

UNDERSTANDING INTERNATIONAL MIGRATION

A Sourcebook

Compiled by
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Asian Partnership on International Migration (APIM)

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About the cover

The illustration on the cover is by Anwar Fazal, Regional Coordinator of Asia Pacific 2000, United Nations Development Programme. It was drawn at the founding of Asian Partnership on International Migration (APIM) on April 8 1997 in Bangkok, Thailand. It is inspired by the form of a 'Mandala', a graphic presentation that is based in eastern rituals to focus consciousness towards both cosmic and individual action. It links and it energises – two attributes so important for the work on international migration issues.

UNDERSTANDING INTERNATIONAL MIGRATION

A Sourcebook

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*Foreword by Anwar Fazal, Regional Coordinator, Asia Pacific 2000,
United Nations Development Programme*

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Foreword

THE RIGHTS OF MIGRANT WORKERS

I have some very rapid appraisal ideas about civilised societies, and one of the indicators I use is how societies treat visitors and foreigners generally and especially those who take up economic activities. We test their local host's pride, generosity and their humanity.

Today, if we look at how migrant workers and their families are treated, we often see the real and worst sides of people and institutions.

It took 11 years and 1 day from the time the General Assembly adopted a resolution entitled 'Measures to Improve the Situation and Ensure the Human Rights and Dignity of Migrant Workers' on 17th December 1979, to the time on the 18th of December 1998, when it adopted the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.'

It was an ingenious convention reaffirming and packaging existing standards of human rights in other international instruments while incorporating ideas unique to the context of migrant workers.

Perhaps because it was so thorough and bold that so few countries have ratified it, and there seems little enthusiasm globally.

A group of us have decided to change that, or at least try to.

Margaret Mead, the greatest socio-anthropologist, once said:
"Never doubt that a small group of thoughtful, committed citizens, can change the world; indeed, it is the only thing that ever has."

Firstly, a new network has been formed. It is called the Asian Partnership on International Migration (APIM). A core activity of APIM is to get the world to pay attention to the issues of migrant workers.

Secondly, we agreed that December 18th be celebrated world-wide as the International Day of Solidarity with Migrant Workers and Their Families. That day marks a historical landmark for a popular campaign for global solidarity with migrant workers and to get the Convention in place firmly all over the world.

And thirdly, this Sourcebook on International Migration was compiled to ensure that there is easy access to the wealth of resources that are now available to assist those working to defend the rights and dignity of migrant workers.

In doing so, we address five particular challenges:

Firstly, we are addressing a cluster of human rights issues. No human should be treated the way many migrants are. A regime of criminality is emerging and taking root. We need to ask more loudly 'what are rights and what are wrongs?'

Secondly, we are addressing the reality of a cluster of issues concerning values, family and other community relationships, which sadly, have undergone much disintegration. We need to ask 'what lives, what dies?'

Thirdly, we have a range of economic issues, billions of dollars are being remitted monthly.

Local economies are transformed, even distorted. We need to ask 'what kind of economies' are breeding and feeding on this issue. We need to ask 'who gets rich, who gets poor?'

Fourthly, we have the challenge of environmental and health issues, of the transmission of old diseases and of new ones, (e.g. sudden death syndrome). We need to ask 'Who lives? who dies?'

Fifthly, we have the challenge of partnership – these issues need the combined humanity and concerted action of a whole range of stakeholders including governments, researchers, civil society, UN agencies and employers. We need to ask 'who is responsible, who is irresponsible?'

WHAT CAN WE DO?

We must use all the power of popular mobilisation, bringing together diverse interests and energies. We must be prepared to be in for the full long haul. APIM, the network, The International Day of Solidarity with Migrants, and this sourcebook provide us with the process and the tools for that.

- They provide us with the unifying and creative opportunity to share and build on the stated commitment of the global institutions and to share the competence of many actors in government, business and civil society;
- They provide for us a platform for specific 'do-able' actions;
- They remind us of the core universal values about dignity, human rights, fairness and justice.

In a world driven by so much greed and criminality, a world that seems to thrive on disorder and dislocation, a world that breeds violence and racism, developing both universal standards of humanity and justice and meeting human needs are ever more essential.

In the United Nations Development Programme (UNDP), we call this kind of new world order, 'Sustainable Human Development'. Through APIM, the International Day of Solidarity with Migrants and this Sourcebook, we hope to further our agenda of hope and action.

The United Nations Development Programme (UNDP), through its initiative, 'Asia Pacific 2000', is pleased to be of assistance to all those who want to walk their talk on the issues of migrant workers.

My special thanks are to the two compilers of this book, Saira Shameem and Elizabeth Brady, who brought caring, commitment and competence of a rare kind to make this package. My special thanks also to the United Nations Development Programme (UNDP) teams in Kuala Lumpur and Manila and the United Nations Office for Project Services (UNOPS) Regional Office for Asia, without whose support this book could not have seen the light of day.

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Kuala Lumpur
MALAYSIA
31 September 1998



Introduction

The Asian Partnership on International Migration, or APIM, is a light, action oriented, participatory partnership that aims to work in a collaborative effort amongst existing networks and agencies working on migration issues.

APIM is an Asia Pacific 2000/United Nations Development Programme supported partnership of networks in the South East Asian Region that resulted from two intra-regional consultations. The summary report of one of these meetings, the Regional Consultation on the Impact of Trans-boundary Migration on Urbanisation, which was held in Bangkok, Thailand from the 13th–15th of December 1996, is presented here within this publication.

THE CHALLENGE

The extreme nature of the conditions of migrant workers is one that elicits a sense of desperateness. There is an urgency for dialogue between governments, UN agencies, intergovernmental organisations, specialised agencies as well as non-governmental organisations.

THE RESPONSE

APIM's mission is to protect and empower migrant workers and their families through enhancing their human rights and human dignity by developing just, participatory, productive, ecologically and culturally vibrant societies locally, nationally and internationally.

APIM works towards promoting awareness and acceptance of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (GA Resolution 45/158) and other standards established by the United Nations, its specialised agencies and other like-minded organisations.

ACTION PLAN

The focus of APIM's activities is geared towards the strengthening and expansion of the following areas of work:

- Advocacy
- Assistance and Empowerment
- Information, Research and Analysis
- Networking

OUR PARTNERS

The following groups are members of the APIM Network:

Asian Cultural Forum on Development (ACFOD)
Asian Migrant Centre (AMC)
Asian Network for Women and International Migration (ANWIM)
Asia Pacific 2000/United Nations Development Programme
Asian Resource Foundation (ARF)
Asian Research Centre for Migration (ARCM)
Scalabrini Migration Center (SMC)
Tenaganita, Malaysia

APIM also works in close collaboration with the International Organisation for Migration (IOM), the International Labour Organisation (ILO), the United Nations Economic and Social Commission for Asia and the Pacific (UN-ESCAP), the United Nations Children's Fund and other related agencies.

Understanding International Migration – A Sourcebook is part of our effort to promote the UN and ILO Conventions on Migrant Workers as well as a tool for networking between organisations involved with migration issues and members of the media, non-governmental organisations and lay-persons interested in the issues of migrant workers.

We hope this handbook proves useful as a brief introduction to some of the main issues that impact on the lives of migrant workers. We have also included the text of relevant international instruments for your reference.

2

A Glossary of Terms on International Migration

A/

ACCOMMODATION

In most cases, accommodation is not provided for migrant workers by neither the employer nor the host government. This often leads to situations where migrant workers resort to overcrowded or sub-standard accommodation in the absence of affordable alternatives. In some sectors, like domestic help, both sending and receiving nations abide by an understanding (sometimes required by the employment contract) that accommodation be provided to the worker. Although this is not required by legislation in most cases, there are several other considerations that result in the tendency for workers in other sectors to be housed within or near their working environments. These include increased access to the workers in the case that overtime or shift work may be required, ease of monitoring and controlling the administrative and social aspects of employing a migrant workforce and the reduced costs associated with providing in-house accommodation for both employers and employees. However, as the quality of shelter is not regulated, adequate housing remains an area in which improvements can be made through appropriate migrant policy.

*[ILO C97 Article 6
Clause 1a; ILO R86
Section III Part 10a]*

ACCREDITATION

The accreditation process is an important tool for government regulation of agencies that facilitate the labour export policy within each sending country. The following agencies have national jurisdiction over the export of labour and granting of accreditation to prospective recruitment agencies:

- Indonesia – Centre for Overseas Employment (AKAN) of the Department of Manpower
- Philippines – Philippines Overseas Employment Administration (POEA)
- Sri Lanka – Sri Lanka Bureau of Foreign Employment
- Korea – Korean Overseas Development Office
- Bangladesh – Bangladesh Bureau of Manpower Employment and Training
- Thailand – Overseas Employment Administration Office of the Thai Department of Labour

ACCUSED

A migrant worker accused of a criminal offence should be granted the same rights and privileges as a local offender. The procedures involved in accusation and subsequent arrest and detention pending trial should take into consideration the holistic nature of the crime. Priority should also be given to the provision of adequate interpretation during all negotiations and proceedings as a given responsibility of the state.

[UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families Article 17]

ADMISSIONS

In order for a migrant worker to gain legal access into a country there are several procedures that must be followed. These guidelines and procedures, and the penalties for breaking them, should be made readily available by both sending and receiving countries to the migrant worker in a language that they can understand. Working permits should be de-linked from the migrant worker's status as a visitor in the host country in order to minimise victimisation and exploitation of the worker's relationship with the employer.

[ILO Convention No. 97, Annex Article 3 Clause 6]

ANNEXES

Annexes are provisions of declarations. Each member state that ratifies a convention may exclude from its ratification any or all of the annexes. The annexes are attached at the end of the conventions. If the convention is denounced or cancelled, then so too are the annexes.

ARRESTS

When a migrant worker is arrested or detained in any manner, it is the requirement of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families that the diplomatic authorities of his or her state of origin be informed of the detention. Communication between the said authorities and the migrant worker should be facilitated and they should be informed of their rights under national law as well as under any international treaties to which both receiving and sending countries are signatories.

[UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Article 16, Part 7]

ARRIVAL ORIENTATION

Employment agencies in the receiving countries should be required to conduct and bear the responsibility of providing arrival orientation to all migrant workers who first enter the country. The content and subject matter of these orientation sessions should be monitored and regulated so as to minimise deception and maximise the acclimatisation of the migrant worker to the social, legal and cultural norms of the host country. The objective should be to promote greater understanding, and not to intimidate nor force compliance to conditions encountered upon arrival at the new workplace.

B /

BEST PRACTICES LIST

This method of highlighting exemplary practices, policies or legislation provides information that can be disseminated in an adaptable format for emulation in countries that lack such comprehensive systems for addressing the needs of migrant workers. It is also a way of campaigning at the national level for better terms and conditions with reference to countries that have better policies yet which share similarities in terms of culture or historical background. For an example format of a Best Practices List, please visit the United Nations Conference on Human Settlements (UNCHS) website at <http://www.bestpractices.org>.

C /

CHANGES IN MIGRATION PATTERNS

The 1980's and 1990's have seen a clear change in the trend within international migration systems from being inter-regional in nature towards greater intra-regional migration, especially within the context of Asia and the Middle East. 1990 statistics show that 42.7 million people migrated from their home countries in Asia in search of employment overseas. The current international system is additionally characterised by the increased feminization of the migrating workforce, as well as the nature of the migration which tends to be largely for employment purposes only and not for permanent migration.

CHILDREN OF MIGRANT WORKERS

The children of migrant workers should be guaranteed the right to register their births as nationals of their state of origin. However, many migrants who are undocumented face severe constraints in preserving the rights of their children to a nationality and its associated privileges, due to the nature of their own status. Children of all migrant workers should also benefit from the basic right of access to education as enjoyed by local children.

[UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Articles 29 and 30]

CLANDESTINE ORGANISATIONS

Mass poverty, unemployment and under-employment in many developing countries create push factors that promote the undercover transfer of workers, which often take on the character of a criminal operation. Victimisation and exploitation of the migrant workers by illegal recruitment agencies and organisations that arrange for the clandestine transport of people across borders is difficult to check once a system of clandestine movement has been established. One proposed method of decreasing the tendency towards such systems becoming entrenched is by maintaining minimum bureaucratic requirements for migration as well as low levies and taxes.

[UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Article 68; ILO Convention No. 143 Preamble, Text Article 3]

COMPENSATION

Migrant workers generally do not contribute to social security funds while employed in the host nation. Given this fact, a migrant worker's right to compensation in the event of injury or death sustained while on the job should be guaranteed. In Malaysia, the Workmen's Compensation Act of 1952 guarantees the right to compensation even though a worker may have been undocumented at the time of injury. Unfortunately, many migrants find themselves unable to pursue the claim once injury has occurred due to the severe lack of welfare and support agencies in the host nation.

[UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families Articles 27 and 71, Paragraph 2]

CONTRACT SUBSTITUTION

Due to the actions of unscrupulous agents, some migrants receive differing sets of terms and conditions upon departure and upon arrival. Although they may have signed an employment contract before departure, this is substituted upon arrival for new terms and conditions. Unless they gain access to legal redress, migrant workers remain bound to the employers with whom they committed at the point of departure. In many instances, they find themselves with three limited choices: accept the new terms, become undocumented or return home.

[ILO Convention No. 97 Annex I Article 5, Annex II Article 6]

CULTURAL IDENTITY

The contributions that migrant workers make to the host economy as well as the levies and taxes paid to the host government should be translated in part to providing social and cultural infrastructural support for migrant workers and members of their families. By enabling migrant workers to preserve their culture in effect allows for the maintenance and promotion of existing social networks and support structures for community interaction, reinforcing cultural identity as well as reaffirming their right to be who they are. Migrant workers bring with them not only their labour power but also a rich cultural heritage, and this aspect should be nurtured in order to facilitate their contributions to not only the economic sphere of the receiving nation, but also the lingual, musical and artistic resources of the country.

[UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families Article 31; ILO Convention No. 143, Article 12f]



DEATH

Migrant workers tend to be employed within a few major sectors as a result of labour market crowding. Not only do the wages of migrant workers tend to be lower than that of nationals, but they also occupy the lowest strata of jobs, which mainly involve dirty, dangerous or deadly work activities. As a result of this, the number of work-related casualties at national levels are made up of a large portion of migrant workers. In the event of death, the employer and the host state should bear joint responsibility in sending the remains home to the family as well as ensuring that adequate compensation for the loss of life is paid to the next of kin.

[UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families Article 71]

DEBT

Families of workers who decide to migrate often have to place what land or valuables they may own as collateral to lending agencies in order to gain employment overseas. The cash raised is paid to the recruitment agencies, and upon receiving wages within the foreign country, this debt is slowly paid back. Research has shown that much of the initial earnings goes towards the payment of debt and the associated high interests demanded by lending agencies, while subsequent savings are often spent on consumer services or products, for example, the education of their children or the health of elderly dependants. Very little contribution actually goes towards general upward mobility in terms of economic and monetary stability.

DETENTION

The UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families requires that any unlawful detention should receive the immediate attention of consular personnel who could look into the situation. In addition, migrant workers should be allowed the right to challenge the lawfulness of their detention in court if they are not satisfied with the reasons for which detention had occurred. While detained, migrant workers must be treated with the highest respect for their humanity and self respect, and in the circumstances where their detention is based only on accusation pending court judgement, they must be held in separate holding areas from convicted criminals.

[UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families Article 16]

DISCRIMINATION

Discrimination against migrant workers in the field of employment takes many forms. These include exclusions or preferences as regards the types of jobs which are open to migrants, and difficulty of access to vocational training. Different standards apply to nationals, on the one hand, and migrants, on the other, as regards job tenure, and contracts may deprive migrants of certain advantages.

[UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families Article 25, Paragraphs 1 and 3]

E /

EDUCATION

The education of the children of migrant workers is the responsibility of the host state in that the latter should be required to ensure equal and open access to the public schooling system for all migrant children. In addition to facilitating increased attention to the matter of helping these children integrate into the local curriculum, the host state should also endeavour to facilitate for these children, the teaching of their mother tongue and culture.

[UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families Articles 30, 43 and 45]

EMPLOYMENT SERVICES

Employment agencies and organisations involved in providing employment services must be regulated by specific government bodies to ensure that they comply to a minimum standard of practice. This would also aid in the management of the migration process to ensure that it does not exploit the migrant workforce. Information that is provided by these agencies to prospective migrant workers should be closely monitored to weed out overzealous and inaccurate advertising campaigns that only serve to spread misinformation. The responsibilities of these employment services should go beyond matching employees with prospective employers, and include follow-up and monitoring of their work contract period in order to minimise victimisation. Such agencies should also be encouraged to conduct pre-departure orientation for their clients, the content of which should be practical and helpful in nature, although steps should be taken to ensure that the cost of these services are born by the agency and not passed onto the worker.

[ILO Convention No.97, Text Article 2 and Article 7 clause 2; ILO Convention No. 97, Annex I Article 4 and Annex II Article 8]

EXPLOITATION

The term exploitation can be expressed in numerical terms as the ratio between net profits and the costs associated with the wages of the workforce. As such, the depressed wages as well as the economic sectors within which migrant workers are employed (for example, construction and manufacturing) where profits tend to be high indicate a level of exploitation that is often greater than other comparable sectors. In order to decrease this exploitative condition, migrant workers have to be able to negotiate better wages and working conditions.

EXPULSION PROCEDURES

Expulsion can occur either based on an accusation of illegal activity or conviction of the same. In certain countries, the lack of proper documentation is reason enough to force an expulsion, regardless of who was responsible for the inadequate documentation. Migrant workers should not be subject to mass expulsion exercises but instead have their individual circumstances reviewed on a case-by-case basis. In addition to this, expelled workers should first receive any outstanding payment for work performed, total payment of injury benefits, compensation in lieu of holiday entitlements that were unused and the reimbursement of any social security contributions that they may have voluntarily made to a savings body. Unfortunately, as expulsions today tend to occur without a supervisory body seeing to these rights, most migrant workers who are expelled leave with very little money and even less dignity.

[UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families Article 22; ILO Convention No. 143, Article 9 Clause 3]

EQUALITY OF TREATMENT

Migrant workers should enjoy the same terms and conditions of work as local workers in order to prevent them from being exploited for their cheaper labour. In addition, by allowing differing standards for locals and migrants, the standards of wages, safety and health of the local workforce are compromised as a result of the practice of undercutting. The tendency is then towards the lowest common denominator, and this, in the end, has a negative impact on both local and migrant workers.

[ILO Convention No. 97 Text Article 6; ILO Convention No. 143 Preamble, Article 8 Clause 2]

F

FAMILIES OF MIGRANT WORKERS

The families of migrant workers include the spouse and dependants of the worker who migrated in search of employment. Their documentation should show that they are dependants of the migrant worker and as such, are subject to receive the same rights and privileges as the migrant worker, except with reference to finding work in the host country. The importance of enabling the safe and legal entry of family members in reducing social and psychological stress on the migrant worker cannot be underestimated. It is also a consideration that a family that is left behind might be unable to function as a productive unit without the active participation of the migrant worker.

[UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families Article 4]

FEES

Fees incurred by migrant workers include the payment made to the recruitment agency for their services. Levies that are paid to the host nation for the permit to work should be borne by the employer. Unfortunately, most employers deduct this amount from the salaries of their employees who are unaware of their rights.

FEMINIZATION OF MIGRATION

In the past, migration to a foreign country for employment was predominantly male dominated. During recent years there has been a notable increase in the number of women who migrate as primary migrants. In 1990, approximately 1.5 million Asian women were working abroad. This is a drastic shift from the 1970's when just over 20,000 Asian women migrated to look for work overseas. Factors that have contributed towards the feminization of Asian migration include the relatively liberal socio-cultural attitudes of Southeast Asia that allow women to work outside the home; the increased demand for labour in the Newly Industrialising Countries of Southeast Asia; existing regional social networks between sending and receiving countries; the active role governments have played in facilitating the mass movement of women into the migrant labour force and the phenomenal growth of both the legal and illegal "immigration industry" which includes recruitment agencies, employment services and other associated organisations.

FORCED OR COMPULSORY LABOUR

Forced or compulsory labour is denounced by both the UN Convention on migrant workers as well as relevant ILO Conventions. No migrant worker can be forced to serve in any form of labour without his or her express consent to do that type of work. Even then, the United Nations Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families states clearly that a contract of employment cannot be used to force a person to sign away any of their basic rights as guaranteed by law and as reflected in the articles of the Convention.

[UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families Article 11; ILO Convention No. 105 Text Article 1 and 2]

FORGERY OF DOCUMENTS

Forgery of documents refers to the action of some unscrupulous agencies that manufacture false travel documents. Due to the fact that many migrant workers are first time travellers when they go abroad seeking work, the normal procedures and official documents used in this process remain a novel experience for them. This means that an average migrant worker would probably not be able to tell if the documents or procedures that they undergo would be considered normal and legal, as all information regarding these issues would have been provided by the recruitment agency. An associated problem is the fact that in most host countries, a migrant worker found possessing such illegal documents would be deemed punishable for carrying forged documents, whilst the unscrupulous recruitment agencies and forgery syndicates remain beyond the law.

G/

GUESTWORKERS

A term that also refers to migrant workers, but one that puts into a more positive light the position of migrant workers vis a vis nationals of the host nation. Migrant workers contribute an immense amount towards economic situations that have tight labour markets, providing the much needed human resources to maintain as well as spur growth in both the production as well as consumption sectors. However, migrant workers are often seen in a skewed fashion as having arrived in the receiving country only to reap personal benefits and then depart. This public perception has to be turned around to reflect the fact that what migrant workers may take out of the country is but a small portion of what they put in. Even the huge remittances of wages that is often cited as an example of losses to the host nation, especially in terms of foreign exchange, it has to be seen in the context that migrant labour is paid only a small fraction of total profits earned. Therefore, whatever amount they may remit, the contributions they had made locally are many fold higher.

H/

HEALTH CARE

Migrant workers should be granted equal access to medical and health facilities as would be available for local workers and their families. Health care goes beyond the medical check-up normally required of migrants applying for work within a particular country. Holistic health care means the health and physical well-being of migrants and their dependants should be fully catered for. Migrants should be allowed access to affordable health centres that can maintain and enhance the health of migrant workers while in the host country, and not just limit itself to the identification and medication of communicable diseases. There must not be any discrimination against migrant workers when it comes to health care in order to ensure that diseases and illness suffered by the migrant community are not suppressed nor driven underground.

HIV/AIDS

The testing and identification of HIV/AIDS must be conducted with the utmost sensitivity. The tendency to screen all migrants for communicable diseases reflects the inherent bias of host healthcare systems that work on the assumption that the local population is relatively less disease prone than in-coming migrant workers. Often, migrant workers contract diseases upon arrival in the host nation. Policies that require the deportation of individuals found to be HIV positive would only drive migrant workers to avoid testing for fear of being expelled.

I /

ILLNESS OR INJURY

Illness or injury suffered by migrant workers means immediate loss of income. In a situation where there are no support structures to come to the aid of migrant workers who succumb to illness or accidents either at the workplace or elsewhere, such a circumstance could prove dire indeed. Host nations should have support facilities to aid migrant workers who find themselves in these situations. Although migrants should be allowed to avail themselves of the same benefits as locals who fall ill or get injured, the lack of family members' support or community structures means that the ill or injured worker has to sort out the procedure of obtaining compensation or assistance on his own. The right to such benefits should be supported and aided by agencies that can facilitate the process of achieving and enjoying these rights.

*[ILO Convention
No. 97 Text Article
8 Clause 1]*

INTERNATIONAL LABOUR ORGANISATION (ILO)

The International Labour Organisation was founded in 1919 to promote social justice, and thereby, to contribute towards universal and lasting peace. This tripartite body includes representatives of governments and of employers' as well as workers' organisations. The ILO has issued a number of widely respected codes on international labour that are referred to as Conventions and Recommendations. These instruments cover a diverse number of issues including freedom of association, employment, social policy, conditions of work, social security, industrial relations and labour administration, amongst others. The ILO also provides expert advice and technical assistance to member States through a network of offices and multidisciplinary teams in over 40 countries.

*[UN Convention on
the Protection of the
Rights of All Migrant
Workers and Members
of Their Families
Article 74 Paragraphs
2, 5 and 8]*

IRREGULAR SITUATION

This term refers to any migrant worker or member of his or her family who is present and/or working in a host nation without appropriate entry documents as specified by the receiving country. Other terms used to describe such people include illegal workers or undocumented workers. Such migrants require protection from exploitation and victimisation by clandestine organisations. An issue of concern is the relative ease with which a regular migrant worker can become irregularized. The right to reside in a country should be de-linked from the work permit so as to provide more employment options for migrant workers.

*[UN Convention on
the Protection of the
Rights of All Migrant
Workers and
Members of Their
Families Articles 5(b)
and 69 Paragraph 1;
ILO Convention No.
143 Text Articles 6
and 7]*

J /

JUDICIAL SYSTEMS

The judicial systems and laws pertaining social and economic activity within receiving countries can be quite diverse within the South East Asian region as a result of having experienced dissimilar histories prior to achieving independence in the mid- to early-1900s. It is therefore a very important role of recruiting agencies and human resource ministries of each sending nation to ensure that potential migrant workers are aware of and given adequate orientation concerning the prevailing legal conditions they can expect to encounter upon arrival.

L /

LABOUR ATTACHE TRAINING PROGRAMME

Labour attaches are the persons attached to consular agencies and whom are in charge of issues related to the welfare of migrant workers from that country. The ILO conducts training programmes for labour attaches in order to increase their capacities to deal with the large number of people who fall within their ambit of responsibility. Labour attaches are few in number as compared to the needs of the hundreds of thousands of migrant workers who require their assistance. By providing labour attaches, consular bodies serve an important role as a form of social support to the migrant workers from that country. Many embassies including the embassy of the Philippines government, provide shelter and support to their nationals as well as organise activities for migrant workers employed overseas. Not all consular offices have this facility, though it is a service that should be promoted.

LOSS OF EMPLOYMENT

A migrant who has lost his or her employment should be given sufficient time to find alternative employment. However, re-deployment of migrants is normally a prerogative of the host government, and workers have little independent mobility within the job market. Another issue related with loss of employment is the lack of provision for living facilities, for example, a half-way house, for migrants who have cases pending in industrial court as a result of unlawful termination.

*[ILO Convention
No. 143 Text Article
8 Clause 1; ILO
Recommendation
No. 151 Parts 31-
34]*

LOW-COST HOUSING SCHEMES

Migrant workers should have access to and qualify for purchasing homes within low-cost housing schemes. Adequate and appropriate housing should be enforced on those employers whom are required by the employment contract to provide shelter for their workers. Currently, provision of appropriate housing for the migrant workforce is not a widespread occurrence within developing countries that are also host nations. The lack of such facilities has resulted in many migrant workers resorting to constructing their own accommodation, adding on to or creating new urban slums within the host nation.

M/

MEDICAL EXAMINATIONS

Medical examinations are a mandatory component of the application process to enable migrant workers enter any host country in search of employment. An issue of concern is that migrant workers should be completely informed of the exact nature of the tests and also receive a copy of the results. Appropriate permission should be obtained from the worker in order to waive confidentially so that this information could only be shared with their prospective employer. This general lax attitude towards confidentiality should be challenged and greater sensitivity promoted within the employment procedure.

MIGRANT WORKER

A 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.

[UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families Article 2 Paragraph 2a; ILO Convention No.143 Article 11]

MINIMUM WAGE

The minimum wage clause is one constructive method of preventing the exploitation of migrant workers by ensuring that all workers, regardless of their nationality, should receive at least a specified amount of wages in return for their labour power. In this way, health, safety and wage standards cannot be as easily compromised as might otherwise be possible.

[ILO Convention No.97 Annex I Article 5 Clause 2]

N/

NETWORKS

The development of social networks is the result of an established migratory pattern. In turn, once they are formed, social networks also promote and increase migration flows. In the absence of proper rules and regulations to provide for the needs of migrants, social networks play an invaluable role in providing information, accommodation, and even access to health, recreation as well as religious and cultural support structures. The role that social networks play has been identified as being a major contributor to the increase in the number of women migrants within this region. This is due to the tendency for women to depend upon more informal, and therefore more accessible, channels that create employment opportunities overseas.

O/

ORIENTATION PROGRAMMES

Orientation programmes can be conducted at either pre-departure seminars or upon arrival at the destination. Both components form an important part of preparing the migrant worker for adapting to the foreign working environment. Specifically, it is the pre-departure programme that plays a significant role in introducing the migrant worker to the sort of terms and conditions they could expect upon gaining employment in any particular country. However, a problem often associated with pre-departure programmes are that they are conducted mainly amongst individuals who have already signed up with a recruitment agency for employment overseas. Although this is a significant responsibility of the agents, a more pertinent form of pre-departure orientations is amongst individuals interested in employment overseas but who have not yet committed in any way towards migrating. This would then allow migrant workers to make more informed decisions regarding migration. This should be a major area in which government as well as non-governmental organisations' contributions can make a significant and constructive impact.

*[ILO Convention
No. 97 Annex II
Article 6]*

P/

PASSPORTS

Passports are personal documents to which migrant workers have an inalienable right to retain at all times. However, there are circumstances when employers as well as recruitment agents justify the retention of these documents and cite various reasons including as a deterrent against workers that may want to terminate their work contracts and leave. These sort of reasons should not be acceptable and in fact are illegal acts in most host nations. The risk to the job security as well as the liberty of a migrant worker who is not in possession of his or her own document is great. Raids by police or immigration personnel do not allow for migrant workers caught without appropriate documents to go and reclaim them from wherever they are being held. To be without proper documentation in itself is an offence in certain countries. Migrants should not be made the victims of such unjust monitoring practices. Migration policies should take into account the circumstances of migrant workers in an effort to implement more rational and effective methods of regulation.

PERMANENT RESIDENCY

Host nations that admit migrant workers for employment purposes generally have provisions for persons wanting to migrate on a more permanent basis. However, it is normally required that a minimum set of criteria be attained before a prospective applicant would be considered for such a permit. Such criteria are normally not within the reach of the largely unskilled or semi-skilled labour which predominates current migratory systems, but rather for skilled professionals.

*[ILO Convention
No. 97, Article 8
Clause 2]*

PREGNANCY

One way that gender bias is manifested in the international migratory system is in the discrimination against women who conceive during the course of their employment in the host nation. Singapore requires that all domestic helpers undergo periodic pregnancy tests, and if found positive, are required to immediately terminate their contract and return home. Similar tests are not, and indeed, can not be administered on male migrants, nor are men who impregnate them held accountable for the situation, whether they may be migrants or locals. The responsibility of the matter needs to be placed equally on both parties, with a more humane attitude towards the handling of the matter. The severe repercussion of having conceived could well compel women in such situations to resort to unsafe methods of abortion in order to overcome the problem.

Q/

QUOTAS

Many receiving nations impose official quotas as to how many migrant workers can be absorbed into the workforce within any particular year. Problems arise when there is little coordination between the government bodies in the host nation and the recruitment agencies in the sending countries, resulting in an over-supply that could result in many rejections by the receiving nation. In order to stem an over-supply, measures used to control the influx of migrant workers can become so complicated and expensive as to indirectly promote the flourishing of clandestine organisations and criminal syndicates involved in the transport and employment of migrant labour. Proper management of the migration system, right from the policy level down to the villages of the sending nation, is required in order to prevent further expansion of such criminal activity.

R/

RECRUITMENT AGENCIES

The development of commercial entities that facilitate the movement of people across national boundaries has had a direct and positive effect on the growth of the migration phenomenon internationally. Generally, profit is made in the charging of processing and handling fees, and this has become quite a lucrative undertaking in tandem with the commercialisation of labour power which has expanded tremendously in the last decade. In order that the legal entities do not suffer as a result of the clandestine activities of certain unscrupulous organisations, government regulation and close monitoring of the recruitment and deployment procedures is required. Stable official policy with regards immigration and repatriation of earnings is the basis upon which a migration system that is relatively free of exploitative and corrupt practices can be built.

*[ILO Convention
No.97, Annex I
Article 3 Clause 3b]*

RECRUITMENT OF WORKERS

Based on the premise that every human being should have equal access to opportunities for obtaining a livelihood that is commensurate with their skills and capacities, recruitment procedures should ideally be free from any form of bias or prejudice against the gender, race, sexuality, age, religion or political views of that worker. Policy should be developed to enhance the rights of migrant workers from being discriminated against by their prospective employers.

[UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families Article 66; ILO Convention No. 97 Annex 1 and Annex II Articles 2-5]

RETURNING MIGRANT WORKERS AND RE-TRAINING PROGRAMMES

A number of sending nations have undertaken the initiative of conducting training programmes for returning migrant workers who have completed their contracts overseas. Especially in certain circumstances where a large influx is expected, re-training programmes provide a form of social support for workers who may otherwise be faced with unemployment upon their return from overseas. During the Gulf War, the Sri Lankan government conducted re-training programmes for women domestic workers who had returned en-masse from Kuwait. Re-training addresses the contradiction of skilled migrants being employed overseas in jobs for which they may possess no academic qualification (for example, Filipino teachers who are employed as domestic maids).

[UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families Article 67; ILO Convention No.143, Text Article 8 Clause 2; ILO Convention No.97, Annex II Article 9]



SAFETY STANDARDS

Migrant workers tend to occupy jobs that are dirty and dangerous due to the discrimination they face within the host nation. Safety standards, especially in the construction industry which has a large migrant worker participation in most Asian developing nations, is at times poorly regulated. Greater emphasis should be placed on the onus of the host nation in regulating and monitoring the standards of safety and health in industries that employ migrant labour.

SKILLS ACQUIREMENT

The acquiring of skills while a migrant worker is employed within the host nation can manifest negatively as well as positively. Negative skill acquirement or the de-skilling process is most apparent amongst women migrants who have professional qualifications yet find employment in lower-skilled or unskilled jobs. Positive skills acquirement is as the result of experience gained in a profession while employed overseas. Problems associated with such skills include a lack of demand in the sending nation for such skilled individuals, resulting in the worker having to continue the search for employment in other nations at the end of each contract period.

T/

TAXATION

The personal and household effects of migrant workers should be exempt from import and export duties and taxes. This exemption promoted by the UN Convention for Migrant Workers also includes the tools and equipment necessary for a migrant worker to conduct their work.

[UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families Article 48; ILO Convention No. 97 Text Article 6 Clause 1c]

TRADE UNIONS AND MIGRANT WORKERS

Migrant workers should have the right to form associations and trade unions in their host country, and this is promoted by the UN Convention on Migrant Workers. They should also be free to seek the assistance of, join and participate in meetings and activities of trade unions and associations. However, the UN Convention does not accord undocumented migrants the same right.

TRAFFICKING

Trafficking refers to the clandestine movement of people across borders, often pertaining specifically to the transport, sale and purchase of persons, whether for prostitution or sexual gratification. Controlled by underground mafia or criminal gangs, trafficking allows for the overt exploitation of women and girls, for the material benefit of the traffickers and the personal benefit of the sector that creates the demand for this form of commodification of women.

U/

UNIONISING MIGRANT WORKERS

The prospect of unionising migrant workers remains a daunting task in the face of some host government legislation that does not allow for their unionisation. There is also the factor of the often negative information in the media concerning migrant workers. The impression that is created amongst local workers by such media reports only aids in increasing prejudices against migrant workers as well as decreasing the possibility for forging solidarity within the two groups. A good example of close cooperation between migrant workers and local workers is that of South Korea where strong workers' links have emerged and strengthened the position of labour there.

[UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families Articles 26 and 40; ILO Convention No. 97 Text Article 6 Clause 1a; ILO Convention No. 143 Article 10]



VIOLENCE AGAINST WOMEN MIGRANT WORKERS

The United Nations General Assembly Resolution 50/168 resulted in the convening of a United Nations Expert Group Meeting on Violence Against Women Migrant Workers. The meeting reaffirmed the characteristics of female migration as well as the dynamics which originate violence against women migrant workers. It was an important step towards the formulation of indicators for identifying violence against women migrants as well as develop a systematic method to gather information for policy intervention.



WOMEN IN MIGRATION

There were 1.5 million migrant women deployed in jobs within the Asian region in 1990. Women tend to be concentrated in a few occupations and industries within the migrant labour market. These include the domestic help industry, garment manufacturing industry and the entertainment sector. They are often menial and low-paid occupations with particularly difficult working conditions and little or no prospects for upward social mobility. As a result, women migrants face a distinctive set of disadvantages in the international migrant labour market.



Summary Report of the Regional Consultation on the Impact of Trans-boundary Migration on Urbanisation, 13–15 December 1996, Bangkok, Thailand.

INTRODUCTION

The consultation was initiated and organised by Asia Pacific 2000, a project of the United Nations Development Programme (UNDP), in collaboration with the Asian Migrant Centre and the Asian Cultural Forum on Development.

The Asia Pacific 2000 UNDP Project Consultant, Mr Eugene Raj Arokiasamy was responsible for the programme research and formulation, the identification of participants and speakers.

The Executive Director Mr Tan Chi Kiong of the Asian Migrant Centre was responsible for the identification of participants, the provision of resource materials and provision of support secretariat and documentation staff.

Core funding of US\$10,000 was provided by Asia Pacific 2000 UNDP. In addition to this sum, Asia Pacific 2000, with the assistance of Ms Mayurni Kato of ESCAP, sourced an additional sum of US\$15,000 from the Japan Foundation Regional Office in Bangkok.

The anchor agency for the consultations logistical arrangements was the Asian Cultural Forum on Development (ACFOD), a regional NGO based in Bangkok. Ms Takyin Ho and Mr Boonthan T. Verawongse were the ACFOD officers responsible for this project. They were also responsible for the invitation of local participants to the consultation and the provision of secretariat and documentation staff. Mr Bantorn Ondam is the Coordinator of ACFOD.

CONSULTATION BACKGROUND

Regional and intra-regional migration is no new phenomenon in this region. Throughout history the Asia region has witnessed migration between countries and regions. The post Second World War era, particularly in the early 1960s, saw the migration of citizens of Asian countries to the industrialised nations and this was followed in the 1970s by a massive outflow of migrant workers to the oil exporting countries of the Middle East and North Africa.

By the early 1980s, largely due to the economic booms experienced by several Asian countries, intraregional migration increased rapidly. For the importing countries, the migrant worker has ensured that infrastructure and industry continues to expand despite the shortage of a domestic workforce. For the exporting country, remittance of incomes assisted in improving the economic conditions of households and the country through the increased availability of foreign exchange.

Furthermore, the possibility of migration for employment and income generation also acted as a safety valve for domestic unemployment and under employment. Besides the economic booms experienced by some Asian countries, war and political repression in others have also led to increased migration between different countries and particularly to urban centres. This coupled with the rapid growth of urban centres in many receiving countries require strategies and action plans to be devised to ensure that these urban centres are capable of functioning.

The implications for the provision of shelter, environmental sustainability, social and political stability, and cultural vibrancy have to be examined and whilst taking into account the inflows of “non-national” migrants. The consultation is an attempt to devise such plans of action, strategies and networks to address these challenges.

AIMS OF THE CONSULTATION

This regional consultation, as part of the process to localising Habitat 11, was strategically aimed at facilitating the formulation of regional, national and community action programmes to further humanise migration. Therefore, the regional consultation was devised specifically to examine:

1. The human impact particularly in the urban centres, in which a large proportion of migrant workers/settlers reside and policies, regulations and codes of practice which can be utilised to improve conditions e.g. the provision of housing, health care and social service.
2. The current practices of exporting and importing countries, the legislation, regulations, and procedures which govern and protect migrants.
3. The social changes within the host nation and attitudes of domestic residents towards migrants. Including the levels of social contact permitted and assimilation required by the host nation.
4. The social impact on the families and society and the availability of reorientation programmes in exporting countries and support systems available in exporting countries for returning migrant settlers/workers.

PARTICIPANTS AND OBSERVERS

More than 40 participants from 15 countries representing national and regional NGOs and NGO coalitions working on the issue of migration and migrant workers, child labour, human trafficking, urban development, housing and human rights attended the consultation.

Countries represented: Bangladesh, Burma, Cambodia, Hong Kong, India, Indonesia, Japan, Lao PDR, Malaysia, Nepal, Philippines, Sri Lanka, Taiwan, Thailand.

In addition to this there were observers from UN and other international agencies and research institutes concerned with migration and the process of urbanisation such as the International Organisation for Migration (IOM); the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) – Population Division, Human Settlements Division and Women’s Division; and the International Labour Organisation (ILO).

OUTPUTS AND RECOMMENDATIONS OF THE CONSULTATION

The recommendations of the consultation were derived from two workgroup sessions and the final plenary session. All these sessions provide the directives for follow-up work. The recommendations were based on a list of suggested potential areas of work which had been identified by the participants and organisers.

The plenary session on the final day specified nine headings for future work parameters and modes of operation. These were:

1. Promoting the human rights element and responsibilities towards migrant workers and trafficked migrants as a result of urban development, particularly in the areas of entertainment and tourism.
2. In depth examination of existing instruments which govern the treatment of migrants and potential use of them. This should include research on a broad code of practice/guidelines for the treatment of migrant workers in respect of the provision of housing, health and social services.
3. Promoting cross-country information dissemination and campaigns on bilateral or regional basis, including research and documentation on trends of migration and economic impacts in the region. Therefore there was the need for the establishment of an up-to-date database of information on the subject of regional and intra-regional migration through country reports and information sharing.
4. Empowerment by creating a climate to encourage self reliance of migrant workers, e.g. savings and credit, skills development.
5. Utilising a community-centred approach at both local and global levels to breakdown misunderstanding and xenophobic approaches to dealing with the migration situation.
6. Addressing the issues and problems of undocumented migrants including trafficked persons.
7. Provision of training and education for NGOs, semi and governmental agencies on specific issues affecting migrants. And creating partnerships between intergovernmental, governmental and non-governmental organisations working on migration and human settlements for service delivery.
8. Strengthening advocacy on the subject by incorporating and addressing the challenges through multidimensional and multi-sectoral approaches. This should encourage partnership with all sectors of the community and government.
9. Strengthen the existing networks of individuals, NGOs, CBOs, regional and international agencies working in the area of migration and migrants and enable them to link up with the broader community. Enhancing networking is to be done by the establishment of an Asian Forum on International Migration.



The Report of a Consultation on International Migration organised by Asia-Pacific 2000, the United Nations Development Programme (UNDP) and the Asian Resource Foundation, April 7-8, 1997, Bangkok, Thailand.

1. The Asian Partnership on International Migration (APIM) is an Asia Pacific 2000 (AP 2000)/United Nations Development Programme (UNDP) initiated partnership of networks in the South East Asian region that resulted from two intra-regional consultations. The first being the Regional Consultation on "The Impact of Transboundary Migration on Urbanisation" held in Bangkok, Thailand, December 13-15, 1996 which was participated in by local and regional NGOs, intergovernmental organisations and specialised agencies. The core organising group, or Steering, Group (see section below on APIM Steering Group) met again for the "AP 2000 Consultation on International Migration" in Bangkok, Thailand, on April 7-8, 1997, in order to draft a comprehensive and specific action plan that was presented to the International Organisation for Migration (IOM) in an attempt to access funding and technical support.
2. With the consultation a success, a new partnership amongst regional networks was born. APIM is a light, action oriented, participatory partnership that aims to work in a collaborative effort amongst existing respective networks.
3. The concern for the rights and conditions of the migrant worker is a prevalent issue in Asia. These issues must be dealt with, and action must be taken to alleviate problematic areas to ensure healthy and sustainable socio-economic growth within the region.
4. In the new and emerging Asia what is the most effective way to accomplish things? And how will the voices of change be transferred to decision makers and governments?

THE RESPONSE

6. APIM's mission is to protect and empower migrant workers and their families through enhancing their human rights and human dignity by developing just, participatory, productive, ecologically and culturally vibrant societies locally, nationally and internationally.
7. APIM shall promote the awareness and acceptance of the International Convention on the Protection of Rights of All Migrant Workers and Members of Their Families (GA Resolution 45/158) and other standards established by the United Nations, its specialised agencies and other like-minded organisations.

WORKING METHODS

3. In the realm of the migrant worker, it is no longer a case of the push-pull paradigm, rather it is the case of being sucked in. The extreme nature of the conditions of migrant workers is one that elicits a sense of desperateness. There is an urgency for dialogue between governments, UN agencies, intergovernmental organisation, specialised agencies and NGOs.
8. In carrying out its activities, APIM shall be guided by the following, principles:
 - a) Respect the independence and autonomy of the participating groups and individuals;
 - b) Reinforce, not replace existing formal and informal structures;
 - c) Foster the development of strong local, national and regional groups and networks;
 - d) Facilitate consultation and consensus on

- international campaigns, advocacy and fund-raising for the mission;
- e) Ensure geographical and cultural diversity;
- f) Work closely with United Nations, International Organisation for Migration and other international and regional organisations who share the mission of APIM.

ACTION PLAN

- 9. APIM shall facilitate the strengthening and expansion of the following activities:

ADVOCACY

- 1. Publicise and make available the existing conventions and provide information to workers on how to use them;
Support the Migrant Watch Committee which sends SOS messages of alert pertaining to violations against migrant workers;
Promote other conventions that are related to the protection of the rights of migrant workers;
- 4. Utilise advocacy as a lobbying instrument within existing mechanisms such as the ASEAN Ministers of Labour Meeting Forum;
- 5. Develop national workshops for both sending and receiving countries with the purpose of sensitising Governments and other organisations to the issues pertaining to migrant workers.

ASSISTANCE AND EMPOWERMENT

- 1. Support and promote the SOS messages of alert; Capacity build from within the partnership and with a comprehensive list of migrant rights, related conventions and declarations;
Detail projects that would be suitable for duplication in a Best Practices List;
- 4. Expand and encourage orientation and re-entry programs within the targeted countries;
- 5. Support migrant associations at the local and regional level and encourage the development of migrant worker networks that are initiated for and by migrants.

INFORMATION, RESEARCH AND ANALYSIS

- 1. Create a Web page for APIM, including a comprehensive list of the locations of related conventions and declarations;

- 2. Gather information amongst the partners for the maintenance of State of Migration (SOM) Reports;
- 3. Relay 'flash reports' through e-mail on violations against migrant workers;
- 4. Research emerging trends in migration in a collaborative effort.

NETWORKING

This partnership is a network of migrants networks in the South East Asian region that will be linked through AP 2000 to United Nations agencies, intergovernmental organisations, and specialised agencies.

- 1. Advertise the availability of the NGO directory for South East Asia;
Compile a list of the partner's international and regional contact;
Maintain a list of local, regional and international conferences and seminars that have included and will include issues related to migrant workers.

APIM STEERING GROUP

- 10. The Steering Group may invite to their meetings, other individuals and organisations with special interest and expertise as and when required. This group shall normally meet once a year but should do most of its work through e-mail, fax and such communications

The initial APIM Steering Group shall be constituted of the following:

- 1. Asian Cultural Forum on Development (ACFOD) - *Boonthan T. Verowongse*
- 2. Asian Migrant Centre (AMC)/ Migrant Forum In Asia (MFA) - *Tan Chi King*
- 3. Asian Network for Women and International Migration (ANWIM)/ Asia Pacific Development Centre (APDC) - *Caridad Tharan*
- 4. Asia Pacific 2000 (AP2000)/ United Nations Development Programmes (UNDP) - *Anwar Fazal*
- 5. Asian Resource Foundation (ARF) - *M. Abdus Sabur*
- 6. Asian Research Centre for Migration (ARCM) - *Dr Supang Chantavanich*
- 7. Scalabrini Migration Center (SMC) - *Dr Graziano Battistella*

(The organisations can change their representatives and others may be added from time to time)

STEERING GROUP'S FUNCTIONS

12. The APIM Steering Group shall act according to the following functions:
- Facilitate the development of APIM's work internationally, especially campaigning, advocacy, fund-raising, training and information exchange and also the development of new groups;
 - Gather information about activities related to migration, to discuss growth and development and to identify areas of need and possible international co-operation of new groups;
 - Monitor and report on developments and the international scene and to represent concerns of APIM to appropriate authorities;
 - Help define the international role and responsibility of task coordination and teams and to provide support and advice to task force co-ordinators;
 - Decide on the time, place and organisers of APIM's international meetings

Saira Shameem

Coordinator

Asian Partnership on International Migration

c/o Asia Pacific 2000

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SECRETARIAT

13. The following key points were agreed upon:
- The Steering Group Shall appoint a Secretariat to help facilitate the co-ordination of APIM activities. The position of the Secretariat shall be reviewed on a yearly basis.
 - The powers and authority of the APIM Secretariat shall be determined by the APIM Steering Group and, unless specifically authorised, shall be of a light, facilitating, supporting and enabling nature.
 - The working principles shall be reviewed and modified as necessary by the Steering Group from time to time.

If you or your organisation would like to become involved with a particular aspect of APIM or for further information about APIM, contact the following:

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5

United Nations Conferences: Excerpts Concerning Migrant Workers

REPORT OF THE INTERNATIONAL
CONFERENCE ON POPULATION AND
DEVELOPMENT

Cairo
5-13 September 1994

Excerpts concerning migrant workers

A. INTERNATIONAL MIGRATION AND DEVELOPMENT

Basis for action

10.1. International economic, political and cultural interrelations play an important role in the flow of people between countries, whether they are developing, developed or with economies in transition. In its diverse types, international migration is linked to such interrelations and both affects and is affected by the development process. International economic imbalances, poverty and environmental degradation, combined with the absence of peace and security, human rights violations and the varying degrees of development of judicial and democratic institutions are all factors affecting international migration. Although most international migration flows occur between neighbouring countries, inter-regional migration, particularly that directed to developed countries, has been growing. It is estimated that the number of international migrants in the world, including refugees, is in excess of 125 million, about half of them in the developing countries. In recent years, the main receiving countries in the developed world registered a net migration intake of approximately 1.4 million persons annually, about two thirds of whom originated in developing countries. Orderly international migration can have positive

impacts on both the communities of origin and the communities of destination, providing the former with remittances and the latter with needed human resources. International migration also has the potential of facilitating the transfer of skills and contributing to cultural enrichment. However, international migration entails the loss of human resources for many countries of origin and may give rise to political, economic or social tensions in countries of destination. To be effective, international migration policies need to take into account the economic constraints of the receiving country, the impact of migration on the host society and its effects on countries of origin. The long-term manageability of international migration hinges on making the option to remain in one's country a viable one for all people. Sustainable economic growth with equity and development strategies consistent with this aim are a necessary means to that end. In addition, more effective use can be made of the potential contribution that expatriate nationals can make to the economic development of their countries of origin.

Objectives

The objectives are:

- To address the root causes of migration, especially those related to poverty;
- To encourage more cooperation and dialogue between countries of origin and countries of destination in order to maximize the benefits of migration to those concerned and increase the likelihood that migration has positive consequences for the development of both sending and receiving countries;
- To facilitate the reintegration process of returning migrants.

Activities

- 10.3. Governments of countries of origin and of countries of destination should seek to make the option of remaining in one's country viable for all people. To that end, efforts to achieve sustainable economic and social development, ensuring a better economic balance between developed and developing countries and countries with economies in transition, should be strengthened. It is also necessary to increase efforts to defuse international and internal conflicts before they escalate; to ensure that the rights of persons belonging to ethnic, religious or linguistic minorities, and indigenous people are respected; and to respect the rule of law, promote good governance, strengthen democracy and promote human rights. Furthermore, greater support should be provided for the attainment of national and household food security, for education, nutrition, health and population-related programmes and to ensure effective environmental protection. Such efforts may require national and international financial assistance, reassessment of commercial and tariff relations, increased access to world markets and stepped-up efforts on the part of developing countries and countries with economies in transition to create a domestic framework for sustainable economic growth with an emphasis on job creation. The economic situation in those countries is likely to improve only gradually and, therefore, migration flows from those countries are likely to decline only in the long term; in the interim, the acute problems currently observed will cause migration flows to continue for the short-to-medium term, and Governments are accordingly urged to adopt transparent international migration policies and programmes to manage those flows.
- 10.4. Governments of countries of origin wishing to foster the inflow of remittances and their productive use for development should adopt sound exchange rate, monetary and economic policies, facilitate the provision of banking facilities that enable the safe and timely transfer of migrants' funds, and promote the conditions necessary to increase domestic savings and channel them into productive investment.

- 10.5. Governments of countries of destination are invited to consider the use of certain forms of temporary migration, such as short-term and project-related migration, as a means of improving the skills of nationals of countries of origin, especially developing countries and countries with economies in transition.

To that end, they should consider, as appropriate, entering into bilateral or multilateral agreements. Appropriate steps should be taken to safeguard the wages and working conditions of both migrant and native workers in the affected sectors. Governments of countries of origin are urged to facilitate the return of migrants and their reintegration into their home communities, and to devise ways of using their skills. Governments of countries of origin should consider collaborating with countries of destination and engaging the support of appropriate international organizations in promoting the return on a voluntary basis of qualified migrants who can play a crucial role in the transfer of knowledge, skills and technology. Countries of destination are encouraged to facilitate return migration by adopting flexible policies, such as the transferability of pensions and other work benefits.

- 10.6. Governments of countries affected by international migration are invited to cooperate, with a view to integrating the issue into their political and economic agendas and engaging in technical cooperation to aid developing countries and countries with economies in transition in addressing the impact of international migration. Governments are urged to exchange information regarding their international migration policies and the regulations governing the admission and stay of migrants in their territories.

States that have not already done so are invited to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

- 10.7. Governments are encouraged to consider requests for migration from countries whose existence, according to available scientific evidence, is imminently threatened by global warming and climate change.

- 10.8. In cooperation with international and non-governmental organizations and research institutions, Governments should support the gathering of data on flows and stocks of international migrants and on factors causing migration, as well as the monitoring of international migration. The identification of strategies to ensure that migration contributes to development and international relations should also be supported. The role of international organizations with mandates in the area of migration should be strengthened so that they can deliver adequate technical support to developing countries, advise in the management of international migration flows and promote intergovernmental cooperation through, inter alia, bilateral and multilateral negotiations, as appropriate.

B. DOCUMENTED MIGRANTS

Basis for action

- 10.9. Documented migrants are those who satisfy all the legal requirements to enter, stay and, if applicable, hold employment in the country of destination. In some countries, many documented migrants have, over time, acquired the right to long-term residence. In such cases, the integration of documented migrants into the host society is generally desirable, and for that purpose it is important to extend to them the same social, economic and legal rights as those enjoyed by citizens, in accordance with national legislation. The family reunification of documented migrants is an important factor in international migration. It is also important to protect documented migrants and their families from racism, ethnocentrism and xenophobia, and to respect their physical integrity, dignity, religious beliefs and cultural values.

Documented migration is generally beneficial to the host country, since migrants are in general concentrated in the most productive ages and have skills needed by the receiving country, and their admission is congruent with the policies of the Government. The remittances of documented migrants to their countries of origin often constitute a very important source of foreign exchange and are instrumental in improving the well-being of relatives left behind.

Objectives

- 10.10. The objectives are:

- To ensure the social and economic integration of documented migrants, especially of those who have acquired the right to long-term residence in the country of destination, and their equal treatment before the law;
- To eliminate discriminatory practices against documented migrants, especially women, children and the elderly;
- To ensure protection against racism, ethnocentrism and xenophobia;
- To promote the welfare of documented migrants and members of their families;
- To ensure the respect of the cultural and religious values, beliefs and practices of documented migrants, in so far as they accord with national legislation and universally recognized human rights;
- To take into account the special needs and circumstances of temporary migrants.

Actions

- 10.11. Governments of receiving countries are urged to consider extending to documented migrants who meet appropriate length-of-stay requirements, and to members of their families whose stay in the receiving country is regular, treatment equal to that accorded their own nationals with regard to the enjoyment of basic human rights, including equality of opportunity and treatment in respect of religious practices, working conditions, social security, participation in trade unions, access to health, education, cultural and other social services, as well as equal access to the judicial system and equal treatment before the law. Governments of receiving countries are further urged to take appropriate steps to avoid all forms of discrimination against migrants, including eliminating discriminatory practices concerning their nationality and the nationality of their children, and to protect their rights and safety. Women and children who migrate as family members should be protected from abuse or denial of their human rights by their sponsors, and Governments are asked to consider extending their stay should the family relationship dissolve, within the limits of national legislation.

- 10.12. In order to promote the integration of documented migrants having the right to long-term residence, Governments of receiving countries are urged to consider giving them civil and political rights and responsibilities, as appropriate, and facilitating their naturalization. Special efforts should be made to enhance the integration of the children of long-term migrants by providing them with educational and training opportunities equal to those of nationals, allowing them to exercise an economic activity, and facilitating the naturalization of those who have been raised in the receiving country. Consistent with article 10 of the Convention on the Rights of the Child and all other relevant universally recognized human rights instruments, all Governments, particularly those of receiving countries, must recognize the vital importance of family reunification and promote its integration into their national legislation in order to ensure the protection of the unity of the families of documented migrants. Governments of receiving countries must ensure the protection of migrants and their families, giving priority to programmes and strategies that combat religious intolerance, racism, ethnocentrism, xenophobia and gender discrimination and that generate the necessary public sensitivity in that regard.
- 10.13. Governments of countries of destination should respect the basic human rights of documented migrants as those Governments assert their right to regulate access to their territory and adopt policies that respond to and shape immigration flows. With regard to the admission of migrants, Governments should avoid discriminating on the basis of race, religion, sex and disability, while taking into account health and other considerations relevant under national immigration regulations, particularly considering the special needs of the elderly and children. Governments are urged to promote, through family reunion, the normalization of the family life of legal migrants who have the right to long-term residence.
- 10.14. Governments should consider providing assistance and cooperation for programmes that would address the adverse social and economic consequences of forced migration.

C. UNDOCUMENTED MIGRANTS

Basis for action

- 10.15. It is the right of every nation State to decide who can enter and stay in its territory and under what conditions. Such right, however, should be exercised taking care to avoid racist or xenophobic actions and policies. Undocumented or irregular migrants are persons who do not fulfil the requirements established by the country of destination to enter, stay or exercise an economic activity. Given that the pressures for migration are growing in a number of developing countries, especially since their labour force continues to increase, undocumented or irregular migration is expected to rise.

Objectives

- 10.16. The objectives are:
- To address the root causes of undocumented migration;
 - To reduce substantially the number of undocumented migrants, while ensuring that those in need of international protection receive it; to prevent the exploitation of undocumented migrants and to ensure that their basic human rights are protected;
 - To prevent all international trafficking in migrants, especially for the purposes of prostitution;
 - To ensure protection against racism, ethnocentrism and xenophobia.

Actions

- 10.17. Governments of countries of origin and countries of destination are urged to cooperate in reducing the causes of undocumented migration, safeguarding the basic human rights of undocumented migrants including the right to seek and to enjoy in other countries asylum from persecution, and preventing their exploitation. Governments should identify the causes of undocumented migration and its economic, social and demographic impact as well as its implications for the formulation of social, economic and international migration policies.

- 10.18. Governments of both receiving countries and countries of origin should adopt effective sanctions against those who organize undocumented migration, exploit undocumented migrants or engage in trafficking in undocumented migrants, especially those who engage in any form of international traffic in women, youth and children. Governments of countries of origin, where the activities of agents or other intermediaries in the migration process are legal, should regulate such activities in order to prevent abuses, especially exploitation, prostitution and coercive adoption.
- 10.19. Governments, with the assistance of appropriate international organizations, should deter undocumented migration by making potential migrants aware of the legal conditions for entry, stay and employment in host countries through information activities in the countries of origin.
- 10.20. Governments of countries of origin of undocumented migrants and persons whose asylum claims have been rejected have the responsibility to accept the return and reintegration of those persons, and should not penalize such persons on their return. In addition, Governments of countries of origin and countries of destination should try to find satisfactory solutions to the problems caused by undocumented migration through bilateral or multilateral negotiations on, inter alia, readmission agreements that protect the basic human rights of the persons involved in accordance with relevant international instruments.

D. REFUGEES, ASYLUM-SEEKERS AND DISPLACED PERSONS

Basis for action

- 10.21. In less than 10 years, from 1985 to 1993, the number of refugees has more than doubled, from 8.5 million to 19 million.

This has been caused by multiple and complex factors, including massive violations of human rights. Most of those refugees find asylum in developing countries, often imposing great burdens on those States. The institution of asylum is under severe strain in industrialized countries for a variety of reasons, including the growing numbers of

refugees and asylum-seekers and the misuse of asylum procedures by migrants attempting to circumvent immigration restrictions. While two thirds of all countries in the world have ratified the 1951 Convention relating to the Status of Refugees or the 1967 Protocol, which establish standards for the protection of refugees, there is a need to strengthen the support for international protection of and assistance to refugees, especially refugee women and refugee children, who are particularly vulnerable. Displaced persons, who do not qualify for refugee status and are in some cases outside their country, are also vulnerable and need international assistance. Regional agreements to provide protection to persons fleeing war should be considered.

Objectives

- 10.22. The objectives are:

- To reduce pressures leading to refugee movements and displacement by combating their root causes at all levels and undertaking related preventive action;
- To find and implement durable solutions to the plight of refugees and displaced persons;
- To ensure effective protection of and assistance to refugee populations, with particular attention to the needs and physical security of refugee women and refugee children;
- To prevent the erosion of the institution of asylum;
- To provide adequate health, education and social services for refugees and displaced persons;
- To integrate refugee and returnee assistance and rehabilitation programmes into development planning, with due attention to gender equity.

Actions

- 10.23. Governments are urged to address the root causes of movements of refugees and displaced persons by taking appropriate measures, particularly with respect to conflict resolution; the promotion of peace and reconciliation; respect for human rights, including those of persons belonging to minorities; respect for independence, territorial integrity and sovereignty of States.

Moreover, factors that contribute to forced displacements need to be addressed through initiatives related to the alleviation of poverty, democratization, good governance and the prevention of environmental degradation. Governments and all other entities should respect and safeguard the right of people to remain in safety in their homes and should refrain from policies or practices that force people to flee.

- 10.24. Governments are urged to strengthen their support for international protection and assistance activities on behalf of refugees and, as appropriate, displaced persons and to promote the search for durable solutions to their plight. In doing so, Governments are encouraged to enhance regional and international mechanisms that promote appropriate shared responsibility for the protection and assistance needs of refugees. All necessary measures should be taken to ensure the physical protection of refugees - in particular, that of refugee women and refugee children - especially against exploitation, abuse and all forms of violence.
- 10.25. Adequate international support should be extended to countries of asylum to meet the basic needs of refugees and to assist in the search for durable solutions. Refugee populations should be assisted in achieving self-sufficiency. Refugees, particularly refugee women, should be involved in the planning of refugee assistance activities and in their implementation. In planning and implementing refugee assistance activities, special attention should be given to the specific needs of refugee women and refugee children. Refugees should be provided with access to adequate accommodation, education, health services, including family planning, and other necessary social services. Refugees are invited to respect the laws and regulations of their countries of asylum.
- 10.26. Governments should create conditions that would allow for the voluntary repatriation of refugees in safety and dignity.

Rehabilitation assistance to repatriating refugees should, where possible, be linked to long-term reconstruction and development plans. The international community should provide assistance for refugee repatriation and rehabilitation programmes and for the

removal of land mines and other unexploded devices that constitute a serious threat to the safety of returnees and the local population.

- 10.27. Governments are urged to abide by international law concerning refugees. States that have not already done so are invited to consider acceding to the international instruments concerning refugees - in particular, the 1951 Convention and the 1967 Protocol relating to the Status of Refugees. Governments are furthermore urged to respect the principle of non-refoulement (i.e., the principle of no forcible return of persons to places where their lives or freedom would be threatened because of race, religion, nationality, membership in a particular social group, or political opinion). Governments should ensure that asylum-seekers in the Government's territory have access to a fair hearing and should facilitate the expeditious processing of asylum requests, ensuring that guidelines and procedures for the determination of refugee status are sensitive to the particular situation of women.
- 10.28. In cases of sudden and massive arrivals of refugees and displaced persons in need of international protection, Governments of receiving countries should consider according to them at least temporary protection and treatment in accordance with internationally recognized standards and with national law, practices and regulations, until a solution to their plight can be found. Persons in need of protection should be encouraged to stay in safe areas and, to the extent possible and as appropriate, near their countries of origin. Governments should strengthen protection mechanisms and provide aid to assist the population in such areas. The principles of collective cooperation and international solidarity should be followed in assisting host countries, upon their request.
- 10.29. The problems of refugees and displaced persons arising from forced migration, including their right to repatriation, should be settled in accordance with the relevant principles of the Charter of the United Nations, the Universal Declaration of Human Rights, other international instruments and relevant United Nations resolutions.

WORLD SUMMIT FOR SOCIAL
DEVELOPMENT

Copenhagen, Denmark
6-12 March 1995

Excerpts concerning migrant workers

3. (j) Ensure that migrant workers benefit from the protections provided by relevant national and international instruments, take concrete and effective measures against the exploitation of migrant workers, and encourage all countries to consider the ratification and full implementation of the relevant international instruments on migrant workers;
4. (e) Formulate or strengthen measures to ensure respect for and protection of the human rights of migrants, migrant workers and their families, to eliminate the increasing acts of racism and xenophobia in sectors of many societies, and to promote greater harmony and tolerance in all societies;
17. (b) Coordinating policies, actions and legal instruments and/or measures to combat terrorism, all forms of extremist violence, illicit arms trafficking, organized crime and illicit drug problems, money laundering and related crimes, trafficking in women, adolescents, children, migrants, and human organs, and other activities contrary to human rights and human dignity;
63. There is need for intensified international cooperation and national attention to the situation of migrant workers and their families. To that end:
- (a) Governments are invited to consider ratifying existing instruments pertaining to migrant workers, particularly the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; /15
- (b) In accordance with national legislation, Governments of receiving countries are urged to consider extending to documented migrants who meet appropriate length-of-stay requirements and to members of their families whose stay in the receiving country is regular, treatment equal to that accorded their own nationals with regard to the enjoyment of basic human rights,
- including equality of opportunity and treatment in respect of religious practices, working conditions, social security, participation in trade unions and access to health, education, cultural and other social services, as well as equal access to the judicial system and equal treatment before the law;
- (c) Governments of countries of origin, transit countries and countries of destination are urged to cooperate in reducing the causes of undocumented migration, safeguarding the basic human rights of undocumented migrants and preventing their exploitation;
- (d) Governments of both receiving countries and countries of origin should adopt effective sanctions against those who organize undocumented migration, exploit undocumented migrants or engage in trafficking in undocumented migrants;
- (e) Governments of countries of origin are urged to facilitate the return of migrants and their reintegration into their home communities and to devise ways of using their skills. Governments of countries of origin should consider collaborating with countries of destination and engaging the support of appropriate international organizations in promoting the return on a voluntary basis of qualified migrants who can play a crucial role in the transfer of knowledge, skills and technology. Countries of destination are encouraged to facilitate return migration on a voluntary basis by adopting flexible policies, such as the transferability of pensions and other work benefits.
77. To promote the equitable treatment and integration of documented migrants, particularly documented migrant workers and members of their families:
- (a) Governments should ensure that documented migrants receive fair and equal treatment, including full respect of their human rights, protection of the laws of the host society, appropriate access to economic opportunities and social services; protection against racism, ethnocentrism and xenophobia; and protection from violence and exploitation. Language training should be provided, in recognition of the centrality of language acquisition to the

- effective integration of documented migrants, including those not destined for the labour market, in so far as resources permit. Early integration is the key to allowing documented migrants to contribute their skills, knowledge and potential to the development of countries of destination, and involves mutual understanding by documented migrants and the host society. The former need to know and respect the values, laws, traditions and principles of the host society, which in turn should respect the religions, cultures and traditions of documented migrants;
- (b) Governments of receiving countries are urged to consider giving to documented migrants having the right to long-term residence, civil and political rights and responsibilities, as appropriate, and facilitating their naturalization. Special efforts should be made to enhance the integration of the children of long-term migrants by providing them with educational and training opportunities equal to those of nationals, allowing them to exercise an economic activity and facilitating the naturalization of those who have been raised in the receiving country. Consistent with article 10 of the Convention on the Rights of the Child 27/ and all relevant universally recognized human rights instruments, all Governments, particularly those of receiving countries, must recognize the vital importance of family reunification and promote its integration into their national legislation in order to ensure protection of the unity of the families of documented migrants. Governments of receiving countries must ensure the protection of migrants and their families, giving priority to programmes and strategies that combat religious intolerance, racism, ethnocentrism, xenophobia and gender discrimination, and that generate the necessary public sensitivity in that regard;
- (c) Governments and relevant actors should encourage the international exchange of information on educational and training institutions in order to promote the productive employment of documented migrants through greater recognition of foreign education and credentials;
- (d) Governments should encourage interracial harmony and cross-cultural understanding through educational programmes, where appropriate, including alternative dispute resolution and conflict prevention training in schools.
78. In order to address the concerns and basic human needs related to undocumented migrants:
- (a) Governments are urged to cooperate in reducing the causes of undocumented migration, safeguarding the basic human rights of undocumented migrants, preventing their exploitation and offering them appropriate means of appeal according to national legislation, and punishing criminals who organize trafficking in human beings;
- (b) Countries of destination, countries of transit and countries of origin should cooperate, as appropriate, to manage immigration flows, prevent undocumented migration, and, if appropriate, facilitate the return of migrants and their reintegration in their home communities;
- (c) Governments are urged to cooperate to reduce the effects of undocumented migration on receiving countries, bearing in mind the special circumstances and needs of such countries, in particular developing countries;
- (d) Governments are urged to promote effective measures to protect all undocumented migrants and members of their families against racism, ethnocentrism and xenophobia

UNITED NATIONS FOURTH WORLD
CONFERENCE ON WOMEN

PLATFORM FOR ACTION

Beijing, China
4-15 September 1995

Excerpts concerning migrant workers

- 58 (k) Ensure the full realization of the human rights of all women migrants, including women migrant workers, and their protection against violence and exploitation; introduce measures for the empowerment of documented women migrants, including women migrant workers; facilitate the productive employment of documented migrant women through greater recognition of their skills, foreign education and credentials, and facilitate their full integration into the labour force;
- 60 (a) Mobilize all parties involved in the development process, including academic institutions, non-governmental organizations and grass-roots and women's groups, to improve the effectiveness of anti-poverty programmes directed towards the poorest and most disadvantaged groups of women, such as rural and indigenous women, female heads of household, young women and older women, refugees and migrant women and women with disabilities, recognizing that social development is primarily the responsibility of Governments;
- 81 (a) Reduce the female illiteracy rate to at least half its 1990 level, with emphasis on rural women, migrant, refugee and internally displaced women and women with disabilities;
- 82 (k) Ensure access to quality education and training at all appropriate levels for adult women with little or no education, for women with disabilities and for documented migrant, refugee and displaced women to improve their work opportunities.
116. Some groups of women, such as women belonging to minority groups, indigenous women, refugee women, women migrants, including women migrant workers, women in poverty living in rural or remote communities, destitute women, women in institutions or in detention, female children, women with disabilities, elderly women, displaced women, repatriated women, women living in poverty and women in situations of armed conflict, foreign occupation, wars of aggression, civil wars, terrorism, including hostage-taking, are also particularly vulnerable to violence.
- 125 (b) Establish linguistically and culturally accessible services for migrant women and girls, including women migrant workers, who are victims of gender-based violence;
- 125 (c) Recognize the vulnerability to violence and other forms of abuse of women migrants, including women migrant workers, whose legal status in the host country depends on employers who may exploit their situation;
- 125 (f) Recognize, support and promote the fundamental role of intermediate institutions, such as primary health-care centres, family-planning centres, existing school health services, mother and baby protection services, centres for migrant families and so forth in the field of information and education related to abuse;
- 126 (d) Take special measures to eliminate violence against women, particularly those in vulnerable situations, such as young women, refugee, displaced and internally displaced women, women with disabilities and women migrant workers, including enforcing any existing legislation and developing, as appropriate, new legislation for women migrant workers in both sending and receiving countries.
137. Refugee, displaced and migrant women in most cases display strength, endurance and resourcefulness and can contribute positively to countries of resettlement or to their country of origin on their return. They need to be appropriately involved in decisions that affect them.
154. Women migrant workers, including domestic workers, contribute to the economy of the sending country through their remittances and also to the economy of the receiving country through their participation in the labour force. However, in many receiving

countries, migrant women experience higher levels of unemployment compared with both non-migrant workers and male migrant workers.

158. These trends have been characterized by low wages, little or no labour standards protection, poor working conditions, particularly with regard to women's occupational health and safety, low skill levels, and a lack of job security and social security, in both the formal and informal sectors. Women's unemployment is a serious and increasing problem in many countries and sectors. Young workers in the informal and rural sectors and migrant female workers remain the least protected by labour and immigration laws. Women, particularly those who are heads of households with young children, are limited in their employment opportunities for reasons that include inflexible working conditions and inadequate sharing, by men and by society, of family responsibilities

SECOND UNITED NATIONS CONFERENCE ON HUMAN SETTLEMENTS (HABITAT II)

Istanbul, Turkey
3-14 June 1996

Excerpts concerning migrant workers

THE ISTANBUL DECLARATION ON HUMAN SETTLEMENTS

1. We, the Heads of State, Government and official delegations of countries assembled at the Second United Nations Conference on Human Settlements (Habitat II) held in Istanbul, Turkey, from 3-14 June 1996, take this opportunity to endorse the universal goals of ensuring adequate shelter for all and making human settlements safer, healthier, more livable, equitable, sustainable and more productive. Our deliberations on the two major themes of the Conference, adequate shelter for all and sustainable human settlements development in an urbanising world, have been inspired by the Charter of the United Nations and are aimed at reaffirming existing and forging new partnerships for action at the international, national and local levels to improve our living environment. We commit ourselves to the objectives, principles and recommendations contained in the Habitat Agenda and pledge our mutual support for its implementation.
2. We have considered, with a sense of urgency, the continuing deterioration of conditions of shelter and human settlements. At the same time, we recognise cities and towns as centres of civilisation, generating economic development and social, cultural, spiritual and scientific advancement. We must take advantage of the opportunities presented by our settlements and preserve their diversity to promote solidarity amongst all our peoples.
3. We reaffirm our commitment to better standards of living in large freedom for all humankind. We recall the United Nations Conference on Human Settlements held in Vancouver, Canada, the celebration of the International Year of Shelter for the Homeless and the Global Strategy for Shelter, all of which contribute to increased global awareness of the problems of human settlements and called for action to achieve adequate shelter for all. Recent United Nations world conferences, including, particularly, the United Nations Conference on Environment

and Development, have given us a comprehensive agenda for the equitable attainment of peace, justice and democracy built an economic development, social development and environmental protection as interdependent and mutually reinforcing components of sustainable development. We have sought to integrate the outcomes of these conferences into the Habitat Agenda.

4. To improve the quality of life within human settlements, we must combat the deterioration of conditions that in most cases, particularly in developing countries, have reached crisis proportions. To this end, we must address comprehensively, *inter alia*, unsustainable consumption and production patterns, particularly in industrialised countries; unsustainable population changes, including structure and distribution, giving priority consideration to the tendency towards excessive population concentration, homelessness; increasing poverty, unemployment; social exclusion; family instability; inadequate resources; lack of basic infrastructure and services; lack of adequate planning; growing insecurity and violence; environmental degradation and increased vulnerability to disasters.
5. The challenges of human settlements are global but countries and regions also face specific problems which need specific solutions. We recognise the need to intensify our efforts and cooperation to improve living conditions in the cities, towns and villages throughout the world, particularly in developing countries where the situation is especially grave and in countries with economies in transition. In this connection, we acknowledge that globalisation of the world economy presents opportunities and challenges for the development process, as well as risks and uncertainties, and that achievement of the goals of the Habitat Agenda would be facilitated by *inter alia*, positive actions on the issues of financing of development, external debt, international trade and transfer of technology. Our cities must be places where human beings lead fulfilling lives in dignity, good health, safety, happiness and hope.
6. Rural and urban development are interdependent. In addition to improving the urban habitat, We must also work to extend adequate infrastructure, public services and employment opportunities to rural areas in

- order to enhance their attractiveness, develop an integrated network of settlements and minimise rural-to-urban migration. Medium- and small-sized towns need special focus.
7. As human beings are at the centre of our concern for sustainable development, they are the basis for our action in implementing the Habitat Agenda. We recognise the particular needs of women, children, and youth for safe, healthy and secure living conditions. We shall intensify our efforts to eradicate poverty and discrimination, to promote and protect all human rights and fundamental freedom for all and to provide for basic needs, such as education, nutrition and life-span healthcare services and especially, adequate shelter for all. To this end, we commit ourselves to improving the living conditions in human settlements in ways that are consonant with local needs and realities and we acknowledge the need to address the global, economic, social, and environmental trends to ensure the creation of better living environments for all people. We shall also ensure the full and equal participation of all women and men, and the effective participation of youth in political, economic and social life. We shall promote full accessibility for people with disabilities, as well as gender equality in policies, programmes and projects for shelter and sustainable human settlements development. We make these commitments with particular reference to the more than one billion people living in absolute poverty and to the members of vulnerable and disadvantaged groups identified in the Habitat Agenda.
 8. We reaffirm our commitment to the full and progressive realization of the right to adequate housing as provided for in international instruments. To that end, we shall seek the active participation of our public private and non-governmental partners at all levels to ensure legal security of tenure, protection from discrimination and equal access to affordable adequate housing for all persons and their families.
 9. We shall work to expand the supply of affordable housing by enabling markets to perform efficiently and in a socially and environmentally responsible manner, enhancing access to land and credit, and assisting those who are unable to participate in housing markets.
 10. In order to sustain our global environment and improve the quality of living in our human settlements, we commit ourselves to sustainable patterns of production, consumption, transportation and settlement development, pollution prevention, respect for the carrying capacity of ecosystems and the preservation of opportunities for future generations. In this connection, we shall cooperate in a spirit of global partnership to conserve, protect and restore the health and integrity of the Earth's ecosystem. In view of different contributions to global environmental degradation, we affirm the principle that countries have common but differentiated responsibilities. We also recognise that we must take these actions in a manner consistent with the precautionary principle approach which shall be widely applied according to the capabilities of countries. We shall also promote healthy living environments, especially through the provision of adequate quantities of safe water and effective management of waste.
 11. We shall promote the conservation, rehabilitation and maintenance of buildings, monuments, open spaces, landscapes and settlement patterns of historical, cultural, architectural, manual, religious and spiritual value.
 12. We adopt the enabling strategy and the principles of partnership and participation as the most democratic and effective approach for the realization of our commitments. Recognising local authorities as our closest and essential partners in the implementation of the Habitat Agenda, we must promote, within the legal framework of each, decentralisation through democratic local authorities and work to strengthen their financial and institutional capacities in accordance with the conditions of countries, while ensuring their transparency, accountability and responsiveness to the needs of people, which are key requirements for governments at all levels. We shall also increase our cooperation with parliamentarians, the private sector, labour unions and non-governmental and other civil society organisations with due respect for their autonomy. We shall also enhance the role of women and encourage socially and environmentally responsible corporate investment by the private sector. Local action should be guided and stimulated through local programmes based

an Agenda 21, the Habitat Agenda, or any other equivalent programme, as well as drawing upon the experience of worldwide cooperation initiated in Istanbul by the World Assembly of Cities and local Authorities without prejudice to national policies, objectives, priorities and programmes. The enabling strategy includes a responsibility for governments to implement special measures for members of disadvantaged and vulnerable groups when appropriate.

13. As the implementation of the Habitat Agenda will require adequate funding, we must mobilize financial resources at the national and international levels including new and additional resources from all sources - multilateral and bilateral, public and private. In this connection, we must facilitate capacity building and promote the transfer of appropriate technology and know-how. Furthermore, we reiterate the commitments set out in recent United Nations conferences, especially those in Agenda 21 on funding and technology transfer.
14. We believe that the full and effective implementation of the Habitat Agenda will require the strengthening of the role and functions of the United Nations Centre for Human Settlements (Habitat), taking into account the necessity for the Centre to focus on well-defined and thoroughly-developed objectives and strategic issues. To this end, we pledge our support for the successful implementation of the Habitat Agenda and its Plan of Action. We also recognise the need to strengthen the role and functions of the United Nations Centre for Human Settlements as a major requirement for the successful implementation of the Habitat Agenda and its Global Plan of Action.
15. This Conference in Istanbul marks a new era of cooperation, an era of a culture of solidarity. As we move into the twenty-first century, we offer a positive vision of sustainable human settlements, a sense of hope for our common future and an exhortation to join a truly worthwhile and engaging challenge, that of building together a world where everyone can live in a safe home with a promise of a decent life of dignity, good health, safety, happiness and hope.



ILO Conventions and Recommendations

C 97 MIGRATION FOR EMPLOYMENT CONVENTION (REVISED), 1949

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Thirty-second Session on 8 June 1949, and

Having decided upon the adoption of certain proposals with regard to the revision of the Migration for Employment Convention, 1939, adopted by the Conference at its Twenty-fifth Session, which is included in the eleventh item on the agenda of the session, and

Considering that these proposals must take the form of an international Convention,

adopts the first day of July of the year one thousand nine hundred and forty-nine, the following Convention, which may be cited as the Migration for Employment Convention (Revised), 1949:

ARTICLE 1

Each Member of the International Labour Organisation for which this Convention is in force undertakes to make available on request to the International Labour Office and to other Members –

- (a) information on national policies, laws and regulations relating to emigration and immigration;
- (b) information on special provisions concerning migration for employment and the conditions of work and livelihood of migrants for employment;
- (c) information concerning general agreements and special arrangements on these questions concluded by the Member.

ARTICLE 2

Each Member for which this Convention is in force undertakes to maintain, or satisfy itself that there is maintained, an adequate and free service to assist migrants for employment, and in particular to provide them with accurate information.

ARTICLE 3

1. Each Member for which this Convention is in force undertakes that it will, so far as national laws and regulations permit, take all appropriate steps against misleading propaganda relating to emigration and immigration.
2. For this purpose, it will where appropriate act in co-operation with other Members concerned.

ARTICLE 4

Measures shall be taken as appropriate by each Member, within its jurisdiction, to facilitate the departure, journey and reception of migrants for employment.

ARTICLE 5

Each Member for which this Convention is in force undertakes to maintain, within its jurisdiction, appropriate medical services responsible for –

- (a) ascertaining, where necessary, both at the time of departure and on arrival, that migrants for employment and the members of their families authorised to accompany or join them are in reasonable health;
- (b) ensuring that migrants for employment and members of their families enjoy adequate medical attention and good hygienic conditions at the time of departure, during the journey and on arrival in the territory of destination.

ARTICLE 6

1. Each Member for which this Convention is in force undertakes to apply, without discrimination in respect of nationality, race,

religion or sex, to immigrants lawfully within its territory, treatment no less favourable than that which it applies to its own nationals in respect of the following matters:

- (a) in so far as such matters are regulated by law or regulations, or are subject to the control of administrative authorities –
 - (i) remuneration, including family allowances where these form part of remuneration, hours of work, overtime arrangements, holidays with pay, restrictions on home work, minimum age for employment, apprenticeship and training, women's work and the work of young persons;
 - (ii) membership of trade unions and enjoyment of the benefits of collective bargaining;
 - (iii) accommodation;
 - (b) social security (that is to say, legal provision in respect of employment injury, maternity, sickness, invalidity, old age, death, unemployment and family responsibilities, and any other contingency which, according to national laws or regulations, is covered by a social security scheme), subject to the following limitations:
 - (i) there may be appropriate arrangements for the maintenance of acquired rights and rights in course of acquisition;
 - (ii) national laws or regulations of immigration countries may prescribe special arrangements concerning benefits or portions of benefits which are payable wholly out of public funds, and concerning allowances paid to persons who do not fulfil the contribution conditions prescribed for the award of a normal pension;
 - (c) employment taxes, dues or contributions payable in respect of the person employed; and
 - (d) legal proceedings relating to the matters referred to in this Convention.
2. In the case of a federal State the provisions of this Article shall apply in so far as the matters dealt with are regulated by federal law or regulations or are subject to the control of federal administrative authorities. The extent to which and manner in which these provisions shall be applied in respect of matters regulated by the law or regulations of the constituent States, provinces or cantons, or subject to the control of the administrative authorities thereof, shall be determined by each Member. The Member

shall indicate in its annual report upon the application of the Convention the extent to which the matters dealt with in this Article are regulated by federal law or regulations or are subject to the control of federal administrative authorities. In respect of matters which are regulated by the law or regulations of the constituent States, provinces or cantons, or are subject to the control of the administrative authorities thereof, the Member shall take the steps provided for in paragraph 7 (b) of article 19 of the Constitution of the International Labour Organisation.

ARTICLE 7

1. Each Member for which this Convention is in force undertakes that its employment service and other services connected with migration will co-operate in appropriate cases with the corresponding services of other Members.
2. Each Member for which this Convention is in force undertakes to ensure that the services rendered by its public employment service to migrants for employment are rendered free.

ARTICLE 8

1. A migrant for employment who has been admitted on a permanent basis and the members of his family who have been authorised to accompany or join him shall not be returned to their territory of origin or the territory from which they emigrated because the migrant is unable to follow his occupation by reason of illness contracted or injury sustained subsequent to entry, unless the person concerned so desires or an international agreement to which the Member is a party so provides.
2. When migrants for employment are admitted on a permanent basis upon arrival in the country of immigration the competent authority of that country may determine that the provisions of paragraph 1 of this Article shall take effect only after a reasonable period which shall in no case exceed five years from the date of admission of such migrants.

ARTICLE 9

Each Member for which this Convention is in force undertakes to permit, taking into account the limits allowed by national laws and regulations concerning export and import of currency, the transfer of such part of the earnings and savings of the migrant for employment as the migrant may desire.

ARTICLE 10

In cases where the number of migrants going from the territory of one Member to that of another is sufficiently large, the competent authorities of the territories concerned shall, whenever necessary or desirable, enter into agreements for the purpose of regulating matters of common concern arising in connection with the application of the provisions of this Convention.

ARTICLE 11

1. For the purpose of this Convention the term **migrant for employment** means a person who migrates from one country to another with a view to being employed otherwise than on his own account and includes any person regularly admitted as a migrant for employment.
2. This Convention does not apply to –
 - (a) frontier workers;
 - (b) short-term entry of members of the liberal professions and artistes; and
 - (c) seamen.

ARTICLE 12

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

ARTICLE 13

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.
2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratifications has been registered.

ARTICLE 14

1. Each Member ratifying this Convention may, by a declaration appended to its ratification, exclude from its ratification any or all of the Annexes to the Convention.
2. Subject to the terms of any such declaration, the provisions of the Annexes shall have the same effect as the provisions of the Convention.

3. Any Member which makes such a declaration may subsequently by a new declaration notify the Director-General that it accepts any or all of the Annexes mentioned in the declaration; as from the date of the registration of such notification by the Director-General the provisions of such Annexes shall be applicable to the Member in question.
4. While a declaration made under paragraph 1 of this Article remains in force in respect of any Annex, the Member may declare its willingness to accept that Annex as having the force of a Recommendation.

ARTICLE 15

1. Declarations communicated to the Director-General of the International Labour Office in accordance with paragraph 2 of article 35 of the Constitution of the International Labour Organisation shall indicate –
 - a) the territories in respect of which the Member concerned undertakes that the provisions of the Convention shall be applied without modification;
 - b) the territories in respect of which it undertakes that the provisions of the Convention shall be applied subject to modifications, together with details of the said modifications;
 - c) the territories in respect of which the Convention is inapplicable and in such cases the grounds on which it is inapplicable;
 - d) the territories in respect of which it reserves its decision pending further consideration of the position.
2. The undertakings referred to in subparagraphs (a) and (b) of paragraph 1 of this Article shall be deemed to be an integral part of the ratification and shall have the force of ratification.
3. Any Member may at any time by a subsequent declaration cancel in whole or in part any reservation made in its original declaration in virtue of subparagraph (b), (c) or (d) of paragraph 1 of this Article.
4. Any Member may, at any time at which the Convention is subject to denunciation in accordance with the provisions of Article 17, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of such territories as it may specify.

ARTICLE 16

1. Declarations communicated to the Director-General of the International Labour Office in accordance with paragraph 4 or 5 of article 35 of the Constitution of the International Labour Organisation shall indicate whether the provisions of the Convention will be applied in the territory concerned without modification or subject to modifications; when the declaration indicates that the provisions of the Convention will be applied subject to modifications, it shall give details of the said modifications.
2. The Member, Members or international authority concerned may at any time by a subsequent declaration renounce in whole or in part the right to have recourse to any modification indicated in any former declaration.
3. The Member, Members or international authority concerned may, at any time at which the Convention is subject to denunciation in accordance with the provisions of Article 17, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of the application of the Convention.

ARTICLE 17

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an Act communicated to the Director-General of the International Labour Office for registration. Such denunciation should not take effect until one year after the date on which it is registered.
2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

3. At any time at which this Convention is subject to denunciation in accordance with the provisions of the preceding paragraphs any Member which does not so denounce it may communicate to the Director-General a declaration denouncing separately any Annex to the Convention which is in force for that Member.
4. The denunciation of this Convention or of any or all of the Annexes shall not affect the rights granted thereunder to a migrant or to the members of his family if he immigrated while the Convention or the relevant Annex was in force in respect of the territory where the question of the continued validity of these rights arises.

ARTICLE 18

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.
2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

ARTICLE 19

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

ARTICLE 20

At the expiration of each period of ten years after the coming into force of this Convention, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

ARTICLE 21

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:
 - a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 17 above, if and when the new revising Convention shall have come into force;
 - b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.
2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

ARTICLE 22

1. The International Labour Conference may, at any session at which the matter is included in its agenda, adopt by a two-thirds majority a revised text of any one or more of the Annexes to this Convention.
2. Each Member for which this Convention is in force shall, within the period of one year, or, in exceptional circumstances, of eighteen months, from the closing of the session of the Conference, submit any such revised text to the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action.
3. Any such revised text shall become effective for each Member for which this Convention is in force on communication by that Member to the Director-General of the International Labour Office of a declaration notifying its acceptance of the revised text.
4. As from the date of the adoption of the revised text of the Annex by the Conference, only the revised text shall be open to acceptance by Members.

ARTICLE 23

The English and French versions of the text of this Convention are equally authoritative.

ANNEX

ANNEX I

Recruitment, placing and conditions of labour of migrants for employment recruited otherwise than under government-sponsored arrangements for group transfer.

ARTICLE 1

This Annex applies to migrants for employment who are recruited otherwise than under Government-sponsored arrangements for group transfer.

ARTICLE 2

For the purpose of this Annex :

- (a) the term **recruitment** means :
 - (i) the engagement of a person in one territory on behalf of an employer in another territory, or
 - (ii) the giving of an undertaking to a person in one territory to provide him with employment in another territory, together with the making of any arrangements in connection with the operations mentioned in (i) and (ii) including the seeking for and selection of emigrants and the preparation for departure of the emigrants;
- (b) the term **introduction** means any operations for ensuring or facilitating the arrival in or admission to a territory of persons who have been recruited within the meaning of paragraph (a) of this Article; and
- (c) the term **placing** means any operations for the purpose of ensuring or facilitating the employment of persons who have been introduced within the meaning of paragraph (b) of this Article.

ARTICLE 3

1. Each Member for which this Annex is in force, the laws and regulations of which permit the operations of recruitment, introduction and placing as defined in Article 2, shall regulate such of the said operations as are permitted by its laws and regulations in accordance with the provisions of this Article.
2. Subject to the provisions of the following paragraph, the right to engage in the operations of recruitment, introduction and placing shall be restricted to :
 - (a) public employment offices or other public bodies of the territory in which the operations take place;

- (b) public bodies of a territory other than that in which the operations take place which are authorised to operate in that territory by agreement between the Governments concerned;
 - (c) any body established in accordance with the terms of an international instrument.
3. In so far as national laws and regulations or a bilateral arrangement permit, the operations of recruitment, introduction and placing may be undertaken by :
- (a) the prospective employer or a person in his service acting on his behalf, subject, if necessary in the interest of the migrant, to the approval and supervision of the competent authority;
 - (b) a private agency, if given prior authorisation so to do by the competent authority of the territory where the said operations are to take place, in such cases and under such conditions as may be prescribed by :
 - (i) the laws and regulations of that territory, or
 - (ii) agreement between the competent authority of the territory of emigration or any body established in accordance with the terms of an international instrument and the competent authority of the territory of immigration.
4. The competent authority of the territory where the operations take place shall supervise the activities of bodies and persons to whom authorisations have been issued in pursuance of paragraph 3 (b), other than any body established in accordance with the terms of an international instrument, the position of which shall continue to be governed by the terms of the said instrument or by any agreement made between the body and the competent authority concerned.
5. Nothing in this Article shall be deemed to permit the acceptance of a migrant for employment for admission to the territory of any Member by any person or body other than the competent authority of the territory of immigration.

ARTICLE 4

Each Member for which this Annex is in force undertakes to ensure that the services rendered by its public employment service in connection with the recruitment, introduction or placing of migrants for employment are rendered free.

ARTICLE 5

1. Each Member for which this Annex is in force which maintains a system of supervision of contracts of employment between an employer, or a person acting on his behalf, and a migrant for employment undertakes to require :
- (a) that a copy of the contract of employment shall be delivered to the migrant before departure or, if the Governments concerned so agree, in a reception centre on arrival in the territory of immigration;
 - (b) that the contract shall contain provisions indicating the conditions of work and particularly the remuneration offered to the migrant;
 - (c) that the migrant shall receive in writing before departure, by a document which relates either to him individually or to a group of migrants of which he is a member, information concerning the general conditions of life and work applicable to him in the territory of immigration.
2. Where a copy of the contract is to be delivered to the migrant on arrival in the territory of immigration, he shall be informed in writing before departure, by a document which relates either to him individually or to a group of migrants of which he is a member, of the occupational category for which he is engaged and the other conditions of work, in particular the minimum wage which is guaranteed to him.
3. The competent authority shall ensure that the provisions of the preceding paragraphs are enforced and that appropriate penalties are applied in respect of violations thereof.

ARTICLE 6

The measures taken under Article 4 of the Convention shall, as appropriate, include :

- (a) the simplification of administrative formalities;
- (b) the provision of interpretation services;
- (c) any necessary assistance during an initial period in the settlement of the migrants and members of their families authorised to accompany or join them; and
- (d) the safeguarding of the welfare, during the journey and in particular on board ship, of migrants and members of their families authorised to accompany or join them.

ARTICLE 7

1. In cases where the number of migrants for employment going from the territory of one Member to that of another is sufficiently large, the competent authorities of the territories concerned shall, whenever necessary or desirable, enter into agreements for the purpose of regulating matters of common concern arising in connection with the application of the provisions of this Annex.
2. Where the members maintain a system of supervision over contracts of employment, such agreements shall indicate the methods by which the contractual obligations of the employers shall be enforced.

ARTICLE 8

Any person who promotes clandestine or illegal immigration shall be subject to appropriate penalties.

ANNEX

ANNEX II

recruitment, placing and conditions of labour of migrants for employment recruited under government-sponsored arrangements for group transfer

ARTICLE 1

This Annex applies to migrants for employment who are recruited under Government-sponsored arrangements for group transfer.

ARTICLE 2

For the purpose of this Annex :

- (a) the term **recruitment** means :
 - (i) the engagement of a person in one territory on behalf of an employer in another territory under a Government-sponsored arrangement for group transfer, or
 - (ii) the giving of an undertaking to a person in one territory to provide him with employment in another territory under a Government-sponsored arrangement for group transfer, together with the making of any arrangements in connection with the operations mentioned in (i) and (ii) including the seeking for and selection of emigrants and the preparation for departure of the emigrants;
- (b) the term **introduction** means any operations for ensuring or facilitating the arrival in or admission to a territory of persons who have been recruited

- under a Government-sponsored arrangement for group transfer within the meaning of subparagraph (a) of this paragraph; and
- (c) the term **placing** means any operations for the purpose of ensuring or facilitating the employment of persons who have been introduced under a Government-sponsored arrangement for group transfer within the meaning of subparagraph (b) of this paragraph.

ARTICLE 3

1. Each Member for which this Annex is in force, the laws and regulations of which permit the operations of recruitment, introduction and placing as defined in Article 2, shall regulate such of the said operations as are permitted by its laws and regulations in accordance with the provisions of this Article.
2. Subject to the provisions of the following paragraph, the right to engage in the operations of recruitment, introduction and placing shall be restricted to :
 - (a) public employment offices or other public bodies of the territory in which the operations take place;
 - (b) public bodies of a territory other than that in which the operations take place which are authorised to operate in that territory by agreement between the Governments concerned;
 - (c) any body established in accordance with the terms of an international instrument.
3. In so far as national laws and regulations or a bilateral arrangement permit, and subject, if necessary in the interest of the migrant, to the approval and supervision of the competent authority, the operations of recruitment, introduction and placing may be undertaken by :
 - (a) the prospective employer or a person in his service acting on his behalf;
 - (b) private agencies.
4. The right to engage in the operations of recruitment, introduction and placing shall be subject to the prior authorisation of the competent authority of the territory where the said operations are to take place in such cases and under such conditions as may be prescribed by :
 - (a) the laws and regulations of that territory, or
 - (b) agreement between the competent authority of the territory of emigration or any body established in accordance with the terms of an international instrument and the competent authority of the territory of immigration.

5. The competent authority of the territory where the operations take place shall, in accordance with any agreements made between the competent authorities concerned, supervise the activities of bodies and persons to whom authorisations have been issued in pursuance of the preceding paragraph, other than any body established in accordance with the terms of an international instrument, the position of which shall continue to be governed by the terms of the said instrument or by any agreement made between the body and the competent authority concerned.
 6. Before authorising the introduction of migrants for employment the competent authority of the territory of immigration shall ascertain whether there is not a sufficient number of persons already available capable of doing the work in question.
 7. Nothing in this Article shall be deemed to permit the acceptance of a migrant for employment for admission to the territory of any Member by any person or body other than the competent authority of the territory of immigration.
2. Where a copy of the contract is to be delivered to the migrant on arrival in the territory of immigration, he shall be informed in writing before departure, by a document which relates either to him individually or to a group of migrants of which he is a member, of the occupational category for which he is engaged and the other conditions of work, in particular the minimum wage which is guaranteed to him.
 3. The competent authority shall ensure that the provisions of the preceding paragraphs are enforced and that appropriate penalties are applied in respect of violations thereof.

ARTICLE 4

1. Each Member for which this Annex is in force undertakes to ensure that the services rendered by its public employment service in connection with the recruitment, introduction or placing of migrants for employment are rendered free.
2. The administrative costs of recruitment, introduction and placing shall not be borne by the migrants.

ARTICLE 5

In the case of collective transport of migrants from one country to another necessitating passage in transit through a third country, the competent authority of the territory of transit shall take measures for expediting the passage, to avoid delays and administrative difficulties.

ARTICLE 6

1. Each Member for which this Annex is in force which maintains a system of supervision of contracts of employment between an employer, or a person acting on his behalf, and a migrant for employment undertakes to require:
 - (a) that a copy of the contract of employment shall be delivered to the migrant before departure or, if the Governments concerned

so agree, in a reception centre on arrival in the territory of immigration;

- (b) that the contract shall contain provisions indicating the conditions of work and particularly the remuneration offered to the migrant;
- (c) that the migrant shall receive in writing before departure, by a document which relates either to him individually or to a group of migrants of which he is a member, information concerning the general conditions of life and work applicable to him in the territory of immigration.

ARTICLE 7

1. The measures taken under Article 4 of this Convention shall, as appropriate, include:
 - (a) the simplification of administrative formalities;
 - (b) the provision of interpretation services;
 - (c) any necessary assistance, during an initial period in the settlement of the migrants and members of their families authorised to accompany or join them;
 - (d) the safeguarding of the welfare, during the journey and in particular on board ship, of migrants and members of their families authorised to accompany or join them; and
 - (e) permission for the liquidation and transfer of the property of migrants for employment admitted on a permanent basis.

ARTICLE 8

Appropriate measures shall be taken by the competent authority to assist migrants for employment, during an initial period, in regard to matters concerning their conditions of employment; where appropriate, such measures may be taken in co-operation with approved voluntary organisations.

ARTICLE 9

If a migrant for employment introduced into the territory of a Member in accordance with the provisions of Article 3 of this Annex fails, for a reason for which he is not responsible, to secure the employment for which he has been recruited or other suitable employment, the cost of his return and that of the members of his family who have been authorised to accompany or join him, including administrative fees, transport and maintenance charges to the final destination, and charges for the transport of household belongings, shall not fall upon the migrant.

ARTICLE 10

If the competent authority of the territory of immigration considers that the employment for which a migrant for employment was recruited under Article 3 of this Annex has been found to be unsuitable, it shall take appropriate measures to assist him in finding suitable employment which does not prejudice national workers and shall take such steps as will ensure his maintenance pending placing in such employment, or his return to the area of recruitment if the migrant is willing or agreed to such return at the time of his recruitment, or his resettlement elsewhere.

ARTICLE 11

If a migrant for employment who is a refugee or a displaced person and who has entered a territory of immigration in accordance with Article 3 of this Annex becomes redundant in any employment in that territory, the competent authority of that territory shall use its best endeavours to enable him to obtain suitable employment which does not prejudice national workers, and shall take such steps as will ensure his maintenance pending placing in suitable employment or his resettlement elsewhere.

ARTICLE 12

1. The competent authorities of the territories concerned shall enter into agreements for the purpose of regulating matters of common concern arising in connection with the application of the provisions of this Annex.
2. Where the Members maintain a system of supervision over contracts of employment, such agreements shall indicate the methods by which the contractual obligations of the employer shall be enforced.
3. Such agreements shall provide, where appropriate, for co-operation between the competent authority of the territory of

emigration or a body established in accordance with the terms of an international instrument and the competent authority of the territory of immigration, in respect of the assistance to be given to migrants concerning their conditions of employment in virtue of the provisions of Article 8.

ARTICLE 13

Any person who promotes clandestine or illegal immigration shall be subject to appropriate penalties.

ANNEX

ANNEX III

importation of the personal effects, tools and equipment of migrants for employment

ARTICLE 1

1. Personal effects belonging to recruited migrants for employment and members of their families who have been authorised to accompany or join them shall be exempt from customs duties on arrival in the territory of immigration.
2. Portable hand-tools and portable equipment of the kind normally owned by workers for the carrying out of their particular trades belonging to recruited migrants for employment and members of their families who have been authorised to accompany or join them shall be exempt from customs duties on arrival in the territory of immigration if such tools and equipment can be shown at the time of importation to be in their actual ownership or possession, to have been in their possession and use for an appreciable time, and to be intended to be used by them in the course of their occupation.

ARTICLE 2

1. Personal effects belonging to migrants for employment and members of their families who have been authorised to accompany or join them shall be exempt from customs duties on the return of the said persons to their country of origin if such persons have retained the nationality of that country at the time of their return there.
2. Portable hand-tools and portable equipment of the kind normally owned by workers for the carrying out of their particular trades belonging to migrants for employment and members of

their families who have been authorised to accompany or join them shall be exempt from customs duties on return of the said persons to their country of origin if such persons have retained the nationality of that country at the time of their return there and if such tools and equipment can be shown at the time of importation to be in their actual ownership or possession, to have been in their possession and use for an appreciable time, and to be intended to be used by them in the course of their occupation.

R86 MIGRATION FOR EMPLOYMENT RECOMMENDATION (REVISED), 1949

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met its Thirty-second Session on 8 June 1949, and

Having decided upon the adoption of certain proposals with regard to the revision of the Migration for Employment Recommendation, 1939, and the Migration for Employment (Co-operation between States) Recommendation, 1939, adopted by the Conference at its Twenty-fifth Session, which are included in the eleventh item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation,

adopts this first day of July of the year one thousand nine hundred and forty-nine, the following Recommendation, which may be cited as the Migration for Employment Recommendation (Revised), 1949:

The Conference,

Having adopted the Migration for Employment Convention (Revised), 1949; and

Desiring to supplement its provisions by a Recommendation;

Recommends as follows:

I

1. For the purpose of this Recommendation:
 - (a) the term **migrant for employment** means a person who migrates from one country to another with a view to being employed otherwise than on his own account and includes any person regularly admitted as a migrant for employment;
 - (b) the term **recruitment** means:
 - (i) the engagement of a person in one territory on behalf of an employer in another territory, or

- (ii) the giving of an undertaking to a person in one territory to provide him with employment in another territory, together with the making of any arrangements in connection with the operations mentioned in (i) and (ii) including the seeking for and selection of emigrants and the preparation for departure of the emigrants;

- (c) the term **introduction** means any operations for ensuring or facilitating the arrival in or admission to a territory of persons who have been recruited within the meaning of subparagraph (b);

- (d) the term **placing** means any operations for the purpose of ensuring or facilitating the employment of persons who have been introduced within the meaning of subparagraph (c).

2. For the purpose of this Recommendation, references to the Government or competent authority of a territory of emigration should be interpreted as referring, in the case of migrants who are refugees or displaced persons, to any body established in accordance with the terms of an international instrument which may be responsible for the protection of refugees and displaced persons who do not benefit from the protection of any Government.
3. This Recommendation does not apply to
 - (a) frontier workers;
 - (b) short-term entry of members of the liberal professions and artists; and
 - (c) seamen.

II

4. (1) It should be the general policy of Members to develop and utilise all possibilities of employment and for this purpose to facilitate the international distribution of manpower and in particular the movement of manpower from countries which have a surplus of manpower to those countries that have a deficiency.
- (2) The measures taken by each Member should have due regard to the manpower situation in the country and the Government should consult the appropriate organisations of employers and workers on all general questions concerning migration for employment.

III

5. (1) The free service provided in each country to assist migrants and their families and in particular to provide them with accurate information should be conducted:
 - (a) by public authorities; or
 - (b) by one or more voluntary organisations not conducted with a view to profit, approved for the purpose by the public authorities, and subject to the supervision of the said authorities; or
 - (c) partly by the public authorities and partly by one or more voluntary organisations fulfilling the conditions stated in subparagraph (b) of this Paragraph.
 - (2) The service should advise migrants and their families, in their languages or dialects or at least in a language which they can understand, on matters relating to emigration, immigration, employment and living conditions, including health conditions in the place of destination, return to the country of origin or of emigration, and generally speaking any other question which may be of interest to them in their capacity as migrants.
 - (3) The service should provide facilities for migrants and their families with regard to the fulfilment of administrative formalities and other steps to be taken in connection with the return of the migrants to the country of origin or of emigration, should the case arise.
 - (4) With a view to facilitating the adaptation of migrants, preparatory courses should, where necessary, be organised to inform the migrants of the general conditions and the methods of work prevailing in the country of immigration, and to instruct them in the language of that country. The countries of emigration and immigration should mutually agree to organise such courses.
6. On request information should be made available by Members to the International Labour Office and to other Members concerning their emigration laws and regulations, including administrative provisions relating to restrictions on emigration and facilities granted to emigrants, and appropriate details concerning the categories of persons wishing to emigrate.
 7. On request information should be made available by Members to the International Labour Office and to other Members concerning their immigration laws and regulations, including administrative provisions, entry permits where needed, number and occupational qualifications of immigrants desired, laws and regulations affecting admission of migrants to employment, and any special facilities granted to migrants and measures to facilitate their adaptation to the economic and social organisation of the country of immigration.
 8. There should, as far as possible, be a reasonable interval between the publication and the coming into force of any measure altering the conditions on which emigration or immigration or the employment of migrants is permitted in order that these conditions may be notified in good time to persons who are preparing to emigrate.
 9. Provision should be made for adequate publicity to be given at appropriate stages to the principal measures referred to in the preceding Paragraph, such publicity to be in the languages most commonly known to the migrants.
 10. Migration should be facilitated by such measures as may be appropriate:
 - (a) to ensure that migrants for employment are provided in case of necessity with adequate accommodation, food and clothing on arrival in the country of immigration;
 - (b) to ensure, where necessary, vocational training so as to enable the migrants for employment to acquire the qualifications required in the country of immigration;
 - (c) to permit, taking into account the limits allowed by national laws and regulations concerning export and import of currency, the transfer of such part of the earnings and savings of migrants for employment as the migrants may desire;
 - (d) to arrange, in the case of permanent migration, for the transfer, where desired, to the country of immigration, of the capital of migrants for employment, within the limits allowed by national laws and regulations concerning export and import of currency; to provide access to schools for migrants and members of their families.
 11. Migrants and the members of their families should be assisted in obtaining access to recreation and welfare facilities, and steps should be taken where necessary to ensure that special

facilities are made available during the initial period of settlement in the country of immigration.

12. In the case of migrants under Government-sponsored arrangements for group transfer, medical assistance should be extended to such migrants in the same manner as provided for nationals.

IV

13. (1) Where necessary in the interest of the migrant, Members should require that any intermediary who undertakes the recruitment, introduction or placing of migrants for employment on behalf of an employer must obtain a written warrant from the employer, or some other document proving that he is acting on the employer's behalf.
 - (2) This document should be drawn up in, or translated into, the official language of the country of emigration and should set forth all necessary particulars concerning the employer, concerning the nature and scope of the recruitment, introduction or placing which the intermediary is to undertake, and concerning the employment offered, including the remuneration.
14. (1) The technical selection of migrants for employment should be carried out in such a way as to restrict migration as little as possible while ensuring that the migrants are qualified to perform the required work.
 - (2) Responsibility for such selection should be entrusted:
 - (a) to official bodies; or
 - (b) where appropriate, to private bodies of the territory of immigration duly authorised and, where necessary in the interest of the migrant, supervised by the competent authority of the territory of emigration.
 - (3) The right to engage in selection should be subject to the prior authorisation of the competent authority of the territory where the said operation takes place, in such cases under such conditions as may be prescribed by the laws and regulations of that territory, or by agreement between the Government of the territory of emigration and the Government of the territory of immigration.

- (4) As far as possible, intending migrants for employment should, before their departure from the territory of emigration, be examined for purposes of occupational and medical selection by a representative of the competent authority of the territory of immigration.

- (5) If recruitment takes place on a sufficiently large scale there should be arrangements for close liaison and consultation between the competent authorities of the territories of emigration and immigration concerned.

- (6) The operations referred to in the preceding subparagraphs of this Paragraph should be carried out as near as possible to the place where the intending migrant is recruited.

15. (1) Provision should be made by agreement for authorisation to be granted for a migrant for employment introduced on a permanent basis to be accompanied or joined by the members of his family.

- (2) The movement of the members of the family of such a migrant authorised to accompany or join him should be specially facilitated by both the country of emigration and the country of immigration.

- (3) For the purposes of this Paragraph, the members of the family of a migrant for employment should include his wife and minor children; favourable consideration should be given to requests for the inclusion of other members of the family dependent upon the migrant.

V

16. (1) Migrants for employment authorised to reside in a territory and the members of their families authorised to accompany or join them should as far as possible be admitted to employment in the same conditions as nationals.

- (2) In countries in which the employment of migrants is subject to restrictions, these restrictions should as far as possible:

- (a) cease to be applied to migrants who have regularly resided in the country for a period, the length of which should not, as a rule, exceed five years; and

- (b) cease to be applied to the wife and children of an age to work who have been authorised to accompany or join the migrant, at the same time as they cease to be applied to the migrant.

17. In countries where the number of migrants for employment is sufficiently large, the conditions of employment of such workers should be specially supervised, such supervision being undertaken according to circumstances either by a special inspection service or by labour inspectors or other officials specialising in this work.

VI

18. (1) When a migrant for employment has been regularly admitted to the territory of a Member, the said Member should, as far as possible, refrain from removing such person or the members of his family from its territory on account of his lack of means or the state of the employment market, unless an agreement to this effect has been concluded between the competent authorities of the emigration and immigration territories concerned.

- (2) Any such agreement should provide:

- (a) that the length of time the said migrant has been in the territory of immigration shall be taken into account and that in principle no migrant shall be removed who has been there for more than five years;
- (b) that the migrant must have exhausted his rights to unemployment insurance benefit;
- (c) that the migrant must have been given reasonable notice so as to give him time, more particularly to dispose of his property;
- (d) that suitable arrangements shall have been made for his transport and that of the members of his family;
- (e) that the necessary arrangements shall have been made to ensure that he and the members of his family are treated in a humane manner; and
- (f) that the costs of the return of the migrant and the members of his family and of the transport of their household belongings to their final destination shall not fall on him.

19. Appropriate steps should be taken by the authorities of the territories concerned to consult the employers' and workers' organisations concerning the operations of recruitment, introduction and placing of migrants for employment.

VII

20. When migrants for employment or members of their families who have retained the nationality of their State of origin return there, that country should admit such persons to the benefit of any measures in force for the granting of poor relief and unemployment relief, and for promoting the re-employment of the unemployed, by exempting them from the obligation to comply with any condition as to previous residence or employment in the country or place.

VIII

21. (1) Members should in appropriate cases supplement the Migration for Employment Convention (Revised), 1949, and the preceding Paragraphs of the present Recommendation by bilateral agreements, which should specify the methods of applying the principles set forth in the Convention and in the Recommendation.

- (2) In concluding such agreements, Members should take into account the provisions of the Model Agreement annexed to the present Recommendation in framing appropriate clauses for the organisation of migration for employment and the regulation of the conditions of transfer and employment of migrants, including refugees and displaced persons.

ANNEX

Model Agreement on Temporary and Permanent Migration for Employment, including Migration of Refugees and Displaced Persons (Note: The phrases and passages in italics refer primarily to permanent migration; those enclosed within square brackets refer solely to migration of refugees and displaced persons.)

ARTICLE 1. Exchange of Information

1. The competent authority of the territory of immigration shall periodically furnish appropriate information to the competent authority of the territory of emigration or in the

case of refugees and displaced persons, to any body established in accordance with the terms of an international instrument which may be responsible for the protection of refugees and displaced persons who do not benefit from the protection of any Government concerning:

- (a) legislative and administrative provisions relating to entry, employment, residence and settlement of migrants and of their families;
 - (b) the number, the categories and the occupational qualifications of the migrants desired;
 - (c) the conditions of life and work for the migrants and, in particular, cost of living and minimum wages according to occupational categories and regions of employment, supplementary allowances, if any, nature of employments available, bonus on engagement, if any, social security systems and medical assistance, provisions concerning transport of migrants and of their tools and belongings, housing conditions and provisions for the supply of food and clothing, measures relating to the transfer of the migrants' savings and other sums due in virtue of this Agreement;
 - (d) special facilities, if any, for migrants;
 - (e) facilities for general education and vocational training for migrants;
 - (f) measures designed to promote rapid adaptation of migrants;
 - (g) procedure and formalities required for naturalisation.
2. The competent authority of the territory of emigration or in the case of refugees and displaced persons, any body established in accordance with the terms of an international instrument which may be responsible for the protection of refugees and displaced persons who do not benefit from the protection of any Government shall bring this information to the attention of persons or bodies interested.
 3. The competent authority of the territory of emigration or in the case of refugees and displaced persons, any body established in accordance with the terms of an international instrument which may be responsible for the protection of refugees and displaced persons who do not benefit from the protection of any Government shall periodically furnish appropriate information to the competent authority of the territory of immigration concerning:

- (a) legislative and administrative provisions relating to emigration;
- (b) the number and occupational qualifications of intending emigrants, as well as the composition of their families;
- (c) the social security system;
- (d) special facilities, if any, for migrants;
- (e) the environment and living conditions to which migrants are accustomed;
- (f) the provisions in force regarding the export of capital.

4. The competent authority of the territory of immigration shall bring this information to the attention of persons or bodies interested.
5. The information mentioned in paragraphs 1 to 4 above shall also be transmitted by the respective parties to the International Labour Office.

ARTICLE 2. Action against Misleading Propaganda

1. The parties agree, with regard to their respective territories, to take all practical steps, so far as national laws and regulations permit, against misleading propaganda relating to emigration and immigration.
2. For this purpose the parties will, where appropriate, act in co-operation with the competent authorities of other countries concerned.

ARTICLE 3. Administrative Formalities

The parties agree to take measures with a view to accelerating and simplifying the carrying out of administrative formalities relating to departure, travel, entry, residence, and settlement of migrants and as far as possible for the members of their families. Such measures shall include the provision of an interpretation service, where necessary.

ARTICLE 4. Validity of Documents

1. The parties shall determine the conditions to be met for purposes of recognition in the territory of immigration of any document issued by the competent authority of the territory of emigration in respect of migrants and members of their families or in the case of refugees and displaced persons, by any body established in accordance with the terms of an international instrument which may be responsible for the protection of refugees and displaced persons who do not benefit from the protection of any Government concerning:

- (a) civil status;
 - (b) legal status;
 - (c) occupational qualifications;
 - (d) general education and vocational training; and
 - (e) participation in social security systems.
2. The parties shall also determine the application of such recognition.
 3. In the case of refugees and displaced persons, the competent authority of the territory of immigration shall recognise the validity of any travel document issued in lieu of a national passport by the competent authority of the territory of emigration and, in particular, of travel documents issued in accordance with the terms of an international Agreement (e.g. the travel document established by the Agreement of 15 October 1946, and the Nansen passport).
4. In drawing up these criteria, the two parties shall take into consideration:
 - (a) with respect to medical selection:
 - (i) the nature of the medical examination which migrants shall undergo (general medical examination, X-ray examination, laboratory examination, etc.);
 - (ii) the drawing up of lists of diseases and physical defects which clearly constitute a disability for employment in certain occupations;
 - (iii) minimum health provisions prescribed by international health conventions and relating to movement of population from one country to another;
 - (b) with respect to vocational selection:
 - (i) qualifications required of migrants with respect to each occupation or groups of occupations;
 - (ii) enumeration of alternative occupations requiring similar qualifications or capacities on the part of the workers in order to fulfil the needs of specified occupations for which it is difficult to recruit a sufficient number of qualified workers;
 - (iii) development of psycho-technical testing;
 - (c) with respect to selection based on the age of migrants, flexibility to be given to the application of age criteria in order to take into consideration on the one hand the requirements of various occupations and, on the other, the varying capacities of different individuals at a given age.

ARTICLE 5. Conditions and Criteria of Migration

1. The parties shall jointly determine:
 - (a) the requirements for migrants and members of their families, as to age, physical aptitude and health, as well as the occupational qualifications for the various branches of economic activity and for the various occupational categories;
 - (b) the categories of the members of the migrants' families authorised to accompany or to join them.
2. The parties shall also determine, in accordance with the provisions of Article 28 of this Agreement:
 - (a) the numbers and occupational categories of migrants to be recruited in the course of a stated period;
 - (b) the areas of recruitment and the areas of placing and settlement except that in the case of refugees and displaced persons the determination of the areas of recruitment shall be reserved to any body established in accordance with the terms of an international instrument which may be responsible for the protection of refugees and displaced persons who do not benefit from the protection of any Government.
3. In order to recruit migrants required to meet the technical needs of the territory of immigration and who can adapt themselves easily to the conditions in the territory of immigration, the parties shall determine criteria to govern technical selection of the migrants.

ARTICLE 6. Organisation of Recruitment, Introduction and Placing

1. The bodies or persons which engage in the operations of recruitment, introduction and placing of migrants and of members of their families shall be named by the competent authorities of the respective territories or in the case of refugees and displaced persons, by any body established in accordance with the terms of an international instrument which may be responsible for the protection of refugees and displaced persons who do not benefit from the protection of any Government on the one hand and the competent authority of the territory of immigration on the other subject to the approval of both parties.
2. Subject to the provisions of the following paragraphs, the right to engage in the operations of recruitment, introduction and placing shall be restricted to:
 1. The bodies or persons which engage in the operations of recruitment, introduction and placing of migrants and of members of their families shall be named by the competent authorities of the respective territories or in the case of refugees and displaced persons, by any body established in accordance with the terms of an international instrument which may be responsible for the protection of refugees and displaced persons who do not benefit from the protection of any Government on the one hand and the competent authority of the territory of immigration on the other subject to the approval of both parties.

- (a) public employment offices or other public bodies of the territory in which the operations take place;
 - (b) public bodies of a territory other than that in which the operations take place which are authorised to operate in that territory by an agreement between the parties;
 - (c) any body established in accordance with the terms of an international instrument.
3. In addition, in so far as the national laws and regulations of the parties permit and subject to the approval and supervision of the competent authorities of the parties, the operations of recruitment, introduction and placing may be undertaken by:
- (a) the prospective employer or a person in his service acting on his behalf; and
 - (b) private agencies.
4. The administrative costs of recruitment, introduction and placing shall not be borne by the migrants.

ARTICLE 7. Selection Testing

1. An intending migrant shall undergo an appropriate examination in the territory of emigration; any such examination should inconvenience him as little as possible.
2. With respect to the organisation of the selection of migrants, the parties shall agree on:
 - (a) recognition and composition of official agencies or private bodies authorised by the competent authority of the territory of immigration to carry out selection operations in the territory of emigration;
 - (b) organisation of selection examinations, the centres where they are to be carried out, and allocation of expenses resulting from these examinations;
 - (c) co-operation of the competent authorities of the two parties and in particular of their employment services in organising selection.

ARTICLE 8. Information and Assistance of Migrants

1. The migrant accepted after medical and occupational examination in the assembly or selection centre shall receive, in a language that he understands, all information he may still require as to the nature of the work for which he has been engaged, the region of employment, the undertaking to which he is assigned, travel arrangements and the conditions of life and work

including health and related matters in the country and region to which he is going.

2. On arrival in the country of destination, and at a reception centre if such exists, or at the place of residence, migrants and the members of their families shall receive all the documents which they need for their work, their residence and their settlement in the country, as well as information, instruction and advice regarding conditions of life and work, and any other assistance that they may need to adapt themselves to the conditions in the country of immigration.

ARTICLE 9. Education and Vocational Training

The parties shall co-ordinate their activities concerning the organisation of educational courses for migrants, which shall include general information on the country of immigration, instruction in the language of that country, and vocational training.

ARTICLE 10. Exchange of Trainees

The parties agree to further the exchange of trainees, and to determine in a separate agreement the conditions governing such exchanges.

ARTICLE 11. Conditions of Transport

1. During the journey from their place of residence to the assembly or selection centre, as well as during their stay in the said centre, migrants and the members of their families shall receive from the competent authority of the territory of immigration or in the case of refugees and displaced persons, from any body established in accordance with the terms of an international instrument which may be responsible for the protection of refugees and displaced persons who do not benefit from the protection of any Government any assistance which they may require.
2. The competent authorities of the territories of emigration and immigration shall, each within its own jurisdiction, safeguard the health and welfare of, and render assistance to, migrants and the members of their families during the journey from the assembly or selection centre to the place of their employment, as well as during their stay in a reception centre if such exists.
3. Migrants and members of their families shall be transported in a manner appropriate for human beings and in conformity with the laws and regulations in force.

4. The parties shall agree upon the terms and conditions for the application of the provisions of this Article.

ARTICLE 12. Travel and Maintenance Expenses

The parties shall agree upon the methods for meeting the cost of travel of the migrants and the members of their families from the place of their residence to the place of their destination, and the cost of their maintenance while travelling, sick or hospitalised, as well as the cost of transport of their personal belongings.

ARTICLE 13. Transfer of Funds

1. The competent authority of the territory of emigration shall, as far as possible and in conformity with national laws and regulations concerning the import and export of foreign currency, authorise and provide facilities for migrants and for members of their families to withdraw from their country such sums as they may need for their initial settlement abroad.
2. The competent authority of the territory of immigration shall, as far as possible and in conformity with national laws and regulations concerning the import and export of foreign currency, authorise and provide facilities for the periodical transfer to the territory of emigration of migrants' savings and of any other sums due in virtue of this Agreement.
3. The transfers of funds mentioned in paragraphs 1 and 2 above shall be made at the prevailing official rate of exchange.
4. The parties shall take all measures necessary for the simplification and acceleration of administrative formalities regarding the transfer of funds so that such funds may be available with the least possible delay to those entitled to them.
5. The parties shall determine if and under what conditions a migrant may be required to remit part of his wages for the maintenance of his family remaining in his country or in the territory from which he emigrated.

ARTICLE 14. Adaptation and Naturalisation

The competent authority of the territory of immigration shall take measures to facilitate adaptation to national climatic, economic and social conditions and facilitate the procedure of naturalisation of migrants and of members of their families.

ARTICLE 15. Supervision of Living and Working Conditions

1. Provision shall be made for the supervision by the competent authority or duly authorised bodies of the territory of immigration of the living and working conditions, including hygienic conditions, to which the migrants are subject.
2. With respect to temporary migrants, the parties shall provide, where appropriate, for authorised representatives of the territory of emigration or in the case of refugees and displaced persons, of any body established in accordance with the terms of an international instrument which may be responsible for the protection of refugees and displaced persons who do not benefit from the protection of any Government to co-operate with the competent authority or duly authorised bodies of the territory of immigration in carrying out this supervision.
3. During a fixed period, the duration of which shall be determined by the parties, migrants shall receive special assistance in regard to matters concerning their conditions of employment.
4. Assistance with respect to the employment and living conditions of the migrants may be given either through the regular labour inspection service of the territory of immigration or through a special service for migrants, in co-operation where appropriate with approved voluntary organisations.
5. Provision shall be made where appropriate for the co-operation of representatives of the territory of emigration or in the case of refugees and displaced persons, of any body established in accordance with the terms of an international instrument which may be responsible for the protection of refugees and displaced persons who do not benefit from the protection of any Government with such services.

ARTICLE 16. Settlement of Disputes

1. In case of a dispute between a migrant and his employer, the migrant shall have access to the appropriate courts or shall otherwise obtain redress for his grievances, in accordance with the laws and regulations of the territory of immigration.
2. The authorities shall establish such other machinery as is necessary to settle disputes arising out of the Agreement.

ARTICLE 17. Equality of Treatment

1. The competent authority of the territory of immigration shall grant to migrants and to members of their families with respect to employment in which they are eligible to engage treatment no less favourable than that applicable to its own nationals in virtue of legal or administrative provisions or collective labour agreements.
2. Such equality of treatment shall apply, without discrimination in respect of nationality, race, religion or sex, to immigrants lawfully within the territory of immigration in respect of the following matters:
 - (a) in so far as such matters are regulated by laws or regulations or are subject to the control of administrative authorities,
 - (i) remuneration, including family allowances where these form part of remuneration, hours of work, weekly rest days, overtime arrangements, holidays with pay and other regulations concerning employment, including limitations on home work, minimum age provisions, women's work, and the work of young persons;
 - (ii) membership of trade unions and enjoyment of the benefits of collective bargaining;
 - (iii) admission to schools, to apprenticeship and to courses or schools for vocational or technical training, provided that this does not prejudice nationals of the country of immigration;
 - (iv) recreation and welfare measures;
 - (b) employment taxes, dues or contributions payable in respect of the persons employed;
 - (c) hygiene, safety and medical assistance;
 - (d) legal proceedings relating to the matters referred to in this Agreement.

ARTICLE 18. Access to Trades and Occupations and the Right to Acquire Property

Equality of treatment shall also apply to:

- (a) access to trades and occupations to the extent permitted under national laws and regulations;
- (b) acquisition, possession and transmission of urban or rural property.

ARTICLE 19. Supply of Food

The treatment applied to migrants and the members of their families shall be the same as that applied to national workers in the same occupation as regards the supply of food.

ARTICLE 20. Housing Conditions

The competent authority of the territory of immigration shall ensure that migrants and the members of their families have hygienic and suitable housing, in so far as the necessary housing is available.

ARTICLE 21. Social Security

1. The two parties shall determine in a separate agreement the methods of applying a system of social security to migrants and their dependants.
2. Such agreement shall provide that the competent authority of the territory of immigration shall take measures to ensure to the migrants and their dependants treatment not less favourable than that afforded by it to its nationals, except where particular residence qualifications apply to nationals.
3. The agreement shall embody appropriate arrangements for the maintenance of migrants' acquired rights and rights in course of acquisition framed with due regard to the principles of the Maintenance of Migrants' Pension Rights Convention, 1935, or of any revision of that Convention.
4. The agreement shall provide that the competent authority of the territory of immigration shall take measures to grant to temporary migrants and their dependants treatment not less favourable than that afforded by it to its nationals, subject in the case of compulsory pension schemes to appropriate arrangements being made for the maintenance of migrants' acquired rights and rights in course of acquisition.

ARTICLE 22. Contracts of Employment

1. In countries where a system of model contracts is used, the individual contract of employment for migrants shall be based on a model contract drawn up by the parties for the principal branches of economic activity.
2. The individual contract of employment shall set forth the general conditions of engagement and of employment provided in the relevant model contract and shall be translated into a language which the migrant understands. A copy of the contract shall be delivered to the migrant before departure from the territory of emigration or, if it is agreed between the two parties concerned, in a reception centre on arrival in the territory of immigration. In the latter case before

departure the migrant shall be informed in writing by a document which relates either to him individually or to a group of migrants of which he is a member, of the occupational category in which he is to be engaged and the other conditions of work, in particular the minimum wage which is guaranteed to him.

3. The individual contract of employment shall contain necessary information, such as:
 - (a) the full name of the worker as well as the date and place of birth, his family status, his place of residence and of recruitment;
 - (b) the nature of the work, and the place where it is to be performed;
 - (c) the occupational category in which he is placed;
 - (d) remuneration for ordinary hours of work, overtime, night work and holidays, and the medium for wage payment;
 - (e) bonuses, indemnities and allowances, if any;
 - (f) conditions under which and extent to which the employer may be authorised to make any deductions from remuneration;
 - (g) conditions regarding food if food is to be provided by the employer;
 - (h) the duration of the contract as well as the conditions of renewal and denunciation of the contract;
 - (i) the conditions under which entry and residence in the territory of immigration are permitted;
 - (j) the method of meeting the expenses of the journey of the migrant and the members of his family;
 - (k) in case of temporary migration, the method of meeting the expenses of return to the home country or the territory of migration, as appropriate;
 - (l) the grounds on which a contract may be prematurely terminated.

ARTICLE 23. Change of Employment

1. If the competent authority of the territory of immigration considers that the employment for which the migrant has been recruited does not correspond to his physical capacity or occupational qualifications, the said authority shall provide facilities for placing the said migrant in an employment corresponding to his capacity or qualifications, and in which he may be employed in accordance with national laws or regulations.

2. During periods of unemployment, if any, the method of maintaining the migrant and the dependent members of his family authorised to accompany or join him shall be determined by arrangements made under a separate agreement.

ARTICLE 24. Employment Stability

1. If before the expiration of the period of his contract the migrant for employment becomes redundant in the undertaking or branch of economic activity for which he was engaged, the competent authority of the territory of immigration shall, subject to the provisions of the contract, facilitate the placing of the said migrant in other suitable employment in which he may be employed in accordance with national laws or regulations.
2. If the migrant is not entitled to benefits under an unemployment insurance or assistance scheme, his maintenance, as well as that of dependent members of his family during any period in which he is unemployed shall be determined by a separate agreement in so far as this is not inconsistent with the terms of his contract.
3. The provisions of this Article shall not affect the right of the migrant to benefit from any provisions that may be included in his contract in case it is prematurely terminated by the employer.

ARTICLE 25. Provisions Concerning Compulsory Return

1. The competent authority of the territory of immigration undertakes that a migrant and the members of his family who have been authorised to accompany or join him will not be returned to the territory from which he emigrated unless he so desires if, because of illness or injury, he is unable to follow his occupation.
2. The Government of the territory of immigration undertakes not to send refugees and displaced persons or migrants who do not wish to return to their country of origin for political reasons back to their territory of origin as distinct from the territory from which they were recruited, unless they formally express this desire by a request in writing addressed both to the competent authority of the territory of immigration and the representative of the body

set up in accordance with the provisions of an international instrument which may be responsible for the protection of refugees and displaced persons who do not benefit from the protection of any Government.

ARTICLE 26. Return Journey

1. The cost of the return journey of a migrant introduced under a plan sponsored by the Government of the territory of immigration, who is obliged to leave his employment for reasons for which he is not responsible, and who cannot, in virtue of national laws and regulations, be placed in an employment for which he is eligible, shall be regulated as follows:
 - (a) the cost of the return journey of the migrant, and persons dependent upon him, shall in no case fall on the migrant himself;
 - (b) supplementary bilateral agreements shall specify the method of meeting the cost of this return journey;
 - (c) in any case, even if no provision to this effect is included in a bilateral agreement, the information given to migrants at the time of their recruitment shall specify what person or agency is responsible for defraying the cost of return in the circumstances mentioned in this Article.
2. In accordance with the methods of co-operation and consultation agreed upon under Article 28 of this Agreement, the two parties shall determine the measures necessary to organise the return home of the said persons and to assure to them in the course of the journey the conditions of health and welfare and the assistance which they enjoyed during the outward journey.
3. The competent authority of the territory of emigration shall exempt from customs duties on their arrival:
 - (a) personal effects; and
 - (b) portable hand-tools and portable equipment of the kind normally owned by workers for the carrying out of their particular trades, which have been in possession and use of the said persons for an appreciable time and which are intended to be used by them in the course of their occupation.

ARTICLE 27. Double Taxation

The two parties shall determine in a separate agreement the measures to be taken to avoid double taxation on the earnings of a migrant for employment.

ARTICLE 28. Methods of Co-operation

1. The two parties shall agree on the methods of consultation and co-operation necessary to carry out the terms of the Agreement.
2. When so requested by the representatives of the two parties the International Labour Office shall be associated with such consultation and co-operation.

ARTICLE 29. Final Provision

1. The parties shall determine the duration of the Agreement as well as the period of notice for termination.
2. The parties shall determine those provisions of this Agreement which shall remain in operation after expiration of this Agreement.

R100 PROTECTION OF MIGRANT WORKERS (UNDERDEVELOPED COUNTRIES) RECOMMENDATION, 1955

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Thirty-eighth Session on 1 June 1955, and

Having decided upon the adoption of certain proposals concerning the protection of migrant workers in underdeveloped countries and territories, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation,

adopts this twenty-second day of June of the year one thousand nine hundred and fifty-five, the following Recommendation, which may be cited as the Protection of Migrant Workers (Underdeveloped Countries) Recommendation, 1955:

I. Definitions and Scope

1. This Recommendation applies to:

- (a) countries and territories in which the evolution from a subsistence form of economy towards more advanced forms of economy, based on wage earning and entailing sporadic and scattered development of industrial and agricultural centres, brings with it appreciable migratory movements of workers and sometimes their families;
- (b) countries and territories through which such migratory movements of workers pass on their outward and, where applicable, their return journeys, if existing arrangements in such countries and territories, taken as a whole, afford less protection to the persons concerned during their journeys than is laid down in this Recommendation;
- (c) countries and territories of destination of such migratory movements of workers, if existing arrangements in such countries and territories, taken as a whole, afford less protection to the persons concerned during their journeys or employment than is laid down in this Recommendation.

2. For the purposes of this Recommendation, the term migrant worker means any worker participating in such migratory movements either within the countries and territories described in clause (a) of Paragraph 1 above or from such countries and territories into or through the countries and territories described in clauses (b) and (c) of Paragraph 1 above, whether he has taken up employment, is moving in search of employment or is going to arranged employment, and irrespective of whether he has accepted an offer of employment or entered into a contract. Where applicable, the term migrant worker also means any worker returning temporarily or finally during or at the end of such employment.
3. Nothing in this Recommendation should be construed as giving any person a right to move into or remain in any country or territory except in accordance with the immigration or other laws of that country or territory.
4. The provisions of this Recommendation are without prejudice to any provision or practice, existing by virtue of law, custom or agreement, which provides for migrant workers conditions more favourable than those provided in this Recommendation.
5. Any discrimination against migrant workers should be eliminated.

II. Protection of Migrant Workers and Their Families during Their Outward and Return Journeys and Prior to the Period of Their Employment

6. (1) Arrangements should be made by means of national or local laws or regulations, agreement between governments or any other means, with a view to providing protection for migrant workers and their families during the journey between their point of departure and their place of employment, both in the interests of the migrants themselves and in the interests of the countries or areas whence they come, in which they move about and to which they are making their way.
- (2) These arrangements should include:
 - (a) making available mechanised means of transport, including public passenger transport, for the migrant workers and

- their families, where that is physically possible; and
- (b) providing, at suitable stages along the routes, rest camps where lodging, food, water and essential first aid may be furnished.
7. All necessary steps should be taken to enable migrant workers to make their journeys in reasonable conditions either:
- (a) in the case of recruited or engaged workers, by providing, in the regulations relating to recruitment or to contracts of employment, an obligation on the recruiter, or failing him the employer, to pay the travelling expenses of the workers and, where applicable, of their families; or
- (b) in the case of workers journeying without having entered into a contract or accepted an offer of definite employment, by making provision for reducing travelling expenses to a minimum.
8. (1) Arrangements should be made for free medical examination of migrant workers on departure for or commencement of employment, and on completion of employment.
- (2) Where lack of medical staff in particular regions makes it impossible to submit all migrant workers to this double medical examination, priority should be given to:
- (a) migrant workers coming from regions where there are communicable or endemic diseases;
- (b) migrant workers who accept or who have been in employment involving special physical risks; and
- (c) migrant workers whose journeys are undertaken in accordance with special arrangements for recruitment or engagement.
9. (1) If the competent authority considers, after consultation with employers' and workers' organisations where both exist, that a period of acclimatisation is necessary in the interest of the health of migrant workers, it should take steps to ensure to them, and particularly to those recruited or bound by a contract, such a period of acclimatisation immediately before commencing their employment.
- (2) In making its decision as to the need for a period of acclimatisation the competent authority should take account of the climate, the altitude and the different conditions of life in which the migrant workers may be called upon to work. Where it considers a period of acclimatisation to be necessary it should fix the length thereof according to local circumstances.
- (3) During the acclimatisation period, the employer should bear the expense of the adequate maintenance of the migrant worker and of the members of his family authorised to accompany him.
10. Arrangements should be made to ensure to migrant workers and, where applicable, to their families the right to repatriation, during a period to be determined by the competent authority, after consultation with employers' and workers' organisations where both exist, in the following circumstances:
- (a) where the migrant worker has been recruited or has been sent forward to the place of engagement by the recruiter or the employer, his repatriation should be to the place where he was engaged or from which he was sent forward for engagement and at the expense of the recruiter or the employer in all cases where:
- (i) the worker becomes incapacitated by sickness or accident during the journey to the place of employment;
- (ii) the worker is found on medical examination to be unfit for employment;
- (iii) the worker, for a reason for which he is not responsible, is not engaged after having been sent forward for engagement;
- (iv) the competent authority finds that the worker has been engaged, or sent forward for engagement, by misrepresentation or mistake; or
- (b) where the migrant worker has entered into a contract of employment and has been brought to the place of employment by the employer or by any person acting on behalf of the employer, his repatriation, together with that of the members of his family also so brought, should be to the place where he was engaged or from which he was sent forward for engagement, and at the expense of the employer in all cases where:

- (i) the period of service stipulated in the contract has expired;
 - (ii) the contract is terminated by reason of the inability of the employer to fulfil the contract;
 - (iii) the contract is terminated by reason of the inability of the migrant worker to fulfil the contract owing to sickness or accident;
 - (iv) the contract is terminated by agreement between the parties;
 - (v) the contract is terminated on the application of either of the parties, unless the competent authority otherwise decides.
11. The competent authority should give sympathetic consideration to the question whether, and if so under what conditions, migrant workers or the members of their families who have not been brought to the place of employment by the employer or by any person acting on behalf of the employer, should have a right to repatriation.
12. In the event of the death of a migrant worker, the members of his family should have the right, to be exercised within a period to be determined by the competent authority, after consultation with the employers' and workers' organisations where both exist, to be repatriated to the place where the worker was engaged or from which he was sent forward for engagement, at the expense of the recruiter or the employer as the case may be:
- (a) where they had been authorised to accompany the worker to the place of employment:
 - (i) if death has occurred during the journey to the place of employment; or
 - (ii) if the deceased worker had entered into a contract of employment with the employer; or
 - (b) in other cases in the circumstances determined by the competent authority under Paragraph 11 above.
13. (1) Migrant workers should be free to waive the right to repatriation at the expense of the employer, such waiver to be exercised within a period and in a manner to be determined by the competent authority after consultation with employers' and workers' organisations where both exist, and not to become final until the end of such period.
- (2) Migrant workers should also be free to postpone the exercise of their rights to repatriation to within a period to be fixed by the competent authority.
14. Where standard employment contracts, to be entered into between employers and migrant workers, are established by or under the authority of the government or governments concerned, representatives of the employers and workers concerned, including representatives of their respective organisations if such exist, should, whenever practicable, be consulted as to the terms of such contracts.
15. (1) Arrangements should be made for the proper placing of migrant workers.
- (2) These arrangements should include the creation, where appropriate, of a public employment service system which should-
- (a) consist of a central office for the country or territory as a whole and branch offices both in areas from which workers normally migrate and in employment centres, so as to enable information on employment opportunities to be gathered, and to be regularly disseminated in the districts from which labour normally comes to those centres;
 - (b) establish and maintain arrangements with the employment services in other countries or territories to which workers in a given area usually emigrate, so as to collect information on prevailing employment opportunities there;
 - (c) establish and maintain, where practicable, vocational guidance facilities and arrangements for ascertaining the general suitability of workers for particular employments; and
 - (d) seek, where practicable, the advice and co-operation of employers' and workers' organisations in the organisation and operation of the system.

III. Measures to Discourage Migratory Movements when Considered Undesirable in the Interests of the Migrant Workers and of the Communities and Countries of Their Origin

16. The general policy should be to discourage migration of workers when considered undesirable in the interests of the migrant workers and of the communities and countries of their origin by measures designed to improve conditions of life and to raise standards of living in the areas from which the migrations normally start.
17. The measures to be taken to ensure the application of the policy described in the preceding Paragraph should include:
 - (a) in emigration areas, the adoption of economic development and vocational training programmes to enable fuller use to be made of available manpower and natural resources, and in particular the adoption of all measures likely to create new jobs and new sources of income for workers who would normally be disposed to emigrate;
 - (b) in immigration areas, the more rational use of manpower and the increase of productivity through better organisation of work, better training and the development of mechanisation or other measures as local circumstances may require;
 - (c) the limitation of recruitment in regions where the withdrawal of labour might have untoward effects on the social and economic organisation, and the health, welfare and development of the population concerned.
18. The governments of the countries and territories of origin and destination of migrant workers should endeavour to bring about a progressive reduction of migratory movements which have not been subject or appeared open to regulation, when such movements are considered undesirable in the interests of the migrant workers and of the communities and countries of their origin. So long as the economic causes of these unregulated migrations persist, the governments concerned should endeavour to exercise appropriate control, to the extent that such action appears practicable and desirable, over voluntary migration as well as organised recruitment. Such reduction and control may be sought by means of arrangements at local or area level and through bilateral agreements.

19. While unregulated migrations continue the governments concerned should, as far as practicable, strive to secure, for workers who migrate under such conditions, the protection provided for in this Recommendation.

IV. Protection of Migrant Workers during the Period of Their Employment

A. General Policy

20. Every effort should be made to assure to migrant workers as favourable working and living conditions as those provided by law or in practice to other workers engaged in the same employment and to apply to them, as to such other workers, the standards of protection set out in the following Paragraphs of this Recommendation.

B. Housing

21. The arrangements to be made for the housing of migrant workers should include measures to enable such workers to be provided, either at the expense of the employer or by the provision of appropriate financial aid or by other means, with accommodation meeting approved standards and at rents reasonable in relation to the wages earned by the various categories of workers.
22. The competent authority should be responsible for ensuring the establishment of satisfactory housing conditions for migrant workers. It should define the minimum standards of accommodation and exercise strict control over the enforcement of these standards. It should also define the rights of the worker who may be required to vacate his accommodation on leaving employment and should take all necessary steps to secure the enforcement of these rights.

C. Wages

23. (1) Arrangements should be made for wage fixing in the case of migrant workers.
 - (2) Such arrangements should include:
 - (a) adoption of a scale of minimum wage rates calculated so that its lowest rate, including any allowances, enables a worker starting unskilled work at least to meet his minimum requirements according to the standards accepted in the region and taking into account normal family needs;

- (b) the fixing from time to time of minimum wage rates either:
- (i) by means of collective agreements freely negotiated between the trade unions which are representative of the workers concerned and the employers or the employers' organisations concerned; or
 - (ii) where no adequate machinery for fixing minimum wage rates by collective agreements exists, by the competent authority in accordance with the principle stated in clause (a) above.
24. Where relevant, the competent authority should, when fixing wages, take into consideration the results of any budgetary surveys of household consumption in the region concerned which may be available, it being understood that such surveys should be undertaken with the co-operation of the representative organisations of employers and workers.
 25. Representatives of the employers' and workers' organisations, where they exist and, where they do not, representatives of workers and employers concerned, equal in number and on an equal footing, should collaborate in the operation of statutory machinery for fixing minimum wage rates.
 26. The minimum wage rates in force should be communicated to the employers and workers concerned. Where the rates have been fixed in accordance with subparagraph (2) (b) (ii) of Paragraph 23, they should be binding on the employers and workers concerned so as not to be subject to abatement by them by agreement without the express authorisation of the competent authority.
 27. Employers should be required to keep records of wage payments and deductions in respect of each worker. The amounts of wages and of deductions therefrom should be communicated to the workers concerned.
 28. Deductions from wages should be permitted only under conditions and to the extent prescribed by national laws or regulations or fixed by collective agreement or arbitration award.
 29. Wages should normally be paid in legal tender direct to the individual worker.
 30. Unless there is an established local custom to the contrary, and the competent authority is satisfied, after consulting representatives of the workers or of their representative organisations, that the continuance of this custom is desired by the workers, wages should be paid regularly and at such intervals as will minimise the likelihood of indebtedness among the wage earners.
 31. The substitution of alcohol or any harmful substance for all or any part of wages should be prohibited.
 32. Payment of wages in taverns or stores should be prohibited except in the case of workers employed therein.
 33. Employers should be required to restrict any advances to workers to a small proportion of their monthly remuneration.
 34. Any advance in excess of the amount fixed by the competent authority should not be legally recoverable either by the withholding of amounts of pay due to the worker at a later date or in any other way. No interest should be chargeable on advances.
 35. A worker to whom minimum rates are applicable and who, since they became applicable, has been paid wages at less than these rates, should be entitled to recover, by judicial or other means authorised by law, the amount by which he has been underpaid, subject to such limitation of time as may be determined by law or regulation.
 36. Where food, housing, clothing and other essential supplies and services form part of the remuneration, the competent authority should, with the co-operation of the representative organisations of employers and workers, take all practicable steps to ensure that they are adequate, that their cash value is properly assessed and that the payment in kind does not exceed in value a certain proportion, to be fixed by the competent authority, of the basic cash wage.
- D. Admission to Skilled Jobs without Discrimination*
37. The principle of equal opportunity for all sections of the population, including migrant workers, should be accepted.
 38. Subject to the application of national immigration laws, and of special laws concerning the employment of foreigners in the public

- service, any barriers preventing or restricting, on account of national origin, race, colour, belief, tribal association or trade union affiliation, access of any section of the population, including migrant workers, to particular types of job or employment should be deemed contrary to public policy and the principle of the abolition of any such barriers should be accepted.
39. Measures should be taken immediately to secure in practice the realisation of the principles set out in Paragraphs 37 and 38 of this Recommendation and to facilitate the performance of an increasing share of skilled work by the least favoured grades of workers.
40. Such measures should specifically include:
- in all countries and territories, provision of equal access for all workers to technical and vocational training facilities and equal possibilities of access for all workers to employment opportunities in new industrial enterprises;
 - in countries or territories where separate classes distinguished by race or origin have already been permanently formed, the introduction of facilities enabling workers of the least favoured class to be admitted to semi-skilled and skilled jobs;
 - in countries or territories where separate classes distinguished by race or origin have not been permanently formed, the opening of equal opportunities for all qualified workers to jobs requiring specified skills.

F. Trade Union Activities

41. The right of association and freedom for all lawful trade union activities should be granted to migrant workers in the centres where they work and all practicable measures should be taken to assure to trade unions which are representative of the workers concerned the right to conclude collective agreements with employers or employers' organisations.

G. Supply of Consumer Goods

42. (1) Steps should be taken to ensure the availability of consumer goods, particularly essential products and foodstuffs, to migrant workers and their families at reasonable prices and in sufficient quantities.
- (2) Land for the cultivation of crops should be made available to migrant workers, wherever possible, either by the employer or by the competent authority.

43. Where the creation of co-operative organisations would be of service, arrangements should be made for their development, including:
- the creation, if possible, of stock farms, fish ponds and market gardens on a co-operative basis;
 - the creation of retail stores run by workers' co-operative;
 - the granting of assistance by governments by training members of co-operatives, by supervising their administration and by guiding their activities.
44. (1) Where stores are attached to undertakings, only cash payment should be accepted in them.
- (2) If local circumstances do not yet permit the application of the preceding provision, the credit granted to migrant workers should be limited to a proportion of wages, to be fixed by the competent authority, and restricted to a fixed period which should be as short as possible. It should be forbidden to charge interest on credit given or to accept its repayment in work.
- (3) There should be no coercion on the migrant workers concerned to make use of such stores.
- (4) Where access to other stores is not possible the competent authority should take appropriate measures with the object of ensuring that goods are sold at fair and reasonable prices and that stores operated by the employer are not operated for the purpose of securing a profit but for the benefit of the workers concerned.

H. Social Security, Industrial Safety and Hygiene

45. The steps to be taken for migrant workers should in any case include in the first instance appropriate arrangements, without discrimination on grounds of nationality, race or religion, for workmen's compensation, medical care for workers and their families, industrial hygiene and prevention of accidents and occupational diseases.
46. These arrangements should include-
- medical supervision in accordance with local possibilities by periodical visits in the course of employment, and in case of sickness;
 - first aid, free medical treatment and hospitalisation facilities in accordance with standards to be prescribed by the competent authority;

- (c) a system of workmen's compensation for accidents and for occupational diseases;
 - (d) suitable assistance measures in case of accident or occupational disease;
 - (e) measures to secure the health and safety of migrant workers in their places of employment;
 - (f) measures for reporting accidents and investigating their causes;
 - (g) an obligation on the employers to bring to the attention of migrant workers by notices, talks or any other means any dangerous or unhealthy features of their work;
 - (h) special or additional training or instruction to migrant workers on the prevention of accidents and risks to health in places of employment when, on account of lack of familiarity with processes, language difficulties or for other reasons, the training or instruction normally given to other workers employed in the country or territory is unsuitable;
 - (i) provision for the collaboration of employers and workers in the promotion of safety measures;
 - (j) special health and social measures for the protection of the migrant worker's wife and children living with him.
47. Where migrant workers fail to benefit from the same treatment as other workers as regards protection against the risks of invalidity, old age and death, arrangements should be made, to the extent possible and desirable and in collaboration with the workers, for the organisation of friendly societies and works provident funds in order to meet the needs of migrant workers in these cases and as the forerunners of larger schemes on a local, district or territorial basis.

H. Relations of Migrant Workers with Their Areas of Origin

48. Arrangements should be made to enable migrant workers to maintain contact with their families and their areas of origin, including:
- (a) the granting of such facilities as may be required for the voluntary remittance of funds to the worker's family in his area of origin or elsewhere and for the accumulation, with the assent of the worker, of deferred pay which he should receive at the end of his contract or when he returns to his home or in any other circumstances to be decided in agreement with him;
 - (b) facilities for the exchange of correspondence between the migrant worker, his family and his area of origin;
 - (c) facilities for the performance by the migrant worker of those customary obligations to his community of origin which he wishes to observe.
- I. Material, Intellectual and Moral Welfare of Migrant Workers*
49. Arrangements should be made to ensure the material, intellectual and moral welfare of migrant workers, including-
- (a) arrangements to encourage voluntary forms of thrift;
 - (b) arrangements to protect the migrant worker against usury, in particular by action to reduce interest rates on loans, by the control of the operations of money-lenders and by the encouragement of facilities for borrowing money for appropriate purposes through co-operative credit organisations or through institutions under the supervision of the competent authority;
 - (c) wherever practicable, the maintenance in immigration areas of welfare officers who are familiar with the languages and customs of the migrant workers to facilitate the adaptation of these workers and their families to their new way of living;
 - (d) measures to ensure educational facilities for migrant workers' children;
 - (e) facilities to enable migrant workers to satisfy their intellectual and religious aspirations.

V. Stabilisation of Migrant Workers

50. Except where permanent establishment of the migrant workers is clearly against their interest and that of their families or of the economies of the countries or territories concerned, the general policy to be followed should be to seek the stabilisation of the workers and their families in or near the employment centres by all appropriate measures and particularly by those which are set out in Part IV and in Paragraphs 51, 52 and 53 of this Recommendation.
51. As stated in Paragraph 3, nothing in this Recommendation should be construed as giving any person a right to move into or remain in any country or territory except in accordance with the immigration or other laws of that country or territory. Nevertheless, where such action is not contrary to the policy of the country

concerned, the competent authority should consider affording to migrant workers who have been resident for a period of not less than five years in the country to which they have migrated all opportunities of acquiring citizenship of the country of immigration.

52. (1) Where lasting settlement of migrant workers at or near their place of employment is found to be possible, arrangements should be made to promote their permanent installation.
- (2) These arrangements should include-
- (a) encouragement of recruitment of migrant workers accompanied by their families;
 - (b) the granting wherever possible and desirable of facilities to enable the establishment at or near the place of employment of appropriate community organisation;
 - (c) the provision of housing of an approved standard and at suitable cost to promote the permanent settlement of families;
 - (d) the allocation, wherever possible and desirable, of sufficient land for the production of foodstuffs;
 - (e) in the absence of more appropriate facilities and whenever possible and desirable, the creation of villages or settlements of retired migrant workers in places where it is possible for them to contribute to their own subsistence.

VI. Application of the Recommendation

53. Provision should be made by the competent authority for the supervision, by the appropriate administrative service or services, and with the co-operation of employers' and workers' organisations where both exist, of the application of the measures for the protection of migrant workers dealt with in this Recommendation.
54. In particular, in cases where the terms and conditions of employment, the language, customs, or the currency in use in the region of employment are not familiar to migrant workers, the appropriate administrative service or services should ensure the observance of any procedure for entering into employment contracts so as to make certain that each worker understands the terms and conditions of his employment, the provisions of his contract, the details in regard

to the rates and payment of wages, and that he has accepted freely and knowingly these terms and conditions.

55. Each Member of the International Labour Organisation should report to the International Labour Office at appropriate intervals, as requested by the Governing Body, the position of the law and practice in the countries and territories for which the Member is responsible in regard to the matters dealt with in the Recommendation. Such reports should show the extent to which effect has been given, or is proposed to be given, to the provisions of this Recommendation and such modifications of those provisions as it has been found or may be found necessary to make in adopting or applying them.
56. Each Member of the International Labour Organisation which is responsible for any non-metropolitan territory should take all steps within its competence to secure the effective application in each such territory of the minimum standards set forth in this Recommendation, and in particular should bring the Recommendation before the authority or authorities competent to make effective in each such territory the minimum standards set forth in it.

C143 MIGRANT WORKERS (SUPPLEMENTARY PROVISIONS) CONVENTION, 1975

PREAMBLE

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Sixtieth Session on 4 June 1975, and

Considering that the Preamble of the Constitution of the International Labour Organisation assigns to it the task of protecting the interests of workers when employed in countries other than their own, and

Considering that the Declaration of Philadelphia reaffirms, among the principles on which the Organisation is based, that labour is not a commodity, and that poverty anywhere constitutes a danger to prosperity everywhere, and recognises the solemn obligation of the ILO to further programmes which will achieve in particular full employment through the transfer of labour, including for employment, and

Considering the ILO World Employment Programme and the Employment Policy Convention and Recommendation, 1964, and emphasising the need to avoid the excessive and uncontrolled or unassisted increase of migratory movements because of their negative social and human consequences, and

Considering that in order to overcome underdevelopment and structural and chronic unemployment, the governments of many countries increasingly stress the desirability of encouraging the transfer of capital and technology rather than the transfer of workers in accordance with the needs and requests of these countries in the reciprocal interest of the countries of origin and the countries of employment, and

Considering the right of everyone to leave any country, including his own, and to enter his own country, as set forth in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, and

Recalling the provisions contained in the Migration for Employment Convention and Recommendation (Revised), 1949, in the Protection of Migrant Workers (Underdeveloped Countries) Recommendation, 1955, in the Employment Policy Convention and Recommendation, 1964, in the Employment Service Convention and Recommendation, 1948, and in the Fee-Charging Employment Agencies Convention (Revised), 1949, which deal with such matters as the regulation of the recruitment, introduction and placing of migrant workers, the provision of accurate information relating to migration, the minimum conditions to be enjoyed by migrants in transit and on arrival, the adoption of an active employment policy and international collaboration in these matters, and

Considering that the migration of workers due to conditions in labour markets should take place under the responsibility of official agencies for employment or in accordance with the relevant bilateral or multilateral agreements, in particular those permitting free circulation of workers, and

Considering that evidence of the existence of illicit and clandestine trafficking in labour calls for further standards specifically aimed at eliminating these abuses, and

Recalling the provisions of the Migration for Employment Convention (Revised), 1949, which require ratifying Members to apply to immigrants lawfully within their territory treatment not less favourable than that which they apply to their nationals in respect of a variety of matters which it enumerates, in so far as these are regulated by laws or regulations or subject to the control of administrative authorities, and

Recalling that the definition of the term "discrimination" in the Discrimination (Employment and Occupation) Convention, 1958, does not mandatorily include distinctions on the basis of nationality, and

Considering that further standards, covering also social security, are desirable in order to promote equality of opportunity and treatment of migrant workers and, with regard to matters regulated by laws or regulations or subject to the control of administrative authorities, ensure treatment at least equal to that of nationals, and

Noting that, for the full success of action regarding the very varied problems of migrant workers, it is essential that there be close co-operation with the United Nations and other specialised agencies, and

Noting that, in the framing of the following standards, account has been taken of the work of the United Nations and of other specialised agencies and that, with a view to avoiding duplication and to ensuring appropriate co-ordination, there will be continuing co-operation in promoting and securing the application of the standards, and

Having decided upon the adoption of certain proposals with regard to migrant workers, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention supplementing the Migration for Employment Convention (Revised), 1949, and the Discrimination (Employment and Occupation) Convention, 1958,

adopts the twenty-fourth day of June of the year one thousand nine hundred and seventy-five, the following Convention, which may be cited as the Migrant Workers (Supplementary Provisions) Convention, 1975:

PART I. Migrations in Abusive Conditions

ARTICLE 1

Each Member for which this Convention is in force undertakes to respect the basic human rights of all migrant workers.

ARTICLE 2

1. Each Member for which this Convention is in force shall systematically seek to determine whether there are illegally employed migrant workers on its territory and whether there depart from, pass through or arrive in its territory any movements of migrants for employment in which the migrants are subjected during their journey, on arrival or during their period of residence and employment to conditions contravening relevant international multilateral or bilateral instruments or agreements, or national laws or regulations.

2. The representative organisations of employers and workers shall be fully consulted and enabled to furnish any information in their possession on this subject.

ARTICLE 3

Each Member shall adopt all necessary and appropriate measures, both within its jurisdiction and in collaboration with other Members:

- (a) to suppress clandestine movements of migrants for employment and illegal employment of migrants, and
- (b) against the organisers of illicit or clandestine movements of migrants for employment departing from, passing through or arriving in its territory, and against those who employ workers who have immigrated in illegal conditions, in order to prevent and to eliminate the abuses referred to in Article 2 of this Convention.

ARTICLE 4

In particular, Members shall take such measures as are necessary, at the national and the international level, for systematic contact and exchange of information on the subject with other States, in consultation with representative organisations of employers and workers.

ARTICLE 5

One of the purposes of the measures taken under Articles 3 and 4 of this Convention shall be that the authors of manpower trafficking can be prosecuted whatever the country from which they exercise their activities.

ARTICLE 6

1. Provision shall be made under national laws or regulations for the effective detection of the illegal employment of migrant workers and for the definition and the application of administrative, civil and penal sanctions, which include imprisonment in their range, in respect of the illegal employment of migrant workers, in respect of the organisation of movements of migrants for employment defined as involving the abuses referred to in Article 2 of this Convention, and in respect of knowing assistance to such movements, whether for profit or otherwise.
2. Where an employer is prosecuted by virtue of the provision made in pursuance of this Article, he shall have the right to furnish proof of his good faith.

ARTICLE 7

The representative organisations of employers and workers shall be consulted in regard to the laws and regulations and other measures provided for in this Convention and designed to prevent and eliminate the abuses referred to above, and the possibility of their taking initiatives for this purpose shall be recognised.

ARTICLE 8

1. On condition that he has resided legally in the territory for the purpose of employment, the migrant worker shall not be regarded as in an illegal or irregular situation by the mere fact of the loss of his employment, which shall not in itself imply the withdrawal of his authorisation of residence or, as the case may be, work permit.
2. Accordingly, he shall enjoy equality of treatment with nationals in respect in particular of guarantees of security of employment, the provision of alternative employment, relief work and retraining.

ARTICLE 9

1. Without prejudice to measures designed to control movements of migrants for employment by ensuring that migrant workers enter national territory and are admitted to employment in conformity with the relevant laws and regulations, the migrant worker shall, in cases in which these laws and regulations have not been respected and in which his position cannot be regularised, enjoy equality of treatment for himself and his family in respect of rights arising out of past employment as regards remuneration, social security and other benefits.
2. In case of dispute about the rights referred to in the preceding paragraph, the worker shall have the possibility of presenting his case to a competent body, either himself or through a representative.
3. In case of expulsion of the worker or his family, the cost shall not be borne by them.
4. Nothing in this Convention shall prevent Members from giving persons who are illegally residing or working within the country the right to stay and to take up legal employment.

PART II. Equality of Opportunity and Treatment

ARTICLE 10

Each Member for which the Convention is in force undertakes to declare and pursue a national policy designed to promote and to guarantee, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, of social security, of trade union and cultural rights and of individual and collective freedoms for persons who as migrant workers or as members of their families are lawfully within its territory.

ARTICLE 11

1. For the purpose of this Part of this Convention, the term **migrant worker** means a person who migrates or who has migrated from one country to another with a view to being employed otherwise than on his own account and includes any person regularly admitted as a migrant worker.
2. This Part of this Convention does not apply to –
 - (a) frontier workers;
 - (b) artistes and members of the liberal professions who have entered the country on a short-term basis;
 - (c) seamen;
 - (d) persons coming specifically for purposes of training or education;
 - (e) employees of organisations or undertakings operating within the territory of a country who have been admitted temporarily to that country at the request of their employer to undertake specific duties or assignments, for a limited and defined period of time, and who are required to leave that country on the completion of their duties or assignments.

ARTICLE 12

Each Member shall, by methods appropriate to national conditions and practice:

- (a) seek the co-operation of employers' and workers' organisations and other appropriate bodies in promoting the acceptance and observance of the policy provided for in Article 10 of this Convention;

- (b) enact such legislation and promote such educational programmes as may be calculated to secure the acceptance and observance of the policy;
- (c) take measures, encourage educational programmes and develop other activities aimed at acquainting migrant workers as fully as possible with the policy, with their rights and obligations and with activities designed to give effective assistance to migrant workers in the exercise of their rights and for their protection;
- (d) repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the policy;
- (e) in consultation with representative organisations of employers and workers, formulate and apply a social policy appropriate to national conditions and practice which enables migrant workers and their families to share in advantages enjoyed by its nationals while taking account, without adversely affecting the principle of equality of opportunity and treatment, of such special needs as they may have until they are adapted to the society of the country of employment;
- (f) take all steps to assist and encourage the efforts of migrant workers and their families to preserve their national and ethnic identity and their cultural ties with their country of origin, including the possibility for children to be given some knowledge of their mother tongue;
- (g) guarantee equality of treatment, with regard to working conditions, for all migrant workers who perform the same activity whatever might be the particular conditions of their employment.

ARTICLE 13

1. A Member may take all necessary measures which fall within its competence and collaborate with other Members to facilitate the reunification of the families of all migrant workers legally residing in its territory.
2. The members of the family of the migrant worker to which this Article applies are the spouse and dependent children, father and mother.

ARTICLE 14

A Member may:

- (a) make the free choice of employment, while assuring migrant workers the right to geographical mobility, subject to the conditions that the migrant worker has resided lawfully in its territory for the purpose of employment for a prescribed period not exceeding two years or, if

its laws or regulations provide for contracts for a fixed term of less than two years, that the worker has completed his first work contract;

- (b) after appropriate consultation with the representative organisations of employers and workers, make regulations concerning recognition of occupational qualifications acquired outside its territory, including certificates and diplomas;
- (c) restrict access to limited categories of employment or functions where this is necessary in the interests of the State.

PART III. Final Provisions

ARTICLE 15

This Convention does not prevent Members from concluding multilateral or bilateral agreements with a view to resolving problems arising from its application.

ARTICLE 16

1. Any Member which ratifies this Convention may, by a declaration appended to its ratification, exclude either Part I or Part II from its acceptance of the Convention.
2. Any Member which has made such a declaration may at any time cancel that declaration by a subsequent declaration.
3. Every Member for which a declaration made under paragraph 1 of this Article is in force shall indicate in its reports upon the application of this Convention the position of its law and practice in regard to the provisions of the Part excluded from its acceptance, the extent to which effect has been given, or is proposed to be given, to the said provision and the reasons for which it has not yet included them in its acceptance of the Convention.

ARTICLE 17

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

ARTICLE 18

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratifications has been registered.

ARTICLE 19

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an Act communicated to the Director-General of the International Labour Office for registration. Such denunciation should not take effect until one year after the date on which it is registered.
2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

ARTICLE 20

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.
2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

ARTICLE 21

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

ARTICLE 22

At such times as may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

ARTICLE 23

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:
 - a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 19 above, if and when the new revising Convention shall have come into force;
 - b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.
2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

ARTICLE 24

The English and French versions of the text of this Convention are equally authoritative.

R151 MIGRANT WORKERS RECOMMENDATION, 1975

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Sixtieth Session on 4 June 1975, and

Considering that the Preamble of the Constitution of the International Labour Organisation assigns to it the task of protecting the interests of workers when employed in countries other than their own, and

Recalling the provisions contained in the Migration for Employment Convention and Recommendation (Revised), 1949, and in the Protection of Migrant Workers (Underdeveloped Countries) Recommendation, 1955, which deal with such matters as the preparation and organisation of migration, social services to be provided to migrant workers and their families, in particular before their departure and during their journey, equality of treatment as regards a variety of matters which they enumerate, and the regulation of the stay and return of migrant workers and their families, and

Having adopted the Migrant Workers (Supplementary Provisions) Convention, 1975, and

Considering that further standards are desirable as regards equality of opportunity and treatment, social policy in regard to migrants and employment and residence, and

Having decided upon the adoption of certain proposals with regard to migrant workers, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation,

adopts this twenty-fourth day of June of the year one thousand nine hundred and seventy-five, the following Recommendation, which may be cited as the Migrant Workers Recommendation, 1975:

1. Members should apply the provision of this Recommendation within the framework of a

coherent policy on international migration for employment. That policy should be based upon the economic and social needs of both countries of origin and countries of employment; it should take account not only of short-term manpower needs and resources but also of the long-term social and economic consequences of migration for migrants as well as for the communities concerned.

1. Equality of Opportunity and Treatment
2. Migrant workers and members of their families lawfully within the territory of a Member should enjoy effective equality of opportunity and treatment with nationals of the Member concerned in respect of:
 - (a) access to vocational guidance and placement services;
 - (b) access to vocational training and employment of their own choice on the basis of individual suitability for such training or employment, account being taken of qualifications acquired outside the territory of and in the country of employment;
 - (c) advancement in accordance with their individual character, experience, ability and diligence;
 - (d) security of employment, the provision of alternative employment, relief work and retraining;
 - (e) remuneration for work of equal value;
 - (f) conditions of work, including hours of work, rest periods, annual holidays with pay, occupational safety and occupational health measures, as well as social security measures and welfare facilities and benefits provided in connection with employment;
 - (g) membership of trade unions, exercise of trade union rights and eligibility for office in trade unions and in labour-management relations bodies, including bodies representing workers in undertakings;
 - (h) rights of full membership in any form of co-operative;
 - (i) conditions of life, including housing and the benefits of social services and educational and health facilities.
3. Each Member should ensure the application of the principles set forth in Paragraph 2 of this Recommendation in all activities under the control of a public authority and promote its observance in all other activities by methods appropriate to national conditions and practice.

4. Appropriate measures should be taken, with the collaboration of employers' and workers' organisations and other bodies concerned, with a view to:
 - (a) fostering public understanding and acceptance of the above-mentioned principles;
 - (b) examining complaints that these principles are not being observed and securing the correction, by conciliation or other appropriate means, of any practices regarded as in conflict therewith.
5. Each Member should ensure that national laws and regulations concerning residence in its territory are so applied that the lawful exercise of rights enjoyed in pursuance of these principles cannot be the reason for non-renewal of a residence permit or for expulsion and is not inhibited by the threat of such measures.
6. A Member may:
 - (a) make the free choice of employment, while assuring migrant workers the right to geographical mobility, subject to the conditions that the migrant worker has resided lawfully in its territory for the purpose of employment for a prescribed period not exceeding two years or, if its laws or regulations provide for contracts for a fixed term of less than two years, that the worker has completed his first work contract;
 - (b) after appropriate consultation with the representative organisations of employers and workers, make regulations concerning recognition of occupational qualifications acquired outside its territory, including certificates and diplomas;
 - (c) restrict access to limited categories of employment or functions where this is necessary in the interests of the State.
7. (1) In order to enable migrant workers and their families to take full advantage of their rights and opportunities in employment and occupation, such measures as may be necessary should be taken, in consultation with the representative organisations of employers and workers:
 - (a) to inform them, as far as possible in their mother tongue or, if that is not possible, in a language with which they are familiar, of their rights under national law and practice as regards the matters dealt with in Paragraph 2 of this Recommendation;
 - (b) to advance their knowledge of the language or languages of the country of employment, as far as possible during paid time;
 - (c) generally, to promote their adaptation to the society of the country of employment and to assist and encourage the efforts of migrant workers and their families to preserve their national and ethnic identity and their cultural ties with their country of origin, including the possibility for children to be given some knowledge of their mother tongue.
- (2) Where agreements concerning the collective recruitment of workers have been concluded between Members, they should jointly take the necessary measures before the migrants' departure from their country of origin to introduce them to the language of the country of employment and also to its economic, social and cultural environment.
8. (1) Without prejudice to measures designed to ensure that migrant workers and their families enter national territory and are admitted to employment in conformity with the relevant laws and regulations, a decision should be taken as soon as possible in cases in which these laws and regulations have not been respected so that the migrant worker should know whether his position can be regularised or not.
 - (2) Migrant workers whose position has been regularised should benefit from all rights which, in accordance with Paragraph 2 of this Recommendation, are provided for migrant workers lawfully within the territory of a Member.
 - (3) Migrant workers whose position has not been or could not be regularised should enjoy equality of treatment for themselves and their families in respect of rights arising out of present and past employment as regards remuneration, social security and other benefits as well as regards trade union membership and exercise of trade union rights.
 - (4) In case of dispute about the rights referred to in the preceding sub-paragraphs, the worker should have the possibility of presenting his case to a competent body, either himself or through a representative.

- (5) In case of expulsion of the worker or his family, the cost should not be borne by them.

II. Social Policy

9. Each Member should, in consultation with representative organisations of employers and workers, formulate and apply a social policy appropriate to national conditions and practice which enables migrant workers and their families to share in advantages enjoyed by its nationals while taking account, without adversely affecting the principle of equality of opportunity and treatment, of such special needs as they may have until they are adapted to the society of the country of employment.

10. With a view to making the policy as responsive as possible to the real needs of migrant workers and their families, it should be based, in particular, on an examination not only of conditions in the territory of the Member but also of those in the countries of origin of the migrants.

11. The policy should take account of the need to spread the social cost of migration as widely and equitably as possible over the entire collectivity of the country of employment, and in particular over those who profit most from the work of migrants.

12. The policy should be periodically reviewed and evaluated and where necessary revised.

A. Reunification of Families

13. (1) All possible measures should be taken both by countries of employment and by countries of origin to facilitate the reunification of families of migrant workers as rapidly as possible. These measures should include, as necessary, national laws or regulations and bilateral and multilateral arrangements.

- (2) A prerequisite for the reunification of families should be that the worker has, for his family, appropriate accommodation which meets the standards normally applicable to nationals of the country of employment.

14. Representatives of all concerned, and in particular of employers and workers, should be consulted on the measures to be adopted to facilitate the reunification of families and their co-operation sought in giving effect thereto.

15. For the purpose of the provisions of this Recommendation relating to the reunification of families, the family of the migrant worker should include the spouse and dependent children, father and mother.

16. With a view to facilitating the reunification of families as quickly as possible in accordance with Paragraph 13 of this Recommendation, each Member should take full account of the needs of migrant workers and their families in particular in its policy regarding the construction of family housing, assistance in obtaining this housing and the development of appropriate reception services.

17. Where a migrant worker who has been employed for at least one year in a country of employment cannot be joined by his family in that country, he should be entitled:

- (a) to visit the country of residence of his family during the paid annual holiday to which he is entitled under the national law and practice of the country of employment without losing during the absence from that country any acquired rights or rights in course of acquisition and, particularly, without having his employment terminated or his right to residence in the country of employment withdrawn during that period; or
(b) to be visited by his family for a period corresponding at least to the annual holiday with pay to which he is entitled.

18. Consideration should be given to the possibility of giving the migrant worker financial assistance towards the cost of the travel envisaged in the preceding Paragraph or a reduction in the normal cost of transport, for instance by the arrangement of group travel.

19. Without prejudice to more favourable provisions which may be applicable to them, persons admitted in pursuance of international arrangements for free movement of labour should have the benefit of the measures provided for in Paragraphs 13 to 18 of this Recommendation.

B. Protection of the Health of Migrant Workers

20. All appropriate measures should be taken to prevent any special health risks to which migrant workers may be exposed.
21. (1) Every effort should be made to ensure that migrant workers receive training and instruction in occupational safety and occupational hygiene in connection with their practical training or other work preparation, and, as far as possible, as part thereof.
- (2) In addition, a migrant worker should, during paid working hours and immediately after beginning his employment, be provided with sufficient information in his mother tongue or, if that is not possible, in a language with which he is familiar, on the essential elements of laws and regulations and on provisions of collective agreements concerning the protection of workers and the prevention of accidents as well as on safety regulations and procedures particular to the nature of the work.
22. (1) Employers should take all possible measures so that migrant workers may fully understand instructions, warnings, symbols and other signs relating to safety and health hazards at work.
- (2) Where, on account of the migrant workers' lack of familiarity with processes, language difficulties or other reasons, the training or instruction given to other workers is inadequate for them, special measures which ensure their full understanding should be taken.
- (3) Members should have laws or regulations applying the principles set out in this Paragraph and provide that where employers or other persons or organisations having responsibility in this regard fail to observe such laws or regulations, administrative, civil and penal sanctions might be imposed.

C. Social Services

23. In accordance with the provisions of Paragraph 2 of this Recommendation, migrant workers and their families should benefit from the activities of social services and have access thereto under the same conditions as nationals of the country of employment.

24. In addition, social services should be provided which perform, in particular, the following functions in relation to migrant workers and their families:
- (a) giving migrant workers and their families every assistance in adapting to the economic, social and cultural environment of the country of employment;
- (b) helping migrant workers and their families to obtain information and advice from appropriate bodies, for instance by providing interpretation and translation services; to comply with administrative and other formalities; and to make full use of services and facilities provided in such fields as education, vocational training and language training, health services and social security, housing, transport and recreation: Provided that migrant workers and their families should as far as possible have the right to communicate with public authorities in the country of employment in their own language or in a language with which they are familiar, particularly in the context of legal assistance and court proceedings;
- (c) assisting authorities and bodies with responsibilities relating to the conditions of life and work of migrant workers and their families in identifying their needs and in adapting thereto;
- (d) giving the competent authorities information and, as appropriate, advice regarding the formulation, implementation and evaluation of social policy with respect to migrant workers;
- (e) providing information for fellow workers and foremen and supervisors about the situation and the problems of migrant workers.
25. (1) The social services referred to in Paragraph 24 of this Recommendation may be provided, as appropriate to national conditions and practice, by public authorities, by approved non-profit-making organisations or bodies, or by a combination of both. The public authorities should have the over-all responsibility of ensuring that these social services are at the disposal of migrant workers and their families.
- (2) Full use should be made of services which are or can be provided by authorities, organisations and bodies serving the nationals of the country of employment, including employers' and workers' organisations.

26. Each Member should take such measures as may be necessary to ensure that sufficient resources and adequately trained staff are available for the social services referred to in Paragraph 24 of this Recommendation.
27. Each Member should promote co-operation and co-ordination between different social services on its territory and, as appropriate, between these services and corresponding services in other countries, without, however, this co-operation and co-ordination relieving the States of their responsibilities in this field.
28. Each Member should organise and encourage the organisation, at the national, regional or local level, or as appropriate in a branch of economic activity employing substantial numbers of migrant workers, of periodic meetings for the exchange of information and experience. Consideration should also be given to the exchange of information and experience with other countries of employment as well as with the countries of origin of migrant workers.
29. Representatives of all concerned and in particular of employers and workers should be consulted on the organisation of the social services in question and their co-operation sought in achieving the purposes aimed at.

III. Employment and Residence

30. In pursuance of the provision of Paragraph 18 of the Migration for Employment Recommendation (Revised), 1949, that Members should, as far as possible, refrain from removing from their territory, on account of lack of means or the state of the employment market, a migrant worker regularly admitted thereto, the loss by such migrant worker of his employment should not in itself imply the withdrawal of his authorisation of residence.
31. A migrant who has lost his employment should be allowed sufficient time to find alternative employment, at least for a period corresponding to that during which he may be entitled to unemployment benefit; the authorisation of residence should be extended accordingly.
32. (1) A migrant worker who has lodged an appeal against the termination of his employment, under such procedures as may be available, should be allowed sufficient time to obtain a final decision thereon.
 - (2) If it is established that the termination of employment was not justified, the migrant worker should be entitled, on the same terms as national workers, to reinstatement, to compensation for loss of wages or of other payment which results from unjustified termination, or to access to a new job with a right to indemnification. If he is not reinstated, he should be allowed sufficient time to find alternative employment.
33. A migrant worker who is the object of an expulsion order should have a right of appeal before an administrative or judicial instance, according to conditions laid down in national laws or regulations. This appeal should stay the execution of the expulsion order, subject to the duly substantiated requirements of national security or public order. The migrant worker should have the same right to legal assistance as national workers and have the possibility of being assisted by an interpreter.
34. (1) A migrant worker who leaves the country of employment should be entitled, irrespective of the legality of his stay therein:
 - (a) to any outstanding remuneration for work performed, including severance payments normally due;
 - (b) to benefits which may be due in respect of any employment injury suffered;
 - (c) in accordance with national practice:
 - (i) to compensation in lieu of any holiday entitlement acquired but not used;
 - (ii) to reimbursement of any social security contributions which have not been given and will not give rise to rights under national laws or regulations or international arrangements: Provided that where social security contributions do not permit entitlement to benefits, every effort should be made with a view to the conclusion of bilateral or multilateral agreements to protect the rights of migrants.
- (2) Where any claim covered in subparagraph (1) of this Paragraph is in dispute, the worker should be able to have his interests represented before the competent body and enjoy equal treatment with national workers as regards legal assistance.



International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

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 Organisation, 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 Organisation, 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 organizations,

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 organizations 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 therefor;

- (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.
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 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.

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.

- 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

- 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.
- 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

- 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.
- 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

- 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.
- 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

- 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.
- 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.
- (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 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;

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 organizations 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 organizations, 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 organizations 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 organizations, 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 organizations.

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.



An Annotated Bibliography of Migration Related Publications

Employing Foreign Workers: A manual on policies and procedures of special interest to middle- and low-income countries

Bohning, W.R. (1996). Geneva: International Labour Office. 97 pages.

Geared towards providing assistance for organisations and institutions involved in the design and implementation of labour migration policies, this book addresses some key issues including: (a) would a particular country be well-advised to permit local employers to hire foreign workers? (b) the procedures that would be required to facilitate such a decision; (c) the role of the state and that of private recruiters; (d) the rights that should be accorded to foreigners; and (e) issues related to illegal migration and employment.

To obtain a copy of this publication, please contact ILO Publications, International Labour Office, CH-1211 Geneva 22, Switzerland.

International Migration and Development – The Concise Report

Population Division, United Nations Secretariat. (1997). New York: United Nations. (ST/ESA/SER.A/164). 63 pages.

This report reviews selected aspects of international migration and development including: (a) reviews of how international migration issues have been examined in the three major United Nations conferences dealing with population; (b) the relationship between international migration and population dynamics; (c) governments' views on international migration and how this has changed over time as well as implementation and management of migration policies; (d) issues related specifically to documented migrants, undocumented migrants, refugees and asylum seekers; (e) international labour migration and gender issues; and (f) international labour migration and development issues.

For copies, write to: United Nations, Sales Section, New York, and quote the reference number as ST/ESA/SER.A/164.

International Migration Statistics – Guidelines for Improving Data Collection Systems

Bilsborrow, R.E., Hugo, G., Oberai, A.S., Zlotnik, H. (1997) Geneva: International Labour Office. 441 pages.

This volume was prepared towards the objective of strengthening national capacities for generating the relevant and more meaningful data (on migration flows, return migration, remittances, etc.) required for migration policy analysis. The book provides a critical review of the adequacy of current sources of data on international migration, discusses the conceptual and analytical issues related to the measurement of stocks and flows of international migrants and the problem related to the international comparability of migration data. In addition, the authors suggest improved methods of data collection (through administrative records, population censuses, sample surveys, etc.) and ways of enhancing the international comparability of migration statistics.

To obtain a copy, please contact: ILO Publications, International Labour Office, CH-1211 Geneva 22, Switzerland. Catalogues or lists of new ILO publications are available free of charge from the above address.

Sending Workers Abroad: A manual for low- and middle-income countries

Abella, M. I.; Abrera-Mangahas, M. A. (1997). Geneva: International Labour Office. 115 pages.

This book covers in a comprehensive manner the policy and administration issues faced by authorities in countries that are sending, or planning to send workers abroad. These include (a) the benefits of a foreign employment policy; (b) the formulation of the

same; (c) promoting, protecting and supporting foreign employment; (d) monitoring and impact assessment. Written in a form that makes it a practical guide to busy policy-makers and administrators, it nonetheless offers an in-depth account of the main issues in this new and challenging area of social and economic policy.

To obtain a copy of this publication, please contact ILO Publications, International Labour Office, CH-1211 Geneva 22, Switzerland.

Report on the Monitoring of the Registration of Immigrant Workers from Myanmar, Cambodia and Laos in Thailand.

Chintayananda, S., Risser, G., Chantavanich, S. (1997) Bangkok: Asian Research Center For Migration, Institute of Asian Studies, Chulalongkorn University. 70 pages.

As a result of the substantial cross-border movement of foreign labour from Myanmar, Cambodia and Laos into Thailand, the Thai government has initiated various efforts towards the systematization and close administration of this flow.

The Cabinet Resolution of June 1996 is the latest of these efforts, and this report aims to examine, within a selected six provinces, the outcomes of this measure and the problems which arose within the implementation period of September 1996 till November 1996. This study was conducted in order to contribute towards the baseline information currently available on the issue, as well as improve the process of regulating migrant labour.

In order to obtain a copy of this report, please contact the Asian Research Center for Migration, Institute of Asian Studies, Chulalongkorn University, 7th Floor, Prajadhipok Rambhai-Barni Building, Phayathai Road, Bangkok, Thailand or email them at: <flassct@chulkn.car.chula.ac.th>

International Migration Policies

Department of Economic and Social Affairs, Population Division. (1998). New York: United Nations. ST/ESA/SER.A/161.

This study is an attempt to provide a current overview of international migration policies in both developed and developing countries. Part one of the study is devoted to issues concerning family reunification, citizenship and the social, political, economic and cultural integration of migrants. Part two of the study reviews policies and programmes targeting specific types of migration as well as relevant national, regional and global instruments with regard to permanent migration, labour migration, refugees and undocumented migrants.

Directory of NGOs For Migrants in Asia (second edition)

Scalabrini Migration Center. (1997). Quezon City, Philippines.

This publication contains an expansive list of organisations, their contact details, area of work interest and services as well as the major activities carried out by the organisation within its target sector.

Rights of Migrant Workers – A Primer on the UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

Scalabrini Migration Center. (1997). Quezon City, Philippines. 28 pages.

This easy-to-read primer summarizes the rights guaranteed to migrant workers and members of their families by the UN Convention on Migrant Workers. It is an illustrated, concise explanation in lay-persons terms of the treatment that migrant workers should receive whilst employed in a foreign country.

Asian Women in Migration

Scalabrini Migration Center. (1996). Quezon City, Philippines.

This publication is the result of a conference organised by SMC in Manila in 1995 with the view to bring home and give practical perspectives to the decisions made at the UN Fourth World Conference on Women, Beijing. It presents a number of various articles that discuss such issues as the distinctive characteristics of female labour migration, international protection for women migrants as well as various papers presented from countries around the Asian region.

The Trade in Domestic Workers – Causes, Mechanisms and Consequences

Heyzer, N., Nijeholt, L.G., Weerakoon, N. (1994) Asian and Pacific Development Centre. Volume One. London and New Jersey: Zed Books Ltd.

This publication presents selected papers from a Regional policy Dialogue on 'Foreign Women Domestic Workers: International Migration, Employment and National Policies'. Held in Colombo, Sri Lanka, from the 10th-14th of August, 1992, the papers discuss issues such as international migration and its socio-economic impact, labour policies, mechanisms of recruitment and re-integration and other important areas of concern to women and migration.

CONFERENCE PROCEEDINGS

Proceedings of the Consultative Meeting of the Asian Network on Women & International Migration (ANWIM).

9-12 October 1996, Batam Island, Indonesia.

Available from the organisers,
the Gender and Development (GAD)
Programme, Asian and Pacific Development
Centre, Pesiaran Duta,
PO Box 12224, 50770 Kuala Lumpur, Malaysia.
Fax: (603) 651 9209
email: <gad@po.jaring.my>

Report of the Regional Consultation on "The Impact of Trans-boundary Migration on Urbanisation".

13-15 December 1996, Bangkok, Thailand.

Available from Asia Pacific 2000/United Nations
Development Programme, Wisma UN, Bloc C,
Kompleks Pejabat Damansara, Jalan Dungun,
Damansara Heights, 50490 Kuala Lumpur.
email: <umpap@po.jaring.my>

Legal Protection for Asian Women Migrant Workers: Strategies for Action.

September 8-12, 1997, Manila, Philippines.

For copies of the proceedings as well as
background resource materials, please write to
the Ateneo Human Rights Centre,
Ateneo Law School, 130 H.V. De La Costa,
S.J. Street, Salcedo Village, Makati,
Metro Manila 3116.
Fax: (632) 812 5242.

The Impact of the Crisis on Migration in Asia.

14-15 May, 1998, Manila, The Philippines.

Organised by the Scalabrini Migration Center.
For copies, please contact P.O. Box 10541
Broadway Centrum, 1113 Quezon City -
Philippines.
Tel: (632) 724 3512/13 Fax: (632) 721 4296
email: smc@mn1.sequel.net
Website: <http://www.sequel.net/~smc>



Internet Web Sites on Migrant Workers' Issues

There are a number of important net sites that provide a range of data and information. We have included here a selection of websites with a short annotation of what you can expect from the site.

The United Nations Treaty Collection

<http://www.un.org/Depts/Treaty/>

This site is maintained by the United Nations and is a database of International Treaties (i.e. the actual texts of all UN Conventions) and their current status with reference to countries that have signed or ratified the instrument.

The International Labour Organisation

<http://www.ilo.org>

The ILO homepage provides information about the International Labour Organisation, international labour standards, access to the ILO Information services, ILO conferences and reports of the meetings of the Governing Body as well the official Web Site Locator for United Nations System of Organisations. The majority of the ILO library's holdings and those of the ILO's specialised documentation centres have been recorded since 1995 in the Labordoc database, which is available at <http://ilis.ilo.org>.

ILOLEX

<http://www.ilolex.ilo.ch>

The ILOLEX is a full-text trilingual database (English/French/Spanish) on international labour standards with sophisticated search and retrieval software. All the ILO Conventions are presented here in their full text version, as well as ILO Recommendations, list of ratifications, ILO constitution, reports of ILO committees and much more.

NATLEX

<http://natlex.ilo.org>

The NATLEX provides a bibliographic database featuring national laws on labour issues, social security and related human rights issues. This web site will give you a list of subjects under which the national laws of countries in the world have been indexed. Choosing a subject, for example migrant workers, one will then see a list of countries that have laws which pertain migrant workers, as well as the number of entries per country on that subject.

The International Organisation for Migration

<http://www.iom.ch>

The IOM has provided an electronic information clearing house of documents, data, experts, institutions, conferences, studies, legislation and other migration related information with an in-built search mechanism.

Scalabrini Migration Center

<http://www.sequel.net/~smc/>

The Scalabrini Migration Center's website holds a large amount of information and is a very useful resource. These include:

1. The Asia-Pacific Migration Journal – a list of articles that have appeared in all the previous journals published.
2. Asian Migration News – a synopsis of news articles on migrant labour from around the region.
3. Asian Migrant – a magazine produced by SMC.
4. NGO Directory – the electronic version of an NGO Directory published by SMC, containing the details of organisations working on issues of migration in the region.

5. Migration Data – data of migration flows and other related information that has been gathered in the process of preparing the various issues of the Asia-Pacific Migration Journal.
6. Migrants' Rights – contains the text of the UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Philippines Migrant Workers and Overseas Filipinos Act of 1995 as well as the Rules and Regulations Implementing RA 8042.

Asian Research Centre for Migration
<http://chula.ac.th/INSTITUTE/ARCM/main.htm>

This site provides background information concerning the Asian Research Centre for Migration (ARCM) as well as updates, reports of activities, data on migrant workers, newsclippings, etc. The ARCM also has provided online digitised maps depicting migratory patterns in and around Thai borders. This page also hosts a link to the World Wide Web Virtual Library – Migration and Ethnic Relations website which has a well maintained list of sites related to migration issues.

Asia-Pacific Migration Research Network
<http://www.unesco.org/most/apmrnwpl.htm>

This site contains reports and summaries on current research on migration that is being undertaken by network members in countries in the Asia-Pacific Region including Aotearoa/New Zealand, Australia, Fiji, Hong Kong, Indonesia, China, Philippines, Malaysia, Singapore and Thailand.

The World Wide Web Virtual Library
(WWWVL) – Migration and Ethnic
Relations
<http://www.erc.omer.org/wwwvl/>

This site was established in September 1995 and provides a collection of links to major internet resources in the field of migration and ethnic relations. It is a part of the much larger World Wide Web Virtual Library which covers many other topics and issues.