

# ***Overview Of Forced Migration And Related Issues***

*William Canny  
International Catholic Migration Commission*

## **Introduction**

It is important to clarify a few terms and concepts before discussing some of the critical issues facing humanity concerning movement and uprootedness. We know that, of course, uprootedness has been with us from the earliest records of human history. Both the Old and New Testament treat the subject of the forced migrant, albeit in different ways.

The following are some modern nation state related definitions of the forced migrant.

Who is a refugee? The internationally agreed upon definition is spelled out in the 1951 UN Convention which is marking its 50th anniversary this year and next. This internationally agreed and legally binding treaty defines a refugee as a person who

*“... owing to well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of*

*that country.” The international community has decided that certain rights are so fundamental that they have to be respected at all times. A violation of any of these rights is considered to be persecution. These rights are generally spelled out in the International Covenant on Civil and Political Rights and in certain clauses in the Declaration of Human Rights. The OAU in 1969 further adopted a binding treaty which extended the definition of refugee to ‘every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or whole of his country of origin or nationality, is compelled to leave his place of residence in order to seek refuge in another place outside his country of origin or nationality.’”*

This language and that adopted by ten countries in Latin America (Cartagena Declaration) recognizes basically that actions/ circumstances not only owing to the conduct of the person’s “state” but also to others (non state actors) can be the cause of persons becoming refugees.

The world’s governments, specifically those who sign the 1951 Convention or the 1967 Protocol, have the responsibility to protect refugees fleeing from persecution or chaos. Although signing the Convention does not bind a government to give persons fleeing “asylum” it does prohibit them from “refouling” –expelling or returning refugees to countries where their lives or freedom would be threatened.

In essence, international law gives a person a right to seek refuge in other countries but does not bind a country to give asylum or protection. It does bind signatories (135 out of 180 UN members have signed) not to “refoul” but is not clear on what they are to do with them. Thus the refugee is subject to the interpretation of individual countries as to what they should or should not do with them and is subject collectively to the vagaries of individual states decisions when it comes to financial support for the massive humanitarian effort required to protect and assist refugees.

**Who is an Internally Displaced Person?** According to the “Guiding Principles on Internal Displacement”, developed by Francis Deng and generally accepted by the international community, internally displaced persons are “those persons forced or obliged to flee from their homes, in particular as a result of, or in order to, avoid the effects of armed conflicts, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.” As internal civil conflict increasingly produced situations of masses of people having to leave one area of the country for another due to the same reasons as in the refugee convention the need to create additional understandings and awareness has led to the creation of the “Guiding Principles”. There is an important debate taking place today in the international community concerning who is responsible for

the safety and well being of these persons who remain within the borders of a nation state but who in fact may be brutalized by the government or another party within that same nation state. A general understanding has developed that the government of that state may “forfeit” certain sovereignty over their peoples if they abuse their human rights but the mechanisms for assisting those peoples remain today ill-defined and subject to circumstance.

**Who is a Migrant?** Economic migrants are generally characterized as persons who leave their country sites of origin purely for economic reasons not in any way related to the refugee definition, or in order to seek material improvements in their livelihood. Economic migrants do not fall within the criteria for refugee status and are therefore not entitled to benefit from the international protection as refugees.

It is important to note that many of today’s international and/or economic migrants, not just those recognized as refugees, have been compelled to leave their homelands because of severe political, economic, environmental, and social conditions. Violence against migrants is all too common today in every part of the globe. Xenophobic and racist sentiments against migrants, refugees and other foreigners have entered mainstream and public discourse. The Program of Action of the International Conference on Population and Development held in Cairo in 1994

aptly summarized the multiple factors which compel people to migrate across national borders: “international economic imbalances, poverty and environmental degradation, combined with the absence of peace and security, human rights violations and the varying degrees of development of judicial and democratic institutions are all factors affecting international migration. ”

There are international instruments that protect the rights of migrants. The central notion of human rights, that they are universal, (apply everywhere), indivisible (economic and civil rights cannot be separated from social and cultural rights), and inalienable (cannot be denied to any human being) forms the basis for the rights of the migrant. Of particular relevance to the protection of migrants is Article 6 of the Universal Declaration which specifies that every human being has the right to recognition as a person before the law, and Article 7 guaranteeing everyone equality before the law and equal protection of the law.

Nonetheless the UN Commission on Human Rights after reviewing testimony of violations of human rights of migrants in the 1970’s decided to elaborate a specific international instrument to define and uphold application of basic human rights of migrants. A ten year drafting process led to the adoption on December 18 1990 by the UN General Assembly of the International Convention on the Protection of the Rights of

All Migrant Workers and Members of Their Families. This convention draws on two earlier ILO conventions and is significant because it:

*Views migrant workers as entities with families and not just economic entities.*

*Recognizes that the rights of migrant workers are often not protected due to their presence in a foreign country.*

*Establishes an international definition*  
*Establishes a principle of equality with nationals for documented migrant workers in a number of areas such as equal pay for equal jobs.*

Ratification or accession by 20 states is required for this instrument to “enter into force” but to date we have seen only 13 states formally ratifying the convention.

### **Dimensions of Displacement**

It is estimated in the year 2000 that there are approximately:

--14 million refugees

-- 21 million internally displaced persons

--120 million migrant workers.

All of these figures are estimates as the information is sometimes fragmentary and unreliable. The largest number of refugees (64%) is in Africa and the Middle East. By contrast Europe has the largest number of migrant workers with West Asia (Arab States) also having a significant number relative to the population.

### **Dialectic of Migrants Vulnerability**

I would like to share a diagram of migrant's vulnerability as developed by Prof. Jorge Bustamante, a scholar who led the working group on the rights of migrant workers which led to the recent development of a Special Rapporteur on the Rights of Migrant Workers. The diagram begins with the assumption that we are a world of nations and therefore the vulnerability of migrants is set in this context. One side of the nation state is its national constitution and how the "national" citizen and immigrant are defined within this framework. This is the inward-looking side of the state and its individuals. These groups have social relations; power symmetry develops and is defined within the framework of each individual's relationship with the state and other individuals. From the migrants experience, based on law and social relations, emerges his/her structural and cultural vulnerability. A migrant can be considered both "illegal" and "distasteful." National citizens can be "distasteful" but not "illegal." The migrant is subordinate by definition, powerlessness is evident, and anti-immigrant ideologies manifested in xenophobic and racist actions take place. It appears that deteriorating economic conditions or the "fear" of such events has a disproportionate effect on vulnerability in a given nation state. Some philosophers would say that such fundamental, innate primordial human "fear" is the cause of xenophobic acts and attitudes.

On the other side of the development of the nation state you have a "state" which

is outward looking. It welcomes international relations, is part of a community, and recognizes universal human rights and other international conventions. Its citizens, and others living in its borders, are empowered, participate in decision making through voting, and integrate with one another. This we may characterize as the opposite of fear or the "loving" side of the sovereign state, the side that seeks to help the other, to understand and appreciate the other, that exercises a willingness to distribute its good in an equitable way, to welcome the individual differences of its citizens, even to sublimate its own wishes for the wishes of the other. A state perhaps which practices the opposite of fear?

Many characterize human rights as a clash between the individual and the common good. Allowance is too often made for the abuse of individual human rights in the name of the preservation of the state, national security, or the common good. In my mind this is often code for expressions of "fear". Fear that the state or I will lose my power, wealth, and privilege. On the opposite end of this "fear" is the great possibility of "love." Fear and love exist in tension in our world.

### **Trends of Migration in the Context of Globalization**

Globalization, like migration, is nothing new. In the early 1900's corporate interests based in the wealthy countries made the major economic decisions and the

economies of the colonies were closely integrated into the world economic system. The movement of capital, goods, services and labor was relatively unimpeded by national controls. The first wave of globalization was accompanied by one of the great ages of mass migration. Between 1860 and 1920, 30 million people went to North America from Europe in search of better wages. Their places in Europe were eventually filled by people from less developed countries in Europe (Ireland, Italy, Poland).

WWI, the depression, WWII and the Cold War produced to varying degrees a world of competing economic and political blocks that over time have given way to pressures for further globalization. While there is a concern that global culture is weakening traditional values there is an understanding that technological leaps have cemented its existence. Many point out that globalization is leading to growing inequality between countries of the North and South. Thus more and more workers from the South are seeking employment in the North. They are seeking a better life, they are seeking to acquire wealth and contribute to their security and happiness. People are pulled towards better economies by better wages and the possibility of a better life. According to Peter Stalker (*Workers Without Frontiers – ILO, 2000*) the hourly labor costs in manufacturing in 1995 in India and China were US \$0.25 cents per hour while in Germany they were US \$ 31.88 per hour. Small wonder laborers will go to great extremes to find

employment in Germany and other northern countries.

In fact the agricultural and service sectors in Northern Countries depend on the availability of a pool of low-paid workers. By not signing conventions guaranteeing equality of wages for migrants states are able to tolerate large numbers of undocumented workers needed by domestic industries. These workers, for fear of losing their jobs, do not make problems but suffer a plethora of discriminatory practices and degrading treatment. There is evidence that the US government campaigns to stop Mexican laborers from crossing the border illegally are only “political” ploys to calm the fears of the populace in general as in fact migrants are simply allowed access in other parts of the border. I understand that there are also, for example, significant numbers of undocumented workers in Berlin working on building the new government offices of the new capital.

Besides increases in workers who are undocumented which seem to serve multiple interests there are a few more trends worth noting:

migration is becoming increasingly “feminized”, higher percentages of women are migrating for work than ever before,

the prevailing trend seems to be a movement of people within a region, increased rural to urban migration leads to increased international migration, xenophobia and racism is increasing, migration is increasingly a political issue,

trafficking of human beings is sharply increasing.

When faced by such a daunting and complex issue it can be difficult to decide what to do. Increasingly we have to ask governments what effect their policies will have on migration. We also need to seek economic justice where people are in order to give them a better choice to stay home with families. We must advocate for immigration policies that are humane and do not separate families and which allow all children in a country to go to school.

***For our part in the next couple of years ICMC will:***

Try to raise awareness about xenophobia of foreigners in the context of the World

Conference in South Africa, continue to develop programs which promote dignified return and provide concrete skills and opportunities to restart lives, practically provide protection to people who are vulnerable to trafficking or have been trafficked, work to make the refugee protection system stronger and more responsive, support the work of the Special Rapporteur at the Human Rights Commission on the Rights of Migrants particularly in bringing the abuses heaped on undocumented workers to her attention, generally support Catholic advocacy on issues of uprootedness, join forces with the likes of Franciscans International and other people of good will to try to create a more just world that will have increasingly fewer examples of people forcibly moving.