

The



Future We Want

SreenidhiMUN

SREENIDHIMUN

HRC STUDY GUIDE

Note from the Executive Board

Distinguished Delegates,

Hello, and welcome to SreenidhiMUN 2015! We sincerely hope this is a great experience for you, learning and fun-wise.

The agenda of the committee is Protecting the Rights of Migrant Workers- a very interesting topic. Suitable related information has been given in the study guide, but we expect a good amount of research to be done from your behalf as well.

You will be representing an entire country's stance on an issue. The magnitude of how important it is to be right on all your facts, cannot be understated. Please make sure to read the study guide thoroughly, as it will give you an excellent idea of the issue, and how to ensure a good resolution paper. A good grasp on the agenda will also promote an engaging and fruitful debate. We strongly advise you to go through the 'International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families'.

We will put in our best efforts to make this a success, and expect the same in return.

It will be a privilege to chair all of you, and promote you to think like global citizens and come up with solutions that could change the world some day.

Regards,

Anandita Lidhoo,

Suhas Chinta

What are Human Rights?

Human rights are rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. We are all equally entitled to our human rights without discrimination. These rights are all interrelated, interdependent and indivisible.

Universal human rights are often expressed and guaranteed by law, in the forms of treaties, customary international law, general principles and other sources of international law. International human rights law lays down obligations of Governments to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals or groups.

Universal and Inalienable

The principle of universality of human rights is the cornerstone of international human rights law. This principle, as first emphasised in the Universal Declaration on Human Rights in 1948, has been reiterated in numerous international human rights conventions, declarations, and resolutions. The 1993 Vienna World Conference on Human Rights, for example, noted that it is the duty of States to promote and protect all human rights and fundamental freedoms, regardless of their political, economic and cultural systems.

All States have ratified at least one, and 80% of States have ratified four or more, of the core human rights treaties, reflecting consent of States which creates legal obligations for them and giving concrete expression to universality. Some fundamental human rights norms enjoy universal protection by customary international law across all boundaries and civilisations.

Human rights are inalienable. They should not be taken away, except in specific situations and according to due process. For example, the right to liberty may be restricted if a person is found guilty of a crime by a court of law.

Equal and non- discriminatory

Non-discrimination is a cross-cutting principle in international human rights law. The principle is present in all the major human rights treaties and provides the central theme of some of international human rights conventions such as the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Elimination of All Forms of Discrimination against Women.

The principle applies to everyone in relation to all human rights and freedoms and it prohibits discrimination on the basis of a list of non-exhaustive categories such as sex, race, colour and so on. The principle of non-discrimination is complemented by the principle of equality, as stated in Article 1 of the Universal Declaration of Human Rights: “All human beings are born free and equal in dignity and rights.”

Both Rights and Obligations

Human rights entail both rights and obligations. States assume obligations and duties under international law to respect, to protect and to fulfil human rights. The obligation to respect means that States must refrain from interfering with or curtailing the enjoyment of human rights. The obligation to protect requires States to protect individuals and groups against human rights abuses. The obligation to fulfil means that States must take positive action to facilitate the enjoyment of basic human rights. At the individual level, while we are entitled our human rights, we should also respect the human rights of others.

Promoting and Protecting the Rights of Migrant Workers

Multiethnic states and global travel are the norm in today's world. Globalisation and the increasing movement of people across borders create tensions and threaten the stability of the nation state. Migration is sensitive everywhere. Many countries rely on migration to relieve domestic tension, allowing qualified people to find work and send home money (remittances). Some countries see this migration of workers as beneficial to the economy. For example, the United States of America is reliant on immigrants for the functioning of their agricultural sector. Others see it as harmful to their economy and a threat to their nation. Not only does this create tensions, but also threatens the minority culture as dominant cultures impose their identities on other groups with whom they share territory. To avoid marginalization, minorities often increase their efforts to protect their identity. This can create strong opposing forces within a territory, creating intolerance of one another, and often times armed ethnic conflict. Migrant workers are subject to an abundance of issues such as wage discrimination, forced labour, sexual abuse of women etc. this is why there are several other laws implemented to ensure the safety of these migrant workers.

Amnesty International explains:

Migrants move from one country to another usually to find work, although there may be other reasons for migrating such as to join family members. Some move voluntarily, while others are forced to leave because of economic hardship or other problems. People can migrate 'regularly', with legal permission to work and live in a country, or 'irregularly', without permission from the country they wish to live and work in. Regardless of their status in a country, both regular and irregular migrants have human rights, including the right to freedom from slavery and servitude, freedom from arbitrary detention, freedom from

exploitation and forced labour, the right to freedom of assembly, the right to education for their children, equal access to courts and rights at work.

Migrant workers are afforded specific rights, according to the 1990 Convention, including:

- Freedom from racism and discrimination on the basis of colour, ethnicity, and so on
- Freedom from violence against women
- Access to adequate housing
- The right to retain their personal property
- The right to participate in labour unions
- The right to receive urgent medical care
- The right to access to education for children

States accused of systematic violations of these rights or whose governments tolerate violations of these rights by individuals or groups within their borders are expected to come under the microscope of human rights bodies like the Human Rights Council, sometimes at the urging of the Special Rapporteur on the Human Rights of Migrants.

According to the Office of the High Commissioner for Human Rights, “A human rights approach to migration places the migrant at the centre of migration policies and management, and pays particular attention to the situation of marginalised and disadvantaged groups of migrants.” Such groups may be subject to discriminatory

policies and laws enforced by State or local governments and may be subject to discrimination or xenophobic violence by other groups within society. States that have documented histories of this sort of discrimination are expected to come under special scrutiny.

- Where does your State stand with respect to the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families? Has it signed and ratified the Convention, or signed but not yet ratified, or not signed at all? If not a signatory, do you expect that your State will become a signatory in the near future? Why or why not?

- Should States that are not parties to the Convention be held responsible for protecting the rights of migrants? Are there states that host many migrants but where those migrants are reportedly treated poorly? What actions can or should be taken against those states? Does the HRC wish to take up this matter? If so, how so?

- Sometimes migrants are treated with dignity and respect until a major political crisis befalls a State and then they are suddenly subjected to violence or discrimination. In those cases, advocates of migrants' rights might call for emergency repatriation of the migrants to their countries of origin – but this can be expensive and dangerous, as is the case in Syria during autumn 2012. Should the HRC take steps to encourage Member States to assist with or facilitate emergency repatriation of migrants in situations of political violence and duress?

Current Situation:

Australia

Australia is a country in the midst of focusing on the topic of immigrant rights. Its experiences illustrate the tensions many countries face. National policy is divided between legal and illegal migration. Illegal migration—mostly by sea from the northwest—brings illegal migrants from Asia (especially Afghanistan and Pakistan). The illegal migrants often are dumped by traffickers in the Western Desert, a dangerous environment. Since the early 90's, Australia has had a system of mandatory detention. According to Australia's Migration Act of 1958, any non-citizen without a valid visa must be detained. People are released from immigration detention if they are granted a visa or removed from the country. Often this means migrants are interned on Pacific Islands or Papua New Guinea. There has been much debate over whether this is an ethical solution. The Australian Human Rights Commission has been working for over a decade to establish standards for detention facilities and publish public reports on these standards. The current parliamentary election has the country still divided on immigration policy's Asia migration tends to be viewed in terms of its immediate impact, benefits and costs, for local economies. Human rights priorities are not ignored, but tend to be secondary for many East Asian governments. Most authorized migration pertains to filling labour gaps. Once their contracts have expired, migrants are returned to their countries of origin, although they often find ways to stay. The problem of forced return is especially important for migrants who marry and create families in their temporary homes. Since the early 1970's, the oil producing countries as well as well as the newly industrialized countries of East and South-East Asia have attracted a large number of immigrants, often from South Asia (India and Pakistan) and Southeast Asia (especially Philippines). Much of the discussion surrounding

immigration in Asia deals with regulation of movement, rather than protection of migrant rights.

European Union

The countries of the European Union have the most comprehensive migration policies. European countries are relatively welcoming toward migrants, widely seen as essential to national development and a responsibility of the all states under international law. While European countries have small, anti-immigrant nationalist parties, these do not affect their UN diplomacy. Since 1999, the EU has recognised that in order to develop comprehensive policies to deal with immigration, both from a human rights perspective and a security issue, governments and NGO's must develop interdependent policy changes. EU policies on immigration deal with issues related to: trade, aid, development, state security and human rights. The EU is currently working toward developing coherent policies that will deal with fundamental rights and citizenship, internal/external borders and visas, common asylum area.

Bodies working to protect the rights of the migrant workers

International Organization for Migration

To ensure the safety of these migrant workers there was a separate body established known as International Organisation for Migration (IOM). The IOM was established in 1951. It has 127 member states and works closely with governmental, intergovernmental and nongovernmental agencies by providing services and advice to governments and migrants. Their goal is to promote international cooperation, solutions to migration issues and humanitarian assistance to migrants in need. According to the International Organization for Migration (IOM), there are currently 214 million immigrants throughout the world today. This means one out of every 33 people in the world today is a migrant.

International Labour Organisation

Since the 1920s, UN's International Labour Organization has been on the forefront on the battle for complete protection of migrant worker rights. The Millennium Development Goals were revised in 2005 with an additional target: "achieving full and productive employment and decent work for all, including women and younger people." Adding onto that, the mission of the ILO is to "promote rights at work, encourage decent employment opportunities, enhance social protection and strengthen dialogue on work related issues" (ILO Official Website). On December 4th, 2000, the UN GA officially declared December 18th as International Migrants day.

Proposed Solutions

First and foremost, migrant workers (Especially women) Must be educated in their rights and that their governments can be held accountable for their commitments they have made under international law. The 1949 Convention could Possibly Be further Expanded to accommodate for More Modern times. Whether the workers are moving for economical, political, or social reasons, they are entitled to the respect and dignity deserving as a human being no matter where they are and whom they work for. Secondly, the international communities must better the enforcement of international migrant worker instruments provided by the ILO and its branches. Although 82 member states have ratified at least one of the three migrant worker protection frameworks, the implementation of these instruments must be improved either through labour inspection and procedures for access to justice. In resolution A/65/944 of UN General Assembly's 65 session Item 22 (c),

“States have a shared responsibility in promoting safe and legal international migration, Combating irregular migration and human trafficking, enhancing migrant integration, Safeguarding the rights of migrants and protecting the most vulnerable, including certain migrant women and children” (Clause 13).

In order to guarantee minimum rights protection for all migrants, international cooperation must strengthen bilaterally, regionally and finally globally.

Questions a resolution must answer

- . What are the threats posed to human rights of the migrant workers?
- . Are the current mechanisms to prevent human rights violations?
- . Are the existing laws/conventions/resolutions being implemented effectively?
If not, how can we ensure its proper implementation?
- . What new mechanisms may be implemented, in order to prevent human rights violations, of the migrant workers in the future?
- . What is the role of national governments in ensuring the protection of human rights?

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