

# **INTERNATIONAL MIGRANTS BILL OF RIGHTS**

## **PREAMBLE**

RECALLING the principles proclaimed in the Charter of the United Nations which recognise the inherent dignity and worth, and the equal and inalienable rights of all members of the human family as the foundation of freedom, justice and peace in the world;

CONSIDERING the obligation of States under the Charter of the United Nations and the International Conventions on Human Rights to respect, protect and promote the human rights and fundamental freedoms of migrants;

RECOGNIZING that the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone, including migrants, may enjoy economic, social, cultural, civil, and political rights;

EMPHASIZING the universality, indivisibility, interdependence and interrelatedness of all human rights and fundamental freedoms and the need for migrants to be guaranteed their full enjoyment without discrimination of any kind;

RECALLING the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, the International Convention on the Rights of All Migrant Workers and Members of Their Families, the Convention on the Rights of Persons with Disabilities, the International Convention for the Protection of All Persons from Enforced Disappearance, the 1951 Convention Relating to the Status of Refugees, and the Protocol thereto, International Labour Organization Conventions concerning Decent Work for Domestic Workers, concerning Migration for Employment and concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers, the Convention Against Transnational Organized Crime, and the Protocols thereto, including the Palermo Protocol to Prevent Suppress and Punish Trafficking in Persons, and other relevant international and regional instruments;

RECOGNIZING the legitimate interest of States in controlling their borders and that the exercise of sovereignty entails responsibility, including in the adoption of appropriate and comprehensive migration policies;

REALIZING the importance and extent of the migration phenomenon, which involves millions of individuals and affects all States in the international community;

RECOGNIZING that migrants have special needs that may require special accommodation in certain regards;

AFFIRMING that a balance should be struck between the interest of States in preserving the cultural heritage of their peoples and the interest of migrants in preserving their cultural identity;

REALIZING that the migrant, having duties to other individuals and to the community to which he or she belongs, is under a responsibility to strive for the promotion and observance of the rights contained herein;

CONSIDERING that migrants bring special contributions to their communities, that the ability to participate in and influence one's community is a significant part of human dignity;

RECOGNIZING the importance of governmental cooperation with civil society for upholding the rights of migrants and for promoting their participation in the civil, political, economic, social, and cultural spheres with equal opportunities, in every country;

URGING governmental, administrative, civil society, and other bodies, and actors and individuals dealing with migrants to implement this Bill in the recognition and development of principles, standards, and remedies affecting migrants;

RECOGNIZING that the rights in the present Bill shall be subject only to lawful restrictions permitted by other relevant international instruments;

AFFIRMING that nothing in this Bill shall be interpreted as restricting, modifying, or impairing the provisions of any international human rights or international humanitarian law instrument or rights granted to persons under domestic law;

AFFIRMING that nothing in this Bill shall be interpreted as implying for any State, group, or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Bill; and

CONVINCED that a comprehensive and integral framework protecting and promoting the rights and dignity of all migrants will make a significant contribution to the international protection of their rights:

## **ARTICLE 1**

### **DEFINITION OF MIGRANT**

(1) The term "migrant" in this Bill refers to a person who is outside of a State of which he or she is a citizen or national, or in the case of a stateless migrant, his or her State of birth or habitual residence.

(2) The present Bill shall apply during the entire migration process of migrants.

## **ARTICLE 2**

### **HUMAN DIGNITY**

Every migrant has the right to dignity, including physical, mental, and moral integrity.

## **ARTICLE 3**

### **EQUAL PROTECTION**

- (1) All persons, including migrants, are equal before the law. Every migrant has the right, without any discrimination, to the equal protection of the law on the same basis as nationals of any State in which the migrant is present.
- (2) The present Bill of Rights applies to all migrants without distinction of any kind, such as sex, race, color, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, disability, birth, gender, sexual orientation or gender identity or other status.
- (3) In this respect, the law shall prohibit any discrimination and guarantee to migrants equal and effective protection against discrimination on any ground such as sex, race, color, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, property, marital status, disability, birth, gender, sexual orientation or gender identity or other status.
- (4) Distinctions in the treatment of migrants are permissible, including in the regulation of admission and exclusion, only where the distinction is made pursuant to a legitimate aim, the distinction has an objective justification, and reasonable proportionality exists between the means employed and the aims sought to be realized.

## **ARTICLE 4**

### **VULNERABLE MIGRANTS**

- (1) Every vulnerable migrant has the right to protection and assistance required by the migrant's condition and status and to treatment which takes into account the migrant's special needs.
- (2) In all actions concerning child migrants, the best interests of the child migrant shall be a primary consideration. States shall undertake to ensure the child migrant such protection and care as is necessary for his or her well-being, and assure to the child migrant who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
- (3) States shall take in all fields all appropriate measures to ensure the full development and advancement of women migrants for the purposes of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on the basis of equality with men, including the provision of special protection during pregnancy.

(4) States shall undertake to ensure and promote the full realization of all human rights and fundamental freedoms for all migrants with disabilities without discrimination of any kind on the basis of disability, including through taking appropriate measures to enable migrants with disabilities to live independently and participate fully in all aspects of life.

## **ARTICLE 5**

### **LIFE**

Every migrant has the inherent right to life. This right shall be protected by law. No migrant shall be arbitrarily deprived of his or her life.

## **ARTICLE 6**

### **LIBERTY AND SECURITY OF PERSON**

(1) Every migrant has the right to liberty and security of person. No migrant shall be arbitrarily arrested, detained, or otherwise deprived of liberty.

(2) States shall ensure that deprivations of liberty occur only in accordance with and as authorized by law and only when determined to be necessary, reasonable in all the circumstances, and proportionate to a legitimate objective. States should cease the detention of children on the basis of their immigration status.

(3) Detention shall occur only as measure of last resort and shall last no longer than required by the circumstances. Detention shall occur only pursuant to an individualized determination of the need to detain, and the migrant shall have the right to appeal conditions, legality, and length of detention.

(4) Every migrant deprived of his or her liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

(5) Every migrant who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

## **ARTICLE 7**

### **LEGAL PERSONHOOD**

(1) Every migrant has the right to recognition everywhere as a person before the law.

(2) To give effect to this right to migrants and migrant families, every child shall be registered immediately in the country of the child's birth. A child shall be provided with a birth certificate that provides permanent, official and visible evidence of a state's legal recognition of his or her existence as a member of society.

(3) Every migrant has the right to all documents necessary for the enjoyment and exercise of their legal rights, such as passports, personal identification documents, birth certificates and

marriage certificates. It shall be unlawful for anyone, other than a duly authorized public official, to confiscate, destroy, or attempt to destroy identity documents, documents authorizing entry to or stay, residence or establishment in the national territory, or work permits.

## **ARTICLE 8**

### **REMEDY**

Every migrant has the right to an effective remedy for acts violating the rights guaranteed to the migrant by the relevant domestic law as well as international law, including those rights or freedoms herein recognized.

## **ARTICLE 9**

### **DUE PROCESS**

(1) Every migrant has the right to due process of law before the courts, tribunals, and all other organs and authorities administering justice, as well as those specifically charged with making status determinations regarding migrants.

(2) States shall provide legal aid and representation in criminal proceedings. States should provide legal representation to migrants in all proceedings related to their legal status as a migrant.

(3) Every migrant shall be entitled to interpretation in a language the migrant can understand in criminal proceedings. Migrants should be entitled to interpretation in a language the migrant can understand in all proceedings.

(4) The migrant shall be informed of the availability of such interpretation, aid and representation upon receiving the civil complaint, administrative summons, or upon arrest.

(5) Migrants should be free from disproportionate penalties on account of entry, presence or status, or on account of any other offense which can only be committed by migrants.

## **ARTICLE 10**

### **VICTIMS OF CRIME**

(1) Every migrant victim of crime has the right to assistance and protection, including access to compensation and restitution.

(2) States should provide assistance to ensure the physical, psychological, and social recovery of victims of crimes, especially where such individuals are victims of trafficking in persons.

## **ARTICLE 11**

### **EXPULSION**

- (1) Every migrant has the right to protection against discriminatory or arbitrary expulsion or deportation, including collective expulsion. States shall expel a migrant only when justified by the specific facts relevant to the individual concerned and only pursuant to a decision reached in accordance with and authorized by law.
- (2) Migrants have a right to an effective remedy when expulsion would give rise to a case of violation of human rights.
- (3) Except where compelling reasons of national security otherwise require, a migrant shall be allowed to submit the reasons against his or her expulsion and to have his or her case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority. Pending such review, the migrant concerned shall have the right to seek a stay of the decision of expulsion.
- (4) The decision to expel a migrant shall be communicated to the migrant in a language the migrant understands. Upon request where not otherwise mandatory, the decision shall be communicated to the migrant in writing and, save in exceptional circumstances on account of national security, the reasons for the decision likewise stated. The migrant shall be informed of these rights before, or at the latest, at the time the decision is rendered.
- (5) Expulsion from a State shall not in itself prejudice any rights of a migrant acquired in accordance with the law of that State, including the right to receive wages and other entitlements due to him or her. A migrant shall have a reasonable opportunity before or after departure to settle any claims for wages and other entitlements due to him or her and any pending liabilities.
- (6) In effectuating the expulsion of a migrant from its territory, a State shall ensure the respect of the rights guaranteed to the migrant by relevant domestic and international law, including those rights or freedoms herein recognized.

## **ARTICLE 12**

### **ASYLUM**

- (1) Every migrant has the right to seek and to enjoy in other countries asylum.
- (2) States shall ensure access, consistent with relevant international and regional instruments, to fair and efficient status-determination procedures for migrants seeking asylum within their effective control, whether or not they are within the State's territory.
- (3) No state shall expel or return in any matter a migrant who has been granted asylum or other international protection.

**ARTICLE 13**  
**NON-REFOULEMENT**

- (1) Every migrant has the right against *refoulement*.
- (2) No migrant shall be expelled or returned in any manner to another State where there are substantial grounds for believing that he or she would be subjected to torture or cruel, inhuman or degrading treatment or punishment.
- (3) No migrant shall be expelled or returned in any manner to the frontiers of territories where his or her life or freedom would be threatened on account of race, religion, nationality, membership of a particular social group, or political opinion.
- (4) No migrant shall be expelled or returned in any manner to another State where there are substantial grounds for believing that he or she would be subjected to a serious deprivation of fundamental human rights.
- (5) No migrant should be expelled or returned in any manner to another State where there are substantial grounds for believing that he or she would be subjected to other serious deprivations of human rights.
- (6) States shall respect the *non-refoulement* rights of all migrants within their effective control, whether or not they are within the State's territory.

**ARTICLE 14**  
**NATIONALITY**

- (1) Every migrant has the right to a nationality.
- (2) Every person has the right to the nationality of the state in whose territory he or she was born if the person does not have the right to any other nationality.
- (3) States shall provide for, and should encourage, the naturalization of migrants, subject to limitations and conditions that are non-arbitrary and accord with due process of law.
- (4) States shall recognize the right of expatriation and renunciation of citizenship, subject only to conditions and limits based on compelling considerations of public order or national security.
- (5) Neither marriage nor the dissolution of marriage shall automatically affect the nationality of either spouse or their children. States shall not remove the nationality of a citizen who marries a non-citizen unless the citizen takes affirmative steps to renounce his or her citizenship. States shall grant women equal rights with men with respect to the nationality of their children.
- (6) No migrant shall be arbitrarily deprived of his or her nationality nor denied the right to change his or her nationality. States should not consider a migrant's acquisition of foreign nationality to be an automatic or implied basis of renunciation of the nationality of the State of

origin.

(7) States should allow children having multiple nationalities acquired automatically at birth to retain those nationalities.

## **ARTICLE 15**

### **FAMILY**

(1) Every migrant family is entitled to protection by society and the State.

(2) States shall take all appropriate measures to facilitate the reunification of migrant family members with nationals or citizens.

(3) Children with no effective nationality have the right to return to either parent's State of origin and to stay indefinitely with their parent or parents regardless of the children's citizenship.

(4) States should grant derivative immigration status and timely admission to dependent family members of migrants who are lawfully settled within the State. States should consider extending derivative immigration status to non-dependent family members of lawfully settled migrants.

## **ARTICLE 16**

### **FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION OR BELIEF**

(1) Every migrant has the right to freedom of thought, conscience, and religion or belief.

(2) This right shall include freedom to have or to adopt a religion or belief of one's choice, and freedom, either individually or in community with others and in public or private, to manifest one's religion or belief in worship, observance, practice and teaching. Migrants shall not be subject to coercion that would impair their freedom to have or to adopt a religion or belief of their choice.

(3) States shall undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

## **ARTICLE 17**

### **FREEDOM OF OPINION AND EXPRESSION**

(1) Every migrant has the right to hold opinions without interference.

(2) Every migrant has 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 his or her choice.



**ARTICLE 18**  
**FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION**

- (1) Every migrant has the right to freedom of peaceful assembly and association.
- (2) These rights shall include freedom to form associations and trade unions in the State of residence for the promotion and protection of the migrant's economic, social, cultural, and other interests.

**ARTICLE 19**  
**CIVIL AND POLITICAL LIFE**

- (1) Every migrant has the right to participate in the civil and political life of his or her community and in the conduct of public affairs.
- (2) This right shall include the freedom to participate in public affairs of their State of origin and to vote and to be elected at elections of that State, in accordance with its legislation.

**ARTICLE 20**  
**LABOR**

- (1) Every migrant has the right to be free from slavery, servitude, or forced or compulsory labor.
- (2) Every migrant has the right to work, and States shall take progressive measures to safeguard this right.
- (3) Every migrant has the right to just and favorable conditions of work, including fair and equal remuneration, minimum working age, maximum hours, safety and health standards, protection against unfair dismissal, and collective bargaining.
- (4) States shall ensure the effective abolition of child labor.
- (5) States shall ensure the elimination of discrimination in respect of employment and occupation.
- (6) Migrants shall be entitled to treatment at least as favorable as that accorded to citizens with respect to labor conditions and employment.
- (7) States should require that migrant workers who are recruited in one country for work in another receive a written job offer, or contract of employment that is enforceable in the country in which the work is to be performed, addressing the terms and conditions of employment prior to crossing national borders for the purpose of taking up the work to which the offer or contract applies.

## **ARTICLE 21**

### **HEALTH**

Every migrant has the right to the enjoyment of the highest attainable standard of physical and mental health, including equal access to preventive, curative, and palliative health services, and the right to an adequate standard of living and to the underlying determinants of health.

## **ARTICLE 22**

### **EDUCATION**

(1) Migrants and their children have the right to education.

(2) States shall make primary education free and compulsory for all children including migrants and their children. Access to public pre-school educational institutions or schools shall not be refused or limited by reason of the irregular situation with respect to stay or employment of either parent or by reason of the irregularity of the child's stay in the State.

(3) States shall encourage the development of secondary education and shall make it accessible to all, including migrants and their children, on the basis of equal treatment with nationals.

(4) States shall make higher education equally accessible to all including migrants and their children, on the basis of capacity.

## **ARTICLE 23**

### **CULTURE**

(1) Every migrant has the right to enjoy the migrant's own cultures and to use his or her own languages, either individually or in community with others, and in public or private.

(2) The right to cultural enjoyment includes the freedom of migrant parents to ensure the religious, cultural, linguistic, and moral education of their children, in conformity with their convictions, by choosing for their children schools other than those established by the public authorities.

(3) States shall not impede, but should encourage and support, migrants' efforts to preserve their cultures by means of educational and cultural activities, including the preservation of minority languages and knowledge related to a migrant's culture. Nothing in this Article shall mean that States may not adopt measures to promote acquisition and knowledge of the majority, national, or official language or languages of the State.

(4) States should take appropriate steps to promote public awareness and acceptance of the cultures of migrants by means of educational and cultural activities, including minority languages and knowledge related to the migrant's own culture.