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# International Immigration & Human Rights Law

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*“How our societies treat migrants will determine whether we succeed in building societies based on justice, democracy, dignity and human security for all.”*

*- Navanethem Pillay, Ex. UN High Commissioner for Human Rights*

## ABSTRACT

*Migration across borders can lead to tragic consequences for humanity and protection and the need for assistance from those involved. Although many arrive safely at their destination, others may find themselves in a tense situation either because they live there or are experiencing setbacks and many are enduring severe hardships and dangers. In these refugee cases, migrants are protected under international law against the consequences of disputes in the nation. The paper will also review relevant legislation especially on the issue of migration, refugees and also consider international law on discrimination which provides a framework for the protection of migrant protection and foreign bodies that help protect refugees. This paper provides a comprehensive analysis of the human rights of migrants and refugees prescribed by the UN Refugee Convention. At a time when states are increasingly challenging the logic of mobilizing refugees for their own citizens, questions now arise as to whether refugees should be allowed to enjoy the freedom of movement, work, obtain public welfare programs, or meet again. With family members. Doubts were expressed as to whether there was a duty to exempt refugees from visa and other immigration regulations and to allow refugees at all. Hathaway connects the standards of the UN Refugee Convention with key provisions of international human rights law and applies its analysis to the world's most difficult defense challenges.*

## I. INTRODUCTION

Humans have migrated throughout history. People migrate for a variety of reasons, such as reuniting with their families; Seeking better financial opportunities; And avoidance of human rights violations, including armed struggle, violence, and violence. Human rights are the right

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of all individuals, without exception. Individuals cannot get them because they have citizenship, labour, or another status. The Universal Declaration of Human Rights (UDHR) certified in 1948 that "all human beings are born free and equal in dignity and rights." Many human rights treaties explicitly prohibit discrimination on the basis of national origin and require states to protect the human rights of immigrants equally.

Growing refugees and migrants around the world - real people with real rights - are losing their freedom through an administrative confinement structure. However, the general public knows nothing about these new prisons and the suffering of the human beings imprisoned in them. There is a terrible legislative deficit in relation to guaranteeing the rights of those who are administratively detained. This is most evident when comparing national control over administrative detention with that of criminal detention, where, unlike before, detainees are found guilty of suspicion of a crime. Furthermore, there is a worrying gap between international law and state practice, which makes knowledge of the international responsibilities of states of importance.

When people cross their country's border, it may not be known yet, but the world will not see it as before. They had a special label or status, now they are migrants. And because of this, they are inferior to those around them, to those who have a passport of the country in which they live. As human and human rights are guaranteed in national and international law, these powerful forces have an important role to play in protecting trapped migrants.

Approximately 3% of the world's population is estimated to be 258 million, currently living outside their country, many of whom are forced to migrate at various levels. Although every year many migrants choose to leave their countries, an increasing number of migrants are traditional drivers of forced displacement such as poverty, health care, education, water, food, housing, and the consequences of environmental degradation and climate change, as well as violence and conflict. While migrants are not naturally vulnerable, they are vulnerable to human rights violations. Unruly migrants are at risk of discrimination, exploitation, and exploitation, living and working in the shadows, afraid to complain and deny their basic rights and freedoms. Human rights violations against migrants include the denial of political and political rights, illegal detention, harassment, or lack of due process, as well as economic, social, and cultural rights such as health, housing, or education rights.

Conflicts in various parts of the world, including Afghanistan, the Central African Republic, the Democratic Republic of the Congo, Somalia, South Sudan and Syria, continue to cause untold hardship for all, encouraging a growing number of people to flee the country or

beyond. In these cases, the migrants, like all other communities, endured great hardships. In all cases, immigrants are protected by the various bodies of international law within the scope of their work, especially international law and, in the case of refugees and asylum seekers, international refugee law.

This document will examine how international law protects migrants in situations. Although some branches will mention them where appropriate, a detailed analysis of this and their links to international law.

## **II. DETENTION OF MIGRANTS AND REFUGEES AND THEIR PROTECTION**

Without exception, countries around the world detain migrants, refugees, and refugees in an attempt to restrict access to their territories by deem persons who are allowed to enter their territories and/or stay in their territory. International law, however, imposes some restrictions on immigration-related detention, especially as it relates to refugees and refugees. For example, the 1951 Convention on the Status of Refugees states that refugees must enter the country illegally or without proper documentation so that they are not detained or fined and have the opportunity to seek asylum through appropriate asylum procedures. Under international, regional, and national law, governments must ensure freedom from unnecessarily detaining, detaining or deporting all persons within their borders.

Under international, regional, and national law, governments must ensure the freedom from unnecessary detention, detention, or deportation of all persons within their borders. No one shall be subjected to arbitrary arrest, detention. For detention to be legal, there must be some basis for arrest. The information has the right to be treated with dignity and respect. Countries were not allowed to engage in any form of harassment, ill-treatment, or mistreatment of others. Conditions of imprisonment are sometimes inconsistent with international standards and may be considered an escalation to abuse, degrading treatment, or degrading treatment under certain circumstances. Torture can be both mental and physical and can take many forms, including the following: electric shocks, beatings, suspension of trauma, rape, smoking, deprivation of food, sleep or communication, noise, and intimidation.

## **III. TORTURE AND CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT**

The most important aspect of complete protection is the international legal obligation not to relapse. The essence of this obligation is to be protected from torture and ill-treatment, to be treated in a humane manner, or to be mistreated or punished. Similarly, Article 7 of the International Convention on Civil and Political Rights (ICCPR) and Article 3 of the European Convention on Human Rights (ECHR) prohibit the removal of persons who are at real risk of

being exposed to cruel, inhuman or degrading treatment or punishment. punishment. Harassment and cruelty are often viewed as a level of control, or treatment of others, by mistreatment, by abusive speech. For this reason, it is often difficult to determine exactly which category falls, and the UN Human Rights Committee has indicated that it is not necessary to list prohibited acts or establish sharp differences between different forms of punishment or treatment, differences depending on the type, purpose, and severity of the treatment used. In international law, non-cleansing obligations apply regardless of the individual's direct or indirect prosecution, and, therefore, are not the only person to suffer from personal violence.

#### **IV. WHAT RIGHTS ARE AFFORD?**

The UN Human Rights Committee has argued that there is no legal basis for treating beneficiaries of full-fledged protections against refugee refugees. This paper agrees with the view that migrants and refugee protection should be given the full gamut of international human rights protection provided by international law. These include, among others, access to health care, education and social services, and the right to employ earners. This is an important point to highlight as this rights-based approach is based on providing access to and enjoyment of rights by immediate applicants.

Section 14 of the ICCPR provides for the right to lodge an appeal against the determination of the rights and obligations of a lawful trial and to a fair and public hearing by competent, independent, and impartial courts. however, the human rights committee has never made a definite decision that the process of escape, migration status is a legal obligation and is therefore covered by this provision.

The right to be protected from torture and exploitation, to be free from slavery and to be subjected to inhuman or degrading treatment and punishment;

- The right to a fair trial and legal reform;
- The right to protection of economic, social and cultural rights, including the right to health, an adequate standard of living, security, adequate housing, education, and employment equity; and
- Other human rights as guaranteed by human rights instruments around the world of which the State is a party and by international law.

## **V. HUMAN RIGHTS FRAMEWORK**

The right to liberty and the right to be released from prison without regard to fundamental rights under human rights law. The UDHR (Universal Declaration of Human Rights) states that everyone has the right to life, liberty, and security of person and that no person shall be subjected to arbitrary arrest, detention, or exile. The International Covenant on Civil and Political Rights (ICCPR) begins to work on these principles, providing that everyone has the right to liberty and security of person and that no person may be unjustly detained. This fundamental human rights protection applies to all people, including immigrants, refugees, and asylum seekers. Therefore, immigrants, refugees, and asylum seekers have the right to freedom and the right to freedom from excessive detention, as enshrined in the UDHR and ratified by ICCPR Article 9 and other human rights conventions. The Special Reporter on Human Rights of Migrators has stressed that states should "only accept arrests as a last resort" and should resort to other measures of detention.

In addition to the general protection paid migrants, refugees and asylum seekers are provided with certain protections under international refugee law. Article 31 (1) of the UN Convention on the Status of Refugees prohibits countries from punishing refugees for their illegal entry or presence. Both of these provisions protect asylum seekers and refugees. The Executive Committee of the United Nations High Commissioner for Refugees (UNHCR) has concluded that arrests should always be protected. He cited four reasons why arrest could be referred to them - if necessary and defined by law.

## **VI. NEED FOR DETENTION OR OTHER RESTRICTIONS ON LIBERTY**

Immigrants and refugees should be detained only, or given other restrictions on freedom, based on individual assessments where the State indicates the need for such detention or other restrictions on freedom. Protection from arbitrary detention contained in ICCPR and other human rights conventions requires an individual determination that arrests are necessary. Penalties (or other restrictions on freedom) will be arbitrary when it is unreasonable and necessary in certain circumstances and does not comply with the final requirements - an examination that can only be done on an individual basis. Determining whether the reduction of individual freedoms is reasonable and necessary in all circumstances requires that any limitation of freedom be consistent with the legitimate purpose of the State.

Not only is personal examination necessary to ensure that detention is not a trivial matter within the meaning of Article 9 (1) of the ICCPR and other human rights conventions, but individual decisions should be considered to ensure that any restrictions on asylum seekers

are avoided. required within the meaning of Article 31 (2) of the Refugee Convention. That an examination of the need for incarceration or other freedom limits requires personal determination should not come as a surprise. In its definition, the acquisition of necessity is not consistent with incompatible administrative declarations, but rather requires careful consideration of the circumstances of each case, the country and individual interests, and all possible alternatives.

## **VII. PROTECTION AGAINST LABOUR EXPLOITATION**

Immigrants are protected from exploitation of workers under the ILO, ICRMW, and other major human rights treaties. Article 11 of the ICRMW explicitly prohibits forced labour, slavery, and servitude. Article 8 of the International Covenant on Civil and Political Rights states that no one shall be held in slavery or servitude. The country has a responsibility to take steps to prevent all forms of coercion or coercion by foreign workers, including eliminating the use of illegal prisoners and withholding travel documents as a means of forcing migrants to work forcibly.

The Committee on the Elimination of All Forms of Discrimination (CERD) noted that while the United States could enact laws requiring the right to work, "everyone has the right to work and to employment, including the right to freedom of association and association."

With regard to child migration, the Committee on the Rights of the Child (CRC) recommended that countries develop labour and migration policies in accordance with the Convention on the Rights of the Child and ILO Convention No. 138 in respect of minimum admission period, No. 182 on Prohibition and Immediate Action to Eliminate Worst Child Labour Practices, and 189 on the good work of domestic workers.

## **VIII. MONITORING AND CONFIRMATION**

Within the global system, compliance with the United States' obligations related to migration rights can be considered through Universal Periodic reviews, special procedures, and treaty themes. Specifically, the Migration Workers' Committee, an agreement that oversees compliance with the ICRMW, reviews the reports of the United States in their use of the convention provisions and identifies areas that will improve on its conclusion. The Migration Workers Committee also publishes general recommendations that translate meeting protections.

Once the individual grievance procedure is in place, the Development Staff Committee will be able to consider individual communications for alleged violations of the ICRMW by state

parties who have made the necessary declaration under Section 77 of the Convention. For each grievance procedure to take effect, the parties to the 10 States must make the required declaration under Article 77; as of November 2015, only El Salvador, Mexico, Turkey, and Uruguay have announced it.

One of the special measures of the United Nations Human Rights Council is to monitor the rights of migrants worldwide. In 1999, the United Nations Commission on Human Rights (a precedent for the UN Human Rights Council) established a Special Report on the Rights of Immigrants to promote the application of international standards on immigration rights and to make recommendations on ways to end migration violations.

Other UN human rights organizations and special procedures may also monitor American progress in respecting and guaranteeing the rights of immigrants until such matters come into their jurisdiction.

The Office of the United Nations High Commissioner for Refugees was established in 1950 and its mandate protects the rights of refugees, including asylum and resettlement.

The International Forum for Migration and Development was established by the UN Member States and held its first meeting in 2007. Its objectives include providing a platform to discuss best practices for migration and development; identifying vacancies in national, regional, and international institutions; and building relationships between relevant stakeholders.

The International Labour Organization (ILO) has a monitoring system to ensure compliance with member states at developing standards. There is also a grievance procedure in which parties can lodge complaints against the United States for failing to comply with ILO standards.

Regional human rights courts and courts, including the European Court of Human Rights, the U.S. Human Rights Court, the American Human Rights Commission, and the African Court of Human and Peoples' Rights, are reviewing alleged human rights violations. Regional rights agreements, which include provisions for the protection of migrant rights. In addition, experts dedicated to African and American and American human rights programs directly monitor the rights of migrants. The Inter-American Commission established the Rapporteurs on Immigration Rights in 1996, and the African Commission on Human and Peoples' Rights created a special Reporter for refugees, asylum seekers, immigrants and internally displaced persons in 2004

## **IX. CONCLUSION**

The approach I have chosen to follow in this paper is a constructive search for positive/good practices related to administrative detention. I have proposed and promoted a two-step proportional examination to determine the legal reasons for detention and to ensure respect for the human rights of detainees detained through procedural safeguards and humanitarian detention conditions. Decisions in the field of immigration and asylum involve politics and there is a constant struggle between the state's argument for the protection of individual rights and the control of its borders. In any fight, it has to be fair. There will be transparency. Detention requires people to have real information about the financial and human costs. Detention centers are built and maintained with taxpayer money. Estimates made in Germany and Italy show that detention is very expensive. Detaining a person in Bologna for a month is estimated to cost 2,670 euros, which is much higher than the average monthly household income in Italy. Who is interested in the existence of administrative detention centers? There is a growing tendency in Europe to subcontract the management of detention centers to private companies. The detention center creates job opportunities with more people. It would be fair to objectively assess whether the loss of liberty really serves the interests of the upper classes or whether there are very specific interests. The United Nations Special Rapporteur on the Human Rights of Immigrants recommends: "Governments should consider the possibility of phasing out all forms of administrative sanctions. When this is not possible immediately, governments must take steps to ensure that the human rights of immigrants are respected in the event of a loss of liberty". Because these people are serving prison sentences or have not committed crimes and have been deprived of their freedom, guarantees of their rights should not be subject to those established by criminal law. Immigrant prisoners are people with families, lives, hopes, dreams, and most important rights. Protecting them is not only a moral duty, it is a legal obligation.

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