

A GUIDE FOR NON-GOVERNMENTAL ORGANISATIONS ON THE IMPLEMENTATION OF THE UN MIGRANT WORKERS' CONVENTION



“More must be done to ensure the respect of the human rights of migrant workers and their families – be they regular or irregular, documented or undocumented. The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families established for its ratifying countries the obligation to respect the core human rights and fundamental freedoms of migrant workers and members in their State of immigration. It is a vital part of efforts to combat exploitation of migrant workers and their families.”

**Kofi Annan, Secretary General, United Nations
18 December 2003, International Migrant's Day**

About this Publication

A Guide for Non-Governmental Organisations on the Implementation of the UN Migrant Workers' Convention is a handbook prepared by December 18 for the International NGO Platform on the Migrant Workers' Convention (IPMWC).

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With thanks to the Secretariat of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and UNESCO for their comments.

INTER PARES, NOVIB and UNESCO provided financial support for the production of this publication.

This publication, made in August 2005, is available in English, Spanish and French.

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About the IPMWC

The International NGO Platform on the Migrant Workers' Convention is a coalition of non-governmental organisations that aims at facilitating the promotion, implementation and monitoring of the UN Migrant Workers' Convention.

Currently, the IPMWC member organisations include:

- Amnesty International (AI)
- Anti-Slavery International (ASI)
- December 18
- Fédération Internationale des Ligues des Droits de l'Homme (FIDH)
- Franciscans International (FI)
- Human Rights Watch (HRW)
- International Catholic Migration Commission (ICMC)
- International Movement Against All Forms of Discrimination and Racism (IMADR)
- Jesuit Refugee Service (JRS)
- Migrants Rights International (MRI)
- Organisation mondiale contre la torture (OMCT)
- Public Services International (PSI)
- World Council of Churches (WCC)

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1. Introduction

This Guide aims at enabling national or regional non-governmental organisations (NGOs), coalitions and individual organisations to effectively use the International Convention on the Protection of the Rights of All Migrants Workers and Members of Their Families (hereinafter referred to as "the Convention")¹ as a tool for the promotion and protection of the rights of migrant workers and their families.

The Guide is produced by December 18 for the International NGO Platform on the Migrant Workers' Convention (IPMWC) and is modelled partially along the lines of the Guide published by the NGO Group for the Convention on the Rights of the Child.

The Convention entered into force on the 1st of July 2003. Although the number of ratifications is still limited, the members of the IPMWC strongly feel that this is the right time for civil society to engage actively with the nascent UN Committee (which will oversee the implementation of the Convention); with the State Parties to the Convention; as well as with the other human rights Treaty Bodies.²

It is also crucial for the NGO sector to build and strengthen coalitions at all levels in order to enhance our impact and to learn from each other.³

The Treaty Bodies system is unique. Committees of independent experts monitor the implementation of the seven core international human rights treaties.⁴ They are created in accordance with the provisions of the respective treaty that they monitor. The reporting system provides a non-confrontational platform for in-depth examination of States Parties performance in specific human rights areas. The flaws and weaknesses in the procedure should not offset the impact at the national level. Numerous administrative entities and ministries are involved in collecting data and statistics for the preparation of national reports on the implementation of human rights conventions. This provides governments with information they would not otherwise collect in such a focused and systematic manner. In doing so, strengths and weaknesses in national policies and practices are highlighted. Thus, the reporting process, in and of itself, is a powerful tool for awareness raising and a catalyst for change.

We hope that this Guide will be an easy-to-use and practical tool for NGOs interested in the implementation of the Convention. The format will allow for regular updates, based on inputs from members of the IPMWC and other interested stakeholders.⁵

¹ This Convention is also referred to as the Migrant Workers' Convention or the Migrants Rights' Convention.

² Treaty bodies are sometimes referred to as Treaty Monitoring Bodies.

³ For more information on ratification strategies see, for example: *Achieving Dignity – Campaigner's Handbook for the Migrants Rights Convention*, Migrants Rights International (Geneva, November 2002).
http://www.migrantwatch.org/pages/mri_resources/documents_manual_eng_doc.htm

⁴ <http://www.ohchr.org/english/law/index.htm>

⁵ Contributions and/or comments should be sent to info@december18.net

2. Context for and Approaches to Protecting the Human Rights of Migrant Workers

Studies and reports continue to highlight the global character of international migration. Increasingly migrant workers - documented as well as undocumented – become victims of a broad range of human rights abuses by various actors and agencies during the migration process. This has been documented by the relevant United Nations (UN) human rights mechanisms as well as local and international NGOs. Protection of the human rights and dignity of these migrant workers and their families has therefore become a central concern of migrant workers organisations and human rights groups. The issue of migration has been brought to the top of the political agenda in many countries, with some governments and some media time and again employing a discriminatory and often xenophobic discourse to vilify and target migrants. Hundreds of organisations across the world are involved on a daily basis in the struggle for migrant workers rights, building coalitions with trade unions, religious groups, women's groups, research institutions, international/multilateral agencies and sometimes government agencies. The growing prominence of International Migrant's Day⁶ as well as the large number of conferences and publications dedicated to this subject demonstrate that migration is centre stage. Whilst this trend is generally positive, vigilance is needed to ensure that migration policies and practices are framed within a rights-based framework.

The Convention provides such a framework: a set of human rights standards against which the treatment of migrant workers and their families can be measured.⁷ However, the Convention is not the only available legal tool. Other UN Conventions/Covenants, including those adopted by the International Labour Organisation (ILO), regional human rights treaties and mechanisms and national legislation should be used by civil society organisations to protect the human rights of migrants.

Apart from using legal protection mechanisms, NGOs can and do use a whole range of other approaches in their work for promoting and protecting the rights of migrant workers and their families. However, it is not the purpose of this Guide to provide the user with such a range of advocacy tools. There are plenty of resources available, ranging from standard approaches to civil society advocacy, to specific examples of interventions based on the experiences of migrant rights organisations worldwide.⁸

With its entry into force in 2003, a number of activities around the Convention shifted from a focus on campaigning for ratifications to one of implementation.⁹ To this extent, civil society members of the International Steering Committee for the Global Campaign for the Ratification of the Convention on the Rights of Migrants started exploring how to ensure the effective implementation of the Convention. As a result, the **International NGO Platform on the Migrant Workers' Convention (IPMWC)** was formally launched on 19 April 2005, following a series of consultations and discussions. The task of the IPMWC is to facilitate the promotion, implementation and monitoring of the Convention.¹⁰

⁶ The International Migrant's Day takes place on the 18th of December.

⁷ For an introduction to the Convention, see chapter 4 of this Guide.

⁸ The bibliography and directory section includes a list of useful web site addresses and other references which we believe will help the reader to explore this further.

⁹ The number of ratifications, however, remains very low. In particular, the absence of signatories from major Western countries of destination is of great concern. Campaigns for ratification such as the one launched by the European Platform for Migrant Workers' Rights are therefore absolutely necessary.

¹⁰ See Chapter 10

3. The International Framework for the Protection of the Human Rights of Migrants

International human rights law primarily applies to State Parties. However, there are opportunities for non-state actors such as civil society organisations and individuals to actively engage with the process and use the international mechanisms to push for the respect of human rights based on the standards agreed by the international community and voluntarily assumed by states.¹¹

3.1 UN Human Rights Conventions or Treaties

The entry into force of the UN Migrant Workers' Convention completes and reinforces a series of other provisions under the main human rights treaties. These are: the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of all forms of Racial Discrimination (CERD), the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), the Convention against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), and the Convention on the Rights of the Child (CRC). Together, these seven instruments form the core human rights treaties.

Whilst migrant workers are by the very nature of their position, non-nationals of the states in which they are employed, the human rights guaranteed under international human rights law do apply to them, unless it is specifically stated otherwise.¹² It is therefore necessary for migrants' rights activists, interested in using the international human rights mechanisms, to make sure that they pay attention to the full range of international human rights instruments, since many of these include provisions applicable to the situation of migrant workers and members of their families.¹³

One of the stated objectives of the IPMWC is to encourage, facilitate and strengthen input and follow up to the work of the six other human rights Treaty Bodies, precisely because these offer additional opportunities for civil society interventions. Readers who are interested in doing so are encouraged to contact the IPMWC and its members for further information. The following publications provide good starting points:

- The International Catholic Migration Commission (ICMC) produced in 2004 a "do-it-yourself kit", with a concise and cross-referenced collection of information comparing the various Treaty Monitoring Bodies.¹⁴
- In the 2nd edition of the UN Road Map, published by the Canadian Human Rights Foundation in 2004, the reader will find a list of potential human rights abuses, organised

¹¹ International human rights law does have its limits. Formal enforcement mechanisms, for example, can be inadequate. Although international human rights treaties are legally binding, it often remains difficult to ensure that states comply with their international obligations. Domestic remedies as well as regional human rights mechanisms may therefore provide a better avenue. In some cases, exhaustion of domestic remedies is a formal requirement. For more details see UN Road Map, published by the Canadian Human Rights Foundation.

¹² See Human Rights Committee, General Comment No 15: "The position of aliens under the Covenant"; Committee on Economic, Social and Cultural Rights, General Comment 14: "The right to the highest attainable standard of health"; Committee on the Elimination of Racial Discrimination, General Recommendation 30: "Discrimination against non-citizens"

¹³ Also, the ILO Migration for Employment Convention (Revised), 1949 (No. 97) and the ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) contain provisions designed to protect migrants. The ILO is the primary UN specialized agency for the protection of the labour rights of migrant workers. See the International Labour Migration section on the ILO website

¹⁴ See: How to Strengthen Protection of Migrant Workers and Members of their Families with International Human Rights Treaties: a do-it yourself kit, <http://www.icmc.net/docs/en/publications/advokit00>

3. The International Framework for the Protection of the Human Rights of Migrants

to reflect the stages in the migration process. These abuses are then linked to relevant articles in the UN human rights instruments.¹⁵

- The UN Treaty Monitoring Bodies and Migrant Workers: a Samizdat, a joint study published by the International Catholic Migration Commission and December 18 (November 2004) gives a detailed overview of how these bodies are dealing with migrant workers issues.¹⁶

¹⁵ See: <http://www.chrf.ca/downloads/UN-Road-Map-2ed.zip>

¹⁶ See: <http://www.december18.net/web/docpapers/doc1940.doc>

4. Introduction to UN Human Rights Conventions

4.1 What is a 'convention'?

- Conventions, also known as “instruments” or “treaties” set out norms or standards, which are legally binding upon states that ratify or accede to those instruments, thereby creating an obligation for those states to comply with and implement the norms included in them.
- Some conventions set out human rights standards. These are commonly referred to as 'human rights instruments' or 'human rights treaties'. The instruments are statements of the minimum legal principles upon which states are able to agree. They are the basic standards to which States should comply upon ratification or accession. States that are party to a treaty – also referred to as State Parties – must incorporate these fundamental human rights standards in their national law.

4.2 What does it mean for a state to 'sign' a convention?

- Signature constitutes a preliminary and general endorsement of a convention by the state in question. It is not a legally binding step, but is an indication that the state intends to undertake a careful examination of the treaty in good faith to determine its position towards it. While signing the Convention does not in any way commit the state to proceed to ratification, it does create an obligation to refrain from acts that would defeat the objectives of the Convention, or to take measures to undermine it.

4.3 What does it mean for a state to 'ratify' or to 'accede' to a convention?

- A state can become a Party either by ratification or accession. Both signify an agreement to be legally bound by the terms of the convention. Accession has exactly the same effects as ratification. Most commonly, a state in favour of a convention signs shortly after it has adopted the instrument and follows up with ratification when all procedures required by domestic law have been fulfilled. Governments that have not signed first can become States Parties through accession.

4.4 What formalities are involved in ratification and accession?

- Ratification and accession involve two steps.
- Step One: The appropriate organ(s) of the state (whether it be the Parliament, the Senate, the Crown or the Head of State/Government) take(s) a formal decision to be a Party to the Convention in accordance with the relevant domestic constitutional procedures.
- Step Two: As required by UN Human Rights conventions, the Government (normally the Ministry of Foreign Affairs) deposits the instrument of ratification or accession with the Secretary-General of the UN.

This means:

- a formal letter, under seal, referring to the relevant decision, signed by the responsible authority in the country is prepared. This is the instrument of ratification or accession; this document in original is submitted to the UN Office of Legal Affairs in New York. The date of receipt of the document is then registered as the date of ratification or accession for the country in question.

A convention usually becomes legally binding in the state after one to three months following the 1st day of the next month after reception of the instrument of ratification or accession. The exact period between the deposition of the instrument and the entry into force varies from convention to convention.

4.5 What precedes ratification or accession?

- The formal procedures vary in different countries when ratifying or acceding to an international treaty.
- In some countries, the Head of State/Government is constitutionally empowered to ratify or accede to a treaty of his or her own accord. In others, the agreement of the legislative authorities is required. In many cases, a combination of these two systems is used.
- Usually, before actually ratifying or acceding to a convention, a country undertakes a detailed review of the convention's requirements and gives careful consideration to the most appropriate and effective means to promote compliance, particularly in terms of amending national legislation. In some cases, this may also include consultations with the principal social partners in the society such as trade unions, employer groups and other NGOs.

4.6 Must compliance be assured before a state can ratify or accede to a convention?

- It is not obligatory for countries to adopt in advance all of the legislative and other measures foreseen by a convention before ratifying or acceding to it.
- Nevertheless, a country is expected to be in compliance with the convention's obligations within a reasonable time after ratification or accession. The question of how long is "reasonable" remains open to debate.

4.7 What is customary international law?

- Customary international law results when states follow certain practices generally and consistently out of a sense of legal obligation; when enough states have begun to behave as though something is law, it becomes law "by use".
- The UN General Assembly adopts a convention after an extensive process, usually with a large number of countries having been actively involved. Through its adoption a convention represents an international consensus on a particular issue.
- Although a convention becomes legally binding on Member states through the process of ratification, non-ratified Conventions can also be used as models for national legislation or as a point of reference to establish international consensus on issues addressed in the instrument.

4.8 What does it mean if a state has made a reservation?

A reservation is a declaration made by a state by which it purports to exclude or alter the legal effect of certain provisions of the treaty in their application to that state. A reservation enables a state to accept a multilateral treaty as a whole by giving it the possibility not to apply certain provisions with which it does not want to comply. Reservations can be made when the treaty is signed, ratified, accepted, approved or acceded to. Reservations must not be incompatible

with the object and the purpose of the treaty. Furthermore, a treaty might prohibit reservations or only allow for certain reservations to be made.

4.9 What are individual and inter-state complaints?

See Chapter 9.

4.10 Who monitors the implementation?

When a state ratifies one of the conventions, it assumes a legal obligation to implement the rights recognised in that treaty. But this is only the first step, because recognition of rights on paper is not sufficient to guarantee that they will be enjoyed in practice. State Parties thus incur an additional obligation to submit regular reports to the monitoring committee set up under that treaty on how the rights are being implemented. Governments collect relevant information from their relevant ministries and administrative units in order to draft the initial and subsequent periodic reports. This exercise prompts them to take stock and analyse their legislation and practices in relation to a given treaty. In addition to the reporting procedure, some of the Treaty Bodies may perform additional monitoring functions through three other mechanisms: the inquiry procedure, the examination of inter-state complaints and the examination of individual complaints.

This system of human rights monitoring is common to most of the UN human rights treaties. It is operated by the Treaty Bodies.

They include the:

- Human Rights Committee (which monitors implementation of the ICCPR) (see chapter 11.2),
- Committee on Economic Social and Cultural Rights (see chapter 11.1),
- Committee on the Elimination of Racial Discrimination (see chapter 11.3),
- Committee on the Elimination of Discrimination against Women (see chapter 11.4),
- Committee against Torture (see chapter 11.5) and
- Committee on the Rights of the Child (see chapter 11.6),
- Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (see chapter 5)

As clearly shown in the joint ICMC-December 18 study 'The UN Treaty Monitoring Bodies and Migrant Workers: A Samizdat,' each Treaty Body does refer to specific reporting on migrant rights. Therefore, it is important for civil society organisations to monitor the State Party obligations under each human rights treaty.

Contact address of the United Nations Office of Legal Affairs, Treaty Section

Treaty Section	Telephone: +1 212 963 5047
Office of Legal Affairs	Fax: +1 212 963 3693
United Nations	E-mail (general): treaty@un.org
New York, NY 10017, USA	Web site: http://untreaty.un.org

4.11 Treaty Bodies Reform

Since the establishment of the first Treaty Body, the Committee on the Elimination of Racial Discrimination (CERD), the system has grown to include seven Treaty Bodies. As the system has grown, it has confronted challenges. These include delays in submission and/or consideration of reports, non-reporting, and

duplication of reporting requirements among Treaty Bodies. Improving the effectiveness of the human rights treaty system has been an ongoing interest of individual Treaty Bodies, the annual meeting of chairpersons of human rights Treaty Bodies, the Commission on Human Rights and the General Assembly. As part of ongoing discussions on the Treaty Bodies' reform initiated in 2002, the UN is presently examining draft guidelines on one expanded core document per country and smaller but focused treaty-specific targeted reports.

The IPMWC is following these discussions through its member organisations and will adapt this NGO Guide to include any future changes.

More information about the Treaty Bodies reform can be found on the following websites (in English only):

Amnesty International

<http://web.amnesty.org/pages/treaty-reform-eng>

The UN Human Rights System by Prof. A. F. Bayefsky

<http://www.bayefsky.com/tree.php/area/reform>

Office of the High Commissioner on Human Rights

<http://www.ohchr.org/english/bodies/icm-mc/documents.htm#past>

<http://www.ohchr.org/english/bodies/icm-mc/documents-system.htm>

4.12 Annual Meeting of the Chairpersons of the Treaty Bodies and the Inter-Committee Meetings

The Chairpersons of the seven human rights Treaty Bodies meet annually to discuss their work and to consider ways to enhance the effectiveness of the Treaty Bodies system as a whole. Issues dealt with at these meetings have included, among other things, the streamlining and overall improvement of human rights reporting procedures, harmonisation of the committees' methods of work, follow-up to World Conferences, and financial issues. Since 2002, an Inter-Committee Meeting, consisting of the chairpersons plus two members of each of the committees, has been convened to focus even more on the harmonisation of working methods among the different Committees.

For further details, please see: <http://www.ohchr.org/english/bodies/icm-mc/index.htm>

5. The UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

The human rights of migrant workers and relevant applicable standards have been consolidated in one international human rights treaty: the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (hereinafter referred to as “the Convention”).¹⁷

The Convention is the first legally binding international instrument to incorporate the full range of human rights – civil and political rights as well as economic, social and cultural rights for all migrant workers and members of their families. The UN’s concern for the protection of migrant workers and their families commenced in earnest in 1972. In 1979, the UN General Assembly decided to create an open-ended Working Group to elaborate the Convention. It was drafted over the course of 10 years (1980-1990).

As for the other international human rights treaties, UN member states meeting at the General Assembly adopted the Convention on 18 December 1990 without a vote.

While the Convention is primarily addressed to governments it also deals with the responsibilities of all members of society. Overall, its standards can be realised only when they are respected by everyone – members of the community, employers, all public and private institutions including schools, in services for the general public, in the courts and at all levels of government administration – and when each of these individuals carries out his or her unique role and function based on the respect of these standards.

5.1 Core elements of the Convention

This Guide is not meant to provide a detailed analysis of the Convention.¹⁸ The importance of this Convention may, however, be highlighted by these six points:¹⁹

- The Convention bridges a gap in protection due to the situation of vulnerability in which migrant workers and members of their families frequently find themselves owing, among other things, to their absence from their State of origin and to the difficulties they may encounter arising from their presence in the State of employment.²⁰
- Migrant Workers are viewed as more than labourers or economic entities.
- The Convention provides, for the first time, an international definition of the migrant worker, categories of migrant workers, and members of their families.
- Minimum universal human rights standards are guaranteed for all migrant workers, both documented and undocumented. Further rights are extended to documented migrant workers and members of their families, notably in the equality of treatment with nationals of states and in employment in a number of legal, political, economic, social and cultural areas.

¹⁷ Also referred to as the Migrant Workers’ Convention or the Migrants Rights’ Convention.

¹⁸ The following two publications should help you with your further reading: Handbook on Migrant Workers, Franciscans International (Geneva, 2004) and Achieving Dignity – Campaigner’s Handbook for the Migrants Rights Convention, Migrants Rights International (Geneva, 2002 – fourth printing).

¹⁹ Taken from a leaflet produced by the Steering Committee of the Global Campaign for the Ratification of the Convention on the Rights of Migrants.

²⁰ See preamble of the Convention

5. The UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

- The Convention promotes inter-state collaboration to prevent and eliminate the exploitation of all migrant workers and members of their families, and sanctions for violence against migrant workers or members of their families in an irregular situation.
- The Convention is a tool to encourage States to harmonise their legislation with recognised international standards.

5.2 Status of Ratification of the Convention

An updated list of ratifications, accessions and signatures of the Convention can be viewed on the following web page:

<http://www.december18.net/web/general/page.php?pageID=79&menuID=36&lang=EN#eleven>

5.3 Reservations

State Parties have the right to make reservations to the Convention. However, according to article 88 of the Convention, they may not exclude the application of any Part of it (the Convention consists of 9 Parts or chapters), or exclude any particular category of migrant workers from its application.

An updated list of reservations made by the State Parties can be viewed on the following web page:

<http://www.ohchr.org/english/countries/ratification/13.htm#reservations>

6. The Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families

6.1 Introduction

For the purpose of monitoring the Convention, article 72 establishes a Committee – the Treaty Body of the Convention. Accordingly, after entry into force of the Convention, each State Party had the right to nominate one person from among its own nationals. Ten experts were elected on 11 December 2003, six months after the entry into force of the treaty.²¹

At this first election, it was also decided that half the Committee members would only serve a two-year mandate. The remaining five will serve for a term of four years. This provision ensures continuity in the work of the Committee and avoids that all ten members are elected at the same time. Elections are held every second year; the next one is scheduled for December 2005.²² Members of the Committee are eligible for re-election if re-nominated by the relevant States Parties.

6.2 Who can be a Committee Member?

Committee Members must be of high moral standing, impartial and have a recognized competence in the fields covered by the Convention. They serve in their personal capacity and must be nationals of one of the States Parties. Being nominated by a State Party, Committee Members are at times government officials or academics. However, the appointment of individuals who simultaneously hold positions in government is a conflict of interest, even if they do not participate in the consideration of their own government's periodic reports. The fact that a government official sits on a committee to scrutinise another government's human rights record can be enough to undermine the credibility of the committee. Women are poorly represented across the Treaty Bodies and States Parties should consider appointing individuals who meet the criteria contained in the treaty, and who have expertise in gender issues. NGOs can play a useful role in advising States Parties to refrain from nominating individuals holding government posts, and to put in place transparent and public processes for selection and nomination of independent experts at the national level.

The budget of the Treaty Bodies only covers the travel and accommodation costs of the Committee members; experts do not receive UN remuneration for their contribution. There is at least one three-week meeting a year (this can be split up in two meetings, see point 6.7), which takes place in Geneva, together with an annual meeting of all Treaty Body chairpersons. This does not include possible field missions. Without support from a university or government agency, the lack of funds is often an obstacle for the individual members to fully participate in the work of the Committee. Furthermore, many people cannot afford to put themselves forward as candidates, because of the financial or time constraints. This issue should be discussed as part of the reform of the system, as this is an impediment to the independence of experts.

²¹ At the time of entry into force, having less than 40 States Parties, the Committee can only consist of 10 experts. Four more experts must be elected as soon as the 41st ratification is received.

²² Terms: <http://www.ohchr.org/english/bodies/cmw/members.htm>

6. The Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families

6.3 List of Present Committee Members

	Country	Until	Sector
Mr. Francisco ALBA	Mexico	2007	Academic
Mr. Jose Serrano BRILLANTES	Philippines	2005	Governmental
Mr Francisco CARRIÓN-MENA	Ecuador	2007	Governmental
Ms. Ana Elizabeth CUBIAS MEDINA	El Salvador	2007	Governmental
Ms. Anamaria DIEGUEZ	Guatemala	2005	Governmental
Mr. Ahmed Hassan EL-BORAI	Egypt	2007	Academic
Mr. Abdelhamid EL JAMRI	Morocco	2007	Civil Society
Mr. Arthur Shatto GAKWANDI	Uganda	2005	Governmental
Mr. Prasad KARIYAWASAM	Sri Lanka	2005	Governmental
Mr. Azad TAGHIZADE	Azerbaijan	2005	Academic

The Chairman of the Committee is Mr. Prasad KARIYAWASAM from Sri Lanka.²³

6.4 Working Languages

Arabic, Chinese, English, French, Russian and Spanish are the official languages of the United Nations. This Committee uses mainly English, French, Russian and Spanish, but most Committee members understand either English or French.

6.5 Conduct of Business

The Committee will usually reach its decisions by consensus. If consensus could not be reached, decisions would be put to a vote. Each member has one vote. Simple majority counts. Members abstaining from voting are considered as not voting. Six members of the Committee constitute a quorum for the adoption of formal decisions.

Information about the Committee's deliberations is available on the website of the OHCHR at <http://www.ohchr.org/english/bodies/cmw/index.htm>

6.6 Venue of Sessions

Sessions of the Committee are normally held at the Office of the High Commissioner for Human Rights at the Palais Wilson in Geneva.²⁴

²³ CVs of all Committee members are available on the following site:
<http://www.ohchr.org/english/bodies/cmw/members.htm>

²⁴ 52 Rue de Paquis, CH-1201 Geneva 10, Switzerland

6. The Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families

6.7 Yearly Sessions

An annual three-week session was budgeted for. It was, however, agreed to hold two shorter sessions of five working days in 2005: a formal session in April-May and an informal one in October-December.

At the April session of 2005, it was agreed to hold two sessions in 2006: one in April-May and one in November-December. The length of each of the two 2006 sessions will be decided during the December 2005 session.

6.8 Role of the ILO

The Convention foresees a special role for the International Labour Organisation (ILO) in the work of the Committee and invites it to assist the Committee with relevant expertise and to appoint representatives to participate, in a consultative capacity, in the meetings of the Committee

6.9 NGO Access to Committee Meetings

All Committee meetings are public, unless the Committee decides otherwise.²⁵ NGOs are welcome as observers to the public sessions. To date, the agenda of the past Committee meetings always included a separate session with NGOs, where they get the opportunity to make a statement and to discuss specific issues with the Committee members. NGO representatives can also be invited as resource persons, for example to present a study they made that is useful to the work of the Committee.²⁶

The rules of procedure regarding presentations of NGO submissions still have to be discussed and agreed by the Committee. This discussion is scheduled for the April 2005 session.

No official accreditation to the UN is necessary. NGOs wishing to attend Committee meetings need to contact the Secretary of the Committee before the start of the opening session.

²⁵ At such time as the Committee receives and considers individual communications, these will be considered in private.

²⁶ At the informal session in October 2004, ICMC and December 18 were invited to present the outcome of their joint study on the treatment of migration issues in all treaty bodies' conclusions since 1994.

6. The Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families

6.10. Secretariat for the Committee

Ms. Carla Edelenbos was designated as the UN Secretary for the Committee. She communicates in English, French and Spanish. Assistant to the Secretary is Mr. Ugo Cedrangolo. All communications should be addressed to:

E-mail: cedelenbos@ohchr.org
Fax: 0041 22 917 90 22
Tel: 0041 22 917 92 41

Postal address:

United Nations
Office of the High Commissioner for Human Rights
Secretary for the Committee on the Protection
of the Rights of All Migrant Workers and
Members of Their Families
Palais des Nations
CH-1211 Geneva 10
Switzerland

Office address:

Palais Wilson
52 rue de Paquis
CH-1201 Geneva 10
Switzerland

6.11 Committee Meetings – Proceedings and Future Sessions

At the time of publishing this Guide, the Committee held three meetings:

Formal Meeting of the Committee
1-5 March 2004

Introduction of Committee members to the UN system, including the UN Treaty Bodies

Informal Meeting of the Committee
11-15 October 2004

Outcome: Provisional Guidelines

Report of the meeting: <http://www.ohchr.org/english/bodies/cmw/docs/CMW.C.2004.L.4.doc>

Formal Meeting of the Committee
25-29 April 2005

Outcome: Working methods

Report of the meeting: not available yet

Future sessions²⁷ are scheduled for:

12-16 December 2005

April-May 2006 (exact date to be confirmed at the December 2005 session)

November-December 2006

²⁷ <http://www.ohchr.org/english/events/2005.htm>

7. Reporting Procedure by States Parties

Under Article 73 of the Convention, States Parties undertake to submit to the Committee a report on legislative, judicial, administrative and other measures they have taken to give effect to the provisions of the Convention. State reports must also indicate factors and difficulties affecting the implementation of the Convention.

7.1 Provisional Guidelines

According to Article 73, the Committee shall decide any further guidelines for the form and content of the reports by States Parties. Provisional guidelines were discussed and agreed upon during the session of 11-15 October 2004.²⁸

States Parties can present their initial report in conjunction with the Common Core Document referred to in document HRI/MC/2004/3 that contains draft guidelines for its preparation.²⁹

The present provisional guidelines consist of three parts:

1. Introduction
2. Request for information of general nature
3. Request for information in relation to each article of the Convention

Part two asks for a description of the constitutional, legislative, judicial and administrative framework governing the implementation of the Convention, and any bilateral, regional or multilateral agreements in the field of migration entered into by the reporting State Party.

Governments are requested to provide quantitative and qualitative information on the characteristics and nature of the migration flows (immigration, transit and emigration) in which the State Party concerned is involved.

They are also asked to describe the actual situation with regard to the practical implementation of the Convention in the reporting State. Governments must indicate the circumstances affecting the achievement of the obligations of the reporting State under the Convention.

The Committee requests governments to include information on the measures taken to promote and respect the rights contained in the Convention and cooperate with civil society in this regard.

7.2 Submission of the State Party Reports

The Committee has decided that initial reports under article 73 of the Convention should be submitted in electronic form (on diskette, CD-Rom or by electronic mail), accompanied by a printed-paper copy.³⁰

Sufficient copies of the principal legislative and other texts referred to in the report itself should accompany the report. All should – if possible – be written in English, French or Spanish. These documents will be made available to all ten members of the Committee but it should be noted that these would not be reproduced for general distribution with the report. It

²⁸ See Annex 1.

²⁹ See 4.11 and <http://www.ohchr.org/english/bodies/icm-mc/documents.htm>
<http://www.ohchr.org/english/bodies/icm-mc/documents-system.htm>

³⁰ The report should not exceed 120 pages (A4-size paper, with 1.5 line spacing; and text of 12 points in the font Times New Roman).

7. Reporting Procedure by States Parties

is therefore desirable that, when a text is not actually quoted in or annexed to the report itself, the report should contain sufficient information to be understood without reference to it.

7.3 Terms for Submission

The initial report must be submitted within the first year after ratification or accession and thereafter every five years and whenever the Committee requests the State Party to do so. At times, it may take the States at least two to three years before they deliver their first report and many governments do not adhere to the five-year reporting cycle. Good reporting will increase the chances for the Convention to develop into a useful tool, and ensure that the Committee builds a body of useful conclusions. Across the treaty system as a whole, several hundred reports are overdue. The Treaty Body reform process will address this issue. In the meantime, it is important for NGOs to push their governments to fulfil their obligations and produce comprehensive and timely reports.

The IPMWC maintains a timetable of submitted States Parties' Reports and the expected examination date by the Committee.

7.4 Examination of the States Parties' Reports

Upon completion of the report, the State Party sends it to the Secretariat of the Committee. At least three months are required for the translation into the official UN languages used by the Committee members. With the present Committee, all texts need to be made available in the following four languages: English, Spanish, French and Russian.

The Committee strives to examine the reports within one year of receipt, based on the order in which they were received.

Working methods

Upon receiving a report, the Committee seeks written information from other sources, such as non-governmental and inter-governmental organisations, as foreseen by Article 74.4 of the Convention.

It conducts a preliminary review of the report and examines all available information, including that submitted by NGOs. Representatives of NGOs and some UN agencies are able to make oral presentations to the Committee at this time. The Committee then prepares a list of issues, which is submitted to the government in advance of the public consideration of the report and by way of beginning the process of dialogue. Governments are requested to respond to these questions in writing before the plenary session.

At the plenary session, the Committee continues this dialogue with representatives of the government who should be persons directly involved at the national level with the implementation of the Convention. The government representatives are invited to answer the questions and comments posted by Committee members in order to discuss more fully the actual situation in the country. At the end of the exchange, the Committee prepares concluding observations, which reflect the main points of the discussion and indicate concerns and issues that require specific follow-up at the national level.

Use of Rapporteurs

The Committee will indicate among its members two rapporteurs per report. At least one of the rapporteurs must know the language of the State Party presenting its report. These two rapporteurs take the leading role on the review of the respective report.

7.5 How to get a Copy of the State Party Report?

States Parties commit themselves under Article 73 (4) of the Convention to “make their reports widely available to the public in their own countries.” These reports are posted on the website of the High Commissioner for Human Rights. NGOs (individual NGOs or national NGO coalitions) actively working for the protection of migrants’ rights and interested in preparing written information or submissions for the Committee should study the State Party report. The IPMWC will keep NGOs informed of the publication of reports.

7.6 Recommendations and Follow-up by the Committee³¹

Treaty Body recommendations constitute an important tool with which to hold governments to account, since they are based on legally binding treaties, and are legally binding documents themselves.

The Treaty Bodies issue their “recommendations” or “concluding observations” at the end of each session. The terminology varies, but for the purpose of this guide we will refer to them as “recommendations”. Usually, the recommendations follow this format:

- a short section identifying positive factors regarding the implementation of the treaty
- factors impeding implementation of the treaty
- matters of concern
- recommendations

In terms of quantity and quality, the recommendations can vary between Treaty Bodies - or even within the same Treaty Body on different countries. Factors that affect the quality of the recommendations include the level of detailed information received from the State Party, from NGOs and others (e.g. UN agencies) as well as the competence of individual members of the Treaty Body.

The Treaty Bodies have recently developed ways to look more closely at the steps taken by governments to implement their recommendations. They sometimes issue time bound recommendations, giving the state a deadline by which it must report on the implementation of particular recommendations. Also, the Office of the High Commissioner for Human Rights has created a dedicated mechanism, the Treaty Body Recommendations Unit, which will gather information on and help states with the implementation of Treaty Body recommendations at the national level.

However, the Treaty Bodies are hampered by a chronic lack of resources to perform this task consistently. Because of this, and because the Treaty Bodies have no enforcement mechanism, it is all the more important for governments to be held to account by NGOs and others.

³¹ See AI: http://web.amnesty.org/pages/treaty_ngofollowup

8. Submissions by NGOs

8.1 The Committee and Civil Society

The Migrant Workers' Convention does explicitly refer in Article 74.4, to the possibility for the Committee to "invite the specialized agencies and organs of the UN, as well as intergovernmental organisations and other concerned bodies to submit written information." At the time of drafting of the Convention, the phrase "other concerned bodies" was used to include NGOs. The Committee has clearly underlined on several occasions the importance of input from civil society. Further, practice established by all other Treaty Bodies means that NGOs regularly contribute to the process. The Committee has encouraged NGOs to submit reports, documentation and other information in order to provide Committee members with as comprehensive a picture as possible about the implementation of the Convention in a particular country.

The guidelines for the preparation of State reports explicitly ask States to include information on cooperation with civil society regarding promotion and respect for migrants' rights as described in the Convention. This approach to NGO participation and cooperation has been reflected in the Committee sessions to date.

The Committee welcomes written information from international, regional and national organisations, be they individual NGOs or national coalitions or NGO committees. The Committee also welcomed the creation of the IPMWC, which aims to support NGOs wishing to provide input to the Committee.

Why should NGOs give input to the Committee? NGOs, be it as practitioners, as service providers or as research and advocacy organisations, have first-hand experience of the situation of migrant workers and members of their families and of the nature of the human rights violations they suffer. Governments will inevitably be tempted to offset problem areas. Likewise, they often report on policies and measures adopted, but more rarely on actual practice and implementation.

8.2 NGO Contributions to the Reporting Process

In some countries, it may be possible for NGOs to hold consultations with their government in preparation of the State Party report. NGOs can write to their government and ask for information on the implementation of the Convention, offer to meet to solicit their views or to discuss the content of the draft report or, if appropriate and does not endanger their independence, agree to participate in a joint government-NGO review committee. In most countries however, NGOs do not have the possibility to contribute to the reporting process or their views are not taken into account satisfactorily. In addition, NGOs need to be cautious about maintaining their independence. Reporting to the Committee is an obligation of the State Party. NGOs should not write the report for their government.

8.3 Drafting an NGO Submission

The Committee seeks specific, reliable, objective and synthesized information from NGOs in order to obtain a comprehensive and independent assessment of the progress and difficulties with the implementation of the Convention. In general, State reports tend to present/focus on the legislative framework and often do not include references to the specific context within which the implementation of the Convention takes place or the impact of the treaties in real terms. Furthermore, since many of the present States Parties to the Convention see themselves solely as sending countries, their reports may tend to be overly positive about their performance and present only one side of the picture. It will be difficult for the Committee to obtain a complete picture of the situation of migrants in the concerned State Party.

Hence, the consideration of NGO information is an essential element in the monitoring process. The Committee seeks information, which deals with all the different areas covered

by the Convention in order to effectively monitor its implementation in a country. The Committee is also interested in receiving information on areas where the government report does not give sufficient information and on areas of concern not covered or, in the opinion of the NGOs, covered incorrectly or misleadingly.

Sometimes, NGO submissions prepared by coalitions rather than individual NGOs are more difficult to disregard or discredit and tend to lend greater legitimacy to information submitted on human rights violations. Governments can easily claim that the information submitted by one NGO should not be taken seriously because that particular NGO is allegedly politically motivated, linked to the opposition, not reliable or is basing its criticism on fantasy rather than fact. It is much more difficult for a government to discredit a report prepared by a group of NGOs. By working together, NGOs contribute information in their specific area of expertise e.g. labour rights, health, education, legal counsel, women and children issues, non-discrimination, detention. In addition, a single comprehensive report allows Committee members who are under intense time pressure to familiarise themselves with the relevant issues by studying only one NGO document produced by, for example, twenty organisations, rather than twenty separate reports.

For the same reason, it is also opportune to use a similar framework presenting concrete issues and recommendations (see suggested framework further).

Factors to take into account in the preparation of an NGO Submission:

- Only cover those issues and provisions you have expertise on.
- Do not wait until the State Party has submitted its report to the Committee before establishing a structure/process to monitor the implementation of the Convention. Monitoring and analysis is an ongoing process that needs to start early.
- It is important to publicise the NGO submission nationally in order to get domestic support for its recommendations and for subsequent implementation of the Committee recommendations.
- In principle, the Committee considers State Party reports within a year following receipt by the Secretariat. Due to the translation requirements and the number of reports submitted, the Committee can decide to consider a report at a later session. NGO submissions should preferably be sent to the Committee immediately following the submission of the government report. However, NGOs must take time to include into their submission a reaction to the State Party report.
- It is worth thinking about having the submission translated into more than one of the working languages, preferably English, Spanish and French. As NGO submissions are not official UN documents, they do not benefit from UN translation services. Some key members of the Committee may not understand the language in which the briefing is written, and will not use the NGO information. An abstract or a summary of the submission in English is essential.
- Submissions should be no longer than 20 pages.
- Consider what media interest you can galvanize before and during the consideration of the report, particularly from national media.

8.4 Format Suggestions for NGO Submissions

NGOs should work in two phases:

Phase 1: Preparatory work – collection and compilation of relevant data

Phase 2: Analysis of the data and recommendations

PHASE 1

In order to set up an initial framework for monitoring the implementation, the IPMWC suggests that NGOs use a uniform schematic format for the comparison of the present legislation, international obligations and the provisions provided by the Convention. The written submission containing elaborations on implementation and recommendations is based on the schematic format.

The advantages of such a format are multiple:

- Uniform system
- Based on the requirements made by the Committee for the States Parties' Reports, see Provisional Guidelines, Annex 1
- Easy to update, also in between reporting
- Easy access by the Committee and other stakeholders (governments and NGOs)
- Includes clear references to the analysis and recommendations
- Different groups with different expertise can work on different clusters of provisions
- Bringing together the different schematic formats provides a uniform picture of the situation of migrants' rights in one country
- Makes it possible to compare developments in different countries.

An example of the suggested format is available in Annex 4. The table consists of six columns.

1. A first column provides the number of the article.
2. The second column provides the text of the article of the Convention.
3. The third column provides references for the related national legislation and/ or relevant international obligations. If no legislation is available, indicate: "no legislation available".
4. The fourth column contains a +, - or = mark that stands for:
 - = the national legislative provision is equal to the Convention
 - + the national legislative provision provides a better protection than the Convention
 - the national legislative provision provides less protection than the Convention
5. The fifth column provides a brief description of the actual situation/case study and synthesis of the analysis elaborated in the written submission.
6. The sixth column provides a reference to the recommendations elaborated in the written submission.

PHASE 2

Based on the suggested schematic format, one should describe the actual situation, make an analysis of the data and provide recommendations. Here it is important to be brief and to the point. Only cover situations you know best. Providing a specific case as an example is always helpful. Note that the Committee members might receive a lot of information: only the submissions showing expertise are likely to get their attention.

Provide the Committee with concrete recommendations. Do not ask your government for “a better protection of the human rights of migrant workers”, but rather ask for specific, concrete changes, whether legislative and/or about the way the law is implemented.

Also mention successful examples of implementation.

Include very briefly information on the measures taken by the State Party for the dissemination and promotion of the Convention and on the cooperation with civil society in order to promote and respect the rights contained in the Convention.

The IPMWC strongly recommends that all NGOs providing submissions add a recommendation for their government to ratify Article 77.³² Under this, a State Party may recognize the competence of the Committee to receive and consider communications (i.e. complaints relating to human rights violations) from or on behalf of individuals living in their jurisdiction. As no State Party has made a declaration under Article 77, NGOs should request it whenever possible.

The main points to remember when preparing your submission are:

1. Follow the Committee guidelines¹ and suggested clusters of articles.
2. Use the suggested schematic format as a framework.
3. Only cover those issues and provisions you have expertise on.
4. Keep it brief and to the point.
5. Add a case if appropriate.
6. Submissions should be no longer than 20 pages.
7. Submissions should if possible be made available in English, French or Spanish.
8. An abstract or a summary of the submission in English is essential.
9. Make concrete recommendations for specific measures that the government can take to implement the provisions of the Migrant Workers' Convention.
10. Do not address the recommendations to the Committee but to the Government, e.g. “The government should”... and not “The Committee should call on the government to...”
11. Ask your government to make a declaration under Article 77.

8.5 Attendance at the Session

The Committee adopted the following working methods for interacting with NGOs during the April 2005 session:

- The NGOs are invited to submit written information at any time prior to the Committee's initial review of the State Party report.
- NGOs are welcome to attend all public meetings as observers.
- At each session, the Committee aims at having a special meeting with the NGOs at which they are given the opportunity to make oral presentations.

Further decisions for interacting with the NGOs prior, during and following the session when States Parties will present their report will be decided during the Committee's December 2005 session.

³² See 9.2

When comparing to other Treaty Bodies, dialogue on a State Party report tends to take place over the course of two 3-hour meetings, starting with a presentation by the government delegation, followed by a question-answer period between the Committee Members and the government officials. NGOs can attend these public meetings as observers.

NGOs usually get the opportunity to participate during the General Discussion Day, at which the Committee focuses on specific issues.

8.6 Follow up of Concluding Observations or Recommendations

The Committee issues concluding observations or recommendations after it has considered a State Party report – these might be available shortly after the consideration, or right at the end of the session. The recommendations usually identify positive factors, obstacles to effective implementation and recommendations for future action to ensure compliance. Some Treaty Bodies prioritise their concluding observations and ask the State Party to report back within a short time period on implementation of those, which are of greatest concern (usually within a year). These reports are then posted on the OHCHR website.³³ This practice is to be encouraged, as it maintains some level of dialogue between Committee and government, and should make implementation of the priority recommendations more rapid.

As the Treaty Bodies have no enforcement mechanism, NGOs and others can play an important role in holding governments to account for their implementation of both the treaties and the recommendations made by Treaty Bodies.

NGOs can participate in this process by taking the following steps:³⁴

- Providing media contacts with the concluding observations and offering to give interviews to explain what the government's treaty obligations are and what steps the Committee is now recommending
- Asking the government how it will incorporate the recommendations in its activities. Try to be specific about finding out how the government will proceed - by asking e.g. if it will incorporate the recommendations into its ongoing plans; how it will decide on time-frames; how it will prioritise; whether it will consult with NGOs; whether it plans to make such consultation an ongoing dialogue; what money is being earmarked for implementation; and who in the government will be responsible for overseeing the implementation of the recommendations?
- Asking the government how it plans to disseminate the findings of the Treaty Body in relevant languages (if appropriate), within the relevant government bodies and to the general public.
- Trying to engage as many interested parties as possible at an early stage so that they can also ask questions. These parties might include your local Member of Parliament, professional associations (e.g. bar associations, trade unions) or representatives of national institutions.
- Keeping the Committee informed on steps taken by the government on implementation, including respecting the Committee's own deadline in the case of priority recommendations.

³³ <http://www.ohchr.org/english/>

³⁴ See: http://web.amnesty.org/pages/treaty_ngofollowup

9. Additional Monitoring Mechanisms

In addition to the reporting procedure described above, the Committee may perform additional monitoring functions through two other mechanisms: the examination of inter-state complaints and the examination of individual complaints.

9.1 Examination of Inter-State Complaints

Under article 76 of the Convention, a State Party considering that another State Party is not fulfilling its treaty obligations, has the right to send it a communication to this effect. The State receiving the communication is obliged to respond. If within six months the matter is not resolved, either State may refer it to the Committee. It is the role of the Committee to find a solution acceptable to both States.

This article, however, requires a separate declaration by all concerned States Parties. Furthermore, before the inter-state complaints system for this Convention enters into force, it needs at least 10 ratifications. In 40 years time, it has never been used under any other treaty. To date, no State Party has ratified this article.

9.2 Examination of Individual Complaints

Under article 77, a State Party may recognise the competence of the Committee to receive and consider communications from or on behalf of individuals under their jurisdiction. If a State Party has recognised the competence of the Treaty Body to consider such complaints, any individual under its jurisdiction who claims to be a victim of a violation under the international human rights treaty may submit a complaint to the Treaty Body.

This article requires a separate declaration by the State Party. Before the individual complaints system enters into force, it needs at least 10 ratifications. To date, none of the States Parties has ratified this article. NGOs should continue to lobby their government to do so.

10. International NGO Platform on the Migrant Workers' Convention

10.1 Aim

The International NGO Platform on the Migrant Workers' Convention (IPMWC) is a coalition of non-governmental organisations set up with the aim to facilitate the promotion, implementation and monitoring of the Convention.

This will be achieved through:

- Following up the work of the UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (the Committee) by maintaining close contact with the Committee Secretariat and the Committee members, without prejudice to their independence.³⁵
- Following – from a migrants' rights perspective – the work of the six other UN human rights Treaty Bodies, primarily in close cooperation with other NGO groupings monitoring these Treaty Bodies.
- Facilitating the flow of information on migrants' rights between the Treaty Bodies and relevant NGOs, migrants rights groups and other interested organisations.
- Facilitating the flow of information on migrants' rights within the NGO community.
- Encouraging existing national migrants' rights coalitions to work on the preparation of NGO submissions.
- Supporting national coalitions with the preparation of their submissions and increasing their capacity to do so.
- Promoting the benefits of national coalitions where such a coalition does not yet exist and encouraging NGOs to form a coalition.
- Contributing to raising awareness about the existence, activities and recommendations of the Committee, including with UN-accredited media representatives in Geneva.

10.2 Who can become a member?

International organisations working on the protection and the implementation of the human rights of migrant workers and members of their families at the United Nations level and national coalitions and NGOs working on the protection and implementation of the human rights of migrant workers at the national level can apply for IPMWC membership.

Applicants must

- support the UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
- work or plan to work on the protection of the human rights of migrant workers and members of their families using the UN Human Rights Treaty Bodies' system
- are committed to sharing information.

Each application will be submitted to the IPMWC Advisory Committee, which may require additional information. The final decision on membership is taken by the IPMWC member organisations at their next meeting.

³⁵ The IPMWC already engaged in constructive exchanges with the newly established Committee and its Secretariat in 2004.

10.3 National Coalitions and NGOs

The IPMWC encourages NGOs to form national coalitions on the protection and implementation of the human rights of migrant workers. A national coalition can be a loose or a more formalised cooperation (temporary in view of the drafting of an NGO report or ongoing on the implementation of the Convention) between human rights and development NGOs, unions, women's groups, migrant organisations, church based groups and interested individuals with an mutual interest to promote and protect the human rights of migrant workers. National coalitions and NGOs that are IPMWC members in the States Parties can request the Platform for advice on the preparation of submissions, on access to the Committee and on implementation and follow-up. They should contact the IPMWC Secretariat (see contact information under 10.4).

10.4 How to Apply

National coalitions and NGOs applying for membership should provide their statutes (or equivalent documents), relevant publications, newsletters, annual reports and brochures that will support their application and send them, along with a completed application form³⁶ and a brief description of previous and/or planned work with the Treaty Bodies, to:

IPMWC

c/o December 18
POB 22
9820 Merelbeke (Belgium)
Tel: 0032 (0)9 324 0092
Email: info@december18.net

10.5 Advisory Committee

The main task of the Advisory Committee is to provide advice and direction to the project administrator, secretariat and the IPMWC. Decisions are taken by the IPMWC member organisations at their general meeting.

The Advisory Committee Members for the period starting January 2005 until 31 December 2005 are:

Pia Oberoi, Amnesty International

Email: POberoi@amnesty.org
Website: <http://www.amnesty.org/>
Mailing address: 22, rue du Cendrier, CH-1201 Geneva, Switzerland
Tel: 0041 22 798 2500
Fax: 0041 22 791 0390

Mariette Grange, International Catholic Migration Commission

Email: grange@icmc.net
Website: <http://www.icmc.net/docs/en>
Mailing address: 37-39 rue de Vermont, P.O. Box 96, CH-1211 Geneva 20,
Switzerland
Tel: 0041 22 919 1027
Fax: 0041 22 919 1048

³⁶ See Annex 3

10.6 IPMWC Membership List

To date, the IPMWC received the following membership applications. They will be confirmed at the next IPMWC meeting.

Amnesty International

Contact person: Pia Oberoi
Email: POberoi@amnesty.org
Website: <http://www.amnesty.org/>
Mailing address: 22, rue du Cendrier, CH-1201 Geneva, Switzerland
Tel: 0041 22 798 9482
Fax: 0041 22 791 7457

Anti-Slavery International

Contact person: Mike Kaye
Email: m.kaye@antislavery.org
Website: <http://www.antislavery.org>
Mailing address: Thomas Clarkson House, The Stableyard, Broomgrove Road,
London SW9 9TL, United Kingdom
Tel: 0044 (0)20 7501 8920
Fax: 0044 (0)20 7738 4110

December 18

Contact person: Myriam De Feyter
Email: myriam@december18.net
Website: <http://www.december18.net>
Mailing address: P.O.Box 22, B-9820 Merelbeke, Belgium
Tel: 0032 (0)9 324 0092
Fax: -

Fédération Internationale des Ligues des Droits de l'Homme

Contact person: Alexandra Pomeon O'Neill
Email: apomeon@fidh.org
Website: <http://www.fidh.org>
Mailing address: 15 rue des Savoises, CH-1205 Geneva, Switzerland
Tel: 0041 22 700 12 88
Fax: 0041 22 321 54 88

Franciscans International

Contact person: Alessandra Aula
Email: aula@fiop.org
Website: <http://www.franciscansinternational.org>
Mailing address: P.O.Box 104, CH-1211 Geneva 20, Switzerland
Tel: 0041 22 919 4010
Fax: 0041 22 740 2433

Human Rights Watch

Contact person: Sébastien Gillioz
Email: hrwgva@hrw.org
Website: www.hrw.org
Mailing address: 9 rue Cornavin, 1201 Geneva, Switzerland
Tel: 0041 22 738 04 81
Fax: 0041 22 738 17 91

10. International NGO Platform
on the Migrant Workers'
Convention

International Catholic Migration Commission

Contact person: Mariette Grange
Email: grange@icmc.net
Website: <http://www.icmc.net/docs/en>
Mailing address: 37-39 rue de Vermont, P.O. Box 96, CH-1211 Geneva 20, Switzerland
Tel: 0041 22 919 1027
Fax: 0041 22 919 1048

International Movement Against All Forms of Discrimination and Racism

Contact person: Atsuko Tanaka
Email: imadrun@prolink.ch
Website: <http://www.imadr.org>
Mailing address: 150 Route de Ferney, CP 2100, CH-1211 Geneva 20, Switzerland
Tel: 0041 22 791 6263
Fax: 0041 22 791 6480

Jesuit Refugee Service

Contact person: Christine Bloch (JRS Geneva Representative)
Email: christine.bloch@jrs.net
Website: <http://www.jrs.net>
Mailing address: 37-39 rue de Vermont, P.O. Box 96, CH-1211 Geneva 20, Switzerland
Tel: 0041 22 919 1020
Fax: 0041 22 919 1048

Migrants Rights International

Contact person: Genevieve Gencianos
Email: migrantwatch@vtx.ch
Website: <http://www.migrantwatch.org>
Mailing address: C.P. 135, 15 route des Morillons, CH-1211 Geneva 20, Switzerland
Tel: 0041 22 917 7817
Fax: 0041 22 788 2875

Organisation mondiale contre la torture (OMCT)

Contact person: Patrick Mützenber
Email: pm@omct.org
Website: <http://www.omct.org>
Mailing address: 8, rue du Vieux-Billard, Case postale 21, CH-1211 Geneva 8, Switzerland
Tel: 0041 22 809 4939
Fax: 0041 22 809 4929

Public Services International (PSI)

Contact person: Nora Wintour
Email: Nora.Wintour@world-psi.org
Website: <http://www.world-psi.org>
Mailing address: 45 avenue Voltaire, BP 9, F-01211 Ferney-Voltaire Cedex, France
Tel: 0033 450 40 12 12
Fax: 0033 450 40 73 20

World Council of Churches

Contact person: Wenona Arndt
Email: Wenona.Arndt@wcc-coe.org
Website: <http://www.wcc-coe.org>
Mailing address: P.O. Box 2100, CH-1211 Geneva 2, Switzerland
Tel: 0041 22 791 6224
Fax: 0041 22 710 2035

11. Remaining Six UN Human Rights Treaty Bodies

11.1 Committee on Economic, Social and Cultural Rights (CESCR)

The Committee on Economic, Social and Cultural Rights is the body of independent experts³⁷ that monitors the implementation of the ICESCR by its States Parties. The Committee was established under ECOSOC Resolution 1985/17 of 28 May 1985 to carry out the monitoring functions assigned to the United Nations Economic and Social Council (ECOSOC)³⁸ in Part IV of the Covenant.

All States Parties are obliged to submit regular reports to the Committee on how the rights are being implemented. States must report initially within two years of accepting the Covenant and thereafter every five years. The Committee examines each report and addresses its concerns and recommendations to the State Party in the form of “concluding observations”.

The Committee cannot consider individual complaints, although a draft Optional Protocol³⁹ to the Covenant is under consideration, which could give the Committee competence in this regard. The Commission on Human Rights has established a working group⁴⁰ to this end. However, it may be possible for another committee with the competence to consider individual communications⁴¹ to consider issues related to economic, social and cultural rights in the context of its treaty.

The Committee meets in Geneva and normally holds two sessions⁴² per year, consisting of a three-week plenary and a one-week pre-session working group.

The Committee also publishes its interpretation of the provisions of the Covenant, known as general comments.⁴³

- Text of the Convention
<http://www.ohchr.org/english/law/cescr.htm>
- Status and Reservations
<http://www.ohchr.org/english/countries/ratification/3.htm#ratifications>
- About the Committee on Economic, Social and Cultural Rights
<http://www.ohchr.org/english/bodies/cescr/index.htm>
This URL contains links to pages on Membership, the Mandate, the Sessions, the Reporting Guidelines, Working Methods, Rules of Procedure, General Comments and Press Releases.
- Online versions of documents of the Committee, information on ratifications, status of reporting and the membership of the Committee are also available on the Treaty Bodies Database at <http://www.ohchr.org/english/bodies>
- NGO participation
<http://www.ohchr.org/english/bodies/cescr/NGOs.htm>

³⁷ <http://www.ohchr.org/english/bodies/cescr/members.htm>

³⁸ <http://www.un.org/esa/coordination/ecosoc/>

³⁹ [http://www.unhcr.ch/huridocda/huridoca.nsf/\(Symbol\)/E.CN.4.1997.105.En?Opendocument](http://www.unhcr.ch/huridocda/huridoca.nsf/(Symbol)/E.CN.4.1997.105.En?Opendocument)

⁴⁰ <http://www.ohchr.org/english/issues/escr/group.htm>

⁴¹ <http://www.ohchr.org/english/bodies/complaints.htm>

⁴² <http://www.ohchr.org/english/bodies/cescr/sessions.htm>

⁴³ <http://www.ohchr.org/english/bodies/cescr/comments.htm>

Further information is available from the secretariat of the Committee at the following address:

Mr. Alexandre Tikhonov

Secretary to the Committee on Economic, Social and Cultural Rights
Office of the United Nations High Commissioner for Human Rights
Office 1-025, Palais Wilson
Palais des Nations, 8-14 Avenue de la Paix, 1211 Geneva 10, Switzerland
Tel: 0041 22 917 9321, Fax: 0041 22 917 9046/9022
E-mail: atikhonov@ohchr.org

NGOs contributing to the Committee and following up the General Comments

- Centre on Housing Rights and Evictions
<http://www.cohre.org/>
- Fédération Internationale des Ligues des Droits de l'Homme
<http://www.fidh.org/>
- Fian International
<http://www.fian.org/fian/index.php>
- Human Rights Watch
<http://www.hrw.org/>
- International Confederation of Free Trade Unions
<http://www.icftu.org/>

11.2 Human Rights Committee (HRC)

The Human Rights Committee is the body of independent experts⁴⁴ that monitors implementation of the International Covenant on Civil and Political Rights by its States Parties.

All States Parties are obliged to submit regular reports to the Committee on how the rights are being implemented. States must report initially one year after acceding to the Covenant and then whenever the Committee requests it (usually every four years). The Committee examines each report and addresses its concerns and recommendations to the State Party in the form of "concluding observations".

In addition to the reporting procedure, article 41 of the Covenant provides for the Committee to consider inter-state complaints.⁴⁵ Furthermore, the First Optional Protocol⁴⁶ to the Covenant gives the Committee competence to examine individual complaints⁴⁷ with regard to alleged violations of the Covenant by States Parties to the Protocol.

The full competence of the Committee extends to the Second Optional Protocol⁴⁸ to the Covenant on the abolition of the death penalty with regard to States who have accepted the Protocol.

The Committee meets in Geneva or New York and normally holds three sessions⁴⁹ per year.

⁴⁴ <http://www.ohchr.org/english/bodies/hrc/members.htm>

⁴⁵ <http://www.ohchr.org/english/bodies/petitions/index.htm>

⁴⁶ <http://www.ohchr.org/english/bodies/hrc/index.htm>

⁴⁷ <http://www.ohchr.org/english/bodies/petitions/index.htm>

⁴⁸ <http://www.ohchr.org/english/law/ccpr-death.htm>

⁴⁹ <http://www.ohchr.org/english/bodies/hrc/sessions.htm>

The Committee also publishes its interpretation of the content of human rights provisions, known as general comments⁵⁰ on thematic issues or its methods of work.

- Text of the Convention
<http://www.ohchr.org/english/law/ccpr.htm>
- Status and Reservations
<http://www.ohchr.org/english/countries/ratification/4.htm>
- About the Human Rights Committee
<http://www.ohchr.org/english/bodies/hrc/index.htm>
This URL contains links to pages on Membership, the Mandate, the Sessions, the Reporting Guidelines, Working Methods, Rules of Procedure, General Comments and Press Releases.
- Online versions of documents of the Committee, information on ratifications, status of reporting and the membership of the Committee are also available on the Treaty Bodies Database at <http://www.ohchr.org/english/bodies>

Further information is available from the secretariat of the Committee at the following address:

Mr. Patrice Gillibert

Secretary to the Human Rights Committee
Office of the United Nations High Commissioner for Human Rights
Palais Wilson
Palais des Nations, 8-14 Avenue de la Paix, 1211 Geneva 10, Switzerland
Tel: 0041 22 917 9332, Fax: 0041 22 917 9022
E-mail: pgillibert@ohchr.org

NGOs contributing to the Committee and following up the General Comments

- Amnesty International
<http://web.amnesty.org/pages/treaty-countries-ai-eng>
- Fédération Internationale des Ligues des Droits de l'Homme
<http://www.fidh.org/>
- Human Rights Watch
<http://www.hrw.org/>

11.3 Committee on the Elimination of Racial Discrimination (CERD)

The Committee on the Elimination of Racial Discrimination (CERD) is the body of independent experts⁵¹ that monitors implementation of the Convention on the Elimination of All Forms of Racial Discrimination by its States Parties.

All States Parties are obliged to submit regular reports to the Committee on how the rights are being implemented. States must report initially one year after acceding to the Convention and then every two years. The Committee examines each report and addresses its concerns and recommendations to the State Party in the form of "concluding observations".

⁵⁰ <http://www.ohchr.org/english/bodies/hrc/comments.htm>

⁵¹ <http://www.ohchr.org/english/bodies/cerd/members.htm>

In addition to the reporting procedure, the Convention establishes three other mechanisms through which the Committee performs its monitoring functions: the early-warning procedure,⁵² the examination of inter-state complaints⁵³ and the examination of individual complaints.⁵⁴

The Committee meets in Geneva and normally holds two sessions⁵⁵ per year consisting of three weeks each.

The Committee also publishes its interpretation of the content of human rights provisions, known as general recommendations or general comments⁵⁶ on thematic issues and organises thematic discussions.⁵⁷

- Text of the Convention
<http://www.ohchr.org/english/law/cerd.htm>
- Status and Reservations
<http://www.ohchr.org/english/countries/ratification/2.htm>
- About the Committee on the Elimination of Racial Discrimination
<http://www.ohchr.org/english/bodies/cerd/index.htm>
This URL contains links to pages on Membership, the Mandate, the Sessions, the Reporting Guidelines, Working Methods, Rules of Procedure, General Comments and Press Releases.
- Online versions of documents of the Committee, information on ratifications, status of reporting and the membership of the Committee are also available on the Treaty Bodies Database at <http://www.ohchr.org/english/bodies>

Further information is available from the secretariat of the Committee at the following address:

Ms. Nathalie Prouvez

Secretary to the Human Rights Committee
Office of the United Nations High Commissioner for Human Rights
Palais Wilson
Palais des Nations
8-14 Avenue de la Paix
1211 Geneva 10
Switzerland
Tel: 0041 22 917 9309
Fax: 0041 22 917 9022
E-mail: nprouvez@ohchr.org

⁵² <http://www.ohchr.org/english/bodies/cerd/early-warning.htm>

⁵³ <http://www.ohchr.org/english/bodies/petitions/index.htm>

⁵⁴ <http://www.ohchr.org/english/bodies/petitions/index.htm>

⁵⁵ <http://www.ohchr.org/english/bodies/cerd/sessions.htm>

⁵⁶ <http://www.ohchr.org/english/bodies/cerd/comments.htm>

⁵⁷ <http://www.ohchr.org/english/bodies/cerd/discussions.htm>

NGOs contributing to the Committee and following up the General Comments

- ARIS - Antiracism Information Service
<http://www.antiracism-info.org/Kiwi/pageHome.php>
- European Roma Rights Center
<http://www.errc.org/>
- Fédération Internationale des Ligues des Droits de l'Homme
<http://www.fidh.org/>
- IMADR – International Movement Against All Forms of Discrimination and Racism
<http://www.imadr.org/>
- Minority Rights Group International
<http://www.minorityrights.org/>

11.4 Committee on the Elimination of Discrimination against Women (CEDAW)

The Committee on the Elimination of Discrimination against Women (CEDAW) is the body of independent experts⁵⁸ that monitors implementation of the Convention on the Elimination of All Forms of Discrimination against Women by its States Parties.

All States Parties are obliged to submit regular reports to the Committee on how the rights are being implemented. States must report initially one year after acceding to the Convention and then every four years. The Committee examines each report and addresses its concerns and recommendations to the State Party.

The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women entered into force on 22 December 2000. It entitles the Committee on the Elimination of Discrimination against Women to receive and consider communications from, or on behalf of, individuals or a group of individuals who claim to be victims of violations of the rights protected by the Convention.⁵⁹ The Committee meets in New York and normally holds two sessions⁶⁰ per year.

The Committee also publishes its interpretation of the content of human rights provisions, known as general recommendations⁶¹ on thematic issues.

- Text of the Convention
<http://www.un.org/womenwatch/daw/cedaw/cedaw.htm>
- Status and Reservations
<http://www.un.org/womenwatch/daw/cedaw/states.htm>
<http://www.un.org/womenwatch/daw/cedaw/reservations.htm>
- About the Committee on the Elimination of Discrimination against Women
<http://www.un.org/womenwatch/daw/cedaw/>
This URL contains links to pages on Membership, the Mandate, the Sessions, the Reporting Guidelines, Working Methods, Rules of Procedure, General Comments and Press Releases.

⁵⁸ <http://www.un.org/womenwatch/daw/cedaw/>

⁵⁹ <http://www.un.org/womenwatch/daw/cedaw/protocol/modelform-E.PDF>

⁶⁰ <http://www.un.org/womenwatch/daw/documents/index.html#CEDAW>

⁶¹ <http://www.un.org/womenwatch/daw/cedaw/recommendations/index.html>

- Country Reports
<http://www.un.org/womenwatch/daw/cedaw/reports.htm>
- Model form for communications with the Committee
<http://www.un.org/womenwatch/daw/cedaw/protocol/modelform-E.PDF>
- Online versions of documents of the Committee, information on ratifications, status of reporting and the membership of the Committee are also available on the Treaty Bodies Database at <http://www.ohchr.org/english/bodies>

Further information is available from the secretariat of the Committee at the following address:

Ms. Christina Brautigam

Secretary to the Committee on the Elimination of Discrimination against Women
United Nations Division for the Advancement of Women
Department of Economic and Social Affairs
2 UN Plaza, DC2-12th Floor,
New York, NY 10017, USA
Tel: 001 (212) 963 0539
Fax: 001 (212) 963 3463
Email: contact through the website

NGOs contributing to the Committee and following up the General Comments

- IWRRAW – International Women's Rights Action Watch
<http://iwraw.igc.org/>

11.5 The Committee Against Torture (CAT)

The Committee Against Torture (CAT) is the body of independent experts⁶² that monitors implementation of the Convention Against Torture by its States Parties.

All States Parties are obliged to submit regular reports to the Committee on how the rights are being implemented. States must report initially one year after acceding to the Convention and then every four years. The Committee examines each report and addresses its concerns and recommendations to the State Party in the form of “concluding observations”.

In addition to the reporting procedure, the Convention establishes three other mechanisms through which the Committee performs its monitoring functions: the Committee may also, under certain circumstances, consider individual complaints⁶³ or communications from individuals claiming that their rights under the Convention have been violated, undertake inquiries, and consider inter-state complaints.⁶⁴

An Optional Protocol⁶⁵ to the Convention will, when it enters into force, create a sub-committee and allow in-country inspections of places of detention to be undertaken in collaboration with national institutions.

⁶² <http://www.ohchr.org/english/bodies/cat/members.htm>

⁶³ <http://www.ohchr.org/english/bodies/petitions/index.htm>

⁶⁴ <http://www.ohchr.org/english/bodies/petitions/index.htm>

⁶⁵ <http://www.ohchr.org/english/law/cat-one.htm>

The Committee also publishes its interpretation of the content of human rights provisions, known as general comments⁶⁶ on thematic issues.

- Text of the Convention
<http://www.ohchr.org/english/law/cat.htm>
- Status and Reservations
<http://www.ohchr.org/english/countries/ratification/9.htm>
- About the Committee against Torture
<http://www.ohchr.org/english/bodies/cat/index.htm>
This URL contains links to pages on Membership, the Mandate, the Sessions, the Reporting Guidelines, Working Methods, Rules of Procedure, General Comments and Press Releases.
- Online versions of documents of the Committee, information on ratifications, status of reporting and the membership of the Committee are also available on the Treaty Bodies Database at
<http://www.ohchr.org/english/bodies>

Further information is available from the secretariat of the Committee at the following address:

Ms. Mercedes Morales

Secretary to the Committee against Torture
Office of the United Nations High Commissioner for Human Rights
Palais Wilson
Palais des Nations
8-14 Avenue de la Paix
1211 Geneva 10
Switzerland
Tel. 0041 22 917 9139
Fax. 0041 22 917 9022
E-mail: mmorales@ohchr.org

NGOs contributing to the Committee and following up the General Comments

- World Organisation against Torture
<http://www.omct.org/>
- Amnesty International
<http://web.amnesty.org/pages/treaty-countries-ai-eng>
- Human Rights Watch
<http://www.hrw.org/>

⁶⁶ <http://www.ohchr.org/english/bodies/cat/comments.htm>

11.6 The Committee on the Rights of the Child (CRC)

The Committee on the Rights of the Child (CRC) is the body of independent experts⁶⁷ that monitors implementation of the Convention on the Rights of the Child by its States Parties. It also monitors implementation of two optional protocols to the Convention, on involvement of children in armed conflict⁶⁸ and on sale of children, child prostitution and child pornography.⁶⁹

All States Parties are obliged to submit regular reports to the Committee on how the rights are being implemented. States must report initially two years after acceding to the Convention and then every five years. The Committee examines each report and addresses its concerns and recommendations to the State Party in the form of "concluding observations".

The Committee reviews additional reports, which must be submitted by States who have acceded to the two Optional Protocols to the Convention.

The Committee cannot consider individual complaints, although child rights may be raised before other committees with competence to consider individual complaints.⁷⁰

The Committee meets in Geneva and normally holds three sessions⁷¹ per year consisting of a three-week plenary and a one-week pre-sessional working group. In 2006, the Committee will consider reports in two parallel chambers of 9 members each, "as an exceptional and temporary measure", in order to clear the backlog of reports.

The Committee also publishes its interpretation of the content of human rights provisions, known as general comments⁷² on thematic issues and organizes days of general discussion.⁷³

- Text of the Convention
<http://www.ohchr.org/english/law/crc.htm>
- Status and Reservations
<http://www.ohchr.org/english/countries/ratification/11.htm>
- About the Committee on the Rights of the Child
<http://www.ohchr.org/english/bodies/crc/index.htm>
This URL contains links to pages on Membership, the Mandate, the Sessions, the Reporting Guidelines, Working Methods, Rules of Procedure, General Comments and Press Releases.
- Online versions of documents of the Committee, information on ratifications, status of reporting and the membership of the Committee are also available on the Treaty Bodies Database at <http://www.ohchr.org/english/bodies>

⁶⁷ <http://www.ohchr.org/english/bodies/crc/members.htm>

⁶⁸ <http://www.ohchr.org/english/law/crc-conflict.htm>

⁶⁹ <http://www.ohchr.org/english/law/crc-sale.htm>

⁷⁰ <http://www.ohchr.org/english/bodies/petitions/index.htm>

⁷¹ <http://www.ohchr.org/english/bodies/crc/sessions.htm>

⁷² <http://www.ohchr.org/english/bodies/crc/comments.htm>

⁷³ <http://www.ohchr.org/english/bodies/crc/discussion.htm>

Further information is available from the secretariat of the Committee at the following address:

M. Paulo David

Secretary to the Committee on the Rights of the Child
Office of the United Nations High Commissioner for Human Rights
Palais Wilson
Palais des Nations
8-14 Avenue de la Paix
1211 Geneva 10
Switzerland
Tel. 0041 22 917 9301
Fax 0041 22 917 9022
E-mail: pdavid@ohchr.org

NGOs contributing to the Committee and following up the General Comments

- NGO Group for the Convention on the Rights of the Child
<http://www.crin.org/NGOGroupforCRC/>
- Child Rights Information Network
<http://www.crin.org/>

12. Extra-Conventional Mechanisms

In addition to the treaty-based mechanisms other UN mechanisms are relevant to the protection of migrant workers' rights, notably those focusing on thematic and country issues collectively referred to as the Special Procedures. These are the Special Rapporteurs⁷⁴ and Working Groups, created by the UN Commission on Human Rights. They are able to issue urgent appeals to governments, send general letters based on allegations received and undertake in-country missions and general studies. They are not dependent on states having ratified particular treaties, which distinguish them from the Treaty Bodies.⁷⁵ Their reports, including missions, are presented to the Commission on Human Rights and debated during its annual session (some also provide interim reports to the General Assembly). Of particular interest to the NGOs working on migrant rights are the Special Rapporteur on the Human Rights of Migrants, the Special Rapporteur on Violence against Women, the Special Rapporteur on Trafficking and the Special Rapporteur on the Sale of Children.

12.1 Special Rapporteur on the Human Rights of Migrants

In its resolution 1999/44 entitled "Human Rights of Migrants," the UN Commission on Human Rights decided to appoint, for a three-year period, a Special Rapporteur to examine ways and means to overcome the obstacles to the full and effective protection of the human rights of migrants, including obstacles and difficulties for the return of migrants who are undocumented or in an irregular situation.⁷⁶

The Bureau of the Human Rights Commission appointed Ms. Gabriela Rodriguez as the first Special Rapporteur on the Human Rights of Migrants. Ms. Rodriguez completed two mandates of three years. When the mandate was renewed in 2005, Jorge A. Bustamante from Mexico was appointed as the second Special Rapporteur on the Human Rights of Migrants.

NGOs and the Special Rapporteur

The Commission (resolution 2001/52 on the Human Rights of Migrants) requested the Special Rapporteur, "in carrying out her mandate and within the framework of the Universal Declaration of Human Rights and all other international human rights instruments, to request, receive and exchange information on violations of the human rights of migrants, wherever they may occur, from Governments, Treaty Bodies, specialized agencies, special rapporteurs for various human rights questions and from intergovernmental organisations, other competent organisations of the United Nations system and non-governmental organisations, including migrants' organisations, and to respond effectively to such information."

In order to facilitate the communication with the Special Rapporteur, NGOs are requested to provide the Office of the High Commissioner for Human Rights with a brief description of the organisation, including the categories of migrants they work with and a brief list of key themes and concerns affecting the migrants.

⁷⁴ List of Special Rapporteurs, see: <http://www.ohchr.org/english/bodies/chr/special/index.htm>

⁷⁵ Working Groups, see: <http://www.ohchr.org/english/bodies/chr/groups.htm> For more information about all procedures, see "The United Nations Thematic Mechanisms 2002: an overview of their work and mandates," published by Amnesty International and the Law Society of England and Wales, AI Index: IOR 40/009/2002.

⁷⁶ Reports and other documents produced by the Special Rapporteur can be found at: <http://www.ohchr.org/english/issues/migration/rapporteur/>

This information should be sent (preferably in English, French or Spanish) to:

Office of the High Commissioner for Human Rights
Attention Ms. Mara Steccazzini, Human Rights Officer
Special Rapporteur on the Human Rights of Migrants
Palais des Nations
1211 Geneva 10
Email: msteccazzini@ohchr.org
Website: <http://www.ohchr.org/english/issues/migration/rapporteur/>

To encourage NGOs to submit information with regard to violations of the human rights of migrants, the Special Rapporteur developed a "Questionnaire for allegations of violations of Migrants' Human Rights." This form facilitates the submission of cases. It is available on the following web page: <http://www.ohchr.org/english/issues/migration/rapporteur/complaints.htm>

12.2 Special Rapporteur on Violence against Women

The Commission on Human Rights decided on 4 March 1994 to appoint a Special Rapporteur on Violence against Women, including its causes and consequences.

According to her mandate the Special Rapporteur is requested to:

- (a) Seek and receive information on violence against women, its causes and consequences from Governments, Treaty Bodies, specialized agencies, other special rapporteurs responsible for various human rights questions and intergovernmental and non-governmental organisations, including women's organisations, and to respond effectively to such information;
- (b) Recommend measures, ways and means, at the national, regional and international levels, to eliminate violence against women and its causes, and to remedy its consequences;
- (c) Work closely with other special rapporteurs, special representatives, working groups and independent experts of the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities and with the Treaty Bodies, taking into account the Commission's request that they regularly and systematically include in their reports available information on human rights violations affecting women, and cooperate closely with the Commission on the Status of Women in the discharge of its functions.

The first Special Rapporteur, Ms. Radhika Coomaraswamy of Sri Lanka, was appointed in 1994. In 2003, the Commission on Human Rights extended the mandate that in August of that same year was filled by Ms. Yakin Ertürk from Turkey.

NGOs and the Special Rapporteur

In order to facilitate the communication with the Special Rapporteur, NGOs are requested to provide the Office of the High Commissioner for Human Rights with a brief description of the organisation, including a brief list of key issues and concerns on the situation of women.

This information should be sent (preferably in English, French or Spanish) to:

Office of the High Commissioner for Human Rights
Attention Ms. Lucinda O'Hanlon, Human Rights Officer
Special Rapporteur on Violence against Women
Palais des Nations, 1211 Geneva 10
Fax: 0041 22 917 9615, Email: lohanlon@ohchr.org
Website: <http://www.ohchr.org/english/issues/women/rapporteur/>

To encourage women and NGOs to submit information with regard to violence against women, the Special Rapporteur developed a "Confidential Violence against Women Information Form". This form facilitates the submission of cases. It is available on the following web page:
<http://www.unhcr.ch/html/menu2/7/b/women/womform.htm>

12.3 Special Rapporteur on Trafficking in Persons, especially in Women and Children

The Commission on Human Rights' decision 2004/110 created the mandate of the Special Rapporteur. The Commission requested the Special Rapporteur to focus on the human rights aspects of trafficked persons. In this connection, two basic principles shall guide her action:

- (a) that the human rights of trafficked persons shall be at the centre of all efforts to combat trafficking and to protect, assist and provide redress to those affected by trafficking; and
- (b) that anti-trafficking measures should not adversely affect the human rights and dignity of the persons concerned. The Special Rapporteur, in performing her functions, shall devote attention to trafficking at all sites and for all purposes.

The Special Rapporteur takes action on violations committed against trafficked persons and in situations in which there has been a failure to protect their human rights, including ensuring adequate redress for the violations suffered and providing adequate medical, psychological, social and other necessary assistance. The Special Rapporteur shall also take action in cases in which laws and/or policies might have a negative impact on the human rights of persons affected by trafficking, in countries of origin, transit and destination, as well as in cases in which efforts to combat or prevent trafficking might have an impact on the human rights of the persons concerned, be they migrants, asylum-seekers, or citizens. The Special Rapporteur shall also take action on cases of trafficking within the boundaries of a country (internal trafficking).

On 1 November 2004 the Commission on Human Rights appointed Ms. Sigma Huda of Bangladesh as Special Rapporteur on Trafficking in Persons, especially Women and Children. The mandate expires in 2007.

NGOs and the Special Rapporteur

In order to facilitate the communication with the Special Rapporteur, NGOs are requested to provide the Office of the High Commissioner for Human Rights with a brief description of the organisation, including a brief list of key themes, concerns and human rights abuses affecting the trafficked persons they work with.

This information should be sent (preferably in English, French or Spanish) to:

Office of the High Commissioner for Human Rights
Attention Ms. Veronica Birga, Human Rights Officer
Special Rapporteur on Trafficking of Persons
Palais des Nations
1211 Geneva 10
Email: vbirga@ohchr.org
Website: <http://www.ohchr.org/english/issues/trafficking/index.htm>

To encourage NGOs to submit information on possible human rights violations with a view to protecting the human rights of actual or potential victims of trafficking, the Special Rapporteur developed a "Questionnaire for allegations of violations." This form facilitates the submission of cases. It will be made available online on the following web page:

<http://www.ohchr.org/english/issues/trafficking/index.htm>

12.4 Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography

This mechanism was established in 1990 and mandated to address issues related to the sale of children, child prostitution and child pornography. This involves seeking and receiving information on allegations of child sexual exploitation and trafficking of children as well as on initiatives and programmes set up by governments, inter-governmental organisations and non-governmental organisations, to combat these phenomena.

The mandate has been regularly renewed, most recently in 2004 with ECOSOC decision 2004/285 which extended the mandate for a further three years. Mr. Juan Miguel Petit (Uruguay) was appointed Special Rapporteur in July 2001 and reconfirmed for 3 more years in 2004.

NGOs and the Special Rapporteur

In order to facilitate the communication with the Special Rapporteur, NGOs are requested to provide the Office of the High Commissioner for Human Rights with a brief description of the organisation, including a brief list of key themes, concerns and human rights abuses affecting the children they work with. NGOs are also encouraged to submit specific cases.

Note that there is no questionnaire available for this mechanism. Information should be sent (preferably in English, French or Spanish) to:

Office of the High Commissioner for Human Rights
Attention Ms. Mara Steccazzini, Assistant to the
Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography
Palais des Nations
1211 Geneva 10
Email: msteccazzini@ohchr.org
Website: www.ohchr.org/english/issues/children/rapporteur/index.htm

13. Bibliography and Sites of Interest

Bibliography

Amnesty International and the Law Society of England and Wales, The United Nations Thematic Mechanisms 2002: an overview of their work and mandates, AI Index: IOR 40/009/2002 (London, 2002)

Alston Philip, ed., The Future of UN Human Rights Treaty Monitoring (Cambridge: Cambridge University Press, 2000)

Canadian Human Rights Foundation, A UN Road Map (2nd Edition) (Montreal, December 2004)

Cohen David, ed., Advocacy for Social Justice: A Global Action and Reflection Guide (Bloomfield: Kumarian Press, 2001)

Cholewinski Ryszard, Migrant Workers in International Human Rights Law: Their Protection in Countries of Employment (Oxford: Clarendon Press, 1997)

Franciscans International, Handbook on Migrant Workers – Understanding UN Instruments for the Protection of Migrant Workers and their Families (Geneva, 2004)

International Catholic Migration Commission and December 18, The UN Treaty Monitoring Bodies and Migrant Workers: a Samizdat (Geneva, 2004)

International Catholic Migration Commission, How to strengthen protection of migrant workers and members of their families with international human rights treaties – a do-it-yourself kit (Geneva, January 2004)

International Labour Organisation, Toward a Fair Deal for Migrant Workers in the Global Economy (Geneva, 2004)

Megret Frederic and Philip Alston, The United Nations and Human Rights: a Critical Appraisal (Oxford: Oxford University Press, 2004)

Migrants Rights International, in collaboration with the Global Campaign for the Ratification of the Convention on the Rights of Migrants, Achieving Dignity - Campaigner's Handbook for the Migrants Rights Convention (Geneva, 2002)

NGO Group for the Convention on the Rights of the Child, A Guide for Non-Governmental Organisations Reporting to the Committee on the Rights of the Child (Revised) (Geneva, 1998)

O'Flaherty Michael, Human rights and the UN: Practice before the Treaty Bodies, 2nd Edition (Leiden: Kluwer Law International, 2002)

Sites of Interest - Useful Contacts

Amnesty International

<http://www.amnesty.org>

Amnesty International Treaty Bodies website

<http://web.amnesty.org/pages/treaty-index-eng>

Anti-Racism Information Service

<http://www.antiracism-info.org/Kiwi/pageHome.php>

Anti-Slavery International

<http://www.antislavery.org>

Canadian Human Rights Foundation

<http://www.chrf.ca>

December 18

<http://www.december18.net>

Fédération Internationale des Ligues des Droits de l'Homme

<http://www.fidh.org>

Franciscans International

<http://www.franciscansinternational.org>

Glossary of UN Terms

Published by Child Rights Information Network

<http://www.crin.org/hrbap/index.asp?action=theme.guideitem&item=4709&subtheme=2>

Glossary of Terms - Published by the UN

<http://untreaty.un.org/English/TreatyHandbook/glossary.htm> (English)

<http://untreaty.un.org/French/TreatyHandbook/glossary.htm> (French)

Human Rights Watch

<http://www.hrw.org>

International Catholic Migration Commission

<http://www.icmc.net/docs/en>

International Confederation of Free Trade Unions

<http://www.icftu.org>

International Labour Migration (ILO)

<http://www.ilo.org/public/english/protection/migrant/index.htm>

International Movement Against All Forms of Discrimination and Racism

<http://www.imadr.org>

International Women's Rights Action Watch

<http://iwwraw.igc.org/>

13. Bibliography and Sites of Interest

International Service for Human Rights - Site on Charter-based Special Procedures

http://www.ishr.ch/About%20UN/Charter-based%20bodies/Special%20Procedures/special_procedures.htm

Jesuit Refugee Services

<http://www.jrs.net>

Migrants Rights International

<http://www.migrantwatch.org>

Organisation mondiale contre la torture (OMCT)

<http://www.omct.org>

Public Services International

<http://www.world-psi.org>

UN Division on the Advancement of Women

<http://www.un.org/womenwatch/daw/>

UN Human Rights Treaties

Site maintained by Prof. Anne Bayefsky (English only)

<http://www.bayefsky.com/>

UN Office of the High Commissioner for Human Rights

<http://www.ohchr.org>

UN Special Rapporteur on the Human Rights of Migrants

<http://www.ohchr.org/english/issues/migration/rapporteur/>

UN Special Rapporteur on Violence against Women

<http://www.ohchr.org/english/issues/women/rapporteur/>

UN Special Rapporteur on Trafficking in Persons, especially in Women and Children

<http://www.ohchr.org/english/issues/trafficking/index.htm>

UN Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography

<http://www.ohchr.org/english/issues/children/rapporteur/index.htm>

UN – Treaty Collection site (English and French)

<http://untreaty.un.org>

UN – Treaty Reference Guide

<http://untreaty.un.org/English/guide.asp>

UNESCO – International Migration Programme

<http://www.unesco.org/migration>

UNICEF (English, Spanish and French)

<http://www.unicef.org>

World Council of Churches

<http://www.wcc-coe.org>

ANNEX 1 – Provisional Guidelines

Provisional Guidelines regarding the form and contents of initial reports to be submitted by States Parties under article 73 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families

As agreed by the Committee (11-15 October 2004)

INTRODUCTION

1. Article 73 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families provides that States Parties undertake to submit to the Secretary General of the United Nations for consideration by the Committee a report on the measures they have taken to give effect to the provisions of the Convention. The Committee has agreed to the following guidelines in order to give indications to States Parties on the form and contents of their initial reports.

2. Those States Parties whose initial reports are already in preparation at the time of transmittal of these guidelines can complete and submit their report to the Committee even if the report has not been prepared in conformity with the present guidelines.

A. PART I. INFORMATION OF A GENERAL NATURE

3. This part should:

- Describe the constitutional, legislative, judicial and administrative framework governing the implementation of the Convention and any bilateral, regional or multilateral agreements in the field of migration entered into by the reporting State Party.
- Provide quantitative and qualitative information, as disaggregated as possible, on the characteristics and nature of the migration flows (immigration, transit and emigration) in which the State Party concerned is involved.
- Describe the actual situation as regards the practical implementation of the Convention in the reporting State and indicate the circumstances affecting the fulfilment of the obligations of the reporting State under the Convention.
- Include information on the measures taken by the State Party for the dissemination and promotion of the Convention and on the cooperation with civil society in order to promote and respect the rights contained in the Convention.

B. PART II. INFORMATION IN RELATION TO EACH OF THE ARTICLES OF THE CONVENTION

4. This part should provide specific information relating to the implementation by the reporting State of the Convention, in accordance with the sequences of the articles and their respective provisions. In order to facilitate the reporting procedure for the States Parties, the information may be provided per clusters of articles as follows:

a) GENERAL PRINCIPLES:

- Articles 1(1), 7: non-discrimination;
- Article 83: right to an effective remedy;
- Article 84: duty to implement the Convention.

b) PART III OF THE CONVENTION: Human rights of all migrant workers and members of their families:

Article 8: Right to leave any country including own and to return.

Articles 9, 10: Right to life; prohibition of torture; prohibition of inhuman or degrading treatment.

Article 11: Prohibition of slavery and forced labour.

Articles 12, 13 & 26: Freedom of opinion and expression; freedom of thought, conscience and religion; right to join a trade union.

Articles 14, 15: Prohibition of arbitrary or unlawful interference with privacy, home, correspondence and other communications; prohibition of arbitrary deprivation of property.

Article 16 (§1-4), 17 & 24: Right to liberty and security of persons; safeguards against arbitrary arrest and detention; recognition as a person before the law.

Articles 16 (§5-9), 18, 19: Right to procedural guarantees.

Article 20: Prohibition of imprisonment, deprivation of authorization of residence and/or work permit and expulsion merely on the ground of failure to fulfil a contractual obligation.

Articles 21, 22, 23: Protection from confiscation and/or destruction of ID and other documents; protection against collective expulsion; right to recourse to consular or diplomatic protection.

Articles 25, 27, 28: Principle of equality of treatment in respect of: remuneration and other conditions of work and terms of employment; social security; and right to receive urgent medical care.

Articles 29, 30, 31: Right of a child of a migrant worker to a name, registration of birth and nationality; access to education on the basis of equality of treatment; respect for the cultural identity of migrant workers and members of their families.

Articles 32, 33: Right to transfer in the state of origin their earnings, savings and personal belongings; right to be informed on the rights arising from the Convention and dissemination of information.

c) PART IV OF THE CONVENTION: other rights of migrant workers and their families who are documented or in a regular situation:

Article 37: Right to be informed before departure of the conditions of admission to the State of employment and of their remunerated activity.

Articles 38, 39: Right to be temporarily absent without effect upon authorization to stay or work; right to liberty of movement and to choose the residence in the territory of the State of employment.

Articles 40, 41, 42: Right to form associations and trade unions; right to participate in public affairs of their State of origin and to vote and be elected at election of that State; procedure and institutions taking care of the needs of migrant workers and possible enjoyment of political rights in the State of employment.

Articles 43, 54, 55: Principle of equality of treatment with nationals of the State of employment in relation to the issues indicated; equality of treatment as to protection against dismissal, unemployment benefits and access to public work schemes and alternative employment; equality of treatment in the exercise of a remunerated activity.

Article 44 & 50: Protection of the unity of the families of migrant workers and reunification of migrant workers; consequences of death or dissolution of marriage.

Article 45 & 53: Enjoyment of equality of treatment for members of the families of migrant workers in the indicated aspects and measures taken to guarantee integration of children of migrant workers in the local school system; right to freely choose a remunerated activity for members of a migrant worker's family.

Articles 46, 47, 48: Exemption from import and export duties and taxes in respect of particular belongings; right to transfer earnings and savings from the State of employment to the State of origin or any other State; imposition of taxes and avoidance of double taxation principle.

Articles 51, 52: Right to seek alternative employment in case of termination of the remunerated activity for migrant workers not authorized to freely choose their remunerated activity; conditions and restrictions for migrant workers who can freely choose their remunerated activity.

Articles 49 & 56: Authorization of residence and authorization to engage in a remunerated activity; general prohibition and conditions of expulsion.

d) PART V OF THE CONVENTION: Provisions applicable to particular categories of migrant workers and members of their families

The State Party should indicate the provisions or measures adopted for the particular categories of migrants indicated in articles 57 to 63 of the Convention, if any.

e) PART VI OF THE CONVENTION: Promotion of sound, equitable, humane and lawful conditions in connection with international migration of workers and members of their families

The State Party should indicate the measures taken to ensure promotion of sound, equitable, humane and lawful conditions in connection with international migration of workers and members of their families. In particular:

Article 65: Establishment of appropriate services to deal with questions concerning international migration of workers and members of their families.

Article 66: Authorized operations and bodies for the recruitment of workers for employment in another State.

Article 67: Measures regarding the orderly return of migrant workers and members of their families to the State of origin, their resettlement and cultural reintegration.

Article 68: Measures aimed at the prevention and elimination of illegal or clandestine movements and employment of migrant workers in an irregular situation.

Article 69: Measures taken to ensure that migrant workers in an irregular situation do not persist in this condition within the territory of a State Party and circumstances to take into account in case of regularization procedures.

Article 70: Measures taken to ensure that living conditions of migrant workers and members of their families in a regular situation are in keeping with the standards of fitness, safety, health and principles of human dignity.

Article 71: Repatriation of the bodies of deceased migrant workers or members of their families and compensation matters relating to the death.

PRESENTATION OF THE REPORT

5. The report should be accompanied by sufficient copies (if possible in English, French or Spanish) of the principal legislative and other texts referred to in the report. These will be made available to members of the Committee. It should be noted, however, that they will not be reproduced for general distribution with the report. It is desirable therefore that, when a text is not actually quoted in or annexed to the report itself, the report should contain sufficient information to be understood without reference to it.

6. States Parties may wish to present their initial report under article 73 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families in conjunction with the Common Core Document referred to in document HRI/MC/2004/3 which contains draft guidelines for its preparation. This option has been encouraged by the third inter-committee meeting held in Geneva on 21-22 June 2004 (see document A/59/254, Report of the Sixteenth Meeting of the Chairpersons of the Human Rights Treaty Bodies).

7. Initial reports under article 73 of the Convention should be submitted in electronic form (on diskette, CD-rom or by electronic mail), accompanied by a printed paper copy. The report should not exceed 120 pages (A4-size paper, with 1.5 line spacing; and text of 12 points in the font Times New Roman).

ANNEX 2 – Text of Migrant Workers' Convention

INTERNATIONAL CONVENTION ON THE PROTECTION OF THE RIGHTS OF ALL MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES

Adopted by the General Assembly at its 45th session on 18 December 1990 (A/RES/45/158).

Preamble

The States Parties to the present Convention,

Taking into account the principles embodied in the basic instruments of the United Nations concerning human rights, in particular the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child.

Taking into account also the principles and standards set forth in the relevant instruments elaborated within the framework of the International Labour Organization, especially the Convention concerning Migration for Employment (No. 97), the Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers (No. 143), the Recommendation concerning Migration for Employment (No. 86), the Recommendation concerning Migrant Workers (No.151), the Convention concerning Forced or Compulsory Labour (No. 29) and the Convention concerning Abolition of Forced Labour (No. 105).

Reaffirming the importance of the principles contained in the Convention against Discrimination in Education of the United Nations Educational, Scientific and Cultural Organization,

Recalling the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Declaration of the Fourth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, the Code of Conduct for Law Enforcement Officials, and the Slavery Conventions,

Recalling that one of the objectives of the International Labour Organization, as stated in its Constitution, is the protection of the interests of workers when employed in countries other than their own, and bearing in mind the expertise and experience of that organization in matters related to migrant workers and members of their families.

Recognizing the importance of the work done in connection with migrant workers and members of their families in various organs of the United Nations, in particular in the Commission on Human Rights and the Commission for Social Development, and in the Food and Agriculture Organization of the United Nations, the United Nations Educational, Scientific and Cultural Organization and the World Health Organization, as well as in other international organisations.

Recognizing also the progress made by certain States on a regional or bilateral basis towards the protection of the rights of migrant workers and members of their families, as well as the importance and usefulness of bilateral and multilateral agreements in this field.

Realizing the importance and extent of the migration phenomenon, which involves millions of people and affects a large number of States in the international community.

Aware of the impact of the flows of migrant workers on States and people concerned, and desiring to establish norms which may contribute to the harmonization of the attitudes of States through the acceptance of basic principles concerning the treatment of migrant workers and members of their families.

Considering the situation of vulnerability in which migrant workers and members of their families frequently find themselves owing, among other things, to their absence from their State of origin and to the difficulties they may encounter arising from their presence in the State of employment.

Convinced that the rights of migrant workers and members of their families have not been sufficiently recognized everywhere and therefore require appropriate international protection.

Taking into account the fact that migration is often the cause of serious problems for the members of the families of migrant workers as well as for the workers themselves, in particular because of the scattering of the family,

Bearing in mind that the human problems involved in migration are even more serious in the case of irregular migration and convinced therefore that appropriate action should be encouraged in order to prevent and eliminate clandestine movements and trafficking in migrant workers, while at the same time assuring the protection of their fundamental human rights.

Considering that workers who are non-documented or in an irregular situation are frequently employed under less favourable conditions of work than other workers and that certain employers find this an inducement to seek such labour in order to reap the benefits of unfair competition.

Considering also that recourse to the employment of migrant workers who are in an irregular situation will be discouraged if the fundamental human rights of all migrant workers are more widely recognized and, moreover, that granting certain additional rights to migrant workers and members of their families in a regular situation will encourage all migrants and employers to respect and comply with the laws and procedures established by the States concerned.

Convinced, therefore, of the need to bring about the international protection of the rights of all migrant workers and members of their families, reaffirming and establishing basic norms in a comprehensive convention which could be applied universally.

Have agreed as follows:

PART I

Scope and definitions

Article 1

1. The present Convention is applicable, except as otherwise provided hereafter, to all migrant workers and members of their families without distinction of any kind such as 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.

2. The present Convention shall apply during the entire migration process of migrant workers and members of their families, which comprises preparation for migration, departure, transit and the entire period of stay and remunerated activity in the State of employment as well as return to the State of origin or the State of habitual residence.

Article 2

For the purposes of the present Convention:

1. The term "migrant worker" refers to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national.

2. a. The term "frontier worker" refers to a migrant worker who retains his or her habitual residence in a neighbouring State to which he or she normally returns every day or at least once a week;
- b. The term "seasonal worker" refers to a migrant worker whose work by its character is dependent on seasonal conditions and is performed only during part of the year;
- c. The term "seafarer", which includes a fisherman, refers to a migrant worker employed on board a vessel registered in a State of which he or she is not a national;
- d. The term "worker on an offshore installation" refers to a migrant worker employed on an offshore installation that is under the jurisdiction of a State of which he or she is not a national;
- e. The term "itinerant worker" refers to a migrant worker who, having his or her habitual residence in one State, has to travel to another State or States for short periods, owing to the nature of his or her occupation;
- f. The term "project-tied worker" refers to a migrant worker admitted to a State of employment for a defined period to work solely on a specific project being carried out in that State by his or her employer;
- g. The term "specified-employment worker" refers to a migrant worker:
 - (i) Who has been sent by his or her employer for a restricted and defined period of time to a State of employment to undertake a specific assignment or duty; or
 - (ii) Who engages for a restricted and defined period of time in work that requires professional, commercial, technical or other highly specialized skill; or
 - (iii) Who, upon the request of his or her employer in the State of employment, engages for a restricted and defined period of time in work whose nature is transitory or brief;and who is required to depart from the State of employment either at the expiration of his or her authorized period of stay, or earlier if he or she no longer undertakes that specific assignment or duty or engages in that work;
- h. The term "self-employed worker" refers to a migrant worker who is engaged in a remunerated activity otherwise than under a contract of employment and who earns his or her living through this activity normally working alone or together with members of his or her family, and to any other migrant worker recognized as self-employed by applicable legislation of the State of employment or bilateral or multilateral agreements.

Article 3

The present Convention shall not apply to:

- a. Persons sent or employed by international organisations and agencies or persons sent or employed by a State outside its territory to perform official functions, whose admission and status are regulated by general international law or by specific international agreements or conventions;
- b. Persons sent or employed by a State or on its behalf outside its territory who participate in development programmes and other co-operation programmes, whose admission and status are regulated by agreement with the State of employment and who, in accordance with that agreement, are not considered migrant workers;
- c. Persons taking up residence in a State different from their State of origin as investors;

d. Refugees and stateless persons, unless such application is provided for in the relevant national legislation of, or international instruments in force for, the State Party concerned;

e. Students and trainees;

f. Seafarers and workers on an offshore installation who have not been admitted to take up residence and engage in a remunerated activity in the State of employment.

Article 4

For the purposes of the present Convention the term "members of the family" refers to persons married to migrant workers or having with them a relationship that, according to applicable law, produces effects equivalent to marriage, as well as their dependent children and other dependent persons who are recognized as members of the family by applicable legislation or applicable bilateral or multilateral agreements between the States concerned.

Article 5

For the purposes of the present Convention, migrant workers and members of their families:

a. Are considered as documented or in a regular situation if they are authorized to enter, to stay and to engage in a remunerated activity in the State of employment pursuant to the law of that State and to international agreements to which that State is a party;

b. Are considered as non-documented or in an irregular situation if they do not comply with the conditions provided for in subparagraph (a) of the present article.

Article 6

For the purposes of the present Convention:

a. The term "State of origin" means the State of which the person concerned is a national;

b. The term "State of employment" means a State where the migrant worker is to be engaged, is engaged or has been engaged in a remunerated activity, as the case may be;

c. The term "State of transit" means any State through which the person concerned passes on any journey to the State of employment or from the State of employment to the State of origin or the State of habitual residence.

PART II

Non-discrimination with respect to rights

Article 7

States Parties undertake, in accordance with the international instruments concerning human rights, to respect and to ensure to all migrant workers and members of their families within their territory or subject to their jurisdiction the rights provided for in the present Convention without distinction of any kind such as 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.

PART III

Human rights of all migrant workers and members of their families

Article 8

1. Migrant workers and members of their families shall be free to leave any State, including their State of origin. This right shall not be subject to any restrictions except those that are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present part of the Convention.
2. Migrant workers and members of their families shall have the right at any time to enter and remain in their State of origin.

Article 9

The right to life of migrant workers and members of their families shall be protected by law.

Article 10

No migrant worker or member of his or her family shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 11

1. No migrant worker or member of his or her family shall be held in slavery or servitude.
2. No migrant worker or member of his or her family shall be required to perform forced or compulsory labour.
3. Paragraph 2 of the present article shall not be held to preclude, in States where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court.
4. For the purpose of the present article the term "forced or compulsory labour" shall not include:
 - a. Any work or service not referred to in paragraph 3 of the present article normally required of a person who is under detention in consequence of a lawful order of a court or of a person during conditional release from such detention;
 - b. Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;
 - c. Any work or service that forms part of normal civil obligations so far as it is imposed also on citizens of the State concerned.

Article 12

1. Migrant workers and members of their families shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of their choice and freedom either individually or in community with others and in public or private to manifest their religion or belief in worship, observance, practice and teaching.
2. Migrant workers and members of their families shall not be subject to coercion that would impair their freedom to have or to adopt a religion or belief of their choice.
3. Freedom to manifest one's religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others.

4. States Parties to the present Convention undertake to have respect for the liberty of parents, at least one of whom is a migrant worker, and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Article 13

1. Migrant workers and members of their families shall have the right to hold opinions without interference.
2. Migrant workers and members of their families shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of their choice.
3. The exercise of the right provided for in paragraph 2 of the present article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - a. For respect of the rights or reputation of others;
 - b. For the protection of the national security of the States concerned or of public order (ordre public) or of public health or morals;
 - c. For the purpose of preventing any propaganda for war;
 - d. For the purpose of preventing any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.

Article 14

No migrant worker or member of his or her family shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home, correspondence or other communications, or to unlawful attacks on his or her honour and reputation. Each migrant worker and member of his or her family shall have the right to the protection of the law against such interference or attacks.

Article 15

No migrant worker or member of his or her family shall be arbitrarily deprived of property, whether owned individually or in association with others. Where, under the legislation in force in the State of employment, the assets of a migrant worker or a member of his or her family are expropriated in whole or in part, the person concerned shall have the right to fair and adequate compensation.

Article 16

1. Migrant workers and members of their families shall have the right to liberty and security of person.
2. Migrant workers and members of their families shall be entitled to effective protection by the State against violence, physical injury, threats and intimidation, whether by public officials or by private individuals, groups or institutions.
3. Any verification by law enforcement officials of the identity of migrant workers or members of their families shall be carried out in accordance with procedures established by law.
4. Migrant workers and members of their families shall not be subjected individually or collectively to arbitrary arrest or detention; they shall not be deprived of their liberty except on such grounds and in accordance with such procedures as are established by law.

5. Migrant workers and members of their families who are arrested shall be informed at the time of arrest as far as possible in a language they understand of the reasons for their arrest and they shall be promptly informed in a language they understand of any charges against them.

6. Migrant workers and members of their families who are arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that while awaiting trial they shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings and, should the occasion arise, for the execution of the judgement.

7. When a migrant worker or a member of his or her family is arrested or committed to prison or custody pending trial or is detained in any other manner:

- a. The consular or diplomatic authorities of his or her State of origin or of a State representing the interests of that State shall, if he or she so requests, be informed without delay of his or her arrest or detention and of the reasons therefore;
- b. The person concerned shall have the right to communicate with the said authorities. Any communication by the person concerned to the said authorities shall be forwarded without delay, and he or she shall also have the right to receive communications sent by the said authorities without delay;
- c. The person concerned shall be informed without delay of this right and of rights deriving from relevant treaties, if any, applicable between the States concerned, to correspond and to meet with representatives of the said authorities and to make arrangements with them for his or her legal representation.

8. Migrant workers and members of their families who are deprived of their liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of their detention and order their release if the detention is not lawful. When they attend such proceedings, they shall have the assistance, if necessary without cost to them, of an interpreter, if they cannot understand or speak the language used.

9. Migrant workers and members of their families who have been victims of unlawful arrest or detention shall have an enforceable right to compensation.

Article 17

1. Migrant workers and members of their families who are deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person and for their cultural identity.

2. Accused migrant workers and members of their families shall, save in exceptional circumstances, be separated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons. Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.

3. Any migrant worker or member of his or her family who is detained in a State of transit or in a State of employment for violation of provisions relating to migration, shall be held, in so far as practicable, separately from convicted persons or persons detained pending trial.

4. During any period of imprisonment in pursuance of a sentence imposed by a court of law, the essential aim of the treatment of a migrant worker or a member of his or her family shall be his or her reformation and social rehabilitation. Juvenile offenders shall be separated from adults and be accorded treatment appropriate to their age and legal status.

5. During detention or imprisonment, migrant workers and members of their families shall enjoy the same rights as nationals to visits by members of their families.

6. Whenever a migrant worker is deprived of his or her liberty, the competent authorities of the State concerned shall pay attention to the problems that may be posed for members of his or her family, in particular for spouses and minor children.

7. Migrant workers and members of their families who are subjected to any form of detention or imprisonment in accordance with the law in force in the State of employment or in the State of transit shall enjoy the same rights as nationals of those States who are in the same situation.

8. If a migrant worker or a member of his or her family is detained for the purpose of verifying any infraction of provisions related to migration, he or she shall not bear any costs arising therefrom.

Article 18

1. Migrant workers and members of their families shall have the right to equality with nationals of the State concerned before the courts and tribunals. In the determination of any criminal charge against them or of their rights and obligations in a suit of law, they shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.

2. Migrant workers and members of their families who are charged with a criminal offence shall have the right to be presumed innocent until proven guilty according to law.

3. In the determination of any criminal charge against them, migrant workers and members of their families shall be entitled to the following minimum guarantees:

- a. To be informed promptly and in detail in a language they understand of the nature and cause of the charge against them;
- b. To have adequate time and facilities for the preparation of their defence and to communicate with counsel of their own choosing;
- c. To be tried without undue delay;
- d. To be tried in their presence and to defend themselves in person or through legal assistance of their own choosing; to be informed, if they do not have legal assistance, of this right; and to have legal assistance assigned to them, in any case where the interests of justice so require and without payment by them in any such case if they do not have sufficient means to pay;
- e. To examine or have examined the witnesses against them and to obtain the attendance and examination of witnesses on their behalf under the same conditions as witnesses against them;
- f. To have the free assistance of an interpreter if they cannot understand or speak the language used in court;
- g. Not to be compelled to testify against themselves or to confess guilt.

4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.

5. Migrant workers and members of their families convicted of a crime shall have the right to their conviction and sentence being reviewed by a higher tribunal according to law.

6. When a migrant worker or a member of his or her family has, by a final decision, been convicted of a

criminal offence and when subsequently his or her conviction has been reversed or he or she has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to that person.

7. No migrant worker or member of his or her family shall be liable to be tried or punished again for an offence for which he or she has already been finally convicted or acquitted in accordance with the law and penal procedure of the State concerned.

Article 19

1. No migrant worker or member of his or her family shall be held guilty of any criminal offence on account of any act or omission that did not constitute a criminal offence under national or international law at the time when the criminal offence was committed, nor shall a heavier penalty be imposed than the one that was applicable at the time when it was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of a lighter penalty, he or she shall benefit thereby.

2. Humanitarian considerations related to the status of a migrant worker, in particular with respect to his or her right of residence or work, should be taken into account in imposing a sentence for a criminal offence committed by a migrant worker or a member of his or her family.

Article 20

1. No migrant worker or member of his or her family shall be imprisoned merely on the ground of failure to fulfil a contractual obligation.

2. No migrant worker or member of his or her family shall be deprived of his or her authorization of residence or work permit or expelled merely on the ground of failure to fulfil an obligation arising out of a work contract unless fulfilment of that obligation constitutes a condition for such authorization or permit.

Article 21

It shall be unlawful for anyone, other than a public official duly authorized by law, to confiscate, destroy or attempt to destroy identity documents, documents authorizing entry to or stay, residence or establishment in the national territory or work permits. No authorized confiscation of such documents shall take place without delivery of a detailed receipt. In no case shall it be permitted to destroy the passport or equivalent document of a migrant worker or a member of his or her family.

Article 22

1. Migrant workers and members of their families shall not be subject to measures of collective expulsion. Each case of expulsion shall be examined and decided individually.

2. Migrant workers and members of their families may be expelled from the territory of a State Party only in pursuance of a decision taken by the competent authority in accordance with law.

3. The decision shall be communicated to them in a language they understand. Upon their request where not otherwise mandatory, the decision shall be communicated to them in writing and, save in exceptional circumstances on account of national security, the reasons for the decision likewise stated. The persons concerned shall be informed of these rights before or at the latest at the time the decision is rendered.

4. Except where a final decision is pronounced by a judicial authority, the person concerned shall have the right to submit the reason he or she should not be expelled and to have his or her case reviewed by the

competent authority, unless compelling reasons of national security require otherwise. Pending such review, the person concerned shall have the right to seek a stay of the decision of expulsion.

5. If a decision of expulsion that has already been executed is subsequently annulled, the person concerned shall have the right to seek compensation according to law and the earlier decision shall not be used to prevent him or her from re-entering the State concerned.

6. In case of expulsion, the person concerned shall have a reasonable opportunity before or after departure to settle any claims for wages and other entitlements due to him or her and any pending liabilities.

7. Without prejudice to the execution of a decision of expulsion, a migrant worker or a member of his or her family who is subject to such a decision may seek entry into a State other than his or her State of origin.

8. In case of expulsion of a migrant worker or a member of his or her family the costs of expulsion shall not be borne by him or her. The person concerned may be required to pay his or her own travel costs.

9. Expulsion from the State of employment shall not in itself prejudice any rights of a migrant worker or a member of his or her family acquired in accordance with the law of that State, including the right to receive wages and other entitlements due to him or her.

Article 23

Migrant workers and members of their families shall have the right to have recourse to the protection and assistance of the consular or diplomatic authorities of their State of origin or of a State representing the interests of that State whenever the rights recognized in the present Convention are impaired. In particular, in case of expulsion, the person concerned shall be informed of this right without delay and the authorities of the expelling State shall facilitate the exercise of such right.

Article 24

Every migrant worker and every member of his or her family shall have the right to recognition everywhere as a person before the law.

Article 25

1. Migrant workers shall enjoy treatment not less favourable than that which applies to nationals of the State of employment in respect of remuneration and:

- a. Other conditions of work, that is to say, overtime, hours of work, weekly rest, holidays with pay, safety, health, termination of the employment relationship and any other conditions of work which, according to national law and practice, are covered by this term;
- b. Other terms of employment, that is to say, minimum age of employment, restriction on home work and any other matters which, according to national law and practice, are considered a term of employment.

2. It shall not be lawful to derogate in private contracts of employment from the principle of equality of treatment referred to in paragraph 1 of the present article.

3. States Parties shall take all appropriate measures to ensure that migrant workers are not deprived of any rights derived from this principle by reason of any irregularity in their stay or employment. In particular, employers shall not be relieved of any legal or contractual obligations, nor shall their obligations be limited in any manner by reason of any such irregularity.

Article 26

1. States Parties recognize the right of migrant workers and members of their families:
 - a. To take part in meetings and activities of trade unions and of any other associations established in accordance with law, with a view to protecting their economic, social, cultural and other interests, subject only to the rules of the organization concerned;
 - b. To join freely any trade union and any such association as aforesaid, subject only to the rules of the organization concerned;
 - c. To seek the aid and assistance of any trade union and of any such association as aforesaid.
2. No restrictions may be placed on the exercise of these rights other than those that are prescribed by law and which are necessary in a democratic society in the interests of national security, public order (ordre public) or the protection of the rights and freedoms of others.

Article 27

1. With respect to social security, migrant workers and members of their families shall enjoy in the State of employment the same treatment granted to nationals in so far as they fulfil the requirements provided for by the applicable legislation of that State and the applicable bilateral and multilateral treaties. The competent authorities of the State of origin and the State of employment can at any time establish the necessary arrangements to determine the modalities of application of this norm.
2. Where the applicable legislation does not allow migrant workers and members of their families a benefit, the States concerned shall examine the possibility of reimbursing interested persons the amount of contributions made by them with respect to that benefit on the basis of the treatment granted to nationals who are in similar circumstances.

Article 28

Migrant workers and members of their families shall have the right to receive any medical care that is urgently required for the preservation of their life or the avoidance of irreparable harm to their health on the basis of equality of treatment with nationals of the State concerned. Such emergency medical care shall not be refused them by reason of any irregularity with regard to stay or employment.

Article 29

Each child of a migrant worker shall have the right to a name, to registration of birth and to a nationality.

Article 30

Each child of a migrant worker shall have the basic right of access to education on the basis of equality of treatment with nationals of the State concerned. Access to public pre-school educational institutions or schools shall not be refused or limited by reason of the irregular situation with respect to stay or employment of either parent or by reason of the irregularity of the child's stay in the State of employment.

Article 31

1. States Parties shall ensure respect for the cultural identity of migrant workers and members of their families and shall not prevent them from maintaining their cultural links with their State of origin.

2. States Parties may take appropriate measures to assist and encourage efforts in this respect.

Article 32

Upon the termination of their stay in the State of employment, migrant workers and members of their families shall have the right to transfer their earnings and savings and, in accordance with the applicable legislation of the States concerned, their personal effects and belongings.

Article 33

1. Migrant workers and members of their families shall have the right to be informed by the State of origin, the State of employment or the State of transit as the case may be concerning:

- a. Their rights arising out of the present Convention;
- b. The conditions of their admission, their rights and obligations under the law and practice of the State concerned and such other matters as will enable them to comply with administrative or other formalities in that State.

2. States Parties shall take all measures they deem appropriate to disseminate the said information or to ensure that it is provided by employers, trade unions or other appropriate bodies or institutions. As appropriate, they shall co-operate with other States concerned.

3. Such adequate information shall be provided upon request to migrant workers and members of their families, free of charge, and, as far as possible, in a language they are able to understand.

Article 34

Nothing in the present part of the Convention shall have the effect of relieving migrant workers and the members of their families from either the obligation to comply with the laws and regulations of any State of transit and the State of employment or the obligation to respect the cultural identity of the inhabitants of such States.

Article 35

Nothing in the present part of the Convention shall be interpreted as implying the regularization of the situation of migrant workers or members of their families who are non-documented or in an irregular situation or any right to such regularization of their situation, nor shall it prejudice the measures intended to ensure sound and equitable conditions for international migration as provided in part VI of the present Convention.

PART IV

Other rights of migrant workers and members of their families who are documented or in a regular situation

Article 36

Migrant workers and members of their families who are documented or in a regular situation in the State of employment shall enjoy the rights set forth in the present part of the Convention in addition to those set forth in part III.

Article 37

Before their departure, or at the latest at the time of their admission to the State of employment, migrant workers and members of their families shall have the right to be fully informed by the State of origin or the State of employment, as appropriate, of all conditions applicable to their admission and particularly those concerning their stay and the remunerated activities in which they may engage as well as of the requirements

they must satisfy in the State of employment and the authority to which they must address themselves for any modification of those conditions.

Article 38

1. States of employment shall make every effort to authorize migrant workers and members of their families to be temporarily absent without effect upon their authorization to stay or to work, as the case may be. In doing so, States of employment shall take into account the special needs and obligations of migrant workers and members of their families, in particular in their States of origin.

2. Migrant workers and members of their families shall have the right to be fully informed of the terms on which such temporary absences are authorized.

Article 39

1. Migrant workers and members of their families shall have the right to liberty of movement in the territory of the State of employment and freedom to choose their residence there.

2. The rights mentioned in paragraph 1 of the present article shall not be subject to any restrictions except those that are provided by law, are necessary to protect national security, public order (ordre public), public health or morals, or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

Article 40

1. Migrant workers and members of their families shall have the right to form associations and trade unions in the State of employment for the promotion and protection of their economic, social, cultural and other interests.

2. No restrictions may be placed on the exercise of this right other than those that are prescribed by law and are necessary in a democratic society in the interests of national security, public order (ordre public) or the protection of the rights and freedoms of others.

Article 41

1. Migrant workers and members of their families shall have the right to participate in public affairs of their State of origin and to vote and to be elected at elections of that State, in accordance with its legislation.

2. The States concerned shall, as appropriate and in accordance with their legislation, facilitate the exercise of these rights.

Article 42

1. States Parties shall consider the establishment of procedures or institutions through which account may be taken, both in States of origin and in States of employment, of special needs, aspirations and obligations of migrant workers and members of their families and shall envisage, as appropriate, the possibility for migrant workers and members of their families to have their freely chosen representatives in those institutions.

2. States of employment shall facilitate, in accordance with their national legislation, the consultation or participation of migrant workers and members of their families in decisions concerning the life and administration of local communities.

3. Migrant workers may enjoy political rights in the State of employment if that State, in the exercise of its sovereignty, grants them such rights.

Article 43

1. Migrant workers shall enjoy equality of treatment with nationals of the State of employment in relation to:

- a. Access to educational institutions and services subject to the admission requirements and other regulations of the institutions and services concerned;
- b. Access to vocational guidance and placement services;
- c. Access to vocational training and retraining facilities and institutions;
- d. Access to housing, including social housing schemes, and protection against exploitation in respect of rents;
- e. Access to social and health services, provided that the requirements for participation in the respective schemes are met;
- f. Access to co-operatives and self-managed enterprises, which shall not imply a change of their migration status and shall be subject to the rules and regulations of the bodies concerned;
- g. Access to and participation in cultural life.

2. States Parties shall promote conditions to ensure effective equality of treatment to enable migrant workers to enjoy the rights mentioned in paragraph 1 of the present article whenever the terms of their stay, as authorized by the State of employment, meet the appropriate requirements.

3. States of employment shall not prevent an employer of migrant workers from establishing housing or social or cultural facilities for them. Subject to article 70 of the present Convention, a State of employment may make the establishment of such facilities subject to the requirements generally applied in that State concerning their installation.

Article 44

1. States Parties, recognizing that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State, shall take appropriate measures to ensure the protection of the unity of the families of migrant workers.

2. States Parties shall take measures that they deem appropriate and that fall within their competence to facilitate the reunification of migrant workers with their spouses or persons who have with the migrant worker a relationship that, according to applicable law, produces effects equivalent to marriage, as well as with their minor dependent unmarried children.

3. States of employment, on humanitarian grounds, shall favourably consider granting equal treatment, as set forth in paragraph 2 of the present article, to other family members of migrant workers.

Article 45

1. Members of the families of migrant workers shall, in the State of employment, enjoy equality of treatment with nationals of that State in relation to:

- a. Access to educational institutions and services, subject to the admission requirements and other regulations of the institutions and services concerned;
- b. Access to vocational guidance and training institutions and services, provided that requirements for participation are met;

c. Access to social and health services, provided that requirements for participation in the respective schemes are met;

d. Access to and participation in cultural life.

2. States of employment shall pursue a policy, where appropriate in collaboration with the States of origin, aimed at facilitating the integration of children of migrant workers in the local school system, particularly in respect of teaching them the local language.

3. States of employment shall endeavour to facilitate for the children of migrant workers the teaching of their mother tongue and culture and, in this regard, States of origin shall collaborate whenever appropriate.

4. States of employment may provide special schemes of education in the mother tongue of children of migrant workers, if necessary in collaboration with the States of origin.

Article 46

Migrant workers and members of their families shall, subject to the applicable legislation of the States concerned, as well as relevant international agreements and the obligations of the States concerned arising out of their participation in customs unions, enjoy exemption from import and export duties and taxes in respect of their personal and household effects as well as the equipment necessary to engage in the remunerated activity for which they were admitted to the State of employment:

a. Upon departure from the State of origin or State of habitual residence;

b. Upon initial admission to the State of employment;

c. Upon final departure from the State of employment;

d. Upon final return to the State of origin or State of habitual residence.

Article 47

1. Migrant workers shall have the right to transfer their earnings and savings, in particular those funds necessary for the support of their families, from the State of employment to their State of origin or any other State. Such transfers shall be made in conformity with procedures established by applicable legislation of the State concerned and in conformity with applicable international agreements.

2. States concerned shall take appropriate measures to facilitate such transfers.

Article 48

1. Without prejudice to applicable double taxation agreements, migrant workers and members of their families shall, in the matter of earnings in the State of employment:

a. Not be liable to taxes, duties or charges of any description higher or more onerous than those imposed on nationals in similar circumstances;

b. Be entitled to deductions or exemptions from taxes of any description and to any tax allowances applicable to nationals in similar circumstances, including tax allowances for dependent members of their families.

2. States Parties shall endeavour to adopt appropriate measures to avoid double taxation of the earnings and savings of migrant workers and members of their families.

Article 49

1. Where separate authorizations to reside and to engage in employment are required by national legislation, the States of employment shall issue to migrant workers authorization of residence for at least the same period of time as their authorization to engage in remunerated activity.

2. Migrant workers who in the State of employment are allowed freely to choose their remunerated activity shall neither be regarded as in an irregular situation nor shall they lose their authorization of residence by the mere fact of the termination of their remunerated activity prior to the expiration of their work permits or similar authorizations.

3. In order to allow migrant workers referred to in paragraph 2 of the present article sufficient time to find alternative remunerated activities, the authorization of residence shall not be withdrawn at least for a period corresponding to that during which they may be entitled to unemployment benefits.

Article 50

1. In the case of death of a migrant worker or dissolution of marriage, the State of employment shall favourably consider granting family members of that migrant worker residing in that State on the basis of family reunion an authorization to stay; the State of employment shall take into account the length of time they have already resided in that State.

2. Members of the family to whom such authorization is not granted shall be allowed before departure a reasonable period of time in order to enable them to settle their affairs in the State of employment.

3. The provisions of paragraphs 1 and 2 of the present article may not be interpreted as adversely affecting any right to stay and work otherwise granted to such family members by the legislation of the State of employment or by bilateral and multilateral treaties applicable to that State.

Article 51

Migrant workers who in the State of employment are not permitted freely to choose their remunerated activity shall neither be regarded as in an irregular situation nor shall they lose their authorization of residence by the mere fact of the termination of their remunerated activity prior to the expiration of their work permit, except where the authorization of residence is expressly dependent upon the specific remunerated activity for which they were admitted. Such migrant workers shall have the right to seek alternative employment, participation in public work schemes and retraining during the remaining period of their authorization to work, subject to such conditions and limitations as are specified in the authorization to work.

Article 52

1. Migrant workers in the State of employment shall have the right freely to choose their remunerated activity, subject to the following restrictions or conditions.

2. For any migrant worker a State of employment may:

- a. Restrict access to limited categories of employment, functions, services or activities where this is necessary in the interests of this State and provided for by national legislation;
- b. Restrict free choice of remunerated activity in accordance with its legislation concerning recognition of occupational qualifications acquired outside its territory. However, States Parties concerned shall endeavour to provide for recognition of such qualifications.

3. For migrant workers whose permission to work is limited in time, a State of employment may also:
- a. Make the right freely to choose their remunerated activities subject to the condition that the migrant worker has resided lawfully in its territory for the purpose of remunerated activity for a period of time prescribed in its national legislation that should not exceed two years;
 - b. Limit access by a migrant worker to remunerated activities in pursuance of a policy of granting priority to its nationals or to persons who are assimilated to them for these purposes by virtue of legislation or bilateral or multilateral agreements. Any such limitation shall cease to apply to a migrant worker who has resided lawfully in its territory for the purpose of remunerated activity for a period of time prescribed in its national legislation that should not exceed five years.
4. States of employment shall prescribe the conditions under which a migrant worker who has been admitted to take up employment may be authorized to engage in work on his or her own account. Account shall be taken of the period during which the worker has already been lawfully in the State of employment.

Article 53

1. Members of a migrant worker's family who have themselves an authorization of residence or admission that is without limit of time or is automatically renewable shall be permitted freely to choose their remunerated activity under the same conditions as are applicable to the said migrant worker in accordance with article 52 of the present Convention.
2. With respect to members of a migrant worker's family who are not permitted freely to choose their remunerated activity, States Parties shall consider favourably granting them priority in obtaining permission to engage in a remunerated activity over other workers who seek admission to the State of employment, subject to applicable bilateral and multilateral agreements.

Article 54

1. Without prejudice to the terms of their authorization of residence or their permission to work and the rights provided for in articles 25 and 27 of the present Convention, migrant workers shall enjoy equality of treatment with nationals of the State of employment in respect of:
 - a. Protection against dismissal;
 - b. Unemployment benefits;
 - c. Access to public work schemes intended to combat unemployment;
 - d. Access to alternative employment in the event of loss of work or termination of other remunerated activity, subject to article 52 of the present Convention.
2. If a migrant worker claims that the terms of his or her work contract have been violated by his or her employer, he or she shall have the right to address his or her case to the competent authorities of the State of employment, on terms provided for in article 18, paragraph 1, of the present Convention.

Article 55

Migrant workers who have been granted permission to engage in a remunerated activity, subject to the conditions attached to such permission, shall be entitled to equality of treatment with nationals of the State of employment in the exercise of that remunerated activity.

Article 56

1. Migrant workers and members of their families referred to in the present part of the Convention may not be expelled from a State of employment, except for reasons defined in the national legislation of that State, and subject to the safeguards established in part III.
2. Expulsion shall not be resorted to for the purpose of depriving a migrant worker or a member of his or her family of the rights arising out of the authorization of residence and the work permit.
3. In considering whether to expel a migrant worker or a member of his or her family, account should be taken of humanitarian considerations and of the length of time that the person concerned has already resided in the State of employment.

PART V

Provisions applicable to particular categories of migrant workers and members of their families

Article 57

The particular categories of migrant workers and members of their families specified in the present part of the Convention who are documented or in a regular situation shall enjoy the rights set forth in part III and, except as modified below, the rights set forth in part IV.

Article 58

1. Frontier workers, as defined in article 2, paragraph 2 (a), of the present Convention, shall be entitled to the rights provided for in part IV that can be applied to them by reason of their presence and work in the territory of the State of employment, taking into account that they do not have their habitual residence in that State.
2. States of employment shall consider favourably granting frontier workers the right freely to choose their remunerated activity after a specified period of time. The granting of that right shall not affect their status as frontier workers.

Article 59

1. Seasonal workers, as defined in article 2, paragraph 2 (b), of the present Convention, shall be entitled to the rights provided for in part IV that can be applied to them by reason of their presence and work in the territory of the State of employment and that are compatible with their status in that State as seasonal workers, taking into account the fact that they are present in that State for only part of the year.
2. The State of employment shall, subject to paragraph 1 of the present article, consider granting seasonal workers who have been employed in its territory for a significant period of time the possibility of taking up other remunerated activities and giving them priority over other workers who seek admission to that State, subject to applicable bilateral and multilateral agreements.

Article 60

Itinerant workers, as defined in article 2, paragraph 2 (e), of the present Convention, shall be entitled to the rights provided for in part IV that can be granted to them by reason of their presence and work in the territory of the State of employment and that are compatible with their status as itinerant workers in that State.

Article 61

1. Project-tied workers, as defined in article 2, paragraph 2 (f), of the present Convention, and members of their families shall be entitled to the rights provided for in part IV except the provisions of article 43, paragraphs 1 (b) and (c), article 43, paragraph 1 (d), as it pertains to social housing schemes, article 45, paragraph 1 (b), and articles 52 to 55.

2. If a project-tied worker claims that the terms of his or her work contract have been violated by his or her employer, he or she shall have the right to address his or her case to the competent authorities of the State which has jurisdiction over that employer, on terms provided for in article 18, paragraph 1, of the present Convention.

3. Subject to bilateral or multilateral agreements in force for them, the States Parties concerned shall endeavour to enable project-tied workers to remain adequately protected by the social security systems of their States of origin or habitual residence during their engagement in the project. States Parties concerned shall take appropriate measures with the aim of avoiding any denial of rights or duplication of payments in this respect.

4. Without prejudice to the provisions of article 47 of the present Convention and to relevant bilateral or multilateral agreements, States Parties concerned shall permit payment of the earnings of project-tied workers in their State of origin or habitual residence.

Article 62

1. Specified-employment workers as defined in article 2, paragraph 2 (g), of the present Convention, shall be entitled to the rights provided for in part IV, except the provisions of article 43, paragraphs 1 (b) and (c), article 43, paragraph 1 (d), as it pertains to social housing schemes, article 52, and article 54, paragraph 1 (d).

2. Members of the families of specified-employment workers shall be entitled to the rights relating to family members of migrant workers provided for in part IV of the present Convention, except the provisions of article 53.

Article 63

1. Self-employed workers, as defined in article 2, paragraph 2 (h), of the present Convention, shall be entitled to the rights provided for in part IV with the exception of those rights which are exclusively applicable to workers having a contract of employment.

2. Without prejudice to articles 52 and 79 of the present Convention, the termination of the economic activity of the self-employed workers shall not in itself imply the withdrawal of the authorization for them or for the members of their families to stay or to engage in a remunerated activity in the State of employment except where the authorization of residence is expressly dependent upon the specific remunerated activity for which they were admitted.

PART VI

Promotion of sound, equitable, humane and lawful conditions in connection with international migration of workers and members of their families

Article 64

1. Without prejudice to article 79 of the present Convention, the States Parties concerned shall as appropriate consult and co-operate with a view to promoting sound, equitable and humane conditions in connection with international migration of workers and members of their families.

2. In this respect, due regard shall be paid not only to labour needs and resources, but also to the social, economic, cultural and other needs of migrant workers and members of their families involved, as well as to the consequences of such migration for the communities concerned.

Article 65

1. States Parties shall maintain appropriate services to deal with questions concerning international migration of workers and members of their families. Their functions shall include, inter alia:

- a. The formulation and implementation of policies regarding such migration;
 - b. An exchange of information, consultation and co-operation with the competent authorities of other States Parties involved in such migration;
 - c. The provision of appropriate information, particularly to employers, workers and their organisations on policies, laws and regulations relating to migration and employment, on agreements concluded with other States concerning migration and on other relevant matters;
 - d. The provision of information and appropriate assistance to migrant workers and members of their families regarding requisite authorizations and formalities and arrangements for departure, travel, arrival, stay, remunerated activities, exit and return, as well as on conditions of work and life in the State of employment and on customs, currency, tax and other relevant laws and regulations.
2. States Parties shall facilitate as appropriate the provision of adequate consular and other services that are necessary to meet the social, cultural and other needs of migrant workers and members of their families.

Article 66

1. Subject to paragraph 2 of the present article, the right to undertake operations with a view to the recruitment of workers for employment in another State shall be restricted to:
- a. Public services or bodies of the State in which such operations take place;
 - b. Public services or bodies of the State of employment on the basis of agreement between the States concerned;
 - c. A body established by virtue of a bilateral or multilateral agreement.
2. Subject to any authorization, approval and supervision by the public authorities of the States Parties concerned as may be established pursuant to the legislation and practice of those States, agencies, prospective employers or persons acting on their behalf may also be permitted to undertake the said operations.

Article 67

1. States Parties concerned shall co-operate as appropriate in the adoption of measures regarding the orderly return of migrant workers and members of their families to the State of origin when they decide to return or their authorization of residence or employment expires or when they are in the State of employment in an irregular situation.
2. Concerning migrant workers and members of their families in a regular situation, States Parties concerned shall co-operate as appropriate, on terms agreed upon by those States, with a view to promoting adequate economic conditions for their resettlement and to facilitating their durable social and cultural reintegration in the State of origin.

Article 68

1. States Parties, including States of transit, shall collaborate with a view to preventing and eliminating illegal or clandestine movements and employment of migrant workers in an irregular situation. The measures to be taken to this end within the jurisdiction of each State concerned shall include:
- a. Appropriate measures against the dissemination of misleading information relating to emigration and immigration;

b. Measures to detect and eradicate illegal or clandestine movements of migrant workers and members of their families and to impose effective sanctions on persons, groups or entities which organize, operate or assist in organizing or operating such movements;

c. Measures to impose effective sanctions on persons, groups or entities which use violence, threats or intimidation against migrant workers or members of their families in an irregular situation.

2. States of employment shall take all adequate and effective measures to eliminate employment in their territory of migrant workers in an irregular situation, including, whenever appropriate, sanctions on employers of such workers. The rights of migrant workers vis-a-vis their employer arising from employment shall not be impaired by these measures.

Article 69

1. States Parties shall, when there are migrant workers and members of their families within their territory in an irregular situation, take appropriate measures to ensure that such a situation does not persist.

2. Whenever States Parties concerned consider the possibility of regularizing the situation of such persons in accordance with applicable national legislation and bilateral or multilateral agreements, appropriate account shall be taken of the circumstances of their entry, the duration of their stay in the States of employment and other relevant considerations, in particular those relating to their family situation.

Article 70

States Parties shall take measures not less favourable than those applied to nationals to ensure that working and living conditions of migrant workers and members of their families in a regular situation are in keeping with the standards of fitness, safety, health and principles of human dignity.

Article 71

1. States Parties shall facilitate, whenever necessary, the repatriation to the State of origin of the bodies of deceased migrant workers or members of their families.

2. As regards compensation matters relating to the death of a migrant worker or a member of his or her family, States Parties shall, as appropriate, provide assistance to the persons concerned with a view to the prompt settlement of such matters. Settlement of these matters shall be carried out on the basis of applicable national law in accordance with the provisions of the present Convention and any relevant bilateral or multilateral agreements.

PART VII

Application of the Convention

Article 72

1. a. For the purpose of reviewing the application of the present Convention, there shall be established a Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (hereinafter referred to as "the Committee");

b. The Committee shall consist, at the time of entry into force of the present Convention, of ten and, after the entry into force of the Convention for the forty-first State Party, of fourteen experts of high moral standing, impartiality and recognized competence in the field covered by the Convention.

2. a. Members of the Committee shall be elected by secret ballot by the States Parties from a list of persons nominated by the States Parties, due consideration being given to equitable geographical distribution, including both States of origin and States of employment, and to the representation of the principal legal systems. Each State Party may nominate one person from among its own nationals;
- b. Members shall be elected and shall serve in their personal capacity.
3. The initial election shall be held no later than six months after the date of the entry into force of the present Convention and subsequent elections every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to all States Parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties that have nominated them, and shall submit it to the States Parties not later than one month before the date of the corresponding election, together with the curricula vitae of the persons thus nominated.
4. Elections of members of the Committee shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the States Parties present and voting.
5. a. The members of the Committee shall serve for a term of four years. However, the terms of five of the members elected in the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the Chairman of the meeting of States Parties;
- b. The election of the four additional members of the Committee shall be held in accordance with the provisions of paragraphs 2, 3 and 4 of the present article, following the entry into force of the Convention for the forty-first State Party. The term of two of the additional members elected on this occasion shall expire at the end of two years; the names of these members shall be chosen by lot by the Chairman of the meeting of States Parties;
- c. The members of the Committee shall be eligible for re-election if renominated.
6. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party that nominated the expert shall appoint another expert from among its own nationals for the remaining part of the term. The new appointment is subject to the approval of the Committee.
7. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee.
8. The members of the Committee shall receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide.
9. The members of the Committee shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

Article 73

1. States Parties undertake to submit to the Secretary-General of the United Nations for consideration by the Committee a report on the legislative, judicial, administrative and other measures they have taken to give effect to the provisions of the present Convention:

- a. Within one year after the entry into force of the Convention for the State Party concerned;
 - b. Thereafter every five years and whenever the Committee so requests.
2. Reports prepared under the present article shall also indicate factors and difficulties, if any, affecting the implementation of the Convention and shall include information on the characteristics of migration flows in which the State Party concerned is involved.
 3. The Committee shall decide any further guidelines applicable to the content of the reports.
 4. States Parties shall make their reports widely available to the public in their own countries.

Article 74

1. The Committee shall examine the reports submitted by each State Party and shall transmit such comments as it may consider appropriate to the State Party concerned. This State Party may submit to the Committee observations on any comment made by the Committee in accordance with the present article. The Committee may request supplementary information from States Parties when considering these reports.
2. The Secretary-General of the United Nations shall, in due time before the opening of each regular session of the Committee, transmit to the Director-General of the International Labour Office copies of the reports submitted by States Parties concerned and information relevant to the consideration of these reports, in order to enable the Office to assist the Committee with the expertise the Office may provide regarding those matters dealt with by the present Convention that fall within the sphere of competence of the International Labour Organisation. The Committee shall consider in its deliberations such comments and materials as the Office may provide.
3. The Secretary-General of the United Nations may also, after consultation with the Committee, transmit to other specialized agencies as well as to intergovernmental organisations, copies of such parts of these reports as may fall within their competence.
4. The Committee may invite the specialized agencies and organs of the United Nations, as well as intergovernmental organisations and other concerned bodies to submit, for consideration by the Committee, written information on such matters dealt with in the present Convention as fall within the scope of their activities.
5. The International Labour Office shall be invited by the Committee to appoint representatives to participate, in a consultative capacity, in the meetings of the Committee.
6. The Committee may invite representatives of other specialized agencies and organs of the United Nations, as well as of intergovernmental organisations, to be present and to be heard in its meetings whenever matters falling within their field of competence are considered.
7. The Committee shall present an annual report to the General Assembly of the United Nations on the implementation of the present Convention, containing its own considerations and recommendations, based, in particular, on the examination of the reports and any observations presented by States Parties.
8. The Secretary-General of the United Nations shall transmit the annual reports of the Committee to the States Parties to the present Convention, the Economic and Social Council, the Commission on Human Rights of the United Nations, the Director-General of the International Labour Office and other relevant organisations.

Article 75

1. The Committee shall adopt its own rules of procedure.
2. The Committee shall elect its officers for a term of two years.
3. The Committee shall normally meet annually.
4. The meetings of the Committee shall normally be held at United Nations Headquarters.

Article 76

1. A State Party to the present Convention may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the present Convention. Communications under this article may be received and considered only if submitted by a State Party that has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure:

- a. If a State Party to the present Convention considers that another State Party is not fulfilling its obligations under the present Convention, it may, by written communication, bring the matter to the attention of that State Party. The State Party may also inform the Committee of the matter. Within three months after the receipt of the communication the receiving State shall afford the State that sent the communication an explanation, or any other statement in writing clarifying the matter which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending or available in the matter;
- b. If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State;
- c. The Committee shall deal with a matter referred to it only after it has ascertained that all available domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where, in the view of the Committee, the application of the remedies is unreasonably prolonged;
- d. Subject to the provisions of subparagraph (c) of the present paragraph, the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of the respect for the obligations set forth in the present Convention;
- e. The Committee shall hold closed meetings when examining communications under the present article;
- f. In any matter referred to it in accordance with subparagraph (b) of the present paragraph, the Committee may call upon the States Parties concerned, referred to in subparagraph (b), to supply any relevant information;
- g. The States Parties concerned, referred to in subparagraph (b) of the present paragraph, shall have the right to be represented when the matter is being considered by the Committee and to make submissions orally and/or in writing;
- h. The Committee shall, within twelve months after the date of receipt of notice under subparagraph (b) of the present paragraph, submit a report, as follows:
 - (i) If a solution within the terms of subparagraph (d) of the present paragraph is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached;

(ii) If a solution within the terms of subparagraph (d) is not reached, the Committee shall, in its report, set forth the relevant facts concerning the issue between the States Parties concerned. The written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report. The Committee may also communicate only to the States Parties concerned any views that it may consider relevant to the issue between them.

In every matter, the report shall be communicated to the States Parties concerned.

2. The provisions of the present article shall come into force when ten States Parties to the present Convention have made a declaration under paragraph 1 of the present article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter that is the subject of a communication already transmitted under the present article; no further communication by any State Party shall be received under the present article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration.

Article 77

1. A State Party to the present Convention may at any time declare under the present article that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim that their individual rights as established by the present Convention have been violated by that State Party. No communication shall be received by the Committee if it concerns a State Party that has not made such a declaration.

2. The Committee shall consider inadmissible any communication under the present article which is anonymous or which it considers to be an abuse of the right of submission of such communications or to be incompatible with the provisions of the present Convention.

3. The Committee shall not consider any communications from an individual under the present article unless it has ascertained that:

- a. The same matter has not been, and is not being, examined under another procedure of international investigation or settlement;
- b. The individual has exhausted all available domestic remedies; this shall not be the rule where, in the view of the Committee, the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to that individual.

4. Subject to the provisions of paragraph 2 of the present article, the Committee shall bring any communications submitted to it under this article to the attention of the State Party to the present Convention that has made a declaration under paragraph 1 and is alleged to be violating any provisions of the Convention. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

5. The Committee shall consider communications received under the present article in the light of all information made available to it by or on behalf of the individual and by the State Party concerned.

6. The Committee shall hold closed meetings when examining communications under the present article.

7. The Committee shall forward its views to the State Party concerned and to the individual.

8. The provisions of the present article shall come into force when ten States Parties to the present Convention have made declarations under paragraph 1 of the present article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter that is the subject of a communication already transmitted under the present article; no further communication by or on behalf of an individual shall be received under the present article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party has made a new declaration.

Article 78

The provisions of article 76 of the present Convention shall be applied without prejudice to any procedures for settling disputes or complaints in the field covered by the present Convention laid down in the constituent instruments of, or in conventions adopted by, the United Nations and the specialized agencies and shall not prevent the States Parties from having recourse to any procedures for settling a dispute in accordance with international agreements in force between them.

PART VIII

General provisions

Article 79

Nothing in the present Convention shall affect the right of each State Party to establish the criteria governing admission of migrant workers and members of their families. Concerning other matters related to their legal situation and treatment as migrant workers and members of their families, States Parties shall be subject to the limitations set forth in the present Convention.

Article 80

Nothing in the present Convention shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Convention.

Article 81

1. Nothing in the present Convention shall affect more favourable rights or freedoms granted to migrant workers and members of their families by virtue of:

- a. The law or practice of a State Party; or
- b. Any bilateral or multilateral treaty in force for the State Party concerned.

2. Nothing in the present Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act that would impair any of the rights and freedoms as set forth in the present Convention.

Article 82

The rights of migrant workers and members of their families provided for in the present Convention may not be renounced. It shall not be permissible to exert any form of pressure upon migrant workers and members of their families with a view to their relinquishing or foregoing any of the said rights. It shall not be possible to derogate by contract from rights recognized in the present Convention. States Parties shall take appropriate measures to ensure that these principles are respected.

Article 83

Each State Party to the present Convention undertakes:

- a. To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;
- b. To ensure that any persons seeking such a remedy shall have his or her claim reviewed and decided by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;
- c. To ensure that the competent authorities shall enforce such remedies when granted.

Article 84

Each State Party undertakes to adopt the legislative and other measures that are necessary to implement the provisions of the present Convention.

PART IX

Final provisions

Article 85

The Secretary-General of the United Nations is designated as the depositary of the present Convention.

Article 86

1. The present Convention shall be open for signature by all States. It is subject to ratification.
2. The present Convention shall be open to accession by any State.
3. Instruments of ratification or accession shall be deposited with the Secretary-General of the United Nations.

Article 87

1. The present Convention shall enter into force on the first day of the month following a period of three months after the date of the deposit of the twentieth instrument of ratification or accession.
2. For each State ratifying or acceding to the present Convention after its entry into force, the Convention shall enter into force on the first day of the month following a period of three months after the date of the deposit of its own instrument of ratification or accession.

Article 88

A State ratifying or acceding to the present Convention may not exclude the application of any Part of it, or, without prejudice to article 3, exclude any particular category of migrant workers from its application.

Article 89

1. Any State Party may denounce the present Convention, not earlier than five years after the Convention has entered into force for the State concerned, by means of a notification in writing addressed to the Secretary-General of the United Nations.
2. Such denunciation shall become effective on the first day of the month following the expiration of a period of twelve months after the date of the receipt of the notification by the Secretary-General of the United Nations.

3. Such a denunciation shall not have the effect of releasing the State Party from its obligations under the present Convention in regard to any act or omission which occurs prior to the date at which the denunciation becomes effective, nor shall denunciation prejudice in any way the continued consideration of any matter which is already under consideration by the Committee prior to the date at which the denunciation becomes effective.

4. Following the date at which the denunciation of a State Party becomes effective, the Committee shall not commence consideration of any new matter regarding that State.

Article 90

1. After five years from the entry into force of the Convention a request for the revision of the Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate any proposed amendments to the States Parties with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that within four months from the date of such communication at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting shall be submitted to the General Assembly for approval.

2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties in accordance with their respective constitutional processes.

3. When amendments come into force, they shall be binding on those States Parties that have accepted them, other States Parties still being bound by the provisions of the present Convention and any earlier amendment that they have accepted.

Article 91

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of signature, ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to this effect addressed to the Secretary-General of the United Nations, who shall then inform all States thereof. Such notification shall take effect on the date on which it is received.

Article 92

1. Any dispute between two or more States Parties concerning the interpretation or application of the present Convention that is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State Party may at the time of signature or ratification of the present Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of the present article. The other States Parties shall not be bound by that paragraph with respect to any State Party that has made such a declaration.

3. Any State Party that has made a declaration in accordance with paragraph 2 of the present article may at any time withdraw that declaration by notification to the Secretary-General of the United Nations.

Article 93

1. The present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Convention to all States.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

END

ANNEX 3 – Membership



IPMWC
International NGO Platform
on the Migrant Workers' Convention

Membership Application Form

In order for your membership application to be accepted, you must demonstrate that your organisation actively:

- (1) supports the UN Convention on the Protection of the Rights of All Migrant Workers and Their Families,
- (2) works or is planning to work on the Protection of the Human Rights of Migrant Workers and Their Families using the UN Human Rights Treaty Body System,
- (3) is committed to sharing information.

Please provide your statutes (or equivalent documents), any relevant publications, newsletters, annual reports and brochures that will support your application and send them, along with the completed application form, to:

International Platform on the Migrant Workers' Convention (IPMWC)

c/o December 18

POB 22

9820 Merelbeke (Belgium)

Tel: +32 (0)9 324 0092

Email: info@december18.net

Web site: <http://www.december18.net>

Each application will be submitted to the IPMWC Executive Committee that may require for additional information. A final decision on your membership will be taken by the IPMWC member organisations at their next meeting.

Please note that the IPMWC is unable to provide UN accreditation for its member organisations.



IPMWC
International NGO Platform
on the Migrant Workers' Convention

Name of organisation:

Acronym/abbreviation:

English translation of name of organisation:

Postal address (include country):

Phone (include country codes):

Fax (include country codes):

Email and Website address:

Year established:

Number of Staff:

Governing Body Members:

Director(s):

Name of Contact on the IPMWC:

Email of Contact on the IPMWC:

Organisation aims and activities

(on separate sheet, please include previous and/or planned work with the Treaty Bodies).

Languages used by organisation:

- English
- French
- Spanish
- Other (please specify):

Operational level

- Community based non-governmental organisation (NGO)
- National NGO
- Regional NGO
- International NGO

Organisation type

- Individual NGO
- NGO network, platform or coalition

Current membership of NGO networks, platforms or coalitions

- Yes (please specify):
- No

Organisation mandate

- Work directly with migrants
- Lobby national government
- Lobby national and/or other governments
- Lobby the regional rights' protection system
- Lobby the United Nations
- Work in partnership with other organisations at home
- Work in partnership with other organisations abroad
- Provide training on migrant's rights
- Provide funding to other organisations
- Research on migrant's rights
- Work with the media and press
- Undertake legal casework on behalf of migrants

Areas of expertise

- Women Migrant Workers
- Migrant Children
- Migrants in detention
- Migrants living with HIV/AIDS
- Migrants and Health
- Migrant Labour
- Undocumented migrant workers
- Family reunification
- Reporting and monitoring on the UN Treaty Bodies
- Other (please specify):

Does your organisation uses email regularly?

- Yes
- No

MIGRANT.NEWS Email Newsletter required:

- English
- French
- Spanish
- Our organisation receives MIGRANT.NEWS.

Does your organisation have regular access to the Internet?

- Yes
- No

Date

Signature

List of countries in which your organisation works (tick all that apply).
Please include separately the list of partner or member organisations that are based in one of these countries.

- | | | | |
|--|---|---|--|
| <input type="checkbox"/> Afghanistan | <input type="checkbox"/> Djibouti | <input type="checkbox"/> Libyan Arab Jamahiriya | <input type="checkbox"/> San Marino |
| <input type="checkbox"/> Albania | <input type="checkbox"/> Dominica | <input type="checkbox"/> Liechtenstein | <input type="checkbox"/> Sao Tome and Principe |
| <input type="checkbox"/> Algeria | <input type="checkbox"/> Dominican Republic | <input type="checkbox"/> Lithuania | <input type="checkbox"/> Saudi Arabia |
| <input type="checkbox"/> Andorra | <input type="checkbox"/> Ecuador | <input type="checkbox"/> Luxembourg | <input type="checkbox"/> Senegal |
| <input type="checkbox"/> Angola | <input type="checkbox"/> Egypt | <input type="checkbox"/> Madagascar | <input type="checkbox"/> Serbia and |
| <input type="checkbox"/> Antigua and Barbuda | <input type="checkbox"/> El Salvador | <input type="checkbox"/> Malawi | <input type="checkbox"/> Montenegro |
| <input type="checkbox"/> Argentina | <input type="checkbox"/> Equatorial Guinea | <input type="checkbox"/> Malaysia | <input type="checkbox"/> Seychelles |
| <input type="checkbox"/> Armenia | <input type="checkbox"/> Eritrea | <input type="checkbox"/> Maldives | <input type="checkbox"/> Sierra Leone |
| <input type="checkbox"/> Australia | <input type="checkbox"/> Estonia | <input type="checkbox"/> Mali | <input type="checkbox"/> Singapore |
| <input type="checkbox"/> Austria | <input type="checkbox"/> Ethiopia | <input type="checkbox"/> Malta | <input type="checkbox"/> Slovakia |
| <input type="checkbox"/> Azerbaijan | <input type="checkbox"/> Fiji | <input type="checkbox"/> Marshall Islands | <input type="checkbox"/> Slovenia |
| <input type="checkbox"/> Bahamas | <input type="checkbox"/> Finland | <input type="checkbox"/> Mauritania | <input type="checkbox"/> Solomon Islands |
| <input type="checkbox"/> Bahrain | <input type="checkbox"/> France | <input type="checkbox"/> Mauritius | <input type="checkbox"/> Somalia |
| <input type="checkbox"/> Bangladesh | <input type="checkbox"/> Gabon | <input type="checkbox"/> Mexico | <input type="checkbox"/> South Africa |
| <input type="checkbox"/> Barbados | <input type="checkbox"/> Gambia | <input type="checkbox"/> Micronesia (Federated States of) | <input type="checkbox"/> Spain |
| <input type="checkbox"/> Belarus | <input type="checkbox"/> Georgia | <input type="checkbox"/> Monaco | <input type="checkbox"/> Sri Lanka |
| <input type="checkbox"/> Belgium | <input type="checkbox"/> Germany | <input type="checkbox"/> Mongolia | <input type="checkbox"/> Surinam |
| <input type="checkbox"/> Belize | <input type="checkbox"/> Ghana | <input type="checkbox"/> Morocco | <input type="checkbox"/> Swaziland |
| <input type="checkbox"/> Benin | <input type="checkbox"/> Greece | <input type="checkbox"/> Mozambique | <input type="checkbox"/> Sweden |
| <input type="checkbox"/> Bhutan | <input type="checkbox"/> Grenada | <input type="checkbox"/> Myanmar | <input type="checkbox"/> Switzerland |
| <input type="checkbox"/> Bolivia | <input type="checkbox"/> Guatemala | <input type="checkbox"/> Namibia | <input type="checkbox"/> Syrian Arab Republic |
| <input type="checkbox"/> Bosnia and Herzegovina | <input type="checkbox"/> Guinea | <input type="checkbox"/> Nauru | <input type="checkbox"/> Tajikistan |
| <input type="checkbox"/> Botswana | <input type="checkbox"/> Guinea-Bissau | <input type="checkbox"/> Nepal | <input type="checkbox"/> Thailand |
| <input type="checkbox"/> Brazil | <input type="checkbox"/> Guyana | <input type="checkbox"/> Netherlands | <input type="checkbox"/> The former Yugoslav Republic of Macedonia |
| <input type="checkbox"/> Brunei Darussalam | <input type="checkbox"/> Haiti | <input type="checkbox"/> New Zealand | <input type="checkbox"/> Timor-Leste (East-Timor) |
| <input type="checkbox"/> Bulgaria | <input type="checkbox"/> Honduras | <input type="checkbox"/> Nicaragua | <input type="checkbox"/> Togo |
| <input type="checkbox"/> Burkina Faso | <input type="checkbox"/> Hungary | <input type="checkbox"/> Niger | <input type="checkbox"/> Tonga |
| <input type="checkbox"/> Burundi | <input type="checkbox"/> Iceland | <input type="checkbox"/> Nigeria | <input type="checkbox"/> Trinidad and Tobago |
| <input type="checkbox"/> Cambodia | <input type="checkbox"/> India | <input type="checkbox"/> Norway | <input type="checkbox"/> Tunisia |
| <input type="checkbox"/> Cameroon | <input type="checkbox"/> Indonesia | <input type="checkbox"/> Oman | <input type="checkbox"/> Turkey |
| <input type="checkbox"/> Canada | <input type="checkbox"/> Iran (Islamic Republic of) | <input type="checkbox"/> Pakistan | <input type="checkbox"/> Turkmenistan |
| <input type="checkbox"/> Cape Verde | <input type="checkbox"/> Iraq | <input type="checkbox"/> Palau | <input type="checkbox"/> Tuvalu |
| <input type="checkbox"/> Central African Republic | <input type="checkbox"/> Ireland | <input type="checkbox"/> Panama | <input type="checkbox"/> Uganda |
| <input type="checkbox"/> Chad | <input type="checkbox"/> Israel | <input type="checkbox"/> Papua New Guinea | <input type="checkbox"/> Ukraine |
| <input type="checkbox"/> Chile | <input type="checkbox"/> Italy | <input type="checkbox"/> Paraguay | <input type="checkbox"/> United Arab Emirates |
| <input type="checkbox"/> China | <input type="checkbox"/> Ivory Coast | <input type="checkbox"/> Peru | <input type="checkbox"/> United Kingdom |
| <input type="checkbox"/> Colombia | <input type="checkbox"/> Jamaica | <input type="checkbox"/> Philippines | <input type="checkbox"/> United Republic of Tanzania |
| <input type="checkbox"/> Comoros | <input type="checkbox"/> Japan | <input type="checkbox"/> Poland | <input type="checkbox"/> United States of America |
| <input type="checkbox"/> Congo (Republic of the) | <input type="checkbox"/> Jordan | <input type="checkbox"/> Portugal | <input type="checkbox"/> Uruguay |
| <input type="checkbox"/> Costa Rica | <input type="checkbox"/> Kazakhstan | <input type="checkbox"/> Qatar | <input type="checkbox"/> Uzbekistan |
| <input type="checkbox"/> Croatia | <input type="checkbox"/> Kenya | <input type="checkbox"/> Republic of Korea | <input type="checkbox"/> Vanuatu |
| <input type="checkbox"/> Cuba | <input type="checkbox"/> Kiribati | <input type="checkbox"/> Republic of Moldova | <input type="checkbox"/> Venezuela |
| <input type="checkbox"/> Cyprus | <input type="checkbox"/> Kuwait | <input type="checkbox"/> Romania | <input type="checkbox"/> Vietnam |
| <input type="checkbox"/> Czech Republic | <input type="checkbox"/> Kyrgyzstan | <input type="checkbox"/> Russian Federation | <input type="checkbox"/> Yemen |
| <input type="checkbox"/> Democratic People's Republic of Korea | <input type="checkbox"/> Lao People's Democratic Republic | <input type="checkbox"/> Rwanda | <input type="checkbox"/> Zambia |
| <input type="checkbox"/> Democratic Republic of the Congo | <input type="checkbox"/> Latvia | <input type="checkbox"/> Saint Kitts and Nevis | <input type="checkbox"/> Zimbabwe |
| <input type="checkbox"/> Denmark | <input type="checkbox"/> Lebanon | <input type="checkbox"/> Saint Lucia | |
| | <input type="checkbox"/> Lesotho | <input type="checkbox"/> Saint Vincent and the Grenadines | |
| | <input type="checkbox"/> Liberia | <input type="checkbox"/> Samoa | |

ANNEX 4 – Suggested Format for NGO Submissions

SUGGESTED FORMAT FOR NGO SUBMISSIONS

Complete in capital letters.

Date:

Organisation:

Full name of contact person:

Postal address:

Email address:

Website address:

Phone (include country codes):

Fax (include country codes):

Language of original text:

Translations available in (please mark with x):

- English
- Spanish
- French
- Other (please specify):

SUGGESTED FORMAT

Clusters as available in the Convention: See also enclosed Provisional Guidelines, annex 3.

PART I AND II: General principles

Articles 1(1), 7

Articles 83 and 84

PART III: Human rights of all migrant workers and members of their families (including undocumented migrant workers and members of their families)

Articles 8 to 33

PART IV: Other rights of migrant workers and their families who are documented or in a regular situation:

Articles 37 to 56

PART V: Provisions applicable to particular categories of migrant workers and members of their families

Articles 57 to 63

PART VI: Promotion of sound, equitable, humane and lawful conditions in connection with international migration of workers and members of their families

Articles 65 to 71

How to fill out the format?

1. Only focus on the cluster(s) of provisions or parts of these clusters your organisation or coalition has expertise on.
2. Fill out the format for these provisions by putting
 - in the first column the number of the corresponding article or sub-article of the Convention
 - in the second column the text of the article or sub-article of the Convention
 - in the third column the references to the existing national legislation and/or international obligations
 - in the fourth column a +, - or = mark that stands for:
 - = the national legislative provision is equal to the provision/s in the Convention
 - + the national legislative provision provides a better protection than the provision/s in the Convention
 - the national legislative provision provides less protection than the Convention
 - in the fifth column the reference to the brief description of the actual situation/case and analysis elaborated in the written submission.
 - in the sixth column the reference to the recommendations elaborated in the written submission.

SUMMARY IN PREPARATION FOR THE INITIAL NGO SUBMISSION

Example of a Completed Suggested Model

Mark

- = : The national legislative provision is equal to the one in the Convention.
- + : The national legislative provision goes further than the provision in the Convention.
- : The national legislative provision does not reach the provision in the Convention. (see comments above)

No. Article	Text Convention	Reference to national legislation and/or international obligations	Mark	Reference to brief description of the actual situation/case study and analysis elaborated in the written submission	Reference to the recommendations elaborated in the written submission.
III	PART III - Human rights of all migrant workers and members of their families (including undocumented migrant workers)				
28	Migrant workers and members of their families shall have the right to receive any medical care that is urgently required for the preservation of their life or the avoidance of irreparable harm to their health on the basis of equality of treatment with nationals of the State concerned. Such emergency medical care shall not be refused to them by reason of any irregularity with regard to stay or employment.	-	-	No legislation available with regard to undocumented migrant workers and members of their families. There is no law but a practise. See page...	The government should provide legislation on this matter that takes into account the different medical needs of irregular migrant workers. See recommendation, page ...
29	Each Child of a migrant worker shall have the right to a name, to registration of birth and to a nationality.	LAW X dd XX.XX.XXXX, Article XX	=	The law was first adopted in 1999. Implementation is still lacking in certain regions for specific groups of migrant workers. See page...	See recommendation, page...
		Our government is a State Party of the International Convention of the Rights of the Child, see article...			

No. Article	Text Convention	Reference to national legislation and/or international obligations	Mark	Reference to brief description of the actual situation/case study and analysis elaborated in the written submission	Reference to the recommendations elaborated in the written submission.
	PART VI: Promotion of sound, equitable, humane and lawful conditions in connection with international migration of workers and members of their families				
65.2	States Parties shall facilitate as appropriate the provision of adequate consular and other services that are necessary to meet the social, cultural and other needs of migrant workers and their families.	LAW X dd XX.XX.XXXX	=	In most destination countries, the government has no accessible consular services. The staff often have an inadequate knowledge of the specific needs of migrant workers and their families. See page...	See recommendation, page...
71.1	States Parties shall facilitate, whenever necessary, the repatriation to the State of origin of the bodies of deceased migrant workers or member of their families.	No legislation available	-	Case see page	See recommendation, page...
71.2	As regards compensation matters relating to the death of a migrant worker of a member of his or her family, States Parties shall, as appropriate, provide assistance to the persons concerned with a view to the prompt settlement of such matters. Supplement to these matters shall be carried out on the basis of the present Convention of applicable law in accordance with the provisions of the present Convention and any relevant bilateral or multilateral agreements.	No legislation available	-	See page	See page



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