



Identifying and Clarifying Concepts on “Irregular Migration”

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Presentation outline

- **Definitions**
- **Perceptions**
 - **Countries of destination / origin**
 - **Terminology: illegal v. irregular**
 - **Migrants and their own perceptions**
- **Counting irregular migrants**
- **Why prevent/ reduce irregular migration?**



Definitions

- **Legal definitions defer to laws of destination country**
 - **E.g. definition of irregular migrant workers in Article 5(1) of UN Convention on Migrant Workers 1990**
- **Who are irregular migrants?**
 - **Clandestine entrants / persons who enter on false papers**
 - **Lawful entrants who breach the conditions of their stay by**
 - **Staying longer than the permitted period of stay**
 - **Working when this is prohibited or working in unauthorised jobs**
 - **Notion of semi-compliance**
 - **Rejected asylum-seekers who have exhausted their appeal rights and can no longer remain in the country**
 - **Previously regularised migrants who fall back into an irregular situation**



Perceptions – Terminology: “Illegal” v. “irregular” migrants / migration?

“Illegal”

- Connotations with / stigma of criminality
- Creation of ‘culture of distrust’ around irregular migration
- Invisibility under the law?
 - Right of everyone to recognition everywhere as a person before the law (UDHR, Article 6)

“Irregular”

- More neutral term
- A broader and more generic term than “undocumented”
- Used by international and regional organizations
 - ILO
 - IOM
 - Council of Europe



Perceptions: Countries of destination / origin

Source: IOM Glossary on Migration (2004)

Destination countries

- **Irregular / illegal entry, stay or work in country**
 - **i.e. migrant does not have the necessary authorization or documents required under immigration regulations to enter, reside or work in a given country**

Countries of origin

- **Irregularity e.g. seen in cases in which a person crosses an international boundary without a valid passport or travel document or does not fulfill the administrative requirements for leaving a country**



Migrants and their own perceptions

- **Migrant may well be aware of contravening law of country of origin or destination country**
 - **But migrant may believe that an offence is not particularly serious and /or s/he is morally entitled to access labour market and resulting benefits of the more affluent state**
- **Migrant may not realize s/he is infringing the law**
 - **Lack of awareness of significance of an international border**
 - **Inaccurate information (i.e. visa-free travel v. right to work)**
 - **Complexity of statuses in destination country / loss of a previously regularized status**



Counting irregular migrants

- **Estimates – European Union context**
 - **500,000 enter the EU annually (EUROPOL - 2000)**
 - **Numbers entering EU annually is probably over a six figures number (European Commission - 2004)**
 - **Regularization data**
 - **E.g. nearly 700,000 irregular migrants applied for normalisation of their status in Spain in 2005**
- **ILO**
 - **Irregular migrants represent 10-15% of total migrant stocks and flows - source: Towards a fair deal for migrant workers in the global economy (2004)**



Why prevent / reduce irregular migration?

- **to avoid exploitation of irregular migrants by employers, smugglers and traffickers**
- **to prevent the existence of a marginalized group in society thus contributing to social cohesion and stability**
- **to ensure that migration is “managed” and to maintain the credibility of legal immigration policies**
- **to ensure satisfactory salary levels and working conditions for national workers and lawfully resident migrant workers, which are often undermined by the employment of irregular migrants**
- **to avoid the existence of whole sectors /businesses dependent on irregular migrant labour**
- **to maintain good relations between destination, origin and transit countries**



Conclusions

- **No objective legal definition of irregular migrants / irregular migration at international or regional level**
- **Importance of perceptions / terminology**
 - **Negative connotations resulting from use of the terms illegal migrants / illegal migration**
- **Role of state authorities?**
 - **Ignore problem or recognize that irregular migrants exist?**
 - **Recognition is essential for developing a rights-based approach**
 - **Once existence of irregular migrants recognized? Solutions?**
 - **Return? Emphasis on voluntary or forced return?**
 - **De facto tolerance? Express protection of rights?**
 - **Regularization of status? If so, on the basis of which criteria?**



Thank you.