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ASIAN-AFRICAN LEGAL CONSULTATIVE ORGANIZATION



LEGAL PROTECTION OF MIGRANT WORKERS

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I. INTRODUCTION

A. AALCO and the Legal Protection of Migrant Worker

1. The issue of the Legal Protection of Migrant Workers was first formally taken up by AALCO at its Thirty-Fifth Annual Session in Manila (1996) upon the recommendation of the Republic of the Philippines.¹ Since then, it has remained a recurring agenda item and an integral part of AALCO's work programme. Recognising the growing importance of migration for both sending and receiving states, AALCO, together with the International Organization for Migration (IOM), signed a Cooperation Agreement on 6 October 2000, marking the beginning of structured collaboration between the two institutions.²

2. Following this, the AALCO Secretariat was directed in 2001 to examine the feasibility of drafting a "Model Agreement for Cooperation Among Member States on Issues Related to Migrant Workers" and to explore the possibility of convening an open-ended working group for in-depth consideration of related issues. A preliminary framework of such a model agreement was presented at the Thirty-Seventh Annual Session in New Delhi (1998), and further refined at subsequent sessions, including the Thirty-Eighth in Accra (1999) and the Forty-Sixth in Cape Town (2007).³ A draft Model Agreement prepared in collaboration with IOM has been considered by Member States.

3. Over the years, AALCO has also convened special meetings and workshops on related themes including a one-day special meeting during the Forty-Third Annual Session (2004) on trafficking in persons, especially women and children, with participation from UNODC, UNICEF, UNHCR and IOM, and a Workshop on Trafficking in Persons and Smuggling of Migrants jointly organised with the Attorney General's Chambers of Malaysia in Putrajaya (2010). The subject was last deliberated as part of a Half-Day Special Meeting on Trafficking of Women/Children, Migrant Workers and Protection of Children at AALCO's Fiftieth Annual Session in Colombo (2011).⁴

¹ AALCO, *Report of the Thirty-Fifth Annual Session*, Manila (1996).

² AALCO and IOM, *Cooperation Agreement between AALCO and IOM* (6 October 2000).

³ AALCO, *Report of the Forty-Sixth Annual Session*, Cape Town (2007).

⁴ AALCO, *Report of the Fiftieth Annual Session*, Colombo (2011).

4. More recently, AALCO has placed renewed emphasis on migration governance in light of the adoption of the Global Compact for Safe, Orderly and Regular Migration (GCM) by 164 UN Member States in December 2018, 35 of which are also AALCO Member States. The GCM is the first non-legally binding, cooperative framework to holistically cover all dimensions of international migration, setting out 23 objectives for state action.⁵

5. With its membership drawn from Asia and Africa, regions that together account for the largest share of global migrant worker flows, AALCO is particularly well-placed to contribute to shaping fair, equitable, and sustainable migration governance frameworks. AALCO continues to focus on migrant worker protection reflects a recognition that migration is a matter of economic utility as well as human dignity and fundamental rights.

B. Topics for Focussed Deliberations at the Sixty-Third Annual Session

6. For the Sixty-Third Annual Session, the AALCO Secretariat has prepared this brief with a focus on rights of Migrant Workers as follows:

1. International Legal Framework on Migrant Worker Protection
2. Recent developments including Treaty Body deliberations, regional consultations and climate change-induced migration

II. INTERNATIONAL LEGAL FRAMEWORK ON MIGRANT WORKER PROTECTION

A. The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW)

7. The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW) is a pivotal human rights treaty that seeks to establish a comprehensive framework for safeguarding the dignity and fundamental freedoms of migrant workers and their families. The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW) was adopted by the United Nations

⁵ UNGA Res 73/195, ‘Global Compact for Safe, Orderly and Regular Migration’ (19 December 2018).

General Assembly on 18 December 1990 and entered into force on 1 July 2003.⁶ It is widely regarded as the most comprehensive multilateral treaty dealing specifically with the protection of migrant workers.

8. The Convention contains 93 articles arranged in nine parts. Part III (Articles 8-35) sets out human rights of all migrant workers and members of their families, irrespective of status; Part IV (Articles 36-56) provides additional rights for documented/regular migrants.⁷ It provides a framework for governing labour migration in a way that is fair and protects the welfare of migrants.

9. The Convention applies throughout the migration cycle including preparation, departure, transit, stay and return and adopts functional definitions of categories such as frontier, seasonal, seafarer and project-tied workers.⁸ It requires non-discrimination in the application of rights⁹ and clarifies that irregular status does not extinguish core human rights protections.¹⁰

10. One of the primary objectives of the ICMW is to combat the exploitation of migrant workers, a problem exacerbated by illegal and clandestine migration. The Convention recognizes that irregular migrant workers are not criminals but are often victims of exploitative systems and trafficking, and it therefore sets out to address the root causes of their vulnerability.¹¹ By emphasizing the right to a minimum standard of protection for all migrants, the treaty provides a legal tool to encourage states to align their national legislation with internationally recognized human rights standards.¹² Among the rights guaranteed to all migrant workers and their families are: the right to life and freedom from torture, slavery and forced labour,¹³ freedom of movement to leave any country and to return to one's own,¹⁴ due process and humane treatment in detention,¹⁵

⁶ UN General Assembly, *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families* (A/RES/45/158, 18 December 1990) entered into force 1 July 2003, Preamble.

⁷ *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* (ICMW)

⁸ ICMW, art 2 and 79.

⁹ ICMW art 7.

¹⁰ ICMW Part III arts 8-35; Ryszard Cholewinski, 'International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families' (2022) E Elgar Encyclopedia of Human Rights.

¹¹ The International Convention on Migrant Workers and its Committee (Office of the High Commissioner for Human Rights, Fact Sheet No 24, 2017) 2.

¹² Scholars Commons @ Laurier, 'No. 21: The UN Convention on the Rights of Migrant Workers: The Ratification Non-Debate' (2018) Scholars Commons @ Laurier <https://scholars.wlu.ca/samp/84/> accessed 27 August 2025.

¹³ ICMW, arts 9-11.

¹⁴ ICMW art 8.

¹⁵ *ibid*, arts 16-19.

a specific ban on confiscation or destruction of identity documents except by lawfully authorised officials with a detailed receipt and prompt return,¹⁶ and a categorical prohibition of collective expulsion, with a requirement that each expulsion case be individually examined and decided.¹⁷

11. The Convention outlines a broad range of rights for both documented and undocumented migrant workers, building upon existing human rights instruments. The ICMW affirms equality of treatment in remuneration and working conditions, recognition of trade union and association rights, access to social security on the same basis as nationals where conditions are met, and access to emergency medical care irrespective of status. It also guarantees children's access to education and birth registration.¹⁸

12. For all migrant workers, it reaffirms fundamental rights such as the right to life, prohibition of torture, and the prohibition of slavery and forced labour.¹⁹ Notably, it prohibits arbitrary confiscation of identity documents and protects against collective expulsion, with each case of expulsion requiring an individual examination.²⁰ For documented or regular migrant workers, the treaty grants additional rights, including the freedom to move within the territory of the host state and the right to form and join trade unions.²¹ It also promotes the reunification of families and ensures access to essential social services such as education and social security on an equal basis with nationals.²²

13. The ICMW provides that States must report initially and periodically to the CMW on measures taken.²³ While Article 77 provides for individual communications, OHCHR confirms that neither the inter-State nor has the individual complaint mechanism has entered into force for the ICMW yet. The Committee has nevertheless developed significant interpretive guidance,

¹⁶ *ibid*, art 21.

¹⁷ *ibid*, art 22.

¹⁸ *ibid*, arts 25-30

¹⁹ *ibid*, arts 9-11.

²⁰ *ibid*, arts 21-22.

²¹ *ibid*, arts 40-41.

²² *ibid*, arts 27, 30 and 43.

²³ *ibid*, arts 73-74.

including General Comment No 6 (2025) on the convergence between the ICMW and the Global Compact for Migration.²⁴

14. While the ICMW is a powerful normative instrument, a significant challenge to its effectiveness is the relatively low number of ratifications, particularly among major migrant-receiving countries. As of August 2025, there are 60 parties to the Convention, most of which are migrant-sending states.²⁵ This has created a gap between the Convention's universal principles and its practical application. Despite this, the ICMW provides a crucial standard for international discourse and national policy on migration, serving as a guiding framework for states and a vital tool for civil society organizations advocating for migrant rights.

15. The ICMW complements ILO Conventions Nos 97 and 143 and interacts with general human rights treaties (ICCPR, ICESCR, CRC, CEDAW). Its specific protections, such as the ban on collective expulsion and on passport confiscation, have informed soft-law standards and State practice on fair recruitment, due process, and anti-xenophobia measures.

B. Relevant ILO Conventions and Recommendations

(i) Migration for Employment Convention (Revised), 1949 (No. 97)

16. The Migration for Employment Convention (Revised), 1949 (No. 97) was adopted by the International Labour Conference on 1 July 1949 and entered into force on 22 January 1952.²⁶ It revised the earlier 1939 convention on the same subject, aiming to respond to post-war labour shortages and rising cross-border worker mobility. It remains one of the two core ILO treaties on migrant workers, alongside Convention No. 143 (1975).

17. Convention No. 97 applies to all migrant workers who are lawfully within a state's territory, though certain categories (frontier workers, seafarers, short-term trainees and

²⁴ ICMW arts 73-74 and 77; OHCHR, 'Communications procedures (CMW)'; CMW, *General Comment No 6: The Convention and the Global Compact for Safe, Orderly and Regular Migration* (2 January 2025).

²⁵ United Nations Geneva, 'Committee on Rights of Migrant Workers launches General Comment No. 6' (15 April 2025) (noting 60 States parties); UN Treaty Collection, CMW page <https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-13&chapter=4> accessed 28 August 2025).

²⁶ ILO, Migration for Employment Convention (Revised), 1949 (No 97), adopted 1 July 1949, entered into force 22 January 1952, 120 UNTS 71.

professionals on assignment) may be excluded at a state's discretion.²⁷ It consists of a Preamble and 23 Articles, supported by three annexes.

18. Its most important aspects are anchored in several key legal provisions. Article 6 provides for the Equality of Treatment (Article 6). It establishes a binding obligation for a ratifying state to grant to lawfully admitted migrant workers a level of treatment that is no less favourable than what it extends to its own nationals. This principle of non-discrimination is applied broadly to a number of crucial areas:

- **Remuneration and Working Conditions:** This includes not only wages but also family allowances, hours of work, overtime, holidays with pay, and restrictions on homework. The goal is to prevent the undercutting of national labour standards and ensure that migrant workers are not exploited due to their foreign status.
- **Social Security:** The Convention ensures that migrant workers are included in social security schemes, covering contingencies such as employment injury, maternity, sickness, invalidity, and old age. This ensures that they have a safety net and can maintain their rights even if they change jobs or return to their home country.
- **Trade Union Rights and Accommodation:** The Convention explicitly grants migrant workers the right to join trade unions and enjoy the benefits of collective bargaining, a fundamental right that provides them with a collective voice. It also addresses the issue of accommodation, recognizing its importance for the well-being and integration of migrant workers.
- **Employment Taxes and Legal Proceedings:** Equality is also mandated in the sphere of employment taxes and contributions. Crucially, it provides equal access to legal proceedings, ensuring that migrant workers can seek redress in courts or other administrative bodies for any grievances related to their employment or legal status.

²⁷ *ibid*, art 11.

19. The Convention also sets forth measures to facilitate and promote an organized and ethical migration process under Articles 2-5 and 7, thereby reducing the risks of exploitation and abuse. Under Article 8, a migrant worker admitted on a permanent basis, and his/her family, cannot be expelled solely because the worker is unable to continue employment owing to illness, injury, or occupational disease contracted after entry. This was an early recognition of the principle of security of residence for long-term migrants.

20. Convention No. 97 obliges States to permit migrant workers to transfer their earnings and savings freely to their country of origin, recognising the central role of remittances in sustaining households and national economies.²⁸

21. Although Convention No. 97 has no low ratification status, it has been instrumental in shaping the legal discourse on migration and continues to influence bilateral labour agreements.²⁹ It served as a precursor to later instruments such as Convention No. 143 and the ICMW. These legal provisions remain a benchmark reference in ILO jurisprudence and migration policy.³⁰

(ii) Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)

22. The Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) is a landmark ILO instrument adopted on 24 June 1975 and entering into force on 9 December 1978. It was formulated to supplement the earlier Convention No. 97 and addresses two major themes³¹:

- (a) measures to prevent and suppress abusive migration practices (including clandestine movements, trafficking and exploitative recruitment), and
- (b) the promotion of equality of opportunity and treatment for migrant workers lawfully residing in a State.

²⁸ *ibid*, art 9.

²⁹ ILO, 'Fair Recruitment Initiative: Progress Report 2020–2025' (ILO 2025).

³⁰ Opekin, R Perruchoud and J Redpath-Cross (eds), *Foundations of International Migration Law* (CUP 2012) 174-179.

³¹ ILO, Migrant Workers (Supplementary Provisions) Convention, 1975 (No 143), adopted 24 June 1975, entered into force 9 December 1978, 1120 UNTS 323.

23. Migration in Abusive Conditions (Part I, Article 1- 9): This part explicitly addresses the problems of irregular migration and the exploitation that often accompanies it. It places an obligation on ratifying states to take action to suppress these abusive conditions.

- Protection of Rights for Irregular Migrants - a key feature of Part I is its recognition that even migrant workers in an irregular situation are entitled to basic human rights.
- Combating Irregular Migration - the Convention calls on states to adopt measures to suppress clandestine movements of migrants for employment and illegal employment of migrants. Here, the goal is to dismantle the exploitative systems that profit from irregular migration, rather than punishing the workers themselves.
- Equal Treatment for All Migrant Workers – the convention stipulates that, regardless of their legal status, migrant workers shall be guaranteed equal treatment with nationals. This provision ensures that employers cannot exploit irregular workers and deny them their earned wages or benefits by citing their lack of legal status.
- Preventing Loss of Status – the convention provides a crucial safeguard against the arbitrary withdrawal of legal status. This provision aims to prevent migrant workers from becoming vulnerable and undocumented due to job loss, ensuring they have a period to find new employment.
- Access to Justice - The Convention guarantees migrant workers, including those in an irregular situation, the possibility of presenting their case to a competent body in disputes over their rights. This provision is vital for ensuring that all workers, regardless of their legal status, have access to legal remedies and are not left without recourse against exploitative employers.

24. Equality of Opportunity and Treatment (Part II, Article 10-14): This Part builds upon Convention No. 97's non-discrimination mandate and elaborates State obligations towards migrant workers lawfully resident in the territory:

- Broadening the Scope of Equality (Articles 10-11) - The Convention requires states to pursue a national policy designed to promote and guarantee equality of opportunity

and treatment for migrant workers and their families. This goes beyond just working conditions and social security to include access to employment, social security, trade union and cultural rights, and individual and collective freedoms.

- Access to Employment (Article 12) - The Convention stipulates that after a prescribed period (not exceeding two years), a migrant worker who has resided lawfully in a country should have the free choice of employment. This provision aims to grant migrant workers greater mobility in the labour market, preventing them from being tied to a single employer and increasing their bargaining power.
- Family Reunification and Social Integration (Articles 13-14) - Convention recognizes the importance of family unity and social integration. It calls on states to facilitate the reunification of families of migrant workers who are legally residing in their territory.

25. Convention No. 143 stands as a progressive development in the international protection of migrant workers, particularly in its recognition that all migrants, irrespective of status, are entitled to the enjoyment of fundamental human rights and access to remedies. At the same time, the Convention draws a careful distinction between the rights accorded to irregular migrants and the broader labour and social entitlements guaranteed to those in a regular situation, thereby seeking to balance humanitarian protection with the sovereign prerogatives of States in regulating migration. While its normative value is widely acknowledged, the Convention's practical impact has been shaped by the fact that ratification remains limited and the effective implementation of its provisions often depends on the political will and institutional capacity of States. It continues to serve as an important reference point in international migration governance, complementing other instruments and guiding ongoing dialogue on the rights of migrant workers.

(iii) Domestic Workers Convention, 2011 (No. 189)

26. The Domestic Workers Convention, 2011 (No. 189), is a landmark international treaty that recognizes domestic work as a legitimate occupation and aims to provide domestic workers with the same basic labour rights as other workers. Adopted on 16 June 2011 and entering into force on 5 September 2013, the Convention sets out an integrated set of obligations for ratifying Members

to ensure decent terms and conditions of employment, safeguards against abuse, and effective mechanisms for implementation and monitoring.

27. The Convention provides for equal dignity and protection for domestic workers and requires ratifying countries to ensure that domestic workers, like other workers, enjoy fair terms of employment, including reasonable hours of work, weekly rest periods of at least 24 consecutive hours, and paid annual leave. It mandates that domestic workers have the right to a minimum wage, social security benefits (including maternity, sickness, and old-age benefits), and other entitlements that are no less favourable than those of other workers.

28. The Convention calls for domestic workers to receive a written contract or a written job offer prior to employment, clearly outlining their terms and conditions of work, including the type of work to be performed, remuneration, and hours of work.³² It requires states to take effective measures to protect domestic workers from all forms of abuse, violence, and harassment.³³

29. The Convention affirms the right of domestic workers to freedom of association and the effective recognition of the right to collective bargaining.³⁴ It includes specific provisions for migrant domestic workers, such as the requirement for a written contract before they cross a border and protection from abusive practices by private employment agencies. The Convention mandates the regulation and supervision of private employment agencies that recruit or place domestic workers, with a focus on preventing fraudulent and abusive practices.

30. This Convention is a crucial step towards ensuring decent work for millions of domestic workers worldwide, a sector predominantly made up of women and girls, many of whom are migrants. While C189 is widely regarded as a progressive and practical instrument, its effective realisation depends on ratification and robust national implementation. So far, the Convention has received 40 ratifications so far.³⁵

³² Domestic Workers Convention, 2011 (No. 189), art 8.

³³ *ibid*, art 9.

³⁴ *ibid*, art 12.

³⁵ Ratifications of C189 - Domestic Workers Convention, 2011 (No. 189), https://normlex.ilo.org/dyn/nrmlx_en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:2551460

(iv) ILO Protection of Migrant Workers (Underdeveloped Countries) Recommendation, 1955 (No. 100)

31. The ILO Recommendation No. 100, adopted in 1955, focuses on the protection of migrant workers in underdeveloped countries. This non-binding instrument complements the Migration for Employment Convention (Revised), 1949 (No. 97) by providing practical guidance to ensure fair treatment, decent working conditions, and social protections for migrant workers in regions with less developed labour systems.³⁶ Its main aspects are:

- **Travel and Protection:** The Recommendation provides specific guidance on the protection of migrant workers and their families during their journey, including safe transport, rest camps, and free medical examinations on departure and upon arrival.³⁷
- **Equality of Opportunity:** It emphasizes the principle of equal opportunity for all people, including migrant workers, and calls for measures to prevent discrimination based on national origin, race, colour, belief, or other factors.³⁸
- **Recruitment and Employment:** It recommends that governments take measures to ensure the proper placement of migrant workers and to prevent abuses by private employment agencies.³⁹
- **Transfer of Earnings:** It recommends arrangements to ensure that migrant workers can transfer their earnings and savings.⁴⁰
- **Welfare and Housing:** The Recommendation addresses the welfare and living conditions of migrant workers, including provisions for housing and social services.⁴¹

³⁶ ILO, Migration for Employment Recommendation (No. 100), adopted 1955, International Labour Conference, 38th Session.

³⁷ *ibid*, paras 6-9.

³⁸ *ibid*, para 14.

³⁹ *ibid*, 10-12.

⁴⁰ *ibid*, para 22.

⁴¹ *ibid*, paras 15-18.

32. In essence, ILO Recommendation 100 serves as a practical guide for countries to implement policies that ensure the well-being and fair treatment of migrant workers, addressing their protection at every stage of the migration process.

33. Recommendation No. 100 has been instrumental in shaping policies to protect migrant workers, particularly in regions with developing economies. By emphasizing equality of treatment and regulated migration processes, it has influenced national labour laws and international agreements. The Recommendation has inspired initiatives like bilateral labour agreements and regional frameworks for migrant worker protections. It also laid the groundwork for later ILO instruments, such as the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), which expanded protections to irregular migrants.⁴² The Recommendation's principles remain relevant today, as millions of migrant workers face challenges such as wage theft, poor working conditions, and lack of social protections.

(v) ILO Migrant Workers Recommendation, 1975 (No. 151)

34. The Migrant Workers Recommendation, 1975 (No. 151) was adopted alongside the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) at the 60th Session of the International Labour Conference.⁴³ As a non-binding instrument, it supplements Convention No. 143 and builds upon earlier standards, notably the Migration for Employment Convention (Revised), 1949 (No. 97) and the Migration for Employment Recommendation, 1955 (No. 100). It provides detailed guidance to Member States on policies to safeguard the rights of migrant workers and their families, with a particular focus on equality of opportunity and treatment and on addressing the social dimensions of migration.⁴⁴ It provides for the following:

- **Equality of Opportunity and Treatment⁴⁵:** It calls for migrant workers and their families to have effective equality of opportunity and treatment with nationals of the country of employment in areas such as access to employment, vocational training, trade union membership, and social security.

⁴² R Cholewinski, *Migrant Workers in International Human Rights Law: Their Protection in Countries of Employment* (OUP 1997) 120-125.

⁴³ ILO, *Migrant Workers Recommendation, 1975 (No. 151)*, adopted 24 June 1975, International Labour Conference, 60th Session.

⁴⁴ *ibid*, Preamble.

⁴⁵ *ibid*, para 4.

- **Family Reunification⁴⁶:** The Recommendation urges countries to take all possible measures to facilitate the reunification of migrant workers' families as quickly as possible.
- **Social Services⁴⁷:** It outlines the need for social services to assist migrant workers and their families in adapting to their new environment and to help them preserve their national and cultural identity.

35. Recommendation No. 151 remains an important policy tool for States, offering a framework that balances protection, integration, and respect for cultural identity. It anticipates modern approaches to migration governance by linking labour rights, social cohesion, and human dignity. While many of its principles have been incorporated into national policies and bilateral or regional agreements, practical implementation continues to face challenges due to discrimination, irregular migration, and weak enforcement in some contexts. Its continued relevance lies in guiding States towards ensuring that migrant workers contribute to and benefit from inclusive and equitable societies.⁴⁸

C. The Global Compact for Safe, Orderly and Regular Migration (GCM)

36. The Global Compact for Safe, Orderly and Regular Migration (GCM) is the first intergovernmentally negotiated agreement under the United Nations, designed to address all dimensions of international migration holistically. Adopted in 2018, it is a non-legally binding framework that promotes safe, orderly, and regular migration while respecting state sovereignty and human rights. It addresses the complexities of global migration, involving over 258 million international migrants at the time of its development, driven by economic opportunities, conflict, climate change, and demographic shifts⁴⁹. The GCM aims to harness migration's potential for sustainable development while mitigating risks and challenges.

⁴⁶ *ibid*, para 32.

⁴⁷ *ibid*, para 36-38.

⁴⁸ B Opeskin, R Perruchoud and J Redpath-Cross (eds), *Foundations of International Migration Law* (CUP 2012) 183-186; R Cholewinski, *Migrant Workers in International Human Rights Law: Their Protection in Countries of Employment* (OUP 1997) 127-131.

⁴⁹ UN Department of Economic and Social Affairs, 'International Migration Report' 2017; UN Migration, 'Global Compact for Safe, Orderly and Regular Migration' 2018

37. The GCM emerged from the New York Declaration for Refugees and Migrants, adopted by the UN General Assembly in September 2016, which called for two global compacts: one for refugees and one for migration⁵⁰. The process began in April 2017 with 18 months of consultations, including thematic sessions, regional consultations, and stocktaking meetings. The text was finalized on 13 July 2018 and adopted at the Intergovernmental Conference in Marrakech, Morocco, on 10-11 December 2018, with UN General Assembly endorsement on 19 December 2018⁵¹. The GCM aligns with the 2030 Agenda for Sustainable Development and complements the Global Compact on Refugees.

38. The GCM includes 23 objectives designed to improve migration governance across the entire migration cycle. Its central aims are to address root causes of forced migration, expand regular and safe migration pathways, and uphold migrants' dignity through ethical recruitment, decent work, access to services, and protection from exploitation, trafficking, and smuggling. It also seeks to strengthen border management and predictable migration procedures, ensure legal identity and documentation, and promote alternatives to detention. Beyond protection, the GCM emphasizes integration, inclusion, elimination of discrimination, skills recognition, portability of benefits, and safe return and reintegration. Finally, it highlights the importance of data-driven policymaking, consular cooperation, affordable remittances, and global partnerships, framing migration as a shared responsibility and a contributor to sustainable development.

39. Implementation of the GCM is supported by the UN Network on Migration and tools like the Migration Network Hub. Implementation is voluntary, supported by the UN Network on Migration, which provides resources like the Migration Network Hub and Multi-Partner Trust Fund.⁵² Follow-up mechanisms include quadrennial International Migration Review Forums (first in 2022), regional reviews, and biennial Secretary-General reports.

⁵⁰ UN General Assembly, 'New York Declaration for Refugees and Migrants' 2016.

⁵¹ UN Migration, 'Global Compact for Safe, Orderly and Regular Migration' 2018; UN General Assembly, 'Marrakech Conference Outcomes' 2018.

⁵² UN Network on Migration, 'Implementation Framework' 2020

III. RECENT DEVELOPMENTS

A. Highlights from Treaty Body Deliberations

40. The Committee on Migrant Workers (CMW) is the treaty body of independent experts mandated to monitor implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW). It held its thirty-ninth session (2-13 December 2024) and fortieth session (7-17 April 2025) in Geneva.⁵³

General Session Highlights

41. At its thirty-ninth session, the Committee adopted General Comment No. 6 (2024) on the *convergent protection of migrant workers through the ICMW and the Global Compact for Safe, Orderly and Regular Migration (GCM)*.⁵⁴ The General Comment reaffirmed that a human rights-based approach is central to migration governance, stressing that all migrants, irrespective of status, are rights holders. The Comment was formally launched during a public event in April 2025, with contributions from partners including the International Labour Organization (ILO) and UNICEF. The ILO drew attention to evidence that migrant workers are three times more likely to be in forced labour and generally earn lower wages than nationals, while UNICEF emphasised the importance of birth registration to prevent childhood statelessness.⁵⁵

42. The Committee's sessions were marked by a focus on strengthening migrant workers' rights in a global context of increasing human mobility, rising xenophobia, and evolving challenges. They stressed that both instruments serve to protect migrants as rights holders and to counter dehumanizing narratives. The Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families will hold its 41st session from December 1-11, 2025.⁵⁶

⁵³ UN Committee on Migrant Workers (CMW), *Report on the Thirty-ninth Session (2–13 December 2024) and Fortieth Session (7–17 April 2025)*, UN Doc CMW/C/139/40/2 (2025).

⁵⁴ CMW, *General Comment No 6 (2024) on the convergent protection of migrant workers through the ICMW and the GCM*, adopted 13 December 2024.

⁵⁵ Ibid; ILO contribution to General Comment No 6 launch, April 2025; UNICEF intervention, *ibid*.

⁵⁶ *ibid*, *Report on the Thirty-ninth and Fortieth Sessions* para 12.

Examination of State Party Reports

43. During these sessions, the Committee reviewed the periodic reports of several States including the Arab Republic of Egypt and the initial report of Malaysia, from amongst AALCO Member States.

Arab Republic of Egypt

44. During the 39th session, the Committee considered the combined second to fourth periodic reports of Egypt. Experts acknowledged Egypt's significant role in regional stability and its hosting of a large number of migrants and refugees. They mentioned that it hosts 9 million migrants and refugees. The Arab Republic of Egypt stated its commitment to combating irregular migration and human trafficking, aligning its efforts with the migration governance principles of the GCM.

Malaysia

45. Malaysia reported that it is home to over 2 million migrants. As a country significantly affected by labour migration, Malaysia has ratified key International Labour Organization (ILO) conventions and protocols on forced labour⁵⁷ and has implemented a 2021-2025 labour plan strategy, including reforms to recruitment and monitoring systems. Malaysia's representative sought the Committee's guidance on enhancing international cooperation to combat forced labour and protect migrant workers' rights.

Engagement of Asian-African States at the Committee on Migrant Workers

46. The CMW's deliberations frequently underline the importance of Asian-African engagement, given that many States in these regions are both migrant-sending and migrant-receiving countries. Notably, several African states, such as the Republic of Senegal, the Republic of Mali, and Burkina Faso, have ratified the ICMW, recognising its role in protecting large diasporas abroad.⁵⁸ On the Asian side, ratification is less widespread, but states such as the People's Republic of Bangladesh, the Democratic Socialist Republic of Sri Lanka, and the

⁵⁷ CMW, *Concluding Observations: Malaysia, Initial Report*, UN Doc CMW/C/MYS/CO/1 (2025).

⁵⁸ UN Treaty Collection, Status of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, <<https://treaties.un.org>>, accessed 28 August 2025.

Republic of the Philippines have been active in reporting to the Committee, reflecting their concern for the protection of overseas migrant workers.⁸ Major receiving States in the Gulf and parts of East Asia, however, remain outside the Convention, highlighting the ratification gap that limits the treaty's global reach.

B. Regional Consultations on Xenophobia

47. The Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW), in cooperation with the Committee on the Elimination of Racial Discrimination (CERD), is preparing joint general recommendations (CERD Nos 38 and 39) and general comments (CMW Nos 7 and 8) on eradicating xenophobia against migrants. A joint task force of experts was established at the Committees' thirty-ninth session in December 2024, with final adoption scheduled for December 2025.⁵⁹

48. A central theme of the deliberations was the fight against xenophobia. The Committee, in a joint effort with the Committee on the Elimination of Racial Discrimination, established a task force to work on draft joint general recommendations and comments aimed at eradicating xenophobia toward migrants. Extensive expert consultations were held across multiple regions—including Europe, Africa, Asia-Pacific, Latin America, and North America—to gather diverse perspectives on this issue. Experts at these consultations have underscored the need for rights-based narratives, legal frameworks, and structural changes to address hate speech and violence against migrants. The final versions of these joint documents are expected to be adopted in December 2025.

49. To ensure broad input, a series of global and regional consultations were held between September and November 2024 in Geneva, Bangkok, Panama City, Toronto, Austin, Brussels, and Dakar.⁶⁰ The consultations were supported by OHCHR, IOM, ILO, and UN-Women, and brought together states, experts, and civil society representatives. Across regions, participants emphasized

⁵⁹ UN Committee on Migrant Workers (CMW), Report of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, Thirty-ninth and Fortieth Sessions (2–13 December 2024, 7–17 April 2025) UN Doc A/80/48, paras 1-2.

⁶⁰ *ibid*, paras 24-25.

the urgent need for rights-based narratives, stronger legal and institutional frameworks, and structural reforms to address hate speech, stigmatization, and violence against migrants.

50. The following two consultations were of particular significance for Asian and African states:

- *Asia-Pacific (Bangkok, Kingdom of Thailand)*

51. The Asia-Pacific expert consultation took place in Bangkok on September 23, 2024, co-organized by the OHCHR Regional Office for South-East Asia and the two relevant committees. The consultation included partners such as the ILO, IOM, and UN-Women. Experts in attendance discussed regional trends and challenges regarding xenophobia and provided inputs on the draft joint general recommendations and general comments. This consultation highlighted weak legal and institutional frameworks, discriminatory border governance practices, and the proliferation of anti-migrant narratives in media and politics. It underscored the vulnerability of South and Southeast Asian migrants, particularly in Gulf States and parts of East Asia.⁶¹

- *Africa (Dakar, Republic of Senegal)*

52. The Africa expert consultation was held in Dakar on November 5 and 6, 2024, co-organized by the OHCHR Regional Office for West Africa, the two committees, IOM, and UN-Women, among others. Experts at this consultation highlighted the multifaceted dynamics of human mobility in Africa and worked to deepen the links between xenophobia, racial discrimination, and intolerance. This consultation addressed the complex dynamics of mobility in Africa, which were identified as a source of stigmatization and xenophobia against certain communities. The spread of “Afroxenophobia” against African migrants within African states was also noted as a troubling new phenomenon that requires urgent attention from the African Union. The experts welcomed the guidelines in the draft documents, believing they would be instrumental in providing states with human rights-based policies to combat xenophobia.⁶²

⁶¹ *ibid*, para 27.

⁶² *ibid*, para 32.

C. Climate Change-induced Migration

53. Climate change is now widely recognised as a major driver of human mobility. It operates both as a direct cause of displacement (sudden-onset events such as cyclones, floods and storms) and as a slow-onset driver (sea-level rise, desertification, salinisation, recurrent drought) that progressively undermines livelihoods, food and water security, and habitability of places. The resulting movements, variously described as climate-induced migration, climate migration or environmental migration, range from temporary, seasonal relocation to permanent displacement, and frequently intersect with other socioeconomic and political pressures (poverty, inequality, conflict, land tenure insecurity). This intersectionality makes climate migration a complex, interdisciplinary human-rights and development challenge.⁶³

54. Climate-linked mobility is rarely caused by a single factor. In practice it is shaped by a compound of environmental hazards, governance failures, market pressures, and social vulnerabilities that push or pull people across and within borders. Poorer communities, Indigenous peoples, small island developing states and low-income agricultural households are disproportionately affected. Migrant workers, particularly those in precarious or informal employment (including domestic workers and low-skilled labour in construction, agriculture and hospitality), face heightened exposure because of limited social protection, weak labour rights enforcement, restrictive migration regimes (including temporary or sponsorship systems) and barriers to regularisation. Where climate change exacerbates labour market insecurity, migrants are frequently the first to lose work, access to services and legal protections.⁶⁴

55. To better understand the emerging international approach, this issue may be examined across four dimensions: the absence of a dedicated international legal framework, the existing bases for protection within human rights and labour law, the evolving discourse within global policy processes, and the growing body of case law and decisions by human rights bodies that are shaping norms of State responsibility.

⁶³ See Intergovernmental Panel on Climate Change, *Climate Change 2022: Impacts, Adaptation and Vulnerability* (AR6 WGII) (IPCC 2022) (summary for policymakers) (on drivers and vulnerabilities).

⁶⁴ International Labour Organization (ILO), *World Employment and Social Outlook (ILO 2023)*, 16 January 2023.

The Absence of a dedicated International Legal Framework

56. A major challenge in addressing climate-induced migration is the lack of a specific, legally binding international framework. The existing international legal instruments, such as the 1951 Refugee Convention, do not provide a clear legal status or protection for individuals displaced solely by environmental or climate-related factors. The definition of a “*refugee*” under the 1951 Convention is tied to a “well-founded fear of being persecuted” on specific grounds (race, religion, nationality, social group, or political opinion).⁶⁵ This definition does not explicitly encompass individuals fleeing environmental disasters or climate change impacts. While some legal scholars and human rights bodies have explored potential overlaps, such as when climate-related events are compounded by a lack of state protection, there is no widespread consensus or a clear legal pathway for “climate refugees”.⁶⁶

Existing bases for protection

57. In the absence of a specialized treaty, relevant protections derive from international human-rights law and international labour standards. Rights-based norms, including the right to life, the prohibition of cruel, inhuman or degrading treatment, rights to an adequate standard of living, housing, health and non-discrimination, have been invoked in claims related to climate risks and non-refoulement. The UN Human Rights Committee has recognised that climate change impacts may engage non-refoulement obligations in extreme cases, signalling that States cannot return individuals to conditions amounting to a real risk of a rights-based violation.⁶⁷ For migrant workers specifically, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (and relevant ILO instruments) provide rights and duties that can be deployed to protect migrants affected by climate risks (labour rights, social security, decent

⁶⁵ Convention Relating to the Status of Refugees (Geneva, 28 July 1951, entered into force 22 April 1954) 189 UNTS 137, art 1(A)(2).

⁶⁶ Stellina Jolly and Nafees Ahmad, *Climate Refugees in South Asia: Protection Under International Legal Standards and State Practices in South Asia* (Springer 2019).

⁶⁷ UN Human Rights Committee, Views in Communication No 2728/2016 (*Ioane Teitiota v New Zealand*) (24 January 2020), discussed in OHCHR press release, ‘Historic UN Human Rights case opens door to climate change asylum claims’ (21 January 2020).

work, remedies). ILO standards on forced labour, decent work and social protection are also directly pertinent to reducing migrants' vulnerabilities in climate contexts.⁶⁸

The Evolving Discourse

58. In recent years, the international community has made notable progress in recognizing and addressing the issue of climate-induced migration, even in the absence of a new treaty. These developments include:

59. The Paris Agreement (2015)⁶⁹ - The preamble of the Paris Agreement on climate change acknowledges that parties should, when taking action to address climate change, respect, promote, and consider their respective obligations on human rights, including those of migrants.

60. The “Loss and Damage” Fund (COP27)⁷⁰ - The establishment of a “Loss and Damage” fund at the 27th Conference of the Parties (COP27) in Sharm El Sheikh was a breakthrough. The fund aims to provide financial assistance to developing countries that are particularly vulnerable to the adverse effects of climate change. Importantly, this development recognized forced displacement as a form of “loss” and thus a legitimate claim for support.

Case Law and Human Rights Bodies

61. A landmark case before the UN Human Rights Committee (*Teitiota v. New Zealand*, 2020⁷¹) demonstrated that states may be in violation of a person's right to life if they deport an individual to a country where the effects of climate change pose an imminent threat. While the Committee did not find a violation in that specific case, it set a significant precedent by recognizing that climate change can be a basis for non-refoulement claims under international human rights law.

⁶⁸ International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (adopted 18 December 1990, UNGA Res 45/158) (noting protections relevant to migrant workers); see also UN Committee on Migrant Workers, Report of the Committee (A/80/48) (discussing migrant workers' rights and thematic issues).

⁶⁹ Paris Agreement (adopted 12 December 2015, entered into force 4 November 2016) FCCC/CP/2015/10/Add.1.

⁷⁰ UNFCCC, Funding arrangements for responding to loss and damage associated with the adverse effects of climate change, including a focus on addressing loss and damage, Decision 2/CP.27 (20 November 2022).

⁷¹ *Teitiota v New Zealand*, UN Human Rights Committee, Communication No 2728/2016, UN Doc CCPR/C/127/D/2728/2016 (2020).

62. In conclusion, while a specific international treaty for “climate refugees” remains elusive, the international legal and policy framework on climate-induced migration is evolving. Recent developments, particularly in the context of human rights jurisprudence and global policy initiatives like the GCM and the Loss and Damage fund, are creating a more robust foundation for the protection of those displaced by climate change.

V. COMMENTS AND OBSERVATIONS OF THE AALCO SECRETARIAT

63. Migrants continue to make valuable contributions to economic growth and social development, whether through the remittance flows that sustain communities in Asia or through intra-African labour mobility which supports regional integration and development. At the same time, it has been reported that such contributions are often overshadowed by xenophobic sentiments and harmful public narratives, which risk undermining social cohesion and stability for migrant workers. It is also noted that women migrants, particularly those employed in the domestic sector, remain especially vulnerable to exploitation and abuse.

64. The AALCO Secretariat further notes that some Member States may reflect upon the relevance of existing international instruments relating to migrant workers and decent work. Ratification and effective implementation of such instruments, where not already undertaken, could provide a stronger normative foundation for addressing the particular vulnerabilities of migrant workers, including those affected by climate-induced displacement.

65. The AALCO Secretariat is mindful that many of its Member States are simultaneously countries of origin, transit, and destination for migrant workers, and are also among those most affected by the adverse impacts of climate change. Against this backdrop, the AALCO Secretariat is of the view that it may be useful for discussions on climate-induced migration to be situated within the broader context of the protection of migrant workers.

66. The AALCO Secretariat also observes that there may be merit in considering enhanced regional cooperation among Asian and African States on this issue. Within its mandate, AALCO could provide a useful platform for dialogue, the exchange of good practices, and, if so desired by

Member States, the elaboration of model guidelines or clauses addressing the protection of migrant workers in climate contexts. Member States may wish to consider ways of integrating the protection of migrant workers into their climate adaptation strategies and Loss and Damage funding proposals. Possible areas could include measures relating to registration, portability of social protection benefits, enhanced labour inspection, and pathways for family reunification or local integration where return is not feasible.

67. The AALCO Secretariat recognises the importance of capacity-building and technical assistance, and notes that AALCO could endeavour to increase collaboration with international partners, such as the ILO, IOM, UNHCR, OHCHR, and the UNFCCC, to facilitate activities aimed at supporting Member States in aligning climate finance and adaptation measures with the protection of migrant workers.

68. The AALCO Secretariat is of the view that AALCO, consistent with its consultative role, may serve as a forum through which Member States can collectively explore responses to the challenges posed by climate-induced migration. This may include fostering South-South cooperation, promoting the consideration of relevant international instruments, and identifying avenues for practical assistance, always with full respect for national sovereignty and the priorities of Member States.

69. In conclusion, the AALCO Secretariat observes that emerging issues of concern for the protection of migrant workers require thoughtful examination by Member States. These include: ensuring supply-chain due diligence and transparency to combat forced labour and modern slavery; safeguarding migrant workers in large-scale infrastructure projects and mega-events; addressing the digital and biometric surveillance of migrant workers to ensure respect for privacy and data protection; and exploring innovative approaches for integrating refugee and displaced populations into labour markets in ways that strengthen both protection and development outcomes. In this regard, Member States may also wish to take note of recent guidance emanating from the UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, as well as relevant ILO standards, which could serve as useful references for policy and legislative reform.