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Promoting the Protection of the Rights of Immigrants

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Introduction

Multi-ethnic states and global travel are the norm in today's world. Globalization and the increasing movement of people across borders create tensions and threaten the stability of the nation state. Migration is sensitive everywhere. Many countries rely on migration to relieve domestic tension, allowing qualified people to find work and send home money (remittances). Their governments are socially determined to insure the rights of their people migrating abroad are protected, that they are not abused.

Others see it immigration (receiving migrants) as essential to national development, a source of economic dynamism and a growing population. Thus immigration is economically essential and generally desirable. Particular sectors of national economies are often completely dependent on migrant workers, such as agriculture in the United States. Still others view migrants as a threat to national safety and security, or national identity, a problem to be controlled.

Not only does this create tensions, but also threatens the minority culture as dominant cultures impose their identities on other groups with whom they share territory. To avoid marginalization, minorities often increase their efforts to protect their identity. This can create strong opposing forces within a territory, creating intolerance of one another, and often times armed ethnic conflict.¹ This is where promoting the protection of minority rights becomes essential. While countries often place limits on who may legally enter within their territory, countries must guarantee certain basic human rights to all. This is a goal among those that the United Nations is fighting to achieve.

International migration is a separate issue from refugees and domestic migration. The largest global migration—involving hundreds of millions of people—is domestic, within countries are people move mostly from the countryside to cities where work and educational opportunities are plentiful.² This migration is mostly regulated through domestic law. It only becomes a concern of the international community when governments fail to protect the human rights of their people. International migration is estimated at roughly 20 million annually, of which several million are illegal.³ Managing this flow of humanity is a vital task requiring international cooperation.

Background

Migrants are vulnerable to mistreatment as they move from one country to another, losing civil rights and becoming vulnerable to exploitation.

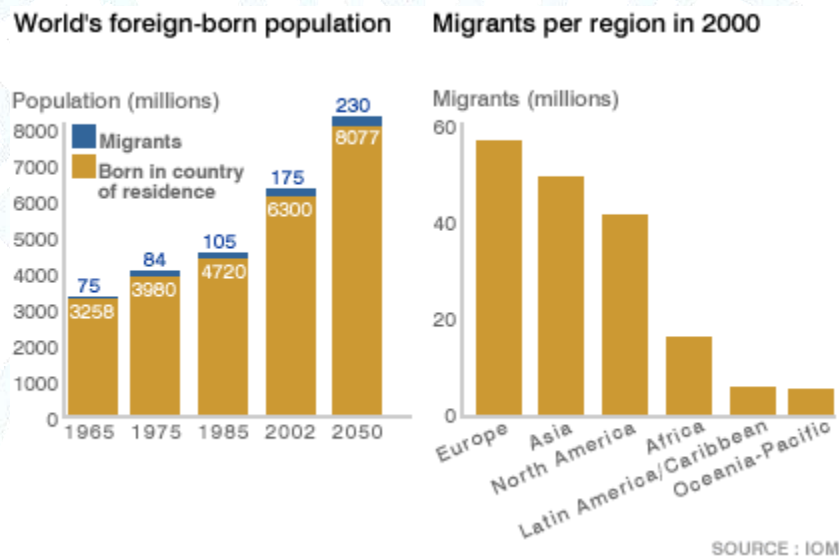
¹World Conference against Racism: "[Multi-ethnic States and the Protection of Minority Rights](#)." United Nations Department of Public Information. (2001).

²"[China's Great Uprooting: Moving 250 Million Into Cities](#)", *New York Times*, 15 June 2013.

³[The Global Migration Phenomenon](#) (Paris: OECD, 2010).

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Graph 1. Global migrant population, 2000



Born out of the horrors of many world known genocides, the United Nations is more than aware of the dangers of intolerance when it comes to minority populations. Because of this, there have been several landmark UN resolutions on this topic.

- In 1992, the General Assembly adopted the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. As the document specifically addressed the rights of minorities, the Declaration is viewed as a point of reference for the international community. States were requested to take measures in educating their population in order to encourage knowledge of the history, traditions, and language.¹
- Between 1973 and 2003, the General Assembly designated three decades for action to combat racism and racial discrimination and to ensure support for people struggling for racial equality. These decades were essential in starting the development of a worldwide spread of education programs on racial discrimination and human rights.
- One body created for the goal of protecting the rights of immigrants was the Sub-Commission on the Promotion and Protection of Human Rights. This was the main subsidiary body of the Commission on Human Rights. At its first session in 1947, the Commission was originally established. In 1999, ECOSOC changed the title to Sub-Commission on the Promotion and Protection of Human Rights. Among the main themes addressed were: racism; the violation of human rights and fundamental freedoms in any part of the world; economic, social and cultural rights; civil and political rights, i.e., torture, detention, disappearances and summary executions, freedom of expression, the independence of the judiciary, impunity and religious intolerance; the human rights of women, children, migrant workers, minorities and displaced persons.⁴ Having this body

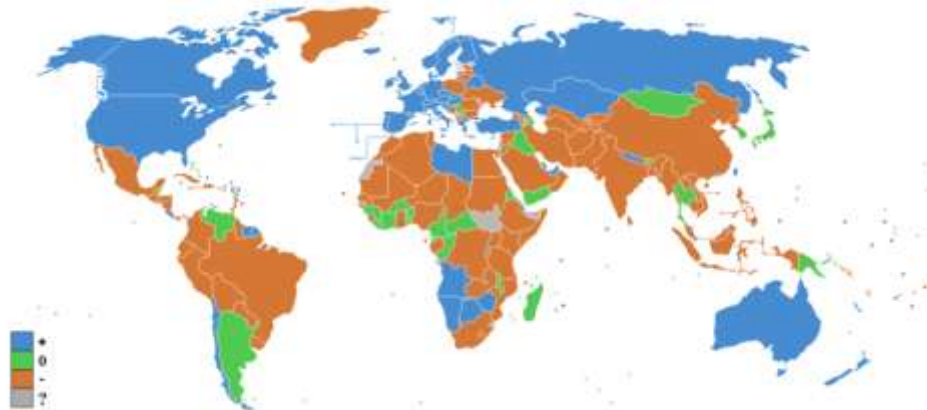
⁴United Nations Human Rights: Office of the High Commissioner for Human Rights. “[What we do.](#)” (1996-2013).

was essential for promoting the awareness of human rights, a journey that will in turn help establish boundaries and diminish tensions for immigrants.

Current Situation

The basic center for international research and policy coordination is the International Organization for Migration (IOM) was established in 1951 and is currently the largest organization focused on migration.⁵ The IOM is comprised of 127 member states and works closely with governmental, intergovernmental and nongovernmental agencies by providing services and advice to governments and migrants. Their goal is to promote international cooperation, solutions to migration issues and humanitarian assistance to migrants in need. According to the International Organization for Migration (IOM), there are currently 214 million immigrants throughout the world today. This means one out of every 33 people in the world today is a migrant. In order to develop a comprehensive immigration or migration policy, the complex relationship between the immigrant, country of origin, and country of destination must be understood. As the IOM recognizes, while migration policy “is a significant area of public policy in its own right”, it is also connected to other areas of public policy including economic, social, labor, health, culture and security domain. The most immediate concern for those involved in racial discrimination crimes is a lack of personal security.

Figure 1. Sources and destinations of international migration



Another group dedicated to spreading knowledge on the rights of others is the Advocates for Human Rights, established in 1983 and still going strong today. The mission of The Advocates for Human Rights is to implement international human rights standards in order to promote civil society and reinforce the rule of law. By involving volunteers in research, education, and advocacy, they build broad constituencies in the United States and select global communities. With the help of hundreds of trained volunteers, The Advocates for Human Rights provides free legal services to over 500 people annually. These are just several examples of the many organizations working toward the goal of promoting the protection of the rights of immigrants.⁶

⁵ International Organization for Migration, <http://www.iom.int/cms/home>

⁶The Advocates for Human Rights. “[Immigrant Rights](#).” (2010).

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Another direction for international policy are measures to restrict migration. Building fences and walls is popular in the Middle East and United States.⁷ Governments usually agree to cooperate to improve migrants' rights, insure humane treatment, economic integration and access to health care. They also sometime work aggressively to halt migration. Sometimes these instincts contradict; others insist they can be reconciled.

Role of the United Nations

For centuries, many populations, large or small, have been subjected to ill treatment, rejection, exclusion, and discrimination in various forms. Wanting to leave this type of treatment in the past, the United Nations and its agencies have increased the processes of advocating protecting and promoting minority rights and identities within multi-ethnic states. The Office of the High Commissioner for Human Rights is the principal United Nations office mandated to promote and protect human rights, and supports the United Nations belief that working to promote intolerance is fundamental to both conflict prevention and peace building. Without tolerance, successful development and political policies cannot take place.

Current action by the UN took place at the 67th session of the General Assembly in which a resolution (Res 67/172) was adopted on the protection of migrants. This resolution called upon states to promote and protect the rights of all migrants, regardless of place of origin, reaffirmed the rights set in place under the Universal Declaration of Human Rights, stresses the importance of international cooperation, and continues further.⁸

Country Positions

Country positions vary dramatically. And important distinctions must be made between domestic approaches to migration and diplomatic policy. Some countries with poor protection for migrant rights often are more willing to support international action, if they can find ways to exempt their own countries.⁹ Similarly, many countries make migration policy mostly about everyone else.

Australia is a country in the midst of focusing on the topic of immigrant rights. Its experiences illustrate the tensions many countries face. National policy is divided between legal and illegal migration. Illegal migration—mostly by sea from the northwest—brings illegal migrants from Asia (especially Afghanistan and Pakistan). The illegal migrants often are dumped by traffickers in the Western Desert, a dangerous environment. Since the early 90's, Australia has had a system of mandatory detention. According to Australia's Migration Act of 1958, any non-citizen without a valid visa must be detained. People are released from immigration detention if they are granted a visa or removed from the country. Often this means migrants are interned on Pacific Islands or Papua New Guinea. There has been much debate over whether this is an ethical solution. The Australian Human Rights Commission has been working for over a decade to establish standards for detention facilities and publish public reports on these standards. The current parliamentary

⁷ [“The US-Mexico border: Secure enough,”](#) *The Economist*, 22 June 2013.

⁸ United Nations General Assembly: Social, Cultural, and Humanitarian Committee. [Resolution 67/172 Protection of Migrants](#). Sixty-seventh session. 3 April 2013.

⁹ [“The Middle East’s migrant workers: Forget about rights”](#), *The Economist*, 10 August 2013.

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election has the country still divided on immigration policy.¹⁰ In its UN diplomacy, Australia has been very active to develop cooperative solutions with countries of origin and countries of departure.

In Asia migration tends to be viewed in terms of its immediate impact, benefits and costs, for local economies. Human rights priorities are not ignored, but tend to be secondary for many East Asian governments.¹¹ Most authorized migration pertains to filling labor gaps. Once their contracts have expired, migrants are returned to their countries of origin, although they often find ways to stay. The problem of forced return is especially important for migrants who marry and create families in their temporary homes. Since the early 1970's, the oil producing countries as well as the newly industrialized countries of East and South-East Asia have attracted a large number of immigrants, often from South Asia (India and Pakistan) and Southeast Asia (especially Philippines). Much of the discussion surrounding immigration in Asia deals with regulation of movement, rather than protection of migrant rights.¹²

The countries of the European Union have the most comprehensive migration policies of any. European countries are relatively welcoming toward migrants, widely seen as essential to national development and a responsibility of the all states under international law. While European countries have small, anti-immigrant nationalist parties, these do not affect their UN diplomacy. Since 1999, the EU has recognized that in order to develop comprehensive policies to deal with immigration, both from a human rights perspective and a security issue, governments and NGO's must develop interdependent policy changes. EU policies on immigration deal with issues related to: trade, aid, development, state security and human rights. The EU is currently working toward developing coherent policies that will deal with fundamental rights and citizenship, internal/external borders and visas, a common asylum area and integration.

The European Union sponsors a number of measures and invests heavily in development of African and Middle Eastern economies, to reduce the long-run incentives for excess migration.¹³ European Union and its member states work intensively with countries of origin to reduce illegal migration. It also promotes policies to protect migrants from exploitation and insure humane treatment. It usually is the most creative source of innovative resolutions and most willing to finance major reforms.

In Latin American and Caribbean countries "push factors" such as the demand for skilled workers, have caused many Latin Americans to emigrate to the United States and Europe. Latin American countries are aware of the dangers associated with illegal migration, such as vulnerability of human rights violations and increased risk of becoming victims of human trafficking. Therefore, they are working to adopt common positions on migration and the measures taken by major countries of destination, such as the United States. The Regional

¹⁰ [Australian Human Rights Commission. Immigration Detention and Human Rights.](#) (2013).

¹¹ [Thailand's illegal immigrants: A deadly cocktail](#), *The Economist*, 28 February 2013

¹² [United Nations Expert Group Meeting on International Migration and Development in Asia and the Pacific.](#)" (2008)

¹³ Sussmuth, Rita. ["Developing a Coherent Migration Policy: Germany and European Union."](#) (2006)

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Conference in on Migration held in Puebla, Mexico was established in 1996, and in 2000 the South American Conference on Migration was held in Buenos Aries. These conferences have made progress in identifying common terminologies, procedures for migration management and examine the relationship between migration and development, but they have yet to be fully reinforced. South American countries recognize the urgency of protecting immigrants under international law; however this protection has yet to be achieved on an organized level.¹⁴

Several countries are known for xenophobic hostility toward all foreign migrants, especially specific groups, often including ethnic minorities (national citizens who may be seen as lacking national loyalty and vulnerable to discrimination). These groups often face public hostility, including risk of assault or theft, and lack recourse to law enforcement. Prominent examples include China and the Russian Federation.¹⁵ For China and Russia, and to a lesser extent the United States, migration policy is an extension of counter-terrorism policy. The rights of migrants often are less important than popular efforts to insure legal migration is not used to facilitate entry of terrorist suspects.

The United States historically is a major destination for immigrants, most recently from South American and Asian countries. While the United States is essentially a nation of immigrants, American laws do little to protect undocumented immigrants, often branded illegal immigrants in highly polarized domestic political debate. The intensity of American domestic debates makes migration a difficult issue for American diplomats, who must represent sharply divided domestic opinion, and differences between national (federal) and provincial (state) policy. So far, America's torturous debates over domestic migration policy have not greatly affected its international policy on these issues.

In 1986, the United States adopted the Immigration Reform and Control Act, which aimed to deter illegal immigration into the United States.¹⁶ It placed sanctions on employers who knowingly hired undocumented workers and increased enforcement at U.S. borders. After September 11th, the country has heightened security through laws such as the PATRIOT Act, which restricts the rights of immigrants. Overall the U.S. is divided on the issue of immigration. Being both welcoming of documented immigrants legally entering the country, and yet fearful of undocumented immigrants or illegal aliens as an issue of national security. Much of the support for immigrants' rights in the United States comes from advocacy groups such as the American Civil Liberties Union.¹⁷

In the United Nations the United States is primarily concerned to make sure that international law and policy does not change in way that will reduce American sovereignty and freedom of action. Instead, the United States favors measures to promote rights of migrants in other countries, to insure their civil liberties and access to medical care.

¹⁴[International Migration, Human Rights, and Development in Latin America](#). UN Economic Commission for Latin America, 2006.

¹⁵ "Russia Steps Up Raids Against Migrants", *New York Times*, 12 August 2012.

¹⁶ U.S. Customs and Immigration Services. "[Immigration Reform and Control Act of 1986](#)." U.S. Citizenship and Immigration Services.

¹⁷ American Civil Liberties Union. "Immigrant's Rights." <http://www.aclu.org/immigrants-rights>.

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Conclusion

Although many advances have been made towards recognizing immigrant rights, much work still needs to be done on implementing proper treatment of immigrants internationally. The ideal international response would have increased spread of education on proper human rights. Increased education would ideally lead to smoother migration processes and decreased tensions between host countries and immigrant cultures. For some countries, the struggle is in getting the country to feel less threatened by intruders and working with country policies that do not allow for immigration or equal rights. If these barriers can be broken down, movement across the world, including the spread of culture and people will potentially be widespread, ending with equal rights.

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