

# The UN Migrant Workers Convention

## What is the UN Migrant Workers Convention?

*The Convention is the first universal codification of the rights of migrant workers and members of their families. It provides a set of binding fundamental standards to address the treatment, welfare and human rights of both documented and undocumented migrants, as well as the obligations and responsibilities on the part of sending, receiving and transit countries. This international instrument is formally known as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families<sup>1</sup>.*

## Why such a Convention?

The aim of the Convention is to ensure that all migrant workers have access to a minimum level of protection such as equality of treatment and working conditions for migrants and nationals. Although the Convention makes a distinction between documented and undocumented migrant workers, it does stress that every migrant worker who qualifies under its provision should enjoy all fundamental human rights, regardless of his/her legal status. The Convention also:

- recognizes migrants not only as workers or economic entities, but as human beings with families and therefore entitled to rights including that of living with their family in the country they work
- serves as a safeguard when there are gaps in national law to protect migrant workers. It also encourages States to bring their legislation in line with recognized UN standards
- provides the first universal definition of "migrant worker" and identifies different types of migrant workers (such as: "frontier worker", "seasonal worker", "itinerant worker", etc.) in order to make the attribution of rights and corresponding duties clearer
- aims to tackle every form of abuse and exploitation, seeking to put an end to undocumented or clandestine migration and recruitment

## Which are the core rights for migrant workers?

The Convention extends to all migrants and members of their families, both documented and undocumented, the right:

- to life
- not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment
- not to be held in slavery or servitude
- not to be subjected to collective expulsion
- not to be deprived of documentation proving identity
- to security and liberty of person against arbitrary arrest or detention
- to essential health services
- to basic education for children



Furthermore, it calls for equal treatment to nationals in respect of remuneration and conditions of work, the right to take part in trade union activities and the right of migrant children to a nationality (for instance if the State of origin doesn't guarantee the nationality to children born outside its borders). More on the Convention.

<sup>1</sup>. To see the full text of the Convention, see [this page](#).

## When was it adopted?

The Convention was adopted by the UN General Assembly on 18 December 1990. However, it took 13 years to enter into force (1st July 2003), because it took that much time to obtain the minimum of twenty countries required for it to become an international legal instrument.

## How many Countries have ratified it so far?

Between 1993 and 2007, 37 countries ratified the Convention<sup>2</sup>. So far, ratifying countries are primarily countries of origin and /or transit. Unfortunately, the majority of migrant-receiving states have not ratified this Convention. This is primarily because they fear that the Convention may provide too many rights to undocumented migrant workers. They furthermore argue that the rights of migrant workers are already sufficiently covered by other international or regional treaties. Finally, many states argue that migration is an internal matter and this should not be subject to international scrutiny.

## Where are we at?

The implementation of the Convention is monitored by the Committee on Migrant Workers, which meets twice a year. The main method of monitoring used by the Committee is the assessment of the reports submitted by the states that have ratified the Convention. Only nine countries<sup>3</sup> have so far submitted their reports. They are Mali, Mexico, Egypt, Bolivia, Ecuador, Syria, El Salvador, Azerbaijan and Bosnia & Herzegovina. And out of these, only three reports (Mali, Mexico and Egypt) have been fully reviewed by the Committee.

The Committee also seeks the input from civil society organisations as well as international institutions, with the aim to develop a fair assessment of how a particular state meets its obligations under the Convention. The International NGO Platform on the Migrant Workers' Convention (IPMWC) brings together many of the main international NGOs working in this field. Its aim is to ensure the effective implementation of the Convention and to encourage and support national-level organizations to prepare their own "alternative" submissions to the United Nations.

## What does this mean for migrant workers?

Although the Convention undoubtedly is a positive development, the low number of ratifications and the slow monitoring process – it takes around 12 months for a report to be fully examined by the Committee – lead many to question the impact it can have on the lives of migrants. Nevertheless, instruments such as these have proved very useful in the past, for instance on issues of discrimination against women, respects of the rights of the child or protecting bio-diversity. As the Convention on the rights of migrant workers is a relatively new instrument, more time is needed to judge its overall impact. Above all, for the Convention to become truly effective in protecting migrant workers, a greater number of wealthy destination countries need to ratify it.

<sup>2</sup>. As of October 2007: Albania (03.06.07), Algeria (21.04.05), Argentina (23.02.07), Azerbaijan (11.01.99), Belize (14.11.01), Bolivia (12.10.00), Bosnia & Herzegovina (13.12.96), Burkina Faso (26.11.03), Cape Verde (16.09.97), Chile (21.03.05), Colombia (24.05.95), Ecuador (05.02.02), Egypt (19.02.93), El Salvador (14.03.03), Ghana (08.09.00), Guatemala (14.03.03), Guinea (08.09.00), Honduras (11.08.05), Kyrgyzstan (29.09.03), Lesotho (16.09.05), Libyan Arab Jamahiriya (18.06.04), Mali (05.06.03), Mauritania (22.01.2007), Mexico (08.03.99), Morocco (21.06.93), Nicaragua (26.10.05), Philippines (05.07.95), Senegal (09.06.99), Seychelles (15.12.94), Sri Lanka (16.03.96), Syria (02.06.05), Peru (14.09.05), Tajikistan (08.01.02), Timor Leste (30.01.04), Turkey (27.09.04), Uganda (14.11.95), Uruguay (15.02.01).

<sup>3</sup>. As of October 2007.