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A need to reinvent the wheel?

Introduction.

The following text would *prima facie* appear to be the result of recent brainstorming:
“...emphasizing the need to avoid the excessive and uncontrolled or unassisted increase of migratory movements because of their negative social and human consequences, and considering that in order to overcome underdevelopment and structural and chronic unemployment, the governments of many countries increasingly stress the desirability of encouraging the transfer of capital and technology, rather than the transfer of workers in accordance with the needs and requests of these countries in the reciprocal interest of the countries of origin and the countries of employment...”

Yet, this text is not new. It is part and parcel of the preamble to the 1975 ILO Labour Migration Convention (C143). The purpose of this contribution is to show that we have come full circle and that there is hence no need to re-invent the wheel.

Flows and Management

This contribution is part of the UNECE ICPD+10 session on migration and management. It, therefore, refers to the background papers submitted by Merse, Penninx and Bauer c.s. Where it concerns flows, it is herewith submitted that yearly some 750,000 persons will come to Europe, many of them to stay, be it legally or illegally. In view of recent developments in the USA in the context of which it was estimated that some 8 – 12 million illegal may be residing in the USA, it could be submitted that Europe too has a substantial number of illegal, e.g. in the 5-8 million range. It should moreover be recalled that some 20% of the EU's total GDP remains unaccounted for, a clear indication that quite some illegal workers may take part on the labour market (narcotics, the sex-industry, weapons, 'normal' non-VAT work being other main reasons for the 20% at stake).

As to EU-management, it is recalled that the transition period foreseen under the 1997 Treaty of Amsterdam (under which the issues of asylum and migration were moved from the TEU to the TEC, from the Treaty of the European Union to the Treaty of the European Community, also known as the Third Pillar and the First Pillar respectively) will come to an end on 1 May

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Van Krieken was the Director of the Netherlands' Refugee Foundation 999 (1983-1987), joined the Netherlands Ministry of Justice in 1995 and since then also lectures at Webster University (Leiden and St. Louis) focusing on human rights and humanitarian law.

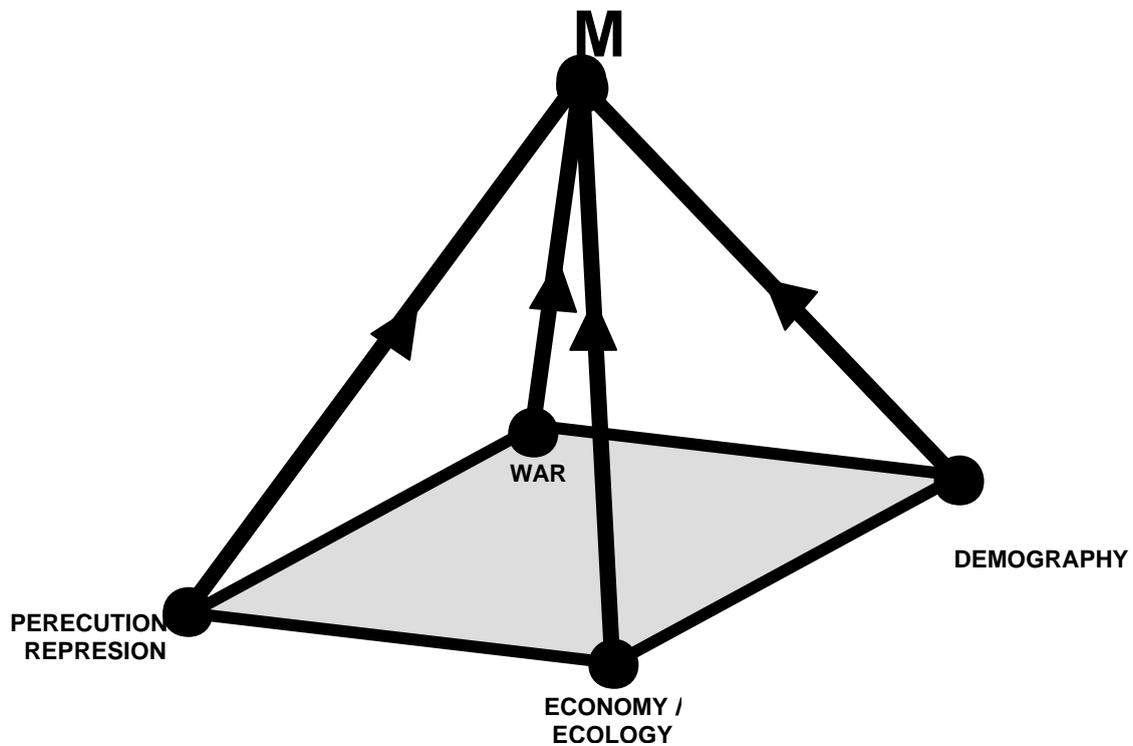
Dr. Van Krieken is a member of IOM's academic advisory board, chair of the Röling Foundation and has a great many publications to his name on inter alia asylum, migration, exclusion, integration, apostasy, torture, family reunification and so on.

His recent *Terrorism and The International Legal Order* (Asser/Kluwer, CUP, 2002) was particularly well received (amazon.com; books; krieken).

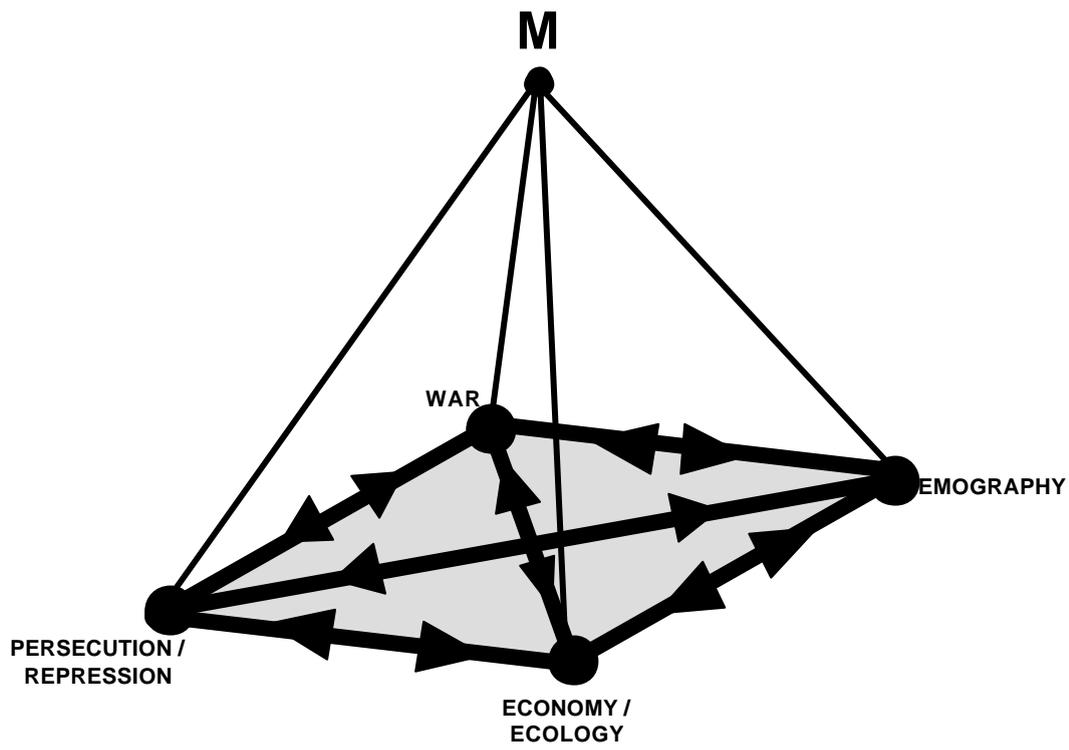
2004. This means that by that date 'Brussels' will become to main centre for decision making, of course based on relevant Directives some of which, however, hitherto not having been agreed upon (in particular the criteria and procedures directives on the one hand, and the one on long term third country residents on the other taking more time than initially believed). However, rather than focusing on flows and micro management, this contribution will focus on macro management and on the need for an integrated, holistic approach, badly needed in view of the interrelationship between the various aspects of the issue at stake.

Causes and decision-making processes, resulting in migratory movements will be illustrated, and it will be submitted that every solution can also be the cause of new problems, an idea that is now increasingly emerging among the various experts. Some attention will also be paid to demographic developments as well as societal aspects.

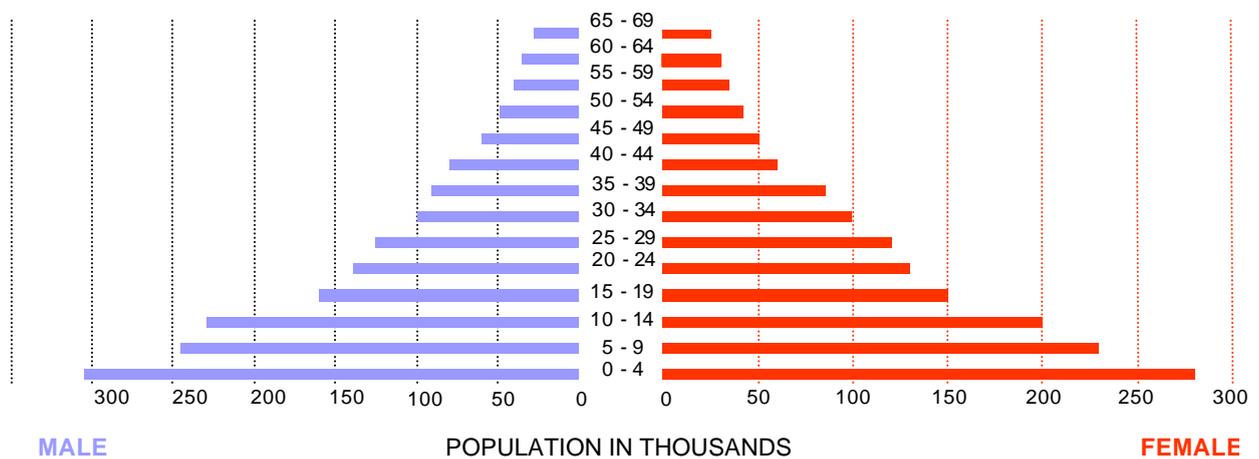
THE MIGRATION PYRAMID.



This diagram shows that (1) economics/ecology, (2) war, (3) persecution/repression and (4) demography can all be causes for migratory movements. It is also of importance to emphasize that these four main causes are interrelated: war has an impact on the economy; demographic developments may have an impact on the ecological balance, and so on.



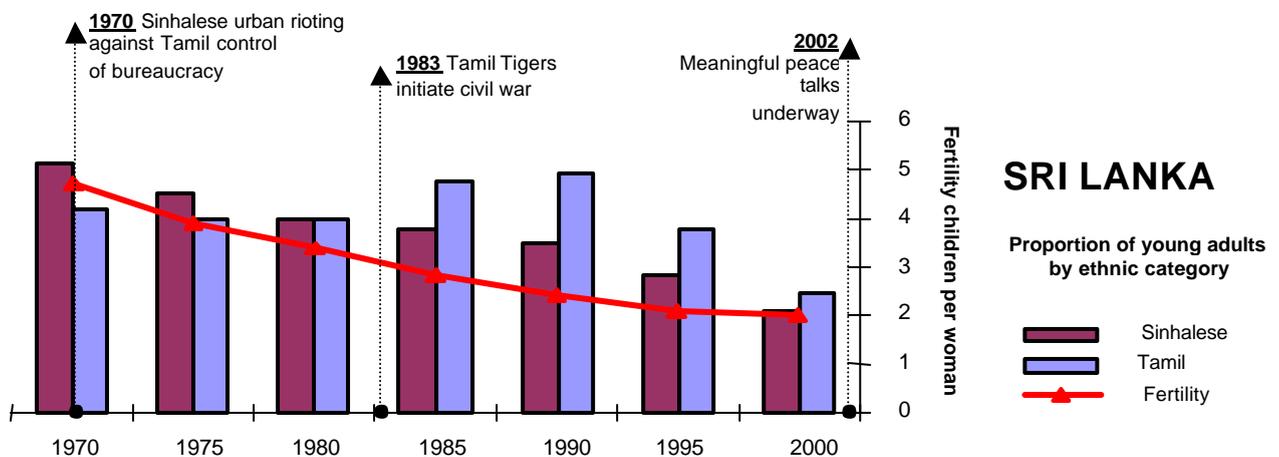
Moreover, there is no need to explain that a gloomy economic situation may result in tensions between the population at large and the authorities, resulting in repression, or that a fight on the control of certain natural resources may result in war. It is also clear that an increasing population may put pressure on economic developments (a 3% population increase would need to be off-set by a 7% increase in GDP).



Year	2005
Country	Percent of all adults (aged 15 years and older)
Bangladesh	45.6 %
Bhutan	47.7 %
Burkina Faso	55.1 %
Burundi	55.6 %
Comoros	50.2 %
Congo, Democratic Republic	52.3 %
East Timor	49.0 %

Fairly new is the confirmation of the correlation of the so-called youth bulge and the likelihood of armed conflict. It has been submitted by inter alia *population action international* that in the case of the 15-29 old representing more than 40% of the adult population (15 and above), this results in a significant likelihood of armed conflict: “Our analysis suggests that states where young adults comprised 40% or more of all adults experienced civil conflict sometime from 1990-2000, 2.3 times the likelihood of countries below that benchmark.”²

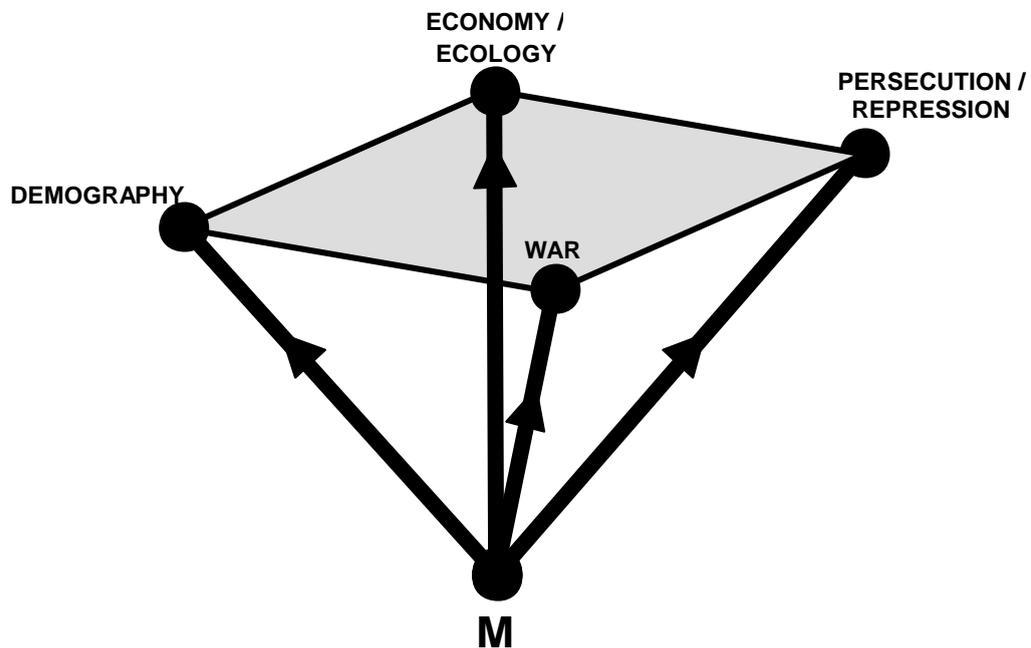
On the other hand, it would be of interest in how far a well-defined population policy with a focus on limited growth, or in any case a decline of the ‘youth bulge’ would also have an impact on the occurrence of violence, may be even on efforts to find solutions to conflict. Sri Lanka would be an interesting case in point.



On the basis of these figures it could be submitted that a decreasing fertility, combined with a slimming ‘youth bulge’ may create a situation in which peace may become more likely. The case of Sri Lanka should be followed with the utmost attention.

² This research *excluded* countries with persistent or recurring conflict. See: Cincotta, Engelman and Anastasion: *The Security Demography; population and civil conflict after the cold war*, Population Action International (Washington 2003), p. 48. See also the 2002 WHO World Report on Violence and Health, p. 222.

After having looked into the mechanisms of the Migration Pyramid, focusing on the causes/reasons for migration, it is, therefore also of some relevance to be aware of the 'reversed migration pyramid', the awareness of migratory movements becoming elements in an increasingly conflictuous situation.



This illustration indeed indicates that migratory movements can also be the *cause* of the problems mentioned (Hmong in Laos; Indians in Fiji; big city challenges; see; Hans Magnus Enzensbergers' *Aussichten Auf Den Burgerkrieg* (1993). Feller, in a January 2004 Amsterdam address stated:

“...”

Indeed, more research needs to be undertaken into the probability of migration per se creating problems next to solving others. More than ever all the relevant disciplines should join hands to tackle the various challenges on this issue.

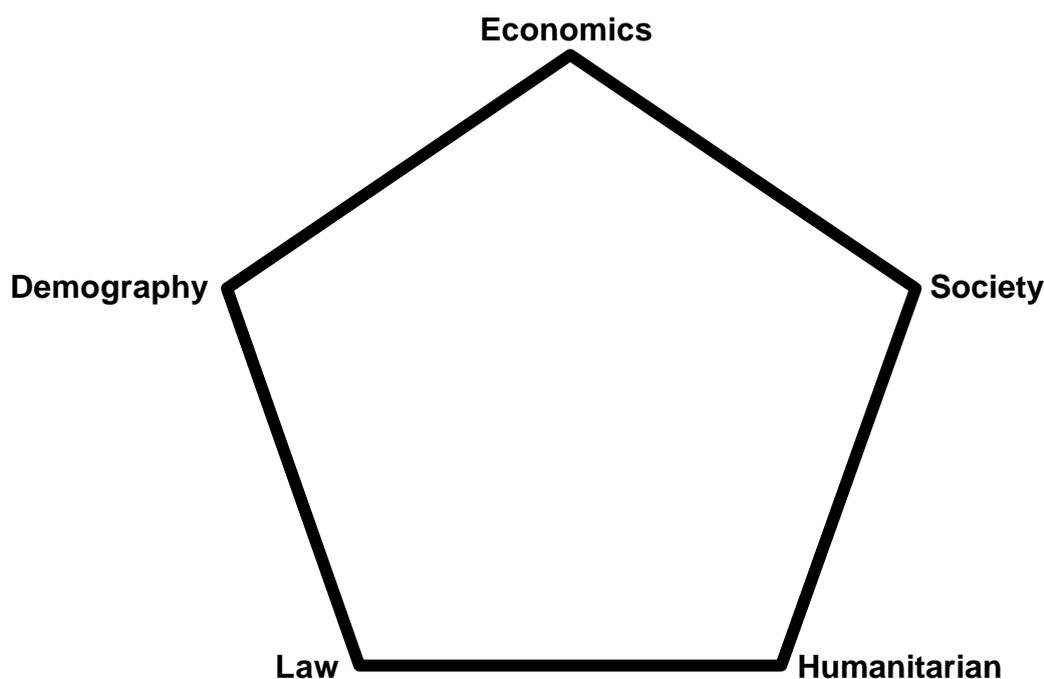
A MULTIDISCIPLINARY APPROACH: management

We have to appreciate that various disciplines could and should play a role in the migration debate, and hence also in the efforts to set up a proper management structure.

Attention could and should be paid to the following:

- humanitarian issues (asylum, migrants' rights, return)
- utilitarian issues (economics, econometrics, trade, tariffs)
- demographic issues (population growth)
- societal issues (trans-nationalism, allegiances, social cohesion, trust)
- legal aspects (law as a means, not as a goal)

This would result in the MIGRATION PENTAGON



ANY MANAGERIAL STRUCTURE SHOULD STRIVE FOR A SET-UP THAT DULY REFLECTS ALL THESE 5 ELEMENTS.

Hence, a new organizational structure is badly needed, reflecting all of the above, and therefore with elements or remainders of existing organizations like: UNHCR, IOM, UNFPA, ILO, IBRD, WTO, UNOCHA, as well as the Vienna based Drugs and Crime Agency.

A new organization based on those angles should become a forum where ALL aspects will be discussed, leaning towards a utilitarian approach, without the *de lege ferenda* lobby, but referring above all to *de lege lata* and statistical material, facts and figures, straightforwardly, calling a spade a spade.

Any such organization, for instance the UN MMO, the United Nations Migratory Movements Organization, should also be allowed to deal with the internally displaced (IDPs) and e.g. the urbanization process (also because the latter can create tensions that go over and above the national borders).³

I will now try and comment on each of the above 5 aspects.

First, and probably the most important, the economic angle:

- 1.1. the migration-development nexus
- 1.2. the issue of remittances
- 1.3. the subsidies
- 1.4. losses for not being able to export your goods v. development aid
- 1.5. losses for working below one's level (o not working whilst in the integration process)

³ The debate surrounding migration—including trafficking in people and illegal immigration—has gathered enough momentum that Secretary General Kofi Annan commissioned in 2003 a report by an adviser, Michael Doyle, a Princeton/Columbia University scholar, on establishing an international commission to examine the phenomenal growth in migration and how to manage it. A Global Commission on Migration has hence been set up. Moreover, various other, mainly Geneva-based, groups are now also looking into this issue.

I would like to submit that migration has in a great many cases hampered global economic growth. It could probably be put forward that migratory movements have resulted in more losses than gains.

1.1 It is an illusion to think that development will solve all migration. To the contrary, for migratory purposes some collateral is needed. Lower classes, moving up to middle classes will then be in reach of fulfilling migratory goals (the average cost for 'passport', visa + travel is around \$5000-\$8000).

Moreover, only once the level of income in a developing country is within the 30% range – that is salaries are only 30% below the ones in the country of desired migration - will migration become less likely (Poles who will earn only 25% less in Poland compared to what they could make in, say, Germany, will no longer bother to travel).

1.2 It is true that the size of remittances is enormous, and this is widely used as an argument to sustain migratory movements. Yet, it should be realized that only a first generation will transfer substantial amounts back home and even not during the full period of stay abroad. Moreover, the funds thus received will more likely be used in purchasing consumption goods (cars) or in building new residences, and will not necessarily otherwise be invested in the local economy. Moreover, the amount concerned (some \$80 billion yearly) may be easily off-set against the losses incurred because of so many migrants working below their potential level of skills (see 1.5), not to mention the relatively elevated percentage of migrants among the unemployed or otherwise non-active on the labour market (women) in the country of destination.

1.3 Location of Production

1.3.1 Subsidies should be considered the scourge of any international economic system: the EU alone spends every day (every day) \$150 million on agricultural subsidies. This comes and goes at the cost of the economies of many developing or less developed countries. Countries that should be able to export their products are now forced to export their workforce. It is about tomatoes, not about the tomato-picker. Or in other words, should the people move to where the capital is, or, rather, should capital move to where the people are.

The recent Brazil/WTO case (on subsidies paid to U.S. cotton farmers) is of the utmost importance in this respect. More than ever, the migration-'lobby' should display an interest in this case, as it should in the subsidy issue at large. In the absence of subsidies, more producers will move the production to low-income lot-of-sun countries. This is already true for the Dutch flower industry, an industry without subsidies, and perfectly fit to make use of the globalization processes, thereby benefiting producers, labour and consumers at the same time.

1.3.2 As to manufacturing it can be submitted that once a manufacturer has reached the margins of profit, and is e.g. faced with labourers who demand an increase in salary, he/she has three alternatives:

- by hiring migrant labour (inclusive of illegal workers) the manufacturer can avoid the demand/supply reality and can continue the production, thanks to relatively low labour costs

- by replacing labour with capital, he/she can make a sound long-term investment, making use of the available innovation possibilities (thereby also promoting investments in innovative thinking at large)

- in the end he/she can move the site of manufacturing to a low-labour-cost country.

Of the three alternatives, the first one is by far the worst: it delays the introduction of innovative processes and procedures and/or it delays the move of the site by a couple of years, at the cost of the consumer.

- 1.3.3 It is probably even more surprising to learn that also moving so-called back-office activities (keeping files, administration, accounting, auditing) to low income countries can be a very profitable exercise, that is: profitable to all. The Economist, in its 13 December 2003 issue, calculated that the transfer of 1 dollar worth of back office work from the USA to India would give India 33 dollar cents and the USA no less than \$1.12, making a total profit of 45%. This, it should be added, includes re-employment.⁴
- 1.4 It is a well known yet staggering fact that the total of ODA (Official Development Assistance) covers a mere 35% of the total losses incurred by Third World countries because of those countries not being able to export products to the North/West as a result of tariffs and other export hindrances. It should then be added that OECD has allowed considering the reception costs of asylum seekers who have come to the North/West as part of the ODA. It could hence be argued that many countries would be better off without development aid, but with access of their products to the markets of the North/West.
- 1.5 Now that migration too has fallen victim to proper cost & benefit analyses (the IOM World Migration Report 2005 will focus on that theme alone) the time has come to highlight the cost in human capital as a result of migratory movements. Migrants tend to work – at least the first years – below their educational and skills levels. Recent studies in Canada have indicated that for that country alone the loss involved would amount to some CND\$ 5 to 55 billion on a yearly basis.⁵ The inclusion of these ‘fringe benefits’ should enable us to draw a picture far completer than hitherto provided.

Second: Demography

2. As far as Demography is concerned it is herewith submitted that the global village has an interest in what is happening in this field elsewhere in that village. Hereinabove, reference has been made to the youth bulge and the interest others have in preventing and/or solving conflict (a costly affair, not only for the country concerned but for all others who will be involved in conflict resolution and post-conflict reconstruction). The same would appear to be true for countries with an interest in exporting their so-called surplus population (both for political stability, and economic gains thru the remittances scheme). By being able to export such surplus population, the authorities will delay badly needed decisions on its own population policy.

⁴ India: labour: 0.10; profits retained in India: 0.10; suppliers 0.09; central government taxes 0.03; state government taxes: 0.01. Net benefit to India: 0.33.

USA: savings accruing to US investors/customers: 0.58; imports of US goods and services by providers in India: 0.05; transfer of profits by US-based providers in India back to US: 0.04; Net direct benefit retained in US 0.67; Value from US labour re-employed 0.45 – 0.47. Potential net benefit to US: 1.12-1.14.

Source: The Economist, December 13th, 2003.

⁵ The \$5B comes from a Conference Board of Canada article and the \$55 comes from Jeffrey Reitz at the University of Toronto; source, Ms Rosaline Frith, CIC.

In this context reference should be made to the so-called 72-rule.

An increase in funds or population can be calculated by e.g. using the number 72: an increase of 3% will result in a doubling of the number concerned in $72/3=24$ years. In other words, Pakistan with a population of 125 million will with a 3% yearly increase reach the 250 million point in the year (2004+24=) 2028.

The same is true for a by many considered virtually neglectable increase of a mere 1% per year. That increase will result in a world population of almost 25 billion by the year 2150 (that is 5 to 6 generations from today).

A stable population will initially result into pressure on the pension front. Less people than hitherto will have to support the retirees: from 4 per 65+ now to 2.4 per 65+ in 2025 (and back to 3.5 in, say, 2060).

It has long been argued that migration would be a solution, but the experts now agree that that would offer no relief at all.

A few options are available:

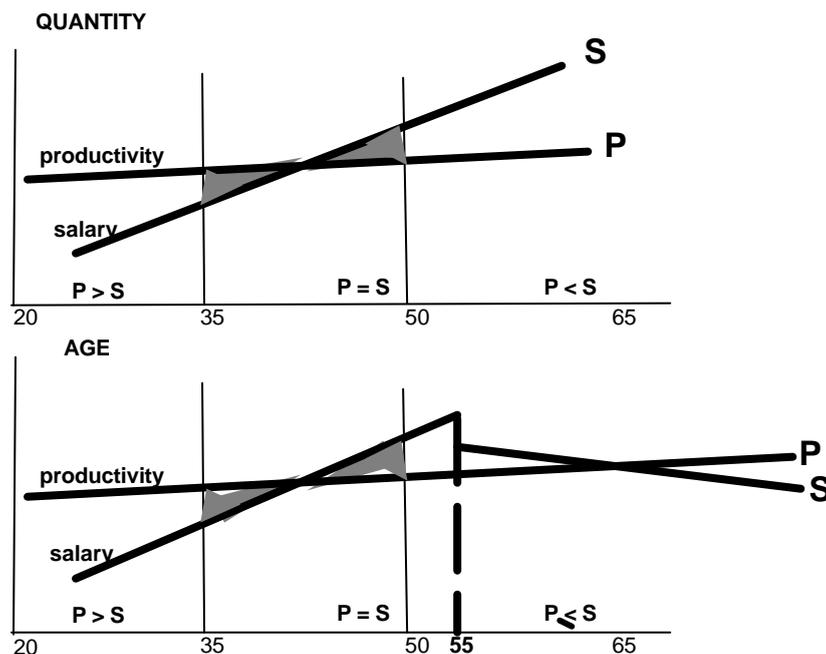
- work more years (age at retirement 67, 70)
- work longer hours (from 36 back to 40 hours per week)
- make (better) use of the unemployed (in Europe officially at 8.8%)
- make better use of the female workforce
- focus on technical innovation, enabling Labour to be replaced by Capital
- export the production to low cost countries as this would create winners both in Europe and in the country of destination.

Of special importance is to reduce the number of 55+ who no longer participate on the labour market. This phenomenon is partly due to the decreased productivity, the high salaries and the fear for demotion after so many years of promotion.

In general the 20-25 produce more than they cost; the 35-50 produce overall as much as they cost (productivity=salaries); however, from 50 onwards, the costs (salaries) are over and above the productivity.

It is a well-known fact that of e.g. the middle management, only very few continue in that field beyond the age of 50/55. The happy few make it to the supervisory or executive boards, many others will be asked to fulfil other duties altogether. That is often regarded as a slap in the face. Hereto a change of mind and mentality is needed.

Moreover the 55+ shall have to do with less income, mainly because of the increasing discrepancy between costs (salary) and productivity.



Three reasons will make it easier for the 55+ to accept their fate:

- statistically speaking, the offspring will have left home (and the educational institution they were attending)
- the mortgage on the home will have been paid
- the parents (80+) will have passed away, releasing additional capital (heritage).

The 55+ will hence 'need' less income, but solutions will be found by offering them to work 80% (four days a week) for 70% of their salary, of 60% (three days a week) for e.g. 50% of their salary. Variations (winter in Spain, summer in Sweden, Spring and Autumn at work) are of course feasible.

Third: Society and Trust

3. Fukuyama, best known for his *'The End of History'* (1992) published in 1995 an important book on *'Trust'*. Fukuyama argues that for an economy to boom and for a society to prosper aspects like trust and social cohesion are indispensable. Societal developments, interaction and group dynamics are far more important than hitherto believed:

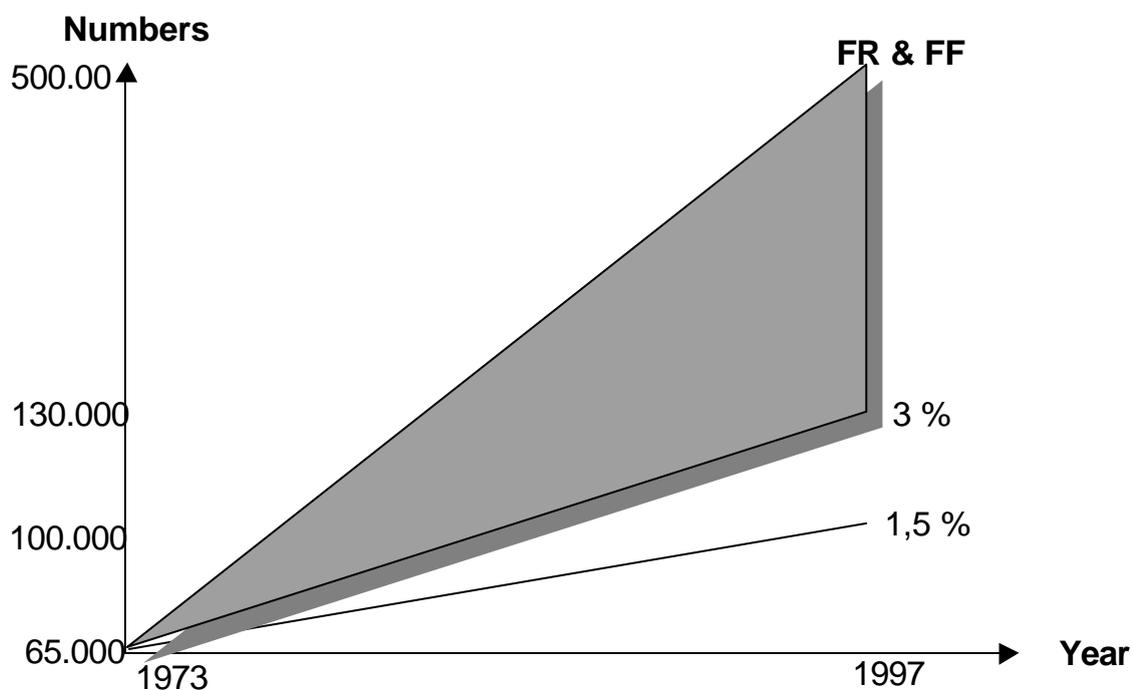
“Economic activity represents a crucial part of life and is knit together by a wide variety of norms, rules, moral obligations, and other habits that together shape the society (...); one of the most important lessons we can learn from an examination of economic life is that a nation’s well-being, as well as its ability to compete, is conditioned by a single, pervasive characteristic: the level of *trust* inherent in the society” [p. 7].

“There are three paths to sociability: the first is based on family and kinship; the second on voluntary associations outside kinship such as schools, clubs, and professional organisations, and the third is the state. There are three forms of economic organisation corresponding to each path: the family business, the professionally managed corporation, and the state-owned or -sponsored enterprise. The first and third paths, it turns out, are closely related to one another: cultures in which the primary avenue toward sociability is family and kinship have a great deal of trouble creating large, durable economic organisations and therefore look to the state to initiate and support them.” [p. 62] In fact, Fukuyama displays his doubts on

multicultural societies. And indeed, in the migration debate it is often forgotten that migrant workers do not only come to work, but are human beings with their own life-style and their own free time.⁶ It is herewith submitted, that due to the substantial numbers involved, actual segregation has in some cities taken place, is taking place in others or about to take place altogether. This is bound to have a serious negative impact on interaction, intercultural relations and hence on trust, with all the negative results for society and the economy at large.

One result of the lack of integration and social cohesion is the apparent practice among the 'diasporas' in many an European country to find a bride or groom in the country of origin.

Family reunification and family formation have been labelled the Achilles heel of any migration policy. And indeed, recent statistics for the Netherlands give an interesting illustration to such a submission.



In 1973, the 'official' end to inviting guest-workers/Gastarbeiter, the Netherlands had some 65,000 Turkish and Moroccans legally residing. On the basis of 'local' population growth, this number would have increased to either 100,000 or 130,000 depending on a growth figure of 1.5% or rather 3% (the latter resulting in $[72/3=24]$ a duplication by $[1973+24=]$ 1997. Yet by 1997 the total amounted to 500,000 (reaching the 600,000 mark in 2003).

⁶ the 80/20 rule as to the balance between work, sleep and free time:

- a) 40 hrs x 50 weeks = 2000
- b) 7 x 24 x 52 = 8736
- c) $2000/8736 = 22.8\%$
- hence:
- d) work 23%
- e) sleep 33%
- f) to/fro job 4%
- g) rest (...) 40%.

This difference can only be explained by Family reunification (FR) and family Formation (FF). FR and FF resulted in a number more than 7.5 times the original one, whereas a multiplier of max. 2 would have been witnessed without FR and FF.

It should moreover be noted that in EU countries the FR/FF caseload concerned is perfectly unable to add to the knowledge or service industry; the Netherlands Labour-party leader recently submitted that taking an illiterate bride or groom from the Rif mountains is not necessarily key to the successful participation of the offspring (not mention him- or herself) on the labour market. Alarming figures relate in this context to a decreasing life expectancy and an increased U5M for the city of Amsterdam.

Fourth: the humanitarian approach

4. It should emphasized again and again that the 1951 Refugee Convention, combined with e.g. art. 3 of the ECHR rightly point to obligations under human rights law (to be confirmed in forthcoming EU directives). Refugees and others considered to be in need of international protection shall never be *refouled*, never be exposed to a threat to their life or freedom for reasons of race, religion, ethnicity, membership of a particular social group or political opinion.

That principle notwithstanding should not prevent the observer from researching the integration and otherwise economic potential of the refugees concerned, also because many point to the educational background of many of the refugees as well as to the asset they may be for today's European society and economy.

It is herewith recalled that

- a) there is no right to migration (art. 13 UDHR)
- b) the right to seek and enjoy asylum from persecution is well embedded
- c) the correlation of recognition rates v. the background (skills/education) of asylum seekers is an important one,
and that
- d) return of persons whose application has been rejected (ExCom) is of the utmost importance.

As to the correlation of background and recognition, the following illustration is of some interest⁷

⁷ Base on a 2003 study commissioned by the Röling Foundation.

Fifth: the legal issues.

5. There is no proper legal instrument truly focusing on the needs and well-being of the migrant, emphasizing rights and obligations and providing a framework of use to all involved: the countries of origin, the countries of destination and above all the migrant workers and their families themselves. In view of the lack of a pragmatic approach, there is a urgent need to amend the 1990 UN Convention on the Protection of All Migrants Workers and Members of Their Families, and again the need to agree on how to deal with the “rejected asylum seekers“, the undocumented, the illegal workers/irregulars.

Of course, it could and should be submitted that the Convention has meanwhile entered into force. But a major precedent as witnessed on the Law of the Sea could be of help. The United Nations Convention on the Law of the Sea of 10 December 1982 was in the early 1980 looked upon as a proper piece of legislation. Only somewhat later it was realized that if universal support and adherence were to be attained, the Convention as such would be counterproductive. It was hence some ten years later decided to amend certain parts of the Convention enabling all the countries up to that point hesitant or reluctant, to join.⁹ The 1990 UN migrant workers convention should be similarly amended.¹⁰

CONCLUSION

A new approach is badly needed. In this context the dire need of an instrument on which North and South, East and West can agree is apparent. The time for a pragmatic non-ideological, no-nonsense approach has arrived. Or rather, has re-arrived, full circle, as the 1975 text proves:

“...emphasizing the need to avoid the excessive and uncontrolled or unassisted increase of migratory movements because of their negative social and human consequences, and considering that in order to overcome underdevelopment and structural and chronic unemployment, the governments of many countries increasingly stress the desirability of encouraging the transfer of capital and technology, rather than the transfer of workers in accordance with the needs and requests of these countries in the reciprocal interest of the countries of origin and the countries of employment...”

I strongly believe we need not reinvent the wheel as this 1975 text still stands, or rather: deserves to be reintroduced because:

- substantial migration to Europe is not needed, if at all
- Europe needs to make better use of its workforce (re the present 8.8% unemployment rate)
- Europe needs to invest in (technical) innovation, not in migrants
- Europeans need to learn to work longer for less salaries (pension blues)
- agricultural subsidies should be abolished soonest
- tariffs need to be cut

- *“...the efficient and expeditious return of persons found not to be in need of international protection is key to the international protection system as a whole, as well as to the control of irregular migration and prevention of smuggling and trafficking of such persons...” en*
- *“...the credibility of individual asylum systems is seriously affected by the lack of prompt return of those who are found not to be in need of international protection...”*

⁹ “The States Parties to this Agreement undertake to implement Part XI in accordance with this Agreement”, this 1994 Agreement being basically an amendment to the 1982 Convention.

¹⁰ 2006 AGREEMENT RELATING TO THE IMPLEMENTATION OF THE UNITED NATIONS CONVENTION ON THE PROTECTION OF THE RIGHTS OF ALL MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES OF 18 DECEMBER 1990.

- the option of moving industries and even back office activities to third world countries needs to be made more palatable
- the social costs of migration need to be better quantified both for the countries of emigration and immigration
- Europe should not worry about a stable or even declining population
- Europe should promote a stable world population.¹¹

‘Population and development’ is an issue that deserves to be out in the global context. Migration is part and parcel of that process. Migration as a subject should hence be embedded in the widest possible context. At the end of the day, the well being of the global village is at stake. And that is where our responsibilities are.

¹¹ In this context it is of some interest to note that Europeans spend yearly almost as much on ice-cream (\$ 11 billion) as what is world-wide needed to truly improve global reproductive health (\$12 billion); source: World Watch.