

## **SUMMARY: The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families**

**Article 1:** The Convention applies to all migrant workers and family members (henceforth referred to solely as "migrant workers") without distinction, and applies to the entire migration process.

**Article 2–6:** The Convention covers and defines: "migrant worker", "frontier worker", "seasonal worker", "seafarer", "worker on an offshore installation", "itinerant worker", "project-tied worker", "specified-employment worker", "self-employed worker", "members of the family", "documented migrant worker", "non-documented migrant worker", "State of origin", "State of employment", and "State of transit". The Convention does not apply to staff of international organizations, state representatives, investors, some refugees and stateless persons, students and trainees, and some seafarers and workers.

### **PART II: NON-DISCRIMINATION WITH RESPECT TO RIGHTS**

**Article 7:** Countries (or State Parties) undertake to respect and to ensure to all migrant workers without distinction of any kind such as to sex, race, color, 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:** Migrant workers have the right to free movement out of any country including country of origin, and the right to enter and remain in country of origin.

**Article 9:** The right to life of migrant workers shall be protected by law.

**Article 10:** No migrant worker shall be subjected to torture or cruel treatment.

**Article 11:** Migrant workers shall be free from slavery, servitude, or forced labor.

**Article 12:** Migrant workers shall have the right to freedom of thought, conscience and religion.

**Article 13:** Migrant workers shall have the right to hold opinions without interference, and to freedom of expression including freedom to seek, receive and impart information and ideas.

**Article 14:** Migrant workers shall be free from arbitrary or unlawful interference with his or her privacy, family, home, correspondence, or to unlawful attacks on his or her reputation.

**Article 15:** No migrant worker shall be arbitrarily deprived of property.

**Article 16:** Migrant workers have the right to liberty and security of person; lawful verification of identity by law enforcement; freedom from arbitrary arrest and detention; the right to contact consular or diplomatic authorities in case of arrest; the right to legal proceedings and language interpretation during proceedings; and the enforceable right to compensation if victim of unlawful arrest or detention.

**Article 17:** Migrant workers who are deprived of their liberty shall be treated with humanity, and separated from convicted persons. Accused juveniles should be separated from adults and brought to a speedy trial. Migrant workers detained for the purpose of verifying any infraction of provisions related to migration, he or she shall not bear any costs arising from detention.

**Article 18:** Migrant workers shall have the right to equality with nationals before the courts. No migrant worker shall 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.

**Article 19:** No migrant worker 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.

**Article 20:** Failure to fulfill a contractual obligation shall not be grounds for imprisonment, expulsion, or deprivation of residence or work 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, entry authorization, residence, or work permit documents. Any authorized confiscation of such documents must include delivery of a detailed receipt. It is never permissible to destroy passports or equivalent documents.

**Article 22:** Migrant workers shall not be subject to measures of collective expulsion. Expulsion can only be taken by the competent authority in accordance with law and shall be communicated in worker's language, with reasonable time to retrieve lost wages. Migrant workers have the right to seek compensation if decision of expulsion is annulled, and shall not bear the cost of expulsion.

**Article 23:** Migrant workers have the right to have recourse to the protection and assistance of the consular or diplomatic authorities of their country of origin or of a country representing the interests of that country 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 country shall facilitate the exercise of such right.

**Article 24:** Migrant workers have the right to recognition everywhere as a person before the law.

**Article 25:** Migrant workers shall enjoy equal treatment with nationals in respect to remuneration.

**Article 26:** Migrant workers have the right to join trade unions.

**Article 27:** Migrant workers shall enjoy the same treatment granted to nationals regarding social security as long as they fulfill the requirements provided for by the applicable legislation. Where applicable legislation does not allow migrant workers a benefit, the countries concerned shall look into 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 have the right to receive emergency medical care.

**Article 29:** Migrant workers children have the right to a name, registration of birth, and nationality.

**Article 30:** Each child of a migrant worker has the basic right of access to education, including public pre-school, on the basis of equality of treatment with nationals of the country concerned.

**Article 31:** Migrant workers have the right to a cultural identity and shall not prevent them from maintaining their cultural links with their country of origin.

**Article 32:** Upon termination of stay, migrant workers have the right to transfer earnings/savings.

**Article 33:** Migrant workers have the right to be informed by concerned countries of their rights arising out of the present Convention and under the law and practice of the country concerned. Such information shall be provided upon request to migrant workers free of charge, and, as far as possible, in a language they are able to understand.

**Article 34–35:** The present Convention does not relieve migrant workers from complying with the laws of countries concerned, nor does it imply the regularization of undocumented migrant workers.

#### **PART IV: OTHER RIGHTS OF MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES WHO ARE DOCUMENTED OR IN A REGULAR SITUATION**

**Article 36:** Documented migrant workers shall enjoy the rights set forth in parts III and IV.

**Article 37:** Migrant workers have the right to be fully informed by the country of origin or the country of employment, of all conditions applicable to their admission and stay.

**Article 38:** Countries of employment shall make every effort to authorize migrant workers to be temporarily absent without effect upon their authorization to stay or to work, taking into account the special needs and obligations of migrant workers in particular in their countries of origin.

**Article 39:** Migrant workers have the right to free movement in the country of employment and freedom to choose their residence there except if restricted for national security or public health.

**Article 40:** Migrant workers have the right to form associations and trade unions in the country of employment for the promotion and protection of their economic, social, cultural and other interests.

**Article 41:** Migrant workers have the right to participate in public affairs of their country of origin and to vote and to be elected at elections of that country, in accordance with its legislation.

**Article 42:** Country shall consider the special needs, aspirations and obligations of migrant workers and shall facilitate the consultation or participation of migrant workers in decisions concerning the life and administration of local communities.

**Article 43:** Migrant workers shall enjoy equality of treatment with nationals of the country of employment in relation to: educational institutions, vocational services, housing, social and health services, co-operatives and self-managed enterprises, and participation in cultural life.

**Article 44:** Countries shall ensure the protection of the unity of the families of migrant workers.

**Article 45:** Members of the families of migrant workers shall enjoy equality of treatment with nationals in accessing educational institutions and vocational training; social and health services; and access to and participation in cultural life.

**Article 46:** Migrant workers shall 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 country of employment.

**Article 47:** Migrant workers have the right to transfer their earnings and savings, in particular those funds necessary for the support of their families, from the country of employment to their country of origin or any other country, and countries concerned shall take appropriate measures to facilitate such transfers.

**Article 48:** Migrant workers shall not be liable to taxes higher or more onerous than those imposed on nationals in similar circumstances, and shall be entitled to tax breaks applicable to nationals in similar circumstances, including tax allowances for dependent members of their families.

**Article 49:** Where separate authorizations to reside and to work are required, countries shall issue residence permits for at least the same time period of the work authorization. Migrant workers who are allowed freely to choose their work shall not lose their residence permit by the mere fact of the termination prior to the expiration of their work permits.

**Article 50:** In the case of death or divorce, countries shall favorably consider granting family members an authorization to stay taking into account the length of time they have already resided in that country. If such authorization is not granted, family members shall be allowed a reasonable period of time to settle their affairs before departure.

**Article 51:** Migrant workers shall not lose their residence permit by the mere fact of their termination from work prior to the expiration of their work permit, except where the residence permit is expressly dependent upon the specific work for which they were admitted. Such migrant workers have the right to seek other work or training during the remaining period of their permit.

**Article 52–53:** Migrant workers with residence permits for indefinite periods shall have the right to freely choose their work. Family members shall be given priority in obtaining work permits.

**Article 54:** Migrant workers shall enjoy equality of treatment with nationals in respect to protection against dismissal, unemployment benefits, public programs to combat unemployment, and access to

alternative employment. In the case of contract breach, migrant workers have the right to address case to competent authorities.

**Article 55:** Migrant workers who have been granted permission to engage in work, subject to the conditions attached to such permission, shall be entitled to equality of treatment with nationals.

**Article 56:** Migrant workers may not be expelled from a country except for reasons defined in the national legislation of that country.

#### **PART V: PROVISIONS APPLICABLE TO PARTICULAR CATEGORIES OF MIGRANT WORKERS AND OF THEIR FAMILIES**

**Article 57–63:** Frontier workers, seasonal workers, itinerant workers, project-tied workers, specified-employment workers, and self-employed workers as defined in the present Convention who are documented or in a regular situation shall enjoy rights set forth in part IV with some exceptions.

#### **PART VI: PROMOTION OF SOUND, EQUITABLE, HUMANE ANDLAWFUL CONDITIONS CONNECTION WITH INTERNATIONAL MIGRATION OF WORKERS AND MEMBERS OF THEIR FAMILIES**

**Article 64:** Countries concerned shall consult and co-operate with a view to promoting equitable and humane conditions in connection with international migration of workers with due regard given to the social, economic, cultural and other needs of migrant workers and communities concerned.

**Article 65:** Countries should have appropriate services to deal with questions of worker migration including policy making and implementation, exchange of information, and provision of adequate consular and other services to meet the social, cultural and other needs of migrant workers.

**Article 66:** Countries shall limit recruitment of workers for employment in another country to appropriate bodies of the country in which such operations take place or on basis of agreements between countries concerned.

**Article 67:** Countries shall co-operate as appropriate in facilitating the orderly return of migrant workers when they choose to, as well as promoting adequate economic conditions for resettlement and social and cultural reintegration in the country of origin.

**Article 68:** Countries shall work together in preventing and eliminating illegal or clandestine movements and employment of migrant workers in an irregular situation. The rights of migrant workers *vis-a-vis* their employer shall not be impaired by these measures.

**Article 69:** Countries shall work to ensure that workers with an irregular status do not persist in that situation. When steps are taken to regularize the workers status, circumstances of their entry, the duration of their stay and other relevant considerations should be considered.

**Article 70:** Countries shall take measures as favorable as 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:** Countries shall facilitate the repatriation to the country of origin of the bodies of deceased migrant workers including assistance concerning compensation and prompt settlement.

#### **PART VII: APPLICATION OF THE CONVENTION**

**Article 72-78:** The present Convention establishes an implementation committee and process.

#### **PART VIII: GENERAL PROVISIONS**

**Article 79-83:** Countries have the right to develop their own criteria for admitting migrant workers and the present convention does not affect that right. Countries shall protect the rights enumerated in the prevent convention, and shall not undermine them using other instruments. Countries shall provide effective remedies for violations even when perpetrated by person acting in official capacity.

#### **PART IX: FINAL PROVISIONS**

**Article 85-93:** The present Convention outlines provisions for its proper enforcement.