



**Redrawing the Boundaries of Membership: Labor
Migrants in the UN Convention on Migrant Workers,
NAFTA, and the European Union**

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The work I have submitted is my own effort. I certify that all the material in the dissertation which is not my own work has been identified and acknowledged. No work for a degree which has been previously conferred to me is included herein.

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Abstract:

Labor migrants occupy an indeterminate place in the rights regimes of nation-states. Even when engaged in documented movements, labor migrants enjoy a set of rights more limited than those of citizens. This dissertation reviews three international legal agreements, the UN Convention on Migrant Workers, the North American Free Trade Agreement (NAFTA), and the European Union (EU) in order to understand how they influence where this boundary between sets of rights is drawn.

In examining this issue, this dissertation will draw on existing theory about the boundary, nature, and obligations of citizenship rights. From there, it will explore the influences of these three international agreements using a mix of qualitative and quantitative methods. While recognizing the continuing importance of the nation-state, new spaces of participation and action will also be examined, in particular looking at the rise of global cities in the context of NAFTA, and the emergence of supranational structures in the case of the EU.

Ultimately, the research suggests that while labor migrants are afforded some rights, the provision of ‘negative rights,’ focusing on the protection from harm are dominant. Social, political, and economic rights remain more complicated, while rights related to direct economic support are generally the most contested. New spaces of inclusion and participation can help individuals enact certain aspects of citizenship, however these protections remain less robust than formal citizenship. Finally, decisions about how to draw the boundaries of citizenship as form of “social closure” (Brubaker 1992), remain unclear as states struggle to define who is included and who is not.

1. Introduction:

Migration remains a complex issue for the ways in which it challenges certain ideas about who belongs within the confines of a state and what is at stake through the inclusion of migrants. States have often sought the import of workers as a source of either cheap or skilled labor, yet because they are people they bring with them human needs for rights and protection. At the same time, workers have sought to move around the world, in search of better opportunities for themselves and for their families.

Since labor migration involves the movement of people across borders, it is impossible to look at the issue within the isolation of a single state or particular individual context. The migration of workers implicates a complex mix of economic conditions, international relationships, and state policies occurring at different levels of society.

This movement of people then raises important questions about how those individuals are recognized in their destination countries and what rights they are provided with. Traditional notions of human rights have generally linked citizens with states who then bore responsibility for the provision of rights. But this does not answer questions about the obligations that states have towards the rights of non-citizens or what rights they should possess. These issues highlight some of the tensions that exist between human rights, 'thinner' and more universal, from 'thicker' and exclusive citizenship rights (Brysk and Shafir 2004).

Since labor migrants are citizens of their home state but not their destination state, this thesis tries to understand how their legal status is constructed in their destination or host state. Obviously, whether their movement was regular or irregular plays an important role in the bestowing of rights. However, all these individuals occupy a position below the level of 'citizen' and yet in a space where they still possess some rights. What rights these are and how they are defined will be the subject of this dissertation.

In trying to understand some of the dynamics and processes shaping the 'citizenship' rights of labor migrants, this thesis will look at three important international agreements: the UN Convention on the Rights of All Migrant Workers and Members of Their Families (UN Convention on Migrant Workers), the North American Free Trade Agreement (NAFTA), and the European Union (EU). These cases were selected because they offer different approaches to the issue of labor migration and 'citizenship' rights and also work at different levels of analysis.

The UN Convention on Migrant Workers works to extend the international human rights system into the realm of migrant workers by ensuring access to rights of due process, access to certain state services, and protection from exploitation. As such, it approaches issues of labor

migration from a frame of human rights and works within a framework that treats states as the dominant actor. In doing so, it relies on a relatively thin notion of rights.

As a free trade agreement, NAFTA established standards for the free movement of capital and goods between the United States, Mexico, and Canada, but did not establish standards for the movement of workers. As an economic agreement, it was intended to reduce labor migration through economic growth, a goal which has yet to be realized. However, one dynamic which has emerged in the absence of national policy is the rise of cities and local governments as actors and agents in shaping rights for labor migrants. In doing so, this context becomes important for understanding some of the local action and transnational networks which enable these changes.

Finally, the European Union represents a level of international integration and mobility which is unparalleled in the modern world. The movement of people is one of the fundamental “four freedoms” of the EU, along with the movement of goods, services, and capital. As such, the EU represents an important supranational structure, albeit one which relies on the nation-states which comprise it.

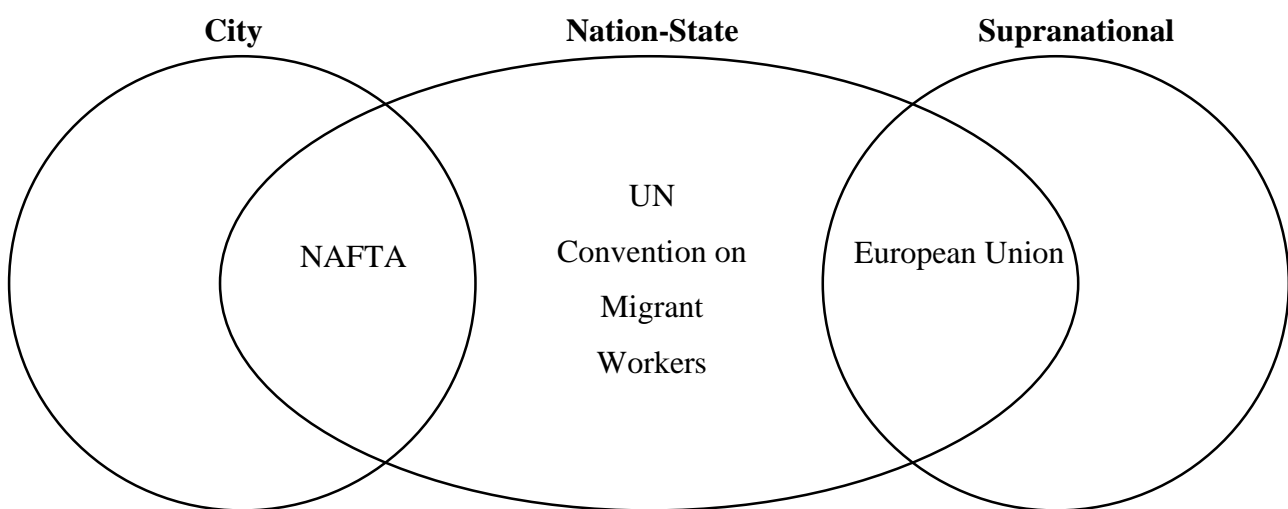


Figure 1

Therefore, one could use the above chart (Figure 1) as a general model for the spaces interrogated by this dissertation. As the EU is comprised of nation-states, and NAFTA is an agreement between three nation-states, they remain an important unit of analysis across all cases. However, in exploring new spaces or rights, cities have begun to perform important roles in the United States post-NAFTA. Similarly, while the EU is made up of a group of nation-states, its existence as a supranational structure is having important impacts on how the rights of both citizens and non-citizens are bounded.

This paper will review some of the motivating factors which underpin labor migration to place the movement of people in appropriate context. It will then turn to a review of relevant

literature related to the definition of citizenship, and then to citizenship and migration in the context of nation-states, cities, and supranational structures. After a brief discussion of methodology, the paper will then explore each of these situations in turn before ending with concluding thoughts and recommendations for future action.

1.2 Research Questions:

1. How are the rights of non-citizen labor migrants shaped in the contexts of the UN Convention on Migrant Workers, NAFTA, and the European Union?
2. How are new spheres of action, like cities and supranational structures, shaping the access of non-citizens to norms of citizenship?

2. Review of Literature

2.1 Labor Migrants and Labor Migrations

While the substantial majority of people in the world live and work in their country of birth, a significant minority do not. Estimates from the International Organization for Migration (IOM) indicated that 105 million people work in a country other than their country of birth, earn \$440 billion (USD) in wages and send \$350 billion (USD) in remittances (IOM 2011a). Under the IOM's model, international labor migration is caused by 'pull' factors such as labor needs in industrialized countries, 'push' factors of population growth and unemployment, and transnational linkages between various countries (IOM 2011b). While this explanation provides some of the basic factors, it is insufficient for capturing the full range of complexity inherent in labor migrations. First, while economic conditions, both pull and push, may be important in creating a motivation for movement, particular government policies also work to constrain those movements (Zolberg 1999). Policy barriers may also affect the type of migration. For example, even though legal labor migration to the United States is very difficult, as will be discussed later in relation to NAFTA, the United States is relatively permissive in how it treats undocumented workers.

The economic factors involved in labor migration can also be complex. Research suggests that economic pull factors can often be more important than push factors. Studies conducted on migration between the United States and Mexico found that Mexican migration to the US has often corresponded more closely to the health of the American economy than the Mexican (Flores-Macías 2008). Additionally, labor migration is generally not casual or randomly motivated. Interviews conducted with Mexican migrants in the United States as part of the Mexican Migration Project suggest that economic migration was often conducted for the purpose of obtaining certain economic goals (buying a house, starting a business, supporting education, etc.) or providing a form of income security in the absence of national employment security programs (D. Massey 1999; D. S. Massey 2006).

Another important factor impacting the movement of people is the creation of transnational networks that help reduced the social and economic costs of moving by providing networks of support. These transnational networks also provide channels for information, alerting individuals to various conditions and opportunities (D. S. Massey et al. 1993). The networks between countries and the flow of remittances can also help to signal the prosperity associated with migration (Flores-Macías 2008).

Labor migration should also not be considered uniform in its nature. Different individuals may move at different times for the promotion of different economic goals. For example, a study conducted in the Netherlands on Central and Eastern European migrants found four different

categories of labor migrants. The categories identified were “Circular” migrants who tended to be seasonal workers with weak attachments to the destination country, “footloose” migrants with weak connections to both the home and destination countries, “binational” migrants who had strong connections to both, and “settler” migrants who had weak attachments to the country of origin (Engbersen et al. 2013). Thus, labor migrants should not be seen as being homogenous in either their reasons for moving or their particular attachments to either their country of origin or their country of destination.

Scholarship on the economic impacts of migration have been very mixed. Part of the calculation looks at the skill level of the workers and the ratio of what is paid in taxes versus consumed in services. However, the calculations can be even more complex based on assumptions of whether one sees migrants as occupying spaces in an economy which has a fixed number of positions or whether migrants contribute to the expansion of the economy, creating greater opportunities for all. Because they often command lower wages, migrant workers can also lower the prices of goods and services, creating economic benefits for businesses and consumers. Because of the large number of factors and the complexity of the situation, “Economic theory predicts variously that immigration may be beneficial or detrimental to the receiving country’s workers, or indeed that immigration may have no effect on them” (Friedberg and Hunt 1999, 358). Furthermore, while some theorists have seen economic pull factors as creating economic opportunities for migrants in the short term, others see that in fact the economies of industrialized countries are structured to require the presence of low-wage foreign labor (Piore 1979). For example, a number of businesses reported difficulties in finding workers after a restrictive law in Alabama caused many undocumented migrants to leave the state (Bathija 2011).

It is not the goal of this paper to make larger statements about the economic impacts of migration. Migrant workers have become important in the economies of many countries around the world. Their precise impact is likely to depend on the particular profile of the migrants as well as the needs and demographics of the receiving society. For European countries with shrinking populations, labor migrants may be important to fill the gaps left by a declining populace (Muenz 2007). However, what is relevant to note is that while economic issues play a role in the movement of labor migrants, attitudes towards migrants in host countries, and the formation of migration policy, these impacts are sufficiently nuanced that they should not lead to blanket generalizations. Moreover, while states may generally choose which labor migrants they admit, rights should not be constructed in correlation to an individual’s economic productivity. Issues of who becomes included in the protection of rights, and the nature of those rights, remains the key issue of this paper.

2.2 Defining Citizenship

Whatever the specific content or obligations associated with citizenship, one of its most salient aspects is as a form of social closure. Citizenship is deeply tied with notions of belongingness and an ultimate separation of those who belong from those who do not. As such, it is often not just a question of material interests but also strongly implicates the identity of the nation such that “as a powerful instrument of social closure, citizenship occupies a central place in the administrative structure and political culture of the modern nation-state and state system” (Brubaker 1992, 23).

Historically, nation-states have allocated citizenship rights through two distinct mechanisms— *jus sanguinis* (through parentage) and *jus soli* (place of birth). *Jus soli* has been most common among settler states like Canada, the United States, and Australia, where citizenship policy served to help integrate large numbers of immigrants. Conversely, *jus sanguinis* helped to maintain ties between states of origin and their citizens who had emigrated (Koslowski 2000). Indeed, it is no surprise that two European countries with large emigrant populations, Ireland and Italy, allow citizenship to be passed down through generations even if those individuals have never lived in their ancestral countries.

Yet the question remains of what rights are held within the container of citizenship. Under T.H. Marshall’s classic categorization, citizenship rights are composed of civil rights, political rights, and social rights (Marshall 1977). Drawing on his work in post-war Britain, these families of rights were seen as being essential to the construction of citizenship. Marshall has been criticized for constructing a view that was largely based on white, middle-class, male perspective that did not take into account some of the cultural or religious variation that may impact senses of belonging and how cultural identity might play a role in feelings of belongingness (Bloemraad, Korteweg, and Yurdakul 2008; Castles and Davidson 2000). It is also important to note that Marshall’s categories of rights have been experienced unevenly by citizens. For example, women gained political rights at a much later point than men (Bloemraad, Korteweg, and Yurdakul 2008).

Scholars who have sought to go beyond Marshall’s classifications have increasingly seen the need to create an understanding of citizenship that does not assume cultural homogeneity but recognizes multiculturalism and diversity of experience among members. Within this is the important recognition that although citizenship may create a certain level of equality under the law, this does not mean an equal ability to access the law and group differentiation among citizens remains significant (Young 1989). Additionally, as Marshall’s vision of citizenship presumed a relatively homogenous cultural identity, it does not consider the incorporation of minority cultures into the sphere of citizenship (Kymlicka 1995).

An aspect of this debate is whether or not citizenship is simply a form of inherited property which confers certain advantages not dissimilar from other forms of inheritance (Shachar and Hirschl 2007; Bauder 2008). Part of this critique of citizenship as a birthright form, endowed with certain rights is to see citizenship as a process, and the act of citizenship as defined through participation. These ideas of citizenship have been particularly prominent among feminist scholars and those concerned with the rights of minorities. By shifting the focus away from a set of inherited rights and focusing on the participatory aspect of citizenship, this definition allows for the greater participation of marginalized groups and thus their greater inclusion in society (Lister 1998).

Given the already complex nature of the debate on citizenship, adding migrant workers to the picture makes it even more complex. Labor migrants live outside the country of their citizenship and may be afforded certain rights in their host country, but are generally not afforded full citizenship rights unless their movement is regularized and their stay is extended. However, even though they are not citizens, labor migrants are usually able to avail themselves of certain rights of the type usually afforded to citizens. For example, they are often able to send their children to school, access health services, and have recourse to the judicial system. Thus labor migrants can occupy a middle space, afforded some rights but excluded from others. This middle status has sometimes been termed 'denizenship' (Hammar 1990).

The notion of denizenship was originally coined to describe the similarities in status between citizens and long term non-citizens. However, the term also denotes those who have a more circumscribed set of rights despite their longstanding presence in a state (Benton 2010). One of the primary issues faced by denizens, is that even if they are protected by certain rights of the state, they often lack the ability to formally participate in the political sphere. The lack of political rights not only creates a democratic deficit, but opens up the group to vulnerability as well (Hammar 1990; Benton 2010). As such, denizens may be particularly vulnerable to changes in their access to services as they have no formal political say in such changes. For example, laws passed in the United States in 1996 barred all non-citizens, including those with legal status, from collecting means tested federal benefits (Durand, Massey, and Parrado 1999).

In this context it is important to remember that the granting of citizenship and the rights that accompany it is an inherently political process. There is not the same appeal to universality as with human rights. Therefore, citizenship becomes a mark of differentiation, something which contains certain inherent value, making citizenship a form of capital, not unlike monetary forms (Bauder 2008). It is also easy in the context of citizenship and movement of people to think of these boundaries as immutable and natural. However, this is not necessarily the case. For a long time the movement of people across borders was not nearly as regulated as it is now, the invention of the passport and its attendant bureaucracy are relatively more recent inventions (Torpey 2000).

The increasing movement of labor migrants in the context of an increasingly globalized world has caused some scholars to call for moving citizenship rights more in line with human rights, a 'global' citizenship that echoes the more universalist dialogue on human rights (Shafir 2004). Part of this view is seeing people as one more form of capital that increasingly moves across borders as economies become more internationalized and integrated. This "destabilizing of national state-centered hierarchies of legitimate power and allegiance" helps "signal a deterritorializing of citizenship practices and identities, and of discourses about loyalty and allegiance" (Sassen 2005, 42).

These changes have led scholars to begin to talk about forms of citizenship that go beyond borders. Part of this discourse has focused on the linkages and bridges that occur as individuals move from place to place. This 'transnational migration' recognizes the connections that people have as they move from one place to another. Migrants often maintain a variety of connections to their country of origin as they send money, communicate with family members, and even participate in elections (Schiller, Basch, and Blanc 1995). These 'transmigrants' remind us of the importance of not limiting the focus to the boundaries of a particular nation state or seeing all migrations as simple bounded incidents, but rather as a complex process which implicates both the sending and receiving societies.

As part of this movement of people, there is the ability of people to form connections and access services in their destination country, whether or not they actually possess legal citizenship or even the right to reside. Migrants may enact many of the normal actions of inclusion such as going to school, having jobs, renting apartments, and participating in community life (Sassen 2005; Sassen 2004). Beyond participation in the community, the growth of the international human rights system has also aided in the increasing decoupling of rights and citizenship and the creation of increasingly postnational forms of citizenship (Soysal 1994).

Within the context of the debate on citizenship is also the issue of where human rights intersect with citizenship rights. Brysk and Shafir's (2004) discussion of 'thick' citizenship rights available to a select group and 'thin' human rights available to all, is a reasonable starting place. Certainly, the universality of human rights norms has been one of their most salient features—they are rights inherent in all humans. In that way, they would seem to clash with citizenship rights which are necessarily limited to a select group. Rainer Bauböck attempts to break down some of those barriers by pointing out that citizenship rights have at their base the norms of human rights. Additionally, since rights must always be claimed from some source, individuals should have recourse to claim those rights not just from their country of citizenship, but from international institutions as well. This does not mean the movement "towards 'global citizenship' but it could be characterized as the quest for a 'polity of polities' which attributes a substitute political membership

to those who have been deprived of all their rights as members of particular states” (Bauböck 1994, 248). In other words, efforts to reconcile the limited nature of citizenship rights and the universal nature of human rights may need to find a resolution through a process of universalizing the ability to make rights claims as a citizen, even if it is not universalized citizenship.

The diversity of thought within the current literature on citizenship reflects the lack of consensus on what citizenship entails, particularly in a globalizing world. What seems to be clear is that it is not a monolithic concept nor a unifying explanation of the relationship between people and a state. This should not be taken to mean that citizenship has no value as a concept or is so fluid as to be meaningless. Rather, that citizenship maybe viewed through a variety of lenses and also that aspects of citizenship may be present in a variety of interactions and relationships between people and states, regardless of whether or not formal citizenship is invoked.

Furthermore, as states and societies wrestle with evolving ideas of citizenship, a few key debates seem to come to the fore. The first is a question of how states mark their boundaries of inclusiveness and exclusiveness in a context where more people are moving, and those borders can become increasingly susceptible to economic and social forces. These questions become particularly important with questions of how social benefits are distributed and who gets to partake.

2.3 Spheres of Citizenship and Labor Migration

2.3.1 Cities as Transnational Spaces

The focus on transnationalism has also explored the emergence of ‘transnational urbanism’ (Smith 2001), and the role of cities as important loci of labor migrants and their increasing position as shapers of mechanisms of inclusion and integration. Even if cities do not have the power to change migration policy or confer citizenship, they possess the power to support programs of inclusion and integration, fund supporting programs, set municipal policy, and even decide local rules for political participation.

Two important factors underlie the rise of cities as important actors within the context of labor migration. First, is the rise of neoliberal policies and the importance of cities in the flow of capital. Second, is the way that transnational networks tend to lead migration to accumulate in particular cities, and specific communities of migrants to settle in particular cities.

The rise of globalization has carried with it several important economic changes that have tended to reinforce the power of cities. Since the 1970s, the reorientation of markets from North-South to East-West, growing Foreign Direct Investment (FDI), and the decline of the preeminence of the US economy have changed the world economy in ways which have raised the importance of cities as the locus of financial markets and technical skills while sites of production (factories,

mines, farms, etc.) become comparatively less important (Sassen 2011). A focus in particular on certain “global cities” has also emerged, seeing them as “the organizing nodes of a global economic system” (Friedman 1995, 25). However, as economies have increasingly become centered on these global cities, one impact is the bifurcation of labor markets by which, particularly in cities “a concentration of managerial, administrative, and technical expertise leads to a concentration of wealth and a strong ancillary demand for low-wage services” (D. Massey 1999, 49).

Part of this bifurcation of the labor market has been a push towards privatizing and outsourcing, moving away from a more organized labor force and towards one which is less regulated and often lower skilled. Changes in the UK under Thatcher and the New Labour of Tony Blair, accentuated the move towards greater outsourcing, such that it is estimated that 93% of private sector workplaces outsource at least one activity (Wills 2010). This move towards outsourcing tends to lower the skill level of the individuals involved and lower the wage level (Sassen 2011). Thus, while these global cities may offer opportunities for migrants seeking work, those opportunities are also often circumscribed by their increasingly marginal status.

Urban spaces have also been the site of what scholar M.P. Smith calls “transnational urbanism,” the role of cities in the formation of transnational actions (Smith 2001). Implicit in transnational urbanism is that cities are not just the interchangeable loci of international capital, but that they are also local communities and thus engender many of their own dynamics. Similar to the work of Nina Glick Schiller and her focus on transmigrants (Schiller, Basch, and Blanc 1995), is the specific focus on cities and their role in helping to shape these particular transnational relationships. Smith points to examples from California where Mexican migrants helped establish links between their city of origin and their new city in California, building relationships that helped raise the profile of migration issues in both places as well as facilitate cultural and economic exchange (Smith 2005).

2.3.2 State Policy in the Context of Migration

Even in the context of changes which have diminished some of the powers of the nation-state and altered its borders in different ways, the nation-state remains the essential unit on which world society is ordered. While some argue the rise of discourses of human rights have weakened some of the state’s ability to set its own policy and transnational linkages erode its exclusive claim over its polity, leading the nation-state to be “unpacked” (Jacobson 1996), the nation-state remains a highly relevant point of departure. Even as social relations and migrations may erode exclusive control over the polity, states remain the ultimate authority to control the legal channels of entrance and exit and define the limits of formal citizenship. Even in the realm of markets, such globalizing tendencies can be seen to exist because states continue to support them (Hollifield 2006). While it is

true that states do not always have complete control of the borders, whether due to market forces in the case of the US/Mexico border, or the rise of supranational policy in the case of the EU, they do retain broad powers over the mechanisms of admission, control and integration. Therefore, it is worth understanding some of the mechanisms which tend to underlie states' decision making related to migration policies.

State policy on migration can often be complex and variable as a state attempts to make determinations regarding the number of migrants it will accept, on what basis it will accept them, and what sorts of migrants it will accept. While state labor migration controls could theoretically function on a totally rational basis for the promotion of certain economic goals (Weinstein 2001), in truth migration policy is much more complex drawing from a mix of economic goals, international agreements, and popular ideas about immigration. These forces also interact with the internal actions of existing migrant groups, meaning that a country can have increasing naturalizations at the same time that border policy is becoming more restrictive (Coutin 2003).

There are three general groups of theories which seek to explain state policy to restrict immigration. The first argues that the motivation is primarily economic as migration can provide a pool of low-wage workers who are helpful for business growth. A second group of theories points to cultural predilections and histories that explain a country's willingness or reluctance to accept migrants. Finally, the third factor is a state's participation in international agreements that might compel it to take certain actions (Meyers 2004).

Decisions about immigration policy also take place within a very particular national policy. For example, decisions about labor migration may often take place in a discourse which pays great deference to certain national values, even as it seeks to change the particular policy decisions. Drawing on the Swedish case, researcher Gregg Bucken-Knapp investigated how the opening of the Swedish labor market occurred within the context of shared values about the important contributions to be made by labor migration, but strongly divergent views about the specific aspects of the policy (Bucken-Knapp 2009). Within this process, institutions can end up playing an important role, although institutional structures themselves do not explain the totality of state action related to migration. However, the institutions of the state often play an important role in formulating these policies (Money 1999).

States also construct very different regimes relative to different categories of workers. The legal protections available vary widely with some countries restricting the right of labor migrants to even marry a citizen or become pregnant (Ruhs and Chang 2004). What seems to remain important in the development of migration policy is the particular political whims of the countries. However, these political decisions should not be considered to be isolated but rather part of larger patterns of

decision making about the economy and how migration relates to certain economic priorities (Bartram 2005).

Immigration policy can also increase in complexity based on the ways in which it can shake up normal political stances. In the United States, immigration is associated both with idealized images of the “self-made man” and with images of people coming to “take our jobs.”

Despite these emotional, populist appeals, issues of immigration tend to be channeled through “client politics” and the workings of established groups advocating for particular changes (Freeman 1992). Indeed, immigration has often emerged as an important political issue, only to fade back into the background (Joppke 1998). State politics are also politically interactive on a global scale. Because “any emigration always entails immediate immigration somewhere else” (Zolberg 1999, 82), states are often responsive to broader world trends about immigration and emigration.

Concerns about immigration also often intersect with other political arrangements and priorities. Research suggests that while support for populist and neo-facist parties can increase with unemployment where there is already a substantial migrant population, other structural and political factors remain important (Golder 2003). Current attempts at a comprehensive immigration reform law in the United States have been spurred by a desire to increase the party’s fortunes through the inclusion of more Hispanic voters (Parker 2013b), rather than a more robust view of the importance of rights.

2.3.3 Supranational Migration Policy:

As the European Union is a *sui generis* institution, not just in terms of its migration policy, there is little theory about supranational migration regimes and the redefinition of the bounds of citizenship that does not involve the EU. The Nordic Passport Union, for example, predates the EU but existed only for a short period and was among states who already had strong linguistic and cultural ties (Andersson 2010). MERCOSUR, a union of states in South America has instituted some mobility provisions, and passports in several member countries have MERCOSUR written on the cover. However, provisions for mobility within MERCOSUR have been unevenly implemented (Gomez-Mera 2009).

As in any context, what remains salient in discussions of citizenship is how the borders of inclusion and exclusion are drawn and the processes which shape those borders. However, within the context of the EU, there is an additional layer of complexity as these boundaries are drawn both at the state level and across the EU.

Migration policy within the supranational structure of the European Union consists of two separate threads—internal migration among member states, and migration from outside the union. Internal migration, usually referred to as ‘mobility’ has been almost entirely opened while migration

from the outside has generally been sharply curtailed with the rise of the image of ‘Fortress Europe.’ Thus, labor migrants can potentially face a dramatically different situation depending on whether or not they are moving within the system or from outside the EU.

There has been much contention over what it means to be a EU citizen. Being a national of a EU member state confers certain rights, such as the ability to work in other countries, political participation in local and EU elections, and equal treatment as nationals under the law. What remains contested is the extent to which this speaks to a new “EU Citizenship” and how the EU has often been more focused on its internal borders than its external borders, with a greater concern for how things move within it than into it (Bolkestein 2004). However, even as the European Union has helped created a European Citizenship, “EU citizenship remains grounded in, and derivative of, the citizenships of the constituent national states” (Bosniak 2006, 25). Therefore, while norms of citizenship are evolving at the supranational level, they are still rooted in national contexts.

3. Methodology:

As this project looks primarily to theoretical issues related to labor migrants and the space of citizenship rights, much of this thesis is based on a review of secondary sources. As a paper within human rights, this thesis uses an interdisciplinary approach, drawing off of research done within the fields of anthropology, sociology, economics, and political science. This research project also employed a mix of qualitative and quantitative elements. While qualitative methods were most dominant, employing use of critical content analysis to effectively draw data from primary and secondary documents, quantitative methods were present as well in the examination of the UN Convention on Migrant Workers.

The choice of the situations under examination for this project reflects a desire to examine some of the most prominent international legal instruments which impact labor migration. This is not to argue that these cases are the *most* important, merely that through ideological power or legal reforms these mechanisms are worth examining in greater detail in order to help understand rights afforded to labor migrants.

The section on the UN Convention on Migrant Workers uses quantitative data which was generated from the Concluding Observations issued by the UN Committee on Migrant Workers to acceding states that had issued reports. The use of quantitative methods for this section will be discussed in greater detail later, but generally reflects the lack of secondary research on the topic as well as a desire to draw some common data from a very diverse group of acceding states.

Because of its relative newness and low number of acceding states, there is a dearth of scholarly research on the Convention. Much of the literature that does exist focuses mainly on the reasons why more states have not ratified the Convention. Therefore, there is even less research which has been done on the implementation of the Convention, the value of the Convention as a normative instrument, or even how the norms of the Convention are discussed and formed.

Measuring the implementation of laws can be very difficult even for states to assess within their own borders, a task which becomes even more challenging where state capacity is limited. Therefore, an in-depth analysis of how each state had implemented the Convention was simply not feasible within the context of this dissertation. Instead, this research examined the concluding observations issued by the Committee on Migrant Workers (CMW). Formed by of a group of elected, but neutral, representatives from the acceding states, the CMW is a group of experts which is responsible for overseeing the Convention. After a state makes a report to the Committee, which they are required to do one year after ratifying the Convention and every two years thereafter, the Committee reviews the report and eventually issues Concluding Observations which express concerns and recommendations related to the implementation of the Convention.

However, the Committee is not particularly consistent in how it forms the Concluding Observations or which rights it chooses to focus on—a characteristic which is not unique to the Committee on Migrant Workers (O’Flaherty 2006). Therefore, creating a direct comparison across states is challenging. To help provide a more consistent framework for comparison, thirteen core rights of the Convention which were often discussed by the Committee were chosen. The following list of questions was used when interrogating the reports:

- Does the Committee indicate concern about discrimination against migrant workers?
- Does the Committee indicate concern over violence against migrant workers, either as a whole or as a substantive subset?
- Does the Committee indicate concern over the exploitation or mistreatment of migrant workers?
- Does the Committee indicate that migrant workers experience unequal labor conditions relative to those of nationals?
- Does the Committee express concern over access to education or health services for migrant workers?
- Does the Committee express concerns over the access to the right to a name, nationality, or appropriate documentation?
- Does the Committee express concerns about the existence, availability, or accessibility of systems of due process?
- Does the Committee express concerns over a lack of data regarding the situation of migrant workers in the given country?
- Does the Committee express concern regarding the incorporation of the Convention into national legislation?
- Does the committee express concerns over issues related to the freedom of movement, or discrimination related to the freedom of movement?
- Does the Committee express concern over the persistence of migrant workers with an irregular status?
- Does the Committee express concerns over human trafficking or the clandestine movement of workers?
- Does the Committee note concern over lack of services provided to nationals abroad? (i.e. lack of right to vote, insufficient consular protection)

If the Committee expressed concern over a particular issue mentioned above, it was then noted whether the Committee also noted steps taken by the state to address that issue, and whether the steps were legal, substantive, or both. Legal steps were understood to be any changes in law or policy which were intended to address the issue. Substantive steps included any non-legal measures such as increased funding, allocation of additional personnel, creation of new agencies or offices, etc. Where more than one recommendation fit into a category mentioned above, the higher level of implementation was recorded. For example, if the Committee expressed concerns about discrimination in two separate recommendations, and noted legal steps in one instance but no steps in the other, the country would overall be marked as having taken legal steps for that category.

Turning these notations into a score was done by giving a score of 0 if the Committee noted a concern and no action had been taken, a 1 if legal or substantive action had been taken, and a 2 if both legal and substantive action had been taken. Finally, since the Committee commented on a different number of areas for different countries, the score was converted to a 0-1 scale by dividing the score by the highest possible score for that country (number of categories for which the Committee emphasized concern multiplied by 2). For example, if the Committee expressed concern in 6 of the above categories, and for each one the given country took legal action but nothing else, they would get 6 points out of a possible twelve, and thus a final score of .5. Therefore, what the score ultimately represents is a ratio between concerns raised by the Committee and actions noted to help resolve the issue, within certain rights in the Concluding Observations.

This score was taken to be a general measure of implementation by examining the measures taken by a given state to improve the situation across a set of core rights in the Convention. However, it should be noted that given the general inconsistency of the Committee on Migrant Workers and its own uneven access to quality information, it is difficult to assess the extent to which these scores accurately reflect conditions in the given states. Rather, it is a general measure of implementation only as judged by the Concluding Observations. Indeed, it is possible that wealthier states simply have more resources to present their actions, and more civil society associations to provide supporting evidence, such that the Concluding Observations for wealthier states simply reflect better access to information. However, it similarly seems unlikely that states would have the resources to implement the Convention but lack the resources to explain their progress to the Committee. Thus, in terms of the reliability of the data, it is a reliable measure of the comments made by the Committee in their Concluding Observations. However, it is more difficult to assess its reliability as a measurement of actual implementation of the Convention.

While efforts were made to reduce researcher subjectivity through making clearly defined categories, occasionally recommendations issued by the Committee were ambiguous or did not fit neatly into the given categories. To allow for external review of the methodology, each state's scorecard is included in Appendix B. For each report, it is noted if the Committee expressed a concern for a given area, if legal and/or substantive steps were noted, and which paragraphs in the Concluding Observations were used to make that determination.

Information gathered on implementation is compared with data regarding immigration and emigration rates, GDP per capita, and a country's score on the Freedom House Index.¹ The first measures are provided through data from the World Bank.² The Freedom House Index is a

¹ Scores from 2012 were used. Data available at <http://www.freedomhouse.org/report/freedom-world/freedom-world-2012>. See (Freedom House 2012a)

² Figures from 2012 were used. Data available from <http://data.worldbank.org/> (World Bank 2012)

measurement of a freedom in a given country by looking at both legal and actual presence of civil liberties and political rights (Freedom House 2012b). Like any subjective measurement, it is open to bias, however it is generally considered to be a reliable indicator, although some scholars have pointed to its general neoliberal bias and some concerns over its reliability over time (Giannone 2010). However, this study does not use longitudinal data, so consistency over time is not a concern here.

Finally, it should be noted that the data generated by this method was only analyzed through descriptive measurements. Since the use of statistics can often bring an air of authority (Bryman 2008), engaging in measures of correlation would have conferred excessive authority to these figures. Rather, the goal of this method was, in the absence of a large body of scholarly work, to help illuminate some general trends among those states which had submitted themselves for review.

4. Three Situations of Migration

4.1 The UN Convention on Migrant Workers

The Convention on the Rights of All Migrant Workers and Members of Their Family (CMW) which entered into force in 2003 is among the least successful of the major UN conventions. It has received only 47 ratifications and conspicuously absent even in that number is any Western European country, the United States, Australia, or Canada (UN 2012).³ However, even if the Convention has failed to garner widespread acceptance, it is still an operating convention and is fully in force for the 46 countries which have acceded to it.

The Convention provides certain rights to all migrant workers regardless of their migration status, while certain other rights are reserved for those regularized migrations. Among the most notable rights are the right to leave the country, right to emergency medical treatment for all migrants (and regular medical treatment for documented migrants), the ability to participate in labor unions, and rights to due process and equality before the law. Additional rights for documented migrant workers include the right to family reunification, political participation, and regular access to medical care, among other rights (Guchteneire, Cholewinski, and Pécoud 2009).

The Convention is, according to various sources, either too far-reaching or insufficiently broad in its approach to protecting the rights of migrant workers. Most notably, and perhaps most controversially, the Convention does allow for certain rights for undocumented or irregular migrants, although states are still given the power to control their own immigration policy (Bosniak 1991). However, this provision of rights to undocumented migrants is also pointed to as one of the major reasons why the Convention has not been more successful among countries which primarily receive migrants (Vucetic 2007).

Although there is generally a dearth of research on the Convention, a number of scholars have advanced theories regarding the failure of the Convention to receive more support, particularly from net migrant receiving nations. One argument is that the Convention was imbalanced in its drafting and sending countries had too much power in the drafting process, drowning out the concerns of receiving nations and yielding a convention that is weighted towards the needs of sending rather than receiving states (Vucetic 2007). However, the drafting process was in fact quite long and complex, beginning with the formation of a working group in 1979 and ending with a completed draft 11 years later in 1990, when the draft was adopted by the General Assembly to be opened for ratification (Lonnroth 1991). Furthermore, while there was substantial involvement of the G77 (a group of developing countries), substantial work was also done by the MESCA group which represented a group of Mediterranean and Scandinavian countries (Lonnroth 1991).

³ See Appendix A for a list of ratifications

An additional explanation for its lack of support is that the a cost/benefit analysis on the part of receiving states showed that the Convention was not worth ratifying (Ruhs 2012). However, it is not clear that the Convention is especially onerous as other scholars still see the Convention as failing to do enough to truly address the needs of migrant workers (Bosniak 1991). Additionally, another reason cited for the failure of the Convention was misconceptions over the exact meaning and content of the convention, with states thinking that it required more of them than it actually did (Vucetic 2007).

Given the relatively few states who have ratified it and the absence of wealthy, migrant receiving countries from the list of those that have, there is a paucity of research that has been conducted on the Convention. However, its lack of signatories should not lead it to be cast aside altogether. The Convention remains one of the most far-reaching non-regional international agreements about labor migration rights.

What is notable about the Convention is its focus on the state as the primary actor, and its focus on the rights of migrants, not the right to migrate. Therefore, this Convention is very different from the labor mobility scheme of the EU, as the EU is both a supranational institution and provides the right to move internally. In maintaining its focus on rights within the context of a state, the Convention is keeping with the pattern set by other Conventions in the UN system. However, where this convention differs is that here the state becomes the duty bearer for the protection of rights of individuals who are not its citizen and may even be illegal or ‘unwanted’ migrants.

That this convention makes states responsible for individuals who are not their citizens would seem to have profound implications for notions of citizenship by making labor and not birthright the foundation of rights. This notion has often been contested by those in wealthier non-signatory states who see the Convention as a tool of migrant sending states to protect their citizens abroad and not a deeper concern over migrant rights or the plight of any migrant workers who should happen to be on their own territory. Or, in the words of one scholar writing about the Convention “The objective in Mexico was the rights of the Mexican migrants in the United States and in no way the rights of the migrants who found themselves in Mexico or crossed our territory to go to the north” (Venet 2002, 270).⁴

Although as noted earlier, the Convention on Migrant Workers was the result of a long period of negotiation with a wide variety of actors that sought to reach a consensus opinion, the result is that the Convention has mainly been ratified by countries which are primarily net senders of migrant workers. Despite the universalist aspirations, given that it has mainly been ratified by net

⁴ Translation mine. “El objetivo concreto en México eran los derechos de los mexicanos migrantes en Estados Unidos y de ninguna manera los derechos de los migrantes que se encontraban en México o cruzaban nuestro territorio para ir al norte.”

sending countries, there has been a concern that the observation of the Mexican scholar about the Convention was not limited to the Mexican context. In other words, that the Convention on Migrant Workers was not an articulation of universally held notions of rights, but a way for states to provide material benefits to their citizens abroad.

However, despite these concerns, it does not seem that they hold significant weight. While it does seem true that the Convention has not been especially successful in altering notions of citizenship, the culprit does not seem to be the blatant self-interest of acceding states. Rather, it appears that the effects of the Convention have been limited by the relatively few number of migrants involved, the singular focus on states which tends to ignore regional dynamics and economic forces, and the focus on negative rights.

If the Convention was mainly a way to advance particular state interests one would expect that implementation would vary along with the immigration rate. Acceding countries with a high number of immigrants in their borders would seek to do as little as possible to implement the Convention. Or, alternatively, all countries would equally take as few steps as possible to implement the convention. However, neither of these situations seem to hold true.

Using the implementation score discussed earlier in the section on methodology, a state's effort to implement the convention, measured by the steps they had taken to address concerns of the UN in certain core areas of the Convention, was plotted against both the immigration and emigration rates of each country. See Figure 2.

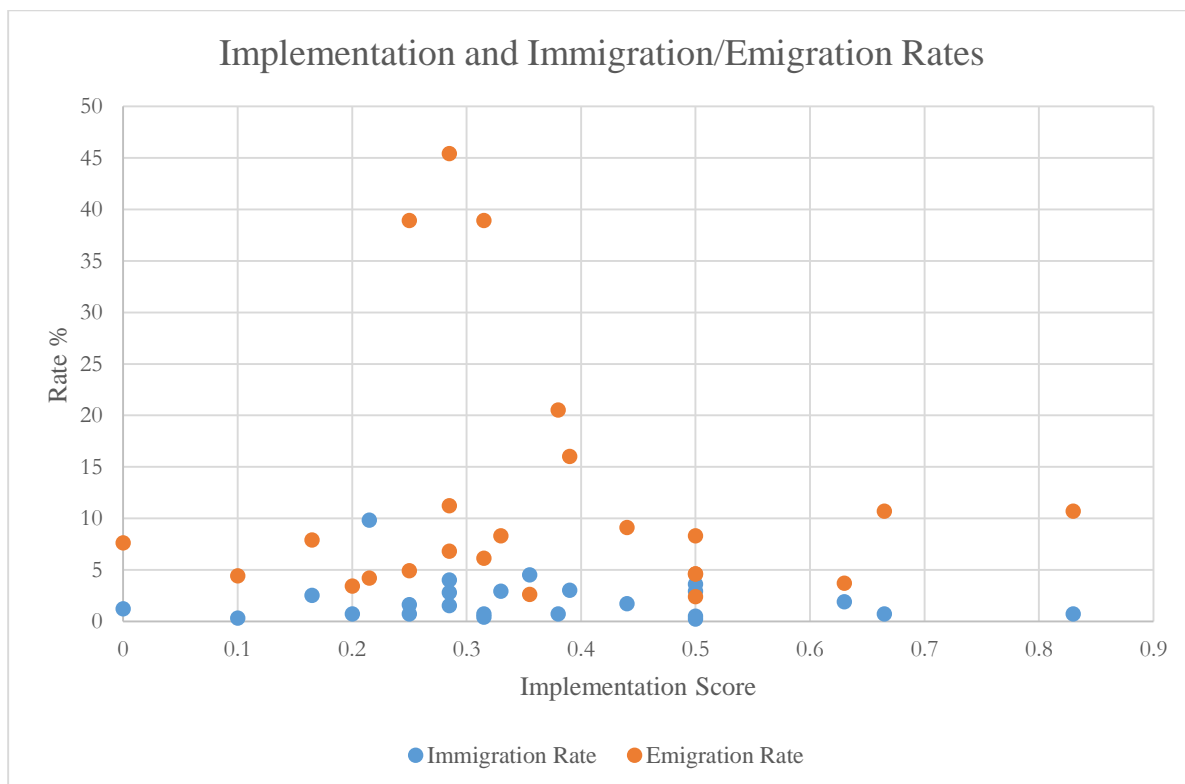


Figure 2

The plotting of Figure 2 seems to suggest that there is no strong relationship between implementation rate and a country's immigration rate. While some of the states with high levels of implementation do have a lower immigration rate, there is not a strong trend. Similarly, no strong pattern emerges related to a state's level of emigration.

However, when implementation rate is plotted against the relative wealth of the state, here measured in GDP per Capita (PPP)⁵, a stronger link emerges. Implementation scores tended to be higher among those countries with a higher GDP per Capita. (See Figure 3)

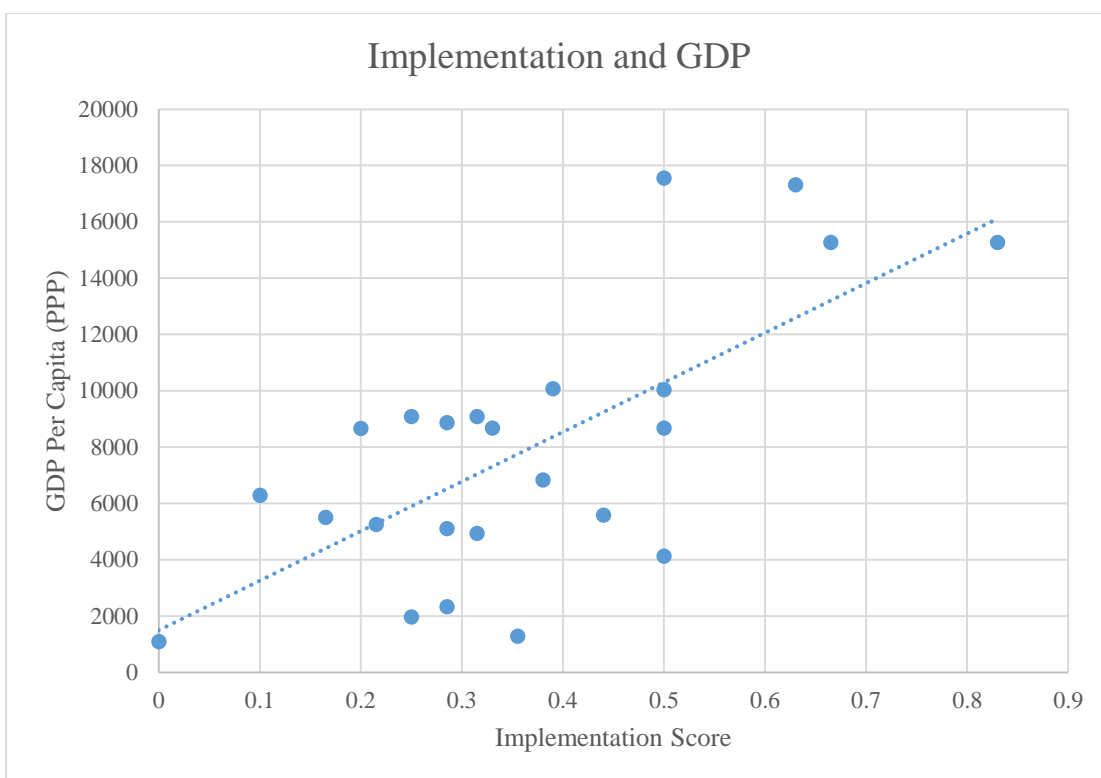


Figure 3

Finally, comparing a state's implementation of the Convention with their level of civil liberties and political freedom, here represented by their Freedom House score, a correlation emerges which seems to be stronger than that between GDP and implementation. See Figure 4.

⁵ PPP (Purchasing Power Parity) is an adjustment of the GDP figure to account for differences in prices. Therefore, it is able to better measure not just the amount of money, but how much 'purchasing power' it has.

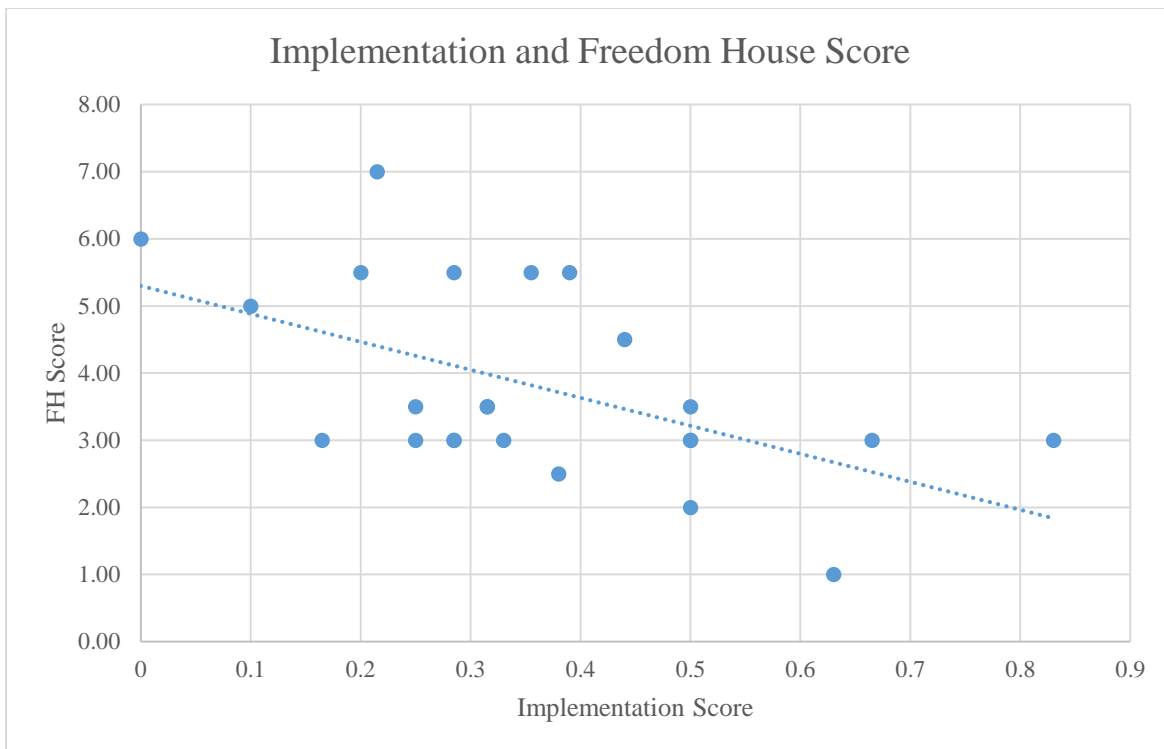


Figure 4

These charts seems to run counter to given expectations about which states would be most likely to have done more to implement the Convention. If states were signing the Convention purely out of self-interest, one would expect that wealthier states and those with higher levels of immigration would do the least to try and implement the Convention as they sought to keep incoming migrants from accessing their services. However, this is not seem to be the case. Based off of the methods used, wealthier states have done *more* to implement the convention, among those who have submitted reports to the Committee on Migrant Workers. It seems that there is also a relationship between implementation of the Convention and general commitment to political rights and civil liberties. However, this could reflect that those states which already greater protection for rights in general were more easily able to extend those rights to labor migrants under the Convention. Recall also that the implementation score is based off the perceptions of the Committee, and thus an indirect measure of implementation.

Several other caveats are also in order. As only 22 states have made reports to the UN, less, than half the number of signatories, this data is drawn from a very small sample. Although some of the states which have yet to make reports are very small states like Cape Verde, much more established states like Turkey, Nigeria, and Ghana have also failed to report on their progress. However, it should be noted that this lack of reporting is not unusual. For example, the countries which have ratified the Convention on Migrant Workers have on average made 1 report every 9.24 years. Those same countries have made reports to the Committee on Economic Social and Cultural

Rights (ECOSOC), representing one of the oldest and most venerable conventions, on average once every 16.1 years.⁶ Therefore, while reporting is behind schedule, it is not exceptional the given group of countries.

In look at the Concluding Observations, it is also important to note that the Committee does not have broad investigative capacity at their disposal and they often rely mainly on a state's own report, coupled with information gleaned from NGO reports and other UN agencies, in making their concluding recommendations. Therefore, the Committee is not making a systemic review of the a country's adherence to all parts of the Convention, but selecting certain areas based on the available information and their particular whims. Therefore, there tends to be a lot of variation in the reports, as the Committee focuses on different issues for different states. It should be noted that this is not a problem specific to the Committee on Migrant Workers, but a common feature among many of the specialized committees of the UN (O'Flaherty 2006; Gaer 2003).

One trend that emerges from the specific context of the Concluding Observations is the focus of the Convention and the Committee on the negative rights of migrants. The concern most often raised by the Committee related to human trafficking, appearing in 23 out of 25 reports. Concerns about due process (18 of 25), discrimination (21 of 25), lack of data (20 of 25), and the rights of nationals abroad (18 of 25) were the other top concerns. Comparatively, the Committee expressed concern over the access to health and/or education in only 11 instances. The rights of political participation in the country of destination, which are encouraged but not mandated under Article 42, were mentioned only in relation to Mexico, whose constitution bans the political participation of non-citizens (CMW 2011). Rights related to social inclusion and incorporation also largely went unmentioned. Provisions related to the right to religion and freedom of thought (Article 12) and efforts to be made by the state to allow for the teaching of native language in schools (Article 45) also went largely unmentioned in the Concluding Observations. Similarly often absent in the Committee's recommendations are discussions of social security or other social benefits, although the Committee did occasionally address issues about ensuring that workers are able to transfer their earnings abroad.

What emerges from the Committee's recommendations is a focus on issues of protection from harm and basic rights of migrants, without as much attention paid to issues related to inclusion or participation in society of the host country or the provision of social benefits. As such, many of the reports seemed to be consistent with general human rights norms, without a particular focus on the specific or specialized rights of migrants as a class.

⁶ Data for reports to the ECOSOC do not include Belize as it has not ratified that convention. Data for this calculation was gathered from UN data on ratification dates as well as session reports from each committee.

Similarly, because the UN system is based on the assumption of the primacy of the state, the Committee's reports generally do not take into consideration regional context or external factors. While almost every state report does include a statement, like this one taken from the report to Ecuador, that "The Committee notes that some of the countries in which Ecuadorian migrant workers are employed are not yet parties to the Convention, which may constitute an obstacle to enjoyment of their rights under the Convention" (CMW 2010), no further discussion is generally made of the regional dynamics or necessary international cooperation. There are some exceptions as the Committee does acknowledge the presence of Colombians in Ecuador (CMW 2010), Iraqis in Syria (CMW 2008), and Guatemalans and Belizians in Mexico (CMW 2011), the Committee does not treat these as problems requiring regional solutions or analysis. Where it does recognize the needs of states to engage with others states in order to address issues, these solutions are seen as being on a bilateral basis. For example, the Committee recommends that Egypt work with countries in the Gulf to end the "kafalah" system whereby migrant workers are tied to a particular employer in a situation that tends to lead to abuse (CMW 2007). A similar recommendation is made for Sri Lanka to strengthen its bilateral agreements with countries where it sends many of its migrant workers, particularly to ensure protection from abuse (CMW 2009).

Going back to the earlier discussion of citizenship rights, Marshall's definition of citizenship included social rights, political rights, and civil rights. Based on the concluding observations of the Committee on Migrant Workers, the overwhelming focus seems to be on civil rights. Similarly, there is almost no focus on multiculturalist citizenship or transnational citizenship. While the Convention may be helping spur these sorts of changes in various countries is unknown based on the given data set. However, what is clear is that the main oversight body of the Convention has chosen to place an institutional focus on the civil rights of migrants and in particular, on their protection from direct harm. This focus on a relatively narrow band of rights seems to suggest that the Committee pursuing of a view of the rights under the Convention as belonging, recalling arguments made by Brysk and Shafir, to the relative 'thin' sphere of human rights rather than 'thicker' notions of citizenship rights.

It is worth noting, however, that despite the focus on 'thinner' rights, the reports of the Committee do indicate a substantial concern for the rights of undocumented migrants. Generally, the majority of each report was dedicated to rights held by all migrants regardless of their status, with a smaller section dedicated to those in a regular status or certain special categories of migrants. Therefore, one important aspect of the Convention seems to be the importance placed on protecting the rights of migrants, regardless of their situation.

4.2 NAFTA and US-Mexico Migration

Given the fairly modest impact the Convention on Migrant Workers has had on the protection of migrant workers so far, this next section will look at another international agreement which attempted, in part, to address issues of migration. Although the North American Free Trade Agreement (NAFTA) was largely an economic agreement,⁷ it was hoped to have impacts on issues of immigration as well, particularly in the context of the enormous levels of migration between Mexico and the United States. However, this approach to migration which relied primarily on economic reform, was not particularly successful. Faltering economic growth in Mexico failed to compensate for economic “pull” factors from the United States and the increasing focus on immigration as a discourse of “security” mean that this agreement failed to live up to its full potential.

Although NAFTA did not achieve its intended goal of reducing the level of migration between Mexico and the United States, it still had important impacts on the nature of migration between the two countries. As an agreement which focused on economic integration, this focus on economics seems to have had two primary impacts on labor migrants. One, by changing the nature of the economic system it unmoored people from traditional methods of production and encouraged movement and the increased bifurcation of the labor market, along the lines of research discussing global cities. Secondly, as an economic agreement which failed to account for the reality of international migrations, it created a breakdown of citizenship and incorporation policy at the federal level that allowed for action at the local level. This section will begin by reviewing the history of migration between the US and Mexico and a history of NAFTA before turning itself to the theoretical questions at hand.

“Pobre Mexico. Tan lejos de Dios, tan cerca de los Estados Unidos”

This oft-repeated phrase of uncertain origin (it is most commonly attributed to Porfirio Diaz, although likely erroneously) translates to “Poor Mexico, so far from God and so close to the United States.” While the first half of the sentiment is debatable, the second is not. The United States and Mexico are inextricably linked through their proximity. The border between Mexico and the United States is one of the world’s longest land borders and is the most crossed international border in the world (Keene and Rosen 2011). About 12 million people born in Mexico live in the United States

⁷ A side agreement on labor issues was added a few years later. However, it did not proactively set labor standards but rather tended to defer to existing national policy and was therefore limited in its impact (Alston 2005).

and Mexicans are estimated to make up about 58% of the 11.2 million undocumented immigrants in the United States (J. Passel, Cohn, and Gonzalez-Barrera 2012). Additionally, millions of Americans trace their ancestry to Mexico. The various generations of migrants in the United States make enormous contributions to the economies of both countries. Although they have recently showed a decline, remittances from the United States to Mexico totaled more than \$26 billion US dollars in 2009 and continue to be Mexico's second-largest source of foreign income after oil exports (Ruiz and Vargas-Silva 2012). The cultural, historical, and economic ties between these two countries are significant.

Coming into force January 1st, 1994, the North American Free Trade Agreement (NAFTA) is an agreement allowing for free trade and open markets between Canada, the United States, and Mexico. Conceived primarily as an economic union for the purposes of opening up markets, encouraging trade, and increasing cross-border capital investment, NAFTA also has had important impacts on migration in the region, particularly between the US and Mexico (Lauby 2011; Fernández-Kelly and Massey 2007). Although the text of the agreement largely leaves aside issues of immigration,⁸ issues of migration were certainly present both during the time of its creation and continue to this day. The motivation behind the agreement was to try and spur economic growth. From the American perspective it allowed companies greater access to Mexican labor and the reduction of barriers to the mobility of capital. For Mexico, it offered the possibility of economic growth and was encouraged by a mix of large corporations and young Mexican politicians who had been educated in the US and steeped in the ideas of free market (Fernández-Kelly and Massey 2007). While NAFTA is often portrayed as being a US-led initiative, the impetus for the treaty actually came from Mexico (Fernández-Kelly and Massey 2007).

While NAFTA largely left aside migration issues in the text of the agreement, issues of migration still played a role. There was a strong belief that the signing of NAFTA would lead to economic growth within Mexico and that free trade would increase the comparative advantage of Mexican labor, moving more US companies to establish factories in the country (Flores-Macías 2008). Thus, changes to immigration patterns were expected to be achieved through economic growth and not through the advancement of new rights, protections, or quotas for the movement of workers much less the establishment of a labor mobility regime similar to that found in the EU/EEA. However, this plan was not successful. In 1995, not long after the implementation of NAFTA, Mexico experienced a significant economic crisis which led to a large movement of workers north of the border. Levels of migration from Mexico to the US have also remained high as

⁸ NAFTA does contain a provision for the movement of skilled workers working in certain professions. However, between 2008-2012 the US only issued only between 3,392 and 7,638 of these visas (known as TN visas) to Mexicans and Canadians.

“Mexican migration levels increased whenever the U.S. economy created jobs, and decreased whenever unemployment rose” (Flores-Macías 2008, 439) even as the Mexican economy grew significantly, suggesting that ‘pull’ factors from the US remain highly important regardless of the particular situation in Mexico. Indeed, the recent economic crisis in the US has helped contribute to a standstill in Mexican migration to the US (J. Passel, Cohn, and Gonzalez-Barrera 2012).

The question that remains is why Mexico did not pursue a migration element to NAFTA given the importance of migration to both Mexicans and the Mexican economy. In remarks given at a conference at Princeton University where former Prime Minister of Canada Brian Mulroney and Former President George H.W. Bush also spoke, Carlos Salinas indicated that he had approached President Bush about including a migration element to the treaty. In his remarks he said, “I proposed that NAFTA include not only goods and services but also the free movement of people between our two nations” for, as he noted, “a U.S. labor market for Mexican Workers already existed, but we needed to regularize it to protect workers’ rights” (Salinas 2005, 43). According to Salinas, Bush countered with a proposal to open up the Mexican oil industry,⁹ and also pointed out that NAFTA would never be ratified by the US Congress if it included a provision on migration. In the end, migration was not addressed by the agreement.

In general, Mexico placed economic growth above migration issues in this period. Despite being one of the champions of the Convention on Migrant Workers and the first country to sign it, Mexico delayed ratifying the convention for eight years, largely out of a desire not to cause problems with the negotiation and ratification of NAFTA (Díaz and Kuhner 2009; Venet 2002). Even as issues of immigration were quickly dropped from the Mexican end of negotiations over NAFTA, mentions of migration issues were even scarcer from the US side. President Clinton’s speech after signing NAFTA made no mention of immigration (Clinton 1993). The US Attorney General did make comments to the press highlighting the importance of economic growth in Mexico as the best way to deter illegal immigration (Manning and Butera 2000), but in general, migration issues were not a dominant part of the discourse. The debate over the merits of NAFTA retained a focus on its economic impacts, with migration playing a minor role.

While Salinas’ remarks indicate that Mexico would have preferred an agreement that addressed issues of labor mobility as well as mobility for goods and capital, addressing economic concerns was a high priority for Mexico at the time. Following periods of economic instability as the country transitioned from import substitution based development to greater openness in the

⁹ It may seem strange that that oil concerns would be more important than labor migration. However, the oil industry is a national symbol, and before the NAFTA agreements commenced was identified by the Salinas administration as an issue they would not compromise on. Indeed, Salinas comments in a book published later, “during the negotiations, the refusal to include oil was the only topic that united the whole range of interests in Mexico” (Salinas de Gortari 2002, 81)

economy, Mexico needed to find a way of stabilizing the economy (Heppel and Torres 1996). Furthermore, as Mexico tends to have an inefficient political system with relatively low institutional capacity, signing NAFTA was a way to help quickly modernize the Mexican economy (Castañeda 1993; Salinas de Gortari 2002). While this meant that NAFTA ended up being an agreement that created a system of free movement for goods and capital, even as it prevented the free movement of people (Bacon 2009), at the time it was seen as important for the basic health of the country, overruling concerns over migrants and their treatment in the United States.

Two important changes which occurred in Mexico following the implementation of NAFTA are emblematic of the kind of new economy which began to emerge. First, although Foreign Direct Investment (FDI) soared after the implementation of NAFTA, with the majority coming from the United States, this investment mostly allowed US companies to shift production to Mexico and take advantage of lower wages. Additionally, US companies bought up stakes in Mexican companies, accessing Mexican consumers but not lowering prices or increasing growth (Manning and Butera 2000).

Another important change was the decline of the *ejido* system, communally owned plots of land which could not be bought, sold, or rented. However, the *ejidos* were not permitted under NAFTA and following its implementation, many were sold, leading to increased commercialization of the agriculture industry and the untethering of many people from direct involvement in the means of production and reorienting them towards wage-work (Bacon 2009). Thus, traditional farming practices entered the mainstream of the international economy as they moved away from local farmers and towards large corporations.

Parallel to these changes was the increasing treatment by the United States of the border as a security issue and not a player in labor and economic policy. An increased focus on securing and controlling the border to stop illegal immigration even included the deployment of military technology to help stop unauthorized crossings (Andreas 1998). However, there is little evidence to suggest that increased funding directed towards securing the border actually had any demonstrable impact other than making border crossings more dangerous by redirecting them to areas with rugged terrain and increased risks. According to a report from 2009, over 5,000 people are estimated to have died crossing the border after the start of Operation Gatekeeper, an effort to increase security along the US-Mexico border which began in late 1994 (Jiménez 2009). Despite the lack of general success of these efforts to curb unauthorized immigration into the US, border security remains a dominant discourse in US immigration policy. A comprehensive overhaul of US immigration policy currently being drafted in the Senate would help clear a backlog of applicants, allow for more skills-based immigration, and provide an eventual path to citizenship for currently

residing undocumented immigrants, but only after certain provisions for border security are met (Parker 2013a).

Despite the consistent focus on issues of security relative to immigration issues and the tough posturing taken against undocumented immigration, the actual picture is much more complicated. The economic impacts of migration to both countries are huge, and despite its posturing on border security, the US has remained relatively open to undocumented migration in aspects of domestic policy.

Estimating the net impact of illegal immigration on the US economy is challenging. However, estimates seem to suggest that illegal immigration has caused a small decline in wages for low skill labor in the United States and that while highly skilled immigrants likely have a net positive impact on government spending (they pay more in taxes than they use in services), low skill migrants, a category which includes most undocumented migrants, have a net negative impact, although they do pay taxes in the form of sales and property taxes, and many undocumented migrants also pay federal income taxes (Hanson 2007). Additionally, undocumented migrants tend to be highly active in the labor market with a 94% labor participation rate among men of working age, compared to 83% of US born men. Unemployment rates from undocumented migrants have generally tended to be lower than that of the general population, although this trend has not always been consistent (J. S. Passel and Cohn 2009).

Evidence also seems to suggest that the United States has frequently been reliant on Mexican migrant workers and while it has been reluctant to formulate official channels for migration and the establishment of particular rights, the United States is relatively permissive in terms of the services provided to undocumented migrants. Reliance of many industries in the US on undocumented workers was recently made clear. After Alabama passed a law which sought to step up efforts to identify undocumented migrants and increase penalties against employers who hire them, farmers and meat processors in the state had a hard time recruiting enough qualified workers (Newkirk and Douban 2012; Bathija 2011). Even President George W. Bush recognized that access to low-wage workers was essential for US businesses (Hing 2010).

Additionally, although US companies are barred from hiring individuals who do not have appropriate work authorization, enforcement is generally lax. The US has among the lowest levels of sanctions against employers who hire undocumented workers and few resources are dedicated to investigating companies (Andreas 1998). Fines for hiring undocumented migrants are considered by some industries as simply the cost of doing business as they rely so heavily on low wage workers (Heppel and Torres 1996). More recently, attempts to create a national database for employment authorization have moved slowly and faced significant resistance (Bier 2013). What this means, is despite tough posturing around border security, the United States has created a system in which it is

largely possible, if not easy, for undocumented immigrants to live on a long-term basis in the United States.

The United States has also created a system by which while it does not extend formal recognition or rights to undocumented migrants, it is relatively permissive towards their presence. Under *Yick Wo v. Hopkins* (1886) the US Supreme Court ruled that illegal aliens are persons under the Constitution and thus entitled to the Equal Protection Clause of the 14th Amendment. Earlier, in *Wong Wing v. US* it had found that aliens are entitled to due process rights under the 5th and 6th Amendments (Chang 1997). More recently, in the 1982 *Plyler v. Doe* case, the Supreme Court struck down a Texas law which barred undocumented immigrant children from attending public elementary and secondary schools and “Although the *Plyler* decision did not explicitly create an entitlement for unauthorized student aliens to attend public elementary and secondary schools, the case has, in practice, had the effect of establishing such access to public education” (Congressional Digest 2010, 263). While undocumented migrants are barred from most public welfare programs, children are allowed to participate in health insurance programs in some states, and they can be eligible for a program which provides some food benefits (AFL-CIO 2013). Undocumented migrants are also generally able to open bank accounts and rent apartments (Martin 2005). A number of states allow undocumented migrants to get drivers licenses.

However, despite this fairly permissive environment and certain legal protections, non-citizens, including both documented and undocumented individuals, are largely excluded from access to political and social/economic rights in the United States. Undocumented immigrants are barred from most social welfare programs,¹⁰ and even legal residents are barred from means tested federal programs for their first five years in the United States (Mehta et al. 2002). Non-citizens also do not have voting rights at the state or federal levels. Additionally, while undocumented individuals are required to pay federal income tax, and can even be provided with a special identification number for tax purposes,¹¹ they have no ability to collect from the Social Security accounts that they are paying into. It is estimated that undocumented migrants contribute up to \$7 billion USD to Social Security per year, money that they will never be able to collect (Porter 2005).

The lack of action on a federal level has spurred action on the local level. This local action has served to both increase and restrict the rights available to undocumented workers. Political opportunities have opened up for migrants as some localities have opened up voting rights in local elections for non-citizens, although the total number of localities remains small (Munro 2008). However, undocumented migrants have also found ways to operate outside the formal spheres of

¹⁰ Undocumented immigrants are eligible for emergency medical care under Medicaid, immunizations, free or reduced price meals at school, and WIC, a nutrition program for children and pregnant women (Mehta et al. 2002)

¹¹ This number is known as an ITIN (Individual Taxpayer Identity Number).

participation. Research has indicated that even where migrants are excluded from formal political participation, they are increasingly participating in grassroots movements, especially through channels of participation organized by labor unions. Even as they cannot vote, they are participating in rallies and assisting in efforts to increase voter turnout (Varsanyi 2005).

Because of the functioning of transnational networks, Mexican migrants from particular regions in the US will often cluster together in the US. For example, much of the Mexican population in Philadelphia comes not just from the Mexican state of Puebla, but from a specific portion of the state northwest of the capital city (Shaw 2011). Thus, migration between the US is not diffuse and random, but often builds off of specific transnational networks. Importantly, relationships and actions do not stop at the border. Organizations such as Centro de los Derechos del Migrante (CDM)¹² work with partners on both sides of the border to help advance the legal claims of Mexican workers who experienced labor law violations while in the US but have since returned to Mexico.

In his work on transnational urbanism, researcher M.P. Smith saw that migrants living in the US built connections between their cities of origin in Mexico and their destination cities in the US. These connections allowed for the creation of certain political agency and a situation of personhood in multiple spheres (Smith 2005; Smith 2001). For example, Smith draws on the case of linkages between the cities of Napa in California and El Timbal in Mexico. Migrants drew on their connections in El Timbal to create political networks and a political presence in Napa, which then increased their political engagement in El Timbal (Smith 2007).

What the experience of NAFTA and Mexico suggests is that a pure focus on economics without recognizing the role of people as economic agents does not yield satisfactory results for migration issues. Such a focus fails to recognize the reality of the migration situation and has tended to lead the US government to policy choices which see migration as a security issue rather than an issue of economics and relationships. Even if migration levels reduce significantly, the size and wealth of the US economy means that some number of individuals are likely to migrate well into the future.

The kinds of changes occurring in the Mexican-American economy have been exactly those discussed by Sassen in relation to the rise of global cities. Increased FDI combined with increasing alienation from the sites of production, for example the *ejidos* in Mexico. These changes in the economic conditions mean that, “at the same time as economic liberalization has created the conditions for substantial undocumented immigration flows between (for example) Mexico and the US, there has not been a concurrent liberalization of political structures which would incorporate

¹² See more information at www.cdmigrante.org

undocumented immigrants into the polity” (Varsanyi 2005, 776). However, as discussed earlier, migrants have created spaces of participation along with important transnational networks.

While these transnational linkages and spaces of participation and inclusion are important, they are not unproblematic. Drawing on the ideas of ‘denizenship’ discussed earlier, even as long term undocumented residents of the United States are able to access certain rights, they remain vulnerable in the long-term. Particularly, one of the issues associated with denizenship is that even as denizens have certain ongoing rights, they are excluded from formal mechanisms of participation and thus open to exploitation (Benton 2010). Thus, while NAFTA opened up economic spaces and increasingly engendered cities as sites of participation, its failure to address the reality of migration between the US and Mexico has meant that many people have been excluded from more formal extensions of rights, particularly political and social rights.

4.3 The European Union: A Bifurcated Approach

Setting it apart from almost every other regional organization in the world,¹³ the European Union has pursued a policy which has generally allowed for labor mobility for EU citizens to other EU countries. Along with the free movement of goods, capital, and services, the movement of people is the fourth pillar of the basic “four freedoms” of the European Union. The general agreement allowing for labor mobility was agreed upon starting with the formation of the EU in the 1950’s, although it has been more recently consolidated and clarified in Directive 2004/38/EC from 2004 (Boswell and Geddes 2011). However, while EU citizens generally have the right to movement, subject to certain restrictions, the right to move generally requires the individual to either be employed, have sufficient funds to support themselves, be studying, or be the family member of someone falling into one of these categories (Boswell and Geddes 2011). Yet this unprecedented level of mobility has also left open questions of what kind of ‘citizenship’ is implicated in the creation of EU citizenship. In particular, questions remain about how EU citizenship is bounded in terms of political participation, social benefits, and how non-EU nationals are incorporated in or excluded from the regime¹⁴.

While it is often taken as an article of faith that the EU is an institution that has dramatically reduced the sovereignty of states through their ceding of various powers to the EU, this is not always necessarily the case. Even issues of migration, which would seem to have the most power to erode the powers of the nation-state, have not always done so. Writing on the process leading up to the agreement about labor mobility, one scholar noted “the actual course of European integration in this case do not stem from an allegedly ineluctable historical decline of the nation-state. On the contrary, it seems to embody a negotiated international co-ordination and expansion of parallel domestic strategies, all of which were aiming at the economic and political consolidation of the nation state” (Romero 1993). Thus, even as many states may cede some control over certain areas, it is worth bearing in mind that such actions have taken place in the context of state decision-making regarding its overall wellbeing and self-interest.

Migration and mobility within the EU have been marked by the attempt of states to impose barriers and restrictions intended to reify their own statehood. However, paradoxically, these efforts

¹³ MERCOSUR has a provision for labor mobility similar to the EU, although its implementation has been somewhat uneven. Similarly, the Nordic Passport Union of 1951 allowed for mobility among the Nordic States.

¹⁴ The boundaries of mobility are even more complex than the boundaries of the EU. Norway, Iceland, Switzerland, and Liechtenstein all participate in the EU mobility scheme even though they are not members of the EU. Similarly, states are allowed to put in extra “transitional” restrictions for members from A8 and A2 countries, although these may only be temporary.

have often had the opposite effect due both to underlying economic forces and their erosive effects on the welfare state and welfare citizenship.

First, wealthier states in the EU have sought to protect their welfare systems from “benefit tourism” or “social raids” as less wealthy countries have gained EU membership. Of particular concern was the accession of the A8, short for “Accession 8”, a group of Central and Eastern European countries who joined in 2004. Under the terms of their admittance, countries who were already members of the EU at that time were allowed to resist the inward migration of nationals of the A8 countries for a period of up to seven years. The seven year period was staggered into a 2 + 5 + 2 arrangement whereby states could adopt an initial period of assessment and then extend the restrictions as they saw necessary (Kvist 2004).

Two main issues seemed to compel states in their actions related to the movement of nationals of the A8 countries. The first was a concern over the flooding of the labor market with low-cost labor. For example, during this time the image of the “Polish Plumber” gained currency as a symbol of the new rush of Central and Eastern European migrants headed for wealthier countries (Doughty 2010). Germany and Austria were particularly active in attempting to curtail the movement of workers into their countries and established among the strictest set of requirements, with Austria for example allowing no more than 8% of the workforce be comprised of foreigners (Kvist 2004).

What was particularly notable about these policies is not just that they existed, but also that they tended to create a positive feedback loop. Countries did not want to become the main recipient of the effects of the newfound focus on labor mobility, and thus as some countries put up barriers, other countries felt compelled to increase their restrictions as well. Thus, even countries like the UK, which had initially had a relatively open policy, created requirements for registration after similar movements in other countries (Kvist 2004). State decision making therefore did not follow clearly from the labor market needs or situation, but followed from an eye to one’s neighbors.

The second aspect of these restrictions was an examination of the social welfare benefits provided and the growing concern over ‘benefit tourism’ or ‘social raids’ as those in EU member states worried that people would come primarily for the access to benefits and not to work. Or, even more targeted, would come to work only long enough to become included in the social welfare system (Kvist 2004). Because EU rules and rulings by the ECJ underlined the principle of equality, attempts to limit access to benefits for newcomers generally had the effect of reducing access to those same benefits for citizens as well. Thus, this focus on protecting the benefits of the welfare state from newcomers simultaneously engenders the process from which the welfare state can become increasingly separated from its own, original citizens (Schierup, Hansen, and Castles 2006).

The idea that social benefits might be a factor in determining migration patterns is not surprising, and indeed, recent research has suggested that the generosity of benefits does play a role in migration levels. However, this effect was also found to be a much less significant motivator of movement than the strength of the labor market and the availability of work opportunities (De Giorgi and Pellizzari 2009). In any case, the dreaded situation of large numbers of Central and Eastern European nationals overwhelming the welfare systems of the wealthier EU states has not come to pass (Favell 2008).

Aside from mobility within Europe, there has also been the issue of how the arrival of non-Europeans is handled. Rather than designating the nation-state as the boundary of control, states are now part of “Fortress Europe”, a moniker implying security and control that European states have generally been very willing to embrace (Favell and Hansen 2002). However, the idea of fortress Europe, aside from its questionable voracity, has two important impacts. One is that the emphasis on the fortress has meant that the EU has not effectively dealt with the economic pressures for labor migration. The second, is that the focus on the fortress has helped reinforce some of the xenophobic and exclusionist tendencies and reified the dividing lines between those included and excluded in the community.

The curtailing of various forms of labor migration abilities for non-EU migrants has meant that one of the only remaining options is through seeking asylum. Even starting in the early 1990s one researcher noted that “the cessation of temporary labor recruitment, and the gradual exhaustion of secondary immigration for family reunion, means that asylum is the only significant remaining legal avenue for entry into Western Europe” (Freeman 1992, 1154–5). What labor migration is generally allowed is generally for skilled workers, and even that is becoming more restrictive in some places as countries like the UK have cut off most of the channels for skilled migration, except for those working in certain narrowly defined shortage areas (UKBA 2013).

While the asylum process certainly does serve an important function for those escaping persecution, it is used by others as well (Weiner 1995). The ability of refugees to find work after their successful asylum claim suggests that there is a labor market for these individuals and stories of success in European countries often make their way back to the home country (Favell and Hansen 2002). The complicating factor is that because of the rights-based policies implicit on the asylum process and the difficulty of returning individuals to their home country even if their claim has been unsuccessful, means that many people are able to use the asylum process to access the labor market, whether or not that was their original intent. Thus, this form of migration seems to be driven by the market and economic growth rather than state policy (Favell and Hansen 2002). Given the paucity of options for unskilled migrants, asylum seeking is often the most viable option.

The more insidious problem of this reliance on asylum seeking is the political backlash that it has created. Reducing the number of asylum seekers has become a political goal in many places. Particularly because the state has less control over asylum seekers, as their processing is overseen by international law and EU directives, they are seen especially threatening to the state. This is especially salient in a context where the image, if not the reality, of the “Fortress Europe” creates a sense of fear of what lies beyond the boundaries of the fortress (Van Houtum and Pijpers 2007). Part of this is implicit in the tension within Europe as it attempts to define the boundaries of citizenship within the union and the extent to which rights are tied to labor or national origin (Benhabib 2002).

One of the areas in which this negative integration can be noticed is in the limited forms of political participation within the EU. While nationals of any EU member state are able to vote in any local and European elections in the country where they reside, this has not always translated into substantive forms of participation. One of the issues has been the declining rates of participation in EU elections. There are concerns that this stems from difficulty in defining the norms of the supranational European political space (Muxel 2009). For example, data from Sweden indicated that voting rates of non-Nordic EU migrants were far below that of Swedish-born individuals (Bevelander and Pendakur 2011). However, while movers within Europe tend to have lower levels of voting participation, research also suggests that they are more likely to participate in actions such as engaging in protests or affiliating with unions or parties (Muxel 2009). Additionally, while voting rights are reserved for nationals across the EU, some countries, such as Sweden do allow non-citizens to vote in municipal elections, a policy which has been in place since the mid-1970's (Munro 2008). Despite formal access to voting, non-citizen voter turnout has generally been low, suggesting that more is required than simple access to formal political participation.

The perhaps ironic element of this turn away from labor migration and the rise of the “Fortress Europe” is that some degree of labor migration is necessary in the context of Europe's declining fertility and shrinking population. Declining birthrates have meant that most European populations are declining. For example, it is estimated that Germany would need to absorb 600,000-700,000 new immigrants each year to offset the decline in its population (Favell and Hansen 2002). However, while noting the expected decreases in population, some researchers have cautioned against seeing immigration as the simple answer to a demographic issue without also assessing the economic impact. Therefore, some researchers suggest that there should be careful consideration of which migrants to include based on economic needs (Bijak et al. 2007). The primary issue here is that Europe will face a shortage of workers, particularly in Southern European countries where labor market participation tends to be relatively low. This becomes problematic when fewer and fewer workers are burdened with the support of an increasing number of retired people. Maintaining

the current labor force size would require labor participation at the level of Scandinavia, increasing the retirement age by 10 years, and increasing female labor market participation. Absent this, Europe would need to add about 1.3 million migrants to the workforce each year, well above existing levels (Muenz 2007). Thus, even if migration is not the whole solution to the demographic situation in Europe, it appears that at least some level of labor migration will be important to support existing social welfare systems.

In this context of an increasing need for workers, EU policy has shifted to one of integration through workforce participation. “Efforts at constructing an ESM [European Social Model] had thus come to be one-sidedly connected with an agenda for economic growth and human capital development, and estrangement from the premise of social rights of citizenship” (Schierup, Hansen, and Castles 2006, 61). Within this context these authors see a shift from ‘welfare’ to ‘workfare’ not only reflecting efforts to push individuals off of welfare and into work, but work then as the dominant marker of membership of the community. This becomes particularly salient as one recalls the mobility and equal treatment in the EU is largely based on labor mobility, with work providing the path to settlement in other EU countries.

Underpinning these changes is a view that the EU has largely engaged in ‘negative integration’ based on the reduction of barriers between countries rather than positive creation of linkages between them (Hansen and Schierup 2005). This ‘negative integration’ is strongly linked to the very founding of the EU and its emphasis on reducing tariffs and trade barriers. This focus on removing barriers rather than promoting integration means that while the EU functions to remove economic barriers, these social barriers are reinforced at the level of the member nations (Schierup, Hansen, and Castles 2006).

Overall, more comprehensive efforts at integration in the EU is going to require a more critical assessment of what is necessary to create a “European” citizenship that cuts across national borders. In particular, the EU will need to grapple with how social and economic rights are included in more expansive notions of citizenship. Finally, there remains the issue of contending with who is admitted to the system and the roles of both individual states and potentially the EU as a whole in forming labor migration policy.

5. Concluding Thoughts:

Reviewing the literature on citizenship, two general important themes emerged. First, that along the lines of Marshall, citizenship is composed of political, social, and civil pillars (1977). Second, that an important aspect of citizenship, along Brubacker's notion of 'social closure' is that citizenship requires that some be included and some be excluded. Since labor migrants are generally excluded from formal participation in citizenship regimes, but do possess some rights, the question remains both which sets of rights they are extended, and where the boundaries of social closure are drawn.

With its pure focus on a human rights discourse, the UN Convention on Migrant Workers is largely unconcerned about the boundaries of social closure. While generally discouraging the persistence of undocumented migrants, it is largely unconcerned with states' decisions about the type or number of migrants a country chooses to admit, as long as certain basic rights are protected. Furthermore, as was discussed in that section, the Committee on Migrant Workers has tended to focus on the provision of negative rights and the protection of migrants from harm, rather than on the social or political rights of labor migrants.

Despite rhetoric indicating concern over labor migrants from Mexico, actual policy in the United States has generally been fairly welcoming to undocumented migrants. This is reflected in the provision of some social services (such as education) and a general commitment to equal protection under the law, along with a permissive attitude towards companies which hire undocumented migrants. However, undocumented migrants remain excluded from formal political participation and access to a more robust set of social rights. However, in part due to the economic restructurings brought about by the neoliberal focus of NAFTA and the rise of cities as important sites of political and economic action, some new spaces of enacting citizenship through transnational ties and informal political participation have been created. While these have been important, they do not necessarily offset the problems associated with lack of formal membership.

Finally, the European Union, through the creation of a regional citizenship alongside an individual's national citizenship, has moved the most substantially in redefining the boundaries of membership. However, this regional citizenship is still plagued by two important and unresolved issues. The first is that although the EU has largely removed internal barriers to labor migration, its external borders generally remain quite strict and labor migration policy has not kept pace with the reality of the economic situation as asylum becomes a defacto channel for labor migration. Therefore, while it is expanded membership internally, its borders remain similarly impermeable to the outside world. Secondly, the focus on 'negative integration' within the EU has generally meant that emerging notions of EU citizenship mean access to certain political and civil rights while still

reflecting an unease about providing social benefits and determining who is included in social welfare systems.

Thus, two common threads seem to emerge from these situations. First, countries in all contexts have been more comfortable in extending 'negative' rights to labor migrants and more reluctant to extend political or social benefits. Therefore, even as there seem to be general concerns about protecting labor migrants from harm or unfair treatment across all contexts, access to social welfare benefits remains extremely limited. Secondly, unease remains about how to draw the boundaries of inclusion. Because of its focus on a rights discourse and because most of the acceding states do not accept large numbers of migrants, this issue is less prominent in the UN Convention on Migrant Workers. However, both the United States and the EU remain ambivalent about how to draw those borders. In the US, the longstanding failure to have migration policy which reflected the actual movements of people or the recent focus on granting amnesty to undocumented migrants only to the extent the border can be controlled, indicate deep unease about how to define who is included in excluded. Similarly, within the EU, limits both on the labor migration of third country nationals and also on nationals of A8 countries reflects concerns about defining those boundaries of social closure.

Ultimately, it seems that while these instruments have opened up some new spaces of citizenship, nation-states remain the main arbiter of membership and formal citizenship offers the most comprehensive set of protections. Where protections have been opened up, it has most often been related to negative rights. New spaces of participation and action are being opened, and as more people around the world move from the country of their birth, the link between state and citizen grow fuzzier. Moving forward, scholars and policy-makers will have to continue to grapple with ensuring that the rights of workers are protected and that their contributions to society through their labor are respected.

6. Recommendations

One of the unresolved tensions presented here is that between citizenship rights and human rights. Attempts by the international community to address the rights of labor migrants has so far not been successful. The limited number of ratifications and the dearth of attention paid to political and economic rights has meant that the UN Convention on Migrant Workers is not sufficiently robust to protect the rights of labor migrants in a substantive way. While a strong, international mechanism addressing the rights of labor migrants is unlikely to emerge soon, there are steps that can be taken in the interim.

First, states should work to ensure that their labor migration policy corresponds to the economic reality of their states. The presence of millions of undocumented workers in the US or the use of the asylum system in Europe as a default form of labor migration are both indicators that labor migration policies have failed to keep pace with economic needs. Ensuring labor migrants are able to move in a regular manner, not only gives states greater control over who moves, and when and how they move, but also provides greater protection of the rights of migrants.

Secondly, the granting of formal political rights to labor migrants, at least on a local level, should be considered more widely. Such rights do not guarantee protection from abuse, but they at least establish a baseline level of political participation and a mechanism by which migrant voices can be represented in the political structures where they live.

These recommendations will not go the whole way towards ensuring the rights of labor migrants are protected. However, they are important first steps and could be very important to ensuring that societies provide at least a basic set of rights to all those who toil within.

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Appendix A – List of Countries Ratifying the UN Convention on Migrant Workers

Country	Ratification Date
Albania	05/06/2007
Algeria	21/04/2005
Argentina	23/02/2007
Azerbaijan	11/01/1999
Bangladesh	24/08/2011
Belize	14/11/2001
Bolivia (Plurinational State of)	16/10/2000
Bosnia and Herzegovina	13/12/1996
Burkina Faso	26/11/2003
Cape Verde	16/09/1997
Chile	21/03/2005
Colombia	24/05/1995
Ecuador	05/02/2002
Egypt	19/02/1993
El Salvador	14/03/2003
Ghana	07/09/2000
Guatemala	14/03/2003
Guinea	07/09/2000
Guyana	07/07/2010
Honduras	09/08/2005
Indonesia	31/05/2012
Jamaica	25/09/2008
Kyrgyzstan	29/09/2003
Lesotho	16/09/2005
Libya	18/06/2004
Mali	05/06/2003
Mauritania	22/01/2007
Mexico	08/03/1999
Morocco	21/06/1993
Nicaragua	26/10/2005
Niger	18/03/2009
Nigeria	27/07/2009
Paraguay	23/09/2008
Peru	14/09/2005
Philippines	05/07/1995
Rwanda	15/12/2008
Senegal	09/06/1999
Seychelles	15/12/1994
Sri Lanka	11/03/1996
St. Vincent and the Grenadines	29/10/2010
Syrian Arab Republic	02/06/2005
Tajikistan	08/01/2002
Timor-Leste	30/01/2004
Turkey	27/09/2004
Uganda	14/11/1995
Uruguay	15/02/2001

Appendix B

Country Name: Albania

Date of Report: 2010

Category:	Issue	Y/N	L, S, or LS	Recommendation #	Score
Discrimination	Does the committee indicate concerns about discrimination against migrant workers?	Y		19	0
Violence	Does the Committee indicate concern over violence against migrant workers, either as a whole or as a substantive subset?				0
Labor Rights	Does the Committee indicate concern over the exploitation or mistreatment of migrant workers?				0
Social Rights	Does the Committee indicate that migrant workers experience unequal labor conditions relative to those of nationals?	Y		29	0
	Does the Committee express concerns over access to education or health services for migrant workers?				0
Due Process	Does the Committee express concerns over the access to the right to a name, nationality, and appropriate documentation?				0
	Does the Committee express concerns about the existence, availability, or accessibility of systems of due process?	Y	L	21	1
Data	Does the Committee express concerns over a lack of data regarding the situation of migrant workers in the given country?	Y		15	0
Legal Processes	Does the Committee express concern regarding the incorporation of the Convention into national legislation?	Y	L	9, 11	1
Movement and Migration	Does the committee express concerns over issues residing with freedom of movement, or discrimination related to the freedom of movement?				0
	Does the Committee express concern over the persistence of migrant workers with an irregular status?				0
	Does the Committee express concerns over human trafficking or the clandestine movement of workers?	Y	LS	39	2
Rights of nationals abroad	Does the Committee note concern over lack of services provided to nationals abroad? (i.e. lack of right to vote, insufficient consular protection)	Y		27, 31	0
					4
				Score:	0.29

Country Name: Algeria

Date of Report: 2010

Category:	Issue	Concern (Y/N)	L, S, LS	Recommendation #	Score
Discrimination	Does the committee indicate concerns about discrimination against migrant workers?				0
Violence	Does the Committee indicate concern over violence against migrant workers, either as a whole or as a substantive subset?				0
Labor Rights	Does the Committee indicate concern over the exploitation or mistreatment of migrant workers?				0
Social Rights	Does the Committee indicate that migrant workers experience unequal labor conditions relative to those of nationals?	Y		19	0
	Does the Committee express concerns over access to education or health services for migrant workers?	Y		19	0
Due Process	Does the Committee express concerns over the access to the right to a name, nationality, and appropriate documentation?				0
	Does the Committee express concerns about the existence, availability, or accessibility of systems of due process?	Y	L	16	1
Data	Does the Committee express concerns over a lack of data regarding the situation of migrant workers in the given country?	Y		12	0
Legal Processes	Does the Committee express concern regarding the incorporation of the Convention into national legislation?				0
Movement and Migration	Does the committee express concerns over issues residing with freedom of movement, or discrimination related to the freedom of movement?				0
	Does the Committee express concern over the persistence of migrant workers with an irregular status?	Y	L	18, 20	1
	Does the Committee express concerns over human trafficking or the clandestine movement of workers?				0
Rights of nationals abroad	Does the Committee note concern over lack of services provided to nationals abroad? (i.e. lack of right to vote, insufficient consular protection)				0
Score:					0.20

Country Name: Argentina

Date of Report: 2011

Category:	Issue	Y/N	L, S, or LS	Recommendation #	Score
Discrimination	Does the committee indicate concerns about discrimination against migrant workers?	Y	L	17	1
Violence	Does the Committee indicate concern over violence against migrant workers, either as a whole or as a substantive subset?	Y		21	0
Labor Rights	Does the Committee indicate concern over the exploitation or mistreatment of migrant workers?	Y		21	0
	Does the Committee indicate that migrant workers experience unequal labor conditions relative to those of nationals?				0
Social Rights	Does the Committee express concerns over access to education or health services for migrant workers?	Y	L	27	1
	Does the Committee express concerns over the access to the right to a name, nationality, and appropriate documentation?				0
Due Process	Does the Committee express concerns about the existence, availability, or accessibility of systems of due process?	Y			0
Data	Does the Committee express concerns over a lack of data regarding the situation of migrant workers in the given country?				0
Legal Processes	Does the Committee express concern regarding the incorporation of the Convention into national legislation?				0
Movement and Migration	Does the committee express concerns over issues residing with freedom of movement, or discrimination related to the freedom of movement?				0
	Does the Committee express concern over the persistence of migrant workers with an irregular status?	Y	LS		2
	Does the Committee express concerns over human trafficking or the clandestine movement of workers?	Y	LS	31	2
Rights of nationals abroad	Does the Committee note concern over lack of services provided to nationals abroad? (i.e. lack of right to vote, insufficient consular protection)				0
					6
				Score:	0.50

Country: Azerbaijan
Date: 2009

Category:	Issue	Y/N	L, S, LS	Recommendation #	Score
Discrimination	Does the committee indicate concerns about discrimination against migrant workers?	Y	L	24	1
Violence	Does the Committee indicate concern over violence against migrant workers, either as a whole or as a substantive subset?				0
Labor Rights	Does the Committee indicate concern over the exploitation or mistreatment of migrant workers?	Y		44	0
	Does the Committee indicate that migrant workers experience unequal labor conditions relative to those of nationals?				0
Social Rights	Does the Committee express concerns over access to education or health services for migrant workers?	Y	LS	30	2
	Does the Committee express concerns over the access to the right to a name, nationality, and appropriate documentation?				0
Due Process	Does the Committee express concerns about the existence, availability, or accessibility of systems of due process?	Y	L		1
Data	Does the Committee express concerns over a lack of data regarding the situation of migrant workers in the given country?	Y		20	0
Legal Processes	Does the Committee express concern regarding the incorporation of the Convention into national legislation?	Y	L	10,12	1
Movement and Migration	Does the committee express concerns over issues residing with freedom of movement, or discrimination related to the freedom of movement?				0
	Does the Committee express concern over the persistence of migrant workers with an irregular status?	Y		44	0
	Does the Committee express concerns over human trafficking or the clandestine movement of workers?	Y	LS	46	2
Rights of nationals abroad	Does the Committee note concern over lack of services provided to nationals abroad? (i.e. lack of right to vote, insufficient consular protection)	Y		32, 38	0
					7
				Score:	0.39

Country Name: Bosnia & Herzegovina

Date of Report: 2009

Category:	Issue	Y/N	L, S, or LS	Recommendation #	Score
Discrimination	Does the committee indicate concerns about discrimination against migrant workers?	Y	L	19	1
Violence	Does the Committee indicate concern over violence against migrant workers, either as a whole or as a substantive subset?				0
Labor Rights	Does the Committee indicate concern over the exploitation or mistreatment of migrant workers?	Y		23	0
Social Rights	Does the Committee indicate that migrant workers experience unequal labor conditions relative to those of nationals?	Y		23	0
	Does the Committee express concerns over access to education or health services for migrant workers?	Y		23	0
Due Process	Does the Committee express concerns over the access to the right to a name, nationality, and appropriate documentation?	Y		23	0
	Does the Committee express concerns about the existence, availability, or accessibility of systems of due process?	Y		21	0
Data	Does the Committee express concerns over a lack of data regarding the situation of migrant workers in the given country?	Y	S	15,33	1
Legal Processes	Does the Committee express concern regarding the incorporation of the Convention into national legislation?	Y	L	9,11	0
Movement and Migration	Does the committee express concerns over issues residing with freedom of movement, or discrimination related to the freedom of movement?	Y		23	0
	Does the Committee express concern over the persistence of migrant workers with an irregular status?				0
	Does the Committee express concerns over human trafficking or the clandestine movement of workers?	Y	LS		2
Rights of nationals abroad	Does the Committee note concern over lack of services provided to nationals abroad? (i.e. lack of right to vote, insufficient consular protection)	Y	L		1
					5
				Score:	0.25

Country Name: Bosnia & Herzegovina

Date of Report: 2012

Category:	Issue	Y/N	L, S, or LS	Recommendation #	Score
Discrimination	Does the committee indicate concerns about discrimination against migrant workers?	Y	S	19	1
Violence	Does the Committee indicate concern over violence against migrant workers, either as a whole or as a substantive subset?				0
Labor Rights	Does the Committee indicate concern over the exploitation or mistreatment of migrant workers?				0
Social Rights	Does the Committee indicate that migrant workers experience unequal labor conditions relative to those of nationals?	Y	L	33	1
	Does the Committee express concerns over access to education or health services for migrant workers?	Y		37	0
Due Process	Does the Committee express concerns over the access to the right to a name, nationality, and appropriate documentation?	Y		35	0
	Does the Committee express concerns about the existence, availability, or accessibility of systems of due process?	Y		21	0
Data	Does the Committee express concerns over a lack of data regarding the situation of migrant workers in the given country?	Y	S	15	1
Legal Processes	Does the Committee express concern regarding the incorporation of the Convention into national legislation?				0
Movement and Migration	Does the committee express concerns over issues residing with freedom of movement, or discrimination related to the freedom of movement?				0
	Does the Committee express concern over the persistence of migrant workers with an irregular status?				0
	Does the Committee express concerns over human trafficking or the clandestine movement of workers?	Y	L	47	1
Rights of nationals abroad	Does the Committee note concern over lack of services provided to nationals abroad? (i.e. lack of right to vote, insufficient consular protection)	Y	L	39	1
					5
				Score:	0.31

Country Name: Bolivia

Date of Report: 2008

Category:	Issue	Y/N	L, S, or LS	Recommendation #	Score
Discrimination	Does the committee indicate concerns about discrimination against migrant workers?	Y		21	0
Violence	Does the Committee indicate concern over violence against migrant workers, either as a whole or as a substantive subset?				0
Labor Rights	Does the Committee indicate concern over the exploitation or mistreatment of migrant workers?				0
	Does the Committee indicate that migrant workers experience unequal labor conditions relative to those of nationals?				0
Social Rights	Does the Committee express concerns over access to education or health services for migrant workers?				0
	Does the Committee express concerns over the access to the right to a name, nationality, and appropriate documentation?				0
Due Process	Does the Committee express concerns about the existence, availability, or accessibility of systems of due process?	Y	L	23,29	1
Data	Does the Committee express concerns over a lack of data regarding the situation of migrant workers in the given country?	Y		17	0
Legal Processes	Does the Committee express concern regarding the incorporation of the Convention into national legislation?	Y	S	13	1
Movement and Migration	Does the committee express concerns over issues residing with freedom of movement, or discrimination related to the freedom of movement?				0
	Does the Committee express concern over the persistence of migrant workers with an irregular status?	Y	L	31	1
	Does the Committee express concerns over human trafficking or the clandestine movement of workers?	Y		41	0
Rights of nationals abroad	Does the Committee note concern over lack of services provided to nationals abroad? (i.e. lack of right to vote, insufficient consular protection)	Y	S	27, 33	1
					4
				Score:	0.29

Country Name: Chile

Date of Report: 2011

Category:	Issue	Y/N	L, S, or LS	Recommendation #	Score
Discrimination	Does the committee indicate concerns about discrimination against migrant workers?	Y	LS	18	2
Violence	Does the Committee indicate concern over violence against migrant workers, either as a whole or as a substantive subset?				0
Labor Rights	Does the Committee indicate concern over the exploitation or mistreatment of migrant workers?	Y		36	0
	Does the Committee indicate that migrant workers experience unequal labor conditions relative to those of nationals?				0
Social Rights	Does the Committee express concerns over access to education or health services for migrant workers?	Y	LS	30, 34	2
	Does the Committee express concerns over the access to the right to a name, nationality, and appropriate documentation?	Y	L	20, 22, 32	1
Due Process	Does the Committee express concerns about the existence, availability, or accessibility of systems of due process?	Y	L	28	1
Data	Does the Committee express concerns over a lack of data regarding the situation of migrant workers in the given country?	Y	S	16	1
Legal Processes	Does the Committee express concern regarding the incorporation of the Convention into national legislation?				0
Movement and Migration	Does the committee express concerns over issues residing with freedom of movement, or discrimination related to the freedom of movement?	Y		24	0
	Does the Committee express concern over the persistence of migrant workers with an irregular status?				0
	Does the Committee express concerns over human trafficking or the clandestine movement of workers?	Y	LS	46	2
Rights of nationals abroad	Does the Committee note concern over lack of services provided to nationals abroad? (i.e. lack of right to vote, insufficient consular protection)	Y	L	27	1
					10
				Score:	0.63

Country Name: Colombia

Date of Report: 2009

Category:	Issue	Y/N	L, S, or LS	Recommendation #	Score
Discrimination	Does the committee indicate concerns about discrimination against migrant workers?	Y	S	14	1
Violence	Does the Committee indicate concern over violence against migrant workers, either as a whole or as a substantive subset?				0
Labor Rights	Does the Committee indicate concern over the exploitation or mistreatment of migrant workers?				0
Social Rights	Does the Committee indicate that migrant workers experience unequal labor conditions relative to those of nationals?	Y	L	31	1
	Does the Committee express concerns over access to education or health services for migrant workers?				0
Due Process	Does the Committee express concerns over the access to the right to a name, nationality, and appropriate documentation?	Y	L	29	1
	Does the Committee express concerns about the existence, availability, or accessibility of systems of due process?				0
Data	Does the Committee express concerns over a lack of data regarding the situation of migrant workers in the given country?				0
Legal Processes	Does the Committee express concern regarding the incorporation of the Convention into national legislation?				0
Movement and Migration	Does the committee express concerns over issues residing with freedom of movement, or discrimination related to the freedom of movement?				0
	Does the Committee express concern over the persistence of migrant workers with an irregular status?				0
	Does the Committee express concerns over human trafficking or the clandestine movement of workers?	Y	S	35	1
Rights of nationals abroad	Does the Committee note concern over lack of services provided to nationals abroad? (i.e. lack of right to vote, insufficient consular protection)	Y	S	25,33	1
					5
				Score:	0.50

Country Name: Ecuador

Date of Report: 2007

Category:	Issue	Y/N	L, S, or LS	Recommendation #	Score
Discrimination	Does the committee indicate concerns about discrimination against migrant workers?	Y		19	0
Violence	Does the Committee indicate concern over violence against migrant workers, either as a whole or as a substantive subset?				0
Labor Rights	Does the Committee indicate concern over the exploitation or mistreatment of migrant workers?	Y	LS	30, 37	2
	Does the Committee indicate that migrant workers experience unequal labor conditions relative to those of nationals?				0
Social Rights	Does the Committee express concerns over access to education or health services for migrant workers?	Y		35	0
	Does the Committee express concerns over the access to the right to a name, nationality, and appropriate documentation?	Y		35	0
Due Process	Does the Committee express concerns about the existence, availability, or accessibility of systems of due process?	Y		25	0
Data	Does the Committee express concerns over a lack of data regarding the situation of migrant workers in the given country?	Y		14	0
Legal Processes	Does the Committee express concern regarding the incorporation of the Convention into national legislation?	Y	L	8	1
Movement and Migration	Does the committee express concerns over issues residing with freedom of movement, or discrimination related to the freedom of movement?	Y	L	21	1
	Does the Committee express concern over the persistence of migrant workers with an irregular status?				0
	Does the Committee express concerns over human trafficking or the clandestine movement of workers?	Y	LS	32, 43	2
Rights of nationals abroad	Does the Committee note concern over lack of services provided to nationals abroad? (i.e. lack of right to vote, insufficient consular protection)				0
					6
				Score:	0.33

Country Name: Ecuador

Date of Report: 2010

Category:	Issue	Y/N	L, S, or LS	Recommendation #	Score
Discrimination	Does the committee indicate concerns about discrimination against migrant workers?	Y		23	0
Violence	Does the Committee indicate concern over violence against migrant workers, either as a whole or as a substantive subset?				0
Labor Rights	Does the Committee indicate concern over the exploitation or mistreatment of migrant workers?	Y	S	39	1
Social Rights	Does the Committee indicate that migrant workers experience unequal labor conditions relative to those of nationals?	Y		27, 41	0
	Does the Committee express concerns over access to education or health services for migrant workers?				0
Due Process	Does the Committee express concerns over the access to the right to a name, nationality, and appropriate documentation?	Y		35	0
	Does the Committee express concerns about the existence, availability, or accessibility of systems of due process?	Y	S	29, 31	1
Data	Does the Committee express concerns over a lack of data regarding the situation of migrant workers in the given country?	Y	LS	17	2
Legal Processes	Does the Committee express concern regarding the incorporation of the Convention into national legislation?	Y	LS	15	2
Movement and Migration	Does the committee express concerns over issues residing with freedom of movement, or discrimination related to the freedom of movement?				0
	Does the Committee express concern over the persistence of migrant workers with an irregular status?	Y	LS	33	2
	Does the Committee express concerns over human trafficking or the clandestine movement of workers?	Y	L	37, 49	1
Rights of nationals abroad	Does the Committee note concern over lack of services provided to nationals abroad? (i.e. lack of right to vote, insufficient consular protection)				0
					9
				Score:	0.50

Country Name: Egypt

Date of Report: 2007

Category:	Issue	Y/N	L, S, or LS	Recommendation #	Score
Discrimination	Does the committee indicate concerns about discrimination against migrant workers?	Y		20	0
Violence	Does the Committee indicate concern over violence against migrant workers, either as a whole or as a substantive subset?	Y		28	0
Labor Rights	Does the Committee indicate concern over the exploitation or mistreatment of migrant workers?				0
	Does the Committee indicate that migrant workers experience unequal labor conditions relative to those of nationals?	Y		30	0
Social Rights	Does the Committee express concerns over access to education or health services for migrant workers?	Y		36	0
	Does the Committee express concerns over the access to the right to a name, nationality, and appropriate documentation?	Y		34	0
Due Process	Does the Committee express concerns about the existence, availability, or accessibility of systems of due process?	Y	L	22	1
Data	Does the Committee express concerns over a lack of data regarding the situation of migrant workers in the given country?	Y		16	0
Legal Processes	Does the Committee express concern regarding the incorporation of the Convention into national legislation?				0
Movement and Migration	Does the committee express concerns over issues residing with freedom of movement, or discrimination related to the freedom of movement?	Y	L	26	1
	Does the Committee express concern over the persistence of migrant workers with an irregular status?				0
	Does the Committee express concerns over human trafficking or the clandestine movement of workers?	Y		50	0
Rights of nationals abroad	Does the Committee note concern over lack of services provided to nationals abroad? (i.e. lack of right to vote, insufficient consular protection)	Y		42, 46	0
					2
				Score:	0.10

Country Name: El Salvador

Date of Report: 2009

Category:	Issue	Y/N	L, S, or LS	Recommendation #	Score
Discrimination	Does the committee indicate concerns about discrimination against migrant workers?	Y		23	0
Violence	Does the Committee indicate concern over violence against migrant workers, either as a whole or as a substantive subset?				0
Labor Rights	Does the Committee indicate concern over the exploitation or mistreatment of migrant workers?				0
Social Rights	Does the Committee indicate that migrant workers experience unequal labor conditions relative to those of nationals?	Y	L	29	1
	Does the Committee express concerns over access to education or health services for migrant workers?				0
Due Process	Does the Committee express concerns over the access to the right to a name, nationality, and appropriate documentation?				0
	Does the Committee express concerns about the existence, availability, or accessibility of systems of due process?	Y	L	25,27	1
Data	Does the Committee express concerns over a lack of data regarding the situation of migrant workers in the given country?	Y		19	0
Legal Processes	Does the Committee express concern regarding the incorporation of the Convention into national legislation?	Y	L	11	1
Movement and Migration	Does the committee express concerns over issues residing with freedom of movement, or discrimination related to the freedom of movement?				0
	Does the Committee express concern over the persistence of migrant workers with an irregular status?	Y	L	37,39	1
	Does the Committee express concerns over human trafficking or the clandestine movement of workers?	Y	LS	47	2
Rights of nationals abroad	Does the Committee note concern over lack of services provided to nationals abroad? (i.e. lack of right to vote, insufficient consular protection)	Y			0
					6
				Score:	0.38

Country Name: Guatemala

Date of Report: 2011

Category:	Issue	Y/N	L, S, or LS	Recommendation #	Score
Discrimination	Does the committee indicate concerns about discrimination against migrant workers?	Y		18	0
Violence	Does the Committee indicate concern over violence against migrant workers, either as a whole or as a substantive subset?				0
Labor Rights	Does the Committee indicate concern over the exploitation or mistreatment of migrant workers?				0
	Does the Committee indicate that migrant workers experience unequal labor conditions relative to those of nationals?	Y		30	0
Social Rights	Does the Committee express concerns over access to education or health services for migrant workers?	Y		32	0
	Does the Committee express concerns over the access to the right to a name, nationality, and appropriate documentation?				0
Due Process	Does the Committee express concerns about the existence, availability, or accessibility of systems of due process?	Y	L	20, 22	1
Data	Does the Committee express concerns over a lack of data regarding the situation of migrant workers in the given country?	Y	S	14	1
Legal Processes	Does the Committee express concern regarding the incorporation of the Convention into national legislation?	Y	L	10	0
Movement and Migration	Does the committee express concerns over issues residing with freedom of movement, or discrimination related to the freedom of movement?	Y		26	0
	Does the Committee express concern over the persistence of migrant workers with an irregular status?				0
	Does the Committee express concerns over human trafficking or the clandestine movement of workers?	Y	LS	44	2
Rights of nationals abroad	Does the Committee note concern over lack of services provided to nationals abroad? (i.e. lack of right to vote, insufficient consular protection)	Y	L	36	1
					5
				Score:	0.31

Country Name: Mali
 Date of Report: 2006

Category:	Issue	Y/N	L, S, or LS	Recommendation #	Score
Discrimination	Does the committee indicate concerns about discrimination against migrant workers?				0
Violence	Does the Committee indicate concern over violence against migrant workers, either as a whole or as a substantive subset?				0
Labor Rights	Does the Committee indicate concern over the exploitation or mistreatment of migrant workers?				0
	Does the Committee indicate that migrant workers experience unequal labor conditions relative to those of nationals?				0
Social Rights	Does the Committee express concerns over access to education or health services for migrant workers?				0
	Does the Committee express concerns over the access to the right to a name, nationality, and appropriate documentation?				0
Due Process	Does the Committee express concerns about the existence, availability, or accessibility of systems of due process?				0
Data	Does the Committee express concerns over a lack of data regarding the situation of migrant workers in the given country?	Y		12, 14	0
Legal Processes	Does the Committee express concern regarding the incorporation of the Convention into national legislation?	Y		13	0
Movement and Migration	Does the committee express concerns over issues residing with freedom of movement, or discrimination related to the freedom of movement?				0
	Does the Committee express concern over the persistence of migrant workers with an irregular status?				0
	Does the Committee express concerns over human trafficking or the clandestine movement of workers?	Y		22, 23	0
Rights of nationals abroad	Does the Committee note concern over lack of services provided to nationals abroad? (i.e. lack of right to vote, insufficient consular protection)				0
					0
				Score:	0.00

Country Name: Mexico

Date of Report: 2006

Category:	Issue	Y/N	L, S, or LS	Recommendation #	Score
Discrimination	Does the committee indicate concerns about discrimination against migrant workers?	Y	LS	23	2
Violence	Does the Committee indicate concern over violence against migrant workers, either as a whole or as a substantive subset?	Y	LS	33	2
Labor Rights	Does the Committee indicate concern over the exploitation or mistreatment of migrant workers?	Y	LS	29,37	2
Social Rights	Does the Committee indicate that migrant workers experience unequal labor conditions relative to those of nationals?				0
	Does the Committee express concerns over access to education or health services for migrant workers?				0
Due Process	Does the Committee express concerns over the access to the right to a name, nationality, and appropriate documentation?				0
	Does the Committee express concerns about the existence, availability, or accessibility of systems of due process?	Y		25	0
Data	Does the Committee express concerns over a lack of data regarding the situation of migrant workers in the given country?				0
Legal Processes	Does the Committee express concern regarding the incorporation of the Convention into national legislation?	Y	LS	14	2
Movement and Migration	Does the committee express concerns over issues residing with freedom of movement, or discrimination related to the freedom of movement?				0
	Does the Committee express concern over the persistence of migrant workers with an irregular status?				0
	Does the Committee express concerns over human trafficking or the clandestine movement of workers?	Y	LS	39	2
Rights of nationals abroad	Does the Committee note concern over lack of services provided to nationals abroad? (i.e. lack of right to vote, insufficient consular protection)				0
					10
					Score: 0.83

Country Name: Mexico

Date of Report: 2011

Category:	Issue	Y/N	L, S, or LS	Recommendation #	Score
Discrimination	Does the committee indicate concerns about discrimination against migrant workers?	Y	L	23	1
Violence	Does the Committee indicate concern over violence against migrant workers, either as a whole or as a substantive subset?	Y	S	29	1
Labor Rights	Does the Committee indicate concern over the exploitation or mistreatment of migrant workers?	Y	LS	37	2
Social Rights	Does the Committee indicate that migrant workers experience unequal labor conditions relative to those of nationals?				0
	Does the Committee express concerns over access to education or health services for migrant workers?				0
Due Process	Does the Committee express concerns over the access to the right to a name, nationality, and appropriate documentation?	Y	L	39	1
	Does the Committee express concerns about the existence, availability, or accessibility of systems of due process?	Y	LS	25	2
Data	Does the Committee express concerns over a lack of data regarding the situation of migrant workers in the given country?	Y		17	0
Legal Processes	Does the Committee express concern regarding the incorporation of the Convention into national legislation?				0
Movement and Migration	Does the committee express concerns over issues residing with freedom of movement, or discrimination related to the freedom of movement?				0
	Does the Committee express concern over the persistence of migrant workers with an irregular status?	Y	LS	53	2
	Does the Committee express concerns over human trafficking or the clandestine movement of workers?	Y	L	49	1
Rights of nationals abroad	Does the Committee note concern over lack of services provided to nationals abroad? (i.e. lack of right to vote, insufficient consular protection)	Y	LS	43	2
					12
					Score: 0.67

Country Name: Paraguay

Date of Report: 2012

Category:	Issue	Y/N	L, S, or LS	Recommendation #	Score
Discrimination	Does the committee indicate concerns about discrimination against migrant workers?	Y		30	0
Violence	Does the Committee indicate concern over violence against migrant workers, either as a whole or as a substantive subset?	Y		26, 46	0
Labor Rights	Does the Committee indicate concern over the exploitation or mistreatment of migrant workers?	Y		26, 46	0
Social Rights	Does the Committee indicate that migrant workers experience unequal labor conditions relative to those of nationals?	Y		26	0
	Does the Committee express concerns over access to education or health services for migrant workers?	Y		32	0
Due Process	Does the Committee express concerns over the access to the right to a name, nationality, and appropriate documentation?				0
	Does the Committee express concerns about the existence, availability, or accessibility of systems of due process?	Y	L	24	1
Data	Does the Committee express concerns over a lack of data regarding the situation of migrant workers in the given country?	Y	S	20	1
Legal Processes	Does the Committee express concern regarding the incorporation of the Convention into national legislation?				0
Movement and Migration	Does the committee express concerns over issues residing with freedom of movement, or discrimination related to the freedom of movement?				0
	Does the Committee express concern over the persistence of migrant workers with an irregular status?				0
	Does the Committee express concerns over human trafficking or the clandestine movement of workers?	Y	S		1
Rights of nationals abroad	Does the Committee note concern over lack of services provided to nationals abroad? (i.e. lack of right to vote, insufficient consular protection)	Y	L	38, 40	0
					3
				Score:	0.17

Country Name: The Philippines

Date of Report: 2009

Category:	Issue	Y/N	L, S, or LS	Recommendation #	Score
Discrimination	Does the committee indicate concerns about discrimination against migrant workers?	Y	L	23	1
Violence	Does the Committee indicate concern over violence against migrant workers, either as a whole or as a substantive subset?				0
Labor Rights	Does the Committee indicate concern over the exploitation or mistreatment of migrant workers?	Y		32	0
	Does the Committee indicate that migrant workers experience unequal labor conditions relative to those of nationals?	Y		33	0
Social Rights	Does the Committee express concerns over access to education or health services for migrant workers?				0
	Does the Committee express concerns over the access to the right to a name, nationality, and appropriate documentation?				0
Due Process	Does the Committee express concerns about the existence, availability, or accessibility of systems of due process?				0
Data	Does the Committee express concerns over a lack of data regarding the situation of migrant workers in the given country?	Y		19	0
Legal Processes	Does the Committee express concern regarding the incorporation of the Convention into national legislation?				0
Movement and Migration	Does the committee express concerns over issues residing with freedom of movement, or discrimination related to the freedom of movement?				0
	Does the Committee express concern over the persistence of migrant workers with an irregular status?	Y	LS		2
	Does the Committee express concerns over human trafficking or the clandestine movement of workers?	Y	LS		2
Rights of nationals abroad	Does the Committee note concern over lack of services provided to nationals abroad? (i.e. lack of right to vote, insufficient consular protection)	Y	LS	25, 35	2
					7
				Score:	0.50

Country Name: Rwanda

Date of Report: 2012

Category:	Issue	Y/N	L, S, or LS	Recommendation #	Score
Discrimination	Does the committee indicate concerns about discrimination against migrant workers?				0
Violence	Does the Committee indicate concern over violence against migrant workers, either as a whole or as a substantive subset?				0
Labor Rights	Does the Committee indicate concern over the exploitation or mistreatment of migrant workers?	Y	S	19, 29, 45	1
	Does the Committee indicate that migrant workers experience unequal labor conditions relative to those of nationals?				0
Social Rights	Does the Committee express concerns over access to education or health services for migrant workers?	Y	LS	31, 33	2
	Does the Committee express concerns over the access to the right to a name, nationality, and appropriate documentation?	Y	L	47	1
Due Process	Does the Committee express concerns about the existence, availability, or accessibility of systems of due process?	Y	L	17	1
Data	Does the Committee express concerns over a lack of data regarding the situation of migrant workers in the given country?	Y		13	0
Legal Processes	Does the Committee express concern regarding the incorporation of the Convention into national legislation?				0
Movement and Migration	Does the committee express concerns over issues residing with freedom of movement, or discrimination related to the freedom of movement?	Y		43	0
	Does the Committee express concern over the persistence of migrant workers with an irregular status?				0
	Does the Committee express concerns over human trafficking or the clandestine movement of workers?	Y		45	0
Rights of nationals abroad	Does the Committee note concern over lack of services provided to nationals abroad? (i.e. lack of right to vote, insufficient consular protection)	Y		27	0
					5
				Score:	0.36

Country Name: Senegal

Date of Report: 2010

Category:	Issue	Y/N	L, S, or LS	Recommendation #	Score
Discrimination	Does the committee indicate concerns about discrimination against migrant workers?	Y	L	14	1
Violence	Does the Committee indicate concern over violence against migrant workers, either as a whole or as a substantive subset?				0
Labor Rights	Does the Committee indicate concern over the exploitation or mistreatment of migrant workers?				0
	Does the Committee indicate that migrant workers experience unequal labor conditions relative to those of nationals?	Y		14	0
Social Rights	Does the Committee express concerns over access to education or health services for migrant workers?				0
	Does the Committee express concerns over the access to the right to a name, nationality, and appropriate documentation?				0
Due Process	Does the Committee express concerns about the existence, availability, or accessibility of systems of due process?				0
Data	Does the Committee express concerns over a lack of data regarding the situation of migrant workers in the given country?	Y		12	0
Legal Processes	Does the Committee express concern regarding the incorporation of the Convention into national legislation?				0
Movement and Migration	Does the committee express concerns over issues residing with freedom of movement, or discrimination related to the freedom of movement?				0
	Does the Committee express concern over the persistence of migrant workers with an irregular status?	Y	L	23	1
	Does the Committee express concerns over human trafficking or the clandestine movement of workers?	Y		18, 22	0
Rights of nationals abroad	Does the Committee note concern over lack of services provided to nationals abroad? (i.e. lack of right to vote, insufficient consular protection)	Y	L	17, 21	1
					3
				Score:	0.25

Country Name: Sri Lanka

Date of Report: 2009

Category:	Issue	Y/N	L, S, or LS	Recommendation #	Score
Discrimination	Does the committee indicate concerns about discrimination against migrant workers?	Y		25	0
Violence	Does the Committee indicate concern over violence against migrant workers, either as a whole or as a substantive subset?	Y	L	27	1
Labor Rights	Does the Committee indicate concern over the exploitation or mistreatment of migrant workers?	Y	LS	39	2
Social Rights	Does the Committee indicate that migrant workers experience unequal labor conditions relative to those of nationals?	Y		31	0
	Does the Committee express concerns over access to education or health services for migrant workers?				0
Due Process	Does the Committee express concerns over the access to the right to a name, nationality, and appropriate documentation?				0
	Does the Committee express concerns about the existence, availability, or accessibility of systems of due process?				0
Data	Does the Committee express concerns over a lack of data regarding the situation of migrant workers in the given country?	Y	S	21	1
Legal Processes	Does the Committee express concern regarding the incorporation of the Convention into national legislation?	Y	S	13	1
Movement and Migration	Does the committee express concerns over issues residing with freedom of movement, or discrimination related to the freedom of movement?				0
	Does the Committee express concern over the persistence of migrant workers with an irregular status?				0
	Does the Committee express concerns over human trafficking or the clandestine movement of workers?	Y	L	51	1
Rights of nationals abroad	Does the Committee note concern over lack of services provided to nationals abroad? (i.e. lack of right to vote, insufficient consular protection)	Y	S	29, 33	1
Score:					0.44

Country Name: Tajikistan

Date of Report: 2011

Category:	Issue	Y/N	L, S, or LS	Recommendation #	Score
Discrimination	Does the committee indicate concerns about discrimination against migrant workers?	Y		37	0
Violence	Does the Committee indicate concern over violence against migrant workers, either as a whole or as a substantive subset?				0
Labor Rights	Does the Committee indicate concern over the exploitation or mistreatment of migrant workers?				0
	Does the Committee indicate that migrant workers experience unequal labor conditions relative to those of nationals?				0
Social Rights	Does the Committee express concerns over access to education or health services for migrant workers?				0
	Does the Committee express concerns over the access to the right to a name, nationality, and appropriate documentation?				0
Due Process	Does the Committee express concerns about the existence, availability, or accessibility of systems of due process?	Y	S	23	1
Data	Does the Committee express concerns over a lack of data regarding the situation of migrant workers in the given country?	Y	S	17	1
Legal Processes	Does the Committee express concern regarding the incorporation of the Convention into national legislation?	Y	L	9	1
Movement and Migration	Does the committee express concerns over issues residing with freedom of movement, or discrimination related to the freedom of movement?	Y		9, 25	0
	Does the Committee express concern over the persistence of migrant workers with an irregular status?				0
	Does the Committee express concerns over human trafficking or the clandestine movement of workers?	Y		43	0
Rights of nationals abroad	Does the Committee note concern over lack of services provided to nationals abroad? (i.e. lack of right to vote, insufficient consular protection)	Y	S	31, 33, 37, 41	1
					4
				Score:	0.29