have to be created to detect cases of labour trafficking in groups of returned and detained migrants, through consular assistance.
4. Diffusion and information actions must be taken by Consulates regarding trafficking in persons for the purposes of labour exploitation. Also, articulated actions between Consulates and labour and police authorities in destination countries in order to identify cases must be strengthened.
5. Creating a registry of trafficking cases (identified and addressed) and their diverse modalities.

PRACTICAL APPLICATION OF A GENDER FOCUS IN POLICIES FOR  
CONSULAR PROTECTION OF MIGRANT WORKERS  
BY BERTA FERNÁNDEZ, ILO

## Why focus on gender and migration issues?

All societies assign different roles and opportunities to boys and girls from birth, and teach them to carry out those roles based on pre-conceived ideas as to how men or women should behave, popular assumptions regarding what each can or not do well, the skills they have, and their opportunities in work and life as women and men.

Specifically, we are talking about the social significance ascribed to biological differences, which vary between different societies and evolve over time. Each person's sex influences his or her opportunities in life, just as his or her socio-economical class and race or ethnicity also do.

The gender imbalance that permeates certain ideas about what is and what is not appropriate work for a women translates, in the labour market, into limited employment opportunities for women, who are generally assigned functions such as caring for the home, domestic service, or jobs in the informal sector of the economy. In such circumstances, domestic tasks and certain forms of leisure activities are the occupations that are predominantly filled by women

### What does the term 'gender-sensitive policies' mean?

This term refers to policies that distinguish, based on sex, between target groups, participants, or beneficiaries. Policies and programmes often are not 'gender-neutral' in effect, meaning that they do not affect men and women in the same way. In the migration context, differences in the factors that drive women to migrate, as well as their own experience as migrants, require policies that respond to such differences.

Migration policies and regulations are often not sensitive to gender, nor are they neutral, neither in intent nor in effect. They reproduce and intensify the social, economic, and cultural inequalities that exist between men and women, both in countries of origin and destination.

Most of the jobs held by women in the service sector are extensions of the traditional role of women as caregivers and housewives, and are characterized by individualized and isolated workplaces.

As women, gender inequality and discrimination persists in various degrees in all countries, whether of origin, destination, or transit. In every society women face exclusion or restrictions due to their condition as women, due to their impoverished condition, and/or due to their belonging to a minority population.

### Risks at Different Phases of the Migration Process

The risks arise from the moment the decision is made to travel, beginning with recruitment, the journey itself, and throughout the stay abroad. The decision to travel is driven by situations such as subordination to men and/or family. In general, the decision to seek employment abroad is not taken only by the woman, but rather by her family, especially the male members, who assign or define the woman's role, thus determining her motives and incentives to migrate.

In addition, it is precisely her family who most often provides the resources and information that can encourage or discourage migration.

#### Risks during Recruitment and Travel to Work Abroad

The rates charged by employment agencies are usually exorbitant, causing many women and their families to assume long-term debts or sell their belongings to pay such costs. Frequently, their passports or other documents are retained illegally by the person acting as agent. Often, they become victims of contractual terms that are deceitful or subsequently changed, or the absence of any contract at all.

Illegal recruitment for migration often proliferates due to the fact that, in order to migrate legally, the required procedures are restrictive, complicated, time-consuming, and sometimes expensive.

Women are more likely than men to use illegal recruitment and migration channels due to their limited access to information, lack of time to explore proper legal channels, and lack of economic resources to cover the costs involved.

The nature of the work and the migration modes available to women often lead them to trust fraudulent or un reputable recruiters and agents. These circumstances turn them into easy prey for organized criminal networks and illegal recruitment, and expose them to high-risk situations in the context of irregular migration. It is possible that unscrupulous illegal recruiters prefer to seek out young or adolescent women with limited life experience, as these women tend to be more easily misled.

### Risks during Employment Abroad

Female migrant workers suffer from double discrimination, first as women and then as migrants, thus causing them to face the following situations:

1. Breach of labour contracts: inexistent jobs, arbitrary termination, and restriction of free association and movement.
2. Discrimination and poor work and living conditions: unequal pay for equal work, withholding of wages, long work shifts, excessive workload, lack of rest days or vacations, inadequate or scarce food and housing.
3. Restriction of movement: retention of passports and documents, bound to a single employer.
4. Harassment and violence.
5. Health risks and occupational health risks, lack of social protection, forced labour, and debt servitude.

### **How Should Gender Inequalities Be Addressed in Migration Management?**

Prevention is the best way. As such, the migration process should be organized by way of appropriate laws that favour equality of opportunity and treatment, along with the establishment of implementation mechanisms. Therefore, the ratification of international instruments and the application of a rights-based and gender-based perspective in policies and programmes become necessary guidelines to follow.

A gender-based analysis should use sex-specific migration data, identify differences in occupations available to migrant men and women, ensure protection levels in origin and destination countries, and guarantee access to information and services prior to and during migration. In addition, the capacity of existing institutions and mechanisms to promote gender equality and avoid all forms of discrimination should be reviewed.



In order to reach a level of planning that avoids gender inequalities, it is necessary to: broaden labour and migration legislation to cover sectors and occupations that are predominately filled by women; provide equal opportunities and treatment for migrant men and women by abolishing protectionist measures that impede access to productive and decent jobs; reform legislation that restricts migrant women more than it protects them; and involve gender experts in decision-making processes designed to develop migration legislation and policies.

Finally, it is necessary to employ more women in the area of migration administration, raise awareness among migration officials and employers regarding human and labour rights, and avoid the victimization and criminalization of migrants who find themselves in situations of irregular migration or forced labour.

## EXPERIENCE OF NICARAGUA

### REGISTRATION AND ISSUANCE OF CONSULAR IDENTIFICATION CARDS BY IURY OROZCO, NICARAGUA

#### The Consular Identification Card: ¿What is it?

An identification document that allows people access to health services, education, etc.

#### Registration and Issuance

Consulates abroad collect general information for each Nicaraguan who lives within a consular jurisdiction area (Law 358, L.S.E.).

#### What Are the Requirements?

1. To be a Nicaraguan national living abroad.
2. Original birth certificate to prove Nicaraguan nationality and a government-issued photo ID to prove identity.

The creation of the Consular Identification Card was prompted by the following factors:

1. Article 28 of the Constitution mandates protecting all Nicaraguans living abroad. This should be done through diplomatic and consular representations.
2. Legislation establishes the obligation to register all Nicaraguans living abroad. (Foreign Service Regulation No. 128-2000).
3. Restoration of civil rights (inside or outside Nicaragua) is a government policy in Nicaragua.
4. The Nicaraguan government recognizes the vulnerability of their migrants due to lack of accreditation documents.
5. Apparent demand from their fellow citizens living in Costa Rica to obtain Consular Certification (Registration) as a requirement to qualify for migration regularization, which in this case represents 45.8% of Nicaraguans living abroad. (Nicaragua 2005 Population Census).
6. Political goodwill to register and provide an identification document.

The main obstacles to the effective implementation of the Consular ID have been: lack of funds; false belief in the need to carry out a diagnostic study on migrants living in Costa Rica; and arguments alleging contradictions between the Consular ID and the Citizen Identity Act.

### Implementation Process

The programme started on September 21, 2009, in Costa Rica, with the first Consular Identification Cards issued on May 4, 2010. In November 2010, programme coverage was extended to El Salvador under the project for regularization of Nicaraguan migrants. In 2011 the programme started in Los Angeles, California (United States).

### Consular ID: Protecting Migrants Living Abroad

The registration and issuance of Consular Identification Cards aim to:

1. Contribute to the regularization of Nicaraguan citizens by providing the documents required by immigration authorities in the destination country.
2. Recognize compatriots living abroad as full Nicaraguan citizens
3. Creating a reliable record of compatriots that will allow the relevant authorities to locate them quickly and provide consular assistance in emergency situations.

Furthermore, the registration and issuance of Consular Identification Cards as an information tool allows statistical information to be obtained, which in turn contributes to strategic planning and characterization of migration flows. It also defines variables such as sex, age, gender, places of origin and destination, educational level, immigration status, work permits, remittances, family integration, among others.

Monitoring of the registration and issuance of Consular ID Cards is handled through a central database that stores information daily. Monitoring is based on previously defined goals.

### Impact and Benefits

1. General Migration Directorates of Costa Rica and El Salvador: Consular registration required for migration regularization process.
2. Ministry of Education in Costa Rica: School principals and public institute directors require a reliable identification mechanism.
3. Ministry of Health in Costa Rica: Nicaraguan citizens who do not carry an ID card can access basic health services by presenting the Consular ID Card.
4. Civil Registry of Costa Rica: Accepts the Consular ID Card as identification for purposes of birth registration.
5. General Directorate of Social Services: Inmates use ID as a form of identification that allows them access to social programmes.

### Progress and Challenges in Implementation of the Registration and Issuance of Consular Identification Cards

#### PROGRESS

1. The main progress has been the expansion of programme coverage to El Salvador and Los Angeles, USA. In 2012 we hope to continue expanding to Houston (USA) and Spain.
2. It is considered an achievement that consular representations must develop a consular registration database.

The challenges encountered have been:

#### CHALLENGES

1. Consular officials have traditionally overlooked this as matter as a consular activity.
2. People are not sufficiently informed, therefore reluctant to register.
3. Lack of human and material resources available to Consulates

Possible actions to protect the rights of migrant workers include information campaigns targeted at migrants, lobbying of local authorities for acceptance of the Consular Identification Card, and promotion of bi-national labour agreements.

## PART III: Experiences in Protection of Migrant Workers

BEST PRACTICES FOR THE PROTECTION OF MIGRANT WORKERS FROM THE CONSULAR AREA: POLICY OPTIONS FOR COUNTRIES OF ORIGIN  
BY RICARDO CASTILLO, IOM

### Protection of Migrant Workers

The availability and accessibility of information for migrant workers about the options to migrate and to work in a regular, dignifying manner abroad should be available at the country of origin. On the other hand, destination countries are responsible for preventing the violation of the labour rights of the migrant work force. International cooperation plays a key role in liaising relevant authorities in both origin and destination countries in order to guarantee the protection of migrant workers.

Diplomatic and consular representations have at their disposal various means to protect migrant workers. Among these are dialogue with international cooperation, databases and records of temporary migrant workers (TMW), dissemination of information, and identification of job opportunities in destination countries, among others.

### How to Improve the Consular Protection of Migrant Workers?

To improve the consular protection of migrant workers, the designated official from the Department of Labour (labour attachés) at the Embassy or Consulate must have, as part of their fundamental functions: the protection of migrant workers under his/her jurisdiction; offering support to identify decent job opportunities for fellow citizens; supporting the development of migration labour policies, and promoting good labour relationships with the host country.

### How to Improve the Protection of Migrant Workers in Destination Countries?

In order to protect migrant workers, labour attachés in destination countries should provide assistance in areas related to employment, ensure the protection of undocumented migrants and victims of trafficking, and provide assistance or legal representation in courts and tribunals. To perform these tasks, labour attachés must have knowledge and skills in areas that involve international law, labour markets (characteristics in both origin and destination countries), diplomacy, counselling, negotiation, conciliation, and arbitration. Labour attachés must coordinate their work with the diplomatic mission and the headquarters of migrant workers in their country of origin.

### Best Practices in Consular Protection: The Philippines Case

An example of good consular protection for migrant workers is found in the Philippines.

#### DATA OF INTEREST TO TAKE INTO ACCOUNT

1. Over nine million Filipinos work abroad in approximately 190 different countries (25% of the workforce).
2. An average of 75,000 Filipinos per month migrate to work in a foreign country.
3. 30% of the world's maritime workers are Filipinos.
4. The Philippines receives an average of one billion U.S. dollars in remittances every year (13% of the GDP).

Due to the growing number of Filipino workers abroad, the government has taken several concrete measures. These include the creation, in 1974, of the Overseas Employment Development Board (OEDB), which in 1982 was transformed into the Philippine Overseas Employment Administration (POEA), and in 1985, the Overseas Worker Welfare Administration (OWWA).

The approach taken by the Philippines to manage migration is a comprehensive one. Important measures have been executed, such as: regulation of recruitment; study of foreign labour markets; dissemination of information; appointment of labour attachés in Embassies and Consulates; and creation of a database (POEA).

The departure process is managed in a manner that organizes, monitors, and evaluates the entire selection and preparation process (prior to the worker's departure). They also issue ID documentation, and regularly update the POEA database.

The protection and representation measures include a mandatory pre-departure guidance course, offers orientation and services in Embassies and Consulates, feeds the database (OWWA-POEA), and also creates a comprehensive information system (database) that centralizes and manages worker and employer information, including remittances, thus offering feedback to the decision makers.

#### Institutions in the Philippines Government Associated with Migration Administration

The success in the administration of labour migration in the Philippines is partially due to the institutions involved in this process. For instance, the organizations linked to the Department of Labour and Employment are: a) the OWWA, the POEA (both with representation abroad; the former with social welfare offices and the latter with labour attachés); and b) organizations linked to the Department of Foreign Affairs, including the Commission for Filipinos Abroad and the Office of the Assistant Secretary for Filipinos Abroad, both commanded by Embassies and Consulates and foreign services personnel, who are the ones in direct contact with Filipino workers abroad.

Some of the services offered through the welfare officers and labour attachés in the Filipino Embassies and Consulates include: labour and legal counselling; conciliation with employers; representation before the destination country authorities; information concerning options for sending remittances; investment options information; credit and savings in the destination country; replacement of ID cards; information about relatives in the Philippines; repatriation in case of natural disasters or war; repatriation of corpses; economic support for funerals; organization of cultural events and integration activities; a scholarship programme for the children of migrant workers; visits to prisoners; and a credit programme to start small business in the Philippines.

### Policy Options for Countries of Origin

Options for the protection of workers in their country of origin include:

1. Incorporation of a gender approach as the cornerstone of national migration policies.
2. Creation of an interdisciplinary team for developing public policies on labour migration.
3. Improvement of internal coordination.
4. Bilateral and multilateral cooperation between origin and destination countries.
5. Inclusion of strong mechanisms for foreign service agencies to strengthen their ability to ensure compliance of the protective measures established in migration labour policy.
6. Ensure that the proper system is used to gather and study data.
7. Dissemination of information.
8. The elaboration of labour market studies (both in origin and destination countries).
9. Development of programmes to encourage the return and reintegration of TMW.
10. Maximization of the impact of remittances on local and national growth.

### Conclusion

Developing countries can face difficulties assigning sufficient funds from governmental budgets for the protection of their migrant workers abroad. Therefore, co-financing mechanisms should be considered by the migrants themselves, employers, and recruitment agencies, as well as strategic alliances with the private sector, NGOs and international cooperation agencies.

Countries of origin need to invest financial resources, but most importantly, they require the political will to ensure correct administration of labour migration to benefit all parties involved.

THE ROLE OF CONSULAR MANAGEMENT IN THE TEMPORARY MIGRANT WORKERS PROGRAMME – THE SALVADORAN CASE  
BY JOSÉ MANUEL CASTILLO, EL SALVADOR

### Institutions in Charge of Executing the Programme for Temporary Workers Abroad

In the case of El Salvador, the institutions in charge of monitoring migrant workers abroad are the Ministry of Labour and Pensions, the Ministry of Foreign Affairs, and the International Organization for Migration.

From 2002 to 2008, the roles of these institutions were not adequately defined, and thus ample support was not afforded to the migrant population. As a result, the need to enhance coordination, create procedures and establish well-defined roles became evident.

Between 2010 and 2011, the Temporary Migrant Workers Programme Management Model was developed. This instrument defines the scope, limitations, and responsibilities of each actor involved; at the same time, it has become an effective mechanism for communication and transparency between the workers who participate in the programme, employers and other interested State institutions.

The Temporary Migrant Workers Programme seeks to address migration dynamics in El Salvador, where over three million Salvadorans live abroad. The United States is the main destination (approximately 2.5 million), followed by Canada (approximately 120,000) Central America, and other destinations. This has generated an impressive increase in the proportion of remittances in the Salvadoran GDP (approximately 18%).

With regards to labour conditions in El Salvador, data shows that unemployment is high. Hence, labour policies should strive to create new forms of employment, both at the national and international level. Efforts have been made to generate a responsive policy to protect migrants. This implies restructuring of the Ministries of Foreign Affairs abroad by redefining the consular functions, and orient them towards the protection of the rights of Salvadorans abroad, as well contributing to the way **migrants** relate to **the political, social and cultural reality of their countries of origin**.

This represents a novel element in migration management, with a development scope that tries to change the ways migration is approached, at least from the Ministry of Foreign Affairs, taking into account the aspects that migration can generate in destination countries and the ways in which migrants participate in their communities of origin. In other words, a task that involves awareness raising on the complexities surrounding migration.



### Vice-Ministry for Salvadorans Abroad

Is the institution in charge of strengthening and promoting the integral development of migrants and their families that seeks to incorporate a human rights perspective in their programmes, projects, and actions.

The general objective of the Vice Ministry's actions is the promotion, defence, and protection of the rights of Salvadorans living abroad or in transit. In each intervention, the right to compensation, promotion, or restoration of rights must be identified. In summary, it seeks to examine each case in order to determine which rights are being infringed and what needs to be restored or ensured.

### Legacy of the Vice-Ministry

The legacy of the Vice-Ministry includes the institutional design and the practice of protecting and defending the human rights of migrant populations and their families, as well as their inclusion and active participation in national and local public development policies. The Vice-Ministry is also in charge of defending Salvadorans abroad through consular protection. It has carried out an important awareness-raising of consulate staff.

The strategic objectives of the government of El Salvador concerning migration management and development refer to:

1. Having Salvadorans abroad and their families understand their rights and actively participate in the processes national and local development.
2. Strengthen the bonds between Salvadorans abroad and their country and towns of origin.
3. Provide comprehensive, effective, dignifying, and quality consular services to all Salvadorans abroad and their families.

### Temporary Migrant Workers Programme Management Model

This model is a comprehensive instrument that manages the legal and orderly movement of temporary workers with guaranteed respect for their rights, and nurtures their development and participation in the processes of territorial development through complementary programmes.

It seeks to manage temporary and circular labour migration in a safe and positive manner for Salvadoran workers and their families, so as to contribute to improving their life conditions.

The goal is to advance the working profile of Salvadorans through the acquisition of new knowledge and techniques in the country of destination where they will work. Additionally, throughout the process it tries to create a bond between the programme actor and other strategic actors to engage development initiatives in El Salvador in the workers' communities.

### Consular Role in the Temporary Migrant Workers Programme

Inside the migration management vision, and in the framework of migrant rights protection, Salvadoran Consulates should assume several responsibilities, including the reception of temporary workers in the destination country, monitoring of the migration mobility of temporary workers abroad, visiting of workplaces, compilation of a migrant worker database, providing of mobile consular services, monitoring of workers' conditions and performance in the hiring companies, meeting with representatives of the hiring companies at the end of the employment period, and seeking employment offers.

### Complementary Programmes Incorporated into Migration Management

Some complementary functions developed have strengthened the capacity of the coordinating institutions involved in this Management Model, including remote education programmes for bachelor degrees, talent programmes, knowledge transmission, financial education programmes, and programmes to preserve family ties.

### Lessons Learned

During the process, several lessons have been learned that can help to improve the function of Consulates. First of all, roles, coordination, and communication mechanisms among all actors involved have to be clearly defined. This gives more credibility to the management process. Capacities of the governmental actors involved in managing the Temporary Migrant Workers Programme need to be strengthened, thus positively impacting the functioning of the programme.

Promoting the pursuit among Consulates of support networks can facilitate providing orientation to temporary workers in certain situations (migration and legal counselling, cultural adaptation, language, etc.). Under this programme, Consulates whose jurisdiction entails the potential to manage employment offers or compatriots already working, should assume a proactive communication approach and accompany the hiring companies, as well as communicating with and monitoring the compatriots working in them.

Technical management of the programme has to be accompanied by a high-level management policy (e.g., bilateral conventions). This supports consular management regarding protection of compatriots and also the acquisition of new employment offers. Alliances have to be developed with other public and private actors in the country of origin. This helps to strengthen programme management and increases benefits for the migrant worker. The temporary nature of the working experience offered to Salvadoran workers should be noted, inasmuch as this feature does not encourage permanent migration.

Time must be invested in preparation of the workers' departure, in order to provide them with useful information and knowledge concerning the new context where they will reside and work. One of challenges remaining is to obtain access for migrant workers to the social security and pension systems in El Salvador.

Another challenge is to improve labour market information, in order to ensure the system is oriented towards the current migration tendencies and projections of the number of Salvadorans working abroad.

**EXPERIENCES WITH CONSULAR PROTECTION OF MIGRANT WORKERS:  
CHALLENGES AND PERSPECTIVES  
BY MARTHA OLIVIA GUTIÉRREZ, NICARAGUA**

### Current Context of Migration Processes and Challenges for Consular Protection

To understand migration processes, the various complex factors of same have to be taken into account:

1. Migration is a massive process that has persisted over time.
2. It is a process that includes an significant number of women.
3. This process should be distinguished according to the type of region of destination or origin, meaning the urban or rural composition of the phenomenon, as well as the timeframe in which migration occurs, whether the migrants are permanent or temporary. These situations many challenges when addressing migration processes.

Taking into consideration the aforementioned elements, it is important that consular protection and assistance transcend the spaces in which it has traditionally acted. It should be possible to nurture a greater approach between the diverse actors for purposes of facilitating agreements, understandings, and projects for the benefit of migrant working populations, which together come down to optimizing migration as a development factor.

Consular authorities have significant means to offer assistance and protection to migrant workers, but such mechanisms tend to be under-utilized. Also, the manner in which consular assistance and protection is perceived should shift towards more direct action, strategic and creative and coherent with the migrant workers' reality.

### Migration Management in Nicaragua

In the Nicaraguan context, migration management suffers a fundamental weakness consisting of the lack of a migration policy. The official position can be summarized as discouraging migration and increasing job opportunities in-country.

Nonetheless, it is acknowledged that significant migration processes exist that have left a significant number of compatriots abroad, whom should be served and protected since they rely on protection from the State through consular action.

### Main Experiences of Consular Protection – New Migration Context

A relevant experience involving consular protection of migrants is found in the the Co-Development Programme between Costa Rica and Nicaragua (2006-2011), which aimed to generate psychosocial and economic benefits for migrants in both countries.

To achieve co-development, the formalization of regular migration processes in a framework of full respect for human rights is fundamental. The process mainly undertaken for this co-development consists of increasing the contribution of migration movements to the development processes in Costa Rica and Nicaragua, with the expectation of generating positive effects by promoting processes of economic growth and improving social conditions in both countries. There exist many courses of action to accomplish this. One is the regulation of labour migration flows of Nicaraguans working in Costa Rica. Another is to favour the employment insertion conditions of migrant populations into labour markets. Improvement of the psychosocial situation of migrant persons and their families is also sought, as well as promotion of the social integration of migrants.

Achieving this Costa Rica–Nicaragua co-development required effective participation in the process of defining and implementing the Bi-National Agreement on Temporary Workers (December 2007) as the support mechanism needed to obtain proper Nicaraguan documentation for the regularization process. Consular protection actions in the framework of the Bi-National Agreement regarding temporary migrant workers included visits and on-site inspection and confirmation of compliance with the Agreement provisions regarding labour conditions and respect for temporary migrant worker rights. The progress of the registration process and the issuance of consular credentials in Costa Rica should be monitored.

This experience has been of great value, since it has allowed the establishment of dialogue on the issue of labour migration. It has also facilitated rapprochement among different institutions, established a clear route to follow for the recruitment, hiring, moving, permanence, and return of migrant worker groups, and acquired knowledge regarding the main characteristics and conditions of the Nicaraguan nationals in Costa Rica.

### Bi-National Agreement Costa Rica–Nicaragua on Temporary Migrant Workers – Challenges

This experience has given the opportunity to see the challenges that the Bi-national Agreement Costa Rica–Nicaragua has faced. A common conceptual framework on co-development should be constructed, identifying aspects of interest for both countries. Aspects regarding execution of the Bi-National Agreement have to be engaged, searching for strengths and weaknesses in the application of the execution protocol. In addition, mechanisms must be created to strengthen inter-institutional coordination and streamline management to achieve the presence of migrant workers in the Costa Rican production units that need labour. Diffusion of this point becomes fundamental, making necessary a general information campaign focusing on the Agreement on Temporary Migrant Workers.

### Project for Regularization of Nicaraguans in El Salvador - PRORENISA

This project is a part of the Cooperation Agreement between the Government of El Salvador, the Government of Nicaragua, and the IOM. The main objective is to contribute to the regularization of the Nicaraguan migrant population, facilitating processes and procedures in the framework of Salvadoran legislation.

This project involves the establishment of a Technical Coordination Team, with cooperation from the IOM, the Nicaraguan Consulate and Embassy, and the Salvadoran General Migration Directorate and Ministry of Foreign Affairs. The main strategy available involves the creation of a solidarity fund to assist those compatriots unable to cover the entire cost of regularization for themselves and their families.

The main reflections over PRORENISA deal with the importance of having a database that reflects the migration dynamic in order to make the Project's actions as coherent as possible with reality. Still pending is the provision of attention to an important population group, temporary workers, who were not included in this initiative, since it was aimed at a settled population. This experience has exemplified a concrete example of integration between both countries.

### Joint Declaration – United States Department of Labour and Nicaragua (August 2011)

The Joint Declaration consists of an agreement that establishes cooperation relationships to educate, inform, disseminate, communicate, and promote a national dialogue on compliance with the laws and regulations enforced by the Wage and Hour Division (WHD) of the Department of Labour.

The agreement was reached between the WHD and the Nicaraguan Consulate in Houston in January 2012. Both agencies acknowledge their commitment to comply with the laws and regulations in the workplace that are applicable to all Nicaraguan migrants.

The main objectives of the agreement are to launch an educational programme for Nicaraguans in Texas so that they are aware of the laws and regulations applicable in the workplace, by establishing systematic contact mechanisms between the Consulate and the WHD in order to coordinate the application of the agreement, providing training to consular personnel by WHD about the application of and compliance with administrative, and establishing a system to forward complaints to the WHD.

### Challenges for the Consular Protection of Migrant Workers

The main challenges identified for the protection of migrant workers include the establishment of consular protection with a gender-based perspective, so as to avoid exacerbating the discrimination faced by women, whose different roles should be considered, since they play an active role in every phase of the migration process. There is a need to design consular protection actions that take into account the particularities of the female experience in the context of migration.

The challenges also include the need to address the conditions that make women more vulnerable, such as the prevalence of gender stereotypes, occupational segregation in the labour market, dependent employment relations, individualized and isolated working environments, a lack of organization and representation, and the invisibilization of women who hold non-domestic jobs.

Consular protection faces challenges such as developing programmes or strategies to support the return of migrants to Nicaragua by providing information and accompanying this population by presenting the opportunities that the country offers in general, and in their communities of origin in particular.

### Profile of the Labour Attaché

To overcome these challenges, Labour Attachés should have broad-based knowledge that allows them to better understand the situation of migrant workers. They must have knowledge of the applicable international legal instruments, treaties, and agreements, knowledge about factors in the host country that affect the demand for labour and employment, knowledge about job offers in their country of origin, knowledge about policies and laws that affect the workforce in both countries, and knowledge about gender difficulties that face migrant workers in the destination country.

Labour Attachés have the function to ensure that migrant workers are not exploited or discriminated, to assist them in the recovery of income or other benefits, to offer assistance in the case of contract violation, to aid in cases of exposure to inhumane conditions, unacceptable working environments, or unhealthy or unsafe working conditions.

In addition, they must ensure that undocumented persons and victims of trafficking or illegal migrant smuggling obtain protection and help for repatriation, ensure that migrant workers with injuries or illnesses get medical attention and, if they decide to, the necessary assistance to return to their countries, and also guarantee the protection of the rights and wellbeing of migrant workers.

Lastly, they have to provide assistance or legal representation in courts or tribunals, in coordination with the Consulate, in cases involving violations of worker rights or workers facing criminal charges or detention.

### Cost of Consular Protection Activities vs. Limited Resources in the Country of Origin

To cover the costs of consular protection, additional resources from the national budget have to be managed to provide assistance and protection of migrant workforce, as well as the establishment of strategic alliances and the development of cooperation ties with organizations active in the defence of migrant human rights, such as social organizations, local NGOs, lawyer networks, etc.

## EXPERIENCE OF MEXICO

### MEXICO-CANADA TEMPORARY AGRICULTURAL WORKER PROGRAMMES BY DANIEL AGUADO ORNELAS, MEXICO

The Temporary Agricultural Worker Programme (PTAT) was established in 1974 with the signing of a Memo of Understanding between the Government of Mexico and the Government of Canada. The PTAT incorporates mechanisms from the Bracero Agreements with the United States that were in effect from 1941 to 1964.

The Programme is a bilateral cooperation model that promotes temporary orderly and safe migration flows of Mexican agricultural workers, ensuring respect for their labour, social, and human rights. To date, 225,181 Mexican agricultural workers have participated in the programme.

The Canadian government regulates admittance of workers, indicates the numbers of workers required, notifies cancellations, and issues employment notifications, while the Mexican government recruits and selects agricultural workers, integrates and processes documents, and submits data on workers and their dates of arrival to Canada to the applicable authorities.

#### Requirements to Participate in the PTAT Programme

1. Must be a Mexican citizen.
2. Must be 22-45 years old.
3. Must be a peasant or agricultural worker or perform tasks related to agricultural work, and must live in a rural area.
4. Minimum third-grade and maximum ninth-grade education.
5. Men and women who are married or in a legally binding relationship and, in exceptional circumstances, single persons with dependants.

#### PTAT Guidelines

The PTAT establishes the following obligations for employers: no more than 40 hours or six days of work per week; lodging, food, and transport provided to workers; coverage of health costs and all security measures required by law; payment of at least the established minimum wage; and the depositing a portion of wages to an account for use by the agricultural worker's family.

Worker obligations include: working for the same employer during the established period; working during a 14-day trial period; returning to his/her country of origin; and reimbursing the employer for the cost of migration procedures and other services provided (these costs are periodically reviewed).



### PTAT Review and Monitoring Mechanisms

The PTAT Programme carries out a regular review of the operational rules by way of annual inter-governmental evaluation meetings, meetings with representatives from federal and provincial associations of nearly a thousand employers from Ontario, Quebec, and British Columbia, and inter-agency meetings in Mexico to review jurisdictional matters between the Secretariat of Labour and Social Welfare (STPS), the Secretariat of Foreign Affairs (SRE), the Secretariat of Health, the Secretariat of the Interior (SEGOB), and the Department of the Treasury and Public Credit (SHCP).

### Mexican Consular Network in Canada

Consulates keep records of all agricultural workers and employers from different provinces of Canada who participate in the programme: General Consulate of Mexico in Montreal, Quebec; General Consulate of Mexico in Toronto, Ontario; General Consulate of Mexico in Vancouver, British Columbia; Consulate of Mexico in Leamington, Ontario; Consulate of Mexico in Calgary, Alberta.

### Consular Assistance Actions

1. Arrival of Workers in Canada: Verifying that the workers have arrived to Canada in order to respond to requests from employers or request substitute workers.
2. Visits to Farms: Providing information to workers about their rights, obligations, and benefits; reminding them that they should have a bank account to facilitate sending financial resources or receiving payments from the employer; and reminding them that they should submit their tax return before returning to Mexico in order to request tax refunds, when applicable.
3. Procedures before Authorities: Consulates provide assistance to workers for procedures before provincial authorities, such as payments for medical disability, parental rights, etc.
4. Assistance in Case of Accident or Illness: Consular officials visit hospitals when a worker is transferred due to health reasons, to verify the worker's condition, determine what type of assistance can be provided, and collect information to be provided to the worker's family and the STPS.
5. Legal Aid: Consular officials ensure compliance with the labour conditions established in PTAT and provide assistance in cases of denouncement of violations under the programme.

### Considerations

Various mechanisms are in place in the PTAT Programme to reduce potential conflicts between workers and employers. The Memo of Understanding between Canada and Mexico provides a specific legal framework regulating programme operations.

There are clearly defined roles for the authorities from both countries to ensure compliance with the programme in applicable areas, an ongoing review of the Programme through regular meetings of authorities at the domestic and international levels, and timely intervention of consular officials to provide information and preventive protection.



## LEGAL TOOLS FOR THE PROTECTION OF THE LABOUR RIGHTS OF MIGRANTS IN THE UNITED STATES

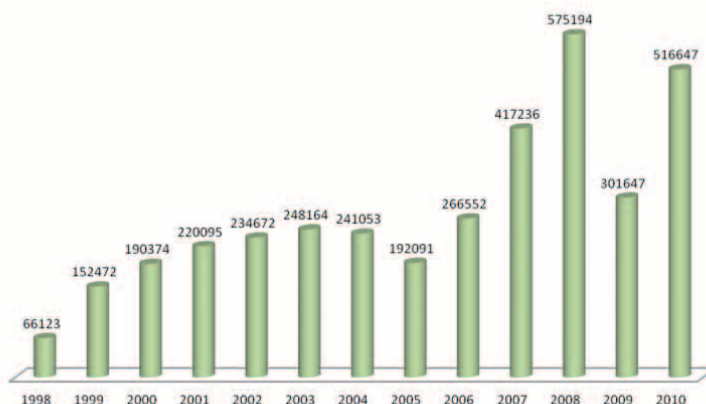
BY DANIEL AGUADO ORNELAS, MEXICO

### Mexico – United States Labour Migration

After Canada, Mexico has the second highest documented flows of temporary labour migration to the United States: 516,000 workers in 2010. In that year, one out of every five (18.3%) temporary workers in the U.S. came from Mexico. In the specific case of Mexican temporary agricultural workers, the percentage was 91%, nine out of every ten workers.

In addition, undocumented migration occurs primarily for economic reasons. At least 70% of the immigrants in the US stated that they had migrated to “work or find employment” in the U.S.

### MEXICANS ADMITTED INTO THE U.S. WITH TEMPORARY STAY PERMITS, 1998-2010

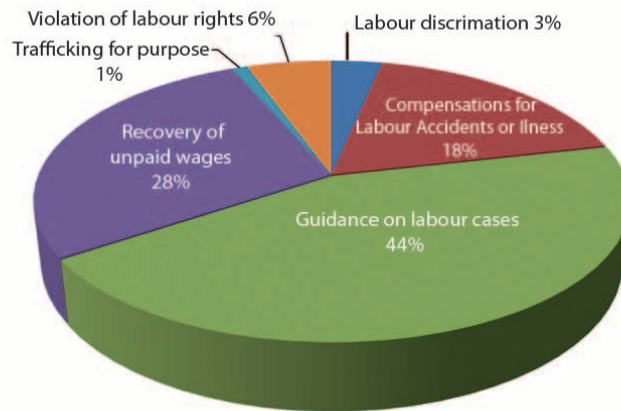


*Labour Cases Assisted by the Mexican Consular Network in the U.S., by Type of Case (2010)*

### Assistance on Labour-Related Matters

In 2010, the Mexican consular network in the U.S. assisted 128,819 cases of protection. 2,809 of those cases were labour-related.

### LABOUR CASES ATTENDED BY THE CONSULAR NETWORK IN THE UNITED STATES (BY TYPE OF CASE), 2010



### Labour Protection Mechanisms in the United States

#### Preventive Protection

Preventive protection consists of orientation and dissemination of the labour rights of workers. There are also efforts to develop agreements with the Department of Labour to educate, communicate, and disseminate the rights of workers. Examples of some preventive protection actions are described below:

1. General assistance and orientation on labour-related matters related to low wage, safety in the workplace, occupational hazards and accident prevention; agreements with U.S. labour agencies to disseminate information on work opportunities and channel applications; and promotion and dissemination of labour rights supported by U.S. legislation.
2. In regard to agreements for preventing occupational hazards, there are agreements between 26 Consulates and agencies of the U.S. Department of Labour, such as the WHD, the Occupational Safety and Health Administration (OSHA), and the Equal Employment Opportunity Commission (EEOC).

### Legal Aid

This consists of assistance and orientation by consulting attorneys, apart from the External Legal Aid Programme (PALE). In the Consulting Attorney Programme, attorneys are appointed by the Government of Mexico to provide initial specialized assistance on various matters, upon request from the Consulate.

The External Legal Aid Programme (PALE) is oriented towards strengthening protection actions for Mexicans by hiring attorneys specializing in different aspects of U.S. law. Assistance was provided to 6,456 cases in 2010 and 2011; 495 (8%) of them were on labour-related issues.

### Legal Actions

Legal actions as protection mechanisms are brought by the Specialized Technical Legal Programme (STLP). The Programme is a legal tool developed to create jurisprudence, and thus establish precedent in U.S. legislation to improve the conditions of migrants in the U.S. through high-impact lawsuits. Cases assisted by STLP can be addressed simultaneously with other protection programmes.

STLP has brought legal action in relevant cases of abuse of the labour rights of workers hired under the H2B y H2A visa schemes, non-compensated labour accidents, labour discrimination, abuse and trafficking in persons.

This Programme works by designing legal strategies to develop compensatory legislation in key labour sectors. STLP is supported by a network of organizations protecting labour and civil rights to identify potential related violations.

### THE EXPERIENCE OF ADVISORY OPINION OC-18/03 BY LUIS GABRIEL FERRER, MEXICO

#### Protection and Assistance to Nationals Abroad

The aim of this presentation is to share experiences on how to find strategies and tools that help us submit cases to forums such as the Inter-American Court of Human Rights. There are other tools that can improve the employment situation; the intervention of consular official is not the only way. This paper intends to show such tools through the experience of Advisory Opinion OC-18/03.

For centuries, the right of States to ensure the interest and wellbeing of their citizens when they are outside State territory has been recognized.

170 countries are part of the Vienna Convention on Consular Relations (VCCR, 1963). Article 5 of the VCCR defines consular functions, which include: “Protecting, in the receiving State, the interests of the sending State and its nationals, whether they are individuals or legal entities, within the limits established by international law....Providing assistance to nationals from the sending State, whether they are individuals or legal entities.”

#### Considerations When Submitting Cases to an International organization

When submitting a case to an international forum as large as the Inter-American Court of Human Rights, it is necessary to evaluate the situation in terms of legal strategy and political considerations, analyzing points such as merits and opportunities to achieve the particular goal, legal repercussions, and potential alliances.

#### International Lawsuits

Before Lawsuit OC-18/03, the prior related experiences included disputes before the International Court of Justice (ICJ) and the LeGrand case (Germany vs. USA, 1999), when the United States violated the right to consular notification of the LeGrand brothers, as well as the right of the German government to provide consular assistance (Article 5, VCCR).

With regard to Mexico, we have the experience of Advisory Opinion CIDH 16/99, a case that involved many alliances throughout the process. It was a joint effort among Latin American countries, with written observations from the Dominican Republic, the Republic of Honduras, and the Republic of Guatemala.

In a public hearing (12-13 June 1998), the participants directly linked the right to information on consular assistance to protect human rights, particularly with respect to judicial guarantees (arguments by Mexico, Costa Rica, El Salvador, Guatemala, Honduras, and Paraguay), and even to the right to life (arguments by Mexico, Paraguay, and the Dominican Republic).

Very important contributions to Advisory Opinion CIDH 16/99 came from Amnesty International, the Mexican Commission for the Protection and Promotion of Human Rights, Human Rights Watch/Americas, and the Centre for Justice and International Law, as well as various universities and individuals.

### Advisory Opinion CIDH 18/03

Part of the strategy is considering the question that will be present in our case: Does denial of rights affect the principle of equality, non-discrimination and effective protection under the law? When this is true, how is the hierarchy of rights structured?

The main issues covered by Advisory Opinion CIDH 18/03 were:

1. The obligation to respect and guarantee human rights and the fundamental nature of the principle of equality and non-discrimination.
2. Application of the principle of equality and non-discrimination to immigrants.
3. The rights of undocumented immigrant workers.
4. The obligation of States to formulate migration policies in accordance with international human rights protection instruments.

### Results

1. States are under the general obligation to respect and guarantee fundamental rights.
2. Non-compliance by States (in the form of any type of discriminatory treatment) with the general obligation to respect and guarantee human rights generates international liability.
3. The general obligation to respect and guarantee human rights is binding for States, regardless of circumstances and considerations, including a person's migration status.
4. The migration status of a person may not be used as justification to deprive this person from enjoying and exercising his/her human rights, including labour rights, with the latter being a consequence of a labour relationship.
5. The State is under the obligation to respect and guarantee the labour and human rights of all workers.

## GROUP WORK

### DEVELOPMENT OF CONCEPTUAL GUIDELINES FOR A POLICY TO PROTECT LABOUR RIGHTS OF MIGRANTS

The Workshop on Capacity Building for Consular Authorities on the Protection of the Labour Rights of Migrant Workers included a group work session. For this session, the participants were separated in two groups, each one with a moderator and a rapporteur. The moderator summarized the points to be worked with, based on the ideas presented by the Workshop speakers and on group reflections. The person appointed as rapporteur drew up an outline with help from the moderator, who later introduced him/her self to the group.

#### GROUP 1

Group I had the task of developing conceptual guidelines for a policy to protect migrant labour rights from the perspective of consular authorities in countries of origin, transit and destination.

The generator questions used to encourage the activity were:

1. At the regional level, where are we at now on issues related to the protection of migrant labour rights from the perspective of Consulates in countries of origin, transit and destination?
2. What are the known obligations of Consulates in countries of origin, transit and destination related to the protection of migrant labour rights?
3. What responsibilities do Consulates have with respect to migrant workers?
4. From the perspective of Consulates in countries of origin, transit and destination, what principles do Consulates observe when protecting the migrant labour rights? What values do these Consulates fight for?
5. What services are offered, could be offered, and should be offered by Consulates in countries of origin, transit and destination with respect to the protection of migrant labour rights?

6. What are the strengths and weaknesses of Consulates in countries of origin, transit and destination with respect to the protection of migrant labour rights?
7. What are the opportunities and challenges that the protection of migrant labour rights could bring to Consulates in countries of origin, transit and destination?
8. Given the above, what should be the mission of Consulates in countries of origin, transit and destination with respect to the protection of migrant labour rights?

#### POLICY TO PROTECT MIGRANT LABOUR RIGHTS FROM THE PERSPECTIVE OF CONSULAR AUTHORITIES IN COUNTRIES OF ORIGIN, TRANSIT AND DESTINATION

##### Conceptual Guidelines

1. The protection of migrant workers is a right and a duty of Consulates and other authorities involved (migration and others) to achieve a comprehensive protection policy. The whole State must be involved.
2. Visualizing the issue of protection of migrant workers is a daily task for Consulates.
3. The effort must not only be reactive, but also preventive and proactive for migrants to be protected. In addition to the departure process and attention to workers in the destination State, the return process should also be considered.
4. Comply with principles observed by the State of origin regarding respect for human rights, including the principle of equality between migrant workers and non-migrants, in all that relates to working conditions, as well as non-discrimination.
5. An aspect that must be taken into account is the co-responsibility for the migration phenomenon between the individual and the state of origin, whose compatriots should be aware of the consequences of their acts and the obligation to respect foreign laws and regulations.
6. Diminish the causes of labour migration undertaken due to necessity.
7. Address the issue of migrant workers with strategic alliances that include RCM mechanisms.
8. Respect the right of migrant workers to exercise their rights with moral authority in the destination country.

Action Plan (capacities, control of recruitment, protection of rights in destination countries, and improving access to justice)

1. There must be training or manuals and guidelines on the protection of migrant workers. More training for all staff involved on specific issues (trafficking and labour exploitation, human rights, etc).
2. Development of systematic campaigns from the country of origin, including the development of a communications strategy for dissemination of information to compatriots regarding labour rights.
3. Promote the signing of agreements between countries that include minimum standards for working conditions.
4. Promote the signature and implementation of ILO multilateral instruments for the protection of the rights of migrant workers.
5. There must be improvement of the image of Consulates and promotion of their achievements, in order to generate greater trust from compatriots.
6. Increase consular presence and improve relations with the authorities of the destination country.
7. Promote education as the first solution to avoid migration driven by necessity.
8. Create dignified job opportunities to eliminate the causes of labour migration.
9. Create proper conditions for the eventual return of migrant workers.
10. Transparent recruitment processes set forth in manuals, with dissemination of and compliance with hiring requirements.
11. Benefit from the experiences of other countries.
12. Share information and procedures with allied States.
13. Where appropriate, manage the collection of funds.
14. Explore the development of agreements for the portability of occupational pensions.

## GROUP 2

The goal of Group II was to develop conceptual guidelines for a policy to prevent and combat trafficking for labour exploitation by consular authorities in countries of origin, transit and destination. The generator questions used for activity were:

1. At the regional level, where are we at now on issues related to the prevention and combating of trafficking for labour exploitation from the perspective of Consulates in countries of origin, transit and destination?
2. What are the known obligations of Consulates in countries of origin, transit and destination related to the prevention and combating of trafficking for labour exploitation?



3. What responsibilities do Consulates have with respect to the victims of trafficking for labour exploitation?
4. From the perspective of Consulates in countries of origin, transit and destination, what principles do Consulates observe when preventing and combating trafficking for labour exploitation? What values do these Consulates fight for?
5. What services are offered, could be offered, and should be offered by Consulates in countries of origin, transit and destination with respect to the prevention and combating of trafficking for labour exploitation?
6. What are the strengths and weaknesses of Consulates in countries of origin, transit and destination with respect to the prevention and combating of trafficking for labour exploitation?
7. What are the opportunities and challenges that the prevention and combating of trafficking for labour exploitation could bring to Consulates in countries of origin, transit and destination?
8. Given the above, what should be the mission of Consulates in countries of origin, transit and destination with respect to the prevention and combating of trafficking for labour exploitation?

#### POLICY TO PREVENT AND COMBAT TRAFFICKING FOR LABOUR EXPLOITATION BY CONSULAR AUTHORITIES IN COUNTRIES OF ORIGIN, TRANSIT AND DESTINATION

##### Conceptual Guidelines

1. Recognize the principles of equality and protection of social rights of migrant workers as related to trafficking in persons for labour exploitation.
2. Promote cooperation between member states to prevent and combat trafficking in persons for labour exploitation in countries of origin, transit and destination.
3. Promote collaboration and cooperation between states on issues of safety and security for diplomatic and consular officials, under the provisions of the Vienna Convention on Consular Relations.
4. Review the signature and ratification status of international and regional legal instruments, agreements, etc.

Basic Action Plan at the regional level for the prevention of trafficking for labour exploitation by consular authorities in the countries of origin, transit and destination:

1. Raise awareness among consular personnel concerning the concept of trafficking in persons for purposes of labour exploitation in its different modalities.
2. Subject-specific virtual training for consular officials and foreign service staff.
3. Develop consular action on trafficking for labour exploitation.
4. Implement awareness-raising campaigns, outreach, and prevention measures aimed at migrant populations through Consulates (posters, videos, etc.).
5. Establish consular networks in transit and destination countries in order to share good practices.
6. Establish coordination with local authorities that address the issue.

## AGENDA

SEMINAR-WORKSHOP CAPACITY BUILDING FOR CONSULAR OFFICIALS  
ON THE PROTECTION OF THE LABOUR RIGHTS OF MIGRANT WORKERS

HOTEL CROWNE PLAZA

MANAGUA, 3-4 MAY 2012

### THURSDAY, MAY 3RD

#### 8:00 - 8:15 am

Registration of Participants – La Vista Hall

#### 8:15 - 8:40 am

Inauguración

- Ana Isabel Morales Mazún, Nicaraguan Minister of Governance
- Manuel Coronel Kautz, Nicaraguan Vice-Minister of Foreign Affairs
- Robert G. Paiva, Regional Director for Central and North America and the Caribbean, International Organization for Migration (IOM)

#### 8:40 - 9:10 am

Presentation of Workshop Background and Objectives

- Summary of the results of the “Workshops on Temporary Migrant Workers” held in San Salvador on 23-24 April 2009 and in Santo Domingo on 27-29 April 2011 (20 MIN - Oliver Bush, RCM Technical Secretariat Coordinator)
- Presentation of the Agenda and Explanation of Methodology (10 MIN - Iury Orozco, Government of Nicaragua)

#### 9:10 - 10:10 am

PART I: International Legal Framework for the Protection of the Labour Rights of Migrant Workers

- Consular Protection and Diplomatic Protection: The Fundamental Right and Obligation of States to Protect Migrant Workers. (20 MIN – Alexandra Bonnie, IOM)
- International Standards for the Protection of the Rights of Migrant Workers (25 MIN – Bertha Fernández, ILO)
- Question-and-Answer Session (15 MIN)

#### 10:10 - 10:25 am

Recess

#### 10:25 - 11:25 am

PART II: Policy Design and Implementation

- Towards the Design of Comprehensive Policies for the Protection of the Rights of Migrant Workers (20 MIN - Salvador Gutiérrez, OIM)
- Experience of Costa Rica

Institutional Policy to Provide Access to Justice for Migrant and Refugee Populations (25 MIN - Sara Castillo, CONAMAJ)

Question-and-Answer Session (15 MIN)

### 11:25 - 12:20 pm

PART III: Fundamental Considerations for the Design and Implementation of Policies and Actions to Protect the Rights of Migrant Workers

- Options for Cooperation between Consular Authorities and Civil Society in the Design and Implementation of Policies to Protect the Labour Rights of Migrant Workers (20 MIN - RNCOM)<sup>[1]</sup>
- Prevention and Combating of the Crimes of Illegal Migrant Smuggling and Trafficking of Persons for Purposes of Labour Exploitation, through Support from Consular Authorities (20 MIN - Paola Zepeda, OIM)

Question-and-Answer Session (15 MIN)

### 12:20 - 13:50 pm

Lunch

### 13:50 - 14:50 pm

PART III: Fundamental Considerations for the Design and Implementation of Policies and Actions to Protect the Rights of Migrant Workers

- Implementing a Gender Approach in Policies to Protect Migrant Workers by way of Consular Authorities (20 MIN – Berta Fernández, ILO)
- Experience of Nicaragua: Recompilation and Analysis of Information and Its Importance in the Design and Implementation of Policies and Actions for the Protection of Migrant

Workers: The Experience of Nicaragua and Its Consular Registry (25 MIN - Iury Orozco, Government of Nicaragua)  
Question-and-Answer Session (15 MIN)

### 14:50 - 15:20 pm

Recapitulation and Explanation of Group Work

- Summary of the Morning Presentations by the Rapporteur (20 MIN - Ricardo Cordero – IOM)
- Explanation of the Methodology for Group Work, Conformation of the Groups, and Designation of Rapporteurs (10 MIN - Dra. Rodríguez, Government of Nicaragua)

### 15:20 - 15:40 pm

Recess

### 15:40 - 16:40 pm

Group Work<sup>[2]</sup>

Guidelines for Group Work:

- There will be two groups, each one with a moderator and a rapporteur.
- Moderator: He/she will summarize the work issues based on the ideas of the presentations and the reflections of the group.
- Rapporteur: He/she will draw up a summary of the group proposals for presentation before the plenary session.

The group work should focus on the following points:

- Group 1: Development of conceptual guidelines for a policy on protecting the labour rights of migrants by consular authorities in countries of origin, transit, and destination. (Moderator: Noelia Ramírez, Government of Nicaragua).

<sup>1</sup> This presentation was not given.

<sup>2</sup> For lack of time, this activity did not take place.

- Group 2: Development of conceptual guidelines for a policy on preventing and combating trafficking of migrants for purposes of labour exploitation by consular authorities in countries of origin, transit, and destination. (Moderator - Dra. Ana Cecilia Solís, Government of Nicaragua) (Maderas Hall)

**16:40 - 18:15 pm**

Presentation and Validation of the Group Work Results by the Rapporteurs and Closure of the Day's Session (Moderator: Government of Nicaragua)

**18:15 pm**

Departure from Hotel Lobby for Artistic Presentation

**19:30 - 21:30 pm**

Artistic and Cultural Presentation AFRICANTO 2012 Offered by the Government of Nicaragua (Rubén Darío National Theatre)

## FRIDAY, MAY 4TH

### 8:15 - 8:30 am

Presentation of the Objectives and Methodology for the Day (Government of Nicaragua)

### 8:30 - 10:20 am

PART IV: Experiences with the Protection of Migrant Workers from the Consular Area: Policy Options for Countries of Origin

- Best Practices for the Protection of Migrant Workers from the Consular Area: Policy Options for Countries of Origin (25 MIN – Ricardo Cordero, IOM)

Question-and-Answer Session (15 MIN)

- Experience of El Salvador  
Defence of the Labour Rights of Nationals by Consular Authorities in the Framework of the Temporary Jobs Abroad Programme (30 MIN – Government of El Salvador)

Question-and-Answer Session (15 MIN)

- Experience of Nicaragua  
Experiences with Consular Protection of Migrant Workers: Challenges and Perspectives (30 MIN – Martha Olivia Gutiérrez, Government of Nicaragua)

Question-and-Answer Session (15 MIN)

### 10:20 - 10:40 pm

Recess

### 10:40 - 12:40 pm

PARTV: Experiences with the Protection of Migrant Workers under Schemes of Inter-Institutional Cooperation: Policy Options for Origin and Destination Countries

- Experience of Mexico  
Options for Inter-Institutional Cooperation for the Protection of the Labour Rights of Migrant Workers: Experience of Mexico with the México - Canada PTAC (30 MIN - Daniel Aguado, Government of México)

Question-and-Answer Session (15 MIN)

- Experience of Mexico

Programme of Lawyers as Consultants to Provide Orientation and Monitor Specific Labour Cases of Mexicans

Specialized Technical Legal Programme (STLP) as a Legal Tool to Be Part of High-Impact Processes and Class-Action Suits, Particularly in Cases of Violation of Labour Rights of Nationals that Can Establish Jurisprudence

The Experience of Advisory Opinion OC-18/03 (35 MIN – Luis Gabriel Ferrer, Government of México)

Question-and-Answer Session (15 MIN)

### 12:40 - 13:55 pm

Lunch

### 13:55 - 14:25 pm

Summary and Explanation of Group Work

- Summary of the Morning Presentations by the Rapporteur (Ricardo Cordero – IOM)
- Explanation of the Methodology for Group Work, Conformation of the Groups, and Designation of Rapporteurs (Dra. Rodríguez, Government of Nicaragua)

### **14:25 - 16:10 pm**

#### Group Work

#### Guidelines for Group Work:

- There will be two groups, each one with a moderator and a rapporteur.
- Moderator: He/she will summarize the work issues based on the ideas of the presentations and the reflections of the group.
- Rapporteur: He/she will draw up a summary of the group proposals for presentation before the plenary session.

The group work should focus on the following points:

- Group 1: Development of basic guidelines at a regional level for the protection of labour rights of migrant workers by consular authorities in countries of origin, transit and destination. (Moderator: Martha Olivia Gutiérrez, Government of Nicaragua).
- Group 2: Development of basic guidelines at a regional level for the prevention and combating of trafficking and illegal smuggling of migrants for purposes of labour exploitation by support from consular authorities in countries of origin, transit and destination. (Moderator: Sra. Hellen Montenegro, Government of Nicaragua).

### **16:30 - 15:10 pm**

Presentation and Validation of the Group Work Results by the Rapporteurs and Closure of the Day's Session (Moderator: Government of Nicaragua)

### **17:10 - 17:25 pm**

Closure of the Seminar (Government of Nicaragua)

### **16:10 - 16:30 pm**

#### Recess

## LIST OF PARTICIPANTS

| NAME                   | POSITION  | INSTITUTION                  | COUNTRY    |
|------------------------|---|------------------------------|------------|
| Cornelio Cáceres Ruiz  | Head Of Document Analysis   | National Immigration Service | Panama     |
| Gabriela Ramos         | Coordinator Of Consular Assistance And Protection                 | Ministry Of Foreign Affairs  | Panama     |
| Priscilla Díaz         | Analyst   | National Immigration Service | Panama     |
| Maribel Muñoz          | Project Assistant   | RCM Technical Secretariat    | Costa Rica |
| Oliver Bush            | Coordinator   | RCM Technical Secretariat    | Costa Rica |
| Renán Rodas            | IT Specialist   | RCM Technical Secretariat    | Costa Rica |
| Sophia Granberg        | Intern  | RCM Technical Secretariat    | Costa Rica |
| Berta Fernández Alfaro | Specialist In Migration Policies                                  | ILO                          | Nicaragua  |
| Alexandra Bonnie       | Area Coordinator Of Migration Management                          | IOM                          | Nicaragua  |
| Carmen Paola Zepeda    | Oficial In Charge   | IOM                          | Nicaragua  |
| Ricardo Cordero        | Regional Labour Migration Specialist                              | IOM                          | Costa Rica |
| Robert Paiva           | Regional Director For Central And North America And The Caribbean | IOM                          | Costa Rica |
| Salvador Gutiérrez     | Programmes Specialist   | IOM                          | Costa Rica |



| NAME                             | POSITION  | INSTITUTION                              | COUNTRY     |
|----------------------------------|---|--|-------------|
| Tasha Young                      | Foreign Services Officer                            | Ministry Of Foreign Affairs              | Belize      |
| María Manuela Ureña Ureña        | Consular Advisory – Consular Department             | Ministry Of Foreign Affairs              | Costa Rica  |
| Sara Castillo                    | Executive Director                                  | CONAMAJ                                  | Costa Rica  |
| Walter Fonseca Ramírez           | Counsel To The Vice-Minister                        | Ministry Of Foreign Affairs              | Costa Rica  |
| Ingrid Zúñiga Menjívar           | Immigration Policy Technician                       | Ministry Of Foreign Affairs              | El Salvador |
| José Manuel Castillo Pérez-Gómez | Strengthening of Salvadoran Organizations           | Ministry Of Foreign Affairs              | El Salvador |
| Sandra Maribel Lovo Menjívar     | Head Of The Immigration Department                  | Department Of Migration And Alien Status | El Salvador |
| Helen Iracema Escobar Ocampo     | Head Of Temporary Workers                           | Ministry Of Foreign Affairs              | Guatemala   |
| Luis Ernesto Molina              | Head Of Temporary Workers                           | Ministry Of Foreign Affairs              | Guatemala   |
| Consuelo María Maas Maldonado    | In Charge Of Arrests In The Exterior                | Secretariat Of Foreign Affairs           | Honduras    |
| Jacqueline Abudoj                | Advisor And Head Of Consular Affairs                | Secretariat Of Foreign Affairs           | Honduras    |
| Daniel Aguado Ornelas            | Asst. Director Of Policy For Protection Of Mexicans | Secretariat Of Foreign Affairs           | Mexico      |

| NAME                           | POSITION   | INSTITUTION                              | COUNTRY   |
|--------------------------------|--|--|-----------|
| Luis Gabriel Ferrer Ortega     | Director Of Litigation And Legal Counsel             | Secretariat Of Foreign Affairs           | Mexico    |
| Ana Cecilia Solís Díaz         | Director Of Protection For Nationals                 | Ministry Of Foreign Affairs              | Nicaragua |
| Hellen Montenegro Parrales     | Specialist In Consular And Migration Affairs         | Ministry Of Foreign Affairs              | Nicaragua |
| Iury Orozco Rocha              | General Consular Director                            | Ministry Of Foreign Affairs              | Nicaragua |
| Luciana María Chávez Talavera  | Specialist In Consular And Migration Affairs         | Ministry Of Foreign Affairs              | Nicaragua |
| Luis Horacio Argueta González  | Head Of Labour Migration Department                  | Ministry Of Labour                       | Nicaragua |
| Martha Olivia Gutiérrez Vega   | Specialist In Migration Policy                       | Ministry Of Foreign Affairs              | Nicaragua |
| Martha Rodríguez Duarte        | Director Of Consular Services                        | Ministry Of Foreign Affairs              | Nicaragua |
| Martín Antonio Jarquín López   | Director Of Borders                                  | Department Of Migration And Alien Status | Nicaragua |
| Miguel Ángel Padilla Gutiérrez | Head Of Coordination Of Inter-Institucional Policies | Ministry Of Labour                       | Nicaragua |
| Noelia Ramírez                 | Specialist In Planning, Management And Follow-Up     | Ministry Of Foreign Affairs              | Nicaragua |
| Pamela Aguilar Mora            | Director Of Alien Status                             | Department Of Migration And Alien Status | Nicaragua |

| NAME                  | POSITION  | INSTITUTION                                | COUNTRY            |
|-----------------------|---|--|--------------------|
| Mirtha De Moya        | Vice-Consul In San Juan, Puerto Rico                                  | General Consulate In San Juan, Puerto Rico | Dominican Republic |
| Nallibe Sapeg Padilla | Advisor In Charge Of The Division For Protection Of Dominicans Abroad | Ministry Of Foreign Affairs                | Dominican Republic |

## PHOTOGRAPHS OF THE SEMINAR-WORKSHOP







Conferencia Regional sobre Migración  
Regional Conference on Migration

The Regional Conference on Migration (RCM) is an intergovernmental forum established in 1996 to sustain a regional dialogue and an exchange of ideas as well as experiences, for joint consideration and cooperation, on migration issues of common interest to the participating countries.

The eleven member countries of the RCM: Belize, Canada, Costa Rica, El Salvador, the United States, Guatemala, Honduras, Mexico, Nicaragua, Panama and the Dominican Republic.

For further information contact:  
[crmst@iom.int](mailto:crmst@iom.int)



International  
Organization  
for Migration

The International Organization for Migration (IOM) is committed to the principle that humane and orderly migration benefits migrants and society. As an intergovernmental organism, IOM acts with its partners in the international community to assist in meeting the growing operational challenges of migration management; Advance understanding of migration issues; encourage social and economic development through migration and uphold the human dignity and well-being of migrants.

For further information contact Sofía Salas: [ssalas@iom.int](mailto:ssalas@iom.int)

This Seminar-Workshop took place in the framework of the IOM's project "Improving Labour Migration Administration in Central America and the Dominican Republic (ILMA-CA-DR)", financed by the government of Canada. Its objective is to promote a modern, comprehensive and effective administration of labour migration flows through the adoption of public policies and concrete actions.

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