

Strangers in Foreign Lands

Diversity, Vulnerability and the Rights of Migrants

by

Fernand de Varennes

Abstract

Globalization and increased population flows across borders have created a daunting challenge for the international community: the need to address the particular vulnerability of migrants. While migrant workers often make significant contributions to the economies and societies of the State in which they work and of their State of origin they remain, from a legal point of view, more vulnerable than many other groups who have the benefit of clearer and more wide-ranging international and regional legal protections. This is because the development and acceptance – especially from more developed States – of international legal standards to protect migrants' rights has been very slow, with the **UN Convention on the Protection of all Migrant Workers and Members of their Families** only entering into force in 2003.

The rights contained in the **Migrant Workers' Convention** are human rights. They are indicators as to how governments may protect migrants and better manage the problems and opportunities of international migration. This may also help avoid the dangers of racism, intolerance and xenophobia which may result when there is not a balanced view of both positive and negative aspects of migration movements and their effects on the economies and societies of both host States and States of origin.

The global challenge which international migration represents calls for a global approach. UNESCO – as part of its role in the field of migration, social integration and cultural diversity – has been bringing together researchers, policy-makers, NGOs and other interested parties to deal with various facets of this challenge, including the adoption of the **Universal Declaration on Cultural Diversity** and the launch of a much needed campaign for the ratification of the **Migrant Workers' Convention**.

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Acknowledgements

Several people have helped me with the preparation of this strategy paper and given me much needed advice.

First of all I would like to thank Laura Griffin, my research assistant at Murdoch University, for her wonderful assistance and dedication in her work.

I also appreciate the assistance provided by Synnøve Bendixsen of UNESCO's International Migration Section who proofread and gave valuable comments on various drafts of this paper. Any remaining errors are my fault.

It has been a privilege and an honour to have been given the task of this strategy paper which, hopefully, may be able to make some kind of contribution to the debates surrounding the need to protect the rights of migrant workers. For this opportunity, I finally wish to express my gratitude to Dr Paul de Guchteneire and Ms Jun Morohashi of UNESCO's Management of Social Transformations Programme, who have both made this possible. Merci.

Fernand de Varennes

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1. Introduction

This is what I order you to do, my son: Take care of your foreigners, esteem and support them. They should favour your country to others. Keep in mind, everybody has been born as a free human being.

*Stephen the Great, King of Hungary (11th Century)*¹

The migrant worker may not be a new phenomenon, as pointed out in a recent United Nations publication,² but today's world has changed dramatically. Many governments and indeed societies are still coming to terms with the perceived accelerated pace and impact of population movements across borders, with far more migrant workers today than in any period of human history. Tens of millions of people now live and work as strangers in foreign lands, more than 175 million people according to recent estimates.³ No region of the world is insulated from this global phenomenon, and it is clearly not a phenomenon restricted to any particular continent.⁴

With a freer flow of goods and faster means of communication and transport, distances have shrunk to the point where globalization today impacts on more than economic policies. It was unavoidable that people would also become part of this phenomenon. The borders of many countries are straining at the consequences of globalization, unaccustomed to the pressures of large numbers of individuals seeking entry for work or protection purposes.

Strains have also begun to show increasingly within the borders of many States. Whilst many countries have long historical traditions of absorbing large numbers of immigrants and refugees, the last decades have seen qualitative and quantitative changes at a pace that has undeniably caused tensions. Whilst previously many migrants in host States would often be from similar cultural backgrounds or would flow into States over many years in a more steady stream, that era is now a thing of the past.

Immigrants, refugee claimants and migrant workers have become in many parts of the world much more visible in their differences and numbers. Modern modes of transportation mean that instead of a trickle or a steady flow, seemingly large numbers of

¹ From King Stephen's advice to his son in *Scriptores rerum Hungaricum Tempore ducum regumque stirpis Arpadianae gestarum*, Emericus Szentpétery, Budapest, 1938.

² UN Fact Sheet No. 24, *The Rights of Migrant Workers*, Office of the High Commissioner for Human Rights, <http://www.unhchr.ch/html/menu6/2/fs24.htm>.

³ *2002 Annual Report*, Portal for the Promotion and Protection of the Rights of Migrants. www.december18.net.

⁴ Whether in Asia, Africa, Europe or the Americas, movements of workers between States are both widespread and massive. According to one International Labour Organization report, *Current dynamics of international labour migration: Globalisation and regional integration*, <http://www.ilo.org/public/english/protection/migrant/about/index.htm>:

...the rate of growth of the world's migrant population more than doubled between the 1960s and the 1990s, reaching 2.6 percent in 1985-1990... There is every indication that this is just the beginning of a trend that will most likely accelerate in the 21st Century, driven by rapid declines in fertility in the more advanced regions, higher rates of urbanisation, technological change, and the forces of economic integration and globalisation. Indeed, today, ILO estimates, there are roughly 20 million migrant workers, immigrants and members of their families across Africa, 18 million in North America, 12 million in Central and South America, 7 million in South and East Asia, 9 million in the Middle East and 30 million across all of Europe. Western Europe alone counts approximately 9 million economically active foreigners along with 13 million dependents.

migrants can arrive within the space of a few months, if not weeks, instead of over a period of a number of years.

This flow affects both States of origin and host States in their economic activities, but also the very fabric of their societies. Migrants are more than simply workers in their host State. They interact with local populations and contribute in many ways to the “flavour” of the communities in which they live. Greater numbers and differences suggest that their impact can also be greater. Whilst the presence of migrants can be seen as beneficial in terms of cultural diversity and as an opportunity for increased exchanges and understanding, it may also give rise to tensions, misunderstandings, exclusion and intolerance. At a more sinister level, there have clearly been rising examples of prejudice that expresses itself in xenophobia, racism, and the erroneous fear that migrants are connected to situations of increased unemployment, crime and homelessness.

Many of these issues are addressed in UNESCO's programmes which aim, amongst other things, to promote social cohesion and cultural diversity, as well as international, comparative and policy-relevant research on issues of global importance such as those involving migrants. It is as part of these aims that UNESCO's projects and activities have focused on multiculturalism, international migration and the integration of migrants, and on the adoption of the **UNESCO Universal Declaration on Cultural Diversity**.⁵

This report does not purport to address all matters surrounding integration and population flows between borders. It is much more modest in scope, concentrating rather on the rights of migrant workers and their integration, mainly from a legal point of view. Whilst there is no doubt that issues such as the push and pull factors which have led to increased migration movements, the need also to understand and focus on the citizens of host States and their attitudes,⁶ and a myriad of other contributing dimensions are all relevant, they will only be sketched briefly in this report. It is the need to protect migrant workers, to increase the respect of their rights, and the impact this may have in assuring their integration which will be explored in greater detail.

What will first be examined are the central problems and weaknesses in the protection of migrant workers, concentrating on their particularly pronounced vulnerability, followed by an examination of the evolution of the legal regimes for their protection at the international and regional levels. Contrary to what may be believed, even by well-meaning governments, migrants are not well protected in legal terms in many countries.

The report will then elaborate on the most comprehensive international instrument dealing with the rights of migrant workers, the United Nations' **International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families** (hereafter the "**Migrant Workers' Convention**"),⁷ exploring in particular the gaps it fills as well as looking into the reasons for the slow pace of ratification of the

⁵ Adopted at the 31st General Conference of UNESCO in November 2001. Full text available at <http://www.unesco.org/bpi/eng/unescopress/2001/01-120e.shtml>. See also Declaration of the Meeting of the Experts Committee on the Strengthening of UNESCO's role in promoting Cultural Diversity in the context of Globalization, Paris, 22 September 2000.

⁶ “Citizen” is used in this paper in its strict legal sense: it refers to an individual who holds the citizenship of a particular State (or States). In other disciplines, and in particular in political science, the concept of “citizenship” is ambiguous, with ongoing discussions as to how the concept should be understood.

⁷ UN General Assembly Resolution 45/158 of 18 December 1990.

treaty. Finally, the report will then present some of UNESCO's possible contributions in these areas.

What will be emphasized is that strategies need to be adopted which will redress the most glaring failures in the protection of migrants and their integration: the relative weakness of legal protection in light of their vulnerability and the lack of focus on citizens and their own attitudes in relation to migrants, both important factors that explain some of the tensions in many States. The effective protection of the rights of minorities is, it is suggested, one of the essential elements of ensuring their successful integration – and acceptance.

2. Overview of Salient Problems

Now in earlier times the world's history had consisted of a series of unrelated episodes, the origins and results of each being as widely separated as their localities, but from this point onwards history becomes an organic whole: the affairs of Italy and Africa are connected with those of Asia and of Greece, and all events bear a relationship and contribute to a single end.

Polybius (Second Century B.C., translation by Ian Scott-Kilvert)

- **Migrant workers are a particularly vulnerable group**
- **Migrants face serious obstacles in terms of access to information and services**
- **Migrants seldom have the same degree of access to legal protection as citizens**
- **Local populations do not always appreciate or understand the impact and value of migrants on economies and societies**

To understand why migrant workers need protection measures, one needs to demonstrate that there are problems. This part of the paper seeks to highlight some of the obstacles and challenges that migrant workers often encounter in countries where the absence or lack of enforcement of legal protection measures leaves them vulnerable. Some of these may be fairly obvious, whereas others may not always be fully appreciated.

Increased population flows between borders of individuals from diverse cultural backgrounds give rise to a number of challenges in host States and States of origin, such as:

- (a) Ensuring respect for the rights of migrants
- (b) Promoting the integration of migrants in the societies in which they live as well as their reinsertion in their States of origin
- (c) Promoting diversity so that migrants are not only tolerated but also accepted by the population

Whilst many countries have taken a number of positive and effective steps to deal with these challenges, it is fair to say that the sheer scale and difficulties of integrating large, culturally diverse and changing groups of migrants, as well as the negative reactions and even backlash of local populations, have left many Governments uncertain as to the direction or measures they should take.

2.1 Ensuring Respect for the Rights of Migrants: Vulnerability of Migrant Workers and the Need to Strengthen Legal Protections

The perception of migrants as "less deserving" of protection than citizens may have contributed to the ease with which they have encountered hostility and even ill-treatment in some countries.

Migrants are an especially vulnerable group. Living in host States where they may not master the official language(s), are unfamiliar with the workings of the legal system and administration, detached from traditional support and family networks, exposed to a society with ways of life or cultures which they may find at times alien, they may face trials that can leave them disoriented and disturbed. Even death does not release migrants from their vulnerability, as the recent plight of a Nepalese domestic worker who died of cancer in the United States shows.⁸

As with other vulnerable groups such as women and children, human rights have long been recognized as providing necessary, if not in themselves sufficient, means for protecting migrants. This was recognized early in international law with the adoption of a first treaty in 1949, and has been followed by a number of other legally binding international and regional instruments.⁹

But ratification of these treaties has generally not been enthusiastic. Whilst ratification of treaties for other vulnerable groups such as children, women and minorities – at least in the case of the Council of Europe for the latter¹⁰ - has been relatively strong, treaties dealing with migrant workers have had only very limited success, especially in terms of ratification by Western countries.

This is not to say that the rights of migrant workers are legally unprotected. The rights of migrant workers are protected in a variety of legal instruments, both internationally and regionally as shown in detail in Section 3.

At the international level there exist:

- International Labour Organization treaties dealing with specific issues involving migrant workers or of particular impact for them
- General UN human rights treaties with provisions of particular significance for migrant workers
- A UN convention dealing specifically and comprehensively with the rights of migrant workers (the **UN Convention on the Protection of All Migrant Workers and Members of their Families**)

⁸ In early 2002, family members were unable to obtain a visa in order to join the Nepalese woman during her last days. Whilst her employers were generous and covered her medical expenses in hospital, neither her family nor the Nepali Embassy were able to cover the funeral expenses. Eventually, members of the Nepali community were able to collect enough money to ensure that the deceased received a proper funeral.

⁹ See historical description of legal developments below.

¹⁰ **Framework Convention on the Protection of National Minorities**, Council of Europe, ETS no. 157, I.II.1995.

At a regional level, other legal instruments that offer some protection for the rights of migrant workers are:

- Regional human rights treaties with provisions of particular significance for migrant workers (Council of Europe, European Union, Inter-American and African systems)
- Council of Europe convention dealing specifically with the rights of migrant workers

Whilst migrants now have for the first time at the international level a fairly comprehensive treaty to deal with the rights of migrant workers with the entry into force on 1 July 2003, the **UN Convention on the Protection of All Migrant Workers and Members of their Families**, none of the twenty-one States which had ratified by 2002 were from the northern hemisphere.¹¹

There is one striking difference between the legal protection of migrant workers and other vulnerable groups such as women or children: the late development of – and still not widely implemented – global and comprehensive legal standards for migrants.

The general weakness in specific instruments for the protection of the rights of migrant workers is also striking at the regional level. Except in Europe, migrant workers must rely on existing human rights protection since there are no other regional mechanisms in place dealing specifically with the rights of migrant workers.

Nevertheless, it must be admitted that the existing general human rights protection may not always be sufficient. In some countries there is the widespread – and mistaken – view that migrants are somehow not entitled to the full protection of human rights law, often because of the belief that only citizens are entitled to these rights. In many other cases, profound misunderstanding as to the impact of basic human rights, such as non-discrimination on the entitlements and protection of migrant workers, is a recurrent problem.¹²

Ironically, whilst on one hand there has in recent years been a growing recognition of the seriousness of migrant issues, in actual concrete terms the legal response to protect one of society's more vulnerable groups has been relatively feeble. The failure until now to take a firm, clear stand to protect migrants may have left them vulnerable to intolerant behaviour and to becoming scapegoats for government failure or social tensions in other areas.

There are three main areas of weakness in the effective legal protection of migrant workers:

- 1. Until very recently, the lack of a general international or regional treaty on the rights of migrant workers, as there are for other vulnerable groups.**
- 2. Little recognition that migrant workers are entitled to the full protection of basic human rights legislation even if they are not citizens of the host State.**
- 3. Widespread ignorance or misunderstanding as to the rights to which migrant workers are entitled.**

¹¹ Guatemala adopted the UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families in March 2003. The Convention will enter into force three months after the twentieth ratification on the first day of the next month. This will happen at the earliest on 1 July 2003, depending on the official date of deposit at the UN Legal Office in New York.

¹² Amongst more recent decisions on the impact of non-discrimination, see the 4 April 2002 decision of the UN Human Rights in **Karakurt v. Austria**, Communication No. 965/2000.

A 1999 UN Report of the Working Group of intergovernmental experts has recognized these problems and offered some suggestions as to how to redress institutional and legal obstacles or weaknesses:

- the receiving State should include in legislation provisions which facilitate and permit access for migrants to all public services addressing their vital needs;
- States be urged to ratify the 1990 Convention related to migrant workers and their families as well as ILO Conventions, in particular Nos. 97 and 143;
- a compendium of provisions applicable to migrants under the relevant instruments of international law be prepared;
- States, in particular those which have already included international human rights standards in national legislation, be urged to extend these basic rights to migrants explicitly;
- States be encouraged to include in their legislation family reunification as a basic right of migrants;
- host countries examine, in a spirit favourable to migrants, the conditions and modalities relating to the acquisition of nationality;
- governments of host countries be urged to share any reports of alleged violations of the human rights of migrants with the migrants' consular representatives, and to ensure the right of all migrants to assistance from those consular representatives;¹³

These recommendations confirm that steps must be taken more actively to ensure that the rights of migrants are explicitly recognized and protected to a much greater extent than they have been until recently. One could even surmise that the perception of migrants as "less deserving" of protection than citizens has contributed to the ease with which they have been demonized and victimized in some countries.

2.2 Rights of migrants and promoting their integration in the societies in which they live as well as their reinsertion in their country of origin

Even setting aside the difficulties posed by the presence of large numbers of undocumented migrants, different types of migrant workers face dissimilar obstacles and challenges. Conversely, it is not possible to speak of the integration of individuals who only find themselves briefly in a State of employment in the same way as one would in the case of longer-term workers. The former may only remain for a few weeks, during a construction project or the fruit-picking season, whereas the latter may reside in a host State for a number of years. Integration is therefore a many faceted phenomenon, depending on the nature and length of stay of particular categories of migrant workers. It is one that has also been problematic for a number of reasons:

- even when migrant workers are legally present in a State of employment, they generally are unaware of their rights as workers and their interests are seldom defended in existing trade unions;

¹³ E/CN.4/1999/80.

- whilst the economy of a State benefits greatly from the labour of migrant workers, particularly in areas such as construction, agriculture, domestic work and many others, few of these contributions tend to be acknowledged by the State;
- because they are not citizens, migrant workers usually have very little if any input into policy-making processes that affect them directly. They are therefore more often than not relatively invisible and inaudible in terms of policy debates;
- human rights laws do not always apply to the private economic sector, leaving migrant workers without protection from their employers or other individuals. Even where such legislation does exist, migrant workers are generally unaware of such laws or how to invoke them effectively;
- law enforcement personnel are often not fully aware of or sensitive to the human rights of migrant workers and may turn a blind eye to abuses by employers and other citizens;
- social programmes may be restricted to citizens, or even if they are available to migrant workers, these may not have access to the information on what they are entitled to or how to apply.

The above problems point to a situation where migrant workers tend to be present in a State, make significant contributions to that State's economy, unavoidably affect even the cultural and social "flavours" of society, but still remain in limbo. They may be excluded from some sectors because of a number of obstacles from a social or legal point of view. This partial exclusion from the wider society, their positioning as somehow "less deserving" than other individuals, and the more obvious "differences" which many of them exhibit, all contribute to misunderstandings, even fear and almost unavoidably a general outcry from those who feel threatened by migrant workers or who do not understand the actions of their governments concerning such workers who are "foreigners".

These challenges can be partly addressed by enhancing the protection of the rights of migrants and thus contribute to their increased integration. It is when these rights are applied, especially in terms of non-discrimination in access to goods and services, that successful integration is more likely to occur. Conversely, situations of discrimination and intolerance involving violation or denial of the rights of migrants tends to lead to continued exclusion.

Integration is closely tied in with the rights granted to migrants. Migrants who work in the black economy with little legal protection or who are subjected to discriminatory practices tend to remain isolated from the rest of society. Integration is thus more likely to be successful where migrants' rights are generous and clearly defined, especially in regard to access to goods, services and equal opportunities and treatment as acknowledged, for example, by the European Economic and Social Committee which called for increasing the rights of migrants to promote their integration:

3.1 Integration policies must be implemented by public and private institutions, with the broadly-based and active involvement of social organizations. Policies must seek to remove the obstacles encountered by immigrants in gaining access to goods, services and means of participation in our society; job-seeking, housing, and basic, vocational and higher education, etc.

3.2 These integration policies must also focus on the host society, in order to change discriminatory attitudes, foster communication and compromise between immigrants

and the host society, and encourage social interchange, mutual knowledge and involvement in the broadest possible range of social forums. Integration policies must therefore include actions targeted at both immigrant and host communities.¹⁴

2.3 Promoting Diversity: Toleration and Acceptance

Cross-border population flows lead to increased diversity within societies, and this requires policies and programmes that inherently respect the rights of migrants, underscore the benefits of cultural and ethnic diversity in a society, create tolerance and mutual understanding and maintain a cohesive fabric of shared values within the population.¹⁵

Tolerance and acceptance also need to be addressed in the policies and legislation dealing with the exclusion of migrant workers. Though an essential step, comprehensive and effective legal measures to ensure the respect of their human rights is only part of the answer. Problems of integration of migrants and the tensions encountered in many countries have also much to do with the unease felt by local populations.

In simple terms, the presence of large numbers of migrants is not always well tolerated nor accepted by citizens. Because they are partially hidden and because the contributions of migrant workers are seldom acknowledged by governments – with some exceptions – it is not difficult to see why some segments of a State of employment's population may have difficulty appreciating the economic and other benefits being brought by migrants. Many citizens may only see the "debit" part of the presence of migrants: they are here, they use public services, they are different, etc. Until the "credit" part of the equation is highlighted, that migrant workers are for many countries an extremely valuable component of their economies – and in addition make societies the richer for their diversity – tolerance will be fraught with difficulties, and the acceptance of the presence and positive contributions of migrant workers even more difficult.

Despite recognition for at least a decade of serious difficulties in addressing "community relations" tensions, the tendency has often almost exclusively been focused on migrants as the problem, whilst largely ignoring the other half of the equation, the general population's own reactions and attitudes when confronted with the influx of migrants from very different cultural or religious backgrounds.

Conferences of European Ministers responsible for migration affairs have periodically identified the need to increase the legal protection for migrants, to take action against discrimination and xenophobia, and to take effective measures to promote equal opportunities and tackle problems of social exclusion. ILO has similarly recently identified, after a seven-year research programme on migrant workers, the need to conduct public education campaigns, amongst other measures, in order to encourage

¹⁴ Opinion of the Economic and Social Committee on Immigration, integration and the role of civil society organizations, SOC/075, Brussels, 21 March 2002.

¹⁵ Dr Ali Kazancigil, Deputy Assistant Director-General for Social and Human Sciences, UNESCO, 50th Anniversary, IOM, Geneva, 27 November 2001.

"respect for diversity, [discourage] discrimination and [build] public pressure on institutions to adopt concrete measures to promote equality."¹⁶

Nevertheless, even when there has been an acknowledgment of the need to pay particular attention to "community relations", the steps that have been suggested have almost always been general and somehow do not seem to acknowledge that migrant workers are not uniquely the "problem", especially when a segment of a State's own citizens feel threatened or exhibit signs of rejection or intolerance.

It is too simplistic to tag all those who express unease as "xenophobes" or "racists". More than just "disseminating information on migrants", there needs to be a strategic focus on the positive impact they have on the economy of States, on their contributions in many spheres of everyday society, and on the need to respect and accept them as equal human beings and in their entitlement to the full range of human rights.

There has been a tendency to focus on migrants as the problem, whilst ignoring the other half of the equation: the local population's own reactions and attitudes when faced with an influx of migrants from very different cultural or religious backgrounds.

3. Recent Evolution of Legal Protection of Migrant Rights

[D]iscrimination in access to employment...[is] a phenomenon of considerable and significant importance in all countries... at least one out of three application procedures migrants/minorities were discriminated against... migrant and ethnic minority workers face numerous problems in the labour market, and that they are in many ways at a disadvantage when compared with members of the majority or dominant population.¹⁷

The previous section has referred to a few problems linked to the vulnerability of migrants, their lack of legal protection, and to the attitudes of local populations. It has also pointed out that the existing international and regional legal schemes to protect migrant workers have been rather weak, limited, or many States – especially Western, developed countries, have not committed to them.

Those are significant issues, and before attempting to offer any suggestions or recommendations as to further steps to be taken, it is necessary to have a more in-depth understanding regarding what does exist in terms of legal obligations to address some of these issues. This section will begin with the legal measures set in place at the international level, then will look at the steps taken at the regional level, particularly in Europe.

¹⁶ *Approaches to Promote Equality: A Compendium of Measures*, International Migration Branch, ILO, Geneva, September 2000. Available at http://www.ifwea.org/isc/iw-isc/library/approaches_to_promote_equality.html.

¹⁷ *Approaches to Promote Equality: A Compendium of Measures*, International Migration Branch, ILO, Geneva, September 2000. Available at http://www.ifwea.org/isc/iw-isc/library/approaches_to_promote_equality.html.

3.1 International Developments

The International Labour Organization (ILO) was one of the first truly global organisations at the forefront of advancing the recognition and protection of the rights of migrant workers. Its mandate under the **Treaty of Versailles** referred to the responsibility for the improvement of the conditions of workers “involving such injustice, hardship and privation to large numbers of persons as to produce unrest so great that the peace and harmony of the world are imperilled”. Specifically, it noted the need for the “protection of the interests of workers when employed in countries other than their own”.

The two major ILO treaties concerning migrant workers that came to be adopted are the **Migration for Employment Convention (No 97)** of 1949 and the **Migrant Workers Convention (No 143)** of 1975.

Convention No 97 contains a series of provisions designed to address the employment conditions of migrant workers, in respect of such issues as remuneration, hours of work, minimum age of employment, membership of trade unions, social security and the reception of migrants in the host country. It also requires ratifying States to put migrants in the same position as their own nationals with respect to their working life and without discrimination on the grounds of nationality, race, religion or sex.

For its part **Convention No 143** deals with the situation of migrant workers in abusive conditions and their equality of opportunity and treatment with respect to employment and other economic rights. It also represented a first international effort to recognize the cultural rights of migrant workers, safeguarding for example their right to “preserve their national and ethnic identity and their cultural ties with their country of origin”.

The efforts of the ILO have also extended to developing an inter-regional project to combat discrimination against migrant workers. The project is aimed at industrialized host States where discrimination and unequal treatment continues contrary to national legislation. As preliminary research has found, persistent discrimination still occurs. Therefore, the objective of the ILO project is to inform policy-makers, employers and worker organizations and to engage in anti-discrimination training activities and mechanisms to redress the problem.

More recent legal initiatives at the international level have occurred in the last 20 years, partly as a reflection of the changing – and expanding – nature of labour migration movements worldwide. In 1985 the United Nations Economic and Social Council recognized the need for further efforts to be made on behalf of the social position of migrant workers and their families (Resolution 1985/24). The Council asked Member States to establish and expand welfare programmes to meet the needs created by changes in international labour. It emphasized the protection of migrant families and sought a substantial improvement of the conditions of family integration, particularly in respect of women and young people in host societies. Furthermore, the resolution stated that special care should be paid to the education of children so that they develop knowledge of their maternal language and cultural heritage.

A final draft of the **Convention on the Protection of All Migrant Workers and Members of their Families** was adopted by the United Nations General Assembly in December 1990. This **Convention** is the most significant attempt to develop an

international regime for migrant workers.¹⁸ Unlike ILO treaties, it covers a wider sphere of migrants such as workers in “irregular situation”,¹⁹ itinerant and self-employed workers. More importantly, it preserves the right of States to establish their own admission for migrant workers and their families and focuses on the rights of workers once they have been admitted into another country, rather than the subject of migration itself.

Yet, as alluded to earlier, these various legal initiatives have not received a high level of support. Only 41 countries have signed ILO **Convention No 97** and even fewer, 18, have adhered to **Convention No 143**. Likewise the UN **Convention on the Protection of All Migrant Workers** only entered into force after Guatemala deposited the twentieth ratification required in March 2003. No State of employment from the West has ratified the UN **Convention on the Protection of All Migrant Workers**, making this treaty a lop-sided instrument owing to the reluctance of more developed countries to accept its legally-binding standards.

These international legal instruments only paint one small part of the total picture of the various international initiatives and issues dealing with the rights of migrants. For example, in 1997 the UN Commission on Human Rights created a working group on international migration arising from the concern for “the increasing manifestations of racism and other forms of discrimination and inhuman and degrading treatment against migrants in different parts of the world”.²⁰ There are also numerous other initiatives, such as the appointment in 1999 of a UN Special Rapporteur on the Human Rights of Migrants by the Commission on Human Rights, and various international forums where migrant issues have figured prominently, including the Vienna World Conference on Human Rights, 1993, the Cairo World Conference on Population and Development, 1994, the Copenhagen World Summit for Social Development, 1995, the Beijing World Conference on Women of 1995, and the Durban World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, 2001.²¹

3.2 European Developments

Both the European Union and the Council of Europe have long recognized the challenge which migration represents,²² though concrete steps to tackle issues of migrants’ rights and other matters have tended to lag behind.

¹⁸ The twenty-one States which have ratified the **Convention on the Protection of All Migrant Workers** as of 31 January 2003 are Azerbaijan, Belize, Bolivia, Bosnia and Herzegovina, Cape Verde, Colombia, Ecuador, Egypt, El Salvador, Ghana, Guatemala, Guinea, Mexico, Morocco, Philippines, Senegal, Seychelles, Sri Lanka, Tajikistan, Uganda and Uruguay.

¹⁹ In most cases this would occur when a worker is not authorised to enter, stay or engage in a remunerated activity according to the law of the host State.

²⁰ Commission on Human Rights resolution 1997/15, 3 April 1997, Official Records of the Economic and Social Council, 1997, Supplement No. 3 (E/1997/23), chap. II, sect. A.

²¹ Other noteworthy international initiatives include the United Nations Economic Commission for Europe’s four-year project entitled, “International Migration in the ECE Region”, which started in 1996.

²² Sources of information include the European Migration Centre for the activities of the European Union States at <http://www.emz-berlin.de/start.htm>. For those of the Council of Europe, see http://www.coe.int/T/E/Social_Cohesion/Migration/ and <http://www.social.coe.int/en/cohesion/action/texts/status.htm>

- Whilst the phenomenon of ever-increasing migration has been identified clearly as an important issue in terms of integration and protection since at least the 1980s, most initiatives in Europe have been put into place in the last few years.
- In most cases, focus remains on migrant workers and their integration or "cohesion" within societies – not on the impact on the general population.
- Comprehensive European legal measures for the protection of migrant workers are still not in place.

Only in more recent years have a number of measures and recommendations aimed specifically at migrant workers been adopted:

- 1977 European Convention on the legal status of migrant workers
- 1992 Convention on the Participation of Foreigners in Public Life at Local Level
- Recommendation 1206 (1993) on the integration of migrants and community relations
- Recommendation 1261 (1995) on the situation of migrant women in Europe
- Recommendation 1277 (1995) on migrants, ethnic minorities and the media
- Recommendation 1306 (1996) on migration from developing countries to European industrialized countries
- Recommendation 15 (2000) of the Committee of Ministers to Member States concerning the security of residence of long-term migrants
- Recommendation 76 (2000) of the Congress on Local and regional Authorities of Europe concerning the participation of foreign residents in local public life
- Recommendation 1489 (2001) of the Parliamentary Assembly concerning Transit migration in Central and Eastern Europe
- Recommendation 1500 (2001) of the Parliamentary Assembly concerning the participation of immigrants and foreign residents in political life in the Council of Europe Member States
- Recommendation 4 (2002) of the Committee of Ministers to Member States on the legal status of persons admitted for family reunification

Migration matters additionally fall under Articles 61, 62 and 92 of the Treaty establishing the European Community, as amended by the Treaty of Amsterdam, which define the objectives to be achieved by the Union in the fields such as:

- removal of any controls on persons – citizens of the European Union or nationals of third countries – when they cross internal borders from any one EU Member State to another
- crossing of the external borders of Member States – i.e. coming into the EU – (standards and methods for controls on persons, rules concerning visas)
- the conditions under which the nationals of third countries can circulate freely within the EU for a maximum period of three months
- measures against illegal immigration of nationals of third countries, including repatriation of such persons illegally resident in a Member State
- immigration measures concerning conditions of entry and stay of third country nationals and procedures on the issuing of long term visas, including for family reunification purposes
- definition of rights and conditions under which third country nationals legally resident in a Member State may reside in another Member State

As appears to be the case with the Council of Europe, EU developments are just now taking more concrete forms.²³ At a special meeting of the European Council held at Tampere, Finland, in October 1999, it was recognized that the EU needed to approach more comprehensively the political, human rights and development issues connected to migration. The European Council also concluded that there was a need for the European Union to ensure fair treatment of third country nationals who are legally resident in the Member States and to pursue more vigorously an integration policy with the aim of granting third country nationals who are legally resident, rights and obligations comparable to those of EU citizens.

From these have come a number of proposals from the European Commission to tackle the need to protect migrants, to assist in their integration in society and ensure social cohesion, but for the most part these have not yet been finalized, approved or put into place. They include:

- A proposal for a Council Directive on the right to family reunification (COM(1999)638 final of 1.12.99)
- Readmission agreements with third countries
- Proposal for a council directive concerning the status of third country nationals who are long term residents (COM(2001)127)
- Proposal for a council directive on the conditions of entry and residence of third-country nationals for the purpose of paid employment and self-employed economic activities (COM(2001) 0386 final)
- Proposal for a council decision adopting an action programme for administrative co-operation on the fields of external borders, visas, asylum and immigration (ARGO) (COM(2001) 567 final 16.10.2001)

It is noteworthy to underline that EU legislation which recognizes or seeks to enhance the protection of migrant workers who are not EU nationals currently in force is actually quite minimal. Much of the legislation in place is restricted to protecting "Fortress Europe" and imposing criteria for entry and residency. There are various regulations dealing with expulsion, repatriation, visa and residence permit requirements but little else,²⁴ with the exception of the Council Resolution of 4 March 1996 on the status of third-country nationals residing on a long-term basis in the territory of the Member States.

3.3 A Critical Appraisal: Much, but still too little?

- **International and European legal protection of migrant workers is still very weak or patchy**
- **Few States have ratified ILO, UN or Council of Europe treaties concerning rights of migrants**
- **Impact of basic human rights such as non-discrimination on the treatment of migrant workers are not widely appreciated or promoted by authorities**

²³ For the activities of the EU, see http://europa.eu.int/comm/justice_home/unit/immigration_en.htm

²⁴ This legislation can be accessed at http://europa.eu.int/eur-lex/en/lif/reg/en_register_191040.html

Contrary to the impression the preceding subsections might have given, migrant workers are generally not well protected in legal terms at the international and European levels.

First, many of the instruments mentioned have only recently been adopted, and many are still not in force. They may not have had time to influence to any significant extent State practices.

Second, even long-standing ILO treaties and procedures have had very limited impact: they have not been ratified by the vast majority of States, and relatively few by Western countries.

Third, even a seemingly comprehensive treaty such as the 1977 European **Convention on the legal status of migrant workers** is actually quite restrictive: contrary to the impression given in the title of the treaty, it does not apply to "migrant workers", but to a much more limited category: citizens of European countries which have ratified the European **Convention**, and which still total only eight countries.²⁵

Fourth, even the impact of basic human rights standards such as non-discrimination is only now beginning to be more fully appreciated. One must remember, for example, that non-discrimination under Article 14 of the European **Convention for the Protection of Human Rights and Fundamental Freedoms** is not a general protection provision: it only protects against discriminatory practices affecting other rights and freedoms recognized in the **Convention**, and is therefore of no assistance in a number of areas of significant impact for migrants. Though this will change when Protocol 12 of the **Convention** comes into force, it is still the case that migrants in Europe and in many parts of the world had much more limited legal protections than might initially be assumed.

Thus, contrary to first impressions, migrant workers remain much more vulnerable than other groups that have at least the benefit of clearer and more wide-ranging international and regional legal protections than migrants.

4. The UN Migrant Workers' Convention and Strengthening the Legal Protection of Migrants

The preceding section emphasized how migrants may still be particularly vulnerable and with much lesser legal protections than may be believed. Despite some recent, and indeed increasing, attempts to correct these gaps, both at the international and European levels, it remains that only by 2003 have migrant workers in a handful of countries a general treaty elaborating on what their rights are and how they ought to be protected, with the **International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families**. It represents a significant step in the right direction mentioned in this paper's introduction: to protect the rights of migrants and thus contribute to their integration and acceptance in society. The scope and significance of the treaty will now be described, as well as why it is so needed, perhaps more now than ever before.

²⁵ These are France, Italy, Netherlands, Norway, Portugal, Spain, Sweden and Turkey.

4.1 The Need for the UN Convention

The **Migrant Workers' Convention** breaks new ground by clarifying the application of human rights to migrant workers, one of the main areas where their vulnerability needs to be addressed more precisely. It contains provisions for equality of treatment between women and men migrant workers, between documented and undocumented workers, and between nationals and non-nationals, and takes into account the relevant international labour and human rights standards.²⁶

The **Migrant Workers' Convention** is currently therefore the most comprehensive and detailed legal treaty to address the rights that governments worldwide need to tackle in any attempt to promote integration and cohesion in their societies, as well as to ensure the promotion of "sound, equitable, humane and lawful conditions" for the migration of workers and members of their families.

Its need has also been summarized²⁷ in the following terms:

1. **The Convention recognizes the critical role that the migration of workers plays in the global economy, yet migrant workers remain a largely unprotected group in the international community.**
2. **Migrant workers and their families are often disregarded by their countries of origin, exploited by individuals, and have limited rights in States of employment where they are non-nationals. The Convention identifies migrant workers and members of their families as vulnerable persons in a global situation who are in need of the protection of their human rights. It clarifies human rights law to this specific category of individuals who lack protection.**
3. **The Convention is the most comprehensive international instrument to date on migrant workers. It provides a set of international standards to address (a) the treatment, welfare and rights of migrant workers and members of their families and (b) the obligations and responsibilities of States involved. These include sending States, States of transit, and host States.**
4. **The global community has for the first time an international definition of migrant worker, one which recognizes both men and women as migrants. The Convention also provides definitions of certain categories of migrant workers (frontier workers, seasonal workers; seafarers employed on vessels registered in a State other than their own; workers on offshore installations which are under the jurisdiction of a State other than their own; itinerant workers; migrants employed for a specific project; self-employed workers).**

²⁶ In addition to the important ILO treaties mentioned earlier, it refers to UNESCO's Convention against Discrimination in Education; the International Convention on the Elimination of All Forms of Racial Discrimination; the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the Code of Conduct for Law Enforcement Officials; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; and the Declaration of the Fourth United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

²⁷ *Achieving Dignity: Campaigner's Handbook for the Migrants' Rights Convention*, International Migrants Rights Watch Committee, March 1998.

5. Migrant workers are considered more than labourers or economic entities. They are social entities with families. The Convention recognizes that they have rights accordingly, including that of family reunification.
6. The Convention emphasizes that all migrant workers, whether in a documented or undocumented situation, are to be accorded fundamental human rights. It is inclusive of all migrant workers regardless of their legal status, but encourages their being in a documented or regular situation. It encourages all workers and employers to respect and comply with the laws and procedures of the States concerned.
7. The Convention also extends the concept of "equality of treatment" by calling for migrant workers and members of their families who are non-nationals in States of employment to be treated equally to nationals in certain situations. It thus reinforces the indivisibility of human rights regardless of nationality and national borders.
8. It seeks to establish minimum standards of protection in legal, political, economic, civil, social and cultural rights for migrant workers and members of their families which are universally acknowledged, while enabling States that desire so to provide additional protection in specific areas. Hence, it also seeks to address those States that lack national standards of human rights protection and encourages them to bring their legislation in closer harmony with universal standards set forth in the Convention. States retain their right to determine who is admitted to their countries and their terms of residency.
9. The Convention seeks to play a role in preventing and eliminating the exploitation of all migrant workers and members of their families throughout the entire migration process. In particular, it seeks to put an end to the illegal or clandestine recruitment and trafficking of migrant workers and to discourage the employment of migrant workers in an irregular or undocumented situation.
10. The Convention establishes mechanisms for its implementation which provide new opportunities for increased participation from the global community to protect the rights of migrant workers and their families, especially NGOs and individuals.

The rights in the **Convention** fall under two main headings: the human rights of migrant workers and members of their families (Part III) and other rights of migrant workers (Part IV). As with human rights in general, Part III rights are applicable to all migrant workers, regardless of their status, whereas the rights in Part IV are applicable only to migrant workers in a regular or documented situation. It should be pointed out that the **Migrant Workers' Convention** also contains provisions for the just treatment of undocumented workers. One noteworthy characteristic is the prominence of the prohibition of non-discrimination in relation to the rights of migrant workers, an area which is not fully appreciated or properly applied by many States as noted earlier. Not only does Part II of the **Convention** specifically emphasize the obligation not to discriminate against migrants and their families as individuals, many of the subsequent provisions in Parts III and IV also involve the application of the equal treatment and non-discrimination in specific areas of social services, culture, law, etc. Other substantive sections deal with provisions applicable to different categories of migrants and their families (Part V), policy and State cooperation matters (Part VI) and the **Convention's** application and supervision procedures (Part VII).

4.2 The Human Rights of Migrant Workers

Part III of the **Convention** is much more than a reiteration of relevant international human rights provisions. It brings to the fore:

1. That migrants – not just citizens – are entitled to the full protection of most international human rights standards
2. The necessity of clarifying the legal consequences of the proper application of general human rights standards to the particular situation of migrants.

Almost all of these rights involve obligations on the part of States of employment. These rights of migrants and members of their family include the right:

- to leave and enter the State of origin (Article 8)
- to life (Article 9)
- not to be subjected to inhumane living and working conditions under the prohibition against cruel, inhuman or degrading treatment or punishment (Article 10), as well as slavery or servitude and forced or compulsory labour (Article 11)
- to freedom of thought, conscience and religion (Article 12)
- to hold and express opinions (Article 13)
- not to have their property confiscated arbitrarily, and to receive adequate compensation for confiscated assets (Article 15)
- to the protection of their liberty and security, including against any physical (and sexual) abuse and harassment (Articles 16 and 17)

Articles 16 to 20 also contain a number of procedural and substantive guarantees dealing with investigations, arrests or detentions. These are linked in a general sense to due process and fair trial requirements widely recognized in human rights treaties, and include, amongst others:

- to have investigations, arrests and detentions carried out in accordance with established procedures
- right to equality with nationals of the State before the courts and tribunals
- right to necessary legal assistance, interpreters and information in a language s/he understands
- right to have consular or diplomatic authorities informed of their arrest or detention and the reasons thereof, without delay
- humanitarian considerations regarding the person's migrant status should be taken into account during sentencing

There are many other rights that the **Migrant Workers' Convention** further develops. These include the rights not to be subjected to arbitrary or unlawful interference in his or her privacy, home family or communications (Article 14), not to have identity documents, work and residence permits of migrant workers confiscated or destroyed by unauthorized persons or their passports destroyed by anyone (Article 21), to join or form trade unions and associations (Article 26), to equality with nationals in gaining access to education, including public pre-school education (Article 30), to transfer their earnings and savings as well as their personal effects and belongings at the end of their term of employment (Article 32), and to be informed in a language they understand by the States

concerned about their rights arising from the **Convention** as well as the conditions of their admission, and their rights and obligations in those States (Article 33).

Finally, additional provisions in Part III underline once more the centrality of equality and non-discrimination as one of the pillars for the protection of the rights of migrants. Article 25 indicates that migrant workers are to be treated as equal to the nationals of the host country in respect of remuneration and conditions of work (overtime, hours of work, weekly rest, holidays with pay, safety, health, termination of work contract, minimum age, restrictions on home work, etc.). This is also extended to social security benefits (Article 27) and emergency medical care (Article 28).

4.3 The "Other Rights of Migrant Workers and Members of their Families who are Documented or in a Regular Situation"

Whilst Part III actually is one of the first more comprehensive attempts to bring together various international human rights standards and apply them more directly to the situation of migrants, Part IV goes one step further. It provides for "additional rights" – to use the terms adopted in the treaty – for migrant workers and members of their families in a regular or documented situation, detailing for example the various obligations of both States of employment and States of origin.

Some of the rights contained in Part IV of the **Convention** are, however, not entirely "new", since they involve well established international standards such as freedom of movement, right to form associations and trade unions, and even once again the application of equality and non-discrimination.

Nevertheless, the rights in this section can be said to expand greatly and break new ground by explicitly and clearly showing the nature and scope of rights for migrant workers and members of their families that may not be fully appreciated by States and public authorities.

4.3.1 Obligations of States of Origin

Whilst most of the rights in Part IV of the **Convention** deal with the obligations of States of employment, the **Migrant Workers' Convention** also points to a number of rights claimable against the State of origin.

Migrant workers and members of their family have, for example, the right to information from their State of origin in regard to the rights arising from the **Convention** (Article 33), and any conditions and subsequent modifications affecting their stay or employment activities abroad (Article 37). They also maintain their right to participate in public affairs and to vote and be elected at elections in their State of origin (Article 41).

Article 42 of the **Convention** further adds that States of origin must "consider the establishment of procedures or institutions through which account may be taken... of special needs, aspirations and obligations of migrant workers and members of their families and shall envisage, as appropriate, the possibility for migrant workers and members of their families to have their freely chosen representatives in those institutions".

Other rights include the protection of the unity of the families of migrant workers and the adoption of appropriate measures to facilitate reunification of family members (Article 44), exemption from import and export duties and taxes for personal and household effects upon departure and upon final return to the State of origin (Article 46), as well as the right to have their earnings and savings transferred to the State of origin (Article 47).

4.3.2 Obligations of States of Employment

It is, however, in relation to the rights in Part IV of the **Convention** that the impact of the **Convention** is at its most significant. These rights can briefly be identified as:

- right to be allowed to be temporarily absent, for reasons of family needs and obligations, without effect on their authorization to stay or work (Article 38);
- right to move freely in the territory of the State of employment and to choose where they wish to reside, subject to permissible restrictions (Article 39);
- right to form associations and trade unions (Article 40);
- right to transfer their earnings and savings from the State of employment (Article 47);
- equality for migrant workers and members of their families with nationals of the State of employment in access to education, vocational guidance and placement services, vocational training, retraining, housing including social housing schemes, protection against exploitation in respect of rents, social and health services, cooperatives and self-managed enterprises, access to and participation in cultural life (Articles 43 and 45);
- equality of treatment in respect of protection against dismissal, unemployment benefits, access to public work schemes intended to combat unemployment and access to alternative employment in the event of loss of work or termination of other remunerated activity (Article 54);
- right to address cases to competent authorities in the State of employment in relation to breaches of work contracts by the employer (Article 54);
- right to equal treatment in remunerated activities (Article 55);
- right not to be expelled, except for reasons defined in legislation, and subject to human rights standards (Article 56).

4.4 State Policies for the "Promotion of sound equitable, humane and lawful conditions in connection with international migration of workers and members of their families"

The **Migrant Workers' Convention** not only sets out the rights of migrant workers. It also goes much further than previous treaties by providing in Part VI policy guidelines to States on how to address the myriad of challenges and difficulties the movement and numbers of migrants pose across borders in a shrinking world, offering suggestions as to how these challenges can be addressed in "sound, equitable, humane and lawful" ways. For the most part, these policies involve obligations between State Parties, recognizing that this challenge can only be met by duly acknowledging the international dimension and the need for collaboration and dialogue between concerned States.

It proposes, for example, that States concerned shall as appropriate consult and collaborate with one another to ensure better living and working conditions for migrant

workers and their families, with due account taken of their social economic, cultural and other needs, as well as impact of migration on the communities concerned (Article 64).

To deal with international migration questions, the **Convention** also indicates in Articles 65 and 66 that States must maintain appropriate services covering:

- the formulation and implementation of migration policies;
- the exchange of information, consultation and cooperation between competent authorities;
- the provision of appropriate information to employers, workers and others on policies and laws concerning migration;
- adequate consular services necessary to meet the social, cultural and other needs of migrants;
- the regulation of recruitment of migrant workers so that it is left to public bodies or through private agencies and employers and their agents that are subject to authorization, approval and supervision of the States concerned.

States of origin and employment are to take measures, not less favourable than those applied to their nationals, to ensure that migrant workers and members of their families are provided with working and living conditions in keeping with standards of fitness, safety, health and human dignity (Article 70).

Other considerations which both categories of States must take into account in their legislation, policies and programmes include cooperation between States for an orderly return of migrants to their State of origin, including cooperation with a view to promote adequate economic conditions for the resettlement and social and cultural reintegration of migrants in a regular situation (Article 67).

4.5 Prevention of Illegal Migration and Rights of Irregular or Undocumented Workers

Finally, the **Convention** points out that undocumented migrant workers are entitled, as any other human beings, to respect of their fundamental human rights. This means in effect that many of the provisions of the **Migrant Workers' Convention** – for example, Articles 7 to 35 – are also directly applicable to them.

Nevertheless, the **Convention's** preamble recognizes that very serious problems arise with illegal migration and the need to “prevent and eliminate clandestine movements and trafficking in migrant workers, whilst at the same time assuring the protection of their fundamental rights”.²⁸

For these reasons, the **Convention** contains measures for preventing and eliminating illegal labour migration. It urges States to collaborate in taking appropriate actions against the dissemination of misleading information relating to migration, to detect and eradicate illegal or clandestine movements of migrant workers, as well as to impose sanctions on those who are responsible for organizing and operating such movements and the employers of undocumented migrant workers (Article 68).

²⁸ Preamble, **Migrant Workers' Convention**.

4.6 Obstacles to Ratification of the UN Migrant Workers' Convention

The UN launched a few years ago a global campaign to promote the ratification and entry into force of the **Migrant Workers' Convention**. The Steering Committee for this campaign includes leading international human rights, church, trade union, women's and migrants' organizations, with the International Organization for Migration, the ILO and the OHCHR as members of the Steering Committee. Despite all of these efforts, it was only by the beginning of 2003 that the twenty ratifications needed for the **Migrant Workers' Convention** to enter into force were obtained. This slow pace of ratification points to a great deal of hesitancy from many governments, particularly those from receiving, Western States.

A few attempts have been made to try to identify the obstacles that could explain why governments, especially from the West, are not ratifying the **Migrant Workers' Convention**. They tend to be divided into factors related to the **Convention** itself; the jurisdictional tensions in conflicting efforts in this area; economic and social factors; and the political climate.²⁹

4.6.1 Factors surrounding the Migrant Workers' Convention

It has been suggested that the low level of ratification may partly be due to factors surrounding the **Migrant Workers' Convention** itself. These can be summarized as involving:

1. Lack of awareness and knowledge of the **Convention**
2. Non-priority of the **Convention** for governments
3. Misconceptions as to the Potential Impact of the **Convention**
4. Perceived non-relevance of the **Convention**
5. Preferential treatment for citizens

It had been argued that UN attempts to promote awareness of the **Convention** until very recently were much weaker than with other treaties such as the **Convention on the Rights of the Child**. This may partly have been redressed by more recent initiatives such as the 1999 appointment of the Special Rapporteur and setting up of a Steering Committee, but it does offer one explanation why many governments may not even be aware that the **Convention** exists.³⁰ This may also have contributed to what has been suggested is a general lack of knowledge as to the content of the **Convention**, with the ensuing lack of enthusiasm in seeing any need to ratify the instrument.

The second factor identified above is closely connected to economic and social considerations. It is plausible that a number of Governments see other steps and policies as much more important in difficult times, for example the fight against trafficking of people or the need to fight racial intolerance, than to ratify a treaty that recognizes rights for migrants.

²⁹ For a general overview of obstacles related to ratification, see S. Hune and J. Niessen, "Ratifying the UN Migrant Workers Convention: Current Difficulties and Prospects", *Netherlands Quarterly of Human Rights*, (1994), Vol. 12, No. 4, p. 399.

³⁰ Ibid.

A third category of factors may involve misconceptions among some governments as to the effects of the **Migrant Workers' Convention**,³¹ in particular that it would restrict a country's flexibility in terms of migration policies. This is a mistaken view, since it has been pointed out:

...the Convention does not touch upon the rights of States 'to establish the criteria governing admission of migrant workers and members of their families'... [but only] matters related to their legal status and treatment...

There may also be the view that some migrants should not have rights, especially if they are undocumented, and therefore ratification of the **Migrant Workers' Convention** is undesirable. This is also a misconception, since whether a State ratifies the **Convention** or not, fundamental rights are applicable to migrants, whatever their status. By and large, the **Migrant Workers' Convention** clarifies these rights – and avoids negative images of migrants as somehow "inferior" and less deserving of protection.

Others suggest that the **Migrant Workers' Convention** would make it more difficult for governments to favour citizens over migrant workers, an outcome that would not necessarily be received with open arms.

The non-discrimination clause in the Convention may be interpreted in such a way that the Convention contradicts current European policies on migration which are heavily based on preferential treatment of certain nationalities. The Council of Europe's and the European Union's legal instruments for the protection of the rights of workers are based in nationality.³²

Very briefly, this obstacle – if it is perceived as an obstacle by governments – is also mistaken. Non-discrimination does not prohibit all preferential treatment for citizens, only those which are unjustified or unreasonable. Furthermore, a large number of States are already subjected to a general non-discrimination obligation under Article 26 of the **International Covenant on Civil and Political Rights**, so that in reality the **Migrant Workers' Convention** adds nothing new – except to make the existence of this fundamental right clearer in the case of migrant workers. It is also a situation which European countries themselves will increasingly have to acknowledge and tackle when Protocol 12 of the European **Convention for the Protection of Human Rights and Fundamental Freedoms** comes into effect.

The fourth factor linked to the **Convention** itself is rather simple: many governments may assume that the rights of migrants are already sufficiently protected, so therefore there is no need to ratify any new treaty. This was also referred to earlier in this paper when it was pointed out that there appears to be much confusion and misunderstandings as to the rights of migrants and their connection with basic human rights.

³¹ See Tom Clark, "Why it makes sense for Canada to reconsider ratifying the Migrant Workers Convention", in *Speaking about Rights*, Canadian Human Rights Foundation, (1999) Vol. XIV, No. 1.

³² S. Hune and J. Niessen, "Ratifying the UN Migrant Workers Convention: Current Difficulties and Prospects", *Netherlands Quarterly of Human Rights*, (1994), Vol. 12, No. 4, p. 402.

4.6.2 Jurisdictional Conflict

There is undoubtedly some unease over the fact that both the ILO and the UN have treaties involving the rights of migrants. As pointed out in a working paper prepared for the Sub-Commission on the Promotion and Protection of Human Rights on the issue of impediments to ratification of the **International Convention on the Rights of All Migrant Workers and Members of Their Families**:

Since it has generally been understood that the ILO was to be concerned with migrants as workers, some States have stated that a separate UN convention on the rights of migrant workers was not needed due to the already existing ILO provisions.³³

Other countries have apparently indicated that the existence of "competing" treaties creates confusion, or that efforts at the regional level by the Council of Europe and the European Union are more attractive than any UN instrument.³⁴

However, it should be kept in mind that the alleged conflicts or duplications appear much more exaggerated than real, since the UN has a much wider scope than the other treaties, and that in any event other obstacles must be in play and have greater impact because of the very low level of ratification of these other instruments as well.

4.6.3 Economic and Social Climate

Governments may not be very receptive to the ratification of treaties protecting non-citizens in a climate of social and economic insecurity. Many States have in the last couple of decades faced a series of economic crises and uncertainties, increased unemployment and decreased resources for social security programmes. Even the events of September 11 contributed in some cases to a feeling of unease towards foreigners, be they visitors or migrant workers. It is not an exaggeration to say that there has been a growing hostile climate towards foreigners in some States.

The presence of large numbers of culturally distinct non-citizens tending to gravitate to urban and industrial areas has undoubtedly contributed to an increased resistance to foreigners amongst citizens. As indicated earlier in this paper, this is not necessarily due to racism, but more likely an expression of frustration and fear of the increasing uncertainties and changes to which populations are being subjected by advancements in communication, transportation and globalization.

Faced with these large numbers of migrants during times of economic uncertainty, a defensive mechanism can arise from those who believe that the State is too generous and too lenient towards foreigners. This sometimes can bring about signs of rejection and intolerance.

³³ UN Doc. E/CN.4/Sub.2/1999/7/Add.1. See also the full *Report of the working group of intergovernmental experts on the human rights of migrants*, UN Doc. E/CN.4/1999/80.

³⁴ S. Hune and J. Niessen, "Ratifying the UN Migrant Workers Convention: Current Difficulties and Prospects", *Netherlands Quarterly of Human Rights*, (1994), Vol. 12, No. 4, p. 401.

‘Our people first’ feelings and ideologies, increased activities of racial discrimination and racial violence, and the demands for the governments to introduce restrictive immigration and asylum policies are everyday occurrences.³⁵

Economic uncertainty, combined with social unease with the presence of many individuals who seem to cling to their differences rather than fade away into the background, make it highly difficult for States to consider ratifying the **Migrant Workers' Convention**. It would not be a very popular move when what the social and economic climate seems to call for is an inward focus towards “our own people”, a situation not particularly hospitable to any concern for the rights of migrant workers.

4.6.4 Political Climate

These economic and social conditions have unavoidably had an impact on the political climate. Populist politicians are tapping into this sense of frustration, misunderstanding and fear of “invasion” by unassimilated “foreigners” and are occasionally having noticeable impact, either by being elected, or having some aspects of their policies borrowed by more mainstream political parties. Recently, governments in host States in Asia, Europe and other parts of the world have adopted measures which restrict immigration flows and strengthen border controls, impose harsher restrictions for access to social programmes, and generally make it more difficult for new arrivals to obtain permanent residency.

Furthermore, there is the assertion, often exploited for reasons of political expediency, that migrants contribute to unemployment and crime. This feeds once again into the vicious circle of a sense of vulnerability and fear, which lead some to call for greater border security and “strong” measures to attack these problems. Migrants and migration movements under this light are presented as threats to peace and stability.

In this climate, it is a brave politician who calls for further steps, and especially binding legal obligations, which would clarify and specify the rights of migrants in a wide range of areas.

It is not difficult to see that the interaction between these factors – the misunderstandings as to the content and potential impact of the **Migrant Workers' Convention** and the fundamental rights migrants already enjoy, the mistaken belief that migrants are fully protected, the frustration and fears which affect some segments of the population, etc. – have intensified in the last decade, and that the ratification of the **Migrant Workers' Convention** has consequently not picked up any momentum because of a climate which could be described as defensive.

5. UNESCO's Strategy

The defence of cultural diversity is an ethical imperative, inseparable from respect for human dignity. It implies a commitment to human rights and fundamental freedoms, in particular the rights of persons belonging to minorities and those of

³⁵ Ibid., p. 397.

indigenous peoples. No one may invoke cultural diversity to infringe upon human rights guaranteed by international law, nor to limit their scope.

UNESCO Universal Declaration on Cultural Diversity, Article 4.

The previous sections have showed that there are major deficiencies in the protection of migrants, even though they constitute a particularly vulnerable group in society. It has also been shown that despite some more recent attempts to fill gaps in the legal measures to protect migrant workers, States have not been enthusiastic in adopting these measures by ratifying instruments such as the **Migrant Workers' Convention**. Many factors explain this relatively weak State support, including serious misunderstandings as to the potential impact of the rights contained in the **Convention**, and perhaps more problematic, the present economic, social and political climates.

It is because these issues involve migrants as much more than mere workers or “economic units” that UNESCO has played and is continuing to play a positive role. Any attempt to understand these complex situations and address them must refer to the rights of migrants and citizens, as well as to issues of diversity, integration and cohesion where UNESCO has endeavoured to provide much needed expertise and assistance. This next section will now identify some of UNESCO’s current and possible future contributions in these areas.

5.1 UNESCO's Involvement in International Migration

Research and policy development dealing with international migration is part of UNESCO's global mandate. For this reason it has a section on International Migration and Multicultural Policies, which "aims at providing scientific analysis, empirical evidence and policy recommendations to national and international policy-makers and other stakeholders in society with the objective to contribute to better policy-making on international migration and social integration in multicultural societies."³⁶ As part of its mandate, UNESCO collaborates closely with the Asia-Pacific Migration Research Network, the Philippine Migration Research Network and the network of research and experts in Africa, as well as concluded projects such as one on Multicultural Policies and Modes of Citizenship in European Cities (MPMC) and with the Central and Eastern European Network on Migration Research, to name but a few.

UNESCO also maintains a Migration Research Institutes Database,³⁷ established in February 2002, which provides information on more than 100 research and training institutes specialising in migration issues worldwide. Among UNESCO’s many positive contributions in more recent years has been the establishment in 2001 of a university chair on migration and human rights at the Casablanca Hassan II-Ain Chock University in Morocco, as part of UNESCO’s involvement in bringing political, legal and social answers to the issue of international migrations.

5.2 UNESCO and Global "Push/Pull" Factors

There are obviously many reasons that have contributed to the increase of migrant workers in many parts of the world, not least the impact of globalization, as indicated

³⁶ <http://www.unesco.org/most/migration/index.htm>

³⁷ <http://databases.unesco.org/migration/migwebintro.shtml>

later in this paper. Some of them have been hinted at previously. What should be kept in mind is that the flow of migrants – and the reasons for their movement – is not unidirectional.

There are various “pulling factors” that act as magnets in our world’s increasingly globalized labour markets. Receiving States themselves attract migrants needed for cheap labour or for specific industries, and some actively encourage the influx of migrants in an organized way through bilateral agreements. There appears little doubt that migrant workers contribute greatly to maintaining the competitiveness of more developed countries,³⁸ and at least in Western Europe with an ageing population, documented Others look at immigration or temporary migrants as a way to redress some of the effects of an ageing society or low population growth.

There are also at the same time “push factors”. States of origin may themselves actively encourage or assist sending migrant workers to other countries. Migrant worker remittances represent the second largest international monetary trade flow, exceeding even aid assistance in many countries. In addition, it is clear that workers themselves are pushed by their search for better job opportunities and financial rewards. Indeed, for many young men and women, migration is a way to experience the wider world and to gain independence which are perhaps unavoidable consequences of improved access to information that has emerged as another corollary of globalization.

What these push/pull factors point to is that migration movements cannot be viewed as a strictly national or even regional problem. It is part of a global phenomenon with global causes and solutions. To be effective, measures need to address the global migration processes, the push/pull factors.

It is in this area that UNESCO can provide a broader, global perspective on migration. Where there are matters of serious concern, such as in the case of the trafficking of undocumented workers, it is not enough in the long term to put up barriers or to punish ever more harshly the few who are caught. That only dampens the attractiveness of some of the “pull” factors. One also needs to take steps to address the “push” factors in countries of origin.

Migration is a global issue requiring global perspectives and responses. Only addressing “pull” factors affects but part of the processes involved. Any impact would necessarily be limited unless the global dimensions are acknowledged, explored and acted upon - an area where UNESCO can make a valuable contribution.

Migration flows can only be effectively managed through strategies and policies that involve host States and States of origin, and it is here that international organizations such as UNESCO have a role to play. UNESCO’s efforts may improve increased understanding of the link between research and policy, thus potentially leading to better-informed policy-making, for example.

³⁸ For a more recent in-depth study on the link between migration and development, see IOM Migration Research Series, *The Migration-Development Nexus: Evidence and Policy Options*, Geneva, 2002. See also *The Interface Between Migration and development in the Least Developed Countries*, IOM Brochure, Geneva, 2001.

UNESCO can thus cooperate and assist States in policy-oriented research collaboration between social scientists and policy-makers to invest in studying these global processes and the complex and manifold push and pull factors in the context of international migration. Such collaboration can therefore result in clarifying and quantifying the impact and contributions of migrants in financial, cultural, human and development terms, in host States and States of origin.

5.3 UNESCO and Migration's Global Impact

Whilst there are increasing initiatives to promote tolerance and the acceptance of diversity, and positive contributions are being made socially, economically and culturally by migrants and their families, all too often the “problem” dimension of migration remains the focus of attention, research and media coverage.

Put simply, all of the effects of migration are not usually seen in their proper perspective. More often than not, there is a tendency to consider only one aspect – either the positive or the negative part – of migration. Migrants may therefore be seen as a drain on a State's resources or a vital cog for the engines of economy; a foreign element that may turn to crime or a valuable cultural addition to society; and so forth. Generally though, there tends to be a focus on the impact in host States, with relatively little understood about the development and “brain drain” issues for States of origin. This is particularly true in the case of the often-neglected intimate connection between globalization and international migration:

Increased migration is one of the most visible and significant aspects of globalisation: growing numbers of people move within countries and across borders, looking for better employment opportunities and better lifestyles. Although migration is usually seen as problematic, it contributes to sustainable development. For households in poor areas, remittances improve security and, with the support of appropriate policies, can contribute to local economic growth. In industrial countries with ageing populations, migrant workers are an increasingly important part of the labour force and support national welfare systems.³⁹

With globalization, it is arguable that international migration has contributed to growth and prosperity in both States of origin and host States. Though often unacknowledged, migrants provide valuable labour in many developing States, as well as skilled labour to more developed countries. As previously indicated, another unacknowledged effect of migration is that remittances from migrant workers in many countries outstrip total aid money received from abroad and constitute an important portion of the Gross Domestic Product (GDP).⁴⁰

³⁹ Cecilia Tacoli and David Okali, *The Links Between Migration, Globalisation and Sustainable Development*, International Institute for Environment and Development, 2001, London, p. 1.

⁴⁰ Source: 2001 IMF Balance of Payments Statistics and the World Bank *World Development Report 2000*

Country	\$ millions	% of GDP
Bangladesh	1,803	4.1
Dominican Republic	1,613	11
Ecuador	1,084	5.8
Egypt	3,196	4.0

Curtailement of migration in host States can have a negative impact on the remittances flowing to States of origin - and diminish the availability of capital that developing economies desperately need. At the same time, such a crackdown on migration movements may result in substantial financial losses in host States, since the economies in these countries can also be dependent on migrants to fill certain jobs.

This is an example of why both push and pull factors of migration movements and their effects on the economies and societies of both host States and States of origin need to be more fully examined and understood in policy-making. It is here once again that UNESCO can provide the global research and institutional role to place the effects of migration in perspective and balance. There is an often unacknowledged or misunderstood common dependency between the economies in host States, which need the labour and skills of migrants, and those of States of origin, which benefit from the financial and other contributions of their citizens working overseas. To sever or obstruct this common economic dependency could be detrimental to all involved.

Unless the full impact at the global level of migration flows is properly studied and appreciated, policies that affect these movements risk having unexpected – and undesirable – effects on both host States and States of origin, as well as on those individuals who can least afford it.

5.4 UNESCO and Cultural Diversity

Cross-border population flows lead to increased diversity within societies. To ensure the maintenance of tolerance and mutual understanding and a sense of cohesion in changing cultural matrixes whilst strengthening shared values, States need to actively acknowledge this diversity rather than to ignore or discard it.

In this regard multicultural and multi-ethnic societies constitute one of UNESCO's priority areas.⁴¹ UNESCO thus finds itself at the forefront to improve understanding of the globalization processes involving migration, as well as working to inform decision-makers on how to ensure the social integration of migrant groups and increased public understanding. Whilst clearly challenging for policy-makers, cultural diversity can be maintained and valued in a way which promotes integration, and it is in this regard that UNESCO can be of assistance.

Acknowledging and promoting cultural diversity is a response which recognizes, respects and capitalizes on cultural differences in society. Rather than ignoring or stifling these differences, positive and inclusive approaches can lead to a balance of respect and understanding in societies. Individuals who feel that they are fully accepted as an integral part of the society in which they live, and are valued in terms of who and what they are, are more likely to be better integrated and to be involved effectively with the community in which they work and live.

El Salvador	1,379	12.3
Jordan	1,460	21.2
Philippines	7,016	8.9
Sri Lanka	1,056	6.9
Tunisia	761	4.0

⁴¹ See generally <http://www.unesco.org/most/flyer.htm>.

UNESCO is also heavily engaged in a number of initiatives dealing with pluralism, tolerance and cultural diversity, as shown amongst others by the recent adoption of the **Universal Declaration on Cultural Diversity**.⁴² This **Declaration** brings to the fore the central and positive role cultural diversity needs to play to foster social cohesion, tolerance and acceptance, as exemplified in the content of Article 2:

In our increasingly diverse societies, it is essential to ensure harmonious interaction among people and groups with plural, varied and dynamic cultural identities as well as their willingness to live together. Policies for the inclusion and participation of all citizens are guarantees of social cohesion, the vitality of civil society and peace. Thus defined, cultural pluralism gives policy expression to the reality of cultural diversity. Indissociable from a democratic framework, cultural pluralism is conducive to cultural exchange and to the flourishing of creative capacities that sustain public life.

UNESCO in this regard can serve “as a reference point and a forum where States, international governmental and non-governmental organizations, civil society and the private sector may join together in elaborating concepts, objectives and policies in favour of cultural diversity”.⁴³

UNESCO therefore can play a focal role to assist basic research and analysis of the difficulties and challenges which countries – both receiving and of origin – are facing. This necessarily includes issues such as xenophobia and discrimination against migrants, as well as opportunities in terms of protection of migrants’ rights, with particular attention to the social, cultural and political aspects.

This could take the form of a number of initiatives to further study and understand the value of cultural diversity, as well as the impact and form it takes in different societies around the globe. Better understanding of what cultural diversity is, why it matters for States in an increasingly globalized world, and how diversity can be managed beneficially to avoid the instability that unavoidably results from discrimination and xenophobia are some of the possible contributions UNESCO could make in this area with other governmental and non-governmental partners.

UNESCO could promote a joint international and interagency effort to bring research and policy recommendations dealing with issues such as cultural diversity, xenophobia and discrimination against migrants on a higher level.

5.5 UNESCO and Social Policy

In relation to migrants in specific States, UNESCO measures the impact of research on policy and conducts policy-relevant case studies. It also provides expertise and shares information on how to design research-anchored policy. UNESCO will assist in initiatives to improve policy and management of society in areas of cultural diversity and the integration of migrants. One area of research where UNESCO can thus contribute is on the effects of regularization of migrants' status and of stronger measures against

⁴² http://www.unesco.org/culture/pluralism/diversity/html_eng/index_en.shtml

⁴³ Article 12 (b) **Universal Declaration on Cultural Diversity**.

trafficking and irregular migration in the long term, and whether such steps can lead to a more favourable public image of migration.

UNESCO's section on International Migration and Multicultural Policies will be publishing relevant research findings and organizing workshops to transfer useful scientific knowledge and policy recommendations to policy-makers on matters of migration, social cohesion, and cultural diversity. Helping establish an interagency research programme on international migration in general also constitutes one valuable contribution UNESCO is making in this area.

UNESCO can help set up an interagency research programme on international migration that could prove invaluable for policymakers in specific cases.

5.6 UNESCO and the Ratification of the UN Migrant Workers' Convention

The violation of the rights of migrants contributes to social marginalization, alienation and rejection on the part of migrants. It could also contribute to the view amongst citizens that migrants are less deserving of respect, thus contributing to their vulnerability. It follows that the successful management of social cohesion and integration in culturally diverse societies requires, as part of a solid foundation, greater acknowledgement and application of the human rights of migrants. As fellow human beings, migrants are entitled to the full panoply of basic civil, political, social, economic and cultural rights; without security, acceptance of their diversity and respect of these rights, migrants will not feel part of society and will have less incentive to contribute constructively.

The increasing vulnerability of migrants in some parts of the world and the relative low level of international recognition and protection of their rights signal the need, more than ever, to develop and apply international standards. That integration policies need to contain and indeed strengthen legal measures for the protection of the rights of migrants has been acknowledged in numerous studies and reports. Yet, it still does not seem to be fully accepted, let alone applied by decision-makers.⁴⁴

As the **Migrant Workers' Convention** points out, migrant workers – including undocumented workers – are entitled to respect of their fundamental human rights. This should be promoted, regardless of the need to prevent and eliminate clandestine movements and trafficking in migrant workers. As indicated earlier, governments need to ratify the **Migrant Workers' Convention** as a step towards strengthening the legal protection of migrants in general, and towards contributing to the better management of migration problems and opportunities in particular.

This is a challenge that UNESCO and other partners can address, and a challenge that needs to be tackled globally. It includes a number of distinct problems in many parts of the world, some dealing with border control matters, others with the challenges posed by intolerance and xenophobia, and still more involving the strains caused by adaptations in culturally diverse societies.

⁴⁴ See, for example, Mary Coussey, Chair of the Specialist Group on Integration and Community Relations (2000), *Framework of integration policies*, Council of Europe, Strasbourg, and the *Final communiqué of the Sixth Conference of European Ministers responsible for migration affairs*, Warsaw, 16-18 June 1996.

As part of its role in the field of international migration, social integration and cultural diversity, UNESCO could support the setting up of an initiative bringing together researchers, policy-makers and NGOs for the launch of a campaign for the ratification of the **Migrant Workers' Convention**.

It is also a challenge that UNESCO is well positioned to take up, in cooperation with various interested State and non-State parties. A global challenge requires a global approach, and UNESCO can provide the international and scientific support for one vital component of such an approach: the increased ratification of the **UN Migrant Workers' Convention**.

6. Conclusion

Legal instruments for the protection of migrants are not in themselves sufficient to address all issues dealing with respect for diversity and tolerance, nor to ensure the integration and acceptance of migrants. Alone they cannot change behaviour, since they only deal with one very specific aspect: to detail and further develop the legal standards to which these particularly vulnerable individuals are entitled as part of the protective regime of international human rights.

The very low level of ratifications and deficiencies in the few treaties dealing with migrant rights at the international and regional levels mean that migrants enjoy – in legal and often practical terms – far less protection under both international and national levels than do many other vulnerable groups.

Yet, while ratification of the **UN Migrant Workers' Convention** is undoubtedly a vital aspect of the global challenge facing the international community, it needs to be supplemented by other appropriate steps, including efforts to better inform and underscore to all concerned the benefits of diversity, the need for tolerance and mutual understanding as well as to promote a sense of cohesion in changing cultural matrixes. It should be emphasized that States therefore have an important role to play to ensure that such a favourable climate is created. In particular, States must unhesitatingly challenge xenophobic and intolerant perceptions of migrants by combating these with accurate information as to the existence and importance of instruments such as the **Migrant Workers' Convention**, as well as by emphasizing the positive and valuable contributions migrants make to society. This is consistent with the increasing efforts from organizations such as the UN, UNESCO, the Council of Europe and the European Union in these areas, including to address problems such as migrants being often unaware of their basic human rights.

Unfortunately, the absence of clear and concerted measures to protect the rights of migrants may have contributed to the creation of a climate that has been less than tolerant and accepting of migrants in recent years. Only in March 2003 did the 1990 **UN Convention on the Protection of All Migrant Workers and Members of their Families** receive the twenty ratifications required for it to enter into force, with none from Western States. Many factors explain this weak State support, including serious misunderstandings as to the potential impact of the rights contained in the **Migrant**

Workers' Convention, but also and perhaps more problematic, the present economic, social and political climates.

There are at the very least two important steps that need to be taken to ensure that migrants are not simply used and discarded in complete disregard of their humanity and that they can contribute positively in the States where they work and their State of origin: implement a legal regime which acknowledges that migrants are a particularly vulnerable group of human beings with human rights that must be legally protected, and create a tolerant climate which discourages xenophobic and negative behaviour against migrants. The two go hand-in-hand, and whilst there are increasing efforts to try to encourage a positive climate in many countries with, amongst others, information campaigns on the contributions of migrants, it remains that the first step has still largely not been taken. As has been shown in this paper, migrants simply do not have the level of protection in legal terms that most people and governments assume.

And yet migrants have so much to offer. Migrant workers are for many countries an extremely valuable component of their economies, make societies where they live the richer for their diversity, and represent, in a sense, a barometer for our tolerance of others. Though they may be vulnerable in many parts of the world, their continued existence is indispensable both in the State of origin and in the host State. It is therefore in the interest of all societies, North and South, to ensure the recognition and protection of the rights of migrants.

This in itself should be enough to signal the need for more Governments to ratify the **Migrant Workers' Convention** as a necessary step towards strengthening the legal protection of migrants in general, and towards contributing to the better management of migration problems and opportunities in particular.

The global nature of this challenge calls for a global approach, one for which UNESCO can provide vital international and scientific support to ensure that problems such as border control matters, intolerance and xenophobia, and the strains caused by adaptations in culturally diverse societies are addressed effectively, in conformity with respect for the fundamental rights of migrants. One vital component of such an approach is the urgent need to increase the level of ratification of the UN **Migrant Workers' Convention**.

As part of its role in the field of international migration, social integration and cultural diversity, UNESCO could for example support the setting up of an initiative bringing together researchers, policy-makers and NGOs for the launch of a campaign for the ratification of the **Migrant Workers' Convention**.

Finally, UNESCO offers opportunities to improve policy-making and management of social cohesion and integration in culturally diverse societies, requiring greater acknowledgment, application and public understanding of the human rights of migrants, as well as an appreciation of the global aspects of the international migration phenomenon.

After all, the advice of King Stephen to his son more than one thousand years ago is just as valid today as it was then: "Take care of your foreigners, esteem and support them. They

should favour your country to others. Keep in mind, everybody has been born as a free human being”.

The challenges are daunting, but the rewards for all - host States, receiving States, and migrants alike – could be immensely enriching in terms of economies, cultural diversity and successful integration.