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Open-ended Working Group of the General Assembly on the drafting
of an International Convention on the Protection of the Rights
of All Migrant Workers and Their Families

TEXT OF THE PREAMBLE AND ARTICLES OF THE INTERNATIONAL CONVENTION
ON THE PROTECTION OF THE RIGHTS OF ALL MIGRANT WORKERS AND THEIR
FAMILIES PROVISIONALLY AGREED UPON BY THE WORKING GROUP DURING
THE FIRST READING*

* Square brackets indicate language upon which the Working Group had not yet reached agreement.

Preamble

The States Parties to this Convention,

(1) [Reaffirming] [Taking into account] the [permanent validity] [importance] of the principles [, standards] [and norms] 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, and the Convention on the Elimination of All Forms of Discrimination against Women,

(2) [Raffirming also] [Taking into account] the principles [and standards] [set forth in the relevant instruments] elaborated within the framework of the International Labour Organisation, especially the Conventions concerning Migration for Employment (No. 97) and Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers (No. 143) and the Recommendations concerning Migration for Employment (No. 86) and Migrant Workers (No. 151),

(3) Reaffirming the importance of the principles contained in the Convention against Discrimination in Education of the United Nations Educational, Scientific and Cultural Organization,

(4) Recalling [the Declaration on the Protection of All Persons from Being Subjected to 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,

(5) Recognizing the importance of the work carried out in connection with [migrant labour] [migrant workers and their families] in various organs of the United Nations system, in particular in the Commission on Human Rights, the Commission for Social Development, the Food and Agriculture Organization of the United Nations, the United Nations Educational, Scientific and Cultural Organization and the World Health Organization and in various regional organizations,

[(6) Recognizing that the principal objective 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, [that the International Labour Organisation has thus been vested with special authority and responsibility to deal with the subject of migrant workers and that the International Labour Organisation possesses unique competence, expertise,

[(6) Recognizing the importance of the International Labour Organisation in the defence of the interests of migrant workers,]

and experience in migrant worker matters]
[and that the International Labour
Organisation has made a significant
contribution to the promotion of the
interests of migrant workers,]]

(7) Recognizing the progress made by certain countries on a regional or bilateral basis, as well as the importance and usefulness of bilateral and multilateral agreements for the protection of the rights of migrant workers and their families,

(8) Realizing the importance and extent of the migration phenomenon which involves millions of people and affects a large number of countries in the international community,

[(9) Aware of the [positive] impact that the flows of migrant workers have on [the process of regional integration] and of the [important] role that such flows may play in the organization of the new international economic order,]

[(10) Considering that international flows of migrant workers originate in differences in degree of development and level of income between States of origin and States of employment and that such flows are a reflection and part of the supply of and demand for labour at the international level,]

(11) Considering the situation of [vulnerability] in which migrant workers find themselves in the receiving societies [for reasons relating, among other things, to their absence from their country of origin and to the difficulties of their [insertion] [adaptation] [presence] in the receiving society] [for various reasons],

[(12) Bearing in mind the beneficial effects that labour mobility on an international scale has had and will continue to have on the economy of both States of origin and States of employment,]

[(13) Bearing [also] in mind on one hand the contribution of migrant workers to the economy of the receiving countries and on the other hand the social costs connected with the migratory process,]

(14) Recognizing the necessity to promote balanced international economic development in order to minimize the [need for and] problems linked with international migration,

(15) Convinced that the status and fundamental rights of migrant workers and their families have not been sufficiently recognized everywhere and therefore require appropriate international protection,

(16) Taking into account the fact that migration is often the cause of serious problems for the families of migrant workers as well as for the workers themselves, in particular because of the scattering of the family,

[(17) Considering, therefore, that the fundamental human rights and labour rights of all migrant workers and their families, including the rights of non-documented workers, who are even more defenceless because of their irregular status, require appropriate protection at the international level,]

[(17) Bearing in mind that the human problems involved in migration are even deeper in the case of illegal migration and that therefore appropriate action should be reinforced also at the international level in order to prevent and suppress illegal and clandestine movements and traffic of migrant workers, while at the same time assuring the protection of their fundamental human rights,]

(18) Considering that in most cases workers who are non-documented or in an irregular situation are employed under worse conditions of work than other workers including migrant workers in a regular situation, and that certain employers find this an inducement to seek such labour in order to reap the benefits of unfair competition,

[(19) Considering that the widest recognition of the rights of all migrant workers and the effective safeguarding of these rights will accordingly tend to discourage the seeking of migrant workers who are non-documented or in an irregular situation and to contribute to a reduction in irregular migration flows,]

[(20) Considering however that, in order to encourage prospective migrants for employment to respect the normal procedures established by the competent authorities of the State concerned, the recognition of certain rights ought to be limited to migrant workers in a regular situation, including those whose situation has been regularized,]

(21) Convinced therefore of the need to bring forth the international protection of the rights of all migrant workers and their families reaffirming and establishing basic norms in a comprehensive Convention which could be applied universally,

Have agreed on the following articles:

PART I

Scope and definitions

Article 1

The present Convention is applicable to all migrant workers and members of their families, except as otherwise provided hereafter and without distinction on grounds such as sex, race, colour, language, religion or convictions, political or other opinion, national, ethnic or social origin, nationality, age, economic position, [property], birth, marital or any other status.

Article 2

[1. The term "migrant worker" refers to any person who, in a State of which he is not a national, [seeks to engage] is to engage, is engaged or has been engaged in [an economic activity for an employer [or on his own account]] [a licit and remunerated activity].]

[1. The term "migrant worker" refers to any person who has departed, intends to depart or is in the process of departing from the State of origin or normal residence to the State of employment of which he/she is not a national, and is to engage, is engaged or has been engaged in an economic activity or any remunerative work for an employer [or on his/her own account] irrespective of his/her having in his/her possession a work permit or a work agreement and irrespective of the mode of his/her recruitment and nature of work assigned to him/her.]

2. For the purpose of this Convention:

(a) Frontier workers are migrant workers when they engage in work in one State but retain their permanent residence in a neighbouring State to which they normally return every day or at least once a week;

(b) Seasonal workers are migrant workers when they are employed or engaged in work in a State of which they are not nationals and which work by its character, is dependent on seasonal conditions and can therefore be performed only during part of the year;

(c) Seafarers, including fishermen, are migrant workers when they are engaged in any function whatsoever on board a vessel other than a warship registered in a State of which they are not nationals;

(d) Workers on offshore installations are migrant workers when the installation on which they are engaged falls under the jurisdiction of a State of which they are not nationals;

(e) Itinerant workers are migrant workers when, having their permanent residence in one State, they have to go for purposes of their occupation to another State for a short period;

(f) Project-tied workers are migrant workers when they have been admitted to the State of employment for a period of time on the basis of a work contract with an [enterprise or] employer carrying out in that State a specific project that by its nature is limited in time;

3. The term "migrant worker" excludes:

(a) Persons [performing official functions] employed by international organizations and agencies and persons employed by a State outside its territory whose admission and status are regulated by general international law or by specific international agreements or conventions;

(b) Persons [performing official functions] employed on behalf of a State outside its territory for the execution of programmes of co-operation for development agreed with the receiving State and whose admission and status are regulated by specific international agreements or conventions;

[(c) Persons whose labour relations with an employer were not established in the State of employment [receiving State];]

[(d) Persons whose main earnings do not originate from the State of employment [receiving State];]

(e) Persons taking up residence in a country different from their State of origin as investors [or who establish upon arrival in that country an economic activity in which they act as employers];

[(f) Refugees and stateless persons;]

[(g) Students and trainees.]

Article 3

For the purposes of this Convention, the term "members of the family" includes the spouse [or the companion who lives matrimonially with the worker if such a relationship is recognized by the laws] [governing the personal status of the worker] [of the State of employment or the State of origin], [the dependent [minor, unmarried] children], [the dependent parents of the worker or the spouse] and other persons who are recognized as members of the family for the purposes of this Convention by the relevant laws and regulations of the State of employment or relevant bilateral or multilateral agreements between the States Parties concerned.

Article 4

For the purposes of this Convention, migrant workers and members of their families, as defined in the preceding articles:

(a) Are considered as documented or in a regular situation [lawful status] if they have been granted the requisite permanent or temporary authorizations in respect of admission, [duration of] stay and employment [or economic activity];

(b) Are considered as non-documented or in an irregular situation [unlawful status] if they have not been granted the authorizations of the State in whose territory they are, that are required by law in respect of admission, [duration of] stay or employment [or economic activity] or if they have failed [except for reasons beyond their control] to comply with the conditions to which their admission, [duration of] stay or employment [or economic activity] are subject.

Article 5. Application during the process of migration

The rights, as set forth in this Convention, shall be recognized and guaranteed during the entire migration process, that is, during the preparation for emigration, on leaving from the State of departure, in the course of transit through a State, during the journey, during the entire period of stay, residence, employment or work in the State of employment and on return to the State of origin or the State of normal residence.

Article 6. Definition of the terms "State of origin", "State of employment", "State of return" and "State of transit"

For the purpose of this Convention:

(a) The term "State of origin" means the State of which [the migrant worker or the members of his family, as the case may be] [any persons to which this Convention is applicable] are nationals;

(b) The term "State of employment" means the State where the migrant worker is for the purpose of [employment] [or work] [and where members of his family have accompanied or joined him];

(c) The term "State of return" means the State to which the migrant worker [or members of his family] decides to return, whether it be his State of origin or the State in which he is normally resident;

(d) The term "State of transit" means any State through which the migrant worker [or members of his family] pass on their departure or return.

PART II

Fundamental human rights of all migrant workers
and members of their families

Article 7

Each State Party to this Convention undertakes to respect and to ensure to all migrant workers and members of their families within its territory and subject to its jurisdiction the rights recognized in this part of the Convention without distinction of any kind on the basis of race, colour, sex, language, religion, political or other opinion, national [ethnic] or social origin, nationality, age, property, birth [marital] or other status.

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 which 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 other rights recognized in this part of the Convention.

(2) Migrant workers and members of their families shall have the right at any time to re-enter their State of origin.

Article 9

The right to life of migrant workers and members of their families shall be protected by law [under the same conditions as for citizens of the State concerned].

Article 10

Migrant workers and members of their families shall not be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 11

(1) Migrant workers and members of their families shall not be held in slavery or servitude.

(2) Migrant workers and members of their families shall not be required to perform forced or compulsory labour.

(3) Paragraph (2) 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 this article the term "forced or compulsory labour" shall not include:

(a) Any work or service, not referred to in paragraph (3), 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 [in cases provided for by law];

(c) Any work or service which 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 not to have] or to adopt [or not to adopt] a religion or belief of their choice and freedom whether individually or in community with others and in public or private, to manifest their religion or beliefs in worship, observance, practice and teaching.]

[(2) Migrant workers and members of their families shall not be subject to coercion which would impair their freedom to have [or not to have] or to adopt [or not to adopt] a religion or beliefs of their choice.]

(3) Freedom to manifest one's religion or [beliefs] [convictions] 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) The States Parties to this Convention undertake to have respect for the liberty of migrant workers [to practice their religion and] to ensure the religious and moral education of their children, including children over whom they have legal guardianship, 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 rights provided for in paragraph (2) of this 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 reputations of others;

(b) For the protection of national security or of public order (ordre public) or of public health or morals.

Article 14

Migrant workers and members of their families shall not be subjected to arbitrary or unlawful interference with their privacy, family, home, correspondence or other communications nor to unlawful attacks on their honour and reputation. They shall have the right to the protection of the law against such interference or attacks.

Article 15

Migrant workers and members of their families shall not be arbitrarily deprived of property, whether owned individually or in association with others. Where, under the legislation in force in the State of employment (receiving country), their assets are expropriated in whole or in part, they shall have the right to just 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 [normal police] 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, nor 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 and, so far as possible in a language which they understand, of the reasons for their arrest and shall be promptly informed in a language which 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 [in accordance with the penal procedure of the receiving State]. [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) (a) In the case of arrest or detention of a migrant worker or a member of his family [on a criminal charge], if he so requests, the diplomatic or consular authorities of his State of origin, or representing the interests of that State, shall be informed without delay of the arrest or detention and of the reasons therefore. Any communication addressed to the said authorities by the person concerned shall also be forwarded to them without delay;

(b) The person concerned shall be informed without delay of the above-mentioned rights;

(c) The said diplomatic or consular authorities shall have the right to visit the person concerned during any period of detention [on a criminal charge] or imprisonment, to converse and correspond with him and to arrange for his legal representation [in accordance with the terms of the Vienna Convention relating to consular relations].

(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. [In taking such proceedings, they shall have the free assistance 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] [shall have the right to bring an action for compensation] [for damages caused] [subject to domestic legislation].

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) If they are detained in custody while awaiting trial, they shall, [whenever possible,] [save in exceptional circumstances,] be segregated 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 a member of his/her family who is detained in a State of transit or in a receiving State [pending trial on a charge of] [for] violation of provisions relating to migration, shall be housed, in so far as practicable, separately from persons in detention pending trial for other offences.]

[(3) Any migrant worker or member of his family who is detained in the State of destination for infraction of the provisions concerning migration shall be housed in suitable accommodation [under judicial control] separate from the prisons or other centres of detention or imprisonment for offenders or criminals.]

(4) During any period of imprisonment in pursuance of a sentence imposed by a court of law, the treatment of a migrant worker or a member of his family shall be aimed at his reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

[(5) During detention or imprisonment, migrant workers or members of their families shall enjoy the right to visits by members of their family.]

[(6) In any case of application of sanctions, including pending proceedings for the expulsion or deportation of migrant workers or their families, the competent authorities of the State of destination shall pay special attention to the problems posed by the families of such workers, with particular reference to the specific needs of women and minor children.]

[(7) The fundamental human rights and the labour rights of migrant workers or their families shall not, in the event of their being subjected to any form of detention or imprisonment provided for by the laws in force in the State of destination, be limited or impaired merely because such workers or their families lack the required migration documentation. This provision shall apply at all times, including during any expulsion or deportation proceedings.]

[(8) All costs arising from the detention of migrant workers or their families shall be borne by the competent authorities of the State of destination.]

Article 18

[(1) Migrant workers and members of their families shall have the right to equality with citizens of the State concerned as regards access to and treatment by the courts and tribunals. In the determination of any criminal charge against them, or of their rights and obligations in a suit at 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 proved 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 which 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 for it;

(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 a [qualified] interpreter if they cannot understand or speak the language used in the proceedings;

(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 migrant workers or members of their families have by a final decision been convicted of a criminal offence and when subsequently their conviction has been reversed or they have been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the persons who have 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 them.

(7) Migrant workers and members of their families shall not be liable to be tried or punished again for an offence for which they have already been finally convicted or acquitted in accordance with the law and penal procedure of each State.

Article 19

(1) Migrant workers and members of their families shall not be held guilty of any criminal offence on account of any act or omission which 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 the criminal offence was committed]. If, subsequent to the commission of the offence, provision is made by law for the imposition of a lighter penalty, they shall benefit thereby.

[(2) In accordance with the principle of proportionality of penal sanctions, courts shall have regard, in imposing any sentence for criminal offences committed by migrant workers or members of their families, to any incidental sanctions or consequences affecting their right of residence or work including expulsion.]

(3) Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to [the general principle of law recognized by the community of nations] [the legislation of the receiving State].

Article 20

Migrant workers and members of their families shall not be imprisoned, deprived of their authorization of residence or work permit, or expelled merely on the ground of [inability] [failure] to meet a contractual obligation.]

Article 21

It shall be unlawful for anyone, other than a public official duly authorized by law, to confiscate 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. [It shall be a [serious] offence, and punishable accordingly, unlawfully to confiscate such documents or to destroy or attempt to destroy them.]

Article 22

[(1) Migrant workers and members of their families shall not be subject to measures of [collective] [mass] expulsion.]

[(1) 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 to this Convention only in pursuance of a judicial or administrative decision reached or dictated in accordance with law and stating the reasons for the decision.]

[(3) The decision shall be communicated to them in writing.]

[(4) Except where the decision is pronounced by a judicial authority the person concerned shall have the right to appeal [to press its examination by a higher authority] against it. If the [appeal] [review] is to be examined by a judicial authority, the execution of the decision shall be stayed except where the reasons stated therefore involve substantial requirements of national security or public order. If a decision which has been the subject of such immediate execution is subsequently annulled, the person concerned shall have the right to compensation according to law.]

[(5) In case of expulsion, the person concerned shall be allowed a reasonable opportunity to obtain the settlement of any claims for wages and other entitlements due to him by his employer, to settle any contractual liabilities, [and where this appears necessary for reasons of personal security, to seek entry to a State other than his State of origin.] Account shall also be taken of the person's family circumstances.]

[(6) Expulsion or departure from the receiving State shall not in itself prejudice any rights acquired under the law of a migrant worker or a member of his/her family.]

[(7) In any case of expulsion or deportation, the authorities of the State of employment [shall bear the costs incurred and] [shall refrain from exerting pressure on the persons concerned in any manner in order to obtain their agreement to summary procedures such as "voluntary exit", when such agreement is not spontaneously forthcoming from the persons concerned.]]

Article 23

(1) Migrant workers and members of their families shall have the right to seek consular [and diplomatic] protection [and appropriate assistance] from the authorities of their State of origin or those representing the interests of that State [and to receive from them legal advice and counsel] whenever the rights recognized in this Convention or their rights under the legislation of the State of employment [receiving country] are impaired.

[(2) The consular [or diplomatic] authorities of the State of origin or those representing the interests of that State shall be notified of any decision to expel a migrant worker or a member of his/her family [legally present in the State of destination] at least forty-eight hours before the expulsion is to take effect.]

Article 24

Every migrant worker and every member of a migrant worker's family shall have the right to recognition everywhere as a person before the law.

Article 25

(1) All migrant workers shall enjoy treatment not less favourable than that which applies to nationals of the receiving State 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 laws or 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 matter which, according to national laws and practice, are considered a term of employment.

(2) It shall not be lawful to derogate from the principle of equality of treatment referred to in paragraph 1 above.

(3) The States Parties to the present Convention 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) The States Parties to the present Convention recognize the right of all migrant workers and members of their families:

(a) To take part [freely] in [peaceful] meetings and activities of trade unions and of other associations [apart from political parties and organizations] [legally] established for the protection of economic, social, cultural and similar interests [subject only to the rules of the organization concerned];

(b) To join 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 which 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) (a) Migrant workers and members of their families shall enjoy equality of treatment with nationals of the receiving State in respect of social security. As regards migrant workers and members of their family who are non-documented or in an irregular situation, States Parties may limit these rights to social security protection arising out of employment or to contributory benefits, [that is, benefits the grant of which depends on direct financial participation by the migrant workers or their employer or on a qualifying period of economic activity.]

(b) Where the application of the preceding paragraph requires the conclusion of multilateral or bilateral agreements, such agreements shall, inter alia, make provision for the maintenance of acquired rights and of rights in the course of acquisition and for the payment of benefits outside the national territory including provisions for transfer of pension, continuity of social benefits and accumulation of contributive rights. Where such agreements are required, the States Parties to the present Convention shall spare no effort to conclude them.

(c) In so far as migrant workers and members of their families are not specifically entitled to receive contributory social security benefits or to continue to receive such benefits, they shall be entitled to the reimbursement of the whole or such part of the contributions paid as may be appropriate.

(2) Migrant workers and members of their families shall be entitled to claim compensation from an employer for any loss of social security benefits due to his omission to give the notices and to make the payments required by the social security scheme or schemes by which they should normally have been covered.]

Article 28

[(1) All migrant workers and members of their families shall have the right to receive any medical care which is urgently required for the preservation of their life or the restoration of their health.

(2) Such emergency medical care shall not be refused to them by reason of any irregularity in their situation or in that of their parents with regard to stay or employment or by reason of the absence of any guarantee as to the payment of the expenses involved.]

Article 29

[[Children of all migrant workers shall have the basic right of access to education.] [Access by children of any migrant worker to 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 their own stay in the receiving State.]]

Article 30

[The irregularity of its own situation or of that of its parents shall not have the effect of depriving a child of its right to a name, to registration, or of the right to a nationality, with a view to reducing cases of statelessness.]

Article 31

[The States Parties to the present Convention shall ensure respect for the cultural identity of all migrant workers and their families and shall permit them to maintain their cultural links with their State of origin.]

Article 32

Upon the termination of their stay in the receiving State all migrant workers and members of their families shall have the right to transfer any savings and to take with them all personal effects, working tools and other belongings.

Article 28

[Emergency medical care required for the preservation of the life or the restoration of the health of migrant workers and the members of their families shall not be refused to them by reason of the irregularity of their situation or that of their parents with regard to stay or employment or by reason of the absence of a guarantee as to the payment of expenses involved.]

Article 31

[All migrant workers and their families shall enjoy the right to maintain their cultural dignity.]

Article 31

[The States Parties to the present Convention shall recognize the right of all migrant workers and their families to maintain their cultural identity.]

Article 33

(1) Migrant workers and members of their families shall have the right to be informed by both the State of origin and the State of employment concerning:

(a) Their rights arising out of this Convention;

(b) The conditions of admission, their rights and obligations under the law and practice of the receiving State and such other matters as will enable them to comply with administrative or other formalities in that State.

(2) Each State Party to this Convention shall take the appropriate measures to disseminate the said information or to ensure that it is provided by employers, trade unions or other appropriate bodies or institutions. As appropriate, it shall co-operate with other States concerned.

(3) The said information shall be provided to migrant workers and to members of their families, wherever possible free of charge, upon request and in their own language or in a language which they are able to understand.

Article 34

None of the provisions of part II of this 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 this part of the Convention shall be interpreted as [according a lawful status or any other way affecting the immigration or employment status] [implying the regularization of the situation] of a migrant worker or a member of his family who is non-documented or in an irregular situation [unlawful status] or any right to [such] [the] regularization of his situation, nor shall it prejudice the measures intended to ensure sound and equitable conditions for international migration as provided in part V.

PART III

Additional rights of migrant workers and members of their families
in a [regular situation] [lawful status]

Article 36

Migrant workers and members of their families who are in a [regular situation] [lawful status] in the State of employment as regards their admission, [duration of] stay and [type of] employment [or other economic activity] [and other matters related to their immigration and employment status], as well as those whose situation has [been regularized,] [become lawful since entry into the State of employment] shall enjoy the rights set forth in part III, in addition to those set forth in part II.

Article 37

[Each State Party to the present Convention shall be free to establish in its national legislation the criteria governing admission, duration of stay, type of employment [or other economic activity] of migrant workers and members of their families and to decide in each case whether to grant any such authorization, subject to no limitations other than those provided for in this Convention. Any conditions subject to which the admission, stay, [and] employment [or other economic activity] of migrant workers and members of their families is authorized shall not be such as to impair, nor be applied so as to impair, the rights and guarantees provided for in this Convention.]

[Nothing in the present Convention shall affect the right of each State Party to establish in its national legislation the legal criteria governing the admission, duration of stay, type of employment or other economic activity and all other matters relating to the immigration and employment status of migrant workers and members of their families] [subject to such limitations as imposed on it by this Convention or other rules of international law.]

Article 38

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 and the State of employment of all conditions applicable to their admission and particularly those concerning the duration of the stay authorized, employment which they may take up and economic activities in which they may engage as well as of the requirements which they must satisfy in the State of employment and the authority to whom they must address themselves for any modification of those conditions.

Article 39

1. States of employment shall make every effort to authorize migrant workers and members of their families to be temporarily absent [for reasonably long periods] 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 those obligations stemming from their links with the State of origin].

2. 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 40

(1) Migrant workers and members of their families in a [regular situation] [lawful status] shall have the right to liberty of movement in the territory of the State of employment [and freedom to choose their place of residence there].

(2) The above-mentioned right shall not be subject to any restrictions except those which 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 41

1. Migrant workers and members of their families in [regular situation] [lawful status] shall have the right to freedom of association with others in the State of employment, including the right to form associations and trade unions, for the promotion and protection of their economic, social, occupational, cultural and other similar interests, [including the preservation of their [national identity], cultural identity and cultural and other similar links with the States of origin.]

2. No restrictions may be placed on the exercise of these rights other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order (ordre public), [public health and morals] or for the protection of the rights and freedoms of others.

Article 42

[States of origin and States of employment shall collaborate with a view to facilitating, [without unreasonable restrictions,] [as provided for in their national legislation] the exercise by migrant workers and members of their families in a [regular situation] [lawful status] of the right:

(a) To take part in the conduct of public affairs of their State of origin, directly or through freely chosen representatives;

(b) To vote and to be elected at elections in their State of origin;

(c) To have access, on general terms of equality, to public services in their country of origin.]

Article 43

(1) States Parties to the present Convention 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 the special needs, aspirations and obligations of migrant workers and members of their families.

(2) [States of employment shall facilitate the consultation or participation of migrant workers and members of their families in decisions concerning the life and administration of local communities.]

(2) [States of destination reserve the right to permit or not to permit, to the extent provided for in their internal legislation, the participation of migrant workers in public activities or in administrative decision-making.]

(3) [Migrant workers shall enjoy political rights in the State of destination only to the extent that that State, in the exercise of its sovereignty, may grant them such rights.]

Article 44

[(1) Migrant workers in a [regular situation] [lawful status] shall enjoy equality of treatment with nationals of the State of employment, subject to no limitations other than those provided for in the present Convention, in respect of

(a) Access to educational facilities and institutions;

(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 by nationals in schemes of the State of employment are met;]

[(1) Migrant workers in a [regular situation] [lawful status] shall enjoy [equality of treatment with nationals of the State of employment] [subject to the national legislation [on of the State of employment] [subject to no limitations other than those provided for in the present Convention], [in particular in article 51, para. 2 (a)] in respect of

(a) Access to educational facilities and institutions, subject to the admission requirements and other regulations of the facilities and institutions concerned;

(b) Access to vocational guidance and placement services, subject to the resources of the State of employment;

(c) Access to vocational training and retraining facilities and institutions, subject to the resources of the State of employment;

(f) The exercise of trade union rights, including eligibility for office in trade unions, in bodies of an occupational, economic or social character, and in labour-management relations bodies, including bodies representing workers in undertakings;

(g) Access to co-operatives and self-managed enterprises;

(h) Access to and participation in cultural life.

(2) States Parties to the present Convention shall promote conditions to ensure effective equality of treatment to enable migrant workers to enjoy the above-mentioned rights whenever the terms of their stay, as authorized by the State of employment, meet the appropriate requirements.]

(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 schemes of the State of employment are met;]

(f) The exercise of the right of freedom of association with others;

(g) Access to and participation in cultural life.

(2) States Parties to the present Convention shall endeavour to facilitate effective equality of treatment to enable migrant workers in a lawful status to enjoy the above-mentioned rights subject to the terms of their stay under the national legislation of the State of employment [including opportunities for advancement] [wherever the terms of their stay, as authorized by the State of employment, meet the appropriate requirements.]]

Article 45

(1) State Parties to the present Convention [, 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 families of migrant workers in a [regular situation] [lawful status], equal to that given to nationals.

(2) Spouses and minor dependent unmarried sons and daughters [of migrant workers] shall be authorized to accompany or join migrant workers and to stay in the State of employment for a duration not less than that of the worker, subject to [procedures prescribed by] the [national] legislation of the State of employment or [applicable] international agreements. States of employment may make this authorization subject to the condition that the migrant worker has available appropriate accommodation and resources to meet the needs of the persons concerned. The process of verifying that such conditions are met shall be completed within a reasonable period.

(3) States of employment shall [favourably] consider the admission of other [dependent] family members on humanitarian grounds.

Article 46

(1) Members of the family of migrant workers in a [regular situation] [lawful status] shall enjoy equality of treatment with nationals of the State of employment, subject to no limitations other than those provided for in the present Convention, in respect of

- (a) Access to educational facilities and institutions;
- (b) Access to vocational guidance and training facilities and institutions;
- (c) Access to social and health services;
- (d) Access to and participation in cultural life.

(2) States of employment, [provided that the requirements for participation in schemes of the State of employment are met,] [in accordance with their national circumstances and legal systems] 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 the teaching of the local language] [securing the same rights and opportunities enjoyed by children of the State of employment concerning access to all systems, forms and degrees of education by facilitating the learning of the local language].

(3) States of employment shall endeavour, as far as practicable and [where appropriate] in collaboration with States of origin, to facilitate for the children of migrant workers the teaching of their mother tongue and culture.

[(4) States of employment shall provide, as far as practicable, special schemes of education in the mother tongue of children of migrant workers, at least at the primary level.]

Article 47

[(1) At the time of their admission to the territory of the State of employment or of the regularization of their situation, migrant workers and members of their families in a regular situation shall enjoy exemption from customs duties in respect of their personal effects and in respect of portable hand-tools and portable equipment of the kind normally required for the carrying out of their trade or occupation.]

[(1) At the time of their initial admission to the territory of the State of employment, migrant workers and members of their families shall, subject to the applicable laws and regulations of the State of employment as well as relevant international agreements, enjoy exemption from customs duties in respect of the equipment necessary to perform the trade or occupation for which they are admitted to the State of employment.]

(2) [The same exemption to migrant workers and members of their families shall be accorded by the State of return at the time of their final return.]

Article 48

[The States parties to the present Convention shall, as far as possible and in accordance with the arrangements laid down in their legislation and applicable agreements, authorize and provide facilities for the transfer to the country of origin or the country of normal residence of migrant workers and members of their families of such parts of their earnings and savings as they may wish to transfer. The transfer of sums required for the maintenance of members of the migrant worker's family shall on no account be prevented or restricted.]

[Migrant workers shall have the right subject to applicable currency laws and regulations, to transfer their earnings and savings from the State of employment to other States, in particular those funds necessary for the support of their families, and States of employment shall take appropriate measures to facilitate such transfers in accordance with procedures established by law.]

Article 49

Subject to agreements on double taxation, migrant workers and members of their families shall not be liable to taxes, duties or charges of any description whatsoever higher or more onerous than those imposed on nationals in similar circumstances. [They shall be entitled, under conditions no less favourable than those applicable to nationals, to deductions or exemptions from taxes or charges and to all allowances, including allowances for dependants.]

Article 50

(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 employment [or other economic activity]. [This provision does not apply to frontier workers.]

(2) [In States of employment where migrant workers are free to choose any type of employment for any employer] without prejudice to article 37 of the present Convention, migrant workers shall neither be regarded as in an irregular situation, nor shall they lose their authorization of residence, by the mere fact of the loss of employment [or the termination of their economic activity] prior to the expiry of their working permits or similar authorizations.

[(3) In order to allow migrant workers referred to in paragraph (2) above sufficient time to find alternative employment, 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 51

[(1) Without prejudice to article 37 of the present Convention, loss of employment shall not in itself imply the withdrawal of the authorization to work.

[(1) In States of employment where migrant workers are admitted for an indefinite period of time and are free to choose any type of employment for any employer, loss of employment shall not in itself imply the withdrawal of the authorization to work without prejudice to article 37 of the present Convention.]

(2) Migrant workers shall accordingly enjoy equality of treatment with nationals, particularly in respect of guarantees of security of employment, the provision of alternative employment, relief work and retraining during the remaining period of their authorization to work.]

Article 52

(1) States of employment shall permit migrant workers in a [regular situation] [lawful status] freely to choose their employment [or other economic activity], subject only to such restrictions or conditions as are authorized by the following paragraphs of this article.

[In States of employment whose laws and regulations provide that migrant workers lawfully present may freely choose their employer or employment after a certain period of lawful employment, only the restrictions or conditions set forth in the following paragraphs of this article shall be applicable:

(2) States of employment may:

(1) A State of employment may:

(a) Restrict access by migrant workers to limited categories of employment, functions services or activities where this is necessary in the interests of the State;

(a) Restrict access by migrant workers to certain categories of employment and certain geographical regions where this is provided by national laws and regulations;

(b) Restrict free choice of employment [or other economic activity] in accordance with regulations governing the conditions of recognition of occupational qualifications acquired outside its territory. A State Party shall endeavour to provide for recognition of such qualifications, wherever possible;

(b) Restrict free choice of employment in accordance with its laws and regulations concerning recognition of occupational qualifications acquired outside its territory. A State Party shall endeavour to provide for recognition of such qualifications, wherever possible;

(c) Determine the conditions under which a migrant worker who has been admitted to take up employment may be authorized to engage in work on his own account and vice versa. In this connection, account shall be taken of the period during which the worker has already been employed or engaged in work on his own account.

(3) In the case of migrant workers in a [regular situation] [lawful status] whose permission to work is limited in time, States of employment may also:

(a) Make the right of free choice of employment [or other economic activity] subject to the condition that the migrant worker has lawfully worked in its territory for a continuous period not exceeding two years;

(b) Limit access by a migrant worker to employment [or other economic activity] in pursuance of a policy of granting priority to workers who are its nationals or who are assimilated to its nationals 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 lawfully worked for a continuous period exceeding five years;

(c) If the State of employment is a developing country, impose such restrictions as may be called for by a policy aimed at meeting requirements for qualified manpower with its own nationals.]

(c) Determine the conditions under which a migrant worker who has been admitted to take up employment may be authorized to engage in work on his own account and vice versa. In this connection, account shall be taken of the period during which the worker has already been employed or engaged to work on his own account.

(2) In the case of migrant workers lawfully in the territory of a State or employment whose permission to work is limited in time, a State of employment may in addition to the provisions of paragraph one:

(a) Make the right of free choice of employment and employer subject to the condition that the migrant worker has lawfully worked in its territory continuously for a prescribed period;

(b) Limit access by a migrant worker to employment in pursuance of a policy of granting priority to workers who are its nationals or who are assimilated to its nationals 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 lawfully worked continuously for a prescribed period;

(c) If the State of employment is a developing country, impose such restrictions as may be called for by a policy aimed at meeting requirements for qualified manpower with its own nationals.]

Article 53

[(1) The spouse and children of a migrant worker whose authorization of residence or admission is without limit of time shall be permitted free choice of employment [or other economic activity] under the same conditions as are applicable to the migrant worker in accordance with article 52.

(2) In respect of the spouse and children of any migrant worker admitted in accordance with article 45, the States Parties to the present Convention shall pursue a policy aimed at granting priority in respect of employment] [or other economic activity] over other workers who seek admission to the receiving country.]

[(1) If specifically authorized by the State of employment, the spouse and children of a migrant worker lawfully present in the State of employment shall be permitted to engage in employment;

(2) In respect of the spouse and children of any migrant worker admitted in accordance with article 45, the States Parties to the present Convention shall, subject to national laws and regulations and applicable bilateral and multilateral agreements, consider granting priority in respect of employment over other workers who seek admission to the State of employment.]

Article 54

[Without prejudice to the terms of their authorization of residence, migrant workers as defined in Article 2 (1) (a) who are [in a regular situation] [lawful status] shall, in addition to the rights provided for in articles 25 and 44, enjoy equality of treatment with nationals of the receiving State in respect of

(a) Security of employment;

(b) Access to relief work organized by a public authority;

(c) Subject to any conditions or restrictions imposed in pursuance of Article 52, the provision of alternative employment in the event of loss of work; in that event they shall be given priority over other workers who seek admission to the receiving country.]

Article 55

[Migrant workers as defined in article 2 (1) (b) who are in [a regular situation] [lawful status] shall be entitled to equality of treatment with nationals of the State of employment in the exercise of their occupation or profession.]

[Migrant workers as defined in article 2 (1) (b), who are in a regular situation, shall be entitled to equality of treatment with nationals of the State of employment in the exercise of their occupation or profession, except as provided otherwise by the laws and regulations of the State of employment.]

Article 56

[(1) Migrant workers and members of their families in [a regular situation] [lawful status] may not be expelled from a receiving State except: ¶

(a) For reasons of national security, public order (ordre public), or morals;

(b) If they refuse, after having been duly informed of the consequences of such refusal, to comply with the measures prescribed for them by an official medical authority with a view to the protection of public health;

(c) If a condition essential to the issue or validity of their authorization of residence or work permit is not fulfilled;

[(d) In accordance with the applicable laws and regulations of the State of employment.]

(2) [In accordance with applicable laws] any such expulsion shall be subject to the procedural safeguards provided for in Part II of this Convention.

[(3) Before any expulsion or deportation be carried out, all fundamental rights of migrant workers must be legally safeguarded.]]

PART IV

Provisions applicable to particular categories of migrant workers and members of their families

Article 57

(1) The particular categories of migrant workers and members of their families specified below who are in a regular situation [lawful status] as regards their admission, [duration of] stay and employment or other [economic activity] [relevant factors under the applicable legislation of the State of employment], shall enjoy the rights referred to in this part of the Convention.

(2) The provision of this part shall be subject to any more favourable conditions in agreements in force between the State of employment and the State of origin or of normal residence of the migrant worker concerned, [and to the provisions of national legislation].

Article 58. Frontier workers

(1) Frontier workers, as defined in article 2 (2) (a), shall be entitled to all the rights provided for in parts II and III of this Convention which can be applied to them by reason of their presence and work in the territory of the State of employment, excluding rights relating to or arising out of residence [and rights arising out of article 45].

[(2) Frontier worker shall have the right freely to choose their employment [or other economic activity] subject to article 52. This right shall not affect their status as frontier workers.]

Article 59. Seasonal workers

(1) Seasonal workers, as defined in article 2 (2) (b), shall be entitled to all of the rights provided for in parts II and III of this Convention which can be applied to them by reason of their presence and work in the territory of the State of employment.

[(2) A seasonal worker who, not counting seasonal interruptions, has been lawfully employed or working in the State of employment for an aggregate period of 24 months shall be entitled to take up other employment [or economic activity] subject to any conditions or limitations imposed in accordance with article 52.]

Article 60. Seafarers and workers on offshore installations

(1) Seafarers, as defined in article 2 (c), workers on permanent offshore installations, as defined in article 2 (2) (d), and members of their families shall enjoy the following rights:

(a) If the said workers have been authorized to take up residence in the State of employment, they and the members of their families shall be entitled to the rights provided for in parts II and III of this Convention;

[(b) If the said workers have not been authorized to take up residence in the State of employment, they shall be entitled to all of the above-mentioned rights which could be applied to them by reason of their presence or work in the State of employment, excluding rights relating to or arising out of residence [and rights arising out of article 45].]

(2) For the purpose of this article, the State of employment means the State under whose flag or jurisdiction is operated the ship or installation on which the migrant worker is engaged.

Article 61. Itinerant workers

Itinerant workers, as defined in article 2 (2) (e), shall be entitled to all of the rights provided for in parts II and III of this Convention which can be applied to them by reason of their presence in the territory of the State of employment excluding rights relating to or arising out of residence or employment [and rights arising out of article 45].

Article 62. Project-tied workers

1. Project-tied workers, as defined in article 2 (2) (f), and members of their families shall be entitled:

(a) To have written employment contracts in a language they understand, the provisions of which shall not derogate from the rights provided for in this Convention. States concerned shall endeavour in so far as practicable to take measures to ensure that such employment contracts are not modified or substituted to the disadvantage of migrant workers;

(b) To all of the rights provided for in Parts II and III of this Convention except the provisions of [article 44, paragraph 1 (b) and (c), article 46 (b) and articles 53 to 55;]

[(c) [Without prejudice to the rights recognized in article 48], to have their earnings paid in their country of origin or the country of their normal residence;]

[2. States of employment shall encourage the installation by the [enterprise or] employer carrying out the specific project of any necessary facilities for project-tied migrant workers and members of their families, such as housing, schools, medical and recreational services. Any expenditure arising out of the application of this paragraph shall be borne by the [enterprise or] employer concerned unless otherwise agreed with the State of employment [concerned] States.]

3. Subject to the provisions of this Convention applicable to project-tied migrant workers, the States concerned shall endeavour, whenever appropriate, to establish by agreement specific measures on social and economic matters relating to those workers.

4. Without prejudice to existing instruments on social security and double taxation among States concerned, these States concerned shall take appropriate measures to ensure that project-tied workers:

(a) Are adequately covered for the purposes of social security and do not suffer in their State of origin or normal residence any diminution or denial of rights or duplication of social security deductions;

(b) In addition to the provisions of article 49, they do not suffer from double taxation.

PART V

Promotion of sound, equitable and humane conditions in connection with lawful international migration of workers and their families

Article 63

Without prejudice to the provisions of article 37 regarding the freedom of each State to determine the criteria for authorizing the admission, duration of stay, [type or choice of] employment [or other economic activity] of migrant workers and members of their families, the States of employment shall consult and co-operate with other States concerned with a view to promoting sound, equitable and humane conditions in connection with lawful international migration of workers and their families.

[In this respect due regard should be paid not only to manpower needs and resources, but also the social, economic, cultural [and political] and other consequences for migrant workers involved in such migration, as well as for the community or States concerned.]

Article 64

(1) The States Parties to the present Convention shall maintain appropriate government [agencies] [institutions] [entities] [and promote other services] to deal with questions concerning international migration of workers and their families. Their functions [shall] [should] include, inter alia:

(a) The formulation of policies regarding such migration;

(b) Exchange of information, consultation and co-operation with the competent authorities of other States involved in such migration;

(c) [The provision of information, [particularly to employers and their organizations as well as [to workers and] worker's organizations] on policies, laws and regulations relating to migration and employment, on agreements concluded with other States on migration for employment and other relevant topics and on conditions of work and life of migrant workers and members of their families in the States of employment;]

(d) The provision of information and assistance to migrant workers and members of their families regarding requisite authorizations and formalities and arrangements for departure, travel, arrival, stay, employment [and other economic activities] exit and return to the State of 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;

[(e) Other measures which are necessary to facilitate the implementation of the present Convention.]

[(e) The recommending of legislation regulations and other measures which are necessary to facilitate the implementation of the present Convention and to deal with matters relating to international migration and migrant workers.]

[(2) The States Parties to the present Convention shall co-operate in the provision of adequate consular and other services which are necessary to meet the social, cultural and other needs of migrant workers and their families.]

Article 65

[The recruitment [or placement] of workers for employment in another State may be carried out [in conformity with] [subject to] national laws and regulations and in accordance with applicable international agreements [solely] by:

(a) Governmental bodies of the State in which such recruitment takes place;

[(b) Governmental bodies of the State;

(c) A body established by virtue of a bilateral or multilateral agreement;

(d) A prospective employer or a person in his/her service, or private agencies, provided that [any required] approval and supervision for such operations is [solely] granted by the appropriate competent authorities of the State concerned.]

[(1) Subject to the following paragraph the right to undertake operations with a view to the recruitment [or placing] of workers in employment in another country shall be restricted to:

(a) Public services or bodies of the country in which such operations take place;

(b) Public services or bodies of the receiving country, if authorized by agreement between the States concerned;

(c) A body established by virtue of a bilateral or multilateral agreement.

(2) National laws and regulations and bilateral or multilateral agreements may also permit the said operations to be undertaken, subject to the approval and supervision of the authorities of the country concerned, by

(a) The prospective employer or a person in his service acting on his behalf;

(b) Private agencies.]

Article 66

(1) States Parties concerned shall co-operate in the adoption of measures regarding the orderly return of migrant workers and their families to the State of return [and their re-establishment in that State,] 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) In this respect, States concerned may agree on specific measures and modalities for the easing of the process of final return and, whenever possible, the promotion of appropriate conditions in the State of return.

(3) States Parties concerned may also co-operate with a view to ensuring the durable economic, social and cultural reintegration of migrant workers and members of their families in the State of origin on terms agreed upon by the States concerned.

Article 67

(1) The States Parties to the present Convention, 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 or entities who organize, operate or assist in organizing or operating such movements;

(c) Measures to impose effective sanctions on persons, groups or entities who use violence, threats or intimidation against migrant workers or members of their family in an irregular situation.

(2) States of employment shall take all adequate measures that might be effective in eliminating employment in their territory of migrant workers in an irregular situation, including sanctions on persons or entities employing such workers wherever appropriate. The rights of migrant workers vis-à-vis their employer arising from employment shall not be impaired by these measures.

Article 68

States Parties to the present Convention undertake that, when there are migrant workers and members of their families in an irregular situation on their territory, they [will not permit that situation to persist] [shall endeavour to ensure that such a situation does not persist]. In considering 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 State of employment and other relevant considerations, in particular those relating to the family [and social] situation of the workers. If it is decided not to permit a migrant worker or a member of his family to stay in the State of employment, their orderly return to their State of return or any other State in which their admission is guaranteed, shall be ensured as well as their protection during the period pending their departure and during their journey, as stipulated in part II of the present Convention.

Article 69

[(1) The States Parties shall, if not yet provided for in their legislation, [in the same manner as they do for national workers] provide measures to establish and ensure that working and living conditions of migrant workers and members of their families are in keeping with the standards of fitness, safety, health and principles of human dignity. Such measures shall include inspection of the working

and living premises of migrant workers and members of their families by such competent authorities as designated by each State Party concerned. The said authorities shall also make recommendations for the improvement in the quality of these conditions.

(2) The States Parties shall ensure that, wherever necessary, assistance is provided for the repatriation to the State of origin of the bodies of deceased migrant workers or members of their families and that death compensation matters are promptly settled.]

PART VI

Application of the Convention

Article 70

1. [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 Their Families (hereinafter referred to as "the Committee") consisting of [eighteen] experts of high moral standing, impartiality and recognized competence in the field covered by the Convention. [The Committee shall carry out the functions hereinafter provided for.]

2. (a) [Twelve] members of the Committee shall be elected by secret ballot by the States Parties from a list of persons nominated by the States Parties, 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. [These persons shall be nationals of the nominating State.]

[(b) The remaining six members shall be appointed by the Governing Body of the International Labour Office.]

(c) [All] members 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. At least three months before the date of each election the Secretary-General of the United Nations shall address a letter to the 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 which have nominated them, and shall submit it to the States Parties not later than one month before the date of each 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 votes of the States Parties present and voting.

[5. The Secretary-General shall inform the Director-General of the International Labour Office of the result of the elections and shall invite the Governing Body of the International Labour Office to appoint the remaining members.]

6. The members of the Committee shall serve for a term of four years. However, the terms of [six] [nine] of the members elected in the first election [and three of the appointed members] shall expire at the end of two years; the names of these nine members shall be chosen by lot by the Chairman of the Committee.

7. If an expert has ceased to function as a member of the Committee before the expiry of his term, the State Party which nominated the expert [or the Governing Body of the International Labour Organisation which appointed the expert,] shall appoint another expert for the remaining part of the term. [In cases where the new expert is appointed by the State Party], the appointment is subject to the approval of the Committee.

[8. 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 States Parties shall be responsible for all expenses incurred in connection with the administration of the present Convention pursuant to part VI and shall reimburse the United Nations for all costs of meetings, staff, facilities and emoluments.]

[9. The members of the Committee shall receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide, having regard to the importance of the Committee's responsibilities.]

10. 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 71

1. States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the position of their law and practice in regard to the rights recognized in the Convention and to other provisions included herein:

- (a) Within one year after the entry into force for the State Party concerned;
- (b) Thereafter every four years.

2. Reports shall indicate factors and difficulties, if any, affecting the implementation on the present Convention and shall provide information on the characteristics of migration flows in which States Parties to the present Convention are involved.

Article 72

1. The Committee shall examine the reports submitted by each State Party to the present Convention and shall transmit such comments as it may consider appropriate to the other State Party concerned. This State Party may submit to the Committee observations on any comments made by the Committee in accordance with this article. The Committee may request supplementary information from States Parties when considering these reports. [States Parties may participate in meetings of the Committee, when their respective reports are being considered.]

[1 bis. In order to facilitate the co-operation of the International Labour Organisation in the application of the present Convention,

(a) Not later than sixty days before the opening of each regular session of the Committee, the Secretary-General of the United Nations may transmit to the Director-General of the International Labour Office all available information relevant to the application of this Convention, including the reports and commentaries from States Parties referred to in paragraph 1 of this article;

(b) The Committee shall receive and consider the technical opinion and commentaries transmitted to it by the Director-General of the International Labour Office which may be relevant to matters covered in articles 7, 11, 25, 26, 27, 28, 32 and 33 of part II, in part III, in part V and in part VII of the present Convention;

(c) The Committee may also request the technical advice of the International Labour Organisation in other matters relevant to this Convention.]

2. The Committee shall [through the Economic and Social Council] report annually to the General Assembly of the United Nations on its activities and may make suggestions and general recommendations based on the examination of reports and information received from the States Parties. Such suggestions and recommendations shall be included in the report of the Committee together with comments from States Parties.

3. The Secretary-General shall transmit the reports of the Committee to the [Economic and Social Council and] the Commission on Human Rights of the United Nations [and to the Governing Body of the International Labour Office].

4. The Committee may invite the specialized agencies and other organs of the United Nations, as well as regional intergovernmental organizations, to submit information on such matters dealt with in the Convention as fall within their field of competence. Such agencies and organizations may participate, in an advisory capacity, in the consideration by the Committee of such matters.

Article 73

1. The Committee shall adopt its own rules of procedure. [but these rules shall provide, inter alia, that]

2. The Committee shall elect its officers for a term of two years.

3. The Committee shall normally meet annually in order to consider the reports submitted in accordance with article 72 of the present Convention.

4. The meetings of the Committee shall normally be held at United Nations Headquarters.

Article 74

1. If a State Party considers that another State Party is not giving effect to the provisions of the present Convention, it may bring the matter to the attention of the Committee. The Committee shall then transmit the communication to the other State Party concerned. [This State shall, within three months, submit to the Committee] [The Committee may ask the latter to submit to the Committee within three months] written explanations or statements clarifying the matter and the remedy, [if any,] that may have been taken by that State.

2. If within six months of the Committee's transmission of the initial communication to the State Party concerned the matter is not adjusted to the satisfaction of both parties, [either State] [either bilateral negotiations or by any other means which are open to them, States Parties concerned, if they so agree] shall have the right to request the Committee to deal with the matter in accordance with the following paragraphs of this article.

3. 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 respect for the present Convention.

4. The Committee shall hold closed meetings when examining communications under this article.

5. In any matter referred to it, the Committee may call upon the States Parties concerned, referred to in paragraph 2, to supply any relevant information.

6. The States Parties concerned, referred to in paragraph 2, shall have the right to be heard by the Committee and to make submissions in writing.

7. The Committee shall, within 12 months after the transmission of the initial communication under paragraph 2, submit a report:

(a) If a solution within the terms of paragraph 5 is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached;

(b) If a solution within the terms of paragraph 5 is not reached, the Committee shall confine its report to a brief statement of the facts; the written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report.

The report shall be communicated to the States Parties concerned.

Article 75

The provisions of the present Convention concerning the settlement of disputes or complaints shall be applied without prejudice to other 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 its specialized agencies, and shall not prevent the States Parties from having recourse to other procedures for settling a dispute in accordance with international agreements in force between them.

Article 76

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.

PART VII

General provisions

Article 77

1. No provision in this Convention shall affect any rights or freedoms afforded to migrant workers and members of their families by virtue of:

- (a) The law [, legislation] or practice of a State Party; or
- (b) Any international treaty in force for the State Party concerned.

[2. No provision in the present Convention may be interpreted as authorizing any State, group or person to engage in any activity or perform any act that would impair any of the rights or freedoms recognized herein [or introduce limitations based on the present Convention].]

[2. Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention.]

Article 78

The rights provided for in this Convention shall not be capable of renunciation. [It shall be unlawful 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.] [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 shall be subject to penalties.] [No form of pressure upon migrant workers and members of their families with a view to their relinquishing or foregoing any of the same rights shall be permitted.] Any provision in any agreement or contract [the effect of which is] [implying] the relinquishment or foregoing of any of the said rights shall be void.

Article 79

Each State Party to the present Convention undertakes [in accordance with its constitutional processes and with the provisions of this Convention]:

- (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 person claiming such a remedy shall have his right thereto determined 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 80

Each State Party undertakes [in accordance with its constitutional processes and the provisions of this Convention] to adopt the legislative and other measures that are necessary to implement the provisions of the present Convention.

Article 81

States Parties to the present Convention shall remain free to conclude bilateral or multilateral agreements, subject to no limitations other than those provided for in this Convention [with a view to]:

[(a) Resolving such problems as may arise from its implementation, in particular situations in matters such as social security, model employment contract and the validity of certificates and documents;]

[(b) Ensuring the fair and just treatment of all migrant workers and members of their families.]

PART VIII

Final provisions

Article 82

1. The present Convention shall be open for signature by all States. It is subject to ratification, acceptance or approval.

2. The present Convention shall be open to accession by any State referred to in paragraph 1 of this article.

3. Instruments of ratification, acceptance, approval or accession shall be deposited with the Secretary-General of the United Nations.

Article 83

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 or the fifteenth instrument of ratification, acceptance, approval or accession.

2. For each State ratifying the present Convention or acceding to it after the deposit of the fifteenth instrument of ratification, acceptance, approval or accession, it 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, acceptance, approval or accession.

Article 84

1. Where a State Party is constituted as a federal State, the national Government of such State Party shall implement all the provisions of the present Convention over whose subject matter it exercises jurisdiction.

2. With respect to the provisions over whose subject matter the constituent units of the federal State have jurisdiction, the national Government shall immediately take suitable and effective measures, in accordance with its constitution and its laws, to the end that the competent authorities of the constituent units adopt appropriate measures for the fulfilment of the present Convention.

Article 85

[85. Any State Party may, at the time of signature, ratification, acceptance, approval or accession, or at any other date, declare that the present Convention shall extend to all territories of the international relations for which it is responsible, or to one or more of them. Such declaration shall take effect at the time the present Convention enters into force for the State or, if made subsequently, on the first day of the month following the expiration of a period of three months after the date of the receipt of such declaration by the Secretary-General of the United Nations. Such declarations, as well as any subsequent extension and their withdrawal, shall be notified to the Secretary-General of the United Nations.]

Article 86

[At the time of signature, ratification, acceptance, approval or accession, any State may declare that it shall apply [articles 52, 53, 54, 55 and 56] of the present Convention only in relation to nationals of other States Parties.]

Article 87

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 notification 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 six months after the date of the receipt of the notification by the Secretary-General.

Article 88

1. At any time after five years from the entry into force of the Convention a request for the revision of the present 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

[85. The present Convention shall be applicable, in all its terms, in all territories under the effective jurisdiction of States which become Parties thereto. Its provisions should apply at both the national and the local levels and each State Party therefore undertakes to adopt the necessary and effective measures to facilitate such application according to its particular structures and in accordance with its relevant internal procedures.]

Article 86

[At the time of signature, ratification, acceptance, approval or accession, any State may indicate the provisions of parts III and IV of the present Convention which it will apply only to the nationals of other States Parties.]

communicate any proposed amendments to the States Parties to the present Convention 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 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 two thirds of the States Parties shall be submitted to all States Parties for approval.

2. Approval of amendments shall be communicated by the States Parties to the Secretary-General of the United Nations who shall notify all Parties such communications and, when the amendment has entered into force, of which States Parties are bound by it. Amendments shall come into force when they have been accepted by two thirds of the States Parties to the present Convention in accordance with their respective constitutional process.

Article 89

[(1) Any State Party which ratifies this Convention may, by a declaration appended to its ratification, exclude from application of the Convention, parts or articles and/or one or more particular categories of migrant workers.

(2) Such declaration does not affect the rights established for migrant workers and members of their families in the Covenant on Civil and Political Rights.

(3) Any State Party which has made such a declaration may at any time cancel that declaration by a subsequent declaration.]

Article 90

The Secretary-General of the United Nations shall notify all States which have signed, ratified, accepted, approved the present Convention or acceded thereto of the following:

(a) Any signature;

(b) The deposit of any instrument of ratification, acceptance, approval or accession;

(c) Any date of entry into force of the present Convention in accordance with article 83;

(d) Any other act, notification or communication relating to the present Convention.

Article 91

1. The original of the present Convention, of which 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 shall transmit certified copies of the present Convention to all the States referred to in article 82.