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Migrants**

**The Rights of Migrant Workers and Members of their Families: Nigeria**

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## LIST OF ABBREVIATIONS

ECOWAS	- Economic Community of West African States
CEDAW	- Convention on the Elimination of All Forms of Discrimination Against Women
FMIA	- Federal Ministry of Internal Affairs
NEPAD	- New Partnerships for African Development
ROR	- Rights of Residence
UDHR	- Universal Declaration of Human Rights
UNESCO	- United Nations Educational, Scientific and Cultural Organisation

## EXECUTIVE SUMMARY

Nigeria is an important sending and receiving country in terms of international migration. Pre-colonial migratory movements within the West African sub-region, other African countries and Europe were traditionally for trade, labour and religious pilgrimages and for education. Intra-African movements were generally without legal restrictions and not properly documented. At independence in 1960, the need for proper documentation and monitoring of immigration was recognised and immigration laws were enacted in 1963.

Available data from national surveys, estimates and various other sources reveal that 0.5 % of the total population of Nigeria (in 1991) consist of documented foreigners. Majority (88.46%) of these were of West African origin mainly from Benin Republic, Togo, Ghana and Mali while other Africans (9.7%), and others (Americans, Europeans, Asians, Australians) are less significantly represented (2.0%). The influx of migrants of African origin to Nigeria, which coincided and accelerated with Nigeria's economic fortune of the oil-boom period in the 1970's has continued and is sustained by a number of significant factors. These include continuing and expanding opportunities for distributive trade in Nigeria, tightening of immigration laws in developed countries and the formation of ECOWAS with sub-regional agreements on free movement, within the West African sub-region. In the last decade, political instability and wars in Liberia, Côte d'Ivoire and Sierra Leone had contributed to increased pressures experienced by Nigeria from immigration. Migrants are basically in search of employment and better living conditions in Nigeria. This poses serious challenges to Nigeria in the areas of economic planning, political security, crime control, environmental management and socio-cultural development.

In Nigeria remarkable increase in emigration to Europe, North America, the Middle East and South Africa occurred from the 1980's following economic downturn, introduction of liberalisation measures and emergence of repressive military dictatorships. This has resulted in a yet to be reversed significant brain and skill drain from the country.

The rights of documented migrant workers and members of their families are mainly protected under the Nigeria Immigration Act of 1963 and the Constitution of the Federal Republic of Nigeria, strongly guided by basic international human rights instruments and now strongly influenced by the numerous ECOWAS' Treaty, Protocols and decisions ratified by the government. The Act, interpreted through various immigration regulations and operationalised through the ECOWAS Residence Manual, details the rights of entry and sojourn, rights of residence and establishment, economic as well as cultural rights of migrants generally.

In real terms, the rights of undocumented migrant workers, who constitute the majority of aliens in Nigeria, may not be fully and adequately protected, given their illegal status. While existing constitutional and legal framework for the protection of human rights are seen to cater for the citizens as well as aliens, indications are that illegal migrant workers are vulnerable to abuse and exploitation and their "rights" are qualitatively inferior to that of legal migrants. While documented migrants may seek for employment, acquire

properties, remit money legally and avail themselves of avenues open for their defence (law courts, Public Complaints Commission), illegal aliens live in fear of deportation and accept demeaning and demanding low-paying jobs. Documented migrant workers, despite the provisions of the ECOWAS Protocols may also not be fully protected from exploitation particularly when employed in the private sector.

Nigeria has neither signed nor ratified the International Convention on the Rights of All Migrant Workers and Their Families, and has not provided official explanations for this. However, it is suspected that the inability of the country to sign or ratify the Convention in the past may not be unconnected with the experiences of prolonged military rule and the absence of appropriate democratic and legislative organs, lack of appreciation of the instrument, sufficient conviction of the importance of the instrument and greater commitment to ECOWAS agreements already ratified.

Currently, indications are that Government and lawmakers are not averse to the United Nations Convention, given for their awareness of its existence and their positive disposition to it. The main obstacles to ratification are therefore political, legal and economic. The legal implications of the Convention are being studied to ensure that conflicts with existing provisions on the rights of migrant workers and their families are not generated, if ratified. The financial implications of improving border control training personnel, providing more entry ports and putting other necessary structures in place to implement the provisions of the Convention are enormous and must be carefully weighed. Politically, it may not be strategic to ratify an international convention in favour of migrant workers when Nigerian workers through the Nigeria Labour Congress are perpetually dissatisfied and disappointed with government over low wages, retrenchment of workers, employment freeze, poor welfare packages and unsatisfactory terminal benefits.

Strategies towards ratification of the Convention are creation of awareness, sensitisation and advocacy on the values of ratification. This could be directed at the Committees on Internal Affairs in the National Assembly, government officials (in the Federal Ministry of Internal and External Affairs, Information, Justice), and other important stakeholders such as the Nigeria Labour Congress and cross-section of employers in the public and private sector.

It is therefore recommended that:

- Since a more favourable political environment exist in Nigeria today compared to the last two decades, renewed efforts towards encouraging the ratification of the Convention is appropriate.
- The strategy of targeting key and relevant actors in government, Federal legislature and judiciary for sensitisation and advocacy on the rights of migrant workers and their families should be adopted.

- Widespread creation of awareness on the International Convention, plight of migrant workers and their families in different parts of Africa, the leadership role of Nigeria in the African Union and the need to ratify the Convention is important.
- Relevant actors be targeted for sensitisation on certain ungrounded fears surrounding the granting of migrant workers' rights while highlighting benefits of ratification.
- Nigeria (and other West African countries) that have not ratified the Convention should be further educated and convinced on the need to do so, given for the various sub-regional and continental agreements on protection of migrants already entered into.
- Efforts at documentation of migration flows and protection of migrant workers' rights by relevant agencies (such as the Federal Office of Statistics, Federal Ministry of Internal Affairs and the Nigeria Immigration Services) should be encouraged and supported.
- The Social Science Academy of Nigeria should be targeted for coordinating and documenting existing and future research outcomes on migration flows and the rights of migrant workers and their families in Nigeria.
- The inclusion of research on the rights of migrant workers and their families in Nigeria in the priority areas of focus is urgent, given for the near absence of reliable and current data in this area. Academics in Nigerian universities and the Nigeria Institute of Social and Economic Research (NISER) should therefore be encouraged and supported to conduct research on this to fill the gap in knowledge and provide the needed information for law making and policy formulation.

## INTRODUCTION AND BACKGROUND

Nigeria is the most populous country in Africa south of the Sahara and the ninth most populous in the world with a current projected population of 126 million (NpopC, 2003). An annual growth rate of 2.9 % makes the country one of the fastest growing populations in the world, with a capacity to double itself by 2025 (Population Reference Bureau 2001).

The country occupies a landmass of approximately 923,768 square kilometres on the west coast of Africa. Its extensive frontiers border the Republics of Chad and Cameroon to the east, Benin Republic to the west, the Republic of Niger to the north and to the south; the 800-kilometre coastline of the Atlantic Ocean bound the country.

The country, since independence in 1960 has oscillated between democratic and military forms of Government, with the latter being in existence for a total of 28 out of her 43 years as a nation. At present, the democratic government that came into existence in 1999 is structured along three tiers, comprising the Federal Government with its seat in Abuja, 36 States, 774 Local Government Areas (LGA) and an autonomous Federal Capital Territory. Governance has largely been turbulent and often described as “disappointing” by majority of the people (UN, 2001). The democratic structures and institutions are still evolving after almost three decades of stunted growth, occasioned by military dictatorship. This is evident in the yet to be fully understood Constitution of 1999 which in itself “places limits on the full enjoyment of civil and political rights and renders social, economic and cultural rights non-justifiable”(UN, 2001). A fully evolved democratic structure is expected to reflect greater capacity for decision-making, management and service delivery in all sectors, improved capacity for policy formulation and law enforcement at the executive, legislative, judiciary and other democratic institutions in the country.

In addition to her large population and vastness, Nigeria is a very diverse country of over 300 ethno-linguistic groups. A total of 354 languages are spoken across the country and the people are strongly attached to their indigenous culture. This is reflected in several traditional ceremonies and festivals, different modes of dressing and the practice of Islam, Christianity and many traditional religions.

Nigeria is a country of great wealth, in terms of natural and human resources, although this is not presently reflected in the quality of life of the people or the observed trends of growth in the economic sector (UN, 2001). From a much higher GNP per capita in the 1979-1989 decade that peaked at \$780 in 1981, the country experienced a sharp decline to a low \$220 in 1995 and only recently managed a slight improvement to \$310 (UNDP, 2000). Of the factors most responsible for this poor economic performance records, a heavy dependence on the petroleum industry, continuing decline in agriculture, lack of appreciable development in manufacturing and poor economic management are most obvious.

The position of Nigeria in the African continent and in the West African sub-region has placed on her both a set of obligations and constraints that have come to have great implications for her survival as a nation. Generally viewed as one of the three great economies of Africa (alongside South Africa and Egypt) and despite her continuing poor economic performance reflected by human development indices in the last few decades, the country has remained an attraction to migrants from all parts of the continent. The country however receives the greatest pressure from neighbouring States in the West African sub-region because of her large size, diversity, better economy (relative to theirs), stronger local currency, biting poverty, continuing decline in the economy of neighbouring States, political instability and the outbreak of war in some of them (Liberia, Côte d'Ivoire, Sierra Leone).

While migration across international borders have always taken place, the formation of the Economic Community of West African States (ECOWAS) and agreements signed by the 17 member States on free movement within the sub-region have further increased the flow of legal and illegal migrants into Nigeria. As an important and committed member state of ECOWAS, it has been almost impossible for her to close her doors to sister States within the sub-region.

Nigeria is simultaneously a country of origin and destination of migrants, with significant migrant worker population, although illegal immigrants that are largely not documented may make this virtually impossible to appreciate. Documented negative experiences of migrant workers and their families in different parts of Africa, including Nigeria range from xenophobia, forms of subtle and overt racism, social exclusion, demonstrating marked threats to their fundamental rights and physical safety in employer countries (United Nations, 2002). Nigeria, like some other employer countries in Africa (such as South Africa and Gabon) was absent from the Convention, had neither signed nor ratified, nor expressed any reservations regarding the convention. Given that managing and integrating the rights (social, cultural, economic and political) and obligations of all migrants and their families have become global issues of growing concern, there is the need for more information on the position of Nigeria regarding the Convention and the status and situation of migrant workers and their families in the country.

### **THE UNITED NATIONS INSTRUMENT ON THE RIGHTS OF MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES.**

A little less than a century ago in 1919, the ILO recognised an urgent need to advocate for improved working conditions and protect the interests of workers in settings outside their own. This marked the beginning of the existence of several international instruments to ensure legal protection for migrant workers and their families, the first of which dates back to 1926 when the ILO adopted the International Convention on the Inspection of Emigrants (Fonteneau, 1992). This was prompted by increased volume of migration largely due to search for employment, escape from hardship, poverty and political repression in Europe and other parts of the world. The protection of the interests of

workers when employed in countries other than their own is one of the objectives of ILO clearly stated in its constitution (Fonteneau, 1992; Tomaservski, 1991).

Following this, two other major Conventions regarding the protection of migrant workers were adopted by the ILO in 1949 and 1975, the earlier calling for equal rights of migrant workers with nationals (Convention No. 97 and Recommendation No 86 of Migration for Employment) and the latter advocating for equality of trade union and cultural rights (Convention No. 143 and Recommendation No 151 of Migrant Workers Convention). These instruments were expected to be universal in application and to improve the situation of migrant workers anywhere in the world.

The United Nations (UN) had demonstrated its conviction for the protection of human rights, regardless of nationality or origin through several basic legal instruments such as the Universal Declaration of Human Rights of 1948, two important international Covenants (on Economic, Social and Cultural Rights; on Civil and Political Rights), the International Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child.

Despite the existence of these basic international legal instruments, the General Assembly of the UN in 1990, convinced that the rights of migrant workers and members of their families were not being adequately recognised and protected everywhere in the world, adopted the International Convention on the Protection of the Rights of All Migrants and members of their Families (UN Treaty Collection, 2002). The new international instrument, drafted in collaboration with the ILO became open to all States for signature and ratification. The rationale for the unique legal instrument lied in the recognition of the growing vulnerability of migrant workers and their families in different parts of the world, the inability of existing legal instruments to adequately and strongly ensure the protection of the rights of migrant workers and their families and the urgent need to regulate the flow of migrant workers.

Apart from its universality of application (Part 1, Article 1) to all migrant workers and members of their families, the Convention aptly defines a migrant worker as “a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State in which he or she is not a national” and all other possible categories of migrant workers (Part 1, Articles 2-6). The Convention further expresses the non-discriminative provisions with respect to rights, emphasising freedom from unnecessary restrictions, protection by laws, freedom from slavery, torture, cruelty, inhuman and other degrading treatments in the host countries. Migrant workers and members of their families are also protected by the Convention from forced or compulsory labour, restrictions on thoughts, conscience and religion and coercion in any form. Other rights include that to hold opinions without interference, freedom of expression, freedom from unlawful interference with privacy or family and freedom from deprivation of property.

Under the Convention, migrant workers and members of their families are entitled to effective protection by the State, even when offences are committed, pending the fair determination of cases (according to existing laws) and therefore treated with dignity.

Summarily, migrant workers and members of their families are to be treated as humans, allowed freedom of associations including activities of trade unions, allowed to receive medical care, access to education, to retain their cultural identity and to maintain cultural links with their States of origin. In relation to cultural identity, provisions are made for migrant workers to participate fully in cultural life, teach children in their mother tongue and culture. Migrant workers are also expected to be able to exercise the right to transfer their earnings and savings from the state of employment to the state of origin and are protected from undue taxation.

The procedure through which the Convention can enter into force for States to accede unilaterally after its been adopted by the General Assembly of the UN is very clear. At least 20 States were required to ratify its text and this was achieved in March 2003. The international instrument therefore entered into force on July 1<sup>st</sup> 2003 and has become the international law on the protection of migrants' rights. Of the States that have either signed or ratified the Convention, only five (Cape Verde, Senegal, Ghana, Guinea Bissau and Mali) are from the West African sub-region while three others (Egypt, Seychelles and Uganda) are from other regions of Africa.

The Convention, like other international legal instruments, is not only normative but also legally binding and States that ratify are expected to incorporate it into their own laws. However it is also recognised that the ratification of an international Convention is not sufficient to guarantee its application, hence the need to encourage and monitor its full adoption in different States.

## **DYNAMICS OF INTERNATIONAL MIGRATION IN NIGERIA**

- **Migration Flows and Characteristics**

An important fact that has emerged from the African migration literature is that the population is extremely mobile (UNESCO-MOST, 1999; Todaro; 1997; Adepoju, 1983). Movements in the past had taken different forms and directions and had been triggered off by slavery, drought, ecological disasters, political instability and economic considerations. Migration within and between different regions in Africa has therefore reflected the general global pattern in which a set of push factors, notably deteriorating economy, political instability, droughts and wars are largely responsible for the exit of people from the sending countries and other pull factors such as relative economic prosperity, peace and stability are responsible for the attraction of migrants to the receiving countries.

Pre-colonial migration in West Africa was basically oriented towards trade, labour and religion (for pilgrimages) and was without legal restraints and barriers. Absence of strict legal restrictions made it possible for nomads, farm workers, seamen, traders and preachers to migrate freely and frequently across international borders, even during the colonial era. The enactment of immigration laws in Nigeria at independence (1960)

highlighted the need for proper documentation of migrants but more than four decades later; this has remained a problem (Adepoju, 1983, NISER, 1993; NPC, 2001).

Available statistics from national surveys, estimates from surveys and other available sources (FOS, 1963; FOS, 2003; NISER, 1997; NPC, 2001) agree that within the African continent and in the West African sub-region in particular, Nigeria has for long been both an important receiving and sending country. Evidences of the status of the country as an important receiver of migrants from different parts of the world reveal that in 1991, about 0.5% of the total population are documented foreigners of three main categories, the West African (Ecowas) countries, other neighbouring African countries and other parts of the world (NPC, 2001; FOS, 2002). Majority of the migrants (88.46%) are from the West African sub-region (Table 2) and are mostly from Benin Republic (25.0%) Ghana (19.55%) Mali (14.03%) and Togo (12.17%) Other Africans are also significantly represented (9.7%) but in all migrants of African origin constitute about 85% of all foreigners in the country. Accounting for the remaining 15% are Americans, Europeans, Asians, Australians and others (Table 1).

The poor state of available data on international migration has made it impossible to outline the characteristics (educational, economic and demographic) clearly and disaggregate the data appropriately, until current national efforts at improving data collection begin to yield results. However there were more males than females as shown in Table 1 and Table2. Migrants were initially found only along border towns and cities in the early 1970's but they have since the 1980's spread to every rural and urban part of the country.

The most reported motives for crossing from any country to Nigeria are to seek employment and better living conditions. While some migrants work legally, others are illegal migrant workers, having no work permits and employed in the shadow economy. Some move with their families while others leave their families behind, but most remit money back home. Data to support this is scanty and unreliable because majority of migrants of West African origin are illegal aliens and undocumented. Of the total African migrant population (402,661) reported in the 1991 census, 257305 were in the working population while 257305 were actually economically active. Of these, 32.3% were females. The same variation is observed when the 230,613 nationals of West African origin in the working population are disaggregated by gender. Of these, 41.4% were females. Overall, considering all documented aliens only 31.1% were female while about 7 out of every 10 aliens were males (69.9%) as shown in Table3 . This seems to suggest that while men are more likely to migrate to seek employment and their spouses are likely to join them, women are less likely than men to enter the labour market in Nigeria. However, majority of the women directly join the expanding informal sector where women predominate in Nigeria

Documentation of aliens in Nigeria is admittedly poor (NPC, 2001). Virtually all official statistics understate the true extent of international migration in the country. Statistics on unauthorised migration are even more difficult to find. This is because majority of aliens from the West African sub-region are illegal entrants who are in the country in

contravention of the international and community laws and who had also entered through bush paths and other unrecognised and illegal ports of entry. Prior to 1983 when illegal aliens were forced out of the country, an estimated three million, majority of who were Ghanaians resided in the country (National Concord, 21<sup>st</sup> June, 1983:180). Since then an increasing number of international migrants continue to enter the country without valid documents and are not documented. Recently the National Population Commission began efforts besides the census and the population register, to explore other sources of migration data, notably from immigrants and emigrants at all possible points of entry, data on application for visa and work permits and other special surveys (such as NISER, 1993) conducted (NPC 2001; 2002).

It is generally agreed that an unknown number of foreign workers are found in diverse work environments in Nigeria ranging from agricultural labour, food processing, domestic labour, light industries, construction sites, teaching and service jobs. Majority (about 80% ) of undocumented migrants are young, middle-aged men and women employed in unskilled or manual jobs such as factory workers, building and construction work, mobile dealers, painters, carpenters, drivers, photographers, security guards, shoe repairers, petty business men and commercial sex workers. Recently the print and electronic media have revealed more frequently that unauthorised migrants are smuggled into Nigeria by agents who specialise in human trafficking.

Some migrant workers are also engaged in skilled and semi-skilled works in the professions as teachers, doctors, engineers, nurses, architects and accountants. Another category are the unemployed and unemployable migrants who are mainly beggars, destitute and criminals (drug pushers, foreign exchange racketeers, armed robbers and smugglers) who under the law constitute the prohibited migrants.

A highly complex system of informal network is at play in the influx of migrant workers. These involve family, community and agents in the countries of origin who arrange movement, initially pay for travel and help to link up with other migrant workers when they get to their destination.

- **Causes of Migration**

Increased intra-African migration of skilled, semi-skilled and unskilled persons, observed

from the 1970's is attributable to the tightening of immigration laws in developed countries, increased opportunities within the region, the formation of sub-regional economic unions and the impact of oil boom on the economy of Nigeria.

The country has experienced an influx of migrants from all parts of Africa partly because immigration policies of some developed countries, particularly from Europe and America had become highly selective in favour of educated, skilled, technical and professional persons. Nigeria and South Africa had therefore become preferable alternatives to migrant workers who otherwise would have headed for the more developed countries of the world.

The change in economic fortune of Nigeria from the 1970's, during the period of the oil-boom was accompanied by significant economic and industrial development, infra-structural development and vast employment opportunities and attracted migrants from all parts of Africa. Higher wages and incomes offered to both nationals and aliens as well as expanding opportunities for business and distributive trade were attractions that pulled migrants from neighbouring countries and other parts of Africa to Nigeria.

The formation of ECOWAS in 1975 and the valued position of oil-rich Nigeria within the sub-region that houses some of the poorest nations of the world (Mali, Burkina Faso, The Gambia, Guinea Bissau) are some of the most significant factors that have increased the wave of migration into the country. The Community Programmes formulated and agreed on by the 17-member states provided for free flow of migrants and rights of establishment through the operations of the Protocol on Free Movement of Persons and ECOWAS Community laws (International Legal Materials, 1975). By entering into these agreements, member states have relaxed immigration control for their citizens with regard to entry, residence and establishment and instituted the formation of ECOWAS Citizen (or Treaty citizen or Community Citizen). Similarly, Nigeria's foreign policy on Africa is centred on unity, peace and good neighbourly relations is reflected in relaxed immigration policies of the country, which is often abused by citizens of member states.

In the last three decades, from about 1970, other significant developments in Africa and in sub-Saharan Africa in particular have resulted in increased flow of migrants into Nigeria. These include the Sahelian drought of the 1970's, which pushed the nationalities of Niger, Mali and Cameroon to Nigeria and the intra and inter-ethnic wars in Chad Republic. More recently political instability and intra-ethnic wars in Sierra Leone, Liberia and Côte d'Ivoire have pushed significant proportions of their citizens out to seek employment and better living conditions in Nigeria.

The demographic situation of most African countries in which an annual growth rate of between 2.5 and 3.0 % (UN, 2001) persists has resulted in the inability of the countries to provide basic infra-structural facilities and employment for the citizens. This, coupled with a growing population of educated and skilled persons in the countries has forced such persons to other countries, notably Nigeria in search of employment.

- **Emigration**

Emigration of Nigerian nationals has been of equal importance and dated back to the pre-independence period. The traditional destinations then had been to some West African countries such as Ghana (where more than 67,000 were in 1931), Sierra Leone, Cote d'Ivoire and Liberia largely for trade, commerce and education. Outside the sub-region Nigerians moved out to Europe to engage in educational pursuits. Students therefore constituted a substantial proportion of emigrants before and about two decades after independence in 1960.

Remarkable increase in emigration occurred from the 1980's particularly to Europe, North America, the Middle East and South Africa. Combinations of political and economic problems triggered off and have sustained brain and skill drain from Nigeria in

the last two decades. These include emergence of dictatorial regimes, economic mismanagement following the oil-boom period of the 1970's that was characterised by mass retrenchment of workers, wage freeze, declining value of the local currency and increasing rate of unemployment. Other social, political and economic problems that emerged include widespread environmental degradation, dissatisfaction by educated persons and professionals and prolonged worker's strikes especially in the universities. The country therefore began to experience massive emigration of skilled professionals in search of employment opportunities and satisfaction in other parts of the world (Ukaegbu, 1985; Adepoju, 1990). In 1994, for example an estimated 10,000 highly skilled Nigerian professionals lived in the United States of America and they comprised mostly doctors, nurses, engineers and university teaching staff. Such exodus has created shortages of skilled nationals that appeal by the present democratic government (without articulated control policies) and professional bodies for their return have failed to yield results.

Intra-African exchange of skilled manpower (notably doctors, other paramedical staff, teachers/lecturers, scientists, engineers) has increased in the last three decades. While reliable data are not readily available, many Nigerians have also moved out through the Technical Aids Corps to other African and developing countries. This has coincided with a period of tremendous expansion in educational services in Nigerian institutions, student enrolment and increased supply of graduates in all disciplines. The country has therefore supplied graduates far beyond her absorbing capacity and this has pushed many to seek employment outside the country. Emigration of females for education and employment has also increased in the last two decades and is equally attributed to worsening socio-economic conditions in the country but available data such as contained in Table 6 are still limited in use.

- **Impact of Migration**

The influx of migrants into Nigeria in the last three decades (from about 1970) has very serious consequences for the country, particularly in the pattern of employment observed. Migrant workers have successfully competed with and displaced Nigerians in a number of diverse job settings. This has been possible because migrant workers, majority of who are undocumented easily accept demeaning and demanding jobs that local Nigerians may be unwilling to take and often with wages much lower than the recommended minimum of N7, 500.00 (\$50.5) per month. Migrant workers are found in jobs on construction sites, schools, hospitals, small-scale industries and the hospitality business. They have acquired a reputation for hard work, obedience and sincerity while providing cheap labour and are therefore preferred by some employers. The construction industry particularly in Abuja, the new federal capital territory has benefited greatly from the influx of migrants and has been a major source of attraction for semi-skilled and unskilled migrant workers in Nigeria.

One other significant impact of the influx of migrant workers in Nigeria is in the additional pressures exerted on available goods and services such as simple household goods and food items, health and educational services provided by government. While the country has suffered from lack of proper economic planning, the presence of a yet to

be known number of migrant workers and members of their families puts greater burden on economic planners and renders government efforts ineffective.

Significant economic loss to Nigeria is another negative economic impact of the influx of migrant workers. This is directly through various illegally transferred remittances estimated at N150 million in 1983 (Chhangani, 1983) mainly through the black market by illegal migrant workers. It is expected that this has increased tremendously over the last two decades. On the positive side, migrant workers' contributions to the development of the country have not been properly evaluated but it is generally viewed as very significant going by their presence in diverse work settings in the country.

The social impact of migration is most visible in the increase in anti-social and criminal behaviours such as prostitution, armed robbery, car theft, smuggling, currency trafficking, trafficking in women, girls and children, religious riots and other fraudulent practices wherever aliens of African origin are concentrated (Idris, 1998). Large numbers of migrants from Niger Republic, Mali and Chad have taken to begging in virtually all parts of the country as a result of their being unemployable. The large and uncontrolled influx of migrants as it is the case in Nigeria pose serious challenges to the political security of the country. In the northern part of the country, illegal aliens are often recruited to vote by desperate political parties taking advantage of the affinity of Nigerian border inhabitants with others in Niger Republic and Chad. Illegal immigrants often constitute a ready group for use as mercenaries and agents of disorder and lawlessness, posing security threat to many communities in the country.

The increase in the development of slums and shanty residential areas in many urban areas is partly associated with the influx of migrants due to their inability to secure and pay for good residential accommodation. Large numbers of illegal migrants and poor migrant workers live in unhealthy open and public places, without basic social amenities and are exploited by local residents who take advantage of their illegal status.

Xenophobic feelings may have been generated and directed at aliens in Nigeria in the last few decades when their presence had increased tremendously and social and economic conditions had worsened for most Nigerian workers. This has however originated not mainly because aliens on their own constitute the problem but because Nigeria was experiencing a downturn in economic development, viability and management. This was heightened by the expulsion of illegal immigrants of West African origin in 1983 and 1985 which somewhat confirmed their official rejection and increased certain prejudicial sentiments towards them.

Of significance is the feeling that the rise in unemployment may have suffered from increase in the employment of aliens, signifying a gradual replacement of nationals through the creation of opportunities for aliens. However, the argument has been put forward (Adediran, 1980; Chhangani, 1983) against this myopic and unjustified feeling since Nigerians are also present in large numbers as migrant workers in other African countries.

Generally, existing strong cultural affinities between inhabitants of contiguous (sometimes undemarcated) border areas between Nigeria and her immediate neighbours (Republics of Niger, Togo, Benin, Cameroon and Chad) may have lessened the cultural impact of the influx of migrants. However, it is perceived that large population of migrants of diverse origins in Nigeria is partly responsible for the increase in unbridled ethnic rivalry and the development of violent and terrorist inclinations for the purpose of obtaining religious and political concessions. The presence of aliens from African and other countries is also believed to have contributed significantly to changes in attitudes to cultural values and norms by the younger generation of Nigerians and the growing development of a violent political culture.

### **NATIONAL POLICIES AND PROGRAMMES**

The rights of migrant workers and that of members of their families are mainly protected under the Nigeria Immigration Act of 1963 (FM.I.A, 1991). This is strongly guided by basic international human rights instruments such as the UDHRs OF 1948, International Covenant of Civil and Political Rights, CEDAW and the Rights of the Child. However, the Nigeria Policy on migration and migrant workers rights is greatly influenced by the sub-regional ECOWAS Treaty and its numerous protocols, Conventions and Decisions, which are international agreements that have been ratified by the Federal Government of Nigeria. The Ecowas agreement is clearly reflected in the Nigeria Immigration Act, the immigration regulations, the immigration manual of 1991 as well as in the operations of the officers and men of the Nigerian Immigration Services.

The strong influence of the Ecowas Treaty is reflected in the Protocol on community citizenship (FMIA, 1991). Free movement of citizens within the sub-region, freedom to seek employment and residence, legal rights, immunity from deportation all essentially follow the principle of restrictive admission of immigrants and prescribe appropriate conditions for each.

The process of integration and acquisition of citizenship is guided by the Nigerian Constitution of 1999 and is also relatively easy for Ecowas citizens. The Ecowas travel certificate serves the dual purpose of being a travel document as well as a community identity for the citizens of the sub-region. The acquisition of citizenship for this category and others is through a simple application and satisfaction of other relevant laws on citizenship. The Nigeria constitution prescribes 14 years of continuous stay by foreigners for the acquisition of citizenship, in addition to rescinding the applicant's former citizenship (Akande, 1982).

The main actors in the promotion of the rights of migrant workers and their families in Nigeria are the Federal Ministry of Internal Affairs, the Federal Ministry of External Affairs, the Federal Ministry of Labour, the Nigerian Immigration Services, the National Commission for Refugees, the Federal Ministry of Justice, the Legal Aid Council, the Human Rights Commission and the Nigeria Labour Congress.

## **THE RIGHTS OF MIGRANT WORKERS AND THEIR FAMILIES IN NIGERIA**

The 1990 International Convention on the Protection of the Rights of all migrant workers and members of their families (UN, 1990) establishes an international definition of the migrant worker and the different categories that may exist. The term migrant worker refers to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national. This definition therefore encompasses both documented and undocumented migrants. It in addition formalises the responsibilities of receiving States with regard to upholding the rights of migrant workers and assuring their protection.

In this section, the rights of migrant workers and members of their families in Nigeria are examined. In compiling this the perspectives of different stakeholders were sought and official documents were collected from government officials at the Federal and State levels, particularly the Federal Ministry of Internal Affairs, the Federal Legislature, the Federal Immigration Services, the Judiciary, the Nigeria Labour Congress (the umbrella Organisation for the protection of Nigerian workers) and a cross-section of migrant workers of African origin. Most migrant workers preferred some anonymity to be able to freely express themselves since some of the issues raised border on official policies of the Federal Government of Nigeria.

- **Rights of Entry and Sojourn**

Restrictions of entry into Nigeria are imposed under the Immigration Act of 1963 and governed by the Constitution of the Federal Republic of Nigeria (1999). The Act essentially forms the basis and core of the immigration laws and policy of the country and is guided by relevant international (Fundamental Human Rights) laws.

Following the principles of international laws therefore, an alien has no right to enter Nigeria except within the provisions of The Act. These include the possession of a valid passport or other travel document and a visa or recognised entry permit. The alien must enter the country through one of the 147 authorised ports of entry, must not be a “prohibited” immigrant and his entry must not be seen or perceived to be prejudicial to national interests. The alien on fulfilling these conditions and on the satisfaction of the immigration official at the point of entry is entitled to admission into Nigeria. The Act further empowers the immigration official to impose conditions on entering aliens, ranging from duration of stay, place of residence, place of employment and restriction on movement within the country.

While the immigration laws in Nigeria (Federal Ministry of Internal Affairs, 1991) exempt ECOWAS citizens from obtaining visas for entry into the country all migrants are expected by law to come into the country through legally recognised ports with valid passports and up-to-date health papers. Migrants of African origin wishing to stay in the country are required by law to regularise their papers after which the Nigerian Immigration would issue them the legal resident card. The card and the registration it affords them as legal aliens permits them to live, work and own property and businesses

in Nigeria. They are allowed to bring in other family members who must also regularise their stay on coming into the country.

Migrants and members of their families are protected under the Nigerian constitution to seek redress in a court of law on any issue of conflict. They are also allowed to earn the same wages as their Nigerian counterparts where they work.

The legal fee for registration in order to obtain the ECOWAS citizen resident card is \$200 while non-ECOWAS citizens and other African nationals are required to obtain a legal permit called Combined Expatriate Resident Permit and Aliens Card (CERPAC) with a fee of \$350.

There has been no mass deportation since the last “Ghana Must Go “exercise (of 1985) but pockets of illegal migrants are deported from time to time (Table 5) for criminal offences and other activities “prejudicial to the interests of the country”. The New Economic Partnership for African Development (NEPAD) is presently working closely with the Nigerian Government to ensure easier movement for citizens of countries in the African continent and work towards the issue of ECOWAS passport and common currency.

Provisions for naturalisation are clearly stated in the Nigerian Constitution (1999, No 24, A, 889). Applications are made by persons “of full age and capacity” directly to the president, through the Governor of the State where the applicant would be resident. Applicants must also be judged to be of good character and must show a clear intention to be domiciled in Nigeria. In addition there must be appreciable evidence of having been assimilated into the way of life of the local community where the applicant hopes to live and must be capable of making useful contribution to the development of the Nigerian society. Dual citizenship is not permitted and the president reserves the rights to deprive a naturalised person of his citizenship for reasons of “disloyalty” to the country. Record of naturalised persons are not easily accessible therefore it is difficult to comment on the trend but it is generally believed that Asians have been most involved.

- **Economic Rights**

Migrant workers of the West-African sub-region are protected under the Protocol and specifically through the “Right of Residence (ROR)”. This is defined as the right of a citizen who is a national of one Member State to reside in a Member State other than his State of origin and which issues him with a residence card or permit. The residence card is normally valid for five years, renewable for another five years and can thereafter be replaced every five years. The ROR includes the rights to apply for jobs effectively offered and the rights to reside in any of the member states in order to take up employment in accordance with the legislative and administrative provisions governing employment of national workers. In Nigeria, an ECOWAS citizen may secure a job in the local, State or Federal government establishment and regularise his status (FMIA, 1991).

ECOWAS nationals who possess professional and academic skills and who secure employment outside the civil service can be regularised once they are able to register

with the appropriate professional body in Nigeria (e.g. Council of Registered Engineers, Institute of Chartered Accountants of Nigeria, Nigeria Bar Association etc.).

The conditions of regularisation of unskilled ECOWAS nationals include that the person entered the country through a recognised entry port, possesses valid travel documents, and is medically fit. In addition to these the employer must offer the same minimum wage approved by the Federal, State or Local Government and also accept some immigration responsibilities towards the migrant worker (FMIA, 1991).

Border area workers enjoy the right to choose their employment freely within the limits of restrictions imposed by the country on access of migrant workers to limited categories of jobs, posts or activities when the interests of the State so dictate (Protocol, Article 10). Seasonal and Itinerant workers enjoy all the rights to which other categories are entitled, with the exception of those relating to employment or resulting from it (Protocol, Article 11).

Migrant workers are allowed to transfer all or part of their earning or savings according to modalities fixed by legislation. Also transferable are amounts due to migrant worker as maintenance, and amounts outstanding to migrant workers when they finally leave (Protocol, Article 17). They are allowed to keep properties legally acquired and any rights derived from such acquisition (Protocol, Article 7) are respected. No matter the conditions of their authorisation of residence a migrant worker who comply with rules and regulations governing residence enjoy equal treatment with nationals in seeking re-employment in case of loss of job, training and advanced professional training. They also enjoy access to institutions of general and professional education for themselves and their children (Protocol, Article 23).

It is very clear from the provisions of the Community treaty and the operations of the Nigerian Immigration Services that undocumented migrant workers and their families who make up the majority of aliens in Nigeria may not enjoy equal protection of rights as legal migrant workers. Having entered the country illegally, this category of migrants is not entitled to employment and is therefore vulnerable to harassment, maltreatment and exploitation by employers. Majority in this category may therefore be subjected to long working hours with low wages and strenuous manual work without adequate compensation. They may be employed in hazardous work environments without adequate healthcare facilities and may not be reflected in employment registers of private companies where they are mostly found. They may face constant threats of termination of employment, as they are not allowed to form or be part of workers unions where their interests can be adequately addressed.

The Nigeria Labour Congress lays great emphasis on economic and political rights of Nigerian workers and is very active and determined at ensuring this through legal and political means. All other rights of workers are treated as social and secondary following the ILO pattern of operations. While it is agreed that migrant workers deserve all kinds of protection, including social and cultural, it is expected that the various international legal instruments on human rights are sufficient to protect migrant workers in Nigeria. The

need to protect migrant workers is often ignored because majority of them are illegal aliens and are not members of the Congress.

- **Social and Cultural Rights**

Migrant workers and members of their families may not be affected by collective or en mass expulsion orders as a result of their protection against collective or arbitrary expulsion outlined in the Ecowas Treaty (Protocol, Article 13). Protection against individual expulsion and violation of fundamental human rights of the migrant worker and their families (Protocol, Article 14) is also clearly spelt out in the official policy on migration in Nigeria (FMIA, 1991) such that migrant workers may only be expelled for reasons of national security, public order or morality. Such migrant workers would have been duly informed and only when they fail to comply with orders can expulsion be effected. No matter the conditions of authorisation of residence, migrant workers who comply with rules and regulations enjoy equal treatment with nationals in participating in social and cultural activities and benefits of access to social, health and cultural facilities (Protocol, Article 23).

In terms of protection of cultural rights, fewer references are made to it in the migration documents when compared to economic and legal rights of migrant workers. Migrant workers are generally allowed to live anywhere, provided they can afford it and they can bring members of their families who must also fulfil necessary conditions of entry and stay. They can practice their religion, wear their dress and bring in their local food. For migrants of African origin in Nigeria, little difficulty is experienced in adjusting to life in the country probably because there are a number of commonalities in terms of religion, food and dressing such that it may be somewhat easier for migrants of African origin to adjust than for those outside the continent. The presence of migrant workers from diverse social and cultural backgrounds has contributed to increased cultural diversity in Nigeria such that the country is gradually becoming the melting pot of Africa where all are represented.

Generally, “tension” result from the presence of aliens more from the economic and political fronts (such as claims for territoriality of oil-rich Bakassi Peninsular on the Nigeria-Cameroon border or when illegal Ghanaians were deported) than from culture contact with aliens.

- **Political and Legal Rights**

The political rights of migrant workers and their families are limited and controlled by the provisions of the Nigerian Constitution. Migrants, being aliens cannot take up political positions or positions of authority in Nigeria. They cannot participate in campaigns, vote or be voted for.

Migrant workers and members of their families are legal personalities in Nigeria. Any form of expulsion must be based on a well-founded legal or administrative decision taken in accordance with the law and affected persons must be duly informed. When a legal or administrative authority makes out an expulsion order, the immigrant may appeal in accordance with the rules and regulations of the country during which the expulsion order

should be suspended. A wrongly expelled immigrant can claim damages in accordance with the law. An expelled immigrant would be granted a reasonable time to allow him collect his entitlements from his employer, settle any contractual agreements and decide whether to return to his home country or elsewhere. Overall, migrant workers may only be expelled through the legal process, cannot be persuaded or pressurised to opt for “voluntary departure” and their fundamental human rights must be respected at all times.

- **Overview of the State of Rights of Migrant workers and their Families**

Migrant workers have been found to be generally a highly vulnerable group basically because they live and work in a country of which they are not citizens (Sall, 2003). Illegal migrant workers, majority of who make the Nigerian migrant worker population are therefore a highly vulnerable group as a result of their status as illegal migrants. Such vulnerability is not overtly expressed but often times are hidden in the widespread notion and belief that migrant workers are not entitled to the full protection of human rights laws as the citizens of the country.

Generally the constitutional and legal frameworks for the protection of human rights are seen to cater for the citizens as well as aliens. However, opinions differ on the parameters for distinguishing between fundamental human rights and other human rights. One view is that there is a hierarchy of human rights and certain ones (right to life, right to dignity of human person) may be deemed higher than others (right to lawful assembly, right to own property). Another view is that certain rights are elementary or fundamental in character to the extent that their validity is not dependent on their acceptance by the subjects of law but are at the foundation of the international community.

Nigeria has adopted fundamental human rights that are civil and political in nature (as dealt with in the 1960, 1963 and 1979 constitutions) rather than socio-economic. While the former are believed to consist of attempts to limit the encroachment of state and its instruments on human rights the latter require the State to provide material means for the enjoyment of citizens. Recommendations for the inclusion of socio-economic rights in the 1991 constitution were turned down by the then military government, the 1995 constitution that contained some socio-economic rights turned moribund while the 1999 constitution provides only for civil and political rights (Smith, 2003)

By definition therefore, the Constitution of the Federal Republic of Nigeria made provisions for the protection of lawfully admitted aliens as well as other persons living in the country. While the former covers documented migrant workers, the latter is understood to cover all other possible categories including, illegal migrant workers.

Generally, the rights of migrant workers are respected in Nigeria going by the responses of government officials and a cross-section of migrants interviewed. This of course is associated with documented migrants. Majority of unauthorised migrant workers live in fear of expulsion and are afraid to complain even where there are avenues to do so. Government structures have been known to give arbitrary orders of expulsion living aliens at the mercy of immigration officials. Employers of labour often exploit this situation to offer undocumented migrant workers less than the minimum monthly pay of

N7, 500.00 (\$50.5) and because unemployment rates have risen in the last few years this is accepted.

The main avenues for complaints are the regular courts that are also open to nationals. Others are human rights groups, churches and community elders where they live. To protect their interest, many migrant workers belong to associations formed by their nationals. These associations serve as the link between the migrant workers and their embassies/high commissions and could be quite important at their points of need.

The national associations are also important for helping migrant workers and their families keep close ties with their culture and origin. Through these, important and significant information about their country of origin can reach most migrants thereby preventing loneliness, isolation and even reduce the level of vulnerability.

Promoting protection of human rights in Nigeria was until very recently a very dangerous venture. During the prolonged period (about 28 years) of military rule in Nigeria, several human rights organisations (for example Constitutional Rights Project, Committee for the Defence of Human Rights, Civil Liberties Organisation) sprang up and became very active and visible. The focus of these organisations was mainly on getting rid of tyrannical and unpopular military dictatorships in the country. Issues of violation of human rights of Nigerians through arbitrary arrests and detention of citizens, journalists and other perceived opponents took centre stage. At present, these and few others (for example Social and Economic Rights Action Centre, Lagos) still claim similar objectives but none is mainly or solely focused on the protection of the rights of migrant workers and their families. Few academics from the Social Sciences (Adepoju, 1983, Adeokun et al, 1984) have shown significant interest in research on migration flows and characteristics and some from Law (Chhangani, 1983; Akande, 1982) but research on the rights of migrants and their families is virtually non-existent.

The Nigeria Labour Congress (NLC), the umbrella organisation for the protection of all Nigerian workers was similarly engaged in legal and political battles with successive military governments over stagnant workers salaries, improvement in welfare packages, introduction of economic liberalisation measures and its impact on workers and other issues perceived to be urgent at the time. Protection of the rights of migrant workers and their families was therefore rated low in importance and subsumed under the general issues of workers' rights. Under this condition, migrant workers were not given special attention and undocumented migrant workers in different sectors of the Nigerian economy were totally ignored.

Many human rights groups may have become battle-weary with the advent of democratic rule in 1999 and the exit of military rule in Nigeria. They are generally less visible and active. The NLC has remained active and relevant in the crusade for workers welfare and rights but the protection of the rights of migrant workers seem outside their priority areas of interests.

The concern of the present federal government on the protection of migrants' rights is demonstrated by the existence of a Senate Committee on internal affairs within which the issues of migrant workers and their families are tackled. The current Chairman of the Committee, Senator A. D. Sodangi, expressed the concern and willingness of the federal government for the protection of migrants, especially those of African stock who are resident and working in the country. The challenges of the recent influx of migrants from African countries who are mostly youths with low education and little or no skill were expressed. Such restless youths have been found to contribute, significantly to the increase in crime (armed robbery, especially), the organisation of guerrilla warfare and religious conflicts in the northern part of the country. The uncontrolled influx of migrants has also led to a significant increase in the number of destitutes and prostitutes in the country.

Generally the rights of legal migrant workers are duly protected in Nigeria but undocumented migrant workers are in practice treated differently and taken advantage of by private employers as a result of their status. Documentation of their experiences is rare to come by but they generally receive lower wages than what is generally prescribed in both the public and private sectors of the labour force. Their employment is often without terminal benefits and adequate welfare packages. They are hardly interested in making demands for their rights or claims, for fear of deportation even when they are aware of available avenues to do so. The rights of illegal migrant workers are therefore qualitatively less than that of legal migrants in Nigeria.

### **NIGERIA AND THE INTERNATIONAL INSTRUMENT ON THE RIGHTS OF MIGRANT WORKERS AND THEIR FAMILIES**

The absence of Nigeria at the Convention on the rights of migrant workers and members of their families has not been officially explained despite the clear awareness of its existence and the need to do so. Government officials have pointed to possible reasons, ranging from the unfavourable political climate in the pre-1999 military era, the absence of relevant arms and organs of government (for example executive and legislative), and a handicapped judiciary. Failure of the Federal Government to sign and ratify the convention may also be the lack of understanding and appreciation of the instrument, greater commitment to the Ecowas sub-regional body in which the country had already committed herself by ratifying the Community Treaty. It was also suggested that failure to ratify the UN Convention might be because it is viewed that majority of migrant workers are of West African and neighbouring African origin, therefore they are adequately protected under the various Ecowas Protocols and African Union agreements.

Other government officials interviewed were of the opinion that relevant government departments may have failed to effectively push for the ratification of the convention through ensuring that appropriate authorities understand and were convinced of the need to do so.

- **Obstacles to Ratification**

The Senate Committee on Internal Affairs and the Nigerian Immigration services are both aware of the Convention and expressed their willingness to collaborate with other relevant Departments to push for the ratification. The other government departments and institutions are the Federal Ministry of Justice, the Federal Ministry of External Affairs, the Legal Aid Council, the National Commission for Refugees and the Human Rights Commission. These organs of government are expected to work together to forward appropriate documents through the Senate Committee on Internal Affairs to the National Assembly for consideration and approval. Once this is achieved the issue could be forwarded to the Presidency before ratification of the Convention can be effected.

The Senate Committee on Internal Affairs has the legislative responsibility for pushing for ratification while the other government departments have the technical and administrative responsibilities towards the ratification of the Convention. The Senate Chairman on Internal Affairs confirmed the interest and willingness of the Committee in ensuring that Nigeria signs and ratifies the Convention in order to maintain her place in African and World politics and international relations. This he maintained is in realisation of the benefits derivable by the country and her citizens who also are migrant workers in other parts of Africa and the world.

The main obstacles to ratification of the Convention are legal, political and economic. First, the legal implications of the Convention are being studied by officials of relevant government departments (the Judiciary, Legal Aids Council) to fully understand it and ensure that the country does not enter into commitments that are in conflict with existing policies on migration and the human rights and also to protect sub-regional socio-economic agreements already entered into. It is therefore premature to specify any of the articles as being problematic.

Secondly, the ratification of the convention is expected to be associated with heavy financial implications. The need to combat illegal migration would involve securing the numerous porous borders, train personnel and approve more entry ports to reduce the tendency of entering the country illegally.

Thirdly, it may not be politically strategic to ratify the convention in defence of the rights of migrant workers while unemployment rates continue to rise in Nigeria and workers' welfare are far from been satisfactorily attended to.

- **Consequences of Ratification**

The ratification of the International Convention on the Rights of migrant workers and their families has implications for the welfare of both migrant workers in Nigeria and emigrants from the country. While it would adequately and fully protect the rights of migrant workers within her territory, it would also influence the ability of emigrants from Nigeria to seek legal and social protection when the need arises.

There would be a need to review existing migration policy of Nigeria and incorporate the provisions of the International Convention.

The implications of signing or ratifying the Convention are many. Mere signature by a State is an indication of the willingness of the State to adopt its standards and is usually done by the executive arm of Government. Ratification of the Convention implies a formal agreement to adopt the norms contained in the Convention and this requires the acceptance of the legislative arm of Government. These requirements may have been difficult to implement or were simply not attractive to past governments in Nigeria probably because they were largely military dictatorships in the last three decades (1973-2003). The country is however free now to enter unilaterally into the Convention (which entered into force in July 2003) and also possesses both the executive and the legislative arms of Government required to sign and ratify it.

- **Strategies for Ratification**

The main strategy to encourage ratification of the Convention in Nigeria is advocacy. This could be directed at appropriate key government departments involved in the entire process of forwarding issues of migration for consideration in the legislative houses. The issues at stake must be well understood and appreciated by relevant government officials, employers of labour, labour union leaders and migrant workers.

There is the need to involve Non-Governmental Organisations with focus on human rights in the efforts at ensuring ratification of the Convention in Nigeria. This is as a result of the achievements of NGOs on issues of enforcement of human rights in the recent past in Nigeria. This may speed-up ratification by creating awareness, removing obstacles and ungrounded fears on granting social, economic and cultural rights to migrants.

The main actors that can play major roles to encourage ratification are the Committees on Internal Affairs of the National Assembly, the Federal Ministries of Internal Affairs, External Affairs and Justice and the Legal Aid Council. Others are the Nigeria Labour Congress and various Non-Governmental Organisations with focus on human rights.

## **SUMMARY AND CONCLUSION**

A well established rule of international law is that once an alien has been lawfully admitted to a State he or she is entitled to certain minimum rights and protection necessary to live well in the territory (Fonteneau, 1992; UNESCO, 2002). To a very large extent, the rights of documented migrant workers and members of their families, majority of who are from the West African sub-region, are protected in Nigeria under the series of ECOWAS Protocols signed and ratified between 1979 and 1985. The agreements provided for acquisition of community citizenship, free movement of citizens of member States, rights of residence and establishment as well as provisions for the regularisation of illegal immigrants. Undocumented migrant workers, estimated to be several times more than documented ones in Nigeria are therefore legally excluded from protection under the agreements.

Renewed call for the protection of the rights of migrant workers and members of their families through the ratification of the 1990 United Nations Convention on the Rights of All Migrant Workers and Members of their Families has not been responded to by Nigeria and there are no official reasons for this. However, it is suspected that certain political, economic and legal problems generated by the experiences of military rule in the last two decades created an unfavourable environment for the ratification of the Convention. In the present democratic setting the issues of uncontrolled influx of migrants, proper documentation of international migrants as well as protection of the rights of migrants are being favourably considered. This is in realisation of the leadership roles of Nigeria in Africa and her commitments to global human rights issue within which concerns for migrant workers are embedded.

Renewed efforts to encourage ratification of the Convention in Nigeria should be through awareness creation, sensitisation and advocacy. These could be directed at various relevant government departments (Ministries of Internal Affairs, Justice and External Affairs), the Legal Aid Council and the National Assembly. Non-governmental organisations with focus on human rights, civil society groups, the Nigeria Labour Congress, research institutions that can be encouraged to participate actively in ensuring that issues of the rights of migrant workers and their families are show-cased, leading to the eventual ratification of the Convention.

### **RECOMMENDATIONS**

The following recommendations are made:

1. Given for a more favourable political environment that exist in Nigeria today compared to the last two decades, renewed efforts towards encouraging the ratification of the Convention is appropriate.
2. The strategy of targeting key and relevant actors in government, Federal legislature and judiciary for sensitisation and advocacy on the rights of migrant workers and their families should be adopted.
3. Widespread creation of awareness on the International Convention, plight of migrant workers and their families in different parts of Africa, the leadership role of Nigeria in the African Union and the need to ratify the Convention is important.
4. There is the need to target relevant actors for sensitisation on certain ungrounded fears surrounding the granting of migrant workers' rights while highlighting benefits of ratification.
5. Nigeria (and other West African countries) that have not ratified the Convention needs further education and conviction on the need to do so, given for the various sub-regional and continental agreements on protection of migrants already entered into.

6. Efforts at documentation of migration flows and protection of migrant workers' rights by relevant agencies (such as the Federal Office of Statistics, Federal Ministry of Internal Affairs and the Nigeria Immigration Services) should be encouraged and supported.
7. The Social Science Academy should be targeted for coordinating and documenting existing and future research outcomes on migration flows and the rights of migrant workers and their families in Nigeria.
8. The need for the inclusion of research on the rights of migrant workers and their families in Nigeria in the priority areas of focus is urgent given for the near absence of reliable and current data in this area. To this end academics in Nigerian universities and the Nigerian Institute of Social and Economic Research (NISER) should be encouraged and supported to conduct research on this to FILL the gap in knowledge and provide the needed information for law making and policy formulation.

## TABLES

**TABLE 1: NIGERIA-POPULATION DISTRIBUTION BY NATIONALITY AND SEX, 1991**

Census PES						
	Male	Female	Total	Male	Female	Total
Total	44,529,608	44,462,612	88,992,220	2,064,259	2,067	4,132,251
Nigeria	44,263,269	44,251,816	88,515,085	2,059,322	2,063,817	4,123,139
Foreigners	266,339	210,796	477,135	4,937	4,175	9,112
West Africa	198,769	157,369	356,138	3,793	3,214	7,007
African (Others)	25,052	21,411	46,463	397	360	757
Americans	15,380	12,769	28,149	87	73	160
Asian	9113	6152	15265	395	253	558
Australia	246	214	460	1	2	3
European	13,764	9,995	23,759	205	139	344
Others & Not Stated	4015	2886		149	134	283
Percentage						
Total	100.0	100.0	100.0	100.0	100.0	100.0
Nigerian	99.4	99.5	99.4	99.7	99.7	99.7
Foreigners	0.5	0.4	0.5	0.2	0.2	0.2
West African	0.4	0.3	0.4	0.1	0.1	0.1

African (Others)	0.0	0.0	0.0	0.0		
Americans	0.0	0.0	0.0	0.0	0.0	0.1
Asian	0.0	0.0	0.0	0.0	0.0	0.0
Australia	0.0	0.0	0.0	0.0	0.0	0.0
European	0.0	0.0	0.0	0.0	0.0	0.0
Others & Not Stated	0.0	0.0	0.0	0.0	0.0	0.0

Source: National Population Commission, Abuja

**TABLE 2: POPULATION OF AFRICANS IN NIGERIA BY SEX**

Country	1991 Census		Population	Percentage Sex			Ratio
	Male	Female		Male	Female	Total	
Benin <sup>1</sup>	54,347	46,592	100,939	24.28	26.06	25.07	116.64
Burkina Faso	2,019	1,496	3,515	0.9	0.84	0.87	134.96
Cape Verde	1,030	772	1,802	0.46	0.43	0.45	133.42
Côte d'Ivoire	1,043	802	1,845	0.47	0.45	0.46	130.05
Gambia	1,575	1,179	2,754	0.7	0.66	0.68	133.59
Ghana	49,214	29,492	78,706	21.99	16.5	19.55	166.87
Guinea	1,572	1,049	2,621	0.7	0.59	0.65	149.86
Guinea Bissau	1,115	936	2,051	0.5	0.52	0.51	119.12
Liberia	4,326	3,849	8,175	1.93	2.15	2.03	112.39
Mali	28,711	27,760	56,471	12.83	15.53	14.03	103.43
Mauritania	3,662	3,973	7,599	1.64	2.2	1.89	93.01
Niger <sup>1</sup>	23,290	13,745	37,035	10.41	7.69	9.2	169.44
Senegal	1,225	784	2,009	0.55	0.44	0.5	156.25
Sierra Leone	860	763	1,623	0.38	0.43	0.4	112.71
Togo	24,780	24,213	48,993	11.07	13.54	12.17	102.34
West Africa	198,769	157,369	356,138	88.81	88.02	88.46	126.31
Cameroon <sup>1</sup>	6,014	4,689	10,703	2.69	2.62	2.66	128.26
Chad <sup>1</sup>	6,966	4,645	11,611	3.11	2.6	2.88	149.97
Egypt	2,081	1,977	4,058	0.93	1.11	1.01	105.26
Equatorial Guinea	967	1,052	2,019	0.43	0.59	0.5	91.92
Africa (Others)	9,024	9,048	18,072	4.03	5.06	4.49	99.73
Africans	223,821	178,780	402,601	100	100	100	125.19
Neighbouring countries <sup>1</sup>	90,617	69,671	160,288	40.49	38.97	39.81	564.31

<sup>1</sup> Neighbouring Countries to Nigeria

Source: 1991 Population Census

**TABLE 3: PERSONS ARRIVING IN NIGERIA BY NATIONALITY AND ROUTE OF ENTRY 1990**

Nationality	Route of Entry			Total Arrival
	Air	Land	Sea	
American	14,407	620	13	15,040

British	21,483	889	25	22,397
Belgian	3,095	307	10	3,412
Brazilian	2,104	92	3	2,199
Canadian	1,692	204	1	1,897
Chinese	1,503	325	2	1,830
Danish	752	97	2	851
Dutch	3,689	272	3	3,964
ECOWAS	52,202	19,394	7,615	79,211
German	3,443	225	-	3,668
French	8,577	1,072	5	9,654
Indian	10,857	173	10	11,040
Irish	11,292	959	15	12,266
Israeli	1,935	5	-	1,940
Italian	5,249	217	9	5,475
Japanese	1,605	73	3	1,681
Lebanese	4,760	384	-	5,144
Russian	41	7	-	48
Swiss	451	52	-	503
Other Africans	12,897	3,711	197	16,805
Others	7,188	2,239	92	9,519
Total	169,222	31,517	8,004	208,743

Source: Federal Office of Statistics, 2001 Annual Abstract Of Statistics, Abuja, Nigeria

**TABLE 4: POPULATION DISTRIBUTION BY NATIONALITY  
IN 1963 AND 1991 CENSUS**

Countries	1963 Census		1991 Census		Growth Rate
	Number	%	Number	%	
Benin	5,214	5.14	100,939	21.16	10.6
Ghana	7,563	7.45	78,706	16.50	8.4
Liberia	712	0.70	8,175	1.71	8.7
Niger	8,807	8.68	37,035	7.76	5.1
Sierra Leone	1,984	1.96	1,623	0.34	-0.7
Togo	7,392	7.29	48,993	10.27	23.7
Cameroon	18,434	18.17	10,703	2.24	-1.9
Chad	1,626	1.60	11,611	2.43	7.0
Other African	2,767	2.73	104,816	21.97	13.0
Africans	54,499	53.72	402,601	84.38	7.1
Non-Africans	46,951	46.28	74,534	15.62	1.7
Foreigners	101,450	100.0	477,135	100.0	5.5

Source: 1991 Population Census, 1963 Population Census

**TABLE 5: ESTIMATED NUMBER OF PERSONS DEPORTED  
BY SEX 1995-1999**

Year	Male	Female	% Female
1995	25	12	32.4

1996	16	7	30.4
1997	22	13	37.1
1998	36	11	23.4
1999	16	4	20.0

Source: Federal Office of Statistics, Lagos

**TABLE 6: ESTIMATED NUMBER OF PERSONS THAT LEFT THE COUNTRY  
BY NATIONALITY AND GENDER 1995-1999**

Country	1995		1996		1997		1998		1999	
	M	F	M	F	M	F	M	F	M	F
Nigeria	27,204	8,140	23,048	6,274	25,223	9,822	21,621	8,542	26,362	11,426
Commonwealth	5,152	608	2,045	126	1,422	215	942	207	1443	521
ECOWAS	19,212	842	13,341	5,016	20,112	6,201	18,244	10,124	23,321	12,537
Others	4,615	338	3,166	240	4,211	198	5,623	107	2341	428
Total	56,183	9,928	41,600	11,656	50,968	16,436	46,430	18,980	56,467	24,912

Source: Nigerian Immigration Service

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### **LIST OF PERSONS AND ORGANISATIONS CONTACTED**

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