

Migration and Decent Work

Challenges for
the Global South



Lucía Ramírez Bolívar
Jessica Corredor Villamil
(Editors)

Dejusticia
Series

MIGRATION AND DECENT WORK

CHALLENGES FOR THE GLOBAL SOUTH

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Introduction

Lucía Ramírez Bolívar and Jessica Corredor Villamil

Perspectives on Migration in the Global South

Research, knowledge, and narratives on human mobility have been dominated by the global North, particularly Europe and the United States, which are the main destinations for migrants (Awad and Natarajan 2018). This dynamic not only limits our understanding of the complexities of migration but also impacts the manner in which public policies on migration are shaped.

Despite the importance of migration and the fact that it is on the rise—indeed, the total number of international migrants is currently estimated at 272 million, already surpassing the 230 million that had been projected for 2050 (International Organization for Migration 2019)—there is little discussion of the phenomenon and its implications for the global South.

Immigration policies, which are formulated by states in the global North and are paradoxically focused on closing borders, allow these states to avoid assuming an equitable share of responsibilities in terms of caring for migrants and refugees. This position deepens inequalities between the global North and South and exacerbates the vulnerability of many migrants and refugees (Dejusticia and Legal Agenda 2020).

Welcoming migrants and refugees who decide to leave their countries out of necessity or in search of a better life represents an important challenge for countries in the global South, which, despite having less institutional capacity than countries in the global North, carry the bulk of the responsibility. According to data published by Dejusticia and Legal Agenda, two human rights organizations from the global South, the countries that account for 66% of the world's GDP host only 10% of the world's refugees, while the main refugee host countries in the global South—which already face significant structural barriers and account for just 5% of the world's GDP—are home to 72% of this population (Dejusticia and Legal Agenda 2020).

Many of those who migrate to and from countries in the global South do so because their lives are in danger in their countries of origin. According to the United Nations High Commissioner for Refugees (2021a), there are 82.4 million forcibly displaced persons worldwide.¹ Of these, 68% come from just five countries, all in the global South (Syria, Venezuela, Afghanistan, South Sudan, and Myanmar), and 39% are received by five countries, four of which are also in the global South (Turkey, Pakistan, Colombia, and Uganda).

Moreover, the dominant narrative transmitted through the media paints a simplistic and one-sided picture of migration, portraying it largely as a problem, particularly for countries in the global North that must “face the threat of immigrant waves” not only in social and economic terms but also—and especially—in terms of security. News stories and photographs of migrant caravans traveling from the Central American corridor toward the United States, or of the boats that arrive to Europe from the Maghreb and Sub-Saharan Africa, dominate the media landscape. But the reality of human mobility is more complex and nuanced.

There are many reasons behind migration; it can be voluntary or forced, and regular or irregular. Whatever the case, it is critical that migrants and refugees have access to paid work in their destination countries. Being able to work allows them not only to meet their basic needs and enjoy better living conditions but also to contribute to the economic and social development of the host community (International Organization for Migration 2019). While migrants’ integration into the host community is a dynamic concept shaped by surrounding political, social, and cultural circumstances (International Organization for Migration 2011), their access to the labor market is without a doubt a key tool for facilitating this process.

Migration and Decent Work

According to a number of studies, migrants’ labor market inclusion has a positive impact on outcomes in other areas, such as education level, family reunification, political participation, and regularization (International Organization for Migration 2019). Further, in 2015, one study concluded that migrants contributed 9.4% of the global GDP and that if they were more integrated, they could add another one trillion dollars to the global economy annually (International Organization for Migration 2019).

1 The agency classifies forcibly displaced persons according to three categories: refugees, asylum seekers, and internally displaced persons.

The preexisting vulnerabilities of many migrants, in addition to the economic, political, and cultural contexts of receiving countries, directly affect this population's ability to obtain formal, decent employment and increase their chances of falling victim to labor exploitation and other human rights violations. According to the Counter Trafficking Data Collaborative (2021), approximately 30% of human trafficking victims are trafficked for the purpose of labor exploitation. For example, in the Persian Gulf, the *kafala*, or sponsorship, system requires migrant workers to hand over their identity documents and to rely entirely on their employers to complete their migration procedures, which opens the door for forced labor, low pay, and, in many cases, physical and psychological abuse (International Organization for Migration 2019, 194).

Additionally, the risk of labor exploitation increases in situations of irregular migration and in crisis contexts such as pandemics. Irregular migrants are more likely than regular migrants to work in so-called 3D—dirty, dangerous, and demanding—jobs and to be pigeonholed for specific sectors, such as agriculture and domestic work, which results in segregation and can affect their integration (International Organization for Migration 2019). In terms of the COVID-19 pandemic, according to the United Nations High Commissioner for Refugees, “in the Middle East and North Africa, 84% of surveyed people of concern reported a loss of livelihoods and income [as a result of the pandemic]. In Jordan, 35% of Syrian refugees employed before COVID-19 lost their jobs, compared to 17% of Jordanian citizens” (United Nations High Commissioner for Refugees 2021a, 223). And in Costa Rica, the percentage of refugee families with steady work-related income dropped from 93% to 59% as a result of the pandemic (*ibid.*).

Under these circumstances, advocating for migrants' and refugees' right to work is more urgent than ever. International human rights law has set out standards for the protection of migrant workers that should be upheld by all state parties and incorporated into their domestic legislation. One of the most important instruments in this regard is the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, adopted by the United Nations General Assembly in 1990 and ratified by fifty-six states, most of which are expellers of migrants and refugees (United Nations Treaty Collection 2021). This convention is applicable to all migrant workers without distinction as to their nationality, sex, race, language, religion, political opinion, or other status (article 7). It establishes that migrant workers shall enjoy the same treatment as nationals in terms of pay, working hours, weekly rest, holidays with pay, access to social

security, and other conditions of work (article 25). Further, they shall have the right to join and participate in the meetings and activities of trade unions and any other associations (article 26).

The International Labour Organization—a tripartite United Nations agency that brings together governments, employers, and worker representatives—has the mission of promoting labor rights. Since 2004, it has embraced the concept of decent work, which involves

work that is productive and delivers a fair income, security in the workplace and social protection for families, better prospects for personal development and social integration, freedom for people to express their concerns, organize and participate in the decisions that affect their lives and equality of opportunity and treatment for all women and men. (International Labour Organization 2021)

The decent work agenda consists of four pillars: employment creation, social protection, rights at work, and social dialogue.

Decent work is a key part of Sustainable Development Goal 8, whose targets include the explicit protection of labor rights and the promotion of safe and secure working environments for migrant workers (United Nations 2021). The recognition of decent work as a human right means that states may not pursue economic growth at the expense of the exploitation of migrants and refugees, but instead must seek to ensure opportunities and prosperity for all. In this regard, it is critical to foster discussions, such as the ones featured in this book, that facilitate the sharing of experiences and lessons learned on the labor conditions of migrants and refugees.

The migration forecast for the near future does not look promising. As demonstrated in the International Organization for Migration's *World Migration Report 2020*, migration has been on the rise over the past several years due to factors such as political instability—a recent example is Afghanistan, where thousands of people were forced to flee in a matter of days—and socioeconomic crisis as a result of the COVID-19 pandemic. Another important contributing factor is the climate crisis. According to a recent report by the World Bank, up to 216 million people could be internal climate migrants by 2050 (Clement et al. 2021). These are just some of the factors that will continue to push people to leave their homes in search of protection and better living conditions.

With this in mind, it is critical that human rights-based regularization and integration policies for migrant and refugee populations be developed by and for countries in the global South. As demonstrated by the chapters in this book, countries in the global South are the ones

currently facing the greatest challenges related to migration. Guaranteeing migrants' right to work is one such challenge, in addition to the ones that these countries are already confronting in terms of employment prospects for their own citizens: job insecurity, informality, and wage disparities. Promoting the right to decent work for migrants and refugees would help facilitate social inclusion and cohesion, as well as the security and stability of host countries.

About This Book

Migration and Decent Work: Challenges for the Global South features nine chapters written by sixteen activists, academics, and members of civil society who have worked on the issue of migration from different angles and who address the challenge of migrants' labor inclusion from an interdisciplinary and rights-based perspective. Their contributions offer an overview of migrants' and refugees' right to work in a range of countries in the global South—from Mexico to India to Argentina to Turkey—based on an analysis of local contexts, public policies, and the everyday realities faced by these workers.

The book is the result of nearly two years of work by staff at De-justicia, partners from other organizations, and, above all, each and every author, who made this text possible by sharing their knowledge and experiences. In early 2020, we began working on a proposal for a collaborative publication that would bring together a variety of actors who could offer diverse perspectives and suggestions for addressing the challenges posed by forced migration to and from the global South. After several discussions, we agreed that the book should focus on the right to work of migrants and refugees given that labor insertion, while one of the most effective means of integration, is also a key challenge for receiving countries, especially developing countries.

With this in mind, we published a call for papers. Of those that we received, we selected nine that represented a range of countries and perspectives on the subject, including several written from a gender perspective. Writing from Mexico, Vanessa Maldonado analyzes the experience of migrant women sex workers and of police officers involved in the fight against human trafficking in a context of the criminalization of sex work. Cynthia Mora Izaguirre explores the rising numbers of Nicaraguan women who come to Costa Rica for work, their experiences as paid domestic workers, and the challenges that they face in realizing their rights. Lucía Ramírez and Lina Arroyave take stock of the Colombian government's efforts to guarantee the right to work for Venezuelan migrants within the framework of national and international

laws and the barriers that this population faces in accessing the labor market. Descending the Andes mountains, Gustav Brauckmeyer, Marta Castro, and David Licheri offer an assessment of the Peruvian labor market, how it has been affected by the COVID-19 pandemic, and how Venezuelan migrants have fared in this scenario. Writing from Argentina, Luz Espiro and Bernarda Zubrzycki analyze the ways that Senegalese migrants have inserted themselves into the country's labor market, the informal jobs to which they are largely confined, and the racist practices that they must endure as a result of hypervisibilization by government authorities, which in turn affects the world of work.

Turning our attention toward the African continent, Nyamori Victor and Charity Wangui explore the socioeconomic inclusion of refugees in Kenya by looking at the refugee situation in urban areas and in camps, as well as the legal framework protecting the rights of this population. Sherylle Dass, Mandivavarira Mudarikwa, and Petra Marais examine South Africa's legal framework protecting the right to work for forced migrants and discuss the social impacts of these laws, as well as the tensions between the legislative branch, which seeks to limit this population's rights, and the judicial branch, which has issued rulings that recognize refugees' right to work as falling within the scope of constitutionally protected rights. Writing from Turkey, Doğukan Sevinç argues that the Turkish government's interpretation and application of international and domestic law regarding the right to work is insufficient for ensuring the effective realization of this right for migrants, asylum seekers, and refugees. Finally, Tripti Poddar draws on the case of India to discuss the risks of not having a comprehensive legal framework protecting the rights of refugees, as it pushes them toward informality and puts them at risk of labor exploitation and other human rights violations.

This book would not have been possible without the support of professors Gabriella Sánchez (Mexico) and Ligia Bolívar (Venezuela), who helped us refine the book's focus and who put several of the authors on our radar. We are grateful to Silvia Ruiz for making important contributions to the initial proposal; to Lina Arroyave and Erin Formby for participating in the editorial committee that reviewed applicants' submissions; to Alejandro Rodríguez for providing feedback on the Colombia chapter; and to Claudia Luque, coordinator of Editorial Dejusticia, for her dedication and support throughout the entire publication process. Lastly, we thank Morgan Stoffregen and Sebastián Villamizar Santamaría for their careful editing and translation work, and Open Society Foundations and the Swiss Agency for Development and Cooperation for their generous financial support. It is our hope

that this text inspires reflection and debate on the human rights dimensions of the relationship between migration and work.

References

- Awad, I., and U. Natarajan. 2018. "Migration Myths and the Global South." *Cairo Review of Global Affairs*. <https://www.thecairoreview.com/essays/migration-myths-and-the-global-south/>
- Clement, V., K. K. Rigaud, A. de Sherbinin, et al. 2021. *Groundswell Part 2: Acting on Internal Climate Migration*. Washington, DC: World Bank.
- Counter-Trafficking Data Collaborative. 2021. "Global Data Hub on Human Trafficking." <https://www.ctdatacollaborative.org/>
- Dejusticia and Legal Agenda. 2020. *The Refugee Regime Is Failing: A Call for Reform from the Global South*. <https://www.youtube.com/watch?v=yQIY3RfKrjc>
- International Labour Organization. 2021. "Decent Work." <http://www.oit.org/global/topics/decent-work/lang--en/index.htm>
- International Organization for Migration. 2011. *International Dialogue on Migration No. 17: Migration and Social Change*. Geneva: International Organization for Migration.
- . 2019. *World Migration Report 2020*. Geneva: International Organization for Migration.
- United Nations. 2021. "Goal 8: Promote Inclusive and Sustainable Economic Growth, Employment and Decent Work for All." <https://www.un.org/sustainabledevelopment/economic-growth/>
- United Nations High Commissioner for Refugees. 2021a. *Global Report 2020*. Geneva: United Nations High Commissioner for Refugees.
- . 2021b. *Global Trends: Forced Displacement in 2020*. <https://www.unhcr.org/60b638e37/unhcr-global-trends-2020>
- United Nations Treaty Collection. 2021. "Status of Treaties: International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families." https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-13&chapter=4

Sex Workers Who Question Anti-Trafficking Operations on the Mexico (Chiapas)–Guatemala Border¹

Juliana Vanessa Maldonado Macedo

1 A preliminary, shorter version of this work appears in V. Maldonado, "Being a Sex Worker and Migrant in Times of Trafficking: Experiences from the Mexico (Chiapas)–Guatemala Border," *Victims and Offenders* 15/3 (2020).

Introduction

In Mexico, sex work is not legally recognized as work. There are no general laws or regulations on prostitution at the federal or state levels; instead, prostitution is regulated at the municipal level in each of Mexico's thirty-two states. Although prostitution is considered an autonomous and voluntary act, and hiring a sex worker is not a crime, some laws and regulations—such as the General Law to Prevent, Punish and Eradicate Crime in Trafficking in Persons—do criminalize sex work and related activities.² This law is one of the consequences of Mexico's "anti-trafficking apparatus"³ that has fostered a dominant narrative promoting misplaced connections between human trafficking, the sex trade, and irregular migration.

This chapter is based on research that I conducted on Mexico's southern border between 2013 and 2016 as part of my master's thesis. After this introduction, I explore⁴ the functioning of the anti-trafficking apparatus on Mexico's border with Guatemala, in the region known as Soconusco (see map 1), and describe the experiences of two specific groups: women sex workers⁵ who are irregular migrants, and members

2 The law, commonly known as the anti-trafficking law, entered into force on June 14, 2012.

3 The Foucauldian concept of *dispositif* (apparatus) consists of a network of knowledge and power relations that produces subjectivities (Foucault 1988), while also constructing subjects and regimes of truth at a particular historical, social, and political moment in time. These relations and economies of power are embodied in diverse technologies that operate at different levels and generate discourses of truth on and about the social body.

4 This chapter, like my academic work, is written in the first person because it acknowledges my role as narrator, reflects the notion of situated knowledges (Haraway 1991), draws on knowledge dialogues (Hernández 2016), and uses dialogic approaches (Scheper-Hughes 1992). In my research, I share knowledge, questions, frustrations, and reflections with my interlocutors and create affective relationships based on close and respectful contact.

5 The sex workers who participated in my research are cisgender women