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# International Convention on Protection of Migrant Workers

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## ABSTRACT

*"it is precisely in society and in culture that we must show respect for the dignity of man, of the migrant and of the refugee. In this regard, I once again urge States to adhere to the International Convention for the Protection of the Rights of Migrant Workers and their Families & protection of human life must be guaranteed in every civil Nation..."*

*In the current global context, many migrant workers, and in particular women and irregular workers are not very inadequately covered by social security and other social protection programmes. Current human rights standards related to migrant workers and families have so far had little impact to change this situation. The protection of the rights of workers employed outside their countries of origin has been the subject of increasing concern throughout the UN system. A large array of international instruments exists to provide parameters for the regulation of international migration and standards for human and labour rights.*

*The rights and freedoms stipulated in the Universal Declaration of Human Rights apply equally to migrants as to any other individual, as do the provisions of the human rights instruments which have subsequently been developed by the UN. The protection of the human rights of men and women migrant workers & their family are being promotion of their equal opportunity. Millions of migrant workers are anticipated to be left unemployed in world due to the pandemic and subsequent fear of recession. The risk is particularly higher for those who are working in unorganized sectors, and those who do not have resource, or those whose contracts are at the verge of completion. While in this paper we discusses the international legal framework for the protection of migrant workers, it is important to underline that other areas of international law are also relevant for the mobility of workers.*

**Keywords:** *Workers, Human Rights, International Migration, International Law, United Nations, Migrants, Labour.*

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## **I. INTRODUCTION**

Migrants Rights Convention is the very broad nature of international treaty on the rights of all migrants and members of their families. It sets forth international standards for the treatment, welfare and rights of migrant workers regardless of their status, as well as setting out the obligations of the states who host them. It was adopted in 18 Dec. 1990 first time the concern about the migrant's workers' Rights were Proposed and enforcement of it done on 1 July 2013. In the meantime of this situation of Pandemic, Emergency, War and other climates' which was create by the Human give diverse form of situation where all the migrant workers stuck at the place where they work for Roti, Kapda and makaan. In this Situation the Convention were apply where by the Two State form an alliance situation to transport the workers to their original Residence of State.<sup>3</sup>

In every situations of migrants are protected by different bodies of international law within their respective scopes of application, in particular capacity of international human rights law (IHRL) and, in the case of international refugee law. These bodies of international law applicable in different situations which includes armed conflict. Migrants are mostly protected by the domestic law of the State in which they are living, when migrants live, or are in transit, in the territory of a State in which there is an armed conflict, they are also protected by IHL. While only certain rules applicable in armed conflicts, certain rules of IHL which should already be considered in peacetime, and some remain applicable even after the end of an armed conflict.<sup>4</sup>

## **II. BACKGROUND**

In the International convention on protection of the Right of all Migrants workers and members of their families had denouement by many years of discussion and recommendation on the Migrant Rights Topics and after the entire untied nation raised the voiced concern for migrant workers in 1972. They expressed as an alarm at the illegal transportation of labour to some of Europeans countries and at the exploitation of workers from some African countries.

In 1973 Economic and social council sub-commission prevented the discrimination and give protection of Minorities which were adopted as report of Exploitation of labour through illicit and clandestine trafficking in 1976. Mrs. Halima Warzazi has recognized the two aspects of the problem "illicit" and "Clandestine" Operations, in which the one hand was discriminatory

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<sup>3</sup> International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, General Assembly resolution 45/158 of 18 Dec. (1990).

<sup>4</sup> International Review of Red cross, The Protection of migrant under International humanitarian law (2017).

treatment of migrant workers in host country and on other hand recommend the drawing up of United Nations convention on right of migrant workers.

At the World Conference to Combat Racism and racial Discrimination in Geneva 1978 the general resolution assemblies were held in which 33/163 on measures to improve the situation and ensure the human rights and dignity of all the Migrant Workers. After all this the working groups open to all the Members State & established in 1980 to draw up a convention, the international organs and organizations concerned the Commission on Human Rights. The Commission for Social Development and International Labour Organization, United Nations Educational, Scientific and Cultural Organization, and the World Health Organization were invited to contribute for Reconstituted at successive in the Annual sessions of the General Assembly which had to be done at yearly bases afterward the working group finished drafting the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families in 1990 and taken the Responsibility or accountability for the all Migrant workers.<sup>5</sup>

### **III. SALIENT FEATURES OF INTERNATIONAL CONVENTION ON THE PROTECTION OF THE RIGHTS OF ALL MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES**

According to Article 7(The Right to Non-Discrimination) the State parties must assure that the all migrant workers and member of their all families within the territory to the Jurisdiction and ICRMW without distinction any kind of such as to sex, race, color, language, religion or any other political or other opinion, social, nationality, age, economic, property, marital status, birth or other status. Article 8 of the Convention guarantees that the migrant and his family can leave peacefully from the destination country or any other country which including their country of origin at any point in time and enter his country of origin without any unreasonable restriction. There is an exception to this right which is that the State can impose reasonable restriction on the entry and exit of the migrant; if it affects the public safety, health or threatens national security.

Article 9 guarantees the right to life to the migrant and his family members. Right to Life is the main ingredient of all the Rights in which all the engrave things point out as Article 10 without subjects to torture, cruel, inhuman or degrading treatment or any punishment.

Freedom of expression article 13; right to property article 15; right to a fair trial (articles 18 and 19) ; right to receive urgent medical care article 28; the right to not be treated less favorably

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<sup>5</sup> UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS, *The International Convention on Migrant Workers and its Committee*, UNITED NATIONS New York and Geneva (2005).

than nationals of the State of employment in respect of remuneration and other conditions of work and terms of employment article 25. The Convention also includes provisions consular notification rights upon arrest article 16 Prohibition on confiscating or destroying identity, entry or work permit documents except by duly authorized public officials (article 21) (passports or equivalent documents may never be destroyed); prohibition on collective expulsions (article 22).

Those further rights, which are only applicable to migrant workers and members of their families who are documented or in a regular situation, include: the right to free movement (article 39); the right to enjoy equality of treatment with nationals in relation to access to educational/vocational guidance and training institutions and services, housing, social and health services, and to participation in cultural life (articles 43 and 45).<sup>6</sup>

#### **IV. ISSUES**

- In the General discussion Migrant workers deal in the global economy, the rich and multifaceted discussion were held in the conference committee of World commission on the social dimension of globalization which reflect a clear views of fact that the international migration is increasingly important in the Global economy for today generation. In all the countries of the world are affected by the international migration and in many cases all these capacities were rising in which they search of opportunities & decent work and human security had been commanding the attention of policy maker and prompting dialogue for multilateral cooperation in practically every region of the world.

- International migration in the globalized economy is a growing and increasingly complex phenomenon. In Contemporary migration is on both directly and Indirectly related to the world of work over 175 million people's residing outside their countries of birth or citizenship and around 86 million are economically active, However most of the migrating on their own as primary income earners. Other factors include poverty, wars, famine, and repression as well as population pressure and income inequalities.

- On Regional economic integration provide opportunities for more productive use of labour within larger market spaces. Employments for migrant are morely beneficial, Non-Inflationary economic expansion, job creation and rejuvenation of populations. Effects of labor migration on countries of origin, particularly less developed countries, are more complex.

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<sup>6</sup> Id. at 1.

- The Ambition to work in other countries with much earn from their states motivate peoples to migrate generally help them to find jobs in many countries, work hard and benefit themselves and host country nationals, Demographic trends is the resolution or suggestion that immigration is the important components of long-terms solution to the anticipated problems raised by ageing.

- Temporary workers and migrant domestic workers often have limited legal rights, may be excluded from social security benefits and may face multiple disadvantages.

- The absence of formal management for migration and national policies in some countries contributes to the increasing number of irregular migrants. The increase in trafficking includes especially of women and children who poses a particular threat to human rights protections and creates new challenges for governments and the international community.

In some countries, some irregular migrant workers face similar situations, including sexual and physical harassment, debt bondage and retention of identity documents and threats of denunciation to the authorities, without effective access to legal protection. Private recruitment agencies are increasingly involved in international migration and despite efforts were both at the national and international levels to regulate this market, some engage in unethical practices which may contribute to irregular migration, causing hardship to migrant workers.<sup>7</sup>

## **V. DISCUSSED POINTS**

The 14<sup>th</sup> member committee serves as the lead mechanism to monitor and measure States' abilities to apply the articles of the Convention in various countries. The CMW will a review State report to interact with governmental delegations to enforce the rights in the Convention.<sup>8</sup>

### **Education & Explanation**

(The civil society must educate the people around) This enshrined by the convention and explain that the UN Human right mechanism can and cannot do realize that things. The Government reviews these things and accountable and moving towards campaign that can utilize the UN to change daily human rights conditions. In the daily bases of life the positively impact was indigenous by the promote dignity, equality and justice. The state report and LOIPT advisable to coordinate the preparation phase at least 12-18 months prior to the review of the state.

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<sup>7</sup> International Labor conference, Issues face by the migrant workers, Ninety second session, Geneva, (2004).

<sup>8</sup> Legal thirst, The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families ICRMW(1990),Mar. 29,2021, <https://legalthirst.com/international-convention-on-the-protection-of-the-rights-of-all-migrant-workers-and-members-of-their-families-icrmw-1990/>.

### **Interaction & Consideration**

There is also role of the NGO where they assist the country by the campaign of 15 to 18 Months in which it observed that the interaction allow civil society which is middle of the political and bureaucracy to begin engagement at the plenary session one year prior to the review of the state. The civil society impacted directly to the individual to committee all the way up to the actual state of the review. It is also important to begin distributing the synopsis or summary sheets with Committee experts during this phase. Next is the consideration phase in where civil society's earlier interactions result is informed, Committee speaking on behalf of a national human rights movement afterward coordination of civil society the result in national recommendations provide a roadmap to realizing rights for migrant workers and members of their families. NGOs also have to submit their shadow reports to the CMW and Secretariat three weeks prior to the plenary session to work smoothly with the workers.<sup>9</sup>

### **Mobilization & Realization**

After the recommendation issued to the state based and on the responses of LOIPR, However the NGO, civil society and interactive dialogue in six-hour review by the state. On adoption CMW observed the blueprint of better approach to promoting and protecting human rights of Migrants. At the adoption, the CMW releases its Concluding Observations; which provide a blueprint for a better approach to promoting and protecting human rights of migrants; national conversation on the results of the CMW; that can generate conversations in government agencies and departments all the way to the grassroots communities throughout the country.

The final phase of implementation requires is to dedicated to follow-up for fundamental rights and freedoms cited in the Concluding Observation announced at the adoption of the final reports & positively the Concluding Observations create a blueprint highlighting the major concerns to build better policy, and also provides an index for the next date of deadline of national report for allowing all advocate to create a multi-year plan to realize human rights at home.<sup>10</sup>

## **VI. SUSTAINABLE DEVELOPMENT**

### **Non-discrimination as a key principle of the Convention**

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<sup>9</sup> World submit on information society, document on the participation of civil society in United Nations conferences and special sessions of the General Assembly during the 1990s Version 1 August 2001, Geneva 2003-Tunis 2005, <https://www.itu.int/net/wsis/docs/background/general/reports/civilsociety1.htm>.

<sup>10</sup> Cultural survival, convention on the protection of the right of all migrant workers and their families, Jun (2017), <https://www.culturalsurvival.org/publications/cultural-survival-quarterly/convention-protection-rights-all-migrant-workers-and-their>.

Article 1 (1) and Article 7 of the Convention which prohibit “distinction of any kind which can be determine as by sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status”. It hereby defines nondiscrimination as one of the key principles of the Convention.

### **Migration and the principle of “ensuring that no one is left behind”**

Article 1(1) to Article 7 follows a clear commitment by the Convention to the principle of ensuring that no one is left behind. Some groups and individuals associated with migration, such as migrants in transit, in irregular situations and family members of migrants who stay in countries of origin, receive insufficient attention. Overall, migrants remain less and well protected than nationals of transit countries and countries of destination. Hereby, particularly the rights of 2 women migrant workers, including domestic workers, and migrant children require positive action by governments to protect their rights.

### **Links to the Sustainable Development Goals (SDGs)**

There are numerous links between migration-related challenges and the SDGs which including for regular and irregular migration, but it also challenges faced by host communities and transit countries. Their impact in the lives of an increasing number of people, By the Report of International Migration Report by the United Nations for 2017, the number of international migrants continuously grow rapidly and increasing up to from 173 million in 2000 and 220 million in 2010 to 258 million last year. According to the report there are 48 per cent of migrants are women and girls.<sup>11</sup>

### **Diaspora/return of migrants**

While there is attention on the way migrants contribute to host societies, diaspora engagement, and policies targeting returned migrants, and the situation with families left behind need to be brought to the fore.

### **Lack of access to justice**

The lack of protection of rights of groups and individuals is a gap in access to justice. Often the migrants can neither access information on their rights from any resources nor seek effective remedy on when it need mostly. This leads to frequent discrimination, right to health care, social and other benefits, and particularly disadvantages women, children and persons

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<sup>11</sup> Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, Contribution to the 2030 Sustainable Development Goals in response to a call for inputs by the High-Level Political Forum on Sustainable Development (HLPF), 19th April (2018).



with disabilities.

### **Insufficient transitional justice mechanisms**

One particular aspect of this challenge is the lack of justice mechanisms and their implementation in post-conflict contexts because when the problem was solved the new issue created far greater than before. Often, victims during armed conflict violation feel that their right to justice, truth and reparation has not been fully addressed, nor that non-recurrence has been guaranteed during the post-conflict phase. This contributes to the decision by some victims to become migrants; thus, leading to migration-related challenges in both countries of origin by the transit and destination. In situations of armed conflict through context-specific transitional justice mechanisms thus contributes to resilient and sustainable societies.<sup>12</sup>

### **Importance of International Law Mechanisms**

International law mechanisms in the Convention on the Protection of Rights of All Migrant Workers and Members of Their Families, create an international discourse on the situation by migrant workers with benchmarks, sets of rights and duties, and reporting mechanisms to assess how migrants' rights are being complied with and on such mechanisms they enable that aspirations and goals contained in international strategies and policy are actually implemented by states, and foster partnerships with the civil societies, international organizations, and State actors.

## **VII. CONCLUSION**

The preceding Conclusions were elaborated by the International Labour Conference General Discussion Committee on Migrant Workers, meeting in 15 sittings from 1 June to 12 June 2004. Participation consisted of from 137 to 226 accredited members (modified daily) representing governments, employer organizations and worker organizations from many of the 177 member countries of the International Labour Organization. Observers were present from various UN and international intergovernmental organizations, from regional organizations and from civil society organizations, including migrant groups.

Each Member State is represented by the two forms of government delegates, an employer delegate and worker delegate and their respective advisers. The Employer's and workers delegates are nominate to an agreement with the most representative national organizations of employers and workers. The Conference, often called an international parliament of labour, is responsible for crafting and adoption of International Labour Standards, supervision of

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<sup>12</sup> Id.

application of these Conventions and Recommendations, examining Global Reports covering fundamental labour rights, discussing social and labour questions of world-wide importance, adopting resolutions that provide guidelines for general ILO policy and future activities, and adopting every two years the organization's.<sup>13</sup> Moreover the problem is still facing by the migrant and their beloved family member, there is implementation of various law and policy for it but the accountability or it's maintain authorities were not properly documented by the authorities, on yearly bases the reason is to be recorded but at major instant there must be an immediate action for time being in force to save the life of migrants which is facing various issue as we discuss above in all.

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<sup>13</sup> International labour organization, International labour conference, Resolution concerning fair deal of migrant workers in a global economy, Ninety second session, Geneva (2004).