

Analysing the Legal Framework of Human Rights of Migrant Workers

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I. Introduction:

All persons, regardless of their nationality, race, legal or other status, are entitled to fundamental human rights and basic labor protections, including migrant workers. Migrant workers are a particular vulnerable group and they find their rights routinely violated. Migrant workers are also entitled to certain human rights and protections specifically linked to their vulnerable status. An estimated 214 million people currently live outside their country of origin, many having moved for a variety of reasons in which the search for protection and the search for opportunity are inextricably entwined.² Migrant workers are vulnerable to be abused by employers and government officials, among others, in both sending and receiving countries. Abuses of labour and human rights range from discrimination and hazardous working conditions, to extortion, arbitrary detention, deportation and violence, including rape and murder. Women migrant workers too are particularly vulnerable to human rights violations and face huge form of human rights violation including sexual violence.

Factors that contribute to systemic patterns of human rights violations against migrant workers, and which can restrict access to effective redress for victims, include negative public attitudes, language barriers, restrictive immigration regimes, poor legal protection, lack of awareness, weak rule of law and impunity. While the human rights issues that affect the growing number of migrant workers are pressing, there is a general lack of knowledge of relevant international legal standards and, in many instances, a lack of political will or institutional capacity to apply these standards to laws, policy and practice. The international standards most relevant to migrant workers, regional mechanism for the protection of migrant workers and other International treaties and ILO conventions are hardly implemented in the host State, further no institutional mechanism for care and protection of migrant workers in the host State that leads to growing incidents of human

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rights abuse and xenophobic violence against migrant workers and their families.³

Migration affects every region of the world, and many countries are now simultaneously countries of origin, destination and transit of migrant workers. Large numbers of migrants today move between developing countries, and around 40 percent of the total global migrant population have moved to a neighbouring country within their region of origin. For example, Gulf region is the preferred destination to migrate from South Asian countries including India. Migrants are often to be found working in jobs that are dirty, dangerous and degrading. While for some migration is a positive and empowering experience, far too many migrants have to endure human rights violations, discrimination, and exploitation.

The United Nations plays the most important and crucial role in protecting the human rights of migrant workers irrespective of their race, nationality and religion. The rights and freedom stipulated in the UDHR 1948 apply equally to migrants as to any other individual, as do the provisions of the human rights instruments which have subsequently been developed by the United Nations. The human rights of migrant workers and their families include the following universal, indivisible, inter-connected and inter-dependent human rights:⁴

1. The human right to work and receive wages that contribute to an adequate standard of living.
2. The human right to freedom from discrimination based on race, national or ethnic origin, sex, religion or any other status, in all aspects of work, including in hiring, conditions of work, and promotion, and in access to housing, health care and basic services.
3. The human right to equality before the law and equal protection of the law, particularly in regard to human rights and labor legislation, regardless of a migrant's legal status.

II. The Root Causes of Migration:

The right to work, one of the most fundamental economic rights and same is crucial for migrant workers too and need to be protected and supported.

³ See detailed Report on "Promoting and Protecting the Rights of Migrant Workers" by Asia Pacific Forum Report, 2012.

⁴ Ritendra Tamang and Ajay Pradhan in "International Migration Review", Vol-44, 2010

Nobody willingly left his or her homeland but the circumstances forced them to migrate to another country. There are countless factors which force people to leave their home, but poverty, injustice, armed conflicts and natural disasters are the major factors that make most of the people to move from their homeland. Over the past 50 years, there has been a rapid growth in the number of people migrating between countries, to pursue work, to make a better life for their family or to seek protection. During this time, the number of people living outside their country of origin has almost tripled, rising from 75 million in 1960 to 214 million people in 2010.⁵ While the total number of migrants has grown rapidly, and is expected to continue to do so in the years ahead, migration has generally kept pace with global population growth. Migrants made up 3.1 per cent of the global population in 2010, a slight increase from 3.0 per cent in 2005.⁶ Estimates say that in the last 30 years, the number of international migrations has doubled to 191 million worldwide⁷. These are economic migrants, refugees and internally displaced people fleeing persecution and victim of human trafficking. Besides this, there are roughly 30-40 million undocumented migrants worldwide, comprising around 15-20 per cent of the world's migrant population.⁸ The International Organisation for Migration (IOM) has estimated that almost half of the world's migrants are women. In today's developed world, 59.9 percent migration compared to the 45.7 per cent of the developing world is women. Women are increasingly migrating as workers themselves. The economy is playing a major role in women's migration and women are migrating both as qualified professionals as well as domestic workers, careers and cleaners etc.⁹

Lack of viable economic opportunities at home another important factor that often pushes workers to migrate in search of better options. If we see this process through the angle of globalisation, we come to know that globalisation has led to widen the gap between the rich and poor people. Global economic policies, initiated through liberalisation of the market and the structural adjustment policies (SAPs) of the international economic institutions like the World Bank and International Monetary Fund are major causes of the gap in income and employment opportunities, displacing workers from their local livelihoods.

⁵ See "International Labour Migration – A Rights-based Approach"; ILO; 2010; p. 115

⁶ Ibid

⁷ See Renaud, Bogardi, Dun and Warner in "International Migration Review", 2007

⁸ Ibid

⁹ See Browne, C.V. Braun, K.L. (2008), "Globalisation, Women's Migration, and the Long-term-care Workforce", *Gerontologist*, 2008, Vol, 48, No, 11, pp. 16-24.

Women mainly migrate to join a migrant husband (family reunification) or to marry someone living in a different country. Migration can provide a very important source of earning for migrant women and their families, and also give them greater autonomy, self-confidence and social status. At the same time, migrated women can also face stigma and discrimination at every stage of the migration process. Before departure, women can be confronted with gender-based procedures and corrupt agents. Gender inequality, poverty and violence can force women to migrate or enable women to be trafficked.¹⁰ The present economic structure creates conditions where the demand for cheap migrant labour is accompanied by declining wages, benefits and safety standards. Migrant workers, especially women migrant workers, are paid at a lower rate than local workers. Apart from economic reasons, people also migrate due to change in environment and such persons are generally referred to as Environmental Migrants. Such people get uprooted due to earthquakes or floods leading to forced displacement; this phenomenon is commonly present where there is a slow onset of environmental change or the degradation process such as desertification or abrupt changes in weather affecting those who are directly dependent on the local environment for their living causing them livelihood stress.¹¹

In India, after independence, the policy-makers and administrators could do precious little to undo the wrong of regional disparity or imbalance already in place as a result of centuries of lopsided policy. The country after independence and at a nascent stage of its economic development had limited capital, limited skilled manpower, limited entrepreneurship and limited banking facility; the menace of regional disparity or imbalance could not, therefore, be effectively countered. Our planners and policy-formulators thought in their wisdom that if scarce resources were to be equally or equitably distributed among all the regions of the country, it may act as an antidote to economic growth of the country.¹² The following are the factors responsible for the migration in India:-

¹⁰ Bernadette, M. and Susan, K. (2009), "Trafficking in Women and Forced Migration: Moving Victims Across the Border of Crime into the Domain of Human Rights", *International Journal of Human Rights*, Vol. 12, No. 1, p. 67

¹¹ Hondagneu, Pierrette (2000), "Feminism and Migration", *Annals of the American Academy of Political and Social Science*, September, Vol. 571, pp. 107-120.

¹² Hamilton (2003). "National, Provincial and Local Trends and Issues on Immigration Hamilton, Ontario and Canada", www.clbc.ca/files/Presentation...Issues_on_Immigration_-_Hamilton.pdf (last accessed on November 14, 2013)

- a) New development projects were, started in already developed regions and resources continued to be poured to regions which were already resource-rich fuelling regional disparity further.
- b) The Green Revolution in the mid-sixties opened up new vistas of agricultural opportunity and prosperity in Punjab, Haryana, Western UP—all of them being well-endowed regions in terms of fertility of the soil, irrigation facility, communication and transport facility—a balanced combination of physical and social infrastructure.
- c) Once development started and received a boost in certain parts of the country, more due to historical legacy than anything else, there was a constant stream of the flow of labour—unskilled and skilled alike, professionals and entrepreneurs from less endowed to well-endowed and developed regions.
- d) Labour migrated to those developed regions in expectations of better opportunities of employment, better wages, better quality of life.

III. Ensuring the Human Rights of Migrant Workers:

International human rights law is found in the International Bill of Rights, which contain the non-binding Universal Declaration of Human Rights and two general human rights treaties, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). It should be emphasised that these instruments protect all human beings regardless of their nationality and legal status. Therefore, migrant worker, as non nationals are generally entitled to the same human rights as citizens. Migrant workers deserve some kind of special protection under the international human rights law.¹³ While the International Convention on the Protection of the Rights of Migrant Workers and their Families 1990, is the only UN instrument of direct relevance to migrant workers. Article 2(1) of the convention defines ‘migrant worker’ as to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national. For the migrant workers and their family members, the rights which are available are similar to the rights available in the Declaration on the Human Rights of Individual who are not Nationals of the Country in which they live.¹⁴ There are several other UN instruments that are of potential importance in terms of

¹³ See, HO Aggarwal’s “International Law and Human Rights” Central Law Publication, 2011

¹⁴ See, Dr. Rathin Bandopadhyay’s “Human Rights of the Non-Citizens, Deep and Deep Pub., New Delhi

protecting the human rights of migrant workers from discrimination, exploitation on the ground of their non-national status. These special kinds of rights may be mentioned in the following International Conventions.¹⁵

- a) International convention on the Protection of the rights of All Migrant workers and Members of Their Families 1990. The Migration for Employment Convention (Revised) (No. 97), the Migrant Workers (Supplementary Provisions) Convention (No. 143).
- b) The Universal Declaration of Human Rights 1948.
- c) The International Covenant on Economic, Social and Cultural Rights 1966.
- d) The International covenant on Civil and Political Rights 1966.
- e) The convention on the Elimination of All forms of discrimination Against women.
- f) The Convention on the Elimination of All forms of Racial discrimination.
- g) The ILO Forced Labour Convention
- h) The Convention on the Rights of the Child. (No. 29).
- i) The ILO Freedom of Association and Protection of the Rights to organize Convention No. 87)
- j) The ILO Equal Remuneration convention (No. 100)
- k) The ILO discrimination (employment and Occupation) convention (No. 111)
- l) The ILO Minimum Age convention (No. 38).

IV. UN Migrant Workers Convention 1990:

The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families was adopted in December 1990. The adoption of this Convention in 1990 was an historic event for migrant workers. It establishes, in certain areas, the principle of equality of treatment with nationals for all migrant workers and their families, irrespective of their legal status. This Convention sets forth, for the first time, internationally uniform definitions agreed upon by States for different categories of migrant workers. States also agreed upon the need for the *sending, transit and receiving* countries to institute protective action on behalf of the migrant workers. The Convention establishes standards to which States parties must adhere with respect to migrant workers. It incorporates six international human rights treaties that are today in force. It

¹⁵ For more information see, <http://www.ohchr.org/english/issues/migration/rapporteur/index.htm> and for detailed overview of the ILO instruments on social security, see Humblet and Silva (2002:41-45)

also provides for the establishment of a monitoring mechanism in the form of an international body of independent experts. This independent body will periodically review the implementation of the Convention by States parties to the Convention.

The Convention has been accepted by 34 States till date, but the sad thing is that it has not been ratified by a single major country of employment. However, a number of significant countries of origin, such as Mexico and Philippines, have accepted it.¹⁶ The primary objective of the UN Convention is to discourage and eliminate irregular migration, at the same time it furthers the rights and protections of the persons migrating for employment, including those who find themselves in a very odd situation. Article 88 of the Convention says that ratifying States are not permitted to exclude any category of migrant workers from its application. The most significant thing of the instrument is that it includes all types of migrant workers, including those who have been excluded from the existing ILO instrument.

The 1990 UN Convention on the rights of migrant workers is the most comprehensive treaty as it applies to the entire migration process, including preparation for migration, departure, transit and the entire period of stay and remunerated activity in the State of employment as well as return to the State of origin. The majority of the rights are relevant to the receiving state, though these are also obligations specifically placed upon the sending State. The convention addresses several issues related to economic migration such as illegal recruitment, trafficking, worker's welfare, education to their children, etc.¹⁷

The Convention spells out many human rights for migrant workers, such as non-discrimination, right to property, prohibition of collective expulsion, promise of medical care, consular notification rights upon arrest etc. Art. 25 of this Convention says. "Migrant workers shall enjoy treatment not less favourable than that which applies to nationals of the State of the employment in respect of remuneration and other conditions of work, that is to say, overtime hours of work, weekly rest, holidays with pay, safety. Article 54 (2) of the same Convention says that if a migrant worker claims that the terms of his or her work contract have been violated by his or her employer, he or she shall have the right to address his or her case to the competent authorities of the State of employment. But in the Gulf countries,

¹⁶ See "An Overview of International Convention on Migrant Workers 1990" by Ritendra Tamang and Ajay Pradhan in "International Migration Review"-Vol. 44, 2010

¹⁷ Ibid

it is found that workers do not go to the concerned authorities due to threat of losing the job.¹⁸

It is also found that in some cases, migrants approach the authorities. These authorities hardly pay any heed to the complaints made by them. Article 10 protects migrant workers against inhuman or degrading treatment. While Article 70 stress the need for complying the principles of human dignity. But all these international norms and standards are violated in the host countries. The Art, 40 of the Convention states that migrant workers and members of their families shall have the right to form associations and trade unions in the State of employment for the promotion and protection of their economic, social, cultural and other interests. But the political activities unionization by workers often attracts deportation are not allowed in the GCC countries. Those who are found to be involved in these are often deported. The Convention provided for a monitoring Committee of 10 members to supervise the implementation of its provisions in the States that have ratified it (as now it has 36 parties, but not from Gulf region). Articles 76 and 77 also provide for an optional procedure of a right of complaint by other States parties or individuals, for the violation of Convention rights.¹⁹

V. ILO and Standards of Migrant Workers:

The International Labour Organisation (ILO) has adopted over 180 conventions addressing specific labour issues and concerns, including those that specifically address the rights of migrant workers. In addition to these legally binding conventions, the ILO has codified standards through non-binding guidelines in the form of "recommendations". The ILO was also actively involved in the drafting of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The ILO since its inception has been making every effort to protect migrant workers rights and interests in the host countries. The ILO has developed many International Labour Conventions and Recommendations in order to regulate migration and protect the rights of migrant workers.²⁰ There are two major ILO conventions concerning migrant workers. They are called the Migration for Employment Convention (No.97) of 1949 and the Migrant Workers Convention (No.143) of 1975. The Convention No. 97 has many provisions to assist migrants concerning departure, journey, and their

¹⁸ See Siby Thakaran's "Protecting Migrant Rights" in "Economic and Political Weekly", Vol-37, 2002, pp. 5080-5081

¹⁹ Ibid

²⁰ See detailed Report on "Promoting and Protecting the Rights of Migrant Workers" by Asia Pacific Forum Report, 2012

reception in the host country. There is also provision for the ratifying States to take steps against misleading propaganda. The convention has also the provision for ratifying States to give all benefits to migrants as are enjoyed by nationals without discrimination on the basis of nationality, race, religion, or sex. The Convention No. 143 that States must respect the basic human rights of all migrant workers. States must also prevent clandestine migration for employment and stop manpower trafficking activities. States must declare and pursue a policy to secure equality of treatment in respect of matters such as employment and occupation, social security, and trade-union and cultural rights. The Convention 97 facilitates migrant workers for employment, while the Convention 143 deals with equality of opportunity and treatment to migrants in the host countries.²¹

The ILO recognizes that there are three basic stages in the labour migration process during which the rights of migrants must be protected: the pre-departure stage; the post-departure and work stage; and the return stage. Countries of origin and destination have differing responsibilities to protect the rights of migrant workers at each of these stages. This reflects the different events that take place before and after departure, with greater responsibility resting on countries of origin in the pre-departure and return stage, and greater responsibility resting on the destination countries in the post-departure and work stage. It also acknowledges the reality that countries have the ability to exercise more supervision within their own borders. However, the ILO also recognizes the importance of "shared responsibility" through the "supervision and regulation of international labour migration and engagement in international cooperation in the interest of promoting and protecting the rights of migrant workers".²²

VI. Regional Development for the Protection of Migrant Workers:

VI. I. Vienna Declaration 1993

The Second World Conference on Human Rights commonly known as Vienna Declaration held at 25 June 1993 strongly emphasised on protection of human rights of all category of persons. The contracting State parties of the Vienna Declaration of 1993 unanimously affirmed that "great importance must be given to the promotion and protection of the human rights of

²¹ "The International Convention on the Rights of All Migrant Workers and Members of Their Families in the Context of International Migration Policies: An Analysis of Ten Years of Negotiation"; Juhani Lönnroth; *International Migration Review*; vol. 25; no. 4 (Winter 1991).

²² "Protecting Rights of Migrant Workers: A Shared Responsibility", ILO, 2009, p 23.

persons belonging to groups which have been rendered vulnerable, including migrant workers, the elimination of all forms of discrimination against them. The World Conference on Human Rights urges all State to guarantee the protection of the human rights of all migrant workers and their families. The World Conference considers that the creation of conditions to foster greater harmony and tolerance between migrant workers and the rest of the society of the State in which they reside is of particular importance. The participatory countries agreed in principle that a number of basic human rights, which are frequently violated in respect of migrant workers need to be address through a full proof mechanism. These rights are found in the general international instruments and are also protected by most national constitutions. The Vienna Conference of 1993 had recommended that the UN General Assembly and the other UN organs and agencies consider way and means for the full implementation of recommendations contained in the declaration.²³

VI. II. Cairo Programme of Action 1994

The main thirst of the Cairo Action Plan of 1994 was to ensure at least a humane treatment to the documented migrant workers. "Countries receiving documented migrants should provide proper treatment and adequate social welfare services for them and their families, and should ensure their physical safety and security. Countries should guarantee to all migrants all basic human rights as included in the Universal Declaration of Human Rights. Following are the main objective of Cairo Programme of Action."²⁴

Highlights of Cairo Action Plan

- a) To ensure the social and economic integration of documented migrants and their equal treatment before the law.
- b) To eliminate discriminatory practices against documented migrants, especially women, children and the elderly.
- c) To ensure protection against racism, ethnocentrism and xenophobia.
- d) To promote the welfare of documented migrants and members of their families. Special efforts should be made to enhance the integration of the children of long-term migrants by providing them with educational and training opportunities equal to those of nationals.

²³ "Globalization, International Labour Migration and Rights of Migrant Workers" in "Third World Quarterly", Vol-29, 2008

²⁴ International Conference on Population and Development, September 5-13, 1994. Also see Nafis Sadik on "Implementation on Cairo Programme of Action" in "Population and Development Review", Vol-11, 1996

- e) Governments, particularly those of receiving countries, must recognize the vital importance of family reunification and promote its integration into their national legislation in order to ensure the protection of the unity of the families of documented migrants.
- f) To address the root causes of undocumented migration.
- g) To prevent the exploitation of undocumented migrants and to ensure that their basic human rights are protected.

VI. III. Beijing Platform for Action 1995

The Beijing Platform for Action recognizes that women face barriers to full equality and advancement because of such factors as their race, language, ethnicity, culture or because of other status. Additional barriers also exist for displaced immigrant and migrant women, including women migrant workers. Actions to be taken in following issues concerning the women migrant workers:²⁵

- a) Ensure the full realization of the human rights of all women migrants, including women migrant workers, and their protection against violence and exploitation;
- b) Introduce measures for the empowerment of documented women migrant workers and protection from sexual harassment.
- c) To facilitate the productive employment of documented migrant women through greater recognition of their skills, foreign education and credentials, and facilitate their full integration into the labour force.
- d) Ensure that internally displaced women have full access to economic opportunities and that the qualifications and skills of immigrant and refugee women are recognized.
- e) Establish linguistically and culturally accessible services for migrant women and girls, including women migrant workers, who are victims of gender-based violence.
- f) Recognize the vulnerability to violence and other forms of abuse of women migrant workers, whose legal status in the host country depends on employers who may exploit their situation.

²⁵ Moghadam, V. (1999), "Globalisation, Militarism, and Women's Collective Action", *NWSA Journal*, Vol. 13, pp. 60-67.

VI. IV. ASEAN Action Programme for Migrant Workers 2007

The Association of South East Asian Nations (ASEAN) has taken up the issue of migrant workers' rights in recent years. The ten-member ASEAN has developed a roadmap for an ASEAN community by 2015 which seeks to create a single market characterized by the free movement of capital, goods, services and skilled labour. The ASEAN Charter (2007), which invested the ASEAN Community with its legal and institutional framework, declares that the promotion and protection of human rights and fundamental freedoms is one of its purposes. The Charter also provides for the creation of an ASEAN human rights body the first regional human rights mechanism in Asia region.²⁶

In 2007, the same year that the ASEAN Charter was signed, Member States approved the promulgation of an ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers. The Declaration calls on countries of origin and destination to promote the full potential and dignity of migrant workers; to cooperate to resolve cases of migrant workers who become undocumented due to no fault of their own; and to take into account the fundamental rights of migrant workers and their families already residing in the destination country. The Declaration also requires ASEAN countries to promote fair and appropriate employment protection, payment of wages, and adequate access to decent working and living conditions for migrant workers. It sets out further specific obligations on countries of origin and destination, as well as obligations pertaining to ASEAN. Though non-binding, the Declaration is considered an important development in protecting the rights of migrant workers in the region and was established after years of lobbying by civil society organizations, including migrant organizations, trade unions and human rights networks. The Declaration also provides for the development of an ASEAN framework instrument on the protection and promotion of migrant workers. Member States previously promulgated the ASEAN Declaration Against Trafficking in Persons Particularly Women and Children in 2004.²⁷

²⁶ *Roadmap for an ASEAN Community 2009–2015*; Association of Southeast Asian Nations (ASEAN) Secretariat; 2009, ASEAN member countries are Indonesia, Philippines, Thailand, Malaysia, Singapore, Brunei Darussalam, Cambodia, Vietnam, Laos and Myanmar

²⁷ *Ibid*

VII. Conclusion:

The protection of migrant workers is an urgent and growing human rights challenge. The governments of the host States have obligations to ensure that there should be no xenophobic violence, racism related intolerance against migrant workers and their families. Human rights violations against migrant worker, including denial of access to fundamental economic and social rights such as the right to religious freedom or the right to health, should be dealt sternly by the host States. Such human rights violations against migrant workers are often closely linked to discriminatory laws and practice, and to deep-seated attitudes of prejudice and xenophobia against migrant workers. The destination country or host country must appreciate the contribution of the migrant workers in their economy and the same cannot be sidelined the fact that migrant workers play a crucial role in the development of the host State. The host country has major responsibility to look in to the incidents of frequent human rights violation of the migrant workers. Human rights mechanisms, such as the Special Rapporteur on the Human Rights of Migrants and the Committee on Migrant Workers, have been clear in stating that although countries have a sovereign right to determine conditions of entry and stay in their territories, they also have an obligation to respect, protect and fulfil the human rights of all individuals under their jurisdiction, regardless of their nationality or origin and regardless of their immigration status whether documented or undocumented migrant workers.

Furthermore, there is need to develop a coordinated legal response in relation to the labour law and social security protection of migrant workers and the same is multi-faceted theme, and needs to be informed by a principled and normative approach between the host country and sending country. Migrant workers help significantly in overall economic growth of labour receiving countries. They work hard in rapid transformation of infrastructure in the Gulf region. They also contribute in institution-building and economic development of the Gulf countries. It is rightly observed by ILO as "Migrant workers provide valuable services with their labour and furnish an often invisible subsidy to the national economies that receive them. They work in factories, produce food, provide domestic service, staff in hospitals and contribute to a wide range of basic needs, often for low wages and with little recognition of the value of their contribution".²⁸

It is, however, observed by some section of people that unemployment in the Gulf is created by migrant workers. Others contended that migrant workers depressed labour market. Migrant workers particularly from South Asia are

²⁸ Author is thankful to Prof. Anisur Rehman, Academic Staff College, Jamia Millia Islamia University, New Delhi -110025, for his valuable comments and suggestions.

preferred in this region mainly because of their sincerity and hard work. These migrant workers are engaged in every sector of development activities that are going on in these countries. They are, in fact, the assets for the Gulf countries as they are contributing to the overall development in this region. Ironically, it is true that migrant workers are not given much importance as they deserve. They are rather treated very badly in their host countries. Migrant workers often become the victims due to migration. As they are often exploited by unscrupulous employers, recruitment agents, and others. The international norms and standards are often violated in order to promote individual interest unlike the economic benefits, the social costs of migrants are often high. These social costs are very difficult to quantify. International migration can reduce unemployment or cause a shortage of workers. This is also true that it can cause an influx of new skills that are brought back or a loss of the more skilled and highly educated at home country.²⁹

Not ratifying the UN Convention on Migrant Workers 1990 by the big migrant receiving countries is the biggest hurdle of non-implementation of the ILO and UN standards for the migrant workers. A majority of the countries have not ratified the UN Convention on Migrant Workers and other ILO Convention on International Labour Standards. It is suggested that an appropriate approach is to be found in the universally applicable human rights framework, which has developed over many years. Viewed from this perspective, the other elements of this multi-faceted theme include combining the immigration law, labour law and social security provisions; the improvement and expansion of the international standards framework, linked to accelerated ratification of relevant standards; the complementarities of unilateral, bilateral and multilateral mechanisms; addressing the labour law, social security dichotomy; and extending the scope of coverage to include documented and undocumented migrant workers. Migrant workers right are not only a matter of fundamental human rights found in the eight core of the ILO Conventions. The international labour standards in the area of social security, maternity protection, employment policy, the regulation of private and public employment agencies, occupational safety and health, condition of work, protection of wages etc also need to be strengthened through appropriate legislative measures.

²⁹ See Siby Thakaran's "Protecting Migrant Rights" in *Economic and Political Weekly*, Vol-37, 2002, pp. 5080-5081