



RESEARCH PAPER

National Assembly Commission 1

Immigrant and Worker Rights and Forced Eviction

June 2017

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Experiences of Singapore, Australia and Canada Can Provide Good Lessons for Cambodia

Singapore, a small country with a population of 5.6 million, has developed legislative and immigrant frameworks for successfully hosting immigrant workers (accounting for 54.4 percent of the country's population) to support the long-term national goal for sustainable social and economic development.

Experiences in the supply-driven and demand-driven immigrant regulatory systems present valuable lessons for Cambodia. For example, Australia hosts 8.1 international migrants, about 27.4 percent of the country's 24 million population. It is ranked 8th in best practice the Migration Integration Policy Index out of the 38 countries.

Canada, with an open immigration policy for combating skill shortages to support national growth and development, hosts 7.8 million international migrants accounting for about 22 percent of the country's 35.9 million population. As in Australia, immigrants are welcome to live and permanently in Canada in order to fill the skills gaps faced by specific sectors. It is ranked 6th in terms of best practices for migration integration policy.

Immigrant and Worker Rights and Forced Eviction

1. Introduction

This paper highlights the issues related to human rights in respect of migration and forced eviction with particular reference to five countries (i.e. Australia, Canada, Switzerland, Singapore and Cambodia). It responds to a request from Commission 1 on Human Rights Perception, Investigation National Complaints, and Relations Assembly-Senate of the National Assembly of Cambodia. It provides background information on the selected countries Commission 1 for the organization of a study visit to examine the situation regarding legal frameworks and policies dealing with immigration rights, workers' rights and forced eviction.

'Immigration' relates to people who come to live in another country.[1] It is a global political concern in terms of human rights, workers' rights and protection. It is associated with refugees, asylum seekers and displacement due to human trafficking, drug smuggling, terrorism and other illegal activities. The same issues are often raised in respect of international immigration. The abuse and exploitation of international migrants and/or immigrant laborers takes place in many host countries, and needs to be addressed in terms of human rights for sustainable development. These global issues have high economic and political costs consequences in host countries as well as in those from which the people migrate. In some cases, forced eviction of illegal migrant workers has become politically sensitive and an issue of diplomatic significance. [2]

Political instability and armed conflict or repression are major factors that compel people to become refugees and asylum seekers or to suffer displacement.[3] Immigration also tends to lead to an imbalance of social and economic

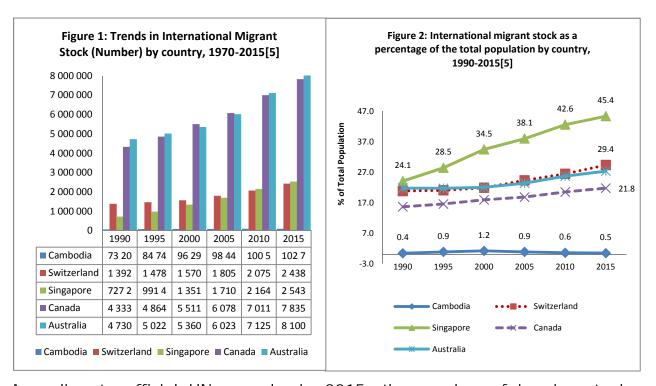
issues between sending and receiving countries, especially when the immigrants seek better education and employment in the host countries. [4]

The findings of this paper are derived from a review of the existing data and documents from library and online sources, and address the following questions:

- 1. How does the selected country of destination deal with illegal immigration?
- 2. What policies have been implemented by the selected country to protect workers' rights?
- 3. What are the best practices for dealing with forced eviction and displacement?

2. Current Trends in International Migration

During the last few decades (Figure 1) the countries in this review have shared the experience of hosting increasing numbers of international migrants (IMs), which also include immigrants. [5] Like other countries, Cambodia with its population of 15.5 million in 2015, has experienced an increase in the number of registered international migrants (IMs), from 73,200 in 1990 to 102,733 in 2015 (Figure 1).[5]



According to official UN records, in 2015, the number of immigrants in Cambodia was almost 25 times less than that recorded for Singapore, which

has a population of only 5.6 million. However, existing immigrants have become political and diplomatic issues. [2, 6] The Cambodian government realizes the need to establish and strengthen its legal and institutional mechanisms for governing such global issues. Any lessons gleaned from observing best practices for controlling immigration to build peace and political stability for sustainable development and growth within the country and region are valuable for Cambodia.

The two countries of Australia and Canada are in the top ten in terms of net immigration in the period 2010-2015:[5] they host the largest number of IMs among the five countries in this review (Figure 1). In 2015, Singapore, a small ASEAN country with a population of 5.6 million, was able to host 2.5 million IMs, equal to 45.4 percent of its total population. Among the countries in this review, Singapore has the highest IM share in respect of a country's total population (Figure 2). An open migration policy for skilled labor from China, India and Malaysia supported the growing, labor-intensive export manufacturing in the 1960s and 1980s; and from the 1990s, capitaland technology-intensive industries and high-value services helped Singapore to become a hub of trade and knowledge and to achieve its current goal in regionalization and globalization. [7, p. 636] In the context of current economic growth, middle-class jobs in Singapore tend to be reserved for Singaporean nationals, while high-end technology and innovation has underpinned the push to augment the local talent pool by attracting foreign experts who can help Singapore to move up the value chain in key industries such as electronics, chemicals, engineering, life sciences, education, health care, communications and media, and logistics. [7]

Figure 3 also summarizes the specific strategies used by other countries to attract skilled migrants to eliminate skill shortages in their economies. [8, 9, 10] Australia and Canada have been successful in adopting an open

immigration policy to fill the gap in terms of skill shortages in specific economic sectors and social services such as health and education. They have done this through skills gap identification and the use of an online immigration management system.

In Australia, international migrants or immigrants are concentrated in both high-skilled and low-skilled occupations. About 95 percent of 457 temporary visa holders in

Figure 3: Filling the Skill Gaps in Host Countries by International migrants



Note:

Long term planning is key for welcoming international migrants or immigrants through supply-and-demand driven policy and systems.

2014/15 were recruited to work in high-skilled occupations classified as 'managers', 'professionals', or 'technicians and trades', reflecting the 'skilled' nature of the 457 scheme. [9]

In Canada, the top ten jobs that were proving difficult to fill in 2015 included: 1) skilled trades workers; 2) technicians; 3) sales representatives; 4) secretaries, PAs, administrative professionals, and office support workers; 5) drivers; 6) engineers; 7) managers/executives; 8) production/machine operators; 9) accounting and financial staff; and 10) laborers.[11, p.8]

More than 70,000 migrants from sub-Saharan Africa were living in Switzerland in 2015.[12] Permission to migrate was granted by the Swiss to African migrants based on their need to escape war, poverty, or political instability to find a better life in Europe. Switzerland is less populated than other countries in Europe and is attracting highly skilled migrants who have already completed higher education in their country of origin from around the world. Diverse career opportunities for migrants are to be found in business, finance, diplomacy, health and pharmaceuticals. Sarr [13]also identifies the migration of highly skilled professionals from the north (i.e. well developed countries in Europe) to the south (i.e. less developed countries in Africa). Considerable controversy, centered on the "brain-drain of well-educated professionals" representing a loss of manpower in the less developed countries, is also discussed by Schmid (2016).[14]

In summary, international migration and immigration by specific definition are not the same. However, temporary international migration is seen as a transitional path to immigration status enabling the migrants to settle in the host countries. Immigrants or international migrants have played a critical role in boosting economic development and integration which has benefited the sending and hosting countries. For this reason, international migration has been integrated into the Sustainable Development Goals (SDGs) for 2030.[15]

3. Forced Eviction/Displacement

Forced eviction is defined as "the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection." [16] The people affected include refugees, asylum seekers, returnees, stateless persons, and certain groups of internally displaced persons (IDPs), and are collectively referred to as 'persons of concern.' According to UNHCR, [17] globally, forced displacement increased in 2015 to 65.3 million individuals from 59.5 million in the previous year. These are people who were forcibly displaced worldwide as a

result of persecution, conflict, generalized violence, or human rights violations.

Causes of forced evictions/displacement have also been noted by UN-HABIT [16, p.4] and can be summarized as:

- 1- Urban and rural development projects such as dams, roads, mining, extractive and other industrial zoning;
- 2- Real estate and private business actions, including real estate 'mobbing' (or forced evictions);
- 3- Political and ethnic conflicts for ethnic cleansing and population transfers;
- 4- International and non-international armed conflicts and the targeting of civilian homes, including for collective punishment, and 'counterterrorism' measures.

It is always controversial in terms of human rights when forced evictions take place in the countries analyzed in this review for whatever development purposes. International human rights concerns focus on the social and economic costs of forced evictions which are the result of authorized top-down planning with insufficient negotiation and consultation with affected communities.[18] In Canada, many forced evictions have occurred in the private sector as a result of landlords bringing an Application to Evict course of action against the tenant. Such actions threaten to contravene the right to adequate housing. Despite well-defined legislation, policies and juridical procedures, concerns arise in respect of a violation of international law when such policies, and the enforcement of the Tenant Protection Act adopted in 1998, result in evictions that render the respective evictees homeless. [19]

In addition to a well-grounded legislative framework to deal with forced eviction, Australia has committed to offering compensation to aboriginal people who were, historically, forcibly evicted from their homeland.[20] However, the country's experiences in intra-country forced evictions are not the main subject of this review. It is, rather, international measures that have been adopted to deal with other forms of forced evictions relating to refugees, asylum seekers and international immigrants.

A number of different types of people who can be classed in the relevant categories appear in Table 1. Singapore is not a place where forcibly displaced people locate to. In contrast, in 2015, Canada (22,900) and Australia (9,300) hosted 24 percent of the refugees identified for resettlement by the UNHCR. [17, p.26] These countries provide refugees with legal and physical protection, including access to civil, political,

economic, social, and cultural rights similar to those enjoyed by their nationals.

In Canada, more than 10,000 refugees have resettled per year, a significant share of its annual intake of 200,000-350,000 refugees through a set of resettlement and asylum programs. [10] Despite this, one third (32 percent) of Canadian employers surveyed reported difficulties in hiring the workers they need due to skill shortages.

Table 1: Refugees, asylum seekers, internally displaced persons (IDPs), returnees (refugees and IDPs), stateless persons, and others of concern to UNHCR by

country/territory of asylum in 2015[17, pp.57-59]

	Canada	Switzerland	Australia	Cambodia	Singapore	Worldwide*
Total refugees and						
people in	135,888	73,336	36,917	76		16,121,427
refugee-like						
situations						
Of whom				7.4		40 000 700
assisted by UNHCR	ı	-	1	71		12,282,792
Asylum						
seekers	19,642	32,701	20,677	27		3,219,941
(pending	17,042	32,701	20,011	21		5,217,741
cases)						
Returned	-	_	_	1		201,415
refugees				-		
Persons						
under		4.0				0 (07 700
UNHCR's	-	69	-	-		3,687,729
statelessness mandate						
Others of						
concern to				197	1	870,740
UNHCR	-	_	_	17/	I	070,740
Total						
Population of Concern	155,53	106,106	57,594	30	1	36,384,044

Note: There was no record of internally displaced persons and returned IDPs noted in HNHCR report 2015 (Annex 1)

In 2009, the United Nations called on governments to desist from forced evictions/displacements [21]although it was recognized that not all evictions are prohibited under human rights law.[19, p.5] Equality important, the

integration of international migrants into host countries became a top priority of the UN 2030 agenda for sustainable development.[15]

4. Immigrant Workers' Rights

Respecting immigrant workers' rights is now promoted as Sustainable Development Goal 8.8, which urges countries to:

"protect labour rights and promote safe and secure working environments of all workers, including migrant workers, particularly women migrants, and those in precarious employment". [22]

Singapore has developed a legislative and regulatory framework for controlling illegal immigrants, securing immigrant workers' rights through the regulation of different work permits for workers with different skills, and wage and welfare benefits for national and international workers/employees (Table 3).

The degree of success that Australia and Canada have had in supporting the rights of immigrant workers is indicated by the results of their migration integration policies, presented in Table 2.

Table 2: Migration Integration Policy Index 2014 (Score)[15]

	Canada	Australia	Switzerland	Sweden	Turkey
Ranking	6 th	8 th	21 st	1 st	38 th
MIPEX Score	68	66	49	78	25
Labor Market Mobility	81	58	59	98	15
Family Reunion	79	67	48	78	49
Education	65	76	42	77	5
Health	49	67	70	62	32
Political Participation	48	64	58	71	11
Permanent Residence	62	54	51	79	27
Access to Nationality	67	69	31	73	34
Anti-discrimination	92	74	31	85	26

Note: favorable = 80-100, Slightly favorable = 60-79, half way favorable = 41-59, Slightly unfavorable = 21-40, Unfavorable = 1-20, Critically unfavorable = 0

A country's ranking is derived from the average specific scores of their migration integration policy, conducted by the Migration Policy Group to create a migration integration policy index (MIPEX) of 38 countries in 2014.[23] Canada possessed the highest average MIPEX score of 68 compared with Australia (66) and Switzerland (46) in terms of best practice relating to migration integration policy in 2014.[24, p.8] For a detailed definition of each MIPEX score, please consult Annex 2.

To be successful, integration requires comprehensive and durable solutions involving a set of legal, economic, cultural, political, and civil dimensions. These integration criteria are applied in respect of international migrants and people who have been forcibly displaced, such as refugees, internally displaced, or stateless persons, and they have the same rights as a national in those countries. The achievement of comprehensive solutions requires a collective global commitment to address the root causes of displacement, along with a consideration of a wide range of options and opportunities. [21, p.23] Without safe environments, administrative and legal pathways to formal solutions, and the social and economic inclusion of displaced people and international migrants in all aspects of social and cultural life, it will not be possible to achieve the UN 2030 goal. [22]

5. The experiences of Singapore, Australia and Canada in Managing Immigration, Workers' Rights and Forced Eviction Are Highly Valuable for Cambodian Consideration

The experiences of the countries in this review support the selection of Singapore and one of the two countries - Canada or Australia - for Commission 1's proposed visit.

Based on the lower ranking and specific scores in terms of its Migration Integration Policy (noted in Table 2 and Annex 2), Switzerland's experiences may be of less relevance for Cambodia. This is because of restrictions on an open immigration policy in respect of all types of skills required under the European Bilateral Treaty with the EU on the free movement of persons.[25] Apart from EU citizens, Swiss migration law provides solely for the immigration of highly skilled workers. Several programs are strictly evaluated for the regularization of undocumented migrants present and working in Switzerland. These measures mark a policy change towards the granting of permission for highly-skilled migrants and refugees to settle in Switzerland.[26]

Cambodia is at a critical stage of dynamic social and economic development. At the same time, it needs to build its human capital to attract investment in all development sectors. The experiences of Singapore and Australia or Canada are valuable for Cambodia and can be broadly grouped into:

- 1) immigration control or regulation policy (the rules and procedures governing the selection and admission of foreigners), and
- 2) immigrant policy (the conditions provided for resident immigrants, such as work and housing conditions, welfare provisions, and opportunities for education).

Singapore's Experiences

In Singapore, a framework of legislation and regulations for the effective management of the employment of foreign manpower (Table 3) has been established to control the volume, duration of stay, skills composition, and ethnic, racial, and geographical origin of the migrants that country receives.[27] This legislative framework has been effectively and transparently managed by the Work Pass Division (WPD) and the Foreign Manpower Management Division (FMMD) within the Ministry of Manpower (MoM). The WPD provides an efficient, effective, and dynamic foreign manpower admission framework that caters to the needs of the Singapore economy. It facilitates and regulates the employment of foreign nationals by administering three types of work permits. The main functions of FMMD include: (1) the management and protection of foreign manpower; (2) the professionalism of the employment agency industry; and (3) the strengthening of enforcement capabilities. The FMMD is managed by four departments:

- The Employment Inspectorate Department, which seeks to foster effective management of foreign manpower through policing, in partnership with other enforcement agencies and the business community;
- 2. The Policy and Regulations Department, which focuses on drafting and implementing policies for the division's management of foreign manpower;
- **3.** The Well-Being Management Department, which focuses on the management and protection of foreign manpower; and
- **4.** The Corporate Management Department, which supports the entire division in the area of office management.

Table 3: Legislative Framework and Immigration Policy or System: Experiences of the Countries Reviewed

	Immigration Control or Regulation Framework	Immigration Policies		
Singapore[28]	- Employment of Foreign Manpower Act (EFMA) in 2012 to enhance the government's ability to ensure the integrity of the	Supply-Driven System - Specific policies targeting semi- skilled foreign workers	Demand-Driven System - Approved source countries and sectors of economy	

	Migration Regulations 1994 Australia's Migration Act 1958 through visa administration[29] - Australian Human Rights Commission Act 1986[30]	model based on a points system with extensive business and labor participation	for hiring - Australia's Migration Program: A Guide to an Ever-Changing Landscape[31] - Department of Immigration and Border Protection - 2. Centre link: This is the agency that disburses social security payments - 3. Australian Taxation Office, 4. Australian Federal Police; and - 5. State Police.
Canada	 Canadian Charter of Rights and Freedoms in 1982 Employment Standards Act 	- A points system for Canadian 'human capital' model	 Skills gap identification to be filled by immigration or foreign manpower Canadian Seasonal Agricultural Worker Program (SAWP)[32]

Lessons Learned from Canada or Australia

In addition, given their rankings among the top ten countries with best practices in terms of migration integration policy in the context of human rights, selecting either Canada or Australia would enhance the value of a Cambodian visit. There would be valuable lessons to learn about the country's legal frameworks and how it controls and regulates immigration. These countries have both achieved high MIPEX scores relating to anti-

discrimination (Table 2). Both have a long history of regulating their open migration policy to invite foreigners to live and work permanently in their countries. Apart from their migration law, they have achieved effective management of international migration and the control of illegal immigrants through supply-driven and demand-driven migration administrative systems. [27] In the context of human rights, the control and management of immigration is effectively and transparently conducted through IT systems operated by designated authorities (Table 3).

Supply-Driven Policy or System

Potential migrants are encouraged to introduce themselves through the host countries' screening processes on the basis of objective criteria. The host countries then select the best-quality foreign workers from the pool of potential immigrants. Those with sufficient points according to the standards set by each country are chosen to immigrate and are given permits for residency and work. The supply-driven system focuses on skills-biased selection with the exclusion of low-skilled manpower from developing countries. [27]

Demand-Driven System

The demand-driven system is widely used to meet temporary needs for foreign manpower. It is successfully applied in Singapore with transparent enforcement of existing legislative and policy instruments (Table 4). Nonetheless, the demand-driven immigration model is to some extent mitigated by a supply-driven immigration model to hire foreign workers temporarily in order to fulfill short-term manpower needs through temporary foreign worker programs for short stays of lower skilled migrant workers (farm workers and in-home immigration such as is being applied in Canada[31] and Australia).[33]

A market-oriented regulatory model of the demand-driven system requires employers to play a vital role in the overall process of introducing foreign workers, both skilled and unskilled, to the host governments for approval. For this purpose, in Canada employers use recruiting agencies to hire the right workers from overseas. [27, p.32]

Australia enforces its legislative immigration framework through its Migration Program - A Guide to an Ever-Changing Landscape - to help immigrants who wish to live and work in Australia. Since 1945, Australia's Department of Immigration has successfully managed the arrival and settlement of about 7.2 million migrants from various countries.[31] Those immigrants have to

go through a process of selection and visa applicationⁱ. According to Jocke (2015):

"...the Migration Act 1958 and the Migration Regulations 1994 regulate the entry into, and presence in, Australia of aliens and the departure and deportation from Australia of aliens and certain other persons".[31]

In summary, the legislative instruments and immigration programs in the countries reviewed in this research are effectively supported by national long-term economic and social development plans, and a process for identifying skills gaps for the development of particular sectors. For example, this approach helps Singapore to achieve its national goal of regionalization and globalization to support its role as a trading hub in the ASEAN region. Processes to determine the need for skilled migrants are also employed by other well developed country such as Australia and Canada in order to welcome international migrants to live and work permanently in those countries. The regulation and governance of migration in those countries are effectively supported by information and communications technology (ICT) management systems.

Annex 1: Refugees, asylum seekers, internally displaced persons (IDPs), returnees (refugees and IDPs), stateless persons, and others of concern to UNHCR by country/territory of asylum in 2015

		Canada	Switzerland	Australia	Cambodia	Singapore	Worldwide
	Refugees	135,888	73,336	36,917	76		15,483,893
	People in refugee-						
	like situations	_	-	Î	_		637,534
Re	Total refugees						
Refugees	and people in						
ge	refugee-like	135,888	73,336	36,917	76		16,121,427
es	situations						
	Of whom assisted				71		
	by UNHCR	_	-	1	/ 1		12,282,792
	Asylum seekers						
	(pending cases)	19,642	32,701	20,677	27		3,219,941

ⁱ Australian immigration laws are exceedingly complex and extensive. The legislative and regulatory framework consists of more than 3,000 pages. It is underpinned by layers of regulation and sub-regulation. There are 97 visa categories and nine bridging visa categories. [23]

13

Returned	_	_	_	1		201 415
refugees				I		201,415
IDPs						
protected/assisted						
by UNHCR, incl.	-	_	_	_		27 404 172
people in IDP-like						37,494,172
situations						
Returned IDPs	_	-	-	-		2,317,314
Persons under						
UNHCR's						
statelessness	-	69	-	-		3,687,729
mandate		0,				0,00,1,2,
Others of concern						
	_	_	_	407	4	070 740
to UNHCR				197	1	870,740
Total Population						
of Concern	155,53	106,106	57,594	30	1	63,912,738

Source: UNHCR, (2015), Global Trends: Forced Displacement in 2015.

Annex 2: Migration Integration Policy Index 2014 (Scores)[15]

	Australia	Canada	Switzerland
Overall average MIPEX scores	66	68	49
1. Labor Market Mobility: Labor market integration happens over time and depends on the general policies, context, immigrants' skills and reason for migration. Certain effective employment policies may be too new and small to reach the many non-EU citizens, men and women, in need, who rarely access any training or benefits.	58	81	59
2. Family Reunion: For the small number of transnational families, family reunion policies are one major factor determining whether or not they reunite in the country.	67	79	48
3. Education: Countries respond to large numbers and poor outcomes of immigrant pupils with many new, but weak, targeted education policies,	76	65	42

which are not always well implemented or effective in practice.			
4. Health: Major differences emerge in immigrants' healthcare coverage and ability to access services between countries; policies often fail to take their specific health needs into account.	67	49	70
5. Political Participation: Promoting immigrants' political participation is the sign of a confident country of immigration. Restrictive policies disenfranchise 10 million non-EU citizens from voting and engage few others through weak consultative bodies and funding for immigrant organizations.	64	48	58
6. Permanent Residence: The security of permanent residence may be a fundamental step on the path to full citizenship and better integration outcomes. Most immigrants are long enough settled to apply—and most have in many major, longstanding and new destinations.	54	62	51
7. Access to Nationality: Much-needed citizenship reforms can significantly increase naturalization rates and boost other integration outcomes for the large number of potential citizens.	69	67	31
8. Anti-Discrimination: First came reform, now time for enforcement. New laws and weak equality policies may mean that potential victims are too poorly informed and supported to take even the first step in the long path to justice, as most people experiencing discrimination do not report it to the authorities.	74	92	31

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