



**SIXTH PLENARY MEETING OF
THE INTER-PARLIAMENTARY FORUM OF THE AMERICAS (FIPA)**

OTTAWA, CANADA
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PROSPERITY AND COOPERATION: A NEW AGENDA FOR THE AMERICAS

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FINAL REPORT

Working Group No. 3: International Migrations and Human Rights

(Subject to stylistic amendments)

The Working Group on Migrations and Human Rights met at the Parliament of Canada in Ottawa, Canada, on September 13-14, 2009, with the participation of delegates from Brazil, Canada, Chile, Colombia, Dominican Republic, Ecuador, Grenada, Mexico, Panama, Paraguay, Peru, and Suriname.

Senator Ricardo Garcia Cervantes, Senate of the Republic, Mexico, chaired the working group sessions. The objective of the working group was to:

- Promote a comprehensive dialogue on the migratory phenomenon in the Americas in order to analyze and propose actions aimed at ensuring proper care of migrants that is legal, orderly, safe and respectful of human rights.
- Draft recommendations on the role of parliamentarians in the establishment of a legal framework that is effective, secure, respectful of human rights and adapted to a scenario of change and globalization

PRESENTATIONS

In order to meet these objectives, the working group heard presentations from three experts in the field: Ms. Agueda Marín of the International Organization of Migration (IOM), Mr. Mario López-Garelli, of the Inter-American Commission on Human Rights (IACHR), and Dr. Demetrios G. Papademetriou, of the Migration Policy Institute. Their presentations and the discussion are summarized below.

Ms. Agueda Marín

Ms. Marín opened by saying that in order for migration policy to be successful, it must take into account human rights. However, despite the fact that migrants' rights are human rights, abuses



continue to occur around the world. Ms. Marin's key message was that shared responsibility lies at the heart of realizing the human rights of migrants. All states have an interest in, and responsibility for, the protection of these rights, whether as country of origin, transit, or destination.

A multi-layered system of international law has developed to ensure the protection of the human rights of migrants. The key principle of human rights law in this area is that of non-discrimination, which places upon the State the responsibility to respect and ensure the human rights of all individuals within its territory; nationals and non-nationals alike, with few exceptions. However, challenges arise in trying to give practical expression to the rights applicable to migrants.

States can take certain steps towards the implementation of human rights, including putting in place laws, structures, programmes, and policies. The effective implementation of human rights involves promotion, prevention of violations, and protection and redress where abuses have occurred. States need both migration legislation and migration policy, each reflecting and affirming the other. Important underlying conditions include effective capacity to implement and respect human rights, coherent policymaking, initiatives to promote awareness of rights, and cooperation between states. Protecting the human rights of migrants is not only a shared responsibility between states, but also involves a range of actors in society, including civil society, media, employers, trade unions, etc.

Human rights are important building blocks in a comprehensive approach to migration governance. There is much to learn from other states, and at regional fora. For example, the International Organization for Migration has the international migration law database, with legislation from different countries, as well as bi-national agreements, which can serve as a reference tool. Prevention, promotion, protection, and redress are key concepts, remembering that human rights are important both to the individual and to the host country.

Mr. Mario López-Garelli

Mr. López-Garelli outlined the activities of the Inter-American Commission on Human Rights in relation to migration. He referred to the Charter of the OAS and the principles embodied in the preamble and in Article 45, most notably, non-discrimination. He also discussed how migration has become an important political issue in the region, due to the pace and size of migration flows.

In terms of relevant work at the IACHR, Mr. López-Garelli highlighted the Inter-American Program for the Promotion and Protection of the Human Rights of Migrants, which serves as a benchmark or reference point for action in this area. He also discussed the activities of the Special Rapporteur on Migrant Workers and Their Families, including the recent report on detention of migrants and due process in the United States. The commission has conducted other work on migration related matters as well, holding hearings on topics including migrants as domestic workers, human rights violations of those in transit, and anti-immigration activities of groups in certain countries.

Mr. López-Garelli emphasized the importance of Advisory Opinion OC 18 of the Inter-American Court on Human Rights. This decision clearly laid out the nature of states' obligations to migrants, and in particular, underlined the principles of equality, non-discrimination, and due process. Non-discrimination includes the labour market and labour laws; migrants must have their labour rights



respected like other workers once a labour relationship has been established. Due process includes those who have entered the country illegally.

Dr. Demetrios G. Papademetriou

Mr. Papademetriou focused on migration and human rights in the Americas in the context of the current economic crisis. The severity of the economic crisis suggests that jobs will be scarce, even after recovery begins. Migration has been affected in perhaps surprising ways; migrants are taking into account the new economic reality and are often choosing to remain where they are, whether in their country or origin or in their country of destination. However, immigration policy can affect the decision of migrants, as evidenced in the United Kingdom and Ireland, where the possibility of legal return (in addition to economic opportunity in their countries of origin) has contributed to the decision of many Eastern European migrants to return home.

Migrants are disproportionately affected by the economic downturn because they tend to be employed in sectors with relatively weak labour and social protections. Further, when migrants lose their jobs, they may not have access to unemployment assistance or other state support. In a time of economic crisis, migrants are particularly vulnerable, and therefore are particularly in need of protection, in three areas. These areas are: protection from expulsion, the protection of people in transit, and labour and social protections.

DISCUSSIONS

Participants discussed a range of issues in relation to human rights and migration. Different countries have different experiences with migration; general principles and best practices can be helpful, but specific situations also need to be considered. Participants discussed the role played by economic conditions in the countries of origin in motivating migration and return. Vulnerable groups, such as women and unaccompanied minors, were also of concern. The current context, including factors such as the drop in remittances, opportunities for orderly migration, and increased vulnerability of migrants to unscrupulous agents, was discussed, along with future implications.

CONSIDERATIONS

We, the parliamentarians participating in Working Group No. 3: International Migrations and Human Rights:

1. Recognize that all human beings enjoy fundamental rights regardless of their migratory status, and declare our willingness to respect those rights and guarantee that principle.
2. Observe that the various trends in the migratory phenomenon in the Americas are mainly the result of economics and the search for better opportunities for personal and family development.



3. Note that the economic crisis the world is currently facing is perhaps the most serious since World War II, and that it has strongly altered current trends in the migratory phenomenon, in particular in the Western Hemisphere.
4. Are aware that migrants are vulnerable to abuses and corruption at the hands of organized crime, as well as various authorities.
5. Understand the urgent need to provide protection to all migrant persons, and especially to vulnerable groups
6. Recognize the generalized weakness in the social and labour protection of migrants in the Americas.
7. Are concerned over the negative reactions that could be generated at the regional level in light of this economic crisis, and the weakening of mechanisms to protect the rights of migrants.
8. Observe that some countries have not signed or acceded to, or do not observe existing international standards and legal instruments for the protection of migrants.
9. Realize that this is not exclusively a human rights issue but also a matter of ensuring that international migration is part of a framework that respects the corresponding legislation.
10. Recognize that it is important for immigration legislation and policies to be consistent amongst themselves and with other areas for effective coordination between the different branches and levels of government.
11. Are aware that shared responsibility is a key element in effective migration policy.
12. Note the need for greater technical capacity to promote efficiency in the design and implementation of immigration policies and laws.
13. Emphasize that each country in the region should assess its current immigration laws and policies in light of the circumstances described to ensure that international migration is dignified.

Therefore, it is in the best interest of all countries to create mechanisms to ensure that migration within the region is conducted in a manner that is safe and respectful of human rights, and it is our duty to urge all congresses in the Americas to promote through their legislation and immigration policies a flow of people that is dignified, legal, orderly and safe based on the principle of shared responsibility between the states of origin, transit and destination.

RECOMMENDATIONS

Adopted by the Plenary Assembly of FIPA on September 15, 2009



Based on the deliberations of the Working Group on International Migrations and Human Rights, which took place in the framework of the 6th Plenary Meeting of FIPA in Ottawa, Canada, September 13-15, 2009, and on the considerations exposed by the working group,

THE FIPA PLENARY ASSEMBLY makes the following recommendations:

14. That FIPA member parliaments promote greater dialogue with the executive branches of their States with the aim of harmonizing the legislation with a comprehensive public immigration policy characterized by being dignified, legal, orderly, safe and respectful of human rights.
15. That FIPA member parliaments strengthen political dialogue among legislative branches to determine the specific realities and needs of each region, and to seek proposals for joint solutions between countries of origin, transit and destination that promote flows that are dignified, legal, orderly, safe and respectful of human rights.
16. That FIPA member parliaments promote actions that:
 - a. Combat human trafficking;
 - b. Promote peace and reduce violence in border regions;
 - c. Condemn and prevent xenophobia and discrimination against migrants;
 - d. Establish minimum standards for the protection and health of migrants in detention and the deportation of migrants, and ensure family unity, consular protection and due process;
 - e. Strengthen the integration of migrants into host communities;
 - f. Call upon all countries in the international system to sign, accede to and comply with treaties on human rights and human mobility.
17. That FIPA member parliaments, through FIPA, request that the Inter-American Commission on Human Rights (IACHR) and the International Organization for Migration (IOM) support the legislative branches of the region in organizing activities to promote the existing legal instruments on human rights and migration.
18. That FIPA member parliaments organize, through FIPA and with support from the International Organization for Migration (IOM), regional training workshops on the issue of human trafficking in order to promote best practices and legislation against it.

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