

CETIM ADVISES YOU THE FOLLOWING READINGS

Délegitimer le capitalisme : reconstruire l'espérance

By François Houtart

Sociologist, priest, communist, creator and director of the *Centre tricontinental* in Louvain-La-Neuve, François Houtart systematically delegitimises capitalism, dissecting the system in all its aspects (chapter 1-2). In the 3rd chapter, he suggests the necessary content of an alternative, which he puts in plural, and traces its methodological elements in order to define the concrete steps for its maturation and advancement. "The strategies are, he writes in the post face, also concrete realities and can not be satisfied by the simple expression of aspiration or desire. Some of them have been proved, other questioned. You have to avoid the pitfall of dogmatism, like the one of amateurism. In short, the social struggles are far from needing complete reinvention, even if they need a new face. A process of maturation is going on, which will take its time, but which is at the same time urgent, considering the stakes". Finally, as a Christian, very active in the elaboration of the theology of liberation – which is indicated by the word choice in the title – the author wants to define "the place of the believer in the social struggles" (chapter 4) but also, as Samir Amin points out in a short preface, in which way this theology "is naturally in accordance with all the other idea directions of humanist thinking in the construction of a socialist future which is possible and necessary".

Prize: CHF 19.- / 12 €, 208 p., ISBN : 2-930254-13-0, Colophon éditions, Bruxelles, 2005, can be ordered from CETIM.

GET YOUR FRIENDS TO JOIN CETIM!

La fracture agricole & alimentaire mondiale : nourrir l'humanité aujourd'hui et demain

Joint publication supervised by M. Mazoyer and L. Roudart

Also on the agrarian question, this book directed by the authors of the excellent *Histoire des agricultures du Monde* (Seuil, 2002) masterfully exposes the technological process which, in one century, has led to the enormous differences in productivity existing today between different categories of "peasants" and points out the reasons why the majority of them live in extreme poverty. One third of the rural population suffers from serious nutritional deficiency and almost 3/4 of the malnourished are rurals. The book also underlines the liberalisation of the world's agricultural market, examines the ruling mechanisms and pleads for a remake of the international exchanges in this area, based on alimentary sovereignty.

Prize 15 €, 196 p., ISBN : 2-85229-792-2, Universalis, collection Le tour du sujet, Paris, 2006, on sale at bookshops

Les luttes paysannes et ouvrières face aux défis du XXI^e siècle : L'avenir des sociétés paysannes et la reconstruction d'un front uni des travailleurs

Joint publication supervised by Samir Amin

The idea of an alliance between workers and peasants can, from a European point of view, seem « obsolete ». On the international level, however, this question is probably more relevant than ever. But it presents itself in a new way, different from one place to another. The common point is the seriousness of the attacks on poor peasants and urban workers all over the world, or on the majority of the planet's population. It is therefore relevant to examine the diversity of the situation.

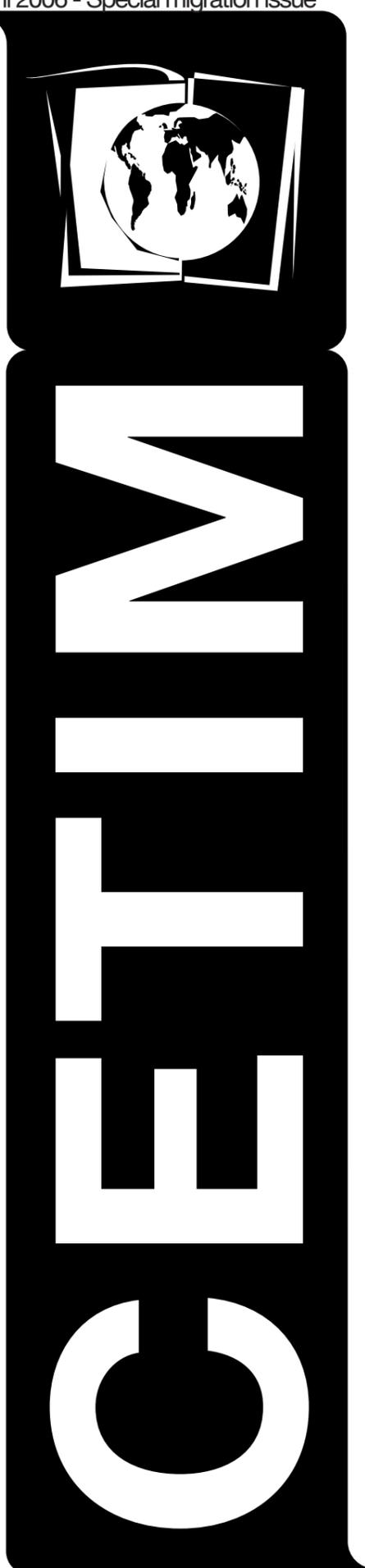
Directed by Samir Amin, 15 first class analysts have contributed to the book. All contributions deserve to be read carefully. They examine countries like China, India, Sri Lanka, the Philippines, Egypt, Ethiopia, West Africa, Zimbabwe, South Africa, Brazil, Poland, Algeria, Nigeria, Uganda...

Prize: 33 €, 368 p., ISBN: 2-84654089-6, Forum mondial des alternative, Edition Les Indes savantes, 2005, on sale at bookshops

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EDITORIAL

There is no end to praising the merits and benefits of the "global village" in which everything and everyone is interconnected. Yet, even with the removal since more than two decades of the barriers to free circulation of capital, services, trade and the new information technologies, all so central to the neo-liberal globalization, it has to be admitted that for the majority of individuals in this world, the "village" is global only in name.

Indeed, for a number of years States have put considerable efforts into erecting ever more sophisticated physical, administrative and political obstacles. Apart from a minority considered economically profitable, the large majority of migrants is relegated to the category of undesirables and they often find themselves in tragic situations as far as respect for their human rights is concerned.

The fact that for hundreds of millions of individuals migration is not a choice but a necessity is all too often denied. They leave their country, often in fear of their live, precisely because they have no choice. All human beings should have the right to adequate living conditions (food, employment, health, safety, etc.) that permit them to remain at home. But the reality is far from that principle.

Addressing in this special edition questions of asylum and migration, the CETIM denounces the new hardening of the Swiss migration policy that was recently approved by the Federal Parliament. It also demands a higher respect of migrant workers' rights and encourages the launching of a national campaign for the ratification of the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* by Switzerland.

Even though this bulletin treats primarily the existing situation in Switzerland and to a lesser degree in Europe, it should be seen as an illustration of the numerous efforts made elsewhere, especially on an international level.

Global migration

People have been migrating at all times in search of better living conditions. Although migration is not a recent phenomenon, its increasing pace and volume since the early 1980s, and, in particular, since the emergence of the “unique thinking” following the fall of the Communist bloc, is new. Today, it is widely recognized that the development of neoliberal globalization results in a widespread degradation of people’s living conditions. Driven by increasingly adverse economic, political, social and environmental circumstances, an increasing number of people seek to migrate. From 82 million in 1970, the number of migrants has more than doubled in 30 years to 175 million in 2000, i.e., 2.9% of the world’s population. It is estimated that the number of migrants living in a foreign country today amounts to 185 to 192 million, of which 63% are in developed countries and 34% in developing countries. According to the International Labour Organization, more than 120 million of them would be migrant workers.

The increasing pace of migratory fluxes raises a number of problems, both for the States that are concerned by an allegedly massive arrival of migrants and, in particular, for the migrants themselves who continue to be confronted by adverse or even hostile political, economic and social conditions due to the development and implementation of increasingly restrictive migration policies.

Migrant workers have rights!

Since the 1970s, the increasing interest paid by the United Nations to the issues related to human trafficking and to the precarious living conditions of migrant workers has led to the recognition that the latter belong to a vulnerable social group needing the protection of an international treaty. This awareness paved the way to launching a campaign, on the initiative of Mexico and Morocco, at the end of the first World Conference against Racism and Racial Discrimination in 1978. It was followed, one year later, by the creation of a UN Working group in charge of studying the issue and of drafting a treaty. After 10 years of work, the *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families* (thereafter ICRMW) was adopted by the UN General Assembly on 18 December 1990.

An international treaty to protect migrant workers

Similarly to children, women and victims of racial discrimination, whose rights are protected by international human rights treaties, migrant workers belong to a particularly vulnerable social group entitled to international rights protection. Migrant workers’ rights continue to be widely disregarded and, in general, insufficiently taken into account in their receiving and/or sending countries. By establishing a moral framework and legal norms for the promotion and protection of human rights that are internationally recognized, the ICRMW encourages all State parties to adapt their national legislation to its provisions. This legislative harmonization should secure a better respect of the human rights of all migrant workers and members of their families.

The ICRMW takes inspiration from existing international human rights treaties as well as from ILO’s Conventions n°97 and n°143 relative to migrant workers. Hence, it does not create any new rights specific to migrant workers. However, given that certain pre-existing rights have proved to be insufficient to guarantee an efficient protection of migrant workers, the ICRMW aims to reinforce and complete certain of these rights.

Although the Convention certainly has limitations, it is generally seen as a positive and relevant instrument for the protection of migrant workers’ rights, one that recognizes migrant workers as full human beings having inalienable human rights.

Achievements and controversies

One of the ICRMW’s achievements is the protection granted to migrant workers during the entire migration process, i.e., from recruitment in their country of origin –today, the use of private recruitment agencies or of personal networks is taking the lead on the State– to their installation in the host country, every transit through a third country being taken into consideration (art. 1.2.). In addition, for the first time, the ICRMW sets forth a clear definition of migrant workers (art. 2) which is internationally recognized. The Convention also recognizes and encourages the right to family reunification (art. 44) and considers that fundamental human rights must be applied to all migrant workers, independent of their legal status. This latter point was recently reaffirmed by the Committee on the Elimination of Racial Discrimination in its General Recommendation N° 30¹.



Edifying!

The UN Special Rapporteur on racism, Mr. Doudou Diène, who was recently in Switzerland on a five day visit of enquiry, criticised the country, especially for trivialising racism at the political level –as illustrated by the absence of clear legislation against racism and the almost inexistent possibilities for appeal. The speaker of the Democratic Union of the Centre replied to the criticism: “I accept that a representative of the UN criticizes us because we are now members of the United Nations, but it is still highly ironic that these remarks come from a Senegalese”^{*}.

^{*}Cf. *Le Temps*, “Doudou Diène déplore la banalisation du racisme en Suisse”, 14 January 2006.

JOIN THE CETIM!

- Individual member:** 50 CHF/ 30€ or US\$ (North) and 10€ or US\$ (South).
Membership dues for retirees, students, apprentices and the unemployed are one half of the above stated amounts.
- Supporting member:** CHF 100 / 60€ or US\$ and more.
- Collective member:** CHF 200 / 120€ or US\$.
- Supporting collective member:** CHF 500 / 300€ or US\$ and more.
- “Moral support” member:** CHF 15 / 10€ or US\$.

DUES ARE PAID FOR THE CALENDAR YEAR AND ENTITLE THE MEMBER TO:

- For every new member there is the gift of a book of Publicetim collection.
(with the exception of “moral support” members)
- receive free the CETIM’s newsletter.
- a 20% discount on the books and publications ordered from the Centre.
(except for the category “ moral support” member)

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FOR A SWISS RATIFICATION OF THE ICRMW!

Responding to the new hardening of the Swiss migration policy, a national mobilisation that came gradually under way following the Swiss Social Forum in Fribourg, and the national demonstration on 18 June 2005 in Bern led to the convening of the first ‘Estates General’ body on asylum and migration in Berne (17-18 December 2005). These Estates General assembled numerous sympathisers and more than 40 organisations from across Switzerland, all defending migrants’ rights and the right of asylum, to “share experiences, analyse [the present situation of migration policies in Switzerland and in Europe], to build a common strategy and to create a Swiss network of information, reflection and actions”¹.

By its presence and active participation in the organisation of the Estates General, the CETIM’s objective was to draw attention to the existence of international human rights treaties, especially the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* (ICRMW). It proposed that a group of associations take upon itself the responsibility to organise and to launch a national campaign aiming at the ratification of the ICRMW by Switzerland.

In this context, the question of the Convention was raised, on the one hand from an analytical point of view by the speaker invited by the CETIM, and on the other, in an interactive way in a workshop co-organised by the CETIM and the Centre de Contact Suisses-Immigrés (CCSI-GE). The workshop concluded that it was necessary to: a) to make the ICRMW known in Switzerland and integrate some of its propositions in the arguments for the referendum against the new law on foreigners; b) undertake a juridical study in order to analyse the implications of the ICRMW in Swiss law; and c) constitute a national co-ordination mechanism charged with organizing a national campaign for the ratification of the ICRMW by Switzerland.

The appeal to the Swiss government to ratify the ICRMW was officially taken note of by the Estates General in the resolution adopted by the plenary meeting. The documents of these first Estates General on asylum and migration are now being edited and working groups have been constituted to ensure the effective functioning of the Swiss network and the communication of information between it and the European network Migr’Europ (of which it has become a member), as well as to plan the next national actions.

The CETIM will contribute to the follow up of the ratification campaign of the ICRMW and will continue to transmit the demands of the Swiss social movements to the UN².

¹ www.sosf.ch

² For more information on the ICRMW and the campaign see www.cetim.ch.

WHO ARE WE?

By its books and its work with the UN, the CETIM denounces the generalised bad-development, ecological as much as economic and social, and works to contribute to an exchange of critical views from both Southern and Northern societies. The CETIM is emphasising in particular respect for, implementation and promotion of economic, social and cultural rights, as well as issues related to the right to development.

European migratory policies: a general hardening

With the end of the Cold War, new concerns linked to international migrations have emerged. In Europe, the struggle against the so-called “illegal” migration, the human trafficking, the presence of individuals without legal status and the rise in the number of asylum seekers - particularly due to the conflict in the Balkan - have become major themes. They occupy an important place in the political agenda of most of the European countries today.

Generally speaking, governments and in particular those of the North have imposed numerous restrictions on immigration as well as severe means of dissuasion towards “illegal” migrants. In order not to “endure” an “unwelcome” immigration, the accent is invariably put on the necessity of a better “management” of migration. This position manifests itself in an increased control over States’ boundaries and the adoption of progressively more regressive and repressive measures against migrants. This tendency has even more intensified since the events of 11 September 2001, and some migratory policies seem more and more dominated by security objectives.

In Europe, the plan for a “better international management of refugees and asylum seekers” that Tony Blair proposed to his counterparts of the EU in March 2003 enabled to bring to the European political agenda some propositions that aimed at externalizing asylum policies. This plan looked ahead for a better management of “the global process of asylum by reducing the number of unfounded applications and providing the necessary protection for true refugees”. It focused on the implementation of a regional management of the migratory flows on the one hand, and the setting up of “transit centers for the asylum seekers” in some countries of the

third world on the other hand¹. However, having resulted in many criticisms from civil society and oppositions within some governments, these propositions were partially put aside but not completely dropped.

The presence of many centers for foreigners, inside as well as outside the boundaries of the European Union, has become a reality today². Commonly called reception centers, transit centers or refugee “camps”, they are actually ‘no-right’ areas for people deprived of all rights, in the words of the Migr’Europ network. These centers are witness of a common will to isolate the migrants physically, administratively and legally³.

Furthermore, the events that occurred in September-October 2005 in the Spanish enclaves of Ceuta and Melilla in Morocco highlight the institution of a new pattern of partnership relations between the EU and the countries of the Maghreb (Morocco and Lybia constituting the most striking examples) regarding the struggle against clandestine immigration. In exchange for cooperation programs, the latter agree to become “buffer zones” charged with protecting the southern boundaries of the European fortress against the “invasion” and the “assaults” of Sub-Saharan migrants.

Wanting to counter clandestine immigration at any price by using the excuse of safeguarding national interests is hypocritical and generates abuses and violations of the most basic human rights. Solutions proposed by the States are still too often limited to the analysis of the consequences of migration for the receiving societies. However, the urgently needed multidimensional approach of the causes of migration is rarely the object of in-depth analyses.

¹ www.proasyl.info/texte/europe/union/2003/UK_NewVision.pdf

² www.migreurop.org/IMG/pdf/carte-fr05.pdf

³ www.gisti.org et www.migreurop.org

No to a “camp-based Europe”!

Migr’Europ* is a European network of activists and researchers whose target is to inform the public of the generalized confinement conditions faced by foreigners devoid of a residence permit and of the camps that are multiplying in numbers as a central device in the EU migratory policy. Migr’Europ also aims at engendering a vast European mobilization movement against the establishment of a “camp-based Europe”.

* www.migreurop.org



“No overflowing of misery allowed!”

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The situation is worrying in Switzerland as well

For a number of years, the Democratic Union of the Centre (Union Démocratique du Centre, UDC), a populist party claiming itself of “Swiss quality” on the far right wing of the political scene, has been systematically claiming imposture on matters relating to migration and asylum right. Convinced of the “catastrophic evolution” of Switzerland, “the main destination of fake refugees”¹, this party resorts to simplistic and unfounded arguments, making all sorts of amalgamations in order to systematically and unscrupulously castigate and criminalize foreigners who are, of course, considered as potential threats to the national equilibrium.

Although Switzerland has ratified several international human rights treaties as well as the 1951 Geneva Convention relating to the Status of Refugees, the new laws on Asylum (LAsi) and on Foreigners (LEtr) recently adopted by the Swiss Parliament appear to be controversial as to their compatibility with the Federal Constitution and with international and European laws². It is therefore crucial to keep on denouncing the tightening of the national migration policy which was initiated many years ago and to examine alternatives and opportunities of action.

Reactions to the new legislation

On December 16, 2005, the Federal Councils approved the new Law on Foreigners and the revision of the Asylum Law. As it is foreseen that both laws will be adopted, many critical voices

have arisen from the Swiss civil society. The debate preceding this adoption also elicited vigorous reactions, notably from the Council of Europe’s Commissioner for Human Rights, Alvaro Gil-Robles³, and from the UN High Commissioner for Refugees (HCR) – the latter expressing “serious concerns” with regard to the institutionalization by Switzerland of certain norms which are amongst the most severe in Europe.

In addition, the UN Special Rapporteur on racism, Doudou Diène, has just submitted to the Commission on Human Rights (CHR) a preliminary note on his recent mission to Switzerland⁴, in which he disapproves of the weakness in the political and legal strategy to combat racism and xenophobia. He also highlights the existence of a current of political opinion which is favourable to “a defence of identity against immigration” resulting from the “growing emphasis on rhetoric based on the ‘defence of national identity’ and ‘the threat of the foreign presence’” in both political attitudes and political platforms as well as in some sectors of the media. His final report along with his recommendations will be, in principle, submitted to the new Human Rights Council that will succeed the CHR in June 2006.

Overview of the two laws

The Asylum Law (LAsi)⁵ has been subject to several modifications since its creation in 1979, all going in the direction of increasingly visible tightenings and, in the end, making up a law that is closer to a Law against asylum than to a Law on Asylum. Indeed, allegedly with a view to fight “abuses” and despite a continuing decrease in applications for asylum⁶, revisions of the LAsi impose increasingly severe conditions that threaten to exclude truly persecuted individuals from all protection. The systematic inadmissibility of a request for asylum for failure to produce identification papers or in cases of transit through a third country considered as “safe” or through one of Switzerland’s neighboring country; the exclusion from all social help for dismissed asylum seekers; detention extended to two years – a penalty equivalent, in Switzerland, to a grave breach such as violent assault or rape! – for individuals opposing their dismissal are some of the unacceptable tightenings to which individuals seeking asylum in Switzerland on humanitarian grounds will be confronted in the future.



"Bosnia has changed a lot" Flight plan, Deportation order
"... Switzerland, too!"

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As for the Law on Foreigners (LEtr)⁷, it institutionalizes discrimination between, on one hand, nationals from the European Union or from the European Free Trade Association (EFTA), the stay of whom is regulated by bilateral agreements and, on the other hand, those from third countries, essentially extra-European ones. Notably, the Law denies the latter the right to family reunification for children over 12 years of age – for the younger, a request should imperatively be made within five years after the arrival in Switzerland – and the right to be automatically granted a residence permit after ten years of residence in Switzerland.

In addition, every union with an extra-European citizen will be a priori discredited given that Civil Status Officers will, in the future, be entitled not to grant their approval to a marriage they find suspicious from a purely subjective point of view. In forcing binational spouses to live together in order to benefit from a residence permit, the new law is also at risk to generate dramatic situations in cases of spousal abuse. Although the LEtr sets forth exceptions to this obligation, concerns have already been expressed regarding a restrictive application of this disposition.

Finally only highly skilled extra-European workers or those who present a major economic interest will, in the future, be able to come into Switzerland. These new norms are not at all responsive to existing economic needs (it is estimated that certain sectors, such as the hotel industry and agriculture, already employ between 100'000 and 200'000 "sans-papiers" or clandestine immigrants) and will only increase the number of clandestine workers. These norms are all the more hypocritical as regularization of clandestine workers is made

impossible despite the precarious conditions they are facing every day.

The restrictions imposed by these two laws clearly affect the fundamental rights of migrants and are difficult to justify. In addition, they do not create a means to decrease migrations and it would be naïve to think otherwise! On the contrary, the greater stigmatization of foreigners that might result from them could eventually bring about situations that the advocates of the new laws precisely pretended they intended to fight.

Double referendum⁸

In order to reaffirm the support to the preservation of fundamental values and human rights, two referendums were officially launched on December 27, 2005, with the support of left-wing parties, syndicates, churches and diverse organizations defending migrants' rights and the right of asylum. As both of them were validated, Swiss people will be asked to express their views on September 24, 2006.

¹ www.svp.ch/index.html?&page_id=392&node=23&level=1&l=3

² www.osar.ch/2006/01/10/asylg_voer_bv. See also, amongst others, the Convention on the Rights of the Child and the General Observation N°6 of the ad hoc Committee concerning the treatment of unaccompanied children and of separated children outside their country of origin / the Convention on the Elimination of Racial Discrimination and General Recommendation N°30 of the ad hoc Committee concerning discrimination against foreign nationals.

³ www.coe.int/T/t/commissaire_d.h/unit%E9_de_communication/documents/Par_cat%E9gories/Rapports_de_visite

⁴ E/CN.4/2006/16/Add.4 (February 3, 2006)

⁵ www.admin.ch/ch/f/rs/1/142.31.fr.pdf

⁶ The number of requests is currently at its lowest level since 1986 (10'061 in 2005). Cf. *Le Temps* of January 20, 2006.

⁷ www.admin.ch/ch/f/rs/1/142.31.fr.pdf

⁸ For every object adopted by the Federal Assembly, a referendum may be requested by Swiss people provided that 50'000 signatures are gathered.

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Although the principle of equality in treatment on which the ICRMW is based appears a priori as the most efficient means to fight against discrimination, it raises a number of reservations and oppositions from the States. Thus, certainly the largest controversy affecting the ICRMW is linked to the protection granted to undocumented migrant workers. Indeed, part III of the Convention (art.8 to 35) sets forth several rights which apply to all migrant workers, whether or not they are documented. Even though the latter benefit from limited rights compared to documented migrant workers, who benefit from an equality of treatment with nationals of the State concerned, including in the legal, economic, social and cultural domains (IVth part, art. 36 to 56), the ICRMW states that all human beings are entitled to the most basic rights as a minimum.

Similarly, part VI of the ICRMW (art. 64 to 71) sets forth a series of measures aimed to promote migrations in "sound, equitable and humane" conditions. Hence, the ICRMW aims to play a role in the prevention and suppression of the exploitation of migrant workers and members of their families, bringing to an end, amongst others, clandestine movements and the existence of undocumented migrant workers.

A small rate of ratification

The ICRMW entered into force on July 1, 2003, i.e., almost 13 years after it was adopted by the United Nations. To date, only 34 States have ratified it (see box). Parties to the ICRMW are essentially countries sending migrant workers – even though, today, every country may be a sending, transit or receiving one or all three. The small number of State Parties to the Convention and the slow pace of ratification arise from an obvious lack of political will that is particularly significant in the North where no country has ratified the ICRMW yet.

If parallel to more political concerns, administrative and financial difficulties are invoked by countries of the South as justifiable obstacles to their ratification, this argument does not hold for the countries of the North. For several years, the latter have more and more resorted to security concerns to justify the successive hardening of their migration policies. Preventing the "massive" entry of migrants and fighting against "abuses" of the right of asylum have become the major preoccupation. Hence, granting additional rights to migrant workers would be inconsistent with their policies. Finally,

State parties have an obligation to report to the ad hoc Committee (the monitoring body of the implementation of the Convention); public exposure of their lack of respect of human rights would be embarrassing for States that show little respect of international law.

An essential instrument for the promotion of human rights

A global campaign for the ratification of the ICRMW was launched in 1998² to break down the lack of political will and several efforts have been initiated in various EU member countries to alert public opinion and the leaders to the existence and relevance of this international legal instrument³. Despite its limitations, the ICRMW is a significant move towards the promotion and defence of migrant workers' rights. Accordingly, it is crucial that an increasing number of civil society movements be informed and sensitized to the increasingly fundamental issue of migration, that they seize it and that they join forces in the struggle for the long awaited recognition and respect of the fundamental rights of migrant workers and the members of their families.

¹ HRI/GEN/1/Rev.7/Add.1.

² <http://www.december18.net>

³ 11 EU member countries have ratified at least one of the two ILO Conventions relating to migrations. In 2002, the European Parliament and the General Assembly of the Organization of American States have advocated for the ratification of the Convention. In addition, national campaigns aimed at the ratification of the ICRMW were launched in Belgium, France and Italy and efforts have been made in this direction in the Netherlands. Italy has also incorporated some of ICRMW's dispositions into its 1998 law on immigration.

34 States parties to the ICRMW

Algeria, Azerbaijan, Belize, Bolivia, Bosnia and Herzegovina, Burkina Faso, Cape Verde, Chile, Colombia, Egypt, El Salvador, Ecuador, Ghana, Guatemala, Guinea, Honduras, Kyrgyzstan, Lesotho, Libya, Mali, Mexico, Morocco, Nicaragua, Peru, Philippines, Seychelles, Senegal, Sri Lanka, Syria, Tajikistan, Timor-Leste, Turkey, Uganda, Uruguay*.

* Status of ratification, 31 March 2006.