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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Report of the Special Rapporteur on the human rights of migrants, Jorge Bustamante

Summary

This is the final report submitted to the Human Rights Council by the outgoing Special Rapporteur on the human rights of migrants, Jorge Bustamante. In the first, substantive part of the report he recapitulates some of the main thematic issues he has focused on since his nomination, namely irregular migration and criminalization of migrants, protection of children in the migration process and the right to housing and health of migrants. In the second part, he proposes a few themes where he considers further research by the mandate could add value to the protection of the human rights of migrants. The two themes he considers important for further research and discussion are migration in the context of climate change, and the political participation and civil rights of migrants.

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I. Activities of the Special Rapporteur

A. Country visits

1. The Special Rapporteur wishes to thank the Government of South Africa, for having responded positively to his request for a visit. He would also like to thank the Governments of Albania, Greece and Belarus for their invitations, which he could unfortunately not honour.

2. During the period under review, the Special Rapporteur undertook three visits: to Senegal, from 17 to 21 August 2009; to Japan, from 23 to 31 March 2010; and to South Africa, from 24 January to 1 February 2011. The Special Rapporteur would like to thank the Governments that have responded positively to his requests for visits and urges those that have not yet done so to provide a response.

B. Communications with Member States

3. From 1 January to 31 December 2010, the Special Rapporteur sent a total of 25 communications alleging violations of the rights of migrants to 18 Member States and received 11 responses from the Governments concerned. He thanks all the Governments that responded to his communications for their collaboration, and reminds Governments that have not yet responded to do so and address all the concerns raised in each communication. A summary of all communications sent during the period under review are included in an addendum to the present report (A/HRC/17/33/Add.1).

C. Other activities

4. During the reporting period, the Special Rapporteur attended various international events.

5. From 26 to 27 January 2010, he participated in an expert meeting on the right to education of migrants, refugees and asylum-seekers, convened by the Special Rapporteur on the right to education. The event took place in London and was hosted by the Open Society Institute/Foundation.

6. The Special Rapporteur also attended the Global Consultation on Migrant Health organized by the International Organization for Migration (IOM) and the World Health Organization (WHO) in Madrid from 3 to 5 March 2010.

7. On 6 and 7 October 2010, he participated at the Festival Viva América, organized by Casa América, in Madrid. From 4 to 8 October 2010, together with the Special Rapporteur on the sale of children, child prostitution and child pornography and the Special Rapporteur on contemporary forms of slavery, he participated in a conference entitled "Children on the move", organized by the Global Movement for Children, Save the Children and the Fundació Privada Moviment Mundial a Favor de la Infància, held in Barcelona, Spain, from 4 to 8 October 2010.

8. On 8 and 9 November 2010, he participated in the Fourth Global Forum on Migration and Development, hosted by the Government of Mexico in Puerto Vallarta. The Forum this year focused on partnerships for migration and human development, the topic on which the Special Rapporteur had focused his annual report to the General Assembly in 2010 in the context of criminalization of migration.

II. Recapitulation of the main thematic issues

9. This report will mark the end of the reporting cycle for the current mandate holder. In view of the review and assessment of the mandate, the Special Rapporteur thought it relevant to recapitulate the main thematic issues that he has focused on since his nomination, in order to present the achievements of the mandate.

A. Criminalization of irregular migration

10. The Special Rapporteur observed the increasing abuse of irregular migrants throughout the migration process (in the country or territory of origin, transit and destination) and put forth a discussion to highlight some of the violations against irregular migrants and the responsibility of the State to take measures to prevent such violations.

11. The power of the State to manage admission and expulsion, however, has to be exercised in full respect for the fundamental human rights and freedoms of non-nationals, which are granted under a wide range of international human rights instruments and customary international law. Although it is the sovereign right of all States to safeguard their borders and regulate their migration policies, States should ensure respect for the human rights of migrants while enacting and implementing national immigration laws. It is the responsibility of the State, regardless of the legal status of the migrant, to ensure that fundamental human rights norms are adhered to and that all migrants are treated with dignity, and their obligation to respect and protect the human rights of all those within its territory, nationals and non-nationals alike, regardless of mode of entry or migratory status.

12. The Special Rapporteur drew attention to the increasing criminalization of irregular migration and the abuses of migrants during all phases of the migration process. This criminalization is linked in many countries to persistent anti-migrant sentiments, which is often reflected in policies and institutional frameworks designed to manage migratory flows, often in a purely restrictive manner. The Special Rapporteur received reports of the criminal justice practices used by States to combat irregular migration, including greater criminalization of migration offences (as opposed to treating them as an administrative offence) and cross-national collaboration by police and other authorities, which have in certain cases resulted in increased violations against migrants.

13. These general trends could be grouped into two broad categories - externalization of migration control policies and criminalization of labour migration.

14. For decades, many States have responded to persistent irregular migration by intensifying border controls. These measures have often been targeted at wide geographic areas on the borders or coast of a main receiving country or region. In recent years, in an effort to further curb irregular migration and simultaneously address issues of national security, some States were seen as employing techniques in order to “externalize” border controls to countries of origin and transit, whereby utilizing bilateral agreements and/or aid in order to transform these targeted countries into a potential buffer zone to reduce migratory pressures on receiving States. The concern was that these policies, while legitimately aimed at reducing irregular migration, and often incorporated into bilateral agreements that can have positive aspects, have contributed to the criminalization of irregular migration insofar as they treat migration violations as a criminal rather than administrative offence without the proper human rights protections afforded to migrants in the process.

15. These migration control policies have also had a series of unintended side effects in the form of increasing violations of migrants’ rights in the region. There were persistent accounts of the dangers confronted by would-be migrants in transit in both of these regions,

may induce irregular migrants to take greater risks in circumventing the authorities. The Special Rapporteur remained concerned about the number of deaths occurring throughout the migration process.

16. The Special Rapporteur observed that the increasing criminalization of irregular migration, in cases of movement for economic purposes, did not adequately address issues of demand-driven labour and the needs of the receiving economies. A predominant push factor for migrating was perceived employment and, despite the reciprocal relationship between economies that may be able to absorb additional migrants which move in search of employment based on perceived demand in the host country, it is often the irregular migrant who is penalized. Moreover, an inadequate understanding of the needs of a host society could lead to xenophobic sentiments towards the migrant population, even if the migrants are filling a labour gap which contributes to helping an ailing sector of the host economy.

17. Despite the general agreement on the positive aspects of migration for development and the evolution of international forums for cooperation, the focus of States has largely been on the better management and control of the movement of migrants and their goods and services, rather than on the articulation and protection of their rights. The Special Rapporteur saw a trend toward viewing migrants as commodities, rather than as persons with rights and duties afforded to them through the international human rights framework.

18. Also, the Special Rapporteur focused on the phenomenon of migrants travelling by sea in search of safety, refuge or simply better economic conditions. In an effort to restrict these flows, destination States have increasingly resorted to interception practices within the broader context of migratory control measures. In both cases reports indicated that adequate protection safeguards and attention to the human rights of those rescued or intercepted had not always been evident. The Special Rapporteur expressed concern about reports received concerning migrants who had been intercepted, detained or who had lost their lives at sea, in particular in the Mediterranean and Gulf regions.

19. Migrants were and still are particularly vulnerable to detention, or to restriction of their freedom of movement, including deprivation of their liberty, usually through enforced confinement, either in the receiving country or during transit (by land or sea). In the interception of migrants lacking documentation, many States employed administrative detention of irregular migrants in connection with violations of immigration laws and regulations, which were not considered to be a crime. These may include overstaying a permit or non-possession of valid identification or visa documents. In some cases, however, national immigration regulations are often made into measures that criminalized and punished in an attempt to discourage irregular migration. Undocumented migrants therefore become particularly vulnerable to criminal procedures, which are by definition punitive in nature, for many of the same infractions as administrative detention encompass, such as irregularly crossing a State border, leaving a residence without authorization, or breaching or overstaying conditions of stay. With such diversity in national policy and law governing detention and expulsion, it was important that irregular migration be seen as an administrative offence and irregular migrants processed on an individual basis. Where possible, detention should be used only as a last resort and in general irregular migrants were not to be treated as criminals.

20. The Special Rapporteur observed the continued abuse of irregular migrants who were involved, whether deliberately or inadvertently, in smuggling and trafficking operations. Over time the process of human trade has become more complex, whereby smugglers and traffickers use a combination of deceptive, clandestine or even legal modes of migration, switching strategies at different stages of the journey, and involving both legitimate and illicit actors at the governmental and non-governmental levels.

21. The Special Rapporteur encouraged States to view irregular migration as an administrative offence, reversing the trend toward greater criminalization, and to incorporate the applicable human rights framework into their bilateral and regional arrangements for managing migration flows and protecting national security interests, as well as to harmonize their national laws and policies with international human rights norms. At the core of immigration policies should be the protection of migrants, regardless of their status or mode of entry. As such, the Special Rapporteur offered practical recommendations for the formation or reform of regional and bilateral cooperation mechanisms and agreements, as well as the enhancement of national training and analysis programmes and policy measures.

22. The Special Rapporteur focused again on the impact of the criminalization of migration on the protection and enjoyment of human rights as a follow-up to his report to the Human Rights Council two years before.¹ The report highlighted the detrimental consequences of such policies on groups that should not be considered as irregular migrants, including victims of human trafficking, asylum-seekers and children. The report also provided examples of good practices in the mainstreaming a rights-based approach to migration and managing irregular migration without resorting to its criminalization.

23. The Special Rapporteur had previously warned the international community of the increasing criminalization of irregular migration and the abuses of migrants during all phases of the migration process.² Two years later, the Special Rapporteur observed with deep concern that the trend towards increasing criminalization continued. In addition, insufficient progress had been made in mainstreaming human rights into migration governance. Yet, migration can be an essential component of development and prosperity in countries of destination, transit and origin in all regions of the world, and migrant labour continues to be vital, and in demand, in most countries around the globe. The Special Rapporteur observed that disregard for human rights in migration management initiatives had detrimental consequences not only for the protection of undocumented or irregular migrants, but also for migrant populations as a whole and host societies at large.

24. Migration policies, plans and programmes that aimed to address solely security and border control concerns lacked human and protection approaches, had a detrimental impact on the enjoyment of human rights by migrants and did not serve the purpose of deterring irregular immigration or discouraging migrants' smuggling and human trafficking. The Special Rapporteur drew the attention of the international community to the dangers of these policies, not only for migrants, but also for the migrants' societies of transit and destination. Research studies had already demonstrated that many enforcement mechanisms designed to prevent irregular or unauthorized migration, including harsh policies of interception, carrier sanctions and immigration control, were responsible for violence and abuse and might have the side effect of encouraging the expansion of smuggling and trafficking networks. The Special Rapporteur also observed with deep concern recent initiatives of federated entities in some States which have taken steps to draft laws with immigration provisions that are contrary to constitutional principles and whose competence relies strictly on the central or federal Government.

25. Criminalizing irregular migrants for the offence of being in a country without adequate documentation made all migrants, regardless of immigration status, potentially vulnerable to racist or xenophobic acts. As a result, migrants were often subject to xenophobic outbreaks of abuse and violence. Migration management based on criminal law tended to disregard a human rights dimension of migration and to focus solely on measures

¹ A/65/222.

² A/HRC/7/12.

to address irregular migration by strengthening border controls and criminalizing both the facilitators and the migrants themselves. The Special Rapporteur has shown in the course of his mandate that the use of criminal measures to manage migration undermined the human rights of migrants and curtailed their access to basic social rights, particularly health care, education and housing.

B. Protection of children in the context of migration

26. The Special Rapporteur also focused on the protection of children in the context of migration, recalling the obligation of the State to ensure the protection of all children in all stages of the migration process.³ He presented an overview of the international legal framework applicable, proposed a conceptual framework and referred briefly to three categories of children affected by the migration process: those left behind by migrating family members; migrant children moving across borders; and migrant children in host countries.

27. Children have always been part of migration and affected by it in different ways. Children left behind by migrant family members are affected by migration in countries of origin. Children on the move are affected at the pre-departure stage in countries of origin and in countries of transit and destination at the passage and arrival stages. Children in host countries are affected at the post-arrival and long-term stay and integration stages of the migration process. Children move across borders with their parents or are accompanied by extended family members or other adults and within mixed migratory flows. Children are also increasingly seeking migration opportunities to move across borders unaccompanied, falling prey to organized crime and exploitation including smuggling, trafficking and contemporary forms of slavery.

28. The term “children left behind” refers to children raised in their home countries or in their countries of habitual residence who have been left behind by adult migrants responsible for them. The impact of migration on children left behind was difficult to measure. Many factors played a role in assessing how migration may affect the rights of children left behind. The inclusion of measures to promote family unity and facilitate the reunion of children with their parents in host countries was also necessary to address adequately the special needs and protection of children left behind. Many parents and other family members initially migrated without children, but subsequently planned to bring them to a host country.

29. Children on the move are migrant children taking an active part in the migration process, particularly at the passage and arrival stages in countries of transit and destination. They may be found migrating with their family members or independently, to seek opportunities for both education and employment. Children may also be forcibly on the move, such as when falling prey to transnational organized crime and exploitation networks. Unaccompanied and separated children on the move faced greater vulnerabilities and risks, including discrimination, sexual and other forms of violence. Frequent human rights issues affecting children on the move also included deportation and repatriation. Children should be repatriated only if it is in their best interest, namely, for the purpose of family reunification and after due process of law. Another major concern related to the particular vulnerability of children who were unaccompanied, undocumented and/or entering countries irregularly, including within mixed migratory flows, to unlawful or arbitrary deprivation of liberty.

³ See A/HRC/11/7.

30. The protection of children in host countries was in most circumstances context-specific, and therefore depended on the particular situation of the child: whether the child's situation amounted to the protection afforded under refugee law; whether the child was a victim of transnational organized crime; whether the child migrated with his family and one or both parents were migrant workers; or whether the child migrated irregularly, unaccompanied or undocumented. The Special Rapporteur had identified two areas where States generally should enhance efforts to provide rights-based responses to protect children in host countries. The first area related to the general protection of children affected by transnational organized crime. The second area related to the full enjoyment of human rights by children from a migrant background.

31. The Special Rapporteur highlighted that there is no accurate statistical information on the number of children involved in the international migration process. Like adult migration, child migration is influenced by the political, social, economic and environmental situation. This included new global phenomena such as climate change, the food crisis and the financial and economic crisis. Children who are unaccompanied or separated from their parents were particularly vulnerable to human rights violations and abuses at all stages of the migration process. The lack of distinction between adult and child migrants was therefore a major challenge that a number of States still had to overcome. National migration laws did not always include a child rights perspective and usually lack specific provisions on children.

32. The protection of the child during migration demanded the consideration of issues related to irregular migration, since they affected the child's enjoyment of human rights. The protection of children during migration necessarily implied a gender dimension, since women and girls accounted for almost half of international migrants, and girls migrating either on their own or accompanied are vulnerable to sexual violence and gender-based human rights violations.

33. Finally, the Special Rapporteur highlighted the importance of an adequate legal framework for the protection of the rights of all children in the context of migration, including through ratification of relevant international human rights and other instruments and their translation into national laws and policies. He made a number of recommendations for further consideration and action.

C. The rights to health and to adequate housing for migrants

34. The Special Rapporteur focused on the enjoyment of rights to health and to adequate housing for migrants.⁴ He recalled the applicable international legal framework and discussed the main challenges encountered by migrants in the enjoyment of these rights, with particular attention to the situations of migrant women and girls and children.

35. The Special Rapporteur recalled that the enjoyment of these rights by all individuals in society regardless of their citizenship, nationality and immigration status is not only an end in itself as a matter of entitlement, but also a crucial means to ensure equitable human development and social integration of migrants in host societies.

36. The Special Rapporteur was also concerned about a general lack of comprehensive policies and measures aimed at protecting and promoting the rights to health and adequate housing for migrants. The absence of such policies and measures gave rise to violations of States' obligations to take steps towards the full realization of these rights. For example, newly arrived migrants could face a variety of challenges in accessing health care or

⁴ See A/HRC/14/30.

housing, given their limited command of the language of the host State and their lack of knowledge of the laws and systems in the host countries. The enjoyment of the rights to health and adequate housing by migrants was effectively hampered in the absence of necessary support, such as the provision of language training or free information on relevant laws and regulations. Connected to this concern was a lack of disaggregated indicators on the economic, social and cultural rights of all individuals, including migrants.

37. Migrants may be more vulnerable to poor health by virtue of their often low socio-economic status, the process of migration and their vulnerability as non-nationals in the new country. The mental health of migrants was also an issue of concern, as factors such as social isolation caused by separation from family and social networks, job insecurity, difficult living conditions and exploitative treatment could have adverse affects. The processes of migratory movement may also have a significant negative impact on the health of migrants before they arrived in the host country.

38. Entitlements and access to health care for migrants and the level of such care varied enormously, depending on the State in focus as well as on immigration status. It ranged from migrants only being able to access emergency care to expansive health coverage for all, including migrants in irregular situations. At one end of the spectrum, regular migrants satisfying certain conditions had entitlements comparable to citizens of host States, although there were differences between long-term and short-term migrants with regard to entitlements and access. At the other end, non-nationals were not able to access life-saving medication, because facilities denied treatment on the basis of “being foreign” or not having a national identity document.

39. Female migrant workers engaged in domestic services were one of the most vulnerable groups of migrant workers. There appeared to be a widespread pattern of physical, sexual and psychological abuse of migrant domestic workers, and they were also often exposed to health and safety threats without being provided with adequate information about risks and precautions. Migrant women and girls also often experienced different and more problematic pregnancy and gynaecological health issues, compared to the host population.

40. Regrettably, there were vast discrepancies between international human rights norms and their actual implementation in the field of health care for migrant children, whether these children are in regular or irregular situations, accompanied or unaccompanied. Inadequate care had long-lasting consequences on a child’s development; for this reason, and in the light of the State duty to protect the most vulnerable, access to health care for migrant children should be an urgent priority. In general, the constraints on the rights of adult migrants immediately had an adverse impact on the rights of their children, and in the long term, inhibited the children’s development.

41. In analysing the challenges faced by migrants in the enjoyment of the right to adequate housing, the Special Rapporteur noted that this right is not a right to mere shelter, but the right to live in a safe, peaceful and dignified environment, whether or not adequate housing is contingent on a number of elements, including the security of tenure, affordability, accessibility, location and availability of services, facilities and infrastructure. In the context of migrants, the attention of the Special Rapporteur had been drawn to challenges in accessibility and the security of tenure, owing to migrants’ vulnerable status as non-nationals.

42. In practice, however, a variety of challenges remained to be tackled in fully realizing this element of the right to adequate housing. In the private housing market, discrimination often inhibited migrants’ access to adequate housing. Discrimination in housing also resulted from poverty and economic marginalization. Migrants, who experienced marginalization in the labour market and often had difficulties in securing stable jobs with

reasonable pay, were often relegated to a lower socio-economic status and subjected to differential treatment by housing providers. Migrants were subject to indirect discrimination in that certain criteria for accessing rental housing had a disproportionate impact on them. Given their limited access to housing through the private market, it is of concern that migrants often do not enjoy the safety net provided by social housing in many countries, especially where there was a shortage of social housing in general.

43. Challenges in accessing adequate housing were even greater for irregular migrants; it was extremely difficult for them to rent private property of good quality. The difficulties were amplified in countries where the irregular presence of migrants is a criminal offence, and there are obligations to “denounce” irregular migrants. In some countries, it was in fact a criminal offence to let accommodation to irregular migrants. The precarious housing situations were further exacerbated by the fact that irregular migrants were usually excluded by law from most public services, including social housing. Particular concern was expressed with respect to asylum-seekers who became irregular migrants and lost all social support and housing entitlements once their claims for asylum were rejected.

44. The Special Rapporteur noted with regret the widespread practices of forced evictions of migrants around the world. There were many instances where migrants, most often vulnerable groups such as irregular migrants, asylum-seekers and unaccompanied children, were forcibly evicted from their homes without adequate notice, prior consultation or alternative accommodation. These practices of forced evictions clearly undermined not only migrants’ right to adequate housing, but also other related rights such as the rights to health, food, water and education.

45. Women faced significant barriers in accessing adequate housing due to discrimination and migrant women were subject to multiple forms of discrimination, given their marginalized status in societies. Migrant children were also more likely than other children to live in overcrowded housing, which had a negative impact on their development. The concern was heightened with respect to irregular migrant children, whose right to adequate housing was dictated by the conditions of social exclusion that their families to which were subjected. The lack of access to adequate housing for irregular migrant parents meant that their children were deprived of housing as well.

46. The realization of the rights to health and adequate housing played a crucial role in the integration of migrants in host societies. Obstructing and limiting access to services, institutions and goods that gave effect to such fundamental rights represented not only violations of migrants’ human rights, but also obstacles to migrants’ inclusion and their active participation in the host States. In the view of the Special Rapporteur, such denial of human rights carried significant costs not only to migrants and their home countries, but also to host countries, including social disintegration and public health dangers.

III. Possible themes for further study

A. Migration in the context of climate change

47. Over the last few years, there has been an upsurge of interest in the likely impact of climate change on population movements. Estimates have suggested that between 25 million and one billion people could be displaced by climate change over the next 40 years.⁵ These figures represent the number of people exposed to the risk of climate change

⁵ *Migration, Environment and Climate Change: Assessing the evidence*, Frank Laczko and Christine Aghazarm, IOM, 2009, p. 9.

in certain parts of the world and do not take account of the measures that could be taken to adapt to these changes. Despite the lack of precise figures, there is now little doubt that parts of the planet are now becoming less habitable due to factors such as climate change, deterioration of agricultural lands, desertification, and water pollution. The number of natural disasters has more than doubled over the last two decades, and more than 20 million people were displaced by sudden-onset climate-related natural disasters in 2008.⁶ Further climate change, with global temperatures expected to rise between 2 and 5 degrees centigrade by the end of this century, could have a major impact on the movement of people.⁷

1. The importance of further study on the impacts of environmental and climate change on human mobility

48. The Special Rapporteur would like to remind that the movement of people as a result of changes in the environment is not a new phenomenon. People have been moving in response to changes in their environment, often seasonally, for centuries.⁸ However, the link between migration and the environment and its wider interlinkages had been largely ignored by migration experts and policy makers until recently. For example, in the 2005 report of the Global Commission on International Migration, there is barely a mention of the topic.⁹ Part of the reason may be the fact that there has been little consensus over the years among researchers as to whether environmental migration is a distinct form of migration worthy of special study. Nevertheless, pursuant to several high-level conferences, expert meetings, and new research¹⁰ published over the last few years, the Special Rapporteur noticed that this issue has taken hold. Experts have been increasingly raising awareness of the linkages between the environment and human mobility and the importance of unifying these issues at all levels of policy dialogue and cooperation – local, regional, national and global.

49. According to some studies, climate change is expected to make the world generally warmer, the rainfall more intense, and could result in more extreme weather events such as droughts, storms and floods.¹¹ These changes, in turn, will likely result in further population movements. The Intergovernmental Panel on Climate Change (IPCC) predicts that global warming will lead to major shifts in weather patterns, ocean currents, and possibly ecosystems.¹² In addition to higher temperatures and rising sea levels, scientists forecast that rainfall will become more variable, drought more prevalent and prolonged. This will exacerbate soil erosion and desertification around the world. In some geographic regions, these events will combine with a higher incidence of rapid-onset disasters in the wet season, causing more violent and destructive storm surges, floods, and hurricanes. The changes in climate now anticipated will disrupt and perhaps permanently alter how and where food is

⁶ *Monitoring Disaster Displacement in the Context of Climate Change*; OCHA, IDMC and Norwegian Refugee Council, 2009, see also the Inter-Agency Standing Committee Operational Guidelines on the Protection of Persons in Situations of Natural Disasters, IASC, revised version 2010

⁷ See note 5 above.

⁸ *The Age of Migration, International Population Movements in the Modern World*, Stephen Castles and Mark J. Miller, Fourth Edition, p. 3

⁹ See www.gcim.org/attachements/gcim-complete-report-2005.pdf

¹⁰ See in particular the UNFPA-IOM Expert Seminar on Migration and the Environment, Bangkok, 2007, IOM, UNU-EHS, UNEP; the Munich re Foundation Research Workshop on Migration and the Environment, Munich, 2008 and 2009; and the Environment, Forced Migration and Social Vulnerability (EFMSV) conference, Bonn, 2008.

¹¹ See note 5 above, p. 14, “The impacts of environmental and climate change on human mobility”.

¹² See IPCC Fourth Assessment Report: Climate Change 2007 at: www.ipcc.ch/publications_and_data/ar4/wg2/en/contents.html

grown. A significant number of countries could lose one third to one half of their capacity for agricultural production over the coming decades. Countries in equatorial Africa may lose as much as 60 per cent¹³.

50. All regions of the globe are projected to be adversely effected by climate change, but less developed regions and countries are disproportionately affected because of their geographic location, their dependency on climate-sensitive sectors such as agriculture and natural resources, and a low adaptive capacity due to low levels of human, financial and natural resources, as well as limited institutional and technological capability.¹⁴ From a biophysical perspective, these countries are geographically disadvantaged since more are located in lower latitudes where predicted temperature increases, longer dry seasons, and water scarcity will greatly restrict their capacity to grow food and raise livestock. The humanitarian crises that could result from food scarcity would be further exacerbated by the lack of clean water, spread of diseases, and potential conflicts.¹⁵ In the light of the predicted environmental, economic and social impacts, populations are likely to be displaced or to migrate in order to survive. How temporary or permanent this displacement of migration will be and where populations will go is still uncertain, although much of the movements, at least initially, are likely to be internal.

51. Finally, the Special Rapporteur would like to remind that, as previously mentioned, most environmental migration is likely to occur within and between developing countries where receiving capacities are likely to be very limited. Therefore, he deems it important to further study and discuss the phenomenon of migration and its link to environment and climate change so as to be able to pinpoint the challenges that lie ahead, how best to address them and how to ensure the human rights of these migrants in the wake of this amplifying phenomenon.¹⁶ It would also be useful to consider new data-collection systems and to build capacities to make better use of existing data sources in some of the least developed countries of the world which will be most affected by climate change.

52. It may also be difficult for policy makers to manage migration flows in countries where governance structures are still very weak. In such countries, it is necessary to start new research in order to evaluate the current capacities for national governments to implement existing and/or new frameworks and policies. The actual policy discussions tend to focus on questions such as how best to provide emergency assistance to those who are displaced, how to reduce disaster risk and how to improve the legal and normative framework for the protection of the displaced. However, it is equally important to consider movements due to slow-onset events and frame the issue both in terms of displacement and more voluntary movement.¹⁷ Therefore, the Special Rapporteur deems it important that these issues be further developed in the future, by new research tools and by exploring the capacity of Governments and civil society at the national level to implement both protection policies and adaptation strategies, always taking into account the human rights of migrants in this specific context. As the High Commissioner for Human Rights mentioned in her

¹³ See note 5 above, p. 321.

¹⁴ See *Migration and Climate Change, International Organization for Migration research Series No. 31*, IOM. Available at:

http://publications.iom.int/bookstore/index.php?main_page=product_info&products_id=96; see also *Climate Change and International Migration, Background Paper WMR 2010*, IOM

¹⁵ See for example the 2010 Report of the Special Representative of the Secretary-General on internally displaced persons to the Human Rights Council (A/HRC/12/21), paras. 41-44.

¹⁶ See also the 2006 report of the Special Rapporteur on the right to food to the General Assembly (A/61/306), paras. 36-37

¹⁷ See note 5 above, p. 32., “The identification, evaluation and monitoring of policy responses”.

report dedicated on the relationship between climate change and human rights,¹⁸ “the effects on human rights can be of a direct nature, such as the threat extreme weather events may pose to the right to life, but will often have an indirect and gradual effect on human rights, such as increasing stress on health systems and vulnerabilities related to climate change-induced migration. Particularly vulnerable are those living on the “front line” of climate change, in places where even small climatic changes can have catastrophic consequences for lives and livelihoods”.

2. Policy challenges: migration and adaptation strategies

53. The Special Rapporteur recalls that only recently has attention been paid to develop the knowledge base about the interrelationship between environmental pressures (including climate change) and migration, in order to develop informed policy and programmes.

54. Policy makers have been slow to identify potential responses to environmentally induced migration. Recent literature on environmentally induced movements emphasizes that migration can have positive as well as negative consequences – a factor that affects how policies are formulated.¹⁹ The more positive impacts occur when migration is a voluntary coping strategy that allows people time to weigh alternatives and to use migration as a way of reducing household risk. Concerning the negative impacts, the Special Rapporteur emphasizes that they stem particularly from emergency mass movements that are generally related to intensified natural disasters and to competition for resources. These movements most closely resemble refugee movements and would often require large-scale humanitarian assistance.

55. Experts have traditionally been categorized into two groups: the alarmists, who see the environment as a principal cause of population movements, emphasizing the forced nature of the migration process (and who use the term “environmental refugee”), and who project that hundreds of millions of persons will be affected, often without differentiating between those who will move short distances to safer ground and those who may move thousand of miles to new countries. The sceptics, by contrast, raise question about the models used to generate estimates of those who would be forced to migrate, emphasizing that pull factors in destination places are more important than push factors at home in determining whether, where and in what numbers people will migrate.²⁰

56. Concerning the strategies to manage environmental migration adopted in developing countries, the Special Rapporteur would like to mention the National Adaptation Programmes of Action (NAPAs) which are considered the principal frameworks adopted by low-income developing countries to manage environmentally induced migration. According to the United Nations Framework Convention on Climate Change (UNFCCC), NAPAs “provide a process for Least Developed Countries (LDCs) to identify priority activities that respond to their urgent and immediate needs to adapt to climate change – those for which further delay would increase vulnerability and/or costs at a later stage”.²¹ The majority of NAPAs outline the adaptation strategies described as ways to reduce migration pressures and allow people to remain in their original settlements. The strategies generally seek to adapt agricultural practices, management of pastoral lands, infrastructure such as dykes and coastal barriers, fishing patterns and other strategies to reduce pressures on fragile ecosystems, thereby allowing populations to remain in place.

¹⁸ A/HRC/10/61, paras. 92-93

¹⁹ See note 5 above, p. 357.

²⁰ See note 12 above.

²¹ See <http://unfccc.int/adaptation/items/4159.php>.

57. The Special Rapporteur would also like to note that in some cases, NAPAs identify migration as an adaptation strategy in itself. This perspective appears in two contexts. First, in some countries migration is seen as a way to reduce population pressures in places with fragile ecosystems. Second, some countries recognize that resettlement of some populations may be inevitable, given the likely trends, and should be accomplished with planning. More relevant would be the second type of adaptation strategy involving migration – resettlement to mitigate the harm accompanying climate change, particularly flooding and rising sea levels. In the NAPA of Samoa, for example, it states that relocation of families is a current adaptation strategy in the village community sector. Potential adaptation activities in the NAPA include assistance for relocation of communities inland. A plan entitled *Implement Coastal Infrastructure Management Plans for Highly Vulnerable Districts Project*²² envisions incremental relocation of community and government assets outside coastal hazard zones.

58. Regarding destination-country policies, the Special Rapporteur notes that the relocation strategies identified in NAPAs assume that, in most cases, people will move internally in search of safer alternatives. Whether hampered by financial resources, distance, lack of networks in destination countries, or other factors, many would-be migrants do not have the ability to migrate internationally. However, the Special Rapporteur recalls that international migration will not be absent; many of the countries that will experience loss of livelihoods and habitats related to climate change, and many that will suffer from intensified natural disasters, are already countries of emigration with well established patterns of labour migration. The Special Rapporteur notes that the immigration policies of most destination countries are not conducive to receiving large numbers of environmental migrants, unless they enter through already existing admission categories. Typically, destination countries admit persons to fill job openings or to reunite with family members. Concerning humanitarian admissions, they are generally limited to refugees and asylum seekers – that is, those who fall within the definition in the Convention Relating to the Status of Refugees of 1951, its 1967 Protocol or relevant regional instruments, persons with a well-founded fear of persecution on the basis of race, religion, nationality, and membership in a particular social group or political opinion. Most environmental migrants would be unlikely to meet the legal definition of a refugee, as they will be forced to flee because of loss of livelihood or habitat and not because of persecutory policies. This could raise the issue whether a new category of forced migrants due to environmental or climatic factors would be envisaged and subject to protection.

59. Nevertheless, some countries have established special policies that permit individuals whose countries have experienced natural disasters or other severe upheavals to remain at least temporarily without fear of deportation. The United States of America, for example, enacted legislation in 1990 to provide temporary protected status to persons “who are temporarily unable to safely return to their home country because of ongoing armed conflict, an environmental disaster, or other extraordinary and temporary conditions”.²³ New Zealand has a particular category in its resettlement quota for persons displaced environmentally from Pacific island States, called the “Pacific Access Category”. Other countries provide exceptions to removal on an ad hoc basis for persons whose countries of origin have experienced significant disruption because of natural disasters. After the 2004 tsunami, several States suspended deportations of nationals from countries affected.²⁴

²² See *NAPA Priority Project 7: Implement Coastal Infrastructure Management Plans for Highly Vulnerable Districts Project*; at:

http://unfccc.int/files/adaptation/napas/application/pdf/29_samoa_pp.pdf.

²³ USA Immigration Act of 1990; available at: <http://www.justice.gov/eoir/IMMACT1990.pdf>.

²⁴ See note 5 above, pp. 374 – 377.

Although the Special Rapporteur sees these examples as positive developments, each on an ad hoc case, there are no concrete examples of legislation or policies that address migration of persons from gradual climate changes that may destroy habitats or livelihoods in the future. For the most part, movements resulting from slow-onset climate change and other environmental hazards that limit economic opportunities are treated in the same manner as other economically motivated migration. Persons moving outside of existing labour and family migration categories are considered to be irregular migrants. In the absence of a strong humanitarian ground, exempting them from removal proceedings, these migrants will be subject to the regular systems in place for mandatory return to their home countries.

3. Proposals from the Special Rapporteur

60. Given the current gaps, the Special Rapporteur suggests that more attention be placed on identifying and discussing new frameworks for managing potential movements. Attention could be given to both aspects of the environment and migration nexus: (a) identifying adaptation strategies that enable people to remain where they currently live and work; (b) identifying resettlement strategies that protect people's lives and livelihoods when they are unable to remain; and (c) maintaining and reinforcing a human-rights based approach designed to protect the rights of migrants. Although most migration is likely to be internal, the potential scale of movements will necessitate coordinated action in support of the affected countries. International cooperation in mitigating harmful migration while planning for movements that will be an essential component of adaptation strategies will help ensure the protection of those who will be most affected by environmental change.

61. The Special Rapporteur also recalls that there are still wide gaps in the information available to policy makers. These gaps exist in content (how and when environmental changes become a primary driver of migration), scale and methodology (studies and methods for interdisciplinary analysis), and frameworks for appropriate migration management strategies. Little research capital has been invested in broad-scale environment-migration studies.²⁵ The lack of statistically relevant data at the national or regional levels shows constraints in the design of policies that could build resilience and promote adaptation among vulnerable communities. Investing in the development of both short and long-term research, data collection, and monitoring projects could help close these gaps. Promoting inter-agency and interdisciplinary data collection and data sharing could strengthen the capability of Governments to observe and analyze migration patterns. Allowing researchers better access to official data could also enhance study results.

62. Finally, a larger investment in the development of research methodologies could be developed. These newly adopted methods can be shared among Governments, researchers and affected communities to generate long-lasting benefits for appropriate policy reform.

B. Political participation and civil rights of migrants

63. Modern democratic States have traditionally regarded citizenship as fundamental in the distribution of important rights and benefits. However, many rights previously enjoyed only by nationals have been granted to all inhabitants, resulting in an increased involvement in terms of political participation and certain confusion in the different countries of destination of migrants. A short outlook of policies of integration of migrants and brief discussion of issues would underscore the need for more thorough and comprehensive discussion and review of the questions affecting the rights of migrants.

²⁵ See note 5 above, p. 340.

1. Citizenship policies and political integration of migrants

64. The growing importance of the study of political participation in the last 50 years reflects the crucial significance of citizens' involvement for democratic decision-making. As the scope of government activities and responsibilities has expanded in the last few decades, the domain of political participation has grown considerably. First, political participation refers to inhabitants in their role as citizens (and not, for instance, as politicians or civil servants). Second, the activities of citizens defined as political participation should be voluntary and not be ordered or obliged under law. Finally, political participation concerns government and politics in a broad sense of these words ("political system") and is neither restricted to specific phases (such as parliamentary decision making, or the "input" side of the political system), nor to specific levels or areas (such as national elections or contacts with officials).²⁶

65. In such States, many rights previously enjoyed only by citizens have been disconnected from nationality and are now granted to non-citizens on the basis of legal residence and employment or as universal human rights. These rights include the right to freedom of expression, the right to peaceful assembly, the right to own property, the right to join trade unions, and the right to health care, education, social security, housing and other social services.²⁷ Nevertheless, nationality remains an important dividing line when it comes to political participation. For migrants, acquiring the nationality of the host society has therefore always been the most important step toward political integration.²⁸ The Special Rapporteur believes that it is important that migrants have the option to become citizens of the State of their permanent residence and should also be encouraged to do so. Although the Special Rapporteur emphasizes the priority of facilitating access to formal citizenship, it should be complemented by steps before and after this threshold. Indeed, formal citizenship is not a sufficient condition for political integration, nor need it be a necessary condition for enjoying certain political rights. Effective citizenship depends on structural opportunities for participation and a widespread disposition to use them. In fact, groups of migrant origin are frequently underrepresented in the political process even when most of their members are nationals.

66. The Special Rapporteur notes that many destination countries have in the past prohibited all political activities of non-citizens. A number of countries still have special constraints on the freedoms of expression, assembly, and association for noncitizens. Some States deny foreign nationals the right to be members of political parties.²⁹ Therefore it is worth recalling that international human rights law permits restrictions only if they "are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals, or the protection of the rights and freedoms of others".³⁰ Accordingly, the Special Rapporteur believes that policies denying migrants these freedoms merely because of their nationality are not sustainable.

²⁶ *Studying Political Participation: Towards a theory of everything?*, Jan W. van Deth, University of Mannheim Chair for Political Science and International Comparative Social Research.

²⁷ There are certain inalienable rights (outlined in the Universal Declaration of Human Rights of 1948) to which all humans, regardless of citizenship or nationality, are entitled in principal. These rights are established by the Declaration of Non-Nationals (1985), which can be found on the following link: <http://www1.umn.edu/humanrts/instree/w4dhri.htm>.

²⁸ *From Migrants to Citizens: Membership in a Changing World*, T. Alexander Aleinikoff & Douglas Klusmeyer, Carnegie Endowment for International Peace, 2000.

²⁹ For example, this restriction exists in some Central and Eastern European States.

³⁰ See the International Covenant on Civil and Political Rights, arts. 22-23.

67. On the other hand, while some destination countries have generally granted resident foreigners political liberties, most do not allow them to vote or to be elected.³¹ Many States do, however, permit their citizens living permanently abroad to participate in national elections. Variations in State practices regarding the franchise³² for non-citizens are generally linked to broader immigration and citizenship policies. Some traditional immigration countries have not pursued non-citizen voting in part because they encourage immigrants to naturalize. Other States tend to put less emphasis on naturalization and do not regard the franchise as being necessarily tied to formal citizenship. Finally, some countries that have only recently experienced substantial immigration have not even begun to seriously consider such a move. Whatever these differences, in most countries the rates of naturalization are lower than those of immigration, even considering the minimum required time-length as a condition for naturalization. This makes countries of destination with democratic political systems ever less representative of their populations, and thus the question of the franchise grows increasingly important. Granting non-citizens a franchise at the national level is not imperative if access to citizenship is sufficiently open. The Special Rapporteur does, however, make a general recommendation for a local franchise for immigrants who have been legal residents for several years.

68. With regards to communities of migrant origin, the Special Rapporteur recalls that these communities include citizens as well as non-citizen residents, whatever their legal status in the country might be (i.e. regular or not). The political integration of these persons of migrant origin depends not only on their individual rights, but also on opportunities and incentives for their participation in political life. Access to political rights through admission to citizenship or through extending the franchise to noncitizens would not alleviate the problematic if the new citizens have lower voting rates in elections and are strongly underrepresented in public offices, parliaments and political parties.

69. Although most countries with migrant populations do not oblige their citizens to vote, there is certainly a public interest in facilitating and encouraging political participation as a form of active citizenship. High rates of participation strengthen the democratic legitimacy of political authority and may also promote political community through a shared sense of common responsibilities. Low participation rates correlate strongly with socio-economic status and thus create a class bias in democratic politics. With regard to the political participation of ethnic and racial minorities, this represents an issue of special concern. In democratic societies, these communities are more vulnerable when they are politically isolated. They are more easily targeted as outsiders, cannot voice their own interests, and often come to be regarded as second-class citizens. For these groups of migrant origin which also consist of ethnic and racial minorities, low rates of political participation do not result from their own choices but are due to other circumstances, some of which can be influenced by public policy.

70. The Special Rapporteur deems it important that countries of destination consider immigration reform in their citizenship policies so that migrants who settle in do not remain shut out from its public political life. Such policies would combine access to the nationality of their host country in accordance with required length of residency, together with political rights and duties independent of nationality. Permitting and encouraging the political participation of long-term resident migrants would make the democratic process more representative. This would enhance its general legitimacy, improve the quality of decision making in matters that concern groups of migrant origin (such as education, remuneration,

³¹ Historically, voting was not always strictly tied to nationality. For example, throughout the nineteenth century and into the early twentieth century, a number of states in the United States granted the franchise to certain classes of non-citizens.

³² It should be understood here as the right to vote in public elections.

minimum age of employment, apprenticeship and training, membership of trade unions, accommodation, social security, access to health services, etc.), and would make these groups less vulnerable to xenophobia or racism in politics and in the wider society.

2. Noncitizen voting rights: a global issue

71. The Special Rapporteur recalls that the anomaly of foreign non-citizens living in democratic host countries without political rights has long been viewed as problematic. As previously discussed, naturalization rules and practices vary from State to State, and in some places immigrants have little chance of becoming citizens due to a variety of factors. As a result, countries of destination have had to devise policies and institutions to respond to the problems of increased ethnic diversity.³³ The central issues are: defining who is a citizen, how newcomers can become citizens and what citizenship means. In principle the nation State only allows a single membership, but migrants and their descendants have a relationship to more than one State. They may be citizens of two States, or they may be a citizen of one State and live in another. Thus large-scale settlement inevitably leads to a debate on citizenship.³⁴

72. The first concern for migrants is not the exact content of citizenship, but how they can obtain it, in order to achieve a legal status formally equal to that of other citizens. Access to citizenship varies in different countries, depending on the prevailing concept of nationhood. The Special Rapporteur recalls different types of models which define citizenship:

(a) **The imperial model.** In this model, the definition of belonging to the nation is defined as being a subject of the same power or ruler. This model allowed the integration of the various peoples of multi-ethnic empires (British, Austro-Hungarian, Ottoman, etc.), and remained formally in operation in the United Kingdom until the Nationality Act of 1981,³⁵ which created a modern type of citizenship for the first time. The concept almost always has an ideological character, in that it helps to obscure the actual dominance of a particular ethnic group or nationality over the other subject peoples;

(b) **The ethnic model.** The definition of belonging to the nation is asserted in terms of ethnicity (common descent, language and culture), which often means exclusion of minorities from citizenship and from the community of the nation;

(c) **The republican model.** The definition of the nation is that of a political community, on the grounds of a constitution, laws and citizenship, with the possibility of admitting newcomers to the community. This approach dates back to the French and American revolutions. France is the most obvious current example.

(d) **The multicultural model.** Here the nation is also defined as a political community, based on a constitution, laws and citizenship that can admit newcomers. However, in this model newcomers can maintain their distinctive cultures and form ethnic communities, providing they conform to the basic national laws. This pluralist or multicultural approach became dominant in the 1970s and 1980s in Australia, Canada and Sweden, and was also influential in other West European countries.

³³ See in particular *Citizenship Policies for an Age of Migration*, T. Alexander Aleinikoff and Douglas Klusmeyer, 2001.

³⁴ See note 5 above, p. 44.

³⁵ Available at:

<http://www.statutelaw.gov.uk/content.aspx?parentActiveTextDocId=1360590&ActiveTextDocId=1360658>.

However, starting in the 1990s, there was a move away from multiculturalism as a policy in many countries which had adopted this model.³⁶

73. All those models have one factor in common: the premise that citizens belong to just one nation State. Migrant settlement is seen as a process of transferring primary loyalty from the State of origin to the new State of residence. This process is symbolically marked by naturalization and acquisition of citizenship of the new State. Nevertheless, these models can no longer apply to growing migration trends. Moreover, the distinction between citizens and non-citizens is becoming less clear-cut. Migrants who have been legally resident in a country for many years can often obtain a “hybrid” status, tantamount to “quasi-citizenship”. This may confer such rights as secure residence status; right to work, seek employment and run a business; entitlement to social security benefits and health services; access to education and training; and limited political rights such as the right of association and assembly. Such arrangements create a new legal status, which is more than that of a foreigner, but less than that of a citizen.³⁷

74. It is in the European Union (EU), that this example of a new type of citizenship is gaining strength. Under the Maastricht Treaty which established the European Union in 1992, citizens of EU member States became eligible to vote or to be elected to office in European and municipal elections if they reside anywhere within the European space. The 1997 Amsterdam Treaty established citizenship in the EU, which embraced the following rights: freedom of movement and residence in the territory of member States; the right to vote and to stand for office in local elections and European Parliament elections in the State of residence; and the right to petition to the European Parliament and to appeal to an ombudsman. However, EU citizens living in another member State do not have the right to vote in elections for the national parliament of their State of residence. Persons dependent on social security and welfare do not have the right to settle in another member country; and access to public employment is still generally restricted to nationals. Europe is still divided between the States in the “Schengen zone” and the newly admitted EU States. So far, EU citizenship has done little for the majority of migrants who originate outside the union.³⁸ Since 1992, there has been a growing movement in support of granting third-country nationals voting rights within member States of the EU and at the level of EU institutions. The European Parliament has, several times, voted in favour of extending European citizenship to all persons who have resided in a stable manner and for a long period within a member State. A 2001 European Parliament resolution called for the enfranchisement of all non-EU residents who had resided legally within an EU member State for three years. However, opposition within the European Council, which represents the interests of member States in the complex EU governance procedures, has thwarted such initiatives. As well, some EU member States hold that the granting of voting rights to third-country nationals would devalue the importance of naturalization.

3. Proposals from the Special Rapporteur

75. As briefly discussed, this new diversity affects host societies in many ways. Amongst the most important are the issues of political participation, cultural pluralism and national identity. As mentioned above, migration has already had major effects on the politics of most host countries. Consequently, the Special Rapporteur suggests further study and discussion on the issue of the political participation of migrants and its links to the concept of a broad citizenship. Migrants are able to make a contribution to the development of new forms of identity. It is inherently part of the migrant condition to develop multiple

³⁶ See note 6 above, pp. 44-45.

³⁷ *Ibid.*, p. 46

³⁸ *Idem.*

identities, which are linked to the cultures both of the homeland and of the country of origin.³⁹ A more thorough research and discussion on the civil rights of migrants and their political participation in host societies could reflect the different situations faced by migrants in various States and identify best practices and examples of successful integration in host societies through participation in the decision-making process affecting the interests of migrants.

76. Finally, the Special Rapporteur is of the opinion to strengthen the importance of improving international cooperation and governance. Unfortunately, the unwillingness of states to move forward in this area can be seen in the poor ratification record of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,⁴⁰ adopted by the General Assembly on 18 December 1990. In fact, only 44 States out of 192 United Nations Member States had ratified it by end of 2010. These were virtually only countries of origin; destination countries have in general not been willing to support measures designed to protect migrants at the international level.⁴¹

77. Rather than limiting migration, for instance through the criminalization of irregular migration and stricter control measures at borders, the Special Rapporteur suggests greater economic and social equality between the North and the South, so that migration can occur under better conditions and enrich the experiences and capabilities of migrants and their communities. Reducing irregular migration is a valid aim only if it is coupled with the understanding that this may well mean greater mobility overall – mobility of a different and more positive kind. This may require measures that go well beyond the usual range of migration-related policies. Reforms of trade policies could, for instance, encourage economic growth in developing countries. Development assistance could be another strategy, which could reduce irregular migration over the long term. Although some countries of origin have managed to achieve substantial growth, in general the gap between poor and rich countries has also grown further. Rapid demographic growth, economic stagnation, ecological degradation, weak State infrastructure and human rights violations still affect many countries in the developing world. According to the Special Rapporteur, tackling these root causes would be a significant step forward.

IV. Conclusions

78. **The Special Rapporteur would like to thank the Human Rights Council for the privilege and opportunity he has had to serve in this capacity. Unfortunately migrants are facing increasing intolerance and are becoming more vulnerable to potential racist or xenophobic outbreaks of violence, or they may fall prey to criminal traffickers and smugglers. Those with an irregular status are often afraid or unable to seek protection and relief from the concerned authorities and are often left without access to basic social rights, particularly health care, education and housing. However, migration can be an essential component of development and prosperity in countries of destination, transit and origin in all regions of the world, and migrant labour continues to be vital, and in demand, in most countries around the globe.**

79. **The Special Rapporteur has proposed a few possible themes to be further developed and highlighted the relevance of these issues to the mandate, taking into account a human rights perspective. These two issues, migration in the context of climate change and political participation and civil rights of migrants, are gaining**

³⁹ See note 6 above, pp. 310-311.

⁴⁰ See <http://www2.ohchr.org/english/law/cmw.htm>

⁴¹ See note 6 above, pp. 302-303.

interest and momentum. Further discussion on these themes would allow the mandate to present innovative approaches to these aspects involving migration and they underscore the need for a human rights perspective in global discussions among stakeholders.
