

# AN ANALYSIS OF THE CHALLENGES IN ENFORCEMENT OF HUMAN RIGHTS OF MIGRANT LABOURERS

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## Abstract

*Migration is a basic human phenomenon that often involves the perilous movement of individuals across boundaries. This has repercussions for the protection of human rights. All people, regardless of where they were born or what country they now call home, are entitled to the protections guaranteed by the numerous international human rights laws. As a result, a State has duties to recognise the existence of all types of migrants under its control and to provide them the opportunity to assert their human rights. In addition to the basic rules protecting human rights, numerous international laws have been developed to explicitly safeguard the rights of a large number of different categories of migrants. In spite of this, migrants nevertheless face a number of difficulties both throughout the migration process and after they arrive in their new countries, especially those who have irregular immigration status or are undocumented.*

*The purpose of this article is to explore the key worldwide international mechanisms for safeguarding the human rights of international migrants and the problems that migrants often face with the intention of determining the elements that are responsible for the poor protection of migrants' rights. The authors herein suggest that that treaty bodies should routinely require States' Parties to incorporate migrants' rights into national plans of action on human rights, enforce immigration laws in accordance with human rights and the rule of law, and provide effective border security and regional engagement in order to deter illegal migration.*

## Keywords:

Labour Rights, Migration, Human Rights, Rule of Law, International Law

## I

### Introduction

Ever since they were first inhabited, people have been pushing the bounds of the globe further and further out, which has resulted in them becoming less able to defend themselves. However, many individuals are obliged to leave their houses owing to circumstances such as poverty, a lack of fair economic possibilities, social prohibition, pervasive viciousness, oppression, violation of basic freedoms, armed conflict, xenophobia, and natural corruption. These are only few of the reasons why people are forced to leave their homes. Migration across International borders is a complicated topic that has far-reaching repercussions for our

economic, social, and physical well-being in today's interconnected globe. This is because migration has become increasingly commonplace. Movement enriches the lives of people in both the country in which they were born and the country in which they ultimately settle, and it is deeply connected with international ties, commercial activity, and social interaction. As a direct consequence of this, the current influx of people from all over the world has seen a significant uptick in its overall level.

The vast majority of people who move around the world do so legally, but irregular migration is a major source of anxiety for travellers and public concern about migration because it occurs when people try to avoid the system by using informal means, such as recruiting dealers or succumbing to dealers, because there are no lawful ways for them to cross borders legally<sup>1</sup>. This causes anxiety for migrants' and public concern about migration because irregular migration occurs when people try to avoid the system by using informal means, such as recruiting dealers or succumbing to dealers<sup>2</sup>. In many cases, untried explorers and innovative introductions are required to triumph over particular challenges. The denial of fundamental freedoms linked with migration, such as trafficking (particularly of women and children) and the discrimination of illegal migration as a modest source of labour for the underground economy, has received a lot of attention from the media in recent years. Due to this, people all across the world, including Government officials, bureaucrats, and regular citizens, began viewing migration as an urgent and important strategic matter<sup>3</sup>.

Protecting the rights of migrants (both legal and unauthorized) is turning into an issue of growing significance in the global community. This shows the general acceptance of universal rights as well as the safety they provide for migrants traveling through the area. The beginning point is the question of whether or not law and order and universal ideas of common liberties are really possible, given the need for huge areas of strength<sup>4</sup>. According to the findings of the (International Organization for Migration (IOM), 2017 all people, regardless of whether or not they are in the process of relocating, have the right to have their fundamental

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<sup>1</sup> Baker, P., Gabrielatos, "A useful methodological synergy? Combining critical discourse analysis and corpus linguistics to examine discourses of Refugees and Asylum Seekers in the UK Press" 19(3) *Cornell Journal of Law and Public Policy* 273-306 (2008).

<sup>2</sup> Ryszard Cholewinski, "The Human and Labor Rights of Migrants: Visions of Equality" 22 *Duke Journal of Constitutional Law & Public Policy*. 177 (2008).

<sup>3</sup> Vucetic S. "Democracies and international human rights: Why is there no place for migrant workers?" 11(4) *Georgetown Journal of Law & Public Policy* 403 (2007).

<sup>4</sup> Special Rapporteurship on Migrant Workers and their Families, established by the Inter American Commission on Human Rights (IACHR) in 1997, available at <http://www.cidh.org/Migrants/defaultmigrants.htm> (Visited on August 29, 2023).

rights respected, protected, and honoured in accordance with the Universal Declaration of Human Rights (1948) and other important global fundamental rights regulations. The implementation of international treaties such as Convention relating to the Status of Refugees (1951)<sup>5</sup>, the Protocol Relating to the Status of Refugees 1967, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families will be helpful for refugees all around the world, victims of illegal exploitation and trafficking. Expanding global relocation administration through legitimate UN plans and by casual State-driven initiatives is one of the ways in which the international community is working to find solutions to the difficulties caused by migration.

The High-level Dialogue (HLD) on International Migration and Development, which took place in New York City in both 2013 and 2016, is illustrative of the efforts that have been made by the international community. In both the instances, there was a resounding consensus that the world nations have to come together to form a coalition in order to rein in migration and protect the rights of migrants. The New York Declaration for Refugees and Migrants was developed during the 2016 High-Level Dialogue to recognize that states have a shared duty to respond to enormous influxes of refugees and migrants in a caring, sensitive, compassionate, and people-centred manner. This was done in recognition of the fact that states have a shared obligation to respond to massive influxes of refugees and migrants. Abuse, exploitation, discrimination, separation, and other serious violations of the fundamental liberties of migrants are all too common, both during the move and in the destination country<sup>6</sup>. Despite these attempts, the data shows that the fundamental rights of migrants are routinely violated to the point that they describe the current global situation. The problem is not so much a lack of global instruments as it is a lack of coordinated effort on a worldwide scale to ensure that the ones that do exist are implemented properly. In other words, the problem is not so much a lack of global instruments as it is a lack of global effort<sup>7</sup>.

The need to learn more about the regulations that safeguard the rights of migrants served as the impetus for this study. Specifically, the authors were interested in learning more about the legislations' reach, the challenges that migrants face, the frequency with which they

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<sup>5</sup> United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons, "Convention relating to the Status of Refugees", (July 1951) and "Protocol Relating to the Status of Refugees", (Jan. 1967).

<sup>6</sup> Adib, A., & Guerrier, Y. "The interlocking of gender with nationality, race, ethnicity and class: The narratives of women in hotel work" 10(4) *Harvard Human Rights Journal* 413 (2003).

<sup>7</sup> Australian Bureau of Statistics. *Labour force status and other characteristics of recent migrants* (Canberra, 2008).

migrate, and the potential solutions to these issues<sup>8</sup>. The focus of this analysis is on significant global accords that guarantee universal fundamental freedoms as well as specific global arrangements, dialogues that protect the freedoms of migrants.

## II

### **The regulatory framework governing Global Migration**

The concept of Global Governance has been defined as, “process in which the combined framework of legal norms and organizational structures regulate and shape how States act in response to International migration, addressing rights and responsibilities and promoting International cooperation including processes such as dialogues and initiatives that have taken place or that relate to governance at the global level”<sup>9</sup>. Freedom of movement and other fundamental rights rely heavily on the concept of administration, as migration is an abnormality involving numerous performers (states), it provides a required counterpoint to the notion of the board, which may be perceived as more concerned with regulating or at least preventing migration. Maintaining global standards and making allowances for the liberties of migrating individuals is vital in protecting the rights of migrant population

The second is to cultivate strategies based on evidence and an administration-wide strategy, and the third is to collaborate with other groups to address relocation. The goals are to improve the financial well-being of both migrants and society as a whole; assure safe, efficient, and dignified travel for everybody and to efficiently handle the adaptable elements of emergencies. The sovereignty of a state over its territory as well as its citizens is an important factor in international law for determining migration policy. There are substantial and procedural requirements that limit the use of State authority, but states have broad authorities in this area, including the ability to set down their own affirmation, residence, expulsion, and citizenship regulations. States have limited their capacity to regulate mobility by entering into settlements and agreements and accepting standard global legislation as an outgrowth of their authority and a pursuit of their preferences and commitments. Therefore, there is a significant backdrop of strength for concerted work on different matters directly related to passengers' shared liberties. The global refugee regime, labour migration, and counter-trafficking initiative provide as examples. As a result, even if a country's confirmation laws are broken, it still has a

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<sup>8</sup> Colic-Peisker, V. “At Least You're the Right Colour!: Identity and Social Inclusion of Bosnian Refugees in Australia” 31(4) *Journal of Ethnic and Migration Studies* 615 (2005).

<sup>9</sup> Cholewinski, R. “Human Rights of Migrants: The Dawn of a New Era?” 24 *Georgetown Immigration Law Journal* 615 (2010).

duty to provide protection to transient immigrants<sup>10</sup>. This means that not only does basic worldwide regulation and other sorts of regulation help to safeguard the freedoms of migrant population, but so do multilateral treaties, bilateral agreements and domestic laws<sup>11</sup>.

### **2.1 International Legal Instruments relating to Human Rights of Migrant Population:**

The rule of law's protections for human rights serves as the foundation for Governmental management of international migration. As a result, many nations have taken on the difficult task of guaranteeing that everyone, including migrants, enjoys the protections of International human rights law. Governments are obligated to protect, defend, and advance human rights in accordance with these laws. With the Universal Declaration of Human Rights as its cornerstone, the modern International human rights framework was established. "Human rights are global, indivisible, inalienable, and interdependent; these principles form the basis of the International human rights framework. Article 2 of the Universal Declaration of Human Rights recognizes the responsibility to respect and defend all people. Independence from tyranny and oppression. Articles 3, 4, 5, 11, 12, 13, 17–24 of the UDHR guarantee a wide range of rights, including freedom of expression, the right to a fair trial, protection of one's home, family, and correspondence from Government intrusion, and protection against torture and other cruel, inhuman, or degrading treatment or punishment. The International Covenant on Civil and Political Rights (1966) and the International Covenant on Economic, Social, and Cultural Rights (1966) were established to strive to make the UDHR's guarantees of rights a reality. The Universal Declaration of Human Rights and many other treaties together form an International Bill of Human Rights. In contrast to the UDHR, both covenants include legally obligatory articles that require the State Parties to protect these rights for all residents inside their borders."

The concept of non-discrimination is established as one of the basic rights that impose responsibilities on States by articles 2(1) of the ICCPR and 2(2) of the ICESCR. It must be noted that this idea does not ban all discrimination against those who were not born in the country. All forms of discrimination must adhere to the principles of fairness and impartiality if they are to be authorized under International human rights law. Potential beneficiaries extend beyond the populations of the countries that have ratified the treaties. All migrants, even those who cross the border illegally, are protected by these treaties and regulations. For instance,

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<sup>10</sup> Delanty, G., Wodak, R., & Jones, P. (Eds.). "Migration, Identity, and Belonging". (University of Liverpool Press, 2008).

<sup>11</sup> Ruhs M. "Economic research and labour immigration policy" 24(3) *Oxford Review of Economic Policy* 404-427 (2008).

Article 12 of the ICCPR guarantees all lawfully present individuals the right to freely migrate and live anywhere on the territory of any state that recognizes that right. Nobody has the right to enter anybody else's nation, and everyone has the right to leave their own. "Article 22 of the Covenant allows Governments to impose restrictions that are established by law and are consistent with the other rights guaranteed by the Covenant in order to maintain national security, public order, public health or morals, or the rights and freedoms of others. This suggests that Governments cannot prevent people from leaving if they so choose."<sup>12</sup>

The laws relating to human rights reached at the regional level are often applicable on a global scale. One such regional convention is the 1950 European Convention on Human Rights. It is been called the first legally binding instrument to implement UDHR safeguards. Articles 2-12 of the African Charter on Human and Peoples' Rights (ACHPR, 1981) provide that all individuals of African heritage have the right to be treated equitably by the law." Everyone has the freedom to travel within and between countries, including their own, so long as they do it lawfully and within the context of maintaining national security and public order. The right of immigrants to escape deportation requires that judgments be handed down in conformity with the law. Including the right to judicial protection, Articles 1-26 of the American Convention on Human Rights (1969) guarantee civil and political rights to every person without exception<sup>13</sup>. However, the full realization of civil, political, economic, social, and cultural rights is yet to come and will only occur over time. After much struggle, migrants and other marginalized groups are now afforded legal protection due to the universal human rights enshrined in the international bill of rights & the other human rights treaties listed above. The further information on many treaties that safeguard refugees, migratory workers, and victims of human is provided here.

The treaties which are relevant for the study and status of the Human Rights of the migrant labourers are : (a) Convention relating to the Status of Refugees,1951 (b) Protocol Relating to the Status of Refugees, 1967, (c) International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, (ICRMW), 1990<sup>14</sup>, (d) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 2000, and (e) Protocol Against the Smuggling of Migrants by Land, Sea and Air.

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<sup>12</sup> Hune S., Niessen J. "Ratifying the UN migrant workers' convention: Current difficulties and prospects" 12(4) *Netherlands Quarterly of Human Rights* 393-404. (1994).

<sup>13</sup> *Ibid.*

<sup>14</sup> International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, G.A. Res. 45/158, U.N. Doc. A/RES/45/158 (Dec. 18, 1990) [hereinafter ICRMW]

According to the United Nations Office of the High Commissioner for Refugees (2007), the primary international treaties intended to protect refugees are the 1951 Convention Relating to the Status of Refugee and its Protocol (Refugee Convention). Both of these documents were signed in 1951. Article 14 of the Universal Declaration of Human Rights, which was adopted in 1948 and serves as the foundation for the 1951 Convention, ensures that people have the right to seek asylum in another country in order to protect themselves from being persecuted. The geographical and temporal restraints of the Convention were only ever relaxed once, and that was in the year 1967. In spite of this, it is still commonly held that it is the fundamental building block of modern refugee support all over the world. The exclusions were removed in Article 1 (3) of the 1967 Protocol, and as a result, the Convention is now applicable in every single country in the globe. The Convention establishes a legal responsibility for Governments to protect refugees, offers a definition of the term "refugee," and outlines the rights that refugees are entitled to have.

It formalizes the responsibility of nations to do so on a worldwide basis by distinguishing between distinct sorts of migrants and establishing processes for protecting their rights. The Convention is overseen by the Office of the High Commissioner for Human Rights, which is also in charge of keeping track of whether or not it has been ratified. The Convention on Migration for Employment (Revised) (No. C097) (1949) was followed by the Convention (No. 143) (1975) on migration under abusive conditions and the promotion of equality of chance to be treated of migrant employees. Both of these conventions were designed to ensure that migrant workers were afforded the same opportunities as their native-born counterparts. When considered as a whole, these texts provide a "charter" for migrant workers and the families they leave behind that is acknowledged on a global scale. The Convention on Decent Work for Domestic Workers is the only one of the eight Fundamental Rights Conventions that were passed by the International Labour Organization in 2011 that protects migrants from being exploited.

Both the Universal Declaration of Human Rights, which was published in 1948, and the International Convention on the Rights of Migrant Workers, which was ratified in 1990, strive to protect the rights of those who are forced to migrate in order to find work. Migrant workers and their families, regardless of legal status or documentation, are afforded protection under the treaty while they are traveling. This comprises every stage of migration, beginning with the decision to leave, continuing through traveling to one's final destination, remaining there for the duration of one's work, and then returning to one's home country. The Convention No. 97 of the International Labour Organization addresses not only the guidelines for the

systematic recruitment of migrants, but also the rights of migrants to join trade unions and benefit from them, as well as the rights of all workers to engage in collective bargaining, pay their fair share of social security and employment taxes, and access the courts.

The Convention No. 143 of the International Labour Organization is a follow-up to Convention No. 97 that addresses the plight of migrants who are unsure of their legal status. All people living in a Member State, including those who join the country illegally, are entitled to full protection of their human rights. Migrant workers and their families who have obtained legal status are afforded protections against discrimination in employment, education, and housing, as well as freedom of association, freedom of the press, and freedom of religion. In 2011, the International Labour Organization (ILO) adopted the Convention No. C189 on Decent Work for Domestic Workers which has the potential to protect migrant workers<sup>15</sup>. The Convention provides those domestic employees, regardless of their immigration status, enjoy the same fundamental rights in the workplace as all other workers. These rights include protection from discrimination and retaliation. Essential principles and rights that must be observed in the workplace include the opportunity to organize and bargain collectively, the right to fair working conditions and pay, and the right to fair working conditions and remuneration. Due to the challenges that migrants are confronted with, three newly established International legal instruments that were designed to preserve the rights of migrant workers have, for the most part, been ineffective or, at best, had very little influence in defending migrants in reality. The fact that the majority of countries with high incomes make the choice to disregard these requirements is the primary driver of this problem. As a direct consequence of this, the rights of migrant laborers have been grossly infringed<sup>16</sup>.

The social issue of trafficking and smuggling of migrants are governed by two different international conventions. The United Nations Convention against Transnational Organized Crime (2000) has an annex called the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, in Particular Women and Children. This protocol was created as an appendix to the convention. The purposes of the Protocol are as follows: (1) to protect and aid victims of such trafficking, with full respect for their human rights; (2) to prevent and combat trafficking in persons, with an emphasis on women and children; and (3) to enhance cooperation among States Parties. Despite these precautions, the number of victims who have been found and the

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<sup>15</sup> The ILO estimates that of the estimated 214 million international migrants in 2010, approximately 105.4 million are economically active. Along with their families, economically active migrants account for nearly 90 percent of all international migrants.

<sup>16</sup> Acosta, Diego and Freier, Luisa “Turning the immigration policy paradox upside down? Populist liberalism and discursive gaps in South America” 49 (3) *ABA Journal of Labor & Employment Law* 659 (2015).



number of traffickers who have been arrested has increased over the past decade. The United Nations Convention against Transnational Organized Crime (2000) is supplemented with an agreement called the Protocol against the Smuggling of Migrants by Land, Sea, and Air (2000). In Article 2 of the Protocol, it is stated that the goal of the document is to prevent and fight migrant smuggling and to strengthen cooperation between the States that are parties to the document. This is done to ensure that victims of human trafficking among migrants maintain their inherent worth as human beings. As will be shown in the next paragraphs, one form of migration that is not legal is that of smuggled migrants, which involves smuggling of persons across international borders. On the other hand, the majority of people view this activity more as a business transaction than a dire condition<sup>17</sup>.

### III

#### **Lack of legal safeguards for recognition and enforcement of Human Rights of the Migrant Population**

Although migrants' rights have been the subject of global dialogues and consultations, as well as the United Nations Declaration of Human Rights and other general and specialized worldwide human rights covenants, they have not yet been adequately protected. This is despite the fact that migrants' rights have been a focus of international efforts. Challenges await migrants not just throughout the journey across international boundaries but also once they have established themselves in their new country of residence. In recent years, immigration enforcement efforts have taken precedence in border regions, which has put protections for human rights at danger. Migrants are often denied Consular Protection, their personal belongings are treated poorly after they have been kidnapped, and their freedom is restricted; this occurs without consideration for the principle that protects the best interests of minors or for any of the other international law norms that pertain to minors. In most cases, victims of human rights violations in border areas have few available legal avenues to pursue justice.

There is a pattern of protection gaps and barriers that migrants face, including criminalization, return, or detention; a lack of due process and open trial guarantees; difficulty obtaining goods such as medical care, information, and legal counsel; inadequate child protection systems; or deplorable living conditions in facilities, camps, or opportunistic shelters<sup>18</sup>. There is a rising tide of xenophobia, incitement to hate, and violence against migrants. This can be attributed to several factors, including a lack of access to justice and

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<sup>17</sup> Flynn and Flynn (eds.). *Challenging Immigration Detention. Academics, Activists and Policy Makers* (Edward Elgar Publishing, 2017).

<sup>18</sup> Diego Acosta Arcarazo and Anja Wiesbrock (Eds.). *Global Migration: Myths and Realities* (Routledge 2015).

remedies, as well as an inadequate framework for independent human rights monitoring<sup>19</sup>. This runs entirely counter to international regulations that have been put in place to safeguard the legal rights of migrants.

Women who migrate often experience sexism, racism, and other forms of discrimination, the nature of which can vary based on a variety of factors, including their ethnicity, immigration status, and social standing, among other things. Since they have a lower likelihood of lawfully migrating women are more likely to cross the border illegally than men are due of this disparity. Many women and girls believe they have no alternative but to engage in human trafficking and smuggling when authorized crossing points are closed because they have nowhere else to go. Due to this, they have a significantly increased risk of being used inappropriately or abused. Those who are victims of human trafficking, refugees, or women who breach the laws while traveling are at a much-increased risk of having their human rights violated.<sup>20</sup> As they are forced to board vessels that are unsafe for travel or because they get lost along the way, many migrants end up being detained either on land or at sea.

The regulation and management of migration has not kept up with the expanding effect of international mobility, many migrants are subjected to substantial violations of their rights while they are in transit, when they arrive at their destination, and/or when they return home. Abuse and exploitation of migrants, along with other violations of their human rights, may continue for a significant amount of time after they have arrived in the country to which they are relocating<sup>21</sup>. Both legally and illegally migrating people experience difficulties with language barriers, difficulties in adjusting to new cultures, and antagonism. Migrants are frequently the target of predation by unscrupulous employers, landlords, and service providers who take advantage of the migrants' limited negotiation power and proficiency in foreign languages. Even though they have the right to receive these services under the law, many undocumented immigrants choose not to use them out of fear that they would be deported.

Due to the current state of affairs, many migrants who make it to their destination are at risk of being trafficked or exploited by third parties. Migrants are particularly susceptible to exploitation in low-wage economic sectors that are either poorly regulated or unregulated entirely, which is at the core of the problem with human rights. Many nations rely on low-cost migrant labour from other countries to supply their agricultural supplies, domestic services,

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<sup>19</sup> Crush, J. "The dark side of democracy: migration, xenophobia and human rights in South Africa" 38(6) *Berkeley Journal of Employment and Labor Law* (2001).

<sup>20</sup> Cholewinski, R. *Migrant Workers in International Human Rights Law: Their Protection in Countries of employment* (Clarendon Press, Oxford. 1997).

<sup>21</sup> Chan, J. "The Right to Nationality as a Human Right" 12 *Human Rights Law Journal* (1991).

and "sex industry." Illegal immigrants and those who lack the necessary paperwork could represent a vast untapped pool of adaptable labour. Workers who do not possess the required paperwork are especially at risk since they are more likely to be employed in fields in which safety and health regulations are either not applicable or are not strictly implemented. According to the International Labour Organization and the International Confederation of Free Trade Unions, migrants and immigrants may have a difficult time joining unions or groups in order to preserve their rights and interests. This is one of the challenges that they face. Even in countries where deportation is not explicitly prohibited by law, the mere prospect of it or the actual practice of it can easily scare people and stymie organizing efforts, particularly among those who lack the legal authorization to be employed. Mistreatment of migrant workers can take many forms, including but not limited to: low salaries; hazardous working conditions; a lack of social support; a failure to recognize their rights to organize and work freely; xenophobia; and other forms of discrimination<sup>22</sup>.

#### IV

##### **Barriers to the enforcement of Human Rights by Migrant Population**

One important challenge to providing adequate protection for migrants' human rights is the low rate at which existing human rights treaties are ratified, implemented, and enforced. It has taken a long time and been very challenging to extend them de facto to many underrepresented groups (especially migrants), and this process is far from complete. Only 55 countries have so far signed the International Convention on the safeguarding of the Rights of All Migrant Workers & their Families<sup>23</sup>. This puts into question the efficacy of this law in protecting migrant workers. Although migrants are not explicitly named, their inclusion is suggested by the use of the all-encompassing term everyone or every person in several parts of the human rights legislation, which include broad requirements for the protection of the people's human rights. This results in the routine and flagrant violation of migrant rights. Human rights treaties ratified on a worldwide scale are the only means through which migrants' rights may be fully articulated and protected.

Despite the many causes of migration, only some groups of migrants are protected by laws enacted expressly to do so. It is possible that existing legal frameworks do not sufficiently handle the motives of migrants whose numbers have increased due to climate change, the

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<sup>22</sup> Ferris, E.G. "Beyond Borders; Refugees, Migrants and Human Rights in the Post-Cold War Era" 25 *Comparative Labor Law Journal & Policy Journal* (1993)

<sup>23</sup> Gowlland-Debbas (Ed.) *The Problem of Refugees in the Light of Contemporary International Law Issues*, (Springer Nature Publishing 2018)

changing character of conflict, and other crises. A subset of migration that does not fall under refugee protection regimes is "survival migration," which is defined as persons moving outside of their country of origin because of an existential threat to which they have had no access to a domestic remedy or resolution. Other examples are plans for regulating immigrant integration and the movement of people for the sake of starting or reuniting families.

States are not obligated to apply the aforementioned precise legislation for the protection of migrants since they are dispersed among a variety of texts and the declarations, dialogues, and consultations are not legally binding. This demonstrates the necessity for legislation that provides a minimum standard of protections to all migrants, regardless of their motivations for leaving their home country. Punishing migrants with prison time for illegally crossing the border is another huge obstacle. "Unfortunately, migrants accused of such offenses are routinely subjected to hurried criminal proceedings without legal representation, despite the fact that such protections are essential in criminal processes that may end in a loss of liberty<sup>24</sup>."

## V

### **Migrant Workers as a contributory factor for Economic Development**

Relocation has repercussions not just for the ability of an individual's family to get assistance from the Government, but also for the economy on both the local and national levels. There is a possibility that global migration will have positive effects, particularly on agricultural nations, such as lowering unemployment rates, accelerating rural development, improving infrastructure, reducing orientation inequality, and reducing population stress in urban centres. Nomadic individuals have the potential to improve their standard of living in a variety of ways, such as securing employment with higher wages, alleviating poverty for themselves and their families, increasing the amount of money available within their own families, being able to send settlements to loved ones, and so on<sup>25</sup>.

The communities that migrants bring back with them are the most important and least debated aspect of the relationship between migration and development. This is despite the fact that migration has a variety of distinct economic, social, and political effects on both the countries that are exporting migrants and the countries that are receiving migrants. It is possible

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<sup>24</sup> United Nations Commission on Human Rights *Report of the working group of inter-governmental experts on the human rights of migrants*, United Nations, Geneva, UN document E/CN.4/1999/80 (July 1999)

<sup>25</sup> *Ibid.*

that the access to knowledge provided by the diaspora and the skills developed by returning migrants will promote innovation, the board, and foundations in the home nation, while at the same time reducing the financial and data requirements for starting a global corporation. Emerging economies are at risk from a variety of concerns, including the loss of talent and brainpower, as well as a shrinking workforce in rural areas.

There is no guarantee that migration by oneself will result in a nice experience. The legislative principles of the country that protect the rights of its citizens to enter and remain in the country outside of the country give birth to the inadmissibility of a visitor from another country. Even while disobeying such restrictions is immoral behaviour, doing so does not automatically label a person as a criminal or deprive them of their rights. Freedom to develop one's ideas and freedom to choose one's place of residence are two of the most fundamental rights, according to humanitarian documents such as the Universal Declaration of Human Rights (1948) and the United Nations Sanction (1945). This fundamental possibility runs counter to the generally held belief that nations have the right to decide who may enter their borders, live within their borders, and find employment inside their borders<sup>26</sup>.

It has also been stated that the costs associated with ensuring the safety of illegal (i.e., without documentation) migrants to the destination country are rising. It is the responsibility of the country that is housing illegal immigrants to ensure safety for those individuals, regardless of whether or not those individuals have broken the law. Due to the positive impact that illegal migrants have on the economies of the countries in which they settle, one may argue that the substantial expenditure of resources that is necessary to ensure the safety of illegal migrants is entirely warranted. In addition, migration of any kind, whether it be legal or illegal, extremely long-term or temporary, and migration for commercial goals, all assist the economy since they bring in workers when there is a shortage of workers in the local area.

Migration also often results in financial gains for the state. However, contrary to popular belief, the expenses that illegal employees impose on people much outweigh the small amount that they pay in expenditures, leaving meaningless the idea that their presence is acceptable since they cover charges. This is because the costs that illegal workers impose on people greatly outweigh the small amount that they pay<sup>27</sup>. A significant number of academics hold the view that collaborating with illegal employees is a financially risky action. That is to

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<sup>26</sup> Cholewinski R. *Migrant workers in international human rights law: Their protection in countries of employment* (Clarendon Press 1997).

<sup>27</sup> United Nations High Commissioner for Refugees *The State of the World's refugees; A Humanitarian Agenda* (Oxford University Press, Oxford. 1997)

say, illegal employees not only break immigration laws, but they also fail to pay their fair part of the costs connected with the services they consume, putting an unfair financial burden on citizens who are legally entitled to receive compensation for the goods and services they receive<sup>28</sup>.

## VI

### **Recommendations for recognition and enforcement of Human Rights of Migrant Population**

On the basis of this historical context, the following recommendations have been made for the future:

1. As part of a comprehensive immigration reform, all illegal immigrants who are now residing in have nations should be a. awarded legal status to maintain their existing status and local charge commitments and be allowed to lawfully work. This would support their existing status and local charge commitments. As a direct result of this, states and municipalities would be forced to shoulder a bigger proportion of the financial burden caused by unlawful migrants.
2. There must be halt to the efforts to extradite any unlawful settlers who have established themselves there for an extended period of time; however, this does not cover individuals who suddenly show up there. There must have the possibility of being punished in two different ways. The first option is an amnesty program that allows those who have been living and working illegally in the nation for an extended period of time to apply for citizenship and have their status legalized. The second proposal is to restrict the ability of legal permanent residents (LPRs) to sponsor relatives who were born outside of the country for LPR status (also known as a green card). These policies would legalize the status of currently-present illegal (unpredictable) settlers provided that they do not represent a threat to public health. In addition, they would strengthen the migration requirement to prevent future unlawful immigrants from entering new nations or exceeding visa constraints.
3. It is imperative that there be true border security and provincial commitment, as well as the maintenance of migration laws, and a change toward legal mobility in accordance with the standards of global common liberty principles and law and order. A global barrier and neutral states require a restricting mechanism that aims

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<sup>28</sup> Hathaway O. A. "Do human rights treaties make a difference?" 111(8) *Yale Law Journal* 1935 (2002).

to incorporate the already existing agreements, declarations, exchanges, and conversations that safeguard all migrants. This is true regardless of the purpose for the expansion of these migrant populations.

4. The Concerns regarding migration and reconciliation, including but not limited to legal safety, control of the labour market, job evaluations, social security, health care, education, housing, and transportation, should be planned for and handled as part of any legislation that are enacted along these lines. It is anticipated that a range of measures will be taken in order to shield migrant workers, both male and female, from abusive behaviour and to provide working conditions in which individuals can have the opportunity to feel respected, appreciated, and safe. This becomes more appropriate at the present-day context, when massive economic uncertainty dominates the landscape.
5. Those who have signed the New York Declaration have agreed to recognize and protect the rights of all migrants, irrespective of their immigration status and regardless of where they may be in the world. To be more specific, countries have the responsibility to maintain, protect, and respect the human rights of all foreign nationals as well as tourists from other countries while they are within their borders. In the event that the promise is broken, there should be repercussions that follow.
6. It is the responsibility of states to provide that temporary residents have complete access to all necessary Government services as well as civil and political rights. Everyone has the right to a minimum standard of living, which is guaranteed by the International Covenant on Economic, Social, and Cultural Rights (ICESCR). This right includes receiving medical care, receiving an education, receiving retirement benefits, having a job that is secure and safe, and having a decent place to live. When a crisis strikes, a nation that has few resources has a moral obligation to protect the most vulnerable people. Nevertheless, it is preferable to accommodate migrant population also to the greatest extent possible. Migrant Workers should be able to safeguard their rights, including the right to record instances of abuse, such as separation, brutality, or contempt, without the fear of being identified, confiscated, or imprisoned for doing so<sup>29</sup>.
7. Make unlimited mobility legal despite the fact that it puts people's liberty at jeopardy and accept the consequences for doing so. According to the Worldwide

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<sup>29</sup> Cox A., Posner E. "The rights of migrant" 84 *New York University Law Review* (2009).

Common Liberties Standard, the legislation can be altered to reflect this in a way that makes it so that entering or attempting to enter a nation in an unapproved manner or without legitimate documents, or overstaying a grant of stay, would not constitute a wrongdoing. This would make it such that entering or trying to enter a country in an unapproved manner or without genuine documentation. It is essential to make use of management approvals that are pertinent, fundamental, and grounded in common sense. This will help achieve the goals of the New York Declaration for Migration by facilitating the study of agreements that hinder cross-border growth.

8. An obligation made by member states to ensure that all refugees and migrants are treated with dignity and respect in accordance with International common freedoms regulation and any other applicable rules was reiterated by those states as a way to help them remember the responsibility that is theirs and to serve as a reminder of their commitment to that responsibility. In terms of the way they deal with international relocation, it demonstrates that states continue to be loyal to the core global freedoms agreements that lie beneath the surface. It is not an effective deterrent and, shockingly, it is even less acceptable as a measure of relocation management to punish persons who are on the move but have a precarious legal footing or who are unable to make numerous court appearances. This is because these people are unable to make regular court appearances. In the context of decisions for extradition, some examples of procedural protections that should be agreed upon and made available to passengers include the following: written proof produced in a language and manner suitable for an expulsion. The migrant workers must have access to information on the available treatments and the automatic suspense impact of an evacuation request. This access will remain in place until the case has been settled. In order to lessen the incentives for rule breaking and better meet the demands of their labour markets for atypical work, states need to establish more legal avenues for migration. This will allow them to better satisfy the demands of their labour markets. Due to this, the chances of random, disruptive motions occurring will be cut significantly. When regular routes of travel are easier to access, the incentives for countries of origin, transit, and final destination to engage in dealing with individuals, engaging in double dealing, and badly mistreating tourists will be reduced.



9. One of the many issues that needs to be addressed through global movement regulations or strategies is the establishment of legal channels for the relocation of people who are seeking work opportunities in various nations. Protecting the rights of migrants or their families, such as those who have been carried or dealt, is another one of the many issues that needs to be addressed through global movement regulations or strategies. To ensure low and consistent levels of migration, the legislatures of the states from which individuals move have a number of responsibilities that must be satisfied. This is due to the fact that a significant number of people decide to leave their homelands because they are dissatisfied with the rate at which their governments are meeting their promises to them<sup>30</sup>. It is anticipated that the Conditions of Origin will support the implementation of an all-encompassing economic plan. The expansion and improvement of the economy will assist in the reduction of poverty and make it simpler for the Government to provide for the needs of the population. We have a fighting chance of putting a stop to the action if we use this technique.

## VII

### Conclusion

According to the findings of this article, the legal and regulatory framework governing migrant population rights faces major difficulties in application. This is why various migratory patterns are sometimes likened to a patchwork quilt, in which elements from many scales (national, state, local, International) are pieced together. Furthermore, the story illustrates the persistent violation of rights of the migrant population. Increased state collaboration within international administration, together with strictly enforced, far-reaching regulation and harsh penalties for offenders, is desperately needed by the international community. In a similar vein, advanced countries maintain efficient bureaucracies to deal with international migration issues, which they do by developing and enforcing relocation policies and communicating with and learning from one another's knowledgeable relocation experts. Host countries are obligated to meet the needs of their guests. In the social Government support state model, the Government may provide for people who are unable to do so on their own account, whether they are young, elderly, disturbed, handicapped, or jobless. In principle, it is the State's duty to guarantee that all foundations and their administrations are operating lawfully and that all benefits are

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<sup>30</sup> Borjas G. J. "The Economic benefits from Immigration" 9(2), *Journal of Economic Perspectives* 22 (1995).

distributed equitably in accordance with clearly stated eligibility conditions and rights. Effective implementation of the authoritative structures is of highest significance when benefits and services are not supplied directly by Government entities. Implementing the suggestions from this study may reduce the freedom of movement for migrant population, but increase their average speed of travel.