

UNDERSTANDING INSTRUMENTS FOR THE PROTECTION OF THE RIGHTS OF MIGRANT WORKERS

HANDBOOK ON MIGRANT WORKERS



FRANCISCANS *INTERNATIONAL*

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Franciscans International (FI) is a unique project of brothers and sisters within the Franciscan Family whose various branches support, for the first time in history, a common ministry at the United Nations. FI acts under the sponsorship of the Conference of the Franciscan Family (CFF) in Rome and serves more than a million Franciscans and members of FI in 180 countries around the world by working as peacemakers, accompanying the poor in their struggles, and working for the respect of all creation.

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I. INTRODUCTION

One of the biggest challenges facing today's increasingly global world is the issue of international migration and the protection of the rights of migrants. Never before have so many people lived outside of their native countries. People are on the move from all corners of the world and they are migrating in all directions. UN institutions estimate that there are 175 million migrant people – 3% of the world population – and this figure continues to grow. Today one of every 35 persons is a migrant. International migration has become a concern for nearly all countries, whether they are the lands of origin, transit, or final destination. Migrants have become a basic feature of this new era of globalisation.

One of most serious problems facing these people on the move is the violation of their rights and fundamental liberties. The United Nations has taken steps to address the situation. In December 1990 the General Assembly adopted a convention to protect migrant workers and their families, which entered into force on 1 July 2003. This was a positive development, but not all countries have been ready to fully support this specific legislation.

“The time has come for reflection upon the multiple dimensions of the interests involved with migration,” UN Secretary-General Kofi Annan said of the new instrument, “since hundreds of millions of persons are affected. It is necessary for us to better understand the causes of the international movement of people and their complex relationship with this development.”

Franciscans International has designed this manual to help members of the Franciscan Family and all other interested people to understand the new Convention on the protection of migrant workers and their family members. We have tried to ‘translate’ the provisions and subject matter of this UN document into a language that is more accessible and manageable. In this way we hope to fulfil our goal of helping the members of Franciscans International become more acquainted with the mechanisms and tools of the United Nations so that they can work more thoroughly on the difficult issue of migrant workers.

II. FRANCISCANS INTERNATIONAL AND MIGRATION

Franciscans International (FI) has been following the issue of migration for a number of years, addressing both the international community and the Franciscan Family. FI has always emphasised human dignity, the safeguarding of Creation, and the well-being of all people as central elements to its involvement on this issue. The following outline provides a summary of the principal ways FI has been involved in the issue of migration.

Seminar on the Protection of Migrant Workers

April 2000

On 10 and 11 April 2000, FI, together with the International Catholic Migration Commission (ICMC), organised a seminar entitled, “**Europe: A zone of freedom, safety and justice?**” The following themes were explored regarding European laws on refugees and asylum seekers: the admission criteria for refugees and asylum seekers, national and international immigration, and the issue of woman and child trafficking in Europe.

FI and ICMC came to the following conclusions during the seminar:

1. In all Member States of the European Union (EU) it is necessary to harmonise policies on migrant workers. More specifically, States must develop consistent asylum procedures, arrive at a common definition of “refugee”, and establish better conditions for the treatment of refugees or asylum seekers who have entered into the EU.
2. Even though Europe has taken a sensible approach towards the politics of immigration, the issue continues to receive negative publicity in the press and in the minds of many Europeans. Nevertheless, statistics show that European countries need the help of foreign workers to boost their economic development. This has become all the more urgent in light of an aging European population and the large number of unpopular, but necessary jobs that need to be filled.
3. European countries need to apply their immigration laws equally and review those laws which force people to circumvent the legal procedures for asylum.
4. In the EU, there is an urgent need to draft laws that punish those who engage in human trafficking, but also to establish rehabilitation programmes for the victims of trafficking.

Compilation of Migration Standards

June 2002

Following the requests of Franciscans who work with migrants, FI published a collection of standards to analyse and evaluate the relevant questions of migration. In particular, FI:

- elaborated on the body of legal norms which regulate the promotion and protection of migrant workers' rights;
- analysed the response of governments concerning the phenomenon of migration from a point of view established by real case experiences;
- presented practical guidelines on the possible national and international initiatives for Franciscans working in this area.

Conference on Itinerants

November 2002

From 20-21 November 2002, chaplains of itinerant peoples organised a conference in Paris entitled, “ **‘Travelling’ people in a sedentary society: how to live together?**”. FI prepared a compilation of the relevant UN instruments on ‘travelling people’ and, more specifically, on minorities such as the Roma, the Tsiganes, and the Sintis. FI focused particularly on article 13 of the International Covenant on Economic, Social and Cultural Rights and article 27 of the International Covenant on Civil and Political Rights. Article 13 stresses that all individuals should receive education and encourages tolerance and friendship among the nations, racial, ethnic, and religious groups in order to develop a culture of peace. Article 27 states that minorities deserve to be treated equally and that policies should promote the peaceful intermingling of a multicultural community.

FI also explained the works and functioning of the Sub-Commission Working Group on Minorities and underlined its importance in the protection of the rights of such groups.

In addition, FI stressed the influential role of NGOs in the protection of the rights of minorities through their research, reports, and facilities offered to these vulnerable persons.

Declaration on the Situation of Migrant Workers in Lebanon

June 2003

At the UN Working Group on Contemporary Forms of Slavery, Sister Lily George FMM of Lebanon spoke on behalf of FI about migrant workers in

her country. Despite its economic and political difficulties, Lebanon attracts thousands of migrant workers from Syria, India, Sri Lanka, Madagascar, Senegal, Sudan, Ghana, Nigeria, and the Philippines. During the search for employment, these persons are often confronted with ill treatment and exploitation by recruitment agencies. This exploitation ranges from arbitrary accusations to sexual abuse.

Migrant workers frequently face delays and are often pushed to “confess” crimes to the police. Women, especially, are targets for interrogation, because they are seen as more “vulnerable” than men.

During this UN Working Group, Franciscans International called the Lebanese authorities to:

- sign and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;
- develop local formation programmes and immigration services;
- launch an information campaign and increase awareness of the general public on the abuse inflicted on migrant workers, the hard labour which often follows, and the Lebanese migration policy.

Appeal for Ratification of the Convention

1 July 2003

Due to the phenomenal magnitude of migration and the increasing violations of migrants’ human rights, both in regular and irregular situations, FI joined other 308 NGOs and called upon States to ratify the Convention on migrant workers.

Following the example set by the Secretary General of the United Nations, FI called all political leaders to recognise the potential which migrants represent, to combat negative stereotypes, and to inform voters of the advantages of a positive migration policy which respects the dignity of all migrants. In fact, the Convention does not create an incentive to increase migration, but serves as an instrument that lays down basic, universal, and essential standards to protect migrant workers’ human rights.

FI and the other co-signing NGOs asked the States that have ratified the Convention to fulfil their obligations duly and begin applying the Convention as soon as possible.

Similarly, FI asked all other governments to reconsider their priorities and ratify this international human rights instrument.

Spanish Campaign

February - September 2003

The Special Rapporteur on the rights of migrants – Gabriela Rodríguez-Pizarro – made a 15-26 September 2003 visit to Spain. FI encouraged members of FI-Spain to join forces with other national non-governmental organisations and draft a report that illustrates the migrant worker's situation in Spain and, on the basis of this, make recommendations to the government. FI and FI-Spain exchanged information during this process, organised a meeting with the Special Rapporteur and other interested groups, and presented a joint document to Ms. Rodríguez-Pizarro. The Special Rapporteur indicated that she appreciated the effort and the quality of the information we provided.

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

The Convention takes fundamental freedoms laid down in other UN human rights instruments and by the International Labour Organisation (ILO) and applies them to the specific case of migrant workers and their families. Its main aims are:

- to guarantee the freedom of speech, thought, expression, and religion;
- to effectively protect against all forms of violence, physical harm, threats or intimidation coming from State agents, civil servants, private persons, groups or private institutions;
- to ensure migrants access to information to which they are entitled;
- to ensure the right to participate in trade union activities;
- to prevent inhumane living conditions, physical and sexual abuse, and other degrading treatment.

The Convention explicitly recognises the interdependence between civil and political rights – on the one hand – and economic, social and cultural rights – on the other. And while it acknowledges the rights of undocumented migrant workers, the Convention does not encourage clandestine immigration activities, but requests a regulation of this phenomenon through international co-operation.

Who is a “Migrant Worker”?

Article 1

Definition

In article 1 § 2 the Convention defines “the migrant worker” as someone who has exercised, exercises, or will exercise a paid activity in a State that is not his/her own. This extensive definition therefore applies to past, present, and future situations. Anyone who will undertake a future paid activity falls under the definition, as do those whose contract is about to end and who are at the point of returning to their country of origin.

Categories of Migrant Workers

The text defines several different categories of migrant workers:

1. ‘Frontier workers’: persons who work in a neighbouring State but who reside in their own country.

2. 'Seasonal workers': persons who work in another country merely during a certain season of the year (e.g. agricultural workers).
3. 'Seafarers': persons who work on a vessel registered in another State and who have the right to claim residence or to enter into paid activities in this State.
4. 'Workers on offshore installation': persons who work on drilling rigs which fall within the jurisdiction of one State, but are registered in another State.
5. 'Itinerant workers': persons who, due to the nature of their work, travel for short periods from one State to another.
6. 'Project-tied workers': persons admitted to work in one State for a certain period and for a certain employer or special project.
7. 'Specified employment workers': persons admitted for a project or a specific job for a short period. This project or job requires professional, or commercial skills or techniques or other specialised abilities.
8. 'Self-employed workers': persons who are recruited to undertake a foreign activity without having an employment contract.

Who are “Members of the Family”?

Article 4

Article 4 of the Convention defines “members of the family” as those “persons married to migrant workers or having a relationship with them to the effect that, according to applicable law, it produces effects equivalent to marriage, as well as their dependent children and other dependent persons who are recognised as members of the family by applicable legislation or applicable bilateral or multilateral agreements between the States concerned”. Through this broad definition the Convention takes into consideration all forms of family units. This agreement includes all persons who are regarded by the law as being part of “the family”.

How Does the Convention Protect Migrant Workers?

Equality between citizens and workers

Article 54

The Convention guarantees that all migrant workers are accorded equal treatment of the citizens of the receiving country. This principle is an immeasurable asset and can be found throughout various areas of the Convention.

Protection against discrimination on all levels

Article 7

This norm prohibits discrimination against the migrant workers and their families. An individual cannot be treated unequally on the basis of gender, race, colour, language, religion or beliefs, political or other views, national, ethnic or social origin, nationality, age, economic situation, wealth, matrimonial status, or birth. (This article does not provide an exhaustive list, in the sense that there could arise other forms of prejudice not mentioned here, but which fall under the scope of discrimination.) The essence of the article is that migrant worker and their families benefit from maximum protection against all forms of discrimination.

Discrimination is equally prohibited in all other aspects of work, including hiring, payment of salary, working conditions, access to housing, healthcare, and other basic services.

Fundamental Rights

Articles 9-12, 14-18, 24, 54

Right to life

Articles 9, 14

The Convention guarantees the right to life. This is a right that should not be subject to limitations in any circumstances. The right to life provides protection for the honour and reputation of migrant workers. Any acts by State agents or public officers that lead to detention, or any conditions that are life-threatening to migrant workers, are strictly prohibited. They cannot be expelled or driven back from their country. Along these lines, the State is obliged to seriously investigate the validity of any allegations of violence and to bring the perpetrators to justice.

Protection against torture and violence

Articles 10, 16

Among the other intangible rights are respect for physical, mental, and moral integrity; together, these rights form the prohibition of torture. Migrant workers are entitled to be treated humanely, i.e., they should not be subject to cruel, inhumane, or degrading treatment. This mandatory right is dictated by article 7 of the International Covenant on Civil and Political Rights.

The Convention recognises that many migrant workers are currently the victims of exploitation and human rights violations. Consequently, migrant workers are in need of protection against physical harm, threats, or other intimidating behaviour. This provision covers their private life, family, and home.

Prohibition of slavery

Articles 11, 12

Servitude and slavery are prohibited by the Convention, and no reason, motivation, belief, or other fact allows an exception to this regulation. In order to enforce this prohibition, article 11 § 2 of the Convention states that “no migrant worker or member of his or her family shall be required to perform forced or compulsory labour”. This mechanism protects migrant workers from contemporary forms of slavery that the system of international human rights aims to eradicate.

Migrant workers are often the victims of trafficking; thus, the Convention absolutely prohibits the trade in human beings.

Presumption of innocence

Article 18 § 2

Presumption of innocence entails that all migrant workers are assumed to be innocent until their guilt is proven in a competent, impartial, and independent court of law. In other words, as long as the one has not pleaded guilty to the offence charged with, and guilt has not been proven beyond a reasonable doubt before the court, one should be considered innocent. Not even a very pressing cause can derogate from this principle. The protection of migrant workers is further strengthened by the Convention’s declaration that they be given the same legal treatment as citizens of the receiving country.

Migrant workers are also afforded all the advantages of the law:

- when a new, more favourable penal law is introduced, the new law will apply;
- a judgement should be given and communicated within a reasonable time period;
- the terms of the accusation should be given in the individual’s native language;
- the services of an attorney should be offered if they cannot afford one;
- migrant workers should be given sufficient time to prepare their defence;
- they should not be forced to testify against themselves;
- they should be entitled to compensation when found not guilty or when a conviction has been made unjustly.

It is also important to note that migrant workers cannot be condemned for offences they have not committed or for which they were previously found not guilty by a final court decision. This provision protects migrant workers from frivolous or unsubstantiated lawsuits.

Equality before the law

Articles 18, 54 § 2

An individual's status as a migrant worker is not justification for any sort of discrimination before a court. Migrant workers have the right to begin legal proceedings against an employer when the employer is in breach of the employment contract. A competent, independent, and impartial court of law must examine the matter only after taking the allegations into careful consideration.

Rights in the event of detention

Article 17

Migrant workers who are detained, or subject to other freedom restricting measures, must be treated humanely and their inherent dignity must be respected. Additionally, the Convention indicates that their "cultural identity should be respected", entailing that they should not be deprived of their cultural convictions even while facing detainment.

In the event of detention, the accused migrant worker should be separated from convicted persons. This rule of separation also applies to minors who are in detention.

According to the terms of the Convention, all States should provide migrant workers with the possibility of starting an appeal against the conviction on real and credible grounds within a reasonable period.

Right to property

Article 15

Another specific principle that the Convention recognises is the migrant worker's right to property. Migrant workers have the right to acquire, dispose, and operate their goods in the way they see fit, provided their actions are not contrary to the laws or rules of the receiving country. The Convention protects migrant workers from every form of illegal expropriation. This right to property includes intellectual property as well.

Thus, individual or collective goods should not be subject to abusive expropriation. In the event of total or partial expropriation done in accordance with the law, article 15 of the Convention requires that appropriate, just, and suitable compensation should be offered.

Legal Recognition of the Person

Article 24

Legal recognition of the person means that one is recognised as a subject of the law with rights and obligations. This protection entails that migrant workers have the right to physical integrity (no physical or sexual assault), moral integrity (no blackmail), privacy, a name, correspondence, and

fundamental liberties of thought and religion. These rights cannot lapse or be taken away.

Migrant workers are also entitled to patrimonial rights, such as the right of ownership, credit, and intellectual property (copyright and trademarks).

With regard to their legal recognition and consequent rights, they are entitled to initiate legal proceedings and to transfer and exercise their rights, provided they hold a name, residence, and nationality.

Fundamental Freedoms

Article 13

Freedom of Thought, Speech, and Religion

Migrant workers have the right to express their ideas without restriction. The freedom of thought emphasises that these workers are free to think as they wish, to express opinions that differ from the majority, and to express themselves explicitly. As part of this right, migrant workers also have the freedom to communicate or receive information. The freedom of thought is closely connected to the freedom of religion. Migrant workers may choose any religion they wish and should not be forced to take on any other one. Article 13 widens the scope of application of the freedom of speech since it includes “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”.

The Convention determines that these fundamental liberties can be subject to certain limited restrictions. It is true that the national laws of the country at hand may provide such restrictions, but only in four limited circumstances, namely: a.) when they are necessary to respect the rights or reputation of others; b.) for the protection of the national security of the States concerned, or for the protection of public order, public health, or morals; c.) for the purpose of preventing any propaganda for war; and, finally, d.) for the purpose of preventing any advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence.

Apart from these four cases, it is not possible to impose limitations upon the freedom of thought and speech of any migrant worker.

Access to Social Services

Article 70

Safety, Hygiene, and Health

The dignity of every migrant worker requires protection of safety, hygiene, and health. The Convention obliges the receiving country to guarantee working

conditions that respect health and hygiene standards. The provided services should not be less favourable than those that are offered to national workers. Here the Convention also integrates economic, social, and cultural rights.

Maintaining ties with the country of origin

Participation in the political life

Articles 41, 42

This provision allows migrant workers to maintain political ties with their countries of origin. Even when they are outside the country of origin they can, just as any other citizen, be elected and participate in the political life of the country. Article 41 lays down this principle and recommends that States facilitate the exercise of these rights. Neither the activities of migrants nor the distance between them and their countries can be used as an excuse to bar them from participation in national politics.

Migrant workers should also be allowed to exercise political rights in the receiving country with regards to the political developments in local entities and elsewhere when laws of the country concerned allow them to do so. Finally, the foreign status of migrant workers must not be an obstacle to political involvement.

Right to transfer income monies

Articles 32, 46, 48

The UN Special Rapporteur on the rights of migrant workers recognises the contributions these individuals make to their countries of origin, especially through the money they send to parents and relatives who have stayed in the home country.

These funds help the local economy, revive the relationship between the parties involved, and support economic growth. In this respect, article 32 is particularly important, since it allows migrant workers to transfer money and belongings.

Articles 46 and 48 reinforce the financial capacities of migrant workers and place them on the same level as national citizens regarding tax obligations (article 48 § 1a). The right to transfer goods stems from the Convention's right to property.

Moreover, States are not allowed to raise import or export taxes on the transfer of personal goods and materials that result when migrant workers return to their countries, arrive in or departure from the country where they work, or their permanent return to the country of origin or residence. Migrant workers should even be offered a reduction of taxes through an ability to deduct certain costs, e.g., in maintaining a family.

The Convention prohibits double taxation of the income and gains of migrant workers. This provision means that they should not be taxed simultaneously in the country of origin, in the country where they work, and perhaps also in the country of residence, but usually only in the country where they are employed.

Maintaining cultural ties

Articles 17, 31, 45

The Convention is also concerned about the cultural identities of migrant workers and members of their families. Article 31 provides that the cultural identity of migrant workers should be respected and safeguarded, and that they should not be prevented from keeping cultural ties with their State of origin. The Convention also insists that cultural identity must be respected even when one is in custody or in prison.

Article 45 states that, when needed, education in the mother tongue and the culture of the country of origin should be provided for the children of migrant workers.

Protection of the family

Articles 44, 45, 50 § 1, 53

One of the Convention's most noteworthy advantages is the protection of the migrant worker's family. This principle recognises that migrant workers are not simply economic objects, but also human beings who are accompanied by family members and who, above all, have their own fundamental human rights. Therefore, this protection recognises the unity of every family and dictates that all rights granted to migrant workers are automatically applied to family members. Hence, when the Convention speaks of "migrant workers", it also speaks about the "members of their family".

For example, when migrant workers are deprived of their freedom and taken into custody, the Convention requires the concerned State to take a particular interest in the problems that may occur with regard to their children. In other words, the State is obliged to protect the safety and well-being of their family members.

Article 45 establishes that the family members of migrants should be treated as equal citizens with acquired rights. Equal treatment also extends to accessibility of education, professional training, healthcare, social services, and participation in cultural events.

Article 30 adds that a State is not allowed to impose any limitations on the accessibility of these services.

As soon as the need arises, the receiving State must offer some type of educational programme in order to improve the integration of the children of migrant workers, especially with regard to improving their native language and enhancing their culture. These programmes, if needed, may involve the help of the mother country.

Article 29 ensures that children of migrant workers have a right to a name, registration, a nationality at birth.

In case of death or divorce, the State at hand should consider allowing family members the possibility of remaining in the country, taking into consideration the time they have already resided in the country (article 50 section 1). It is clear that death and divorce are not suitable causes for their immediate expulsion.

The freedom to choose a remunerated or salaried activity also applies to family members who have received the right to permanent residence or whose permits are automatically renewable. Those who have not already obtained this right should be given priority to do so.

Protection Relating to Residence Permits and Return

Residency permits

Article 49

The State at hand issues a residence permit for at least the duration of the employment contract. According to article 49 § 2, a regular migrant worker shall not be considered 'illegal' if the employment contract should terminate before the expiration of the employment *permit*. In order to allow the migrant worker to profit from unemployment benefits between the end of one activity and the start of another, the Convention declares that the residence permit may not be withdrawn during this period so that the migrant will have time to find another work position (article 49 § 3).

In the event that a migrant worker dies, the family members who do not have a title of residence should be given sufficient time to arrange outstanding matters.

Protection from arbitrary expulsion

Articles 22, 56

Migrant workers in ordinary situations should not be expelled except for reasons which are clearly defined in the law and which are accompanied by certain guarantees that respect mandatory rights and other fundamental rights and freedoms. In any case, expulsion should not take place for the sole purpose of depriving migrant workers of their rights under the residence and work permits. In light of the Convention, expulsion should

only be applied as a “last resort” option after all other possibilities have been explored. Article 22 § 1 explicitly prohibits means of collective expulsion. Article 56 § 3 determines that humanitarian issues, as well as the length of time that the individual migrant worker has stayed in the given country, should be considered. The Convention implies that when a certain period of time has passed, expulsion should no longer be allowed.

In addition, a competent authority must exercise the means of expulsion. In the event of a court decision, migrant workers have the right to have their case reviewed and to have the reasons for this decision to be reconsidered.

***Right to permanent return and
periodic visits to the country of origin***

Articles 8, 31, 38

The Convention provides migrant workers with the right to stay in their home country or to leave it. Any restrictions to this principle should only be imposed for reasons of public health, public order, or national security, which are laid down in the law and which are compatible with the Convention. Through article 8, the Convention subordinates the national laws to its provisions, thereby reinforcing the protection of the migrant workers.

Article 8 § 2 guarantees migrant workers the right of permanent return to their country of origin. They should also be allowed to return for regular, periodical, or occasional visits.

Consequently, the Convention assures that the temporary absence of migrant workers should not be grounds for prejudice. In addition, article 38 obliges States to not only allow them to leave temporarily, but also to set reasonable conditions for such a leave.

These measures make it possible for migrant workers to maintain a cultural link with their roots.

Right to permanent return

Article 67

Migrant workers may return to their country of origin in three cases: a.) an irregular situation, b.) the expiration of the residence or work permit, or c.) a personal decision. The Convention encourages States to organise, support, and facilitate return in any of these situations. It also invites States to support and offer adequate economic conditions to reintegrate, rehabilitate, and reinstall migrant workers in their country of origin.

Employment Rights and Guarantees

Choice of Work

Articles 49 § 2, 50, 51, 52, 53 § 2, 71

Migrant workers are free to choose their remunerated activity. But this fundamental principle carries some exceptions and restrictions. This is the same for their family members, provided they are authorised to permanently reside in the country at hand or that their permits are automatically renewed. They, too, are free to choose their remunerated activity and any limitations on this must be strictly compatible with all segments of the Convention. These restrictions may regard giving preference to hiring nationals or meeting specific professional requirements. However, as far as this latter case is concerned, the Convention strongly urges the recognition of professional qualifications that are obtained abroad.

The receiving country can also require migrant workers to refrain from certain remunerated activities unless they have resided there for a number of years. However, the country is not allowed to exceed this requirement by more than two years. Moreover, during this period, preference will be given to national workers to fulfil the job at hand. The Convention determines that this limitation should not be imposed on a migrant worker who has resided in the country for five years or more.

Article 52 § 4 requires receiving States to define the conditions under which migrant workers are officially admitted or authorised to work as self-employed. The longer migrant workers stay in a country, the more rights they should be entitled to.

A single breach of a contractual term does not give the State the right to expel a migrant worker.

Hiring

The Convention prohibits employers from any form of discrimination in their hiring practices, especially those based on xenophobia, religion, race, age, or gender.

Execution of the contract

The right to initiate legal proceedings against an employer

The Convention gives migrant workers the possibility to initiate legal proceedings against employers who fail to comply with contractual obligations.

Failure to fulfil a contractual obligation

Failure of the migrant worker to fulfil a contractual obligation, however, is not sufficient reason for expulsion.

Activities by trade unions

The Convention provides that migrant workers may actively engage in trade union activities. Employers may not impose harsh treatment (such as dismissal, or change or reduction in rank) because of these union activities.

Salary

The Convention guarantees equal treatment between nationals and migrant workers. Being labelled as a migrant worker does not justify a lower salary than what a national would normally receive for similar work.

Dismissal

The Convention protects migrant workers against all types of abusive dismissal. The reason for dismissal must be an objective one, in the sense that the dismissal is serious, legitimate, and non- subjective. It may not depend on certain assumptions, prejudices, personal feelings, the threat of legal action, or problems outside of work.

When the dismissal has been made objectively, the migrant worker should be entitled to means of reclassification.

Protection against abusive dismissal

There are general agreements that address social issues. But since most employment contracts are 'adhesive', the terms of the contract that define the relationship between the employer and the employee need to respect the terms of the Convention.

Migrant workers should not be victims of a company's bad management. Some employers base their 'economic' dismissals on non-economic, non-urgent, or other non-sufficient reasons, such as age, skin colour, language, or religion.

In all cases, there must be serious reasons for dismissal. Migrant workers cannot be dismissed on the basis of religion, xenophobia, or race. Age or trade union activities (i.e. being a trade union militant or trade union representative) are not legitimate reasons for dismissal. Non-work related issues or prejudices are also insufficient grounds for dismissal.

Migrant workers who are dismissed lawfully should receive the same benefits as national workers, including unemployment payments, severance packages, or whatever is applicable in a particular country.

Migrant workers may apply for other employment following dismissal.

Unemployment

Unemployment is a very critical time for migrant workers and their family members. The Convention mandates that these workers should receive unemployment benefits, be allowed to register with job centres and participate in public interest programs.

Irregular, Undocumented, or Clandestine Workers

Their rights

Articles 28, 30, 68 § 1

In its Preamble, the Convention underlines that “the human problems involved in migration are even more serious in the case of irregular migration”. In fact, the Convention grants protection to undocumented migrant workers. This merit is an innovation based upon the idea that all migrants have the right to enjoy minimum standards of protection of their fundamental rights. Despite their regular or irregular status, migrant workers’ fundamental rights must be respected first and foremost because they are human beings.

This principle is rooted in a pragmatic and realistic appreciation of migrant workers’ situations. Often obliged to leave their countries without having fulfilled the departure formalities or living without a residence permit in the State of employment, migrant workers - called in these situations ‘clandestines’ or ‘without papers’ - face several difficulties.

Articles 28 and 30 of the Convention provide that undocumented workers benefit from equality of treatment. For instance, migrant workers have the right to receive any urgent medical treatment and their children have access to pre-school educational institutions or schools. Any refusal or limitation by reason of their irregular situation with respect to stay or employment is forbidden.

Regarding preventive measures to stop clandestine migration, Article 68 § 1c declares that States should place effective sanctions on those who use violence, threats, or intimidation against migrant workers.

Measures to Prevent Clandestine Migration

Articles 68, 69

The Convention suggests that measures be adopted to stop the irregular flow of migration, such fighting against the circulation of false information,

punishing smugglers and employers of irregular migrants. The Convention foresees:

1. Cooperation between States to prevent and eliminate clandestine networks,
2. Moves against the dissemination of false information,
3. Measures aimed at detecting and eliminating irregular movements,
4. Measures aimed at eliminating clandestine work and punishing employers exploiting it.

The Convention asks States to take measures to ensure that irregular situations do not exist on their territories. The Convention invites them to consider regularising clandestine migrants, taking account of the circumstances and duration of their entry (Article 67).

Obligations of States of Origin, Transit, and Employment

States that ratify the Convention incur several obligations.

Adaptation of national legislation

States accept to apply the Convention by ratifying or adhering to it. This step is an international engagement where a country is obliged to introduce the Convention in its internal juridical system. This obligation means that national laws must be in conformity with the provisions of the Convention. Furthermore, a country must take legislative and administrative measures to facilitate the Convention's implementation, even if it means revising its own Constitution. A Committee, set up by the Convention, receives reports from States and encourage them – through its recommendations – to implement the Convention's provisions. NGOs play the extremely important role of urging countries to harmonise their legislation and to adopt concrete measures to put it into effect.

Good faith application of the Convention's provisions

The good faith application is a rule of international public law affirming that States decide to honour their international commitments. Different from pure international law, where States adopt the principle of reciprocity in complying with their obligations, in the field of human rights, each country must apply the existing norms independently of what other States do.

The Convention calls upon States to come together to debate migration issues and to define the responsibilities incumbent on countries of origin,

transit, and destination in relation to migrants' protection and the elaboration of adequate migratory policies. This includes the efforts needed to harmonise national legislations with international standards in the field of human rights. Brunson McKinley, Director General of the International Organisation for Migration (IOM) declared: "Migration is a dynamic phenomenon, which involves a great number of actors. All countries have a shared interest in putting in place comprehensive approaches to the management of migration that will ensure the safety and dignity of migrants as they meet national employment, growth, development and security needs. Migrants provide a positive contribution to today's global society. The key is not to prevent mobility but to manage it better".

Specific obligations of States of origin

Beyond the presentation of periodic reports to the Committee on the Rights of Migrant Workers, other obligations fall on States parties.

Duty to inform and assist* *Article 37

In the preparation phase of migration, countries of origin must provide candidates with all necessary information regarding the linguistic, cultural, juridical, social, economic, and political system of the host country. Future migrant workers must also receive information on working conditions and on the appropriate authorities they can contact in order to research, modify, or renew their demands.

Establishment of regulation services* *Articles 66, 65

Appropriate services. Article 66 enumerates the services and bodies able to recruit workers in another country. Departure formalities can only be undertaken through official bodies or through a service created by virtue of a bilateral or multilateral agreement. States must establish those entities that are indispensable for the recruitment of candidates for departure.

Adequate consular services. These services are part of the global policy of States parties to the Convention. By providing pertinent information to the concerned country, competent consular services help limit clandestine migration and to head off problems in the long run.

Specific obligations of States of transit. In addition to the presentation of their periodic reports to the Committee, those States should also cooperate in the fight against clandestine immigration and in the exchange of information. States of transit must also observe the various rules of the Convention in

order to provide for the needs of migrant workers temporarily present in their territories.

Specific obligations of States of destination. Beyond the presentation of their periodic reports to the Committee, States of destination, whose responsibilities are the widest according to the Convention, must inform, regulate, and monitor the recruitment process. States of destination must also ensure equality of treatment between their nationals and migrant workers, as well as guarantee and safeguard the Convention's rights.

Implementation of the Convention

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families is the seventh UN human rights instrument with a monitoring body. The seventh part of the Convention is entirely devoted to the working methods of its Committee, which ensures that States parties adapt their legislation to the Convention's provisions.

The Committee registers the level of implementation of the Convention. NGOs and other groups or individuals can submit reports to ensure that migrant workers' rights are respected.

Within the international human rights protection system, six other committees monitor the application of the Conventions. These committees are:

1. The Human Rights Committee for the International Covenant on Civil and Political Rights.
2. The Committee on Economic, Social, and Cultural Rights for the International Covenant on Economic, Social, and Cultural Rights.
3. The Committee Against Torture for the Convention Against Torture and any other Cruel, Inhuman, or Degrading Treatment.
4. The Committee Against Racial Discrimination for the International Convention on the Elimination of All Forms of Racial Discrimination.
5. The Committee on the Elimination of Discrimination Against Women for the Convention on the Elimination of All Forms of Discrimination Against Women.
6. The Committee on the Rights of the Child for the Convention on the Rights of the Child.

The main function of treaty bodies is to examine and make comments on the States' periodic reports. States are requested to indicate which measures

have been undertaken to respect the obligations contracted by ratifying a particular treaty. The Committee raises questions with a representative of the country and then informs him of its conclusions, recommendations, and observations.

NGOs can use this procedure to put pressure on governments so that they can remedy a situation or modify its policies and practices. A report examination is the occasion to call national and international attention to situations in a particular country. Sometimes this action facilitates a constructive dialogue with the concerned country.

Composition of the Committee on the Rights of Migrant Workers

Article 72

The Committee consists of 10 independent experts (which increases to 14 once 41 or more States have ratified the Convention). States parties elect Committee members by secret ballot, taking into consideration fair geographical distribution (including both States of origin and States of employment), and representation of the world's main legal systems. Members serve a four-year term and the designating States replace them when they cannot fulfil their mandate.

Presentation of Periodic Reports

Article 73

This is where States' efforts to effectively implement the Convention are measured. It is a good faith procedure that shows how cooperative States are to strengthening the protection of human rights. States parties submit a report to the Committee detailing the legislative, judicial, administrative, and other measures they have adopted in accord with the Convention's principles. They also indicate factors and difficulties on migration flows. In their reports, these States illustrate their migration policies and programmes in the short, medium, and long terms to ensure the broadest respect for the Convention's obligations. These reports should be widely distributed in the concerned country. The first reports will be submitted one year after the entry into force of the Convention (July 2004). Thereafter, State will have to present their reports every five years. Art. 73 § 1b adds that a report should also be presented whenever the Committee so requests.

Procedures for complaint

Articles 76, 77

Complaints – officially called “communications” – can be presented both by States and individuals.

Communications by States

Articles 76

If a State party considers that another State party is not fulfilling its obligations under the Convention, it may address a complaint to the Committee, although this procedure is rarely used.

Communications by individuals

Article 77

Article 77 declares that individuals can introduce a complaint to the Committee if they consider that a State party has violated their rights. However, an individual complaint must follow certain criteria in order to be considered:

1. **It must not be anonymous:** The person must indicate his/her identity (i.e., family name, name, address, identity references).
2. **It must not be incompatible with the content of the Convention:** the violated right must be mentioned in the Convention. For example, a complaint on “bioethics”, an issue that is not part of the Convention, would not be admitted.
3. **Abuse in the submission of the complaint:** for instance, a complaint that was declared inadmissible beforehand and is reintroduced will be inadmissible for abuse of submission.
4. **The same matter must not be examined by another international jurisdiction:** to avoid overlapping, the complaint must not also be simultaneously introduced at an additional international court or any other regional body.
5. **Exhaustion of all available domestic remedies:** a definite decision has been already taken at the national level on this complaint. However, article 77 § 3 b declares that this rule shall not apply if the complaint is unreasonably prolonged or is unlikely to bring effective relief to that individual.

Unfortunately, the examination of individual complaints is subordinated to a declaration of the State party concerned that recognises the competence of the Committee to receive and consider such complaints. Franciscans International believes that States’ full and effective ratification of a human rights instrument should automatically imply the recognition of this competence in order to grant justice to people. Today, however, even countries that have already ratified the Convention have not yet made this declaration.

Some Clarifications

No right contained in the Convention can be restricted

According to article 82, none of the rights in the Convention can be renounced and it shall not be possible to derogate by contract from rights recognised in the Convention as well. This provision reinforces migrant workers' protection. Article 89 adds that a State party cannot selectively choose which provisions to apply, but that it is obliged to respect entire provisions.

The fundamental value of the Convention

Several countries see the Convention as an additional mechanism that merely forms a synthetic document of existing human rights in other UN texts. These countries believe they have already sufficiently advanced the protection of human rights by having ratified the previous instruments. However, the defence of human rights goes further by challenging a wider spectrum of violations against human dignity. This Convention represents a new occasion for countries to reaffirm their engagements, to show their good faith, and to demonstrate their work. The Convention strengthens the UN human rights promotion and protection system by establishing a monitoring committee.

The Convention also contains some specific individual human rights, including the mandate to send remittances, the prohibition of collective expulsion, and the prohibition to confiscate passports from migrant workers. The Convention also creates a juridical framework to facilitate States' fight against clandestine immigration.

IV. UN SPECIAL RAPPORTEUR ON THE HUMAN RIGHTS OF MIGRANTS

Mandate

In 1999 the Commission on Human Rights appointed a Special Rapporteur on the Human Rights of Migrants. The Commission requested the Special Rapporteur to “examine ways and means to overcome the obstacles existing 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”. Gabriela Rodriguez Pizarro (Costa Rica) was appointed Special Rapporteur in August 1999. Her mandate was renewed in 2002 for a period of three years.

Resolution 1999/44, adopted by consensus by the Commission on Human Rights, set a broad mandate with the following main elements:

- to request and receive information from all relevant sources, including migrants themselves, on violations of the human rights of migrants and their families;
- to formulate appropriate recommendations to prevent and remedy violations of the human rights of migrants, wherever they may occur;
- to promote the effective application of relevant international norms and standards on the issue;
- to recommend actions and measures applicable at the national, regional, and international levels to eliminate violations of the human rights of migrants;
- to take into account a gender perspective when requesting and analysing information, as well as to give special attention to the occurrence of multiple discrimination and violence against migrant women.

The Commission also requested the Special Rapporteur to take into account bilateral and regional negotiations, aimed at addressing, *inter alia*, the return and re-insertion of migrants who are non-documented or in an irregular situation.

All governments are encouraged to fully cooperate with the Special Rapporteur by providing her with the requested information and promptly reacting to her urgent appeals. Governments are also called upon to invite the Special Rapporteur to visit their countries in order to let her efficiently implement her mandate.

Field visits

Since the beginning of her mandate, the Special Rapporteur has visited the following countries:

- **Canada**, 17 - 30 September 2000
report in document E/CN.4/2001/83/Add.1
- **Ecuador**, 5 - 15 November 2001
report in document E/CN.4/2002/94
- **Mexico**, 25 February - 6 March 2002
report in document E/CN.4/2003/85/Add.2
- **US/Mexican Border**, 7 - 18 March 2002
report in document E/CN.4/2003/85/Add.3 and Corr.1
- **Philippines**, 20 May - 1 June 2002
report in document E/CN.4/2003/85/Add.4
- **Spain**, 15 - 26 September 2003
report in document E/CN.4/2004/76/Add.2
- **Morocco**, 19 - 31 October 2003
report in document E/CN.4/2004/76/Add.3
- **Iran**, 22 - 29 February 2004
preliminary note in document E/CN.4/2004/76/Add.4

The Special Rapporteur intends to visit the following countries in a near future: Italy, Belgium, Burkina Faso, Ivory Coast, Peru, Mali and Sierra Leone.

Questionnaire

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, specialised 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.”

For this purpose, the Special Rapporteur has developed a questionnaire to facilitate the submission of cases.

The questionnaire included on the following pages should be sent to:

Special Rapporteur on the Human Rights of Migrants

UNOG-OHCHR
8-10 Avenue de la Paix
1211 Geneva 10
Switzerland

Fax: (+41 22) 917 90 06

E-mail: urgent-action@ohchr.org

(Email Subject: Special Rapporteur HR Migrants)

The objective of the questionnaire is to provide precise information on alleged violations of the human rights of migrants.

The Special Rapporteur may raise her concerns about the incidents reported and request governments to make observations and comments on the matter.

Non – state Agents (*specify*)

If it is unclear whether they were state or non – state agents please explain why?

1. GENERAL INFORMATION:*(Please mark with an X when appropriate)*

Does the incident involve ____ an individual ____ a group

If it involves a group, please give the numbers involved:

Number of Men _____ Number of Women _____

Number of Minors _____

Country in which the incident took place

Nationality of the victim(s) _____

2. IDENTITY OF THE PERSONS CONCERNED:

Note: if more than one person is concerned, please attach relevant information on each person separately.

Family name _____

First name _____

Sex ____ Male ____ Female

Birth date or age _____

Nationality(ies) _____

Civil status (single, married, etc.) _____

Profession and/or activity (e.g. trade union, political, religious, humanitarian/solidarity/human rights, etc.)

Status in the country where the incident took place:

____ Undocumented

____ Resident

____ Transit

____ Refugee

____ Tourist

____ Asylum seeker

____ Student

____ Temporary protection

____ Work Permit

____ Other (please specify)

3. INFORMATION REGARDING THE ALLEGED VIOLATION

Date:

Place:

Time:

The nature of the incident: Please describe the circumstances of the incident:

Was any consular official contacted by the alleged victim or the authorities?
(Please explain)

Was the alleged victim aware of his/her right to contact a consular official of his/her country of origin? *(Please explain)*

Agents believed to be responsible for the alleged violation
State Agents *(specify)*

Non – state Agents *(specify)*

If it is unclear whether they were state or non – state agents please explain why?

If the perpetrators are believed to be State agents, please specify (military, police, agents of security services, unit to which they belong, rank and functions, etc.) and indicate why they are believed to be responsible; be as precise as possible:

If an identification as State agents is not possible, do you believe that Government authorities, or persons linked to them, are responsible for the incident, why?

**4. STEPS TAKEN BY THE VICTIM, HIS/HER FAMILY
OR ANY ONE ELSE ON HIS/HER BEHALF**

Indicate if complaints have been filed, when, by whom, and before which organ.

Other steps taken:

Steps taken by the authorities:

Indicate whether or not, to your knowledge, there have been investigations by the State authorities; if so, what kind of investigations? Progress and status of these investigations; which other measures have been taken

In case of complaints by the victim or its family, how have the organs dealt with them? What is the outcome of those proceedings?

5. IDENTITY OF THE PERSON OR INSTITUTION SUBMITTING THIS FORM

Institution _____

Individual _____

Address _____

Telephone _____

Fax _____

Email _____

Date you are submitting this form _____

Special Rapporteur on the Human Rights of Migrants

UNOG-OHCHR: 8-10 Avenue de la Paix, 1211 Geneva 10, Switzerland
urgent-action@ohchr.org (**Subject: Special Rapporteur HR Migrants**)

V. THE ILO AND THE RIGHTS OF MIGRANT WORKERS

The International Labour Organisation (ILO) is at the forefront in the fight against the exploitation and the violation of migrants' rights with Convention 97 (1949) and Convention 143 (1975). These two instruments set guidelines for States to facilitate fair recruiting practices and periodical consultations with social partners. They also underline the non-discrimination principle and call for equality of treatment between nationals and migrant workers in the areas of social security, working conditions, payment, and participation in trade unions. It is, therefore, no surprise that the Preamble of the UN Convention makes reference to the ILO provisions.

Convention 97 on migrant workers, 1949

The objective of Convention 97 is to regulate the conditions under which migration should take place and to ensure migrant workers equal treatment in a certain number of fields. Convention 97 illustrates the information that States should exchange in the field of migration, and encourages the establishment of free services to support migrant workers by providing them with information on how to organise their departure, journey, and arrival in a host country. The Convention also establishes medical services for migrant workers and their families, and obliges States to grant non-discriminatory treatment for documented migrants.

Convention 143 on migrant workers, supplementary norms 1975

The Convention urges States to respect the fundamental human rights of all migrant workers, to take measures to investigate and end clandestine migration and the illegal employment of migrants. This international commitment obliges States to promote equality of treatment in the areas of employment, job qualifications, social security, trade unions, cultural rights, and individual and collective liberties.

Monitoring mechanisms of ILO Conventions

These mechanisms are devoted to the control of international labour norms.

- **Regular monitoring system:** the ratification of a labour norm implies that States have the obligation to periodically present a report on the measures adopted to follow-up the provisions of the ratified instrument.
- **Special monitoring procedures:** these procedures foresee the examination of allegations that a Member State is not respecting the Convention's ratified provisions, as contained in articles 24 and 26 of the ILO Constitution. In particular, allegations of the violation of the freedom of trade unions can be formulated against Member States that have not yet ratified the applicable Convention.
- **Ad hoc mechanisms:** Some progressive monitoring supervises the implementation of international labour provisions for specific circumstances.

VI. UNESCO AND THE RIGHTS OF MIGRANT WORKERS

The United Nations Educational, Scientific, and Cultural Organisation (UNESCO) shares the view that the exploitation of and the human rights violations against migrant workers, who constitute one of the most vulnerable categories, particularly when they are undocumented, should be fought at all levels. The Preamble of the UN Convention (1990) makes reference to UNESCO regarding the struggle against discrimination in the field of education. In fact, UNESCO provides education grants to the children of migrant workers.

UNESCO tries to explore ways and means to facilitate the establishment of a support mechanism able to contribute to the elaboration of public policies in order to respond to the present challenges of migration around the world. In its approach, UNESCO integrates researchers, specialised governmental officials, public institutions, and NGOs, whose mission is to take into consideration all the aspects of the issue. This worldwide dynamic network provides information on labour migration in order to sensitise public policies. UNESCO's multicultural approach and international migration programmes aim to contribute to a better acceptance of the UN Convention. Through integration, UNESCO reinforces social, cultural, and political protections for migrant workers.

UNESCO launched a project entitled, "Poverty reduction of young migrant women workers" in China, Laos, and Cambodia. In China, for example, this project targets groups of migrant women that are particularly vulnerable and marginalised from society. The project's objective is to examine the problems of poverty and the social and economic isolation inflicted upon these young women. This project also proposes activities to enhance the young women's capabilities and professional evaluation.

VII. IOM's VISION FOR PROTECTING MIGRANT WORKERS

The International Organisation for Migration (IOM) concentrates on migration-related formation and legal advisory services. According to its mission statement the IOM programmes “encourage social and economic development through migration, and uphold the human dignity and well-being of migrants”.

The IOM programme “Migration for development” helps the least developed countries to respond to their needs of qualified work force. The IOM works to defuse false expectations on migration, reinforce governmental migration services, update migration policies, and support the return of migrants to their home country.

The IOM also highlights the need to manage migration, offer advisory services concerning legislative measures, carry out research, and correct unrealistic expectations potential migrants might have.

Additionally, the IOM intervenes as a mediator between countries to guarantee a dignified and human migratory flow. The IOM's main objectives are to act as an effective bridge between laws and facts and to be an agent that facilitates the respect of the rights enshrined in international texts, namely the UN Convention.

The IOM has recently developed a research, analysis and reflection programme in collaboration with experts, governments, and other international migrant rights' organisations. Beyond its humanitarian activities directed towards migrants, the IOM also helps interested countries to set policies and develop the institutional framework to manage migratory flows in their territories.

Irregular migration, smuggling, human trafficking, and terrorism acts, constitute threats to migrants and hamper their full integration in the receiving countries. Consequently, the IOM recommends that countries create programmes that inform potential migrants of regular migration procedures, elaborate a constructive strategy on migration management, and fully integrate regular migrants in the receiving countries. The IOM studies the link between migration and development, assesses the root causes of migration flows, and improves the legal framework applicable to migrants, particularly in relation to their entry conditions and the respect of their rights.

The IOM also participates in health assistance to regular migrants before departure, management of unforeseen massive exoduses, organisation of voluntary returns of migrants to their country of origin, initiatives in favour of social integration of resettled persons, and training for borders, police, and immigration authorities.

VII. RATIFICATION TABLE

This table provides the dates on which countries ratified the following conventions related to the rights of migrant workers:

- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Family, 1990 (25 ratifications)
- ILO Convention 97, 1949 (41 ratifications)
- ILO Convention 143, 1975 (18 ratifications)

As of 1 March 2004

State	Signature, Convention 1990	Ratification/ Adhesion (a), Convention 1990	Ratification, Convention 97	Ratification, Convention 143
Algeria			19 Oct 1962	
Azerbaijan		11 Jan 1999 a		
Bahamas			25 May 1976	
Bangladesh	7 Oct 1998			
Barbados			8 May 1967	
Belgium			27 Jul 1953	
Belize		14 Nov 2001 a	15 Dec 1983	
Benin				11 Jun 1980
Bolivia		16 Oct 2000 a		
Bosnia & Herzegovina		13 Dec 1996 a	2 Jun 1993	2 Jun 1993
Brazil			18 Jun 1965	
Burkina Faso	16 Nov 2001	26 Nov 2003	9 Jun 1961	9 Dec 1977
Cameroon			3 Sep 1962	4 Jul 1978
Cape Verde		16 Sep 1997 a		
Chile	24 Sep 1993			
Colombia		24 May 1995 a		
Comoros	22 Sep 2000			
Cuba			29 Apr 1952	
Cyprus			23 Sep 1960	28 Jun 1977

State	Signature, Convention 1990	Ratification/ Adhesion (a), Convention 1990	Ratification, Convention 97	Ratification, Convention 143
Dominican Republic			28 Feb. 1983	
Ecuador		5 Feb 2002 a	5 Apr 1978	
Egypt		19 Feb 1993 a		
El Salvador	13 Sep 2002	14 Mar 2003		
France			29 Mar 1953	
Germany			22 Jun 1959	
Ghana	7 Sep 2000	7 Sep 2000		
Grenade			9 Jul 1952	
Guatemala	7 Sep 2000	14 Mar 2003	13 Feb 1952	
Guinea		7 Sep 2000 a		5 Jun 1978
Guinea-Bissau	12 Sep 2000			
Guyana			8 Jun 1966	
Israel			30 Mar 1953	
Italy			22 Oct 1952	23 Jun 1981
Jamaica			22 Jun 1962	
Kenya			30 Nov 1965	9 Apr 1979
Kyrgyzstan		29 Sep 2003 a		
Macedonia			17 Nov 1991	17 Nov 1991
Madagascar			14 Jun 2001	
Malaysia				
Mali		5 Jun 2003 a		
Mauritania			2 Dec 1969	
Mexico	22 May 1991	8 Mar 1999		
Morocco	15 Aug 1991	21 Jun 1993		
Netherlands			20 May 1952	
New Zealand			10 Nov 1950	
Nigeria			17 Feb 1955	
Norway			17 Feb 1955	24 Jan 1979
Paraguay	13 Sep 2000			

State	Signature, Convention 1990	Ratification/ Adhesion (a), Convention 1990	Ratification, Convention 97	Ratification, Convention 143
Philippines	15 Nov 1993	5 Jul 1995		
Portugal			12 Dec 1978	12 Dec 1978
Saint Lucia			14 May 1980	
Saint Marin				23 May 1985
Sao Tome and Principe	6 Sep 2000			
Senegal		9 Jun 1999 a		
Seychelles		15 Dec 1994 a		
Sierra Leone	15 Sep 2000			
Slovenia			29 May 1992	29 May 1992
Spain			21 Mar 1967	
Sri Lanka		11 Mar 1996 a		
Sweden				28 Dec 1982
Tajikistan	7 Sep 2000	8 Jan 2002		
Tanzania			22Jun 1966	
Timor-Leste		30 Jan 2004 a		
Togo	15 Nov 2001			8 Nov 1983
Trinidad & Tobago			24 May 1963	
Turkey	13 Jan 1999			
Uganda		14 Nov 1995 a		31 Mar 1978
United Kingdom			22 Jan 1951	
Uruguay		15 Feb 2001 a	18 Mar 1953	
Venezuela			9 Jun 1963	9 Jun 1963
Yugoslavia			2 Dec 1964	2 Dec 1964
Zambia			2 Dec 1964	

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