

Documentation on the conference
“Without borders. Migration in a limited world”
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**Brot
für die Welt**
Brot für die Welt –
Evangelischer
Entwicklungsdienst

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1. Welcome

Dr Klaus Seitz (Brot für die Welt)

I would like to welcome you to our conference and I am glad about the considerable interest shown in this event. Special thanks go to our international guests and speakers some of whom have been prepared to travel long distances and who had to cross several borders doing this.

This conference is dedicated to the topic "without borders", a motto which has a very special meaning here at this place. We are in Berlin, only several metres away from the former wall which, as a symbol of an insurmountable border, has influenced a whole epoch, an epoch when the world seemed to be permanently divided into an eastern and a western part.

Here at this place one can experience directly that the hope for a world without borders can be really fulfilled and that lethal border installations and border fortresses can be overcome by the power of social change. Our globalized world is still characterized by the simultaneousness of seemingly contradictory developments. On the one hand we observe the almost unlimited mobility of capital, goods and also of tourists and on the other hand new visible and invisible borders are erected by the states which want to protect their prosperity and their interests from immigration. We have to deal with these contradictions during the conference and we have to ask which potentials of cross-border migration can be better used for a sustainable development of our society.

It is good that we have come especially to Berlin to discuss this subject matter, not just because of the proximity to the former wall, but the wealth of international mobility and of cultural diversity can be specifically felt in Berlin which had been enclosed by the wall for a long time. Nearly half of the population living in this district of Berlin Mitte are from a so-called "migrant background". Even though our town has been talked down because of the disputes on the accommodation for refugees, one can nevertheless say that Berlin is well on its way to become a cosmopolitan, international town.

The building where we hold our conference now and which belongs to the *Evangelisches Werk für Diakonie und Entwicklung* presents an adequate framework for our conference. Especially because *Diakonie Deutschland*

and *Brot für die Welt-Evangelischer Entwicklungsdienst* are cooperating under the umbrella of the *Evangelisches Werk für Diakonie und Entwicklung* and so there are two institutions working together on the social challenges of our time from different perspectives but in a complementary way. This cooperation has proven itself regarding the subject matter we are dealing with today, i.e. migration, because the perspective of Diakonie's charitable work can be fundamentally linked to and combined with the perspective of a development organization. For many years, *Diakonie* has been campaigning for granting migrants an equal participation in the social developments in Germany and it is canvassing for a culture of recognition. *Brot für die Welt* has been committed to the human rights protection of refugees and migrants world-wide and it supports partner organizations in the global South in their fight for a just and inclusive development. The connection between migration and development is realized here in an organic way, to some extent.

A German cabaret artist of Moroccan origin is advertising his programme in Berlin with a nice slogan: "Humour with a migrant foreground". Whereas we often bashfully talk of people with a "migrant background", the emphasis here and today shall be put on migration, because the history of humanity is a history of migration. Without the migration of people and the exchange between different cultures progress in civilization is unimaginable. Perhaps we are all migrants between different worlds looking for a lasting home town. This year's motto was taken from the Epistle to the Hebrews: "For here we have no lasting city; we are seeking one which is to come" (Hebrews 13:14). Of course this biblical image must not lead us to overlook the fact that many people who are looking for better living conditions, or for a lasting city, often put up with many deprivations. Millions of people leave their home country involuntarily, because they are forced to flee.

Almost three per cent of the world population, at present 240 million people, are international migrants and have the centre of their life outside their home country. Many of them are confronted with the fact that they are marginalized and deprived of their fundamental rights. For this reason migration was considered a problem in discussions on development policy. Not only because the welcome culture in the target countries is underdeveloped, but especially because it was assumed that the migration from poor countries to rich ones was a development deficit which was surmountable and which had to be overcome, but also because the societies

of origin suffer a lasting "brain drain" caused by the migration of their best-trained people.

This discourse, and we will also deal with it today, has changed and shifted on both counts. This has been due, among other things, to the Report of the Global Commission on Migration (2005) but also to the UNDP Report on Human Development (2009) "Overcoming Barriers", because they made a new, positive view on the relationship between migration and development possible. Both reports pointed out that migration can also give important impulses to the countries of origin.

Since then the question on how to achieve a "triple win" situation, this means how the countries of origin, the target countries and not least the migrants themselves may profit from migration, has been regarded a challenge. It has to be admitted, however, that this important change of perspective does not necessarily lead to a new orientation of political practice. Still state policy is mainly interested in reducing or stopping migration. Especially development policy legitimizes itself strongly by contributing to alleviating "migration pressures", which can lead to potential partner countries being forced and extorted to enter into commitments on reducing migration, especially in North Africa.

In this conference it will be important to discuss what framework conditions will have to be changed so that the rights of migrants will be protected and the potential of international migration for the development of poor countries can be unfolded. We will also have to deliberate on how to strengthen the right to migration. The human right to freely choose one's residency is explicitly established in the Universal Declaration of Human Rights, but there is no corresponding right to migration, no obligation of the states to allow migration in general. How can the conflict between the fundamental right to migration and to choose one's residency be reconciled with the democratic self-determination of communities which allows them to decide for themselves whom they want to admit to their communities or not?

We are glad that the interest shown in these issues has been far greater than the capacities our house offers. So I am all the more grateful to those who have prepared and organized the conference. I wish you all fruitful deliberations during the conference and an inspiring understanding of our great future task on how it can be achieved to overcome the restrictive and often degrading boundaries and borders in this world, in our thoughts and in the real world.

2. Introduction

Martin Glasenapp (medico international)

In view of the global political situation I am relieved about the conditions under which today's discussions on the subject matter of "migration" will be held, especially in connection with yesterday's address to the nation of president Barack Obama on the situation in Syria. How would the bombardment of Damascus have changed our discussion today? On the one hand we have to continue to focus on our topics, but at the same time a military intervention would have a deep impact on the difficult, brutal and cruel conditions prevailing in this world. The present situation and political decisions could set free new mechanisms which are also directly related to flight and migration.

The decision to bomb Damascus was postponed. This could be interpreted as a weakness, but at the same time this decision opens the slight possibility to develop a political solution to the conflict after all. Although Syria is not the topic of our conference, the subject matter of flight can always be found in connection with migration and a world with or without borders. This also includes the question on how the EU or Germany deal with the issue of flight. At present 2 million refugees are living in Syria's neighbouring countries, and in Syria five million people are fleeing from fights and persecution – and Germany has just decided to admit 5,000 refugees from Syria. This number is very small but compared to other European countries Germany's decision seems to be quite "progressive". At the same time this leads to the question whether Europe reacts to sudden crises in a limited or a collective way. What kinds of people are admitted to our countries and who takes the respective decisions?

To answer these questions has much to do with the questions "What is our democracy like?" or "What concept of democracy do we have?" This is also shown in the first sentence of the invitation: "The interaction of migration and development is a challenge for democracy". This includes more than human rights, and it is not only a kind of humanitarian commandment or a question of freedom, but this form of democracy is defined also by the social, economic and cultural rights or, in other words: If we demand a good life, whom does this apply to, who may rely on this and who may participate? These are virulent questions as regards migration and development, but also in view of our own life. In our own life we are rarely con-

fronted with borders, we can travel freely and we take this freedom for granted. In addition, we are able to consume goods in a limitless fashion. The whole world is coming to us and we export our products to all the corners of this earth. This world market and global capitalism are the prerequisites for our way of life. Capitalism is not only a highly effective regime of accumulation but it is also a fascinating global wish machine. The story of a globalized world is also one of passions and opportunities: Today all people can have a universal dream about how their life shall look like, because they can get the information on how people are living everywhere. In former times people moved from rural areas to the cities, not because they were poor but also because they wanted to be free. The cities were the new world – today the whole world is a city, so to speak, and so all people have the opportunity to obtain a global perspective in the end. Due to global capitalism there is also a global promise of happiness which might be achieved by the possibility of participation. This has been and still is a motor of revolution and so of universal dreams, values and rights. Working in our NGO we constantly demand this, for example, if we say that human rights are indivisible and that there is only one world. Doing so, we also demand the equality of all people everywhere. But what does this mean? We ask this because we all show a discrepancy between this universal understanding and our own actions, our advice, our demands and everything that is commonly called politics.

We discuss labour migration, speak about the advantages and disadvantages of circular migration, we demand more development aid, we talk about incentives, about opportunities and chances and often we only remain within the realms of possibility: Strictly speaking our precept of equality is radical, but our concrete demands still remain vague. Often we hesitate, ask for their acceptance or think pragmatically right from the start. Perhaps we are deliberately moving in some kind of vagueness, because we know the problems which seem to be insoluble. Do we democratize exclusion and an existing selection in the end?

These questions and thoughts are what led to this conference. The organizations involved met in the summer of 2012 and discussed the question whether a more liberal migration policy could be communicated politically and about the justification of borders and their purpose. There were different points of view and I would like to outline two of them: The first one says that "borders serve to protect democratic values", i.e. communities

can define themselves who may participate. The other point of view says that "borders primarily exclude others".

Perhaps it is no coincidence that development organizations argue more openly in favour of the right to participation and admission, whereas organizations with a strong domestic presence act more cautiously.

Now I do not want to talk any longer about the European and global regime of migration, because our guests will give us an insight into this topic from different perspectives. But please let me mention one issue. I think we should recognize that our democratic community, of which we are rightfully or wrongfully proud, and our freedom in Europe are based on a system of exclusion and control which has led to actual zones of death. In former times there were the so-called "missing people" resulting from the social struggles of the 1960ies and 1970ies and who were persecuted and deported in different countries by authoritarian regimes. Today migrants are disappearing in globalization! In the past three years 70,000 migrants disappeared in Central America. Every year the traces of 20,000 people on their way to the North get lost. The people are tortured; they are killed or become victims of extortion. We know this from the news or directly from our work.

The problem is world-wide, the keyword "Mediterranean Sea" may suffice here, but Argentina or Sinai could be mentioned as well. On the Sinai a dreadful and racist kind of trafficking in human beings on their way north has developed which makes all black African migrants an easy prey. Their limbs are cut and there are rumours about organ trafficking, torture, sexual assault and everything else you can imagine.

We know these mechanisms of exclusion and their results also from experiences made in our own country, as the disputes on refugee homes in Berlin show, for example. Here in Germany this has an ambivalent and complex character. In Hellersdorf you can observe people demonstrating against refugees coming to us from war zones. But there is an even simpler example: In middle-class Reinickendorf, an administrative district of Berlin, a lawyer was hired to ensure that children living at a nearby home for asylum seekers do not play on the communal playground because of the potential risk of disease. This surely is a particularly perfidious form of civil racism, but it is also an example of regularized coldness, if in North Africa jobcentres are looking for women with children under 14 and then send them to Spain to pick strawberries for a few weeks, and this is called circular migration. Of course the children stay at home and the women do

not receive their money at the plantation, but only after they have returned to their home country. This kind of "employment service" is called "kleenex-migration" in Morocco: use it and throw it away.

We should mistrust ourselves, if we reach the sphere of quantities, quotas and assessments for immigration. No matter how progressive a regulation is, it is still based on exclusion and this exclusion also starts, if we judge people only by their qualifications, their potential usability or by economic considerations and not by their right to a decent life.

In *Diakonie's* guidelines on labour migration and development there is a nice item which we often quote: The right to stay and the right to go. You can read it in two ways: The freedom to go lies within the possibility to stay and this is true for the places of departure, for migration, but if we follow our thoughts to the end, it is also true for the locations of choice. These places of choice can be everywhere where there is happiness and decent life.

In his elegy "Bread and Wine" Hölderlin writes as follows:

For the spirit's not at home

in the beginning, is not at the source. The homeland gnaws at him.

The spirit loves colonies and brave forgetting.

What Hölderlin wants to say: The spirit must leave the home country to find itself and has to acclimatize itself in a foreign country. We should not forget this. Perhaps we should keep these thoughts in mind, when we talk to people coming from other countries, whether at universities, in the suburbs or in refugee centres. The fact that they come from outside or that their culture is not familiar is no barrier, but just the opposite: Without migration, without the practical and social exchange of experiences with the constant migrant globalization "from below" our "white" Europe will only sink into chauvinistic nihilism and into the police brutalization of its own safety and order.

3. “Migration in a limited world”

*Dr Saskia Sassen (Professor of sociology and economics,
Columbia University, New York)*

Today is an epoch, the last twenty years, where ideologically speaking there is an incredible renationalising of the understanding of membership. Structurally speaking, a majority of citizens might as well be outsiders. They are losing ground in our rich countries. For generations, also in most of our Western countries, the sons and daughters did better than their parents and now for the first time, it is very extreme in some countries like the United States, Greece, and Spain, less extreme in a country like Germany. The question of membership needs to bring into the picture not only the ideological domain but also the structural infrastructure if you want, the infrastructure of membership where I argue more and more citizens are losing membership rights. Hence solidarities should be transversal with migrants and with refugees rather than seeing them as causing the losses.

When I ask the question in our Western countries: Who is gaining rights? It is not citizens, nor is it immigrants, it is corporations, it is financial firms. They have gained membership rights at a level, at a rate that is quite extraordinary. It is more acute in some countries than in other countries. And again Germany is a bit different, radically different from the United States, but also here they have gained rights. So I think it is a very tough bet and time for the question of membership. Hence part of my argument is that we need to rethink the politics of membership and we need to do that with well-founded pieces of information, analytic tools, etc.

There are three kinds of analytic tactics that I want to use without mentioning them. One of them is that notion of the importance when you are trying to understand what is happening of destabilizing stable meanings. Well, what are we talking about when we're saying immigration, the immigrant? If we say urbanisation, what are we talking about? Well, we are also talking about people being expelled because 220 millions of hectares of land have been bought in the last five years alone. And they are being thrown out of their little farms and thrown out of their land. Where do they go? They go to the cities. So when I say urbanisation, I cannot simp-

ly say city, I have to bring in something else. The same thing with immigration: I want to go back to the basics: Who is she, the immigrant? Who is she, the citizen in today's world? The second one is connected to the first and that is really: What do we see? What do we find in the shadows of the bright light that a very powerful, dominant explanation makes? One image that I like to use: dark street at night, sharp light, circle of light, the stronger that light the stronger the explanation, the more I can see everything in that circle of light the more difficult to understand what is in the shadows immediately around that circle of light.

So when we say immigration today, we have a whole series of elements that we use to mark the immigrant. When we say citizen, we do that. What we're not seeing when we invoke these very powerful categories. My side, my place, my zone for research and for theorization is in the shadows around powerful explanations. I don't reject the powerful explanations but I want to know, because it is so powerful, precisely because it is so powerful, what does it keep me from seeing?

The third one is a question of territory. Territory is not ground, not land, not space. Territory is a very complex category with embedded logic of power and embedded logic of claim making. When those peasants were being expelled from their land in quite a few parts of the world, they are not simply expelled from their land, they are expelled from a territory that is embedded with histories of meaning, geographies of work and production etc.

In today's world where you have what I think of as geographies of centrality the notion of national territory is getting disassembled which also comes back to the notion: Who are we, the average citizen? And who is she, the immigrant? I want to repeat again: I like to focus on the extreme condition, not the middle so what I'm talking about is really on the extreme edge, the assumption is that a focus on the extreme condition is heuristic. It produces knowledge about more than itself. That's a bit the idea. I just want to illustrate and I will be using a lot of the issues around immigration.

I sort of want to destabilize the category remittances as an illustration, as a sort of beginning analytics of how do we reposition. When you say re-

mittances you invoke a category that is chalk full of meaning today given a very ideological context very often what is added is: So here come these immigrants from low wage countries and what do they do? They work here and the money they make here, they send it back home as a kind of: Look how bad this is, just no good. And usually it is a focus on low wage working immigrants, not on foreign professionals and then you see a list of poor countries, so called poor countries.

I took a little sidestep. And I changed the question just a bit and I asked: Who are the main remittance receiving countries? So that is an analytic tactic. So this what you see: In the top ten there are five rich countries, the UK for instance, they always feel invaded by Poland, the UK gets more remittances than Poland and if you look at the Top 20, the US is also in the Top 20. That tells you something about a whole other world of remittances that involves foreign professionals. One question I have, I don't want to answer that question here but what happens to the category immigration and to the category remittances when we bring in this kind of information? How do we begin to destabilize this often very negative meaning that is associated with immigration once we do this kind of work? How about destabilizing the immigrant subject? And again I repeat the question I asked before: When I say immigration, what am I not seeing?

One issue is that all immigrants are citizens, even if they are not all citizens of the same country. So when I say immigration, I'm just wiping that out and out of that comes for instance in the US a very easy notion that you can treat them, not just like illegal immigrants but like illegal human beings almost, I mean, there is a very fine line.

So the second point I might want to add: Since 1994 the whole world trade, when the World Trade Organisation (WTO) negotiations sort of settled, we have had a subject that is a carrier of rights that are portable rights and that's firms employ workers under the WTO treaty law. I mention that because the debate usually is that rights as in the robust rights a citizen has or is man to have are connected to national states. Mostly they are but we have, when we wanted when the chips were down and you had powerful actors like multinational corporations (MNCs) they got what they wanted. They got a subject with portable rights and they are rather significant rights, they are robust rights as they say in the law. They are term

rights, they don't go on forever but there are a lot of countries, 180 plus countries, which recognize those rights. Now when you put together "All immigrants are citizens of some country" and you put together that we have produced a subject with formal recognized portable rights in most countries of the world for me I see an agenda for work. The WTO negotiations took years but it can be done and that will be one way. It does not mean that you have to receive everybody forever. It just means that you recognize that the immigrant is a citizen. And the rights that the citizen carries in her home country cannot be simply thrown out the window as if they didn't exist.

Now when I try to understand, who the immigrant is, I have been using the strategy of immigration spaces. These immigration spaces are made through a variety of instruments, legal instruments, practical issues, the preferences of firms, the character of the economy, what jobs need to be filled. When I think of Europe after World War II the immigration spaces were characterized by the demand for agricultural workers, for construction workers, for factory workers. Today the range is much broader. So I include foreign professionals and all kinds of others. When you look at it in terms of immigration spaces, you can also see that a given person is, number one, produced by that space, the subject vis-à-vis the law or vis-à-vis the culture of a space, the society. It is produced in a certain way. It is not just the subject herself; it is that space within which she moves. Now at the same time that given person can switch spaces.

I arrived in the US (...) as an undocumented immigrant, strictly speaking, illegal immigrant in the language of the law. My first job in the US was as a cleaning woman. The other members with whom I was working were mostly Caribbean, Afro Caribbean and then some Colombians, all of us came from fairly good homes, I mean economically speaking, none of us thought: That was our destiny. It was a first step. So if you look at it that way you understand that the immigrant subject is far less substantive and content rich.

Who is the immigrant subject?

The notion has many differences. When I used to be in very formal foreign settings, when they would ask me: What do you do? I would say: I'm an immigrant worker. And they were like: No No No, you're a foreign profes-

sional in the US, sort of correcting me. And I would say: Well excuse me but a foreign professional is an immigrant worker.

And again to destabilize this solid subject I now want to do a similar job on the citizen, I want to destabilize the citizen subject. I think that, when I do my research I cannot say the citizen as I say the immigrant so I try to understand this very complex institution that takes so many different forms around the world and analytically I think citizenship as an incompletely theorized contract between the state and a people. (...) So in that incompleteness lays the possibility of reinventing. There have been times when we have accumulated rights for citizens and then there have been times when we lost rights. And today we're losing rights not just minority citizens all of us we are losing rights. For some people, for certain elites it does not matter for some it does matter. So in the law there is no such subject as the citizen. What it is we are a condition distributed across multiple highly specialized technical domains and it takes a lot of work to establish what rights we have, what rights we gain, what rights we lose. So for me the issue of the citizen losing rights is not the purpose not to complain, the purpose is to produce to make visible a structural condition that suggests that our transversal solidarities are the ones that count today. With our state we need to engage, we need to fight etc. We need to make claims, we need to try to change. But there is a fact of transversalities that often disappear especially in that very ideological period.

Now I also find interesting the third point here: this constitutionalizing of the right to sue the state which in the US is part of the origins but in Europe no. You acquired that right: Some countries thirty years ago - some countries a bit less. The period before the 1980s, it is an interesting time; it is after WW II so it's a special kind of conjuncture. Now clearly and ultimately the human rights the body as a sight that is a fantastically transversal weak regime but we now know it is here to stay. We may not always have known that it is here to stay but now we do know. I want to do the same with the undocumented immigrant but here the analytic operation is actually the obverse from the citizen and the immigrant for that matter in the sense that in principal formally speaking there is no such subject, it is a subject that does not exist. That subject only appears if a violation is established. Then the law punishes or forgives but then the body if you want of the undocumented becomes the carrier of something

that exists. (...) That to me is very significant. That the act of violation produces a trail, a footprint that eventually can also be the basis for a claim, for a claim making. So we all know when an amnesty is passed, if you have been violating the law of the country for only six months or a year you're out. If you have been violating the basic law of the country for a good solid ten years you are entitled to amnesty. So the undocumented immigrant from the perspective of a receiving country nowadays is a very complex subject in a way and there is also something about the whole issue the politics of bodies how the body re-enters, the body as a provider of organs, the body as a mere provider of labour rather than a worker fully entitled but also the body as a carrier of the law either as a violation or a permission in the case of an undocumented immigrant. So anyhow and in a way that works the opposite way to avoid non-refoulement, I am sure you're all familiar with the high sea jurisdiction being a jurisdiction where the state does not have to respect or to abide by its own laws.

So we have these high sea jurisdictions in Charles de Gaulle Airport, in Heathrow Airport , I don't know if Frankfurt must have it as well. Snowden e.g. shown on TV was not in a shopping mall at Hong Kong airport but in a small hallway not being processed. The cases taking place in the Mediterranean Sea are familiar. There is an area in the middle if the ships are coming from north, from Europe can keep back the immigrant ships. The state is not obligated to anything, they might be, they might be refugees but you don't have to recognize them, you ship them back. So this high sea jurisdiction is a tool that the states have developed because most states are signatories to the non-refoulement, etc. All of that and then they can avoid it. They have created it inside airports, big airports because airports are the main point of arrival. So you can send back the immigrants you don't want, and you don't have to respect your own law. When this Miranda was detained in Heathrow that was even more interesting because the state has passed a secret law that enables its agents in terms of the terrorism threat. That law then became visible because the British government applied that law but in a zone where it had no business. They had no business applying that law because that law does not apply in that space – I don't know if people are following here, but to me this is terrible amusing but it is also very dangerous of course. So what we see is, is the will and when you look at the financial system, you know you see that all over the place, the will of the state to violate its own law, cer-

tainly the spirit of the law but also on some more formal level. Now and there is a lot more to be said here, so to me one way of capturing where we are at, is that a thought of a move towards kind of informal citizenship and effective nationality, now what I am talking about here is long term residence, their daily lives are the routines of your average citizen, they take the kids to school etc. etc. now you know in the United States, we have eleven million undocumented immigrants and many of them have been there for years. They engage in the same routines as citizens, often poor citizens but often not so poor citizens. So these are issues that destabilize the formalities of membership and potentially open up a conceptual but also political space for rearguing the question of membership.

To what extent are many immigrations today really expulsion, immigration as expulsion? And not migrations you know of the 1800s in search of a better life, but actual that people are expelled, and not by war, but where you can become a refugee but more by economic practices. So I want to start with this notion of urbanization, when we say, the famous phrase that almost everybody uses, most people in the world today live in cities, the population of the world is getting urbanized. My question is: When we say urbanization, what are we not seeing? And one of the things we are not seeing is the fact of "landgrabs", I want to put out this figure which is a collective effort, together this figures, which is a fact that 200 million hectares of land have been bought since 2006, as far as a whole network of people engaging in measures can establish, that's quite a bit actually. That's also beginning to happen in Europe by the way, in the form of, preventing corporates are really getting into land and they are preventing small farmers from buying land. This is something that has just kicked in Europe because corporate agriculture is a source of money and it is getting commodified, it is getting financialised, you know there are multiple levels – then comes this notion of immigration as expulsion, I very quickly wanted to illustrate. When for example China buys 2.8 million hectares of land in Congo to make a plantation for palm, what happens? There is massive expulsion of fauna, flora, villages, rural manufacturing districts, peoples. Where do they go? They go to cities. Africa is still the main side, but it is beginning to happen in many places. And in Europe, especially in Eastern Europe, it is now also very strong. People are always saying it is mostly food crops, if only – it is mostly industrial crops which means that you cannot eat, what you are working on. This means that we

now have hunger in areas of the world in which you never had hunger before - like in parts of Argentina, in parts of Brazil. You had poverty, but you did not have hunger. In Brazil people could eat those black beans but now if you plant soy or palm. So these are all, and to call this immigration when you see it at the receiving end of immigration is very problematic.

Now I want to conclude in the same spirit and sort of re-evoke the notion what does it really mean to have membership in a nation state. Let me give you a very simple example: when you are trying to set up a public transport system, in other words, a transport system that goes for everybody. You cannot ask: Are you legal, are you. No, it doesn't work that way. Everybody comes on. So when outsiders began, remember the workers in the factories, they were often outsiders, also in Germany. They made claims for public housing, for public transport, for public education. Those claims translated into an expansion of the rights for everybody. So bringing in the outsider in that particular historic period when if you want the systematicity at work was one of bringing in and expanding this system is broken today. Today it doesn't work that way anymore- partly, because everybody is losing, except some straight ones up there, some 20 percent. And some of us are of course part of that 20 percent when you look at incomes etc. but hopefully politically not.

So I just wanted to finish with an image of this map, and Germany has this surveillance system. There are ten thousand buildings, huge structures, in other words again a materiality that is very visible but de facto they are invisible in the US. And this is full time surveillance, surveillance is really a misnomer here but it is basically gathering all our data and all our emails.

By the way it is in the case of the United States but I should say that Germany has it, the UK has it, France has it, and this is de facto a transnational system. The surveyor, the surveying apparatus is full of foreigners, it is private contractors. If you are the best, slight if you are an Indonesian or a Russian, you get hired. And I think that is the most sympathetic part of that system, that it is rather denationalized. The basic logic of this system is that you are a suspect. Then the question is, and again in the spirit of transversalities and who, how should we organize. The basic question is: who are we, the citizens, when we are prejudged, must be

considered, suspect. And so let's understand where our real solidarities should lie. Thank you very much!

Discussion:

What are the most important factors needed to create/give rise to a new form of solidarity? Do we find them within education, the family, etc.? Please give us your opinion.

It should happen on various levels. We must understand that the unjust realities are working transversely. The fact that today the daughters and sons of the middle-classes in many of our countries are losing influence presents a critical area. It is not so much a question of ideological explanations saying that we are losing influence due to a large low-paid sector. This idea is often found in some countries as the UK or the USA, for example. At present many things are happening simultaneously, urging us towards the necessity to find a new solidarity. And different factors in these different fields are probably a part of this. Some of them I know better than others. We deal with economic and political factors but also with the question on what we expect and demand from the state.

In my opinion the demand to close the borders or to keep them closed does not really work.

Principally we should understand and observe that all migrants are 'citizens', and for me this is exactly the important field in which respectful political positions may be developed to find out how laws, etc. can be further developed.

The other aspects we are talking about are the governments of the countries of origin. The states must take certain responsibilities. Let us take the USA as an example. People who immigrate to the USA are not coming as one might think from all over the world but only special groups of people go there. Most of all they come from countries where the USA were militarily involved or to which they maintain important economic relations. If one takes a closer look at certain countries, it becomes more and more obvious that special interventions of the USA had taken place before larger groups of people migrated from these countries to the USA. And this is the most important and critical aspect: Migration does not start in the countries of origin alone, you cannot generalize this completely, but often one can see from a historical point of view, that emigration is also produced by the political activities of the receiving countries. This can also be

seen in the field of land grabbing: Mostly foreign actors are operating there and contribute to migration.

The time has come for us to change our idea of migration. In addition it is important and interesting to observe how the law treats the migrants. Mostly the migrants are only seen as actors in the migration process. And many think that if they have presented an application of entry the applicants have to legitimize their request. In my opinion this is not correct. Often something else is behind all this and this is why I would say that migration to the USA often starts in the conference rooms in New York and the Pentagon. So what we call migration and what starts in the countries of origin and ends in the target countries is just one part of the story. There is also this other part:

Today's refugees who do not all comply with the official Convention on Refugees should perhaps be included. For example, if one is expelled from one's country. These are the fields I consider important as far as the origin of this kind of migration is concerned, more than the question on how migration does begin.

So how do we deal with the fact that all migrants are 'citizens'? This seems too much for us to handle, because how and where shall we start? But I think that we can make it.

What processes have to take place and how can they be controlled? By World Trade Organisations (WTO) negotiations, or are there other possibilities to achieve this change?

Let me turn briefly to the WTO process, because before and also after this process the general opinion was that rights cannot be secured on a "transnational" basis.

Many migration experts do not know anything about this, they do not take a look at the WTO; the World Trade Law does not mention people, it only takes up the provision of services. These services may be rendered electronically but also by skilled personnel. So human beings are involved.

Officially it is not just a question of migration, but in reality it is a lie. The WTO needed decades, because the process dealt with by them was not a simple one. Much work has been involved, but something has developed from this. I have always considered it necessary that the countries which are mainly affected by the current migration flows should work together. A powerful corporation would manage something like this at once. With this goal in mind the EU organized a meeting to bring together the most im-

portant African countries and the European countries including the countries from Eastern Europe, in June two or three years ago. This meeting revealed difficulties and the process has stagnated since then, and this is the real problem. Who is capable of mobilization? The migrant worker is busy securing his livelihood and cannot take care of something like that. The circumstances are very complicated. Where, in which rooms, have changing actions taken place? Who spoke up for public concerns (like public education, local transport or health care) in the past? Often foreign workers fought for this infrastructure at certain places, especially in the cities. Of course there are limits to such actions.

So we ask ourselves which are the rooms where change can take place? Let's go back to human rights. Thirty years ago many of us thought that this idea would not survive. Today it is a weak regime but we know that it will continue to exist. How do we know that?

If one takes a look at the history of the western world and at the development of new constitutions in Latin America, it becomes obvious that it was always hard work to change something. In this context it is not important that it is the major part of the population, it is not a democratic electoral process; you only need a special network you have access to.

[...]

Focussing on the question on who initiated the largest and most important transformations you will find out that this was not done by the powerful. The powerful do not need major changes.

What we need is a certain level of determination and this is also shown by history. We also need some kind of cooperation and legal thinking to take the wishes of the people, of those who are disadvantaged, into account.

So I hope that all migrants are considered 'citizens' and they deserve this recognition, irrespective of whether we receive them or not. Even if they are here "illegally", they have to be recognized. Most of the time we only notice them when they attract attention in a negative way. Only then they are seen as 'citizens' of a special country. This whole process is only advancing step-by-step and it is quite time-consuming.

A last image, I would like to take up is powerlessness. Powerlessness can take many different forms and presents a fundamental element. In addition it is a complex condition because powerlessness does not always mean loss of power. In this complexity there is always the possibility to make history, to become political, to change something, even if one is not

or only hardly empowered. Take a look at the people of Egypt who went onto the streets without being empowered but they made history.

On the whole it is important to comprehend the single elements and to notice what subject matters do emerge. One sector which we never considered being a historical actor are the modern middle classes that make their own history without being in power, but by demanding things. This sector may seem small but the actions lead to changes.

How is it possible to put the deregulation of regional societies more effectively into political processes and by this taking up the issue of migration? The regional level where migration happens and where many different causes are joined seems to be hard to capture.

More and more 'citizens' lose their 'membership rights' so that they are neither 'citizens' nor migrants. What can the sovereign governments do to defuse this situation so that the 'citizens' and the migrants may profit? So that they do not think that they are in opposition to each other?

I think the aspect of "solidarity" is a critical one because migration has become so varied by the globalization. The migrants do not feel united to each other. They rather look down on or look up at the others. What they may have in common is the fact that they migrated from one country to another one, but how can solidarity be developed and an awareness of the situation be created?

You have talked about the concept of 'citizenship' in special territories and at the same time you have emphasized that there are more and more non-territorial spaces. Could you show us the trends developing in this context at present, for example that states create zones without any 'citizenship' where questions of migration have to be dealt with and can you tell us how to deal with these developments?

At the moment I deal with the spaces that are taken from the institutional contexts. The denationalization of space is also shown in the Global City, there is no longer the consolidated territory of the national state, but there are more and more different spaces where different formal and informal restrictions are applied. In some fields there is an increased privatization which shall protect from outside regulations. We can take the national state as we know it as an example to understand what is happening

at present. If you take an example from the financial world you can talk of 'dark pools' where most transactions take place without control from outside and the governments accept these spaces.

But one part, and this refers to another question and another dimension, i.e. the executive arm of government, has set back many of its own logics with regard to political decisions etc. My argument is a radical one saying that in this era of globalization, in the last 30 years, the executive arm of the State in certain areas has gained additional power and often shares the views of global actors, of enterprises as well as of political institutions. The result is a very strange situation because we are still speaking of "the State", "the state machinery" while the executive bodies often stand and act outside this state machinery. And this is the space where strategies which do not necessarily comply with national interests can be and are very easily implemented. The executive, in some cases, abuses its political power.

Therefore the question related to the role of the national state and of national law has to be regarded in a differentiated way in this context. There is this small part which is very inconvenient/disturbing and this is the incredible power of the executive. We 'citizens' are important, legally important, but this does not really apply to the executive part but to the legislature; and this is strongly eroded and undermined. Perhaps Germany alone is an exception because it has a strong parliament, they even have a Green Party in parliament and they have something like politics – o.k. you are laughing, but it is at least something compared to other countries. Privatization and deregulation, carried out in the last 30 years, undermined the legislature and parliament. Many things related to parliament were privatized. So much that refers to the role of the state in the context of migration does relate to the question on what is done to rephrase the relationship between 'citizens' and migrants or 'citizens' and the rights which they lose. The role of the executive in this context is very ambiguous and hazy.

I think that we 'citizens' should consider which parts of the state have to be empowered so that our demands are received and noticed, because the executive does not do this. Obama is a nice guy, but he doesn't change anything either, because not the individual persons but the structures manifest this.

Our history is full of important dates which turn to normal by and by: The French Revolution was more of a process than a single moment – it lasted about 10 years or so, and a special date cannot be identified. It took place for longer periods of time and then a history with new elements became apparent. Some of them are formalized, but much happens “informally”.

Then there were the two questions which dealt with a more regionally oriented perspective on migration and with the strengthening of the citizenship of migrants:

So we come back to the question of recognition, of the structure of national territory, and the surface is not uniform. In Spain you can see that the Spanish Government has institutionalized many regional initiatives, as Catalonia, for example, on a sub-national level of the government. So there is less negative sentiment against migrants than in the Netherlands. From a historical point of view the cities always played an important part in Europe as far as the development of strategies is concerned which involved human beings directly or indirectly. But we ask ourselves whether this is enough. No! Is the national government the organ we can rely on? Problematic! – As I have just explained as regards the executive part of the governments. Today the executive is a new zone. It is a difficult time to deal with this “national” issue, to discuss about integration and about countries of origin and target countries as well as the cooperation of different states – very problematic.

And then I once again refer to your question that was also very important – Solidarity among the migrants and between migrants and ‘citizens’.

I studied interior migration in Europe: When migrants were of the same phenotype, had the same religion, etc. the person coming from “outside” was not treated in a better way than today. The outsider remained an outsider and was treated in a racist way, also within Europe. From our European history we know that foreigners were always challenged even when they originated, as we would say today, in the same culture.

This means that all popular attempts at explaining that the situation today is more difficult because people have different religions, cultures and phenotypes and can therefore be integrated into our society only with difficulties can be seen as a counter fact in my opinion, because it is nonsense. Even when “the same” group, phenotype, etc. were concerned, there were the same challenges and attitudes. I think that we mislead ourselves, if we try to make single aspects like culture responsible for the challenges

and problems. In my opinion the problem is deeper, because we deal with the question of the "outsider" – and this behaviour cannot be observed only in our Western culture.

As far as your question as regards the behaviour of migrants among each other is concerned: This is a different case. Of course there are disputes and fights, but for me the question how the target countries deal with the foreigners is more interesting. Your question refers to the experiences made – as you might observe in New York, people from Puerto Rico seemingly do not like those from Columbia and they do not like each other, etc. For me this belongs to the history of "survival" of most migrants, who have a hard time in the target countries, and at this point the differences/disputes between migrants do play a role. So many black migrants in NY had the feeling that they were losing influence when migrants, who were white, came from Latin America. This aspect, however, is different from the question on how the target countries see and treat the foreigner. Once again I would like to explain my point of view: I think we mislead ourselves if we relate all difficulties with migrants to the concept of culture. Many Muslims, for example, did not show the extreme tendencies they show today, before the USA had overrun their countries – this means that we also have contributed to these changes. Alleged differences are misused in the discussions and debates.

4. Case studies: “Migration- Labour- Borders”

4.1 Stranded in transit: The situation of migrants in Mali and at the Malian borders.

François Roméo Ntamag, President of the Association des Refoulés d'Afrique Centrale au Mali / Mali (ARACEM)

Hallo, I am François Roméo Ntamag, I am a Cameroonian citizen and have been living in Mali for seven years. Today I am working as an advisor in the field of transit migration. It took a lot of courage and endurance to achieve all this because eight years ago I was doomed to die.

In 2003, at the age of 15, I left Cameroon on foot with my elder brother to migrate to Europe via Melilla. Then we did not have any money for flight tickets or visa. For almost one year we were on the move and we crossed Nigeria, Benin, Togo, Niger and Algeria until we reached Morocco. We lived in the woods near the Moroccan-Spanish border for almost seven months. In September 2005, I tried together with about 5,000 other migrants, to get over the border fences of Melilla to enter Spanish territory. My attempt failed, however.

As a reaction to this massive attempt migrants from Sub-Saharan Africa were chased in Morocco with the help of the EU and then they were returned to their countries. At that time all migrants who had been picked up were sent back from Morocco to their countries of origin by the IOM (International Organization on Migration).¹ After a few months, however, there was not enough money to send the migrants back to their countries of origin. For this reason the authorities started to take the remaining migrants to the desert near the Moroccan-Algerian border. Those who tried to escape to Algeria were captured and put into prison. I was interned by the local security forces and after having served several prison sentences I was deported to the desert border area between Mali and Algeria with other migrants. Normally you need three days to cover this distance, but going from prison to prison it took us three months to get there. We were abandoned in the middle of nowhere, 500 km from Mali and 200 km from Algeria, and were left to our own devices. Many migrants died on the way through the desert, but my brother and I succeeded in getting to Mali.

¹ Description of the programme of voluntary return:
<http://www.ch.iom.int/taetigkeitsfelder/weitere-taetigkeitsfelder/pim/marokko.html>

At that time an uprising took place in the north of Mali and some journalists were there to report on the events. They became aware of the transit migrants and took some photos of us and only through them the world found out about us.

Still on foot we reached Bamako, the capital of Mali at the end of June 2006. Our experiences caused us to found our initiative ARACEM in the end of 2006.

Today ARACEM has two centres in Bamako, where 120 – 150 transit migrants are accepted per month. Nevertheless you should know that every month the Algerian authorities deport up to 1,000 people. Before this, these people were received by the International and the Malian Red Cross and then placed with NGOs like ARACEM. In addition to accommodation for the first days ARACEM provides food, clothes and medical and psychological care. Moreover we sponsor a programme which especially supports women, children and sex workers. Apart from emergency and transitional aid we also provide assistance in giving advice to people who return to their respective country of origin and together with AME we advise the competent ministry on questions of migration.

At the start of our programme we exclusively took care of people from Central Africa but for four years now we also have been accepting migrants from West Africa because we noticed that there were organisations taking care of Malian returnees but nobody took care of the people coming from the neighbouring countries.

Effects of the EU migration policy

The southern border of Morocco/Algeria can be described as an EU external border and since 2005 these states have been acting as a border police. In the meantime migrants from Sub-Saharan Africa can hardly enter these countries much less cross them.

In 2007, treaties on the readmission of migrants were signed with various African countries which allow France to deport *irregular* African migrants from France to any African country, i.e. if there is a plane departing to Cameroon, also Malian citizens are deported there. So people are stranded in African countries not being their countries of origin. The return of migrants to their home countries is made difficult or even blocked by the

high visa costs² and by institutional obstacles. In Mali alone, about 7,000 people are stranded, 4,500 of them in Bamako.

Originally this situation was called transit migration which indicates something transitory, something provisional, but today one really has to say that people are "blocked" and "stranded".

The constantly growing foreign population in some African countries, also in Bamako, leads to an increased hostility towards foreigners shown by the local population.

Living conditions of stranded migrants and an appeal to development cooperation

As Mali does not have the resources to adequately care for the Malian people returned to Mali or for people from other African countries, NGOs are taking over this task.

But due to limited resources these organizations do not have the capacities to care for these people on a long-term basis and because of the high monthly number of deportations from Algeria it is not possible to receive all refugees and migrants. This leads to homelessness, poverty, criminality and prostitution. Every day these people are fighting to survive and I have lived like this for a few months. The circumstances are forcing us, there is no other way.

According to our observations, 80 percent of the migrants being stranded in Mali want to return to their home countries, whereas 10 percent aim at migrating to Europe again or at staying in Mali. All these possibilities, however, are taken ad absurdum, because nothing really works, as Mali finds itself in a very unstable situation as you surely know. Even for the Malian population survival has become difficult.

In addition, many NGO programmes are not adapted to the current situation. They firmly remain in the ideological thought patterns of the past. For this reason I call on all those who want to get active in this field or who want to help, first to get an idea of the situation in the country and to cooperate with the existing local organizations, because programmes should suit the current life situation of the people.

I would like to conclude with a question: Who is the migrant? – Thank you.

² The former colonial powers urged to establish a visa system, although in former times people could freely enter the respective country.

Discussion

How are the local groups networked in Mali? How do they cooperate with other groups in the region and on an international level? How do they use the new media, for example, and where are starting points which might help to support their work also from Europe?

In Mali alone there are 2,900 associations and societies and 129 of them are dedicated to the issue of migration. 30 of the 129 were founded by migrants and are also managed by them. Two of these associations are also members of the respective steering committees of the competent Malian ministry: One of them is our organization, ARACEM, which cares for all migrants and refugees who are returned to Mali and the other one is the Association Malienne des Expulsés (AME), which takes care of all Malian refugees who are returned to Mali. I don't want to say that the other organizations are not trustworthy, but I only would like to mention that the AME and ARACEM are recognized by the state and have been working with the same partners since 2006.

We are active in different networks. Malian networks do not only deal with migration but also with land grabbing, with the climate change, political problems and with all the people who had to leave their country after the recent confrontations and the armed conflict in the North of Mali. In addition, we also have to deal with land grabbing along the Niger River, because three years ago Libya and China started to buy land along the banks of the Niger River to cultivate rice there which then is sent back to China and Libya.

On an international level we work with the network Migreurop and I am a member of the board of directors.³ Moreover, we cooperate with "No Lager Bremen"⁴, the 'Manifeste Euro-Africain'⁵ and with the World Social Forum⁶. We use all modern social media (Facebook, Skype) and we have German and Austrian partners.

I call on all organizations to come to us and get an idea of the situation, before they take any theoretical decisions in the boardroom. Take a look at the situation in our country, talk to our partners and then develop programmes that really are effective.

To get back to the question of networks: In Africa there are churches, but we had to make the experience that the Churches prefer not to deal with

³ Website of this network: www.migreurop.org.

⁴ Website of this network: www.afrique-europe-interact.net

⁵ Website of this network: kompass.antira.info/netzwerke/manifeste-euro-africain

⁶ Website of this network: www.weltsozialforum.org

the problems of migration. Mali is a secular state with a Muslim population of 80 percent and 20 percent are Christians – and so are we. It is difficult for the Churches, however, to talk about the problems of migration in Mali. Thanks to Caritas there are some smaller programmes but again we have the problem that Caritas International does not deal with migration. So our partner is Caritas Innsbruck.

Where are the profiteers of migration in Africa?

We all know the profiteers. If we try to cross the borders and try to get the necessary visa, the profiteers, however, are nowhere to be seen. In the field of development policy Mali cooperates with Belgium, Germany and France, but this cooperation helps the government and not some small support groups. The state should develop integration programmes with the funds granted, but this never happens. To give you a current example: About 100 teachers were deported from Gabon and six months ago they were returned to Mali. And what does the Malian state do? It buys sewing machines for these teachers. You can surely imagine what a teacher does with a sewing machine. He sells the machine so that he can buy some food for his family. These problems, however, are not taken into account by the government and this is why I call on you to study the situation in the country before you develop special programmes. You also have to know the following: If the African countries establish such programmes, they always do this with the former colonial powers. Burkina Faso, for example, has visa which cost 80,000 CFA Francs, one of the most expensive visa in Africa, and the country cooperates with France, the former colonial power.

What about the situation of women in migration and the role of advisors in the organization?

In 2003 I set out for foreign lands. Between 2003 and 2005 about 10 to 15 percent of the migrants were women; today their number has increased to 40 percent. They want to join their husbands or partners or in the case of West African countries they want to escape forced marriage or they want to improve their personal circumstances. In 2010 we started a programme for women and children with 4,000 Euro financed by the French organization "La Cinade". Pregnant migrants, children and minors profit from this programme and the fund is for all of them. I can assure you that women are not marginalized on the migration path, because they

are protected by the men. If they are deported, however, and find themselves in a country of transit then many kinds of assault take place.

At the beginning of this year we have established a programme for this group with our partner *medico International*, especially for the so-called sex workers. We have avoided the term "prostitutes", because it is not appropriate in the context of migration. In Mali the majority of the population is Muslim and prostitution is forbidden. As the sex workers are vulnerable to physical abuse we have employed doctors to support these women.

Today we have heard a lot about "citizenship".

What kind of limitations do you as a Cameroonian experience in Mali?

I have applied for the Malian citizenship, but it has not been granted to me yet. There will be a new government and I hope that the new government will not ask me to start again with all the paperwork. Between Cameroon and Mali there are no visa requirements. An agreement on this issue was settled in 1960. For this reason it was possible for us to found ARACEM and I was able to enrol at a Malian university. But in order to found the association we should have 40 to 50 percent of Malian members. As I am not a citizen of Mali we are officially called "Foreign association in Mali" and I must not give my view on Malian politics on TV, although I belong to the advisory committee of the ministry.

4.2 Malaysia - The Promised Land. Between Exploitation and Decent Work.

Dr Irene Fernandez, Tenaganita, Malaysia

"Time and time again we see vulnerable workers being abused for economic gain. We've seen it with migrant workers in strawberry fields, on farms picking asparagus, in people's homes as domestic workers, and in many other areas," said Morten Kjaerum, Director of Fundamental Rights Agency for European Union. *"Such labour exploitation has been termed modern-day slavery and indeed, the practice is as horrific today as it was in eras long gone."*

Migration is one of the defining global issues of this century. More than 300 million people, including 10.4 million refugees, reside outside their home country. There is no longer a single state that can claim to be untouched by human mobility. However, human mobility is no more just a free and informed choice especially for people involved in contractual migrant labour.

There are extreme forms of inequality the world over, both between the north and the south countries and within countries as well. These inequalities are a consequence of global neo liberalization imperialist policies and strategies that has brought about a condition of one billion or more people going to bed hungry each day; millions of people losing their livelihood through land grabbing and environmental destruction; and millions more earning less than 2 USD a day.

Highly skilled workers are increasingly in demand and move through the region, or return from previous migrations, to respond to the needs of international capital. However, it is labour migration that has emerged in the past three decades as the most significant aspect of human mobility. This form of labour mobility is highly structured, organized and planned purely to make profit that today we have a multi-billion dollar migrant industry where the human person now recognized as an overseas contract worker is recruited, made to pay for his placement and exported as a commodity by her own governments.

In the zest to receive more and more remittances to sustain their failed economies, many states or governments of the day organize and structure the movement of people through labour export policies. At the global level both the UN agencies and international finance agencies have given high level importance on governments to increase remittances of their overseas contract workers. The remittances are seen as a tool for development and a means to repay global debt. We have seen how the imperialists have actually put a positive spin on this massive forced migration and commodification of workers and have the gall to call it a "tool for development". We know that in fact it bleeds the countries of the south of their workforce, decimates families, and is one more way of preventing real development from taking place in the South, and of maintaining imperialist control and uneven distribution of power and wealth in the world.

Through this sanctioned trade in human beings as labour commodities, today, the global elite has created a global bonded contract system of labour through the work permit and kafala system which is intensely exploitative with punitive controls by employers and the state. It cannot be denied that at one end there is the global subcontractualization of labour where deregulation through various forms like outsourcing of labour within global migration while at the other end we witness recruitment and placement done through subcontracting manifested in numerous sub-agents at various levels. The worker has no or limited access to justice and representation. The deregulation of labour has brought us to a point where we are no more human beings with dignity or rights but global machines for production. All rights fought and gained have now been stripped by repressive and militarized forms of control.

Malaysia – The Promised Land.

Yes it is! Malaysia is the largest receiving country of overseas migrant workers in Asia while China and India have the largest number of internal migrants. Since the 1980's where Malaysia pushed for rapid industrialization and modernization in its New Economic Policy and wanted to achieve its vision 2020 – the perfect vision, it relied on the sweat and blood of migrant workers to achieve its goal of a developed nation.

However this perfect vision could only be made possible with imperfection – through exploitation of over 4 million migrant workers annually. In order

to ensure political support, Malaysia's ruling elite has constantly assured its citizens that the country will not be dependent on migrant workers. The truth is that the number of migrant workers in 1990 from one million has risen to 4.6 million today. One out of every three workers is a migrant worker. Out of the 4.6 million migrant workers, 50% of them are undocumented migrants open to the high risk of arrest and detention.

Malaysia in its quest to become developed and attract foreign direct investment and increase local entrepreneurs through small and medium industries has looked out for the most temporary, cheapest and docile form of labour. In the Asian region, Malaysia was one of the growing tigers and thus became a key destination country for migrant labour from its poor neighbours, Indonesia, Philippines and Thailand in its early stages of recruitment. Today it recruits unskilled and semi-skilled migrant workers from 12 countries in the region for almost every sector of employment. After 25 years of official recruitment, Malaysia continues to depend more and more on migrant labour for its economic growth.

The country became part of the global agenda of deregulation, flexibilization and sub contractualization of labour manifested in and through migration. The Malaysian government created policies that brought about controls over migrant workers and sanctions for employers. The work permit policy requires the worker to get a calling visa under an employer prior to arrival in the country. The worker can only work under the employer named in the work permit. The worker is not allowed to move to a new employer even in conditions of exploitation and abuse. The worker has to return to her home country and return on a new work visa. Migrant workers thus find it almost impossible to leave their abusive work conditions as they have borrowed heavily to pay for the recruitment and placement. Faced with debt bondage and placed in a bonded contract system with their passports held by employers, workers toil on in a forced labour situation. In short, it is bonded labour, a recipe for forced labour.

The employment of migrant workers is in fact institutionalized exploitation. Domestic workers are excluded from the protection of the labour laws of the country. The Employment Act 1955 defines the domestic worker as a *domestic servant*. The domestic worker is NOT recognized as a worker and thus excluded from any form of protection in the law. Do-

mestic workers are in a very peculiar situation where they work in an individualized, isolated work environment in a private domain with multiple employers – husband, wife, parents and children. It is in such a situation where the worker is in a highly vulnerable condition that the state must take the responsibility of protecting the worker. Here, Malaysia has failed miserably.

During the last two years, Tenaganita rescued and sheltered 543 domestic workers. Our statistics reveal that all employers hold the passport of the worker and threaten them with arrest and detention if they leave the house without permission. 76% of the employers had not paid the wages for more than 6 months as well as deducted full wages for another 6 months as costs incurred for placement. 84% of the workers alleged various forms of abuse and violence where many had serious injuries. 32% were deprived of food given only one meal a day or made to eat the left-over food. We had a case of a Cambodian domestic worker who died of food starvation. The post mortem results revealed that death was caused through severe malnourishment. The employers are serving 24 years imprisonment. 36% of the domestic workers alleged sexual abuse and rape. It is indeed a very worrying trend.

Due to the intensive campaign through the media and cross country networking, Indonesia and Cambodia froze the recruitment and sending of domestic workers to Malaysia. There is a huge demand, yet no change in protection of rights of domestic workers. In fact Malaysia abstained when the ILO Convention on Decent work for domestic workers was adopted in 2011. The only group that benefited was recruitment agencies who now charge more than 4000 USD as placement fees. I consider recruitment agents as the new mafia in migration.

Last year we began to get calls of help for “missing” domestic workers from Cambodia. On tracing and tracking them down, we found out that many of them were forced to continue working with the employer. The contracts were extended without consent and the girls were not allowed to contact their families back home. This is forced labour.

The organization has been campaigning for the last five years for a one paid day off for domestic workers. Sadly, the Malaysian government refuses to address the issue. Employers continue to hold the position that the domestic worker referred as “maid” will run away and the employers would lose the money paid to the recruitment agent. In spite of these forms of control, about 18,000 domestic workers run away every year

from their work environment. The Malaysian government and employers believe that the supply of domestic workers can be obtained from other poor countries. Currently, agents have expressed that they would recruit workers from Burma or Nepal although these governments have a policy of not sending domestic workers to Malaysia.

The increase in the recruitment fees will lead to deduction of full salaries of the domestic workers from 6 – 9 months at the least. This form of deduction is now in practice where the full wages are deducted for nine months or more. Such deductions are unlawful as it is in conflict with the Employment Act (Art 24 -8) which states that an employer shall not deduct more than 50% of the wages. The full deductions for 6-9 months of the domestic worker's wages constitutes human – labour trafficking as the Standing Operating procedures under the Anti-Trafficking in Persons Act, states that if wages are not paid for 3 months or more, the employer commits an offence of exploitation.

An end to such forms of slavery and violence in domestic work can only be realized when governance of recruitment and placement of domestic workers is determined by recognizing domestic work as work, by protecting fundamental rights of domestic workers and by ensuring a system of employment where there is decent wage and decent work with respect of dignity of persons. Employers who cannot afford to give decent wages and who cannot ensure the rights of domestic workers are respected, should not employ any domestic worker.

DEREGULATION AND SUBCONTRACTUALIZATION OF LABOUR – OUT-SOURCING AGENTS – The Malaysian Case.

Outsourcing can either be outsourcing of work or outsourcing of workers. In outsourcing of work a company like an electronics company can outsource the canteen or cleaning of the premises to another person or group. These forms of work do not affect the production system to which the company must be solely responsible and accountable. Thus, workers who are involved in the production must be the direct responsibility of the company. However, today workers are outsourced through labour contractors. The main purpose of the company is to show that they have reduced labour costs and liabilities in terms of worker responsibility, benefits and job security. In terms of shareholder- costs and accountability is reduced and the company's operations are seen to be more efficient.

The contract in this system of outsourcing is seen as a contract FOR service and not OF service. The worker provides the service but is not part of the process. The third party, the outsourcing company is in control of that service and will manage the welfare of the worker. There are no rights and the Employment Act does not cover this form of employment. It is recognized as an independent contract where the worker can take legal action only through a civil suit. There is no permanent place of work and the outsourcing agent can move the worker to various places of work. There is no recognition of skills and experience.

Furthermore the work permit issued is in the name of the outsourcing company. Such a visa comes in conflict with conditions of work permit as the worker is made to work in different places which is forbidden by the work permit. The whole concept and "legalization" of this form of forced labour was approved by the Ministry of Home Affairs and not the Ministry of Human Resources/Labour in 2005. In 2007, thousands of Bangladeshi workers were recruited through this process where thousands were left stranded at the airports; had no work and were starving. The organization rescued and exposed the abuse, violence and forms of forced labour practiced through this system.

Tenaganita called for a ban on outsourcing companies as it brought about extensive violations and forced labour conditions or forms of labour trafficking. We are still struggling. We have been only successful in moving some companies to adopt direct recruitment and direct employment under the main company's global compact commitment. Through this process over 200,000 workers have benefited but we are not able to change the policy. One of the key challenges is that we see high levels of corruption in the system and many of these companies are owned by political leaders or former high ranking Home Ministry officials among them even the former Home Minister. With cronyism and corruption expanding within the system of governance, the struggle of migrant workers becomes acute and almost impossible.

The Malaysian government as part of its campaign to win votes during the last general elections finally approved a minimum wage regulation of 900 RM for all workers except domestic workers, security guards and gardeners. However just before the implementation of the minimum wage on Jan 1, 2013, there was a strong lobby of the business community not to include migrant workers in the minimum wage regulation. The government, instead of staying firm on its policy, compromised the demand and al-

lowed employers to deduct the levy, accommodation and other allowance costs from the minimum wage. Employers and outsourcing agents seized the opportunity to deduct workers' wages. In many cases handled by the organization, we found out that the workers were getting far less in wages prior to the minimum wage. Many workers went on strike. Leaders were identified and immediately deported.

Workers are neither able to organize, to resist nor able to claim their rights. This reality is further strengthened by the Home Ministry where its policy of work permit and the right to stay and work is denied. The Immigration's policy is that when a worker has a legal case against the employer, the worker is given only a maximum of 3 months of social visit pass visa to resolve the dispute. The worker has to pay 100 RM monthly for the renewal of the visa and is not allowed to work.

In reality, the worker is not in control of the legal process. In many of the cases, where employers have not paid the wages, the worker files the case at the Labour court. From our experience it takes a minimum of 6 months to resolve such a direct violation of right of unpaid wages. Yet many times it takes longer as the employer evades a response.

The workers need to feed themselves and pay for a place to stay. Therefore many of the workers work "illegally" and try to claim their wages and rights. They face the risk of arrest and detention. In fact, a number of the workers, unable to take the risk of arrest, choose to return home without anything. The denial of the right to redress by the state is a form of institutionalized slavery. These are forms of employer sanctions where the state colludes with employers and agents to exploit and abuse migrant workers.

BEING UNDOCUMENTED

Migrant workers who become undocumented are in a vulnerable position because they are faced with the very real threat of arrest, detention and deportation. Workers often have very little control of their legal status as employers are responsible for obtaining work permits for the workers. If the employer obtains the wrong permit or does not bother to get a permit at all, it could result in the migrant workers working illegally. Workers are frequently unaware that their permits are invalid because their employers withhold their passports (which contain the work permit) and they only find out that they are working illegally when they are arrested. In many cases employers do not even renew the work permit and when the worker

is arrested, they do not bother to release the worker. Employers know that the worker will be punished and then deported. Employers are protected by the Immigration Act as the onus of proof is on the migrant worker although it is the employer who obtains the work permit.

According to the Passport Act of Malaysia, it is an offence to hold the passport of another individual, yet there is a tacit agreement between employers and the authorities. Thousands of workers are arrested and the 12 immigration detention centres are constantly filled and overcrowded with detainees. The Immigration Act criminalizes the offences under the Act and provides strong forms of punishment including whipping. In 2012 the Home Ministry stated in Parliament that more than 34,000 migrant workers had been whipped. It is indeed a very harsh punishment for an administrative offence. Amnesty International and various Human Rights groups consider whipping as punishment for an immigration offence as a form of torture.

UNDOCUMENTED WORKERS AND 6P AMNESTY LEGALIZATION PROGRAM

Never in the history of migration of workers within the ASEAN region has there been multiple and highly organized massive operations by host countries like Malaysia to crackdown on undocumented migrants as it is today. The celebrated case of deportation of Filipinos and Indonesians in Sabah in 2001 and 2005 highlighted the zeroing in by Malaysia on undocumented migrants who, in many instances, have been made as scapegoats, together with their legal counterparts, for the social and economic crisis that besets the ASEAN economies since the 1997 economic crash.

Previous efforts of Malaysia to curb the rise of undocumented migrants in the country did not yield any spectacular change. The policies of Malaysia on migrant labour are often referred to as "knee jerk solutions" and frequently change, particularly when there is an economic slowdown or political crisis.

Malaysia in spite of its repeated crackdowns continues to have about 50% of its migrant workers as undocumented workers. As recently as one month ago, prior to the Eid Mubarak festival after Ramadhan, the Home Minister announced that a massive crackdown will be carried out, targeting in particular Indonesian, Filipino and Thai workers in the country. It is unclear why there is this focus on three nationalities.

Then as recent as on August 20, 2013, the Home Minister announced that he would bring in 1.3 million Bangladeshi workers into the country through a government to government recruitment with conditions that the workers can only work in one sector; cards would have biometric technology as well as Radio Frequency Identification Technology (RFID). They can also serve as a debit or prepaid card. The card colours will be based on the sectors the workers are employed in. Offenders can be fined up to 12,000 RM. This form of monitoring and tracking of working adults violates right to mobility and freedom to move. It's a tool to control migrant workers, treat them as criminals to be monitored and can lead to conditions of forced labour.

The plan is ridiculous but true. The Malaysian authorities want to get rid of existing workers from certain countries through a crackdown but then begin a new recruitment process from another country! The plan and strategy raises questions of who benefits from this recruitment of Bangladeshi workers specifically for the plantation sector when the current workers are mainly Indonesian nationals.

Migrant workers are seen as a security threat yet wanted in our country. There is a perception built by political leaders that the increase in crimes is caused by migrant workers, yet police statistics show that only 1% of crimes are committed by foreigners. How do the migrants then, become a security threat? If they are a security threat, then, Malaysia should send back all migrant workers! The rationale and policy in Malaysia lacks sense and logic. It reflects a government that is institutionalizing exploitation. In order to sustain the confidence of the people, the state uses the blanket of security and issue of sovereignty of the country to defend its decision.

In 2011, when Malaysia announced amnesty and a process of legalization under a program called 6P (registration into the biometric system, obtaining the work permit and new passports and new employment), over 2.6 million undocumented migrant workers came forward and registered under the biometric system. 500,000 opted to seek amnesty and returned home without a compound to pay.

The Home Ministry allowed outsourcing agents to register the workers under the biometric system as well as legalize the workers. The workers paid 300 RM instead of only 35 RM for registration into the biometric system. In order to obtain a work permit, the workers paid 4000 – 6000 RM when it should cost them only 2000 RM.

Six months later, Tenaganita began to receive hundreds of complaints from migrants and employers on various problems with the 6P program. Towards the middle of 2012, Tenaganita had received complaints from over 5,000 workers involving 55 outsourcing agents of non-receipt of work permits, of violence and abuse by the agents when workers asked for progress of work permit application. Our investigations revealed that the outsourcing agents had created their own shell companies and had applied for work permit under these companies that had neither facilities nor operations. The workers wanted the permit under their current employer.

The workers filed hundreds of police reports but no investigations took place. Tenaganita then filed official reports at the Police headquarters, with the Director of Immigration, Ministry of Home affairs and Ministry of Human Resources. In spite of various media statements there was no response. Workers then protested at their embassies as their governments did not investigate nor intervene. The agents had control over their passports and many workers were arrested. However, workers who had made complaints with the Tenaganita, received a letter of acknowledgement and when the workers produced the letter they were not arrested. We continued our campaign and filed a report with the Human Rights Commission and the Special Rapporteur for Migrant workers.

Employers who made attempts to get the work permit by themselves faced problems and were asked to get the services of an agent. There was much frustration over the whole process. Workers were in square one and remained undocumented. Our investigations revealed that many of the directors of the outsourcing companies were former Home Minister, political leaders, relatives of senior government officials, whom we believe so this process as a way to make money from vulnerable migrants.

However, the exposure, the resistance and protests did bear some fruit. The Immigration department continued to accept applications for processing of the work permit. The majority of the workers who had filed complaints with Tenaganita got their work permits. However, the permit remains in the name of the outsourcing agent and not of their current employer. It is clear from the 6P legalization program that it was a fiasco that defeated its main objective of regularizing the workers. The hidden agenda was to make money benefiting cronies. In no way has the program reduced the number of undocumented workers.

Becoming an undocumented or "illegal" migrant cannot be understood strictly as an act of free choice or of taking a calculated risk, but must be

understood in light of larger systems of structural inequality that condition the relations between more and less industrialized countries, and between more and less advantaged people, within the global economy more generally. While legal status is defined, bestowed, or denied at the level of host states, these three dimensions of migrant “illegality” – as political status, as social condition, and as way of being-in-the-world – are consequences of the overlap between two intersecting systems of structural inequality: first, inequalities built into the contemporary global political economy that initially spur undocumented migrants to migrate, and second, migrants’ position of structural disadvantage as unauthorized workers and residents within the host society.

Migrants refuse to see themselves as criminals although on an everyday basis they are treated as such. In this and other respects, “illegal” status, frames undocumented migrants’ experiences of everyday reality, and of themselves, in profound and fundamental ways. Migrant workers constantly state that they are not criminals. One quotation that I frequently quote from a migrant is “When you are developed, we become illegal”. It is true when the infrastructure development is taking place, migrant workers have no permits, but as soon as it is completed arrests take place.

These two systems of inequality intersect at the moment in which undocumented migrants are defined, and morally judged in host states, not only for their actions but also, ultimately, for who they are as people. At this nexus is the tension – implicit at times, explicit at others, and always morally loaded – between “illegality” and “criminality.” it is important to consider the global context and how migration is structured, organized with labour export policies that no longer recognize them as human beings but commodities.

JUSTICE DENIED THROUGH SPEEDY JUDGEMENTS.

In a recent study conducted by Tenaganita of 500 cases involving 700 migrant workers in 13 courts, we found out that workers represented were only in 4 cases. Over 85% pleaded guilty for offence of entering illegally and not holding any passports. On interviewing some of the workers, (the court monitors had little access to the workers), they were instructed and warned to plead guilty by the investigating officers and the police. The workers were told that they would be given light sentences and could go home at the soonest. However, many of them did not realize that this plea of guilty would include whipping.

Conditions in immigration detention depots remain deplorable and fall far short of minimum international standards. Detainees have reported experiencing physical and sexual abuse at the hands of immigration officers, overcrowding, poor sanitation, the lack of medical screening and treatment, as well as insufficient food, access to clean water and bedding. These conditions have resulted in the spread of communicable diseases like leptospirosis and deaths among detainees.

Detainees have reported that pregnant women are required to spend many hours sitting and to repeatedly carry out the 'sit down and stand up' position. Pregnant women are transferred to hospitals to deliver their babies, following which they are brought back to immigration detention depots along with their new-borns. In some facilities, milk and diapers are provided free of charge to detainees, but in most facilities, they are only available for purchase.

Faced with these conditions, detainees fear that if the case gets postponed indefinitely, they will not be able to survive under such conditions. Many of the detainees also fear that they may be physically abused and punished when they return to the detention centre. Thus, with the hope that they will be deported quickly, the migrant workers choose to plead guilty. The study further revealed that in 80% of the cases, neither evidence nor passports were produced. 90% of the workers did not understand the whole court process as no translators were provided. And in 5 courts, workers cases were called collectively and sentences meted out collectively, although each detainee's experience, recruitment and entry into the country could be different. The study revealed distinctly that the due process was not followed. The courts and the prosecution were only interested in speedy judgements. A key question raised is "Why were the judges not proactive in demanding for evidence and for the passports? Why were the employers not called as witnesses? "

The UN Working Group on Arbitrary Detention has expressed concern over Malaysia's regime of mandatory administrative detention. Detained irregular migrants are unable to challenge the lawfulness of their detention and do not enjoy genuine recourse through the courts. They are often not informed of the charges against them and denied the right to interpretation and access to legal counsel. Detained irregular migrants are also at risk of lengthy or indefinite detention while awaiting deportation to their countries of origin.

Migrant workers do not only have no access to justice or redress but are treated as commodities to be deported through the court process. The rules change in the whole court process with no evidence, no representation, no translation and most of all no recognition of fundamental rights. Malaysia's vision of achieving a high economic growth by 2020 seems to be achievable. The process, plan and its achievements has been realized through intense exploitation of migrant workers since 1980's. The growth of the plantation economy, urbanization and infrastructure development and its small and medium industries have flourished and expanded through the breaking of labour rights and through undocumented migrant labour. We have yet to see any efforts or initiatives taken to develop a labour policy, or a comprehensive migrant labour policy with a rights framework. Malaysia - the promised land - exists and will sustain this image. The truth is, it has been built and constructed through modern-day slavery.

Discussion:

Could you tell us something about your campaign for a one paid day off for domestic workers, which was supported by the Women's World Day of Prayer and about the discussions with the government?

At present Tenaganita deals with three main issues: One of them is the rights of migrants, their protection and their support. We also offer legal assistance and cooperate with the national Bar Association. We train young lawyers to help us to support the migrant workers. In addition, we initiate migrant associations, because there are more than twelve nationalities from twelve different countries. Everything is very complex. We try to organize migrant workers as a way to obtain rights.

The third issue is the question of the obligation and the responsibility of the companies. In this field we try to make companies responsible. We have been quite successful with electronics companies. They have introduced a policy of the equal treatment of migrants and they employ migrant workers directly without using recruitment agents. (...) We also deal with companies such as *Esquel*, a clothing manufacturer operating worldwide which supplies *Nike*, for example.⁷ *Esquel* also produces in Malaysia and employs Vietnamese contract workers there. Some young Vietnamese

⁷ See other reports on this case at [http://www.igfm.de/news-presse/aktuelle-meldungen/detailansicht/?tx_ttnews\[tt_news\]=1642&cHash=e3df49ee4fd19f3b4df7c159f50457cd](http://www.igfm.de/news-presse/aktuelle-meldungen/detailansicht/?tx_ttnews[tt_news]=1642&cHash=e3df49ee4fd19f3b4df7c159f50457cd).

workers complained that their wages were lower than promised. They were directly taken to the airport to be deported. Somebody informed us about this case. We took up the case, researched and fought it out in the USA. We achieved a compensation to be paid to the young workers who wanted to return to Malaysia. They were promised a two-year contract with full payment. They got this payment and we could obtain a new contract for all employees including the right to freedom of association.

A similar case was that of a Finnish company. The Finnish pension fund was used as part of the project to improve the working conditions at the Malaysian contractor of this Finnish company who withheld unpaid wages, among other things. The pension fund lodged a complaint with the Finnish government and did wonderful work.

For this reason I think that there are really large opportunities for improvements and even if the companies employed the best lawyers of the country we would say: No, this is slavery and we cannot accept this. In the case of palm oil and of other companies we proceeded in a similar way. It is hard work and many investigations have to be carried out. So this is part of our work as far as the obligation and responsibility of companies are concerned.

The ILO has adopted a convention for the rights of domestic workers. Did this have any effects on your work or on the situation of domestic workers in Malaysia?

Turning to the campaign for domestic workers, during the Women's World Day of Prayer more than 31,000 signatures were collected. It took some time before the Ministry accepted the handing over of the signatures. We had several meetings with the Ministry, especially on the ILO Convention 189 on Decent Work for domestic workers, but it was a very hard fight. This is why we addressed the countries of origin so that they might take action. For this reason Indonesia today follows a 0.0-policy – they do no longer want to send any citizens to work as domestic workers overseas. Cambodia also stopped to send domestic workers to Malaysia. The government wanted to have a new Memorandum of Understanding with Malaysia and therefore they consulted us. And we said: "No, Malaysia has not changed its policy; Malaysia does not have any new regulations". So Cambodia now regards Taiwan or Korea as an alternative option to Malay-

sia. Some people think that stopping to send people abroad is not a good way because this would promote trafficking in human beings. We, however, say that there is no choice. A country must not have its citizens exploited.

Last year we did a lot of media and campaign work in Indonesia. I discussed with the Jakarta Post and said that Malaysia is really not a safe country for migrants. Then the Malaysian government got very angry with me and wanted to withdraw my citizenship. They did not want to accept the empowerment of migrants as an issue. So you see how crazy the Malaysian government is. For this reason we need a kind of global partnership. Despite the campaigns carried out so far, Malaysia unfortunately renounces the ILO convention of 2011. So the fight will go on.

4.3 The lost paradise: Causes and effects of forced migration in the countries of origin

Carlos Marentes (La Via Campesina, Mexico)

Today, there are more than 714 million people who are internally displaced, living outside of their region of birth. The vast majorities are forced out of the countryside into the urban areas in search of employment, driving an intense growth. As more people lose land, people are left with no choice but to seek jobs of any wage level in the cities, leaving behind, in some cases, rural and traditional farming communities that are well over 70% women, and who take on the responsibility of sustaining those left behind, continuing farming, facing problems such as crime and other issues. As the influx of people increases into the cities, the scarce jobs that pay very low wages only allow for sustaining a minimal level of existence. The lack of economic and social opportunities, with the combination of job competition leave only the option to move outside of their countries to take greater risks in search of employment to sustain their families.

Of those people that do immigrate, more than 250 million people who are living outside of their countries of birth, 40% find themselves in a state of being undocumented or un-regularized, and are subjected to repression, exploitation, and criminalization within the receiving countries.

Trade liberalization along with the implementation of Structural Adjustment Programs (SAP), austerity and privatization measures in the last few decades have contributed to the increasing urbanization and movement of people around the world. In many rural areas, elimination of price guarantees and support for agriculture, the implementation of the Green Revolution as well as increased use of labour displacing technologies, has not only converted entire nations from net food exporters to net food importers but has also forced traditional small-scale and family farmers into becoming cheap and disposable agricultural workers in other countries. Over 90% of all agricultural labour of the Global North comes from the Global South, creating corridors of labour that extend for example from Central America to the US and West Africa to Europe.

In addition, climate change is worsening the conditions of rural and agricultural workers, peasant and small family farmers, increasing even further migration flows. Not just in the international arena but within the borders themselves. It will further drive capitalism's diminishing of the world's peasants and small family farmers, as they are converted to wage labourers, forced to move within their country from one sector to another, often a low wage sector, or from one country to another.

The conclusion of millions of peasant, traditional and family farmers and indigenous people is that they are under attack. What is happening to them is similar to what occurred to peasants in Europe. Take India for example where more than 50% of the population is a peasant or small family farmer. What is being experienced is a shift from being almost more than half of the population to becoming more like Europe where only 3% of the population is traditional or family farmers. To bring this into context, when we speak of the effects on people in places like India, China, and Indonesia and parts of Latin America, we are speaking about billions of people. One of the principal causes of this is the continued assault and transnational grabs of land and natural resources, transforming displaced peasants into urban consumers and cheap labour for the Global North.

As a response to the challenges of persistent poverty and the threat of climate change, the political discourse on sustainable development in international and national institutions such as the United Nations and the ongoing implementation of the green revolution via the F.A.O. will only exacerbate migratory flows. Leaving intact the underlying framework of capitalist development, whether it is green or inclusive of small family farmers, cannot be sustainable, and will not alleviate or alter the root causes that drive the need to migrate.

Migration, as viewed by LVC, includes the ongoing assault against peasant, small family farmers, and rural and agricultural workers all over the world. In particular, the current migration patterns and policy response by governments are seen as a result of the continuing development of capitalism, especially in emerging economy countries, the increased appropriation and dispossession of land and natural resources on a global scale, the intensification of the industrial agriculture and food regime, and the continuing dismantling of the collective strength of organized labour within all

sectors, and capital's requirement for labour to increase its flexibility of wages and benefits.

As such, migration is a critical and important crosscutting issue and area of work for *La Via Campesina*. It intersects other critical areas of concern such as the Campaign of Stopping the Violence against Women, such as the question of "sustainable" development, the emergent green economy and climate change. Migration is the arena in which many displaced peasant and family farmers are continuing the struggle against industrial agriculture and food. It is more importantly the nexus, between the small-scale family farmer and the wage labourer, the rural and the urban. It is the site of struggle in which all of humanity's separate issues intersect – labour and human rights, gender issues, climate, and many more.

Considering the issue of migration *Via Campesina* considers the implementation of the following points necessary within our agenda in order to change the current conditions of migration which include intensified criminalization and exploitation, harsh enforcement of policies and practices, repression, and intensified border controls.

- Challenge the capitalist economic growth and "green" development that are unable to stop the consequences of climate crisis. Climate crisis, which is exacerbating the immigration crisis itself. The manifestations of climate chaos (prolonged droughts, floods, avalanches, earthquakes, tsunamis, etc.), which each time occur more frequently, have already been responsible for ¼ of the involuntary global migration, estimated at 210 million of people (according to the International Organization on Migrations, www.iom.int).
- End the violence and repression against migrants under the pretext of the war against terrorism. Separate the issue of immigration from the rhetoric of the "threats" to national (or domestic) security since they are two different issues.
- Protection of all refugees by international institutions such as the United Nations and NGOs of moral standing such as Amnesty; safeguard their rights as refugees, shield and protect refugee camps.

- Stop and revoke immigrant criminalization acts and policies that have increased the persecution, detention, expulsion and physical attacks. We must obligate governments to respect international conventions, adherence to the Convention on the Protection of Migrant rights and their Families. If they have not done so, ensure that they modify their policy and actions to immediately comply with said conventions.

The Ending of "Clandestine" Migration through Legalizations in order to Combat Criminalization

- Oppose temporary labour programs that only serve to divide the working class and weaken its organizations and struggles. In the case of agricultural workers (braceros, temporary labour programs, contract from origin, etc.) these agreements only serve to provide industrial agriculture with a tame and cheap supply of labour.
- The organization of migrants, the amplification and defense of collective bargaining and striking rights, the permanent practice of solidarity and a firm adoption of "An injury to one is an injury to all".
- Rescind Free Trade Agreements, especially those that have been impacting our common goods, rural communities and indigenous people. Implementation of Food Sovereignty to contest the control of the food system by corporate capital.
- Bring down all walls; México-USA, Melilla, Ceuta, Palestine (West Bank), Western Sahara, etc., because they represent a barbaric aggression against humanity and further divide people, as well as represent an attack on Nature. Since, as it is, geographical borders already contribute tremendously to ecological disasters.
- Stop the war and occupations of people and their territories under any pretext, because these are only wars for plunder and domination. Presently, military actions, invasions and interventions are among the primary causes of the migration crisis.

With these points we can also define a call to action on behalf of LVC in alliance with other social movements.

5. Without borders. Migration in a limited world.

Panel discussion with Prof Dr Saskia Sassen, Hannes Stegemann, Jacqui Zalcborg, Carlos Marentes

Chairing: *Dr Julia Duchrow*

The chairwoman Dr Julia Duchrow first puts questions to the participants before opening the plenary discussion. This documentation does not present the course of the discussion, but rather summarizes the results of the explanations given by the individual speakers starting with Hannes Stegemann (a.), followed by Jacqui Zalcborg (b.), Saskia Sassen (c.) and finally Carlos Marentes (d.).

- a. Asked about the effects of the Schengen Agreement on migration between Africa and Europe Hannes Stegemann explained that before the signing of the Schengen Agreement it was less risky for African migrants to enter Europe. Since the agreement came into force of the African migrants are no longer able to work in the EU for a short period and then return to their home countries. As a result of the change in border policy personal risks during the voyage and the social consequences for migrants in their home country have increased. In addition, the media at that time drew the picture of an "African invasion".

Moreover, Mr Stegemann explained that the outsourcing and externalization of migration control by the EU has had disastrous effects in the last decade. In contrast to the 1960ies and 1970ies today it has become extremely dangerous for migrants to start their journey to Europe. The reason for this – according to the speaker – is the dominance of the security discourse which equals migration to crime and terrorism although the right to migration is a human right and the migration to Europe does by no means present a threat.

When asked for his opinion on remittances, the West Africa expert explained that privately earned money should be used for private purposes and not for the public good, because otherwise the states and actors of development cooperation would be released from their responsibilities.

- b. Then Jacqui Zalcborg was asked about the forms of human rights violations committed by the EU regarding the so-called Arab Spring. Mrs Zalcborg presented a report by the UN Special Rapporteur on the Human Rights of Migrants showing the human rights situation along the external borders of the European Union.⁸ An evaluation of the data showed that the current EU migration policy has a sustainable effect on the human rights situation of migrants. She mentioned the following four aspects:

First, existing EU regulations violate applicable detention laws. In addition to degrading detention conditions it was observed that the individual institutions do not follow coherent guidelines. Besides, the current detention conditions serve as a means of deterrence. Secondly, there is a criminalization of migrants in the reception camps the standards of which resemble those applied for high security prisons. Mrs Zalcborg added that migrants have more rights in prisons than in reception camps. A third aspect regards the externalization of the EU border policy. So the EU (and its member states) use their migration policy to implement more restrictive procedures in third countries. The fourth aspect refers to the EU's lack of attention towards the reasons for migration.

When asked by Mrs Duchrow, Mrs Zalcborg explained that the European Union puts EU border countries like Italy and Greece under pressure to implement more restrictive measures against migration. Moreover, the Dublin II asylum regulation puts the border countries under pressure. In contrast to this, it was observed that migrants often do not invoke the right of asylum applicable in the border countries because Italy hardly grants any social security and social rights. Migrants rather try to get to other European countries via smuggling routes, and so the present EU policy increases the vulnerability of migrants and refugees.

As a consequence, the European Union should pay more attention to human rights in its migration procedures and practices. Though they are given attention in the respective negotiations, Mrs Zalcborg said,

⁸ For further information Mrs Zalcborg referred to the following website:
<http://www.ohchr.org/EN/Issues/Migration/SRMigrants/Pages/SRMigrantsIndex.aspx>.

they nevertheless play only a secondary role. In addition, existing EU human rights standards for migrants should be better implemented into practice. Finally, regulations for seasonal labour migration should be relaxed. This circular migration would have positive effects on the countries of origin by remittances, for example. The audience asked Mrs Zalcborg why she did not mention the International Convention on the Protection of the Rights of all Migrant Workers and their families (ICRMW). She answered that the convention had not been ratified by any EU member state and therefore is of little relevance in the European context. Nevertheless, some Scandinavian countries and Portugal considered ratifying this convention. This is an interesting fact because Portugal today is a sending and not a receiving country of labour migrants. In the end, these countries did not ratify the convention because they were put under pressure by Brussels. On the global level, Mrs Zalcborg added, there is the possibility that emerging countries will reach a turning point as regards the ratification of the convention.

The next question was whether there exists a major demand which civil society organisations can address to EU parliamentary candidates and to the Federal Government. Mrs Zalcborg explained that with regard to migration policy there are clear differences between the European Commission and the Council. Especially the DG Home Affairs advocates progressive positions which are blocked by the member states. It remains to be seen which influence the parliament may exert. However she was confident that the parliament will support the progressive positions of the Commission. She concluded that on the political EU level migrants' human rights play only a minor role. At the same time, these universal rights which do not depend on the citizenship offer an approach for further lobbying.

- c. Referring to the comments of Jacqui Zalcborg, Dr Sassen was asked for the concept of *citizenship* and whether it included all persons. Mrs Sassen answered that all migrants are *citizens* and that it was up to the individual countries to promote the rights of their own emigrants. In this context Mrs Sassen emphasized that human rights have a diffuse effect on migration policy. Moreover, additional regimes should

be established which commit themselves to the collective protection of migrants.

Then the discussion again focused on remittances of migrants. Dr Duchrow asked whether remittances are a possibility to promote development – and if so, under which conditions. Dr Sassen answered that on the one hand remittances represent a missed opportunity, and on the other hand development cooperation actors use remittances as an excuse to leave the respective regions. However, remittances had a positive effect on securing household supply of food, medicine and education. Nonetheless, remittances should not be used for public goods and services or to compensate degradation by companies for example.

- d. Mr Marentes supported the argumentation of Dr Sassen and added that remittances should not cause additional vulnerability. Moreover, these financial means should not seep away into the informal sector but rather flow into the formal local economy. Dr Irene Fernandez (from the plenary) commented on the points mentioned and underlined that remittances cause sustainable damage to national economies by rendering the population dependent on the transfer of money. This increases the vulnerability of the whole population because, as a consequence of the loss of tax revenues, social benefits cannot be maintained and the social structure is severely weakened.

Finally Mr Marentes was asked how to define a migration management from the perspective of human rights protection. He answered that the current repressive policy of the United States of America is a clear violation of human rights. Yet, there is no blueprint as every nation must find its own approach to the subject of migration which depends on its social position.

6. Closing words

Dr Sabine Ferenschild, Südwind

Dr Hildegard Hagemann, Justitia et Pax

Ferenschild: The organizers have conceived this conference to reflect on the connection or the contradiction between migration and development. Our reflection today was many-faceted and successful due to insights into African, Asian and American realities. What will firmly remain in our memory is firstly the challenge of apparently clear concepts such as "transit migration" – Roméo Ntamag pointed out that in the Malian context it is no longer possible to talk of "transit" but only of a "dead-end street". Secondly, the gap between political speaking of the positive, development promoting aspects of migration and the obviously precarious situation of migrants, who do not have any rights, in all regions of the world became very clear. Carlos Marentes explained this very clearly by referring to the alleged shortage of labour which in fact is a lack of adequately paid labour. And this lack in many countries is overcome by regular and irregular migrants who are excluded from core labour rights. In Malaysia, Irene Fernandez said, this concerns the national minimum wage which does not apply to international migrants in Malaysia.

The result of the described situation for our future work is the fact that in addition to the fight for political rights and for the participation of migrants we always have to focus on our commitment for the labour rights of migrants. This does not only apply to fields of politics related to migration but especially to the work of trade unions or to campaigns for the implementation of social standards in global production chains. In these fields of work we need strategies promoting the inclusion of migrants and their organizations.

Hagemann: I will particularly remember two aspects we dealt with during the conference and which present a mandate to us as the hosting organization: The phenomenon of the criminalization of migrants is a recurring theme which is found in all contributions to the conference. This is accompanied by an increasing xenophobia in target countries which is easily fuelled. Xenophobia and criminalization are mutually dependent. Fear of foreigners encourages people to show mistrust and prejudice in encounters with foreigners. The more foreigners are criminalized by the state or

by the media, the more societies are afraid of threat. To break this vicious circle is a task human rights and church organizations must not shy away. On the contrary, the social networks, parishes included, offer the best opportunities to create places of overcoming foreignness and to socially take a stand against criminalization.

A second aspect became obvious by the detailed and critical considerations on the effects of remittances. Against the background of today's global situation and the social discussions on the climate change, on consumption patterns, sustainability and growth it seems to be fatal to praise remittances as instruments which promote development. In this area much more consideration must be given to the long-term effects of consumption patterns which not least are driven by a bad conscience because social nets and families are torn apart. The EU migration policy which in this regard short-sightedly is presented to be coherent in terms of development policy has to be rejected.

This meeting will be documented in various forms. Watch the major contributions on video (youtube).⁹ The hosting organisation will compile an online and a print documentation in two languages. It is planned to publish a German documentation of the lectures by the Evangelical Press Service (EPD).

Ferenschild: Before ending, we would like to thank all participants, the speakers who travelled a long way to share their knowledge and experience with us, Sophia Wirsching representing *Brot für die Welt* and her team of trainees who were responsible for the organisational planning and realisation of this meeting, the interpreters who are indispensable for our communication and finally all those who took the time to reflect with us on borders and their significance.

⁹ <http://www.youtube.com/user/SuedwindInstitut?feature=watch>

7. Brief biographies

Prof Dr Saskia Sassen is a Dutch-American sociologist. She became known for her analyses of migration and globalisation. Born in The Hague she studied political science and philosophy in France, Italy and the USA. Dr Sassen currently is professor of sociology and vice chairwoman of the Committee on Global Thought at Columbia University, New York. In addition, she is visiting professor at the London School of Economics and Political Science. Her research interests include the social, economic and political dimension of globalisation, migration, *Global Cities*, new technologies and transformation conditions of liberal states.

Dr Irene Fernandez is co-founder and director of Tenaganita, a non-governmental organisation in Malaysia. The Women's and human rights organisation among other things campaigns for the rights of migrant workers in the Malaysian palm oil sector as well as for the rights of domestic workers. In 2005, she was awarded the Right Livelihood Award for her work to stop violence against women and abuses of migrant workers.

Carlos Marentes is member of La Via Campesina in North America, an international movement of small farmers and rural workers which campaigns for the right to food and food sovereignty and is committed to the situation of migrant farm workers. Since his youth in Mexico, Marentes has dealt with the issues of migration and development and, among other things, is co-founder and director of El Comité Pro-Reforma Migratoria y Justicia Social, an organisation fighting for the rights of migrants. He is doctoral candidate at the institute of economics at the University of Massachusetts.

François Roméo Ntamag is president of the Association des Refoulés d'Afrique Centrale au Mali (ARACEM). ARACEM is a self-help organisation of Central African migrants in Mali campaigning for the rights of transmigrants from Central and West Africa. It provides shelter and legal advice to poor migrants, and psycho-social care and AIDS prevention to migrant sex workers.

Hannes Stegemann is Africa desk officer at Caritas International. The expert on West Africa studied ethnology, geography and pre- and early history in Munich and Göttingen. He acquired his professional expertise during his stays and work in Mali, Uganda and Guinea-Bissau.

Jacqui Zalberg is Human Rights Officer at the Office of the Special Representative for Human Rights of the United Nations in Geneva. Since 2011, she has been supporting the mandate of the UN Special Rapporteur on the Human Rights of Migrants, François Crépeau. Previously she worked as advisor of the UN Special Rapporteur on the Human Rights of Indigenous People. She holds a master's degree in Business Law of the Columbia University, New York.

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