



MODEL INTERNATIONAL MOBILITY CONVENTION

**MODEL INTERNATIONAL
MOBILITY CONVENTION**

AN INITIATIVE OF CARNEGIE COUNCIL
FOR ETHICS IN INTERNATIONAL AFFAIRS

**CARNEGIE
COUNCIL** *for Ethics in
International Affairs*

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**The Model
International Mobility
Convention (MIMC)
proposes a better
system for migration
and mobility by
addressing gaps in
existing international
law. It offers a
comprehensive set
of rules, outlining
actions, rights, and
duties that benefit
both migrants and
refugees as well
as their states of
origin, transit, and
destination.**

WELCOME

In an increasingly globalized world, human mobility stands alongside population growth, climate change, access to resources, and urbanization as one of humanity's defining forces.

Estimates of international human migration suggest that there were 280 million international migrants in 2020, and the figure is projected to increase over the coming years considering factors such as natural disasters, war, and conflict. The world has also seen the implications of the restriction in freedom of movement during the COVID-19 pandemic.

Despite ever increasing human mobility, the movement of people across borders lacks global regulation, leaving many people unprotected in irregular and dire situations. International mobility—the movement of individuals across borders for any length of time, such as visitors, students, tourists, labor migrants, entrepreneurs, long-term residents, forced migrants, refugees, victims of trafficking, people caught in countries in crisis, and family members—has no common definition or legal framework.

There is perhaps no stronger evidence of the pressing need to expand our existing international migration frameworks than the fact that the world continues to remain unprepared to establish a floor for protection of persons moving across borders. The Model International Mobility Convention (MIMC) creates, for the first time, a holistic and cumulative framework to cover different categories of mobile people. It recognizes the positive contribution of migrants towards inclusive growth and sustainable development and fills the growing gaps in protection and responsibility that are leaving “people on the move” vulnerable. It proposes a framework for international human mobility with goals of reaffirming their existing rights, while also expanding those rights where warranted.

Seeking to better protect the rights of all persons crossing international borders, the MIMC covers a broad spectrum of migrants and unpacks a range of migrant rights. It establishes several international cooperation mechanisms including a multi-stakeholder International Committee to ensure its implementation. By demonstrating what a better international mobility regime could look like, it hopes to take away undue concerns, assure uneasy publics, and inspire action.

Professor Michael Doyle, Director, Carnegie MIMC Project

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Development of MIMC

The Model International Mobility Convention (MIMC) was developed by an International Mobility Commission at meetings organized by the Columbia Global Policy Initiative. It involved over forty eminent academic and policy experts in the fields of migration, human rights, national security, labor economics, and refugee law. The Commission came together to debate and develop the MIMC in workshops conducted regularly from early 2015 through April 2017. The MIMC is the outcome of this collaborative effort to produce a comprehensive and greatly needed international legal framework for human mobility. Through extensive deliberation, the Commission developed a coherent and equitable Model Convention.

It strikes the difficult but necessary balance between, on the one hand, the needs and demands of the increasing numbers of people who are seeking to cross international borders and, on the other hand, the interests of States in national security, domestic prosperity, and sovereign control of their borders. It aims at a realistic assessment of what States can and should be willing to accept in support of their national interests in a more sustainable and humane global mobility regime.

The Model International Mobility Convention (1.0) was published in a special issue of the *Columbia Journal of Transnational Law*. For assistance regarding purchases and subscriptions, visit jtl.columbia.edu/contact/subscriptions. The contributors to the special issue included: Tendayi Achiume, University of California - Los Angeles; Diego Acosta, University of Bristol; T. Alexander Aleinikoff, The New School; Kiran Banerjee, University of Saskatchewan; Emma Borgnäs, Columbia University; Michael W. Doyle, Columbia University; Yasmine Ergas, Columbia University; Randall Hansen, University of Toronto; Rey Koslowski, SUNY University at Albany; Sarah Deardorff Miller, Columbia University; Parvati Nair, United Nations University; and Sarah Rosengaertner, UNDP/Advisor to UNSRSG on International Migration.

Having published the Convention, MIMC 1.0, in 2018, the next step in the development of the Convention was a meeting hosted in the University of Pennsylvania's Perry World House in February 2019. Mr. William Lacy Swing, former director-general of the International Organization for Migration (IOM), delivered an inspiring keynote lecture. It covered migration, displacement,

and the age of humanitarian crises. The workshop produced the Model International Mobility Declaration (or MIMC 2.0), a summary version of MIMC 1.0. It is published in this pamphlet by Carnegie Council for Ethics in International Affairs. Continuing the promotion and progressive development of the Convention, the Model International Mobility Convention (MIMC) project joined Carnegie Council as an Impact Initiative.

In October 2022, it convened a workshop at the Hertie School of Governance in Berlin, Germany to find solutions to the most pressing challenges of migration in today's world. It was held in

collaboration with the Centre for Fundamental Rights, the RefMig Project, and the Berlin Social Science Centre (WZB). The intention behind the workshop was to identify and expand key debates around migration and to start conceptualizing the necessary revisions that should be incorporated into the next version of the Model International Mobility Convention (MIMC 3.0). By focusing on three emerging and prominent challenges—labor migration, climate-related displacement, and “digital nomads”—it furthered much needed research and provided valuable new directions for thinking about future revisions of the Model International Mobility Convention.

Acknowledgments

We wish to thank our co-authors, the Commission Members who wrote the Convention, for making this project possible through their insights, drafting and support. We also wish to thank the *Columbia Journal of Transnational Law* for publishing the Convention and the twelve expert commentaries in a special edition; the Open Society Foundations International Migration Initiative, the Endeavour Foundation, and Carnegie Corporation for supporting our workshops; and those who have signed the MIMC and provided their support. We also extend our thanks to Carnegie Council for Ethics in International Affairs for their support with the next version of the MIMC.

We invite you to endorse and support the Model International Mobility Convention by adding your signature to the Convention at info.carnegiecouncil.org/mimc-convention

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**Denotes a Reservation, Understanding or Declaration available at globalpolicy.columbia.edu/mobility-convention.*

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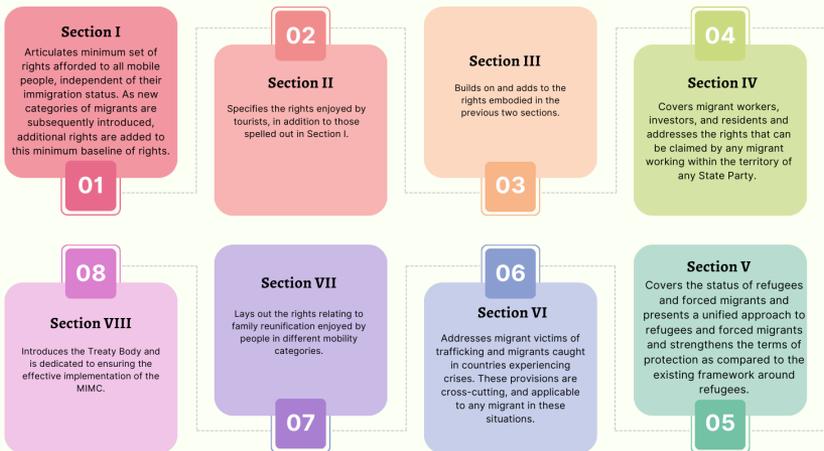
Summary

This overview explains how the sections of the Model International Mobility Convention (MIMC) build on and complement each other. The MIMC, in its concise and summarized version, consists of 166 Articles divided over 8 sections. This can be consulted in conjunction with the visualization below which offers a breakdown of the different categories of persons covered by the MIMC.

The 8 sections spell out the rights held by a wide array of mobile people, including visitors, students, tourists, migrant workers, investors, and residents, forced

migrants, refugees, family members, migrant victims of trafficking, and migrants caught in crisis. Some of these categories are—to a greater or lesser extent—covered by existing international legal regimes. However, the Model Convention for the first time brings these groups together under a single framework. In developing such a comprehensive legal regime for mobility, the MIMC fills several existing gaps in protection and rights, adds clarity around the corresponding responsibilities of States as well as migrants vis-à-vis States, and proposes comprehensive mechanisms for international cooper-



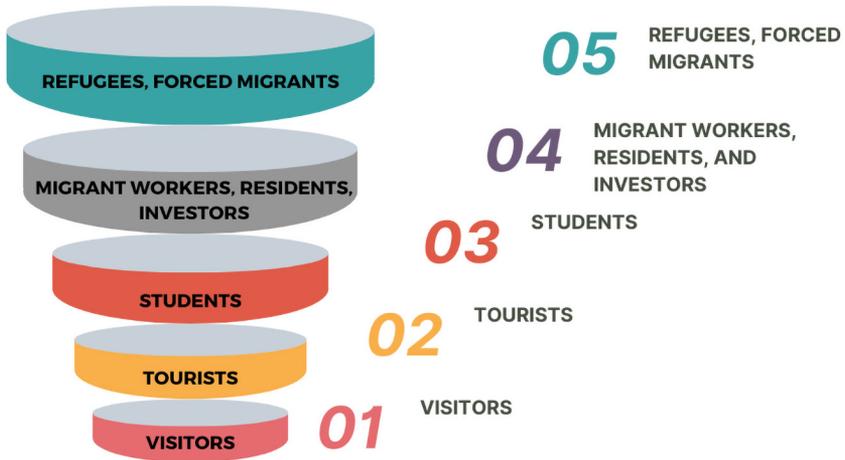


ation and responsibility sharing to strengthen and reinforce the development of a truly global mobility regime.

The Preamble of the MIMC establishes the complementarity of the MIMC with existing international legal instruments. These include the United Nations Charter, the Universal Declaration of Human Rights, as well as other core international human rights treaties, thereby explicitly signaling that the MIMC builds upon the rights and protections embodied in these documents. None of the provisions in the MIMC should be interpreted as undermining such rights, nor should any rights be regarded

as negated by the MIMC should they not be explicitly embodied in its articles.

The MIMC focuses on the rights and protections that are of special relevance to people on account of their moving across national borders. Accordingly, individuals enjoy these rights without prejudice to all other rights they are entitled to as persons, as embodied in the wide range of existing human rights treaties. An essential feature of the MIMC is that it is cumulative. This means that, for the most part, the sections build on and add to the set of rights afforded to categories of migrants covered by earlier sections.



Although the various sections are designed to be cumulative and interlocking, the MIMC nonetheless, still focuses on specific categories of mobile persons.

Following the Preamble, Section I on visitors articulates the minimum set of rights afforded to all mobile people, independent of their immigration status. As new categories of migrants are subsequently introduced in the MIMC, additional rights are added to this minimum baseline of rights.

Thus, Section II specifies the rights enjoyed by tourists, in addition to those spelled out in Section I. Similarly, Section III on students builds on and adds to

the rights embodied in the previous two sections.

Section IV covers migrant workers, investors, and residents. These provisions address the rights that can be claimed by any migrant working within the territory of any State Party, including undocumented migrants or those in an irregular situation. The chapter also outlines the additional rights that can be claimed by documented migrant workers and investors. Migrant residents have, in addition to a few specific rights related to residency, full access to the non-work-related rights enjoyed by undocumented and documented migrant workers alike.

Examples of cumulative rights include:

Mobility: All mobile people enjoy freedom of movement within the territory of each State Party following admission. However, the right to choose residence is not introduced until the migrant worker section, with reference to migrant residents.

Civil: Everyone is entitled to freedom of thought, conscience, and religion, and the right to hold opinions, but the more expansive right to freedom of expression is not introduced until the section on students.

Labor: Undocumented workers enjoy equality of treatment with regards to joining and participating in and seeking assistance of trade unions. However, only in the sections addressing documented workers is the right to form trade unions or other associations introduced.

Social and cultural: Undocumented workers enjoy the right to decent living conditions and protection from exploitation. However, it is not until the MIMC turns to documented migrant workers in Section IV that the right to equality of treatment with regards to social housing schemes is introduced. Moreover, only forced migrants and refugees enjoy the right to same treatment as foreign nationals with regards to housing.

Health: All mobile people enjoy access to emergency medical healthcare, but access to non-emergency healthcare is first introduced in the migrant worker section, and only in the part on documented migrant workers is

the right to equality of treatment with nationals with regards to access to healthcare introduced.

Economic: Undocumented workers have the right to transfer earnings and savings to the State of origin, but the right to exemption from import and export duties and taxes is only introduced for documented workers and the right to equality of treatment with nationals with regards to transferring assets only applies to refugees and forced migrants.

Employment: All migrant workers enjoy equality of treatment with regards to remuneration and other conditions of work and safe and secure working environments, but the right to seek alternative employment can only be claimed by documented workers, while equality of treatment with regards to right to self-employment only applies to refugees and forced migrants.

Protection: Everyone has the right to access consular or diplomatic authorities but only forced migrants and refugees have the right to international protection.

Family reunification: The right to family reunification of the nuclear family is introduced in the section on students (undocumented and temporary migrant workers are exempted), but only forced migrants and refugees enjoy the right to reunification of the extended family.

Section IV outlines the rights of temporary migrant workers. These provisions introduce some contextual exceptions to the otherwise cumulative nature of the rest of the MIMC. For instance, temporary workers may not have access to all the rights afforded to documented migrant workers that have been admitted on a permanent basis.

Section V subsequently covers the status of refugees and forced migrants and follows the logic of building on the rights set forth in earlier chapters. This section presents a unified approach to refugees and forced migrants and strengthens the terms of protection as compared to the existing framework around refugees. Refugees and forced migrants enjoy all the rights set forth in Sections I through III and all the non-work-related rights set forth in Section IV. To the extent that they engage in employment activities, they enjoy all employment related rights as well. In addition to provisions governing their general treatment by States Parties, they enjoy rights primarily related to protection and access to asylum.

The subsequent two sections diverge from the earlier chapters of the MIMC by addressing

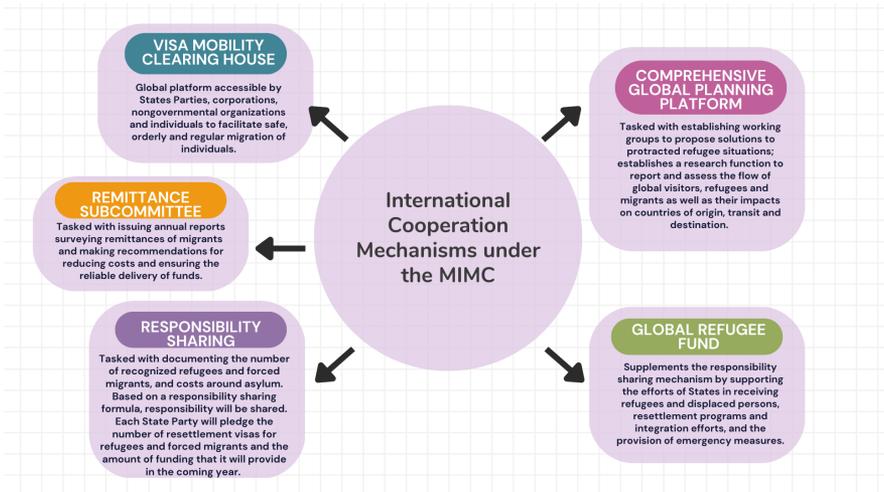
crosscutting issues and rights entitlements. Section VI addresses migrant victims of trafficking and migrants caught in countries experiencing crises. These provisions are cross-cutting in the sense that the rights embodied therein are applicable to any migrant that should find him or herself in either or both situations. Section VII lays out the rights relating to family reunification enjoyed by people in different mobility categories.

Finally, Section VIII introduces the Treaty Body and is dedicated to ensuring the effective implementation of the MIMC as well as providing a broader framework for facilitating global cooperation on international mobility. It includes provisions for the establishment of a committee with the responsibility to review and monitor the application of the MIMC. This is supported by reporting requirements for States Parties on the legislative, judicial, administrative, and other measures they have taken to give effect to the provisions of the MIMC. It also identifies the Committee as a source of authoritative guidance on the interpretation of the MIMC. These provisions create an institutional space for civil society, including migrants and their representative

organizations, to fully participate in the independent monitoring process established by each State to promote, protect, and monitor the implementation of the MIMC.

The Section includes provisions relating to dispute resolution for when States Parties want to pursue other State Parties for not fulfilling their obligations under the MIMC and outlines the specific procedures and remedies. It also proposes that

the Committee establish mechanisms to address migration flows comprehensively and equitably. These mechanisms include a Mobility Visa Clearing House and a Remittance Subcommittee for facilitating international economic migration. It introduces a number of innovations for supporting and strengthening international protection such as a Responsibility Sharing framework, a Comprehensive Global Planning Platform, and a Global Refugee Fund.



International Cooperation Mechanisms:

Visa Mobility Clearing House:

Global platform accessible by States Parties, corporations, nongovernmental organizations, and individuals to facilitate the safe, orderly, and regular migration of individuals (participating States are asked to allocate at least 10 percent of all annual labor visas to refugees and forced migrants).

Remittance Subcommittee:

Tasked with issuing annual reports surveying the facility and costs of remittances of migrants to designated recipients and making recommendations for reducing costs and ensuring the reliable delivery of funds.

Responsibility Sharing:

Tasked with issuing annual reports documenting the number of recognized refugees and forced migrants, their current location of asylum, and the cost-per-person of the provision of asylum. During an annual meeting involving all States Parties the “responsibility shares” of each State Party will be announced, as based on a responsibility sharing formula. Each State Party will pledge the number of resettlement visas for refugees and forced migrants

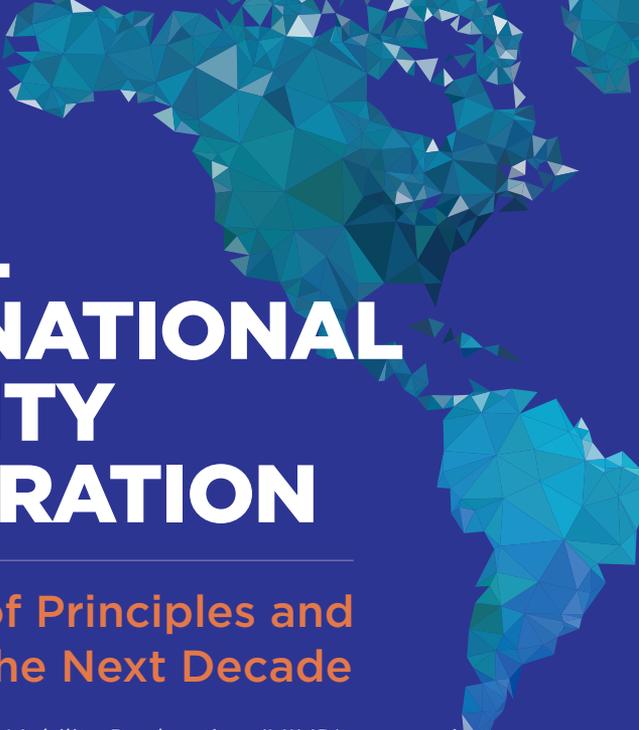
and the amount of funding that it will provide in the coming year.

Comprehensive Global Planning Platform:

Tasked with establishing working groups to propose solutions to protracted refugee situations, with the aim of facilitating return, local integration, or resettlement. In order to improve the quality of global deliberation and problem solving for migrants and refugees, the Convention establishes a research function to report and assess the flow of global visitors, refugees, and migrants as well as their impacts on countries of origin, transit, and destination.

Global Refugee Fund:

Supplements the responsibility sharing mechanism by directing funding to support the efforts of States in receiving refugees and displaced persons, resettlement programs, and integration efforts, and the provision of emergency measures.



MODEL INTERNATIONAL MOBILITY DECLARATION

An Agenda of Principles and Policies for the Next Decade

The Model International Mobility Declaration (MIMD) summarizes and builds on the Model International Mobility Convention (MIMC). Like it, it provides a holistic and rights-based approach to international mobility that integrates the various regimes that seek to govern people on the move. In addition, it fills key gaps in international law that leave many people unprotected by establishing the minimum rights afforded to all people who cross state borders – whether as visitors, tourists, students, workers, residents, entrepreneurs, forced migrants, refugees, victims of trafficking, people caught in countries in crisis and family members – and defines their relationships to their communities of destination, origin, and transit.

We, the signatories of this Declaration, while summarizing the key articles of the Model International Mobility Convention¹ (MIMC) join its signatories in:²

Seeking to better protect the human rights of all persons crossing international borders, including refugees and migrants, regardless of status and demonstrating

full respect for international law and international human rights law and, where applicable, international refugee law and international humanitarian law;

Reasserting the existing rights afforded to mobile people and corresponding rights and responsibilities of States established by international and regional con-



ventions and initiatives, including, but not limited to, the Refugee Convention of 1951 and its 1967 Protocol and, for its States Parties, the Migrant Workers Convention of 1990;

Expanding those basic rights of mobile people where warranted in order to address the growing gaps in protection and responsibility that are leaving people vulnerable;

Recognizing that the ideal of free human beings enjoying freedom from fear and want requires creating conditions wherein everyone, including persons moving across national borders, enjoys economic, social, cultural, civil, and political rights in the appropriate locale;

Recognizing that the grant of asylum may place unduly heavy burdens on certain countries, and that a satisfactory response to the protection needs of forced migrants and refugees is international in scope, and cannot therefore be achieved without international cooperation;

Expressing the wish that all States recognize, as does the Global Compact on Refugees, the social and humanitarian nature of international protection and continue to receive persons in need of protection in their territories and that they act in concert in a true spirit of international cooperation in order that forced migrants and refugees may find asylum and the possibility of resettlement;

Recognizing, as also do the Sustainable Development Goals and the Global Compact on Migration, the positive contribution of migrants for inclusive growth and sustainable development; which requires safe, orderly, regular and responsible migration;

Recognizing the legitimate interest of States in controlling their borders and that the exercise of sovereignty entails responsibility, including in the adoption of appropriate and comprehensive policies governing the movement of persons;

Convinced, therefore, of the need to bring about the international protection of the rights of all persons moving across borders and members of their families, reaffirming and establishing basic

norms in a comprehensive convention – the Model International Mobility Convention – which could be applied universally;

Mindful that the legitimate claims persons moving across borders can make, and the responsibilities they should bear, should reflect the particular circumstances and reasons for their movement;

And highlighting, therefore, the particular circumstances and cumulative sets of rights of visitors, tourists, students, migrant workers, investors and residents, family reunification, migrant victims of human trafficking, forced migrants and refugees;

Have agreed on the following Declaration:

Visitors

1. “Visitors” are persons who are outside their State of origin, temporarily residing or in transit in a State of which they are not a national and do not qualify under one of the sections that follow for another status.

2. The rights of the visitor enumerated herein shall apply to all those persons who qualify for additional protections as a tourist, student, migrant worker, investor or resident, reunifying family member, migrant victim of human trafficking, migrant caught in a crisis, forced migrant or refugee.

3. For the purposes of this Declaration and the MIMC, visitors and members of their families obtain the listed rights whether they are documented or undocumented, unless special

rights are specified as only for documented status holders.

4. This Declaration and MIMC shall be without prejudice to the rights granted to visitors and other migrants and refugees under existing human rights instruments of international law. Nothing in this Declaration shall be deemed to impair any rights and benefits granted by States Parties in bilateral, regional or global multilateral treaties to migrants and refugees apart from this Declaration. Moreover, all states – whether of origin, transit or destination – should pay particular attention and offer protection for all migrants who might need special care, including children, women and those with special vulnerabilities.

5. Nothing in the present Declaration should be construed to limit States Parties from granting additional rights and privileges to migrants and refugees who seek entry, transit or are resident in their jurisdictions.

MOBILITY RIGHTS AND DUTIES

6. States Parties undertake, in accordance with the international instruments concerning human rights, to respect and to ensure to all visitors and other mobile persons seeking to enter, within their territory or subject to their jurisdiction the rights provided for in MIMC and this Declaration without distinction of any kind such as to sex, gender, race, color, language, religion or conviction, sexual orientation, disability, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status (including documented or undocumented, unless otherwise prescribed in the present Declaration).

7. All persons shall be free to leave any State, including their State of origin. This right shall not be subject to any restrictions except those that are provided

by law, are necessary to protect national security, public order, public health or the rights and freedoms of others and are consistent with the other rights recognized in this Convention.

8. Persons shall have the right at any time to enter and remain in their State of origin.

9. States have the right to determine who shall be allowed to enter their territories and to decide who shall be allowed to stay, subject to the constraints outlined in paragraph 6 above, other provisions of MIMC and this Declaration and in particular the nonrefoulement provisions of Section V below and any other treaties – bilateral, regional and multilateral – the States may have entered.

10. Consular officers of States Parties may issue visas that authorize nationals of other States to travel and present themselves for inspection by state officials at designated border crossing points and ports of entry. States may also permit nationals of other States to present themselves for inspection without having applied for and received a visa. The granting of visafree travel is a prerogative of all States

and States have full discretion regarding which States' nationals need visas and which do not.

11. Visitors will abide by the laws of the host State, carry a passport for identification and remain as visitors no longer than their visa or other permission to enter allows, unless they qualify for special exemption based on a valid claim under Section V below.

12. States of origin will take no measures that restrict the return of their nationals and take measures to facilitate the return of their nationals.

13. States will issue passports to their nationals at their request, once they provide the appropriate documentation and at a reasonable cost. Any costs greater than production costs shall reflect public purposes and shall be nondiscriminatory among similarly circumstanced applicants.

14. States having rights and responsibilities to manage and control their borders, will promote international coop-

eration on border control and management as an important element of security for States, including battling transnational organized crime, terrorism and illicit trade.

15. States shall endeavor to provide machine readable, bio-metric passports to facilitate identification of their nationals. States requiring such passports for entrance shall assist other States in making the technology affordable.



16. When acting in accordance with paragraph 6 above and with bilateral and regional agreements, nothing in this Declaration shall restrict a State Party's right to decide the number of visas it issues at its discretion or deny entry to any particular prospective visitor. In this connection, host and transit state officials at ports of entry and authorized border crossing points have discretion to deny entry to a prospective visitor regardless of whether that individual holds a valid entry or transit visa.

17. Visitors may be expelled from the territory of a State only in pursuance of a decision taken

by the competent authority in accordance with law and provided they do not qualify for international protection under Section V below.

RIGHTS OF VISITORS

18. Every visitor shall have her or his basic rights protected including rights to life; freedom from forced labor; torture or cruel or unjust punishment; freedom of thought, conscience and religion; privacy; rights of property and movement equal to those held by nationals.

19. Visitors shall have the right to receive any medical care that is urgently required for the preservation of their life or the avoidance of irreparable harm to their health on the basis of equality of treatment with nationals of the State concerned. Such emergency medical care, including reproductive health-care, shall not be refused to them but payment for such care may be limited to terms that are reciprocal with the State of origin of the visitor or as otherwise arranged through special medical insurance by the visitor.

20. Visitors and members of their families shall have the

right to have recourse to the protection and assistance of the consular or diplomatic authorities of their State of origin or of a State representing the interests of that State whenever the rights recognized in the present Convention are impaired.

21. Visitors shall be entitled to effective protection by the host State against violence, physical injury, threats and intimidation, whether by public officials or by private individuals, groups or institutions.

22. Visitors shall not be subjected individually or collectively to arbitrary arrest or detention; they shall not be deprived of their liberty except on such grounds and in accordance with such procedures as are established by law.

23. Visitors who are arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release.

24. Visitors shall have the right to equality with nationals of the State concerned before the courts and tribunals.

25. Visitors who are subjected to any form of detention or imprisonment in accordance with the law in force in the host State or in the State of transit shall enjoy the same rights as nationals of those States who are in the same situation. Children generally should not be detained. If they are, they shall be separated from adults (other than their parents) and be accorded treatment appropriate to their age and legal status.



Tourists

1. The term “tourists” refers to persons who visit a country for the purposes of entertainment, relaxation and cultural appreciation.
2. In addition to the rights and duties listed below in Section II, tourists and members of their families have all the rights and duties of visitors as prescribed in Section I.
3. Host States shall take all appropriate legislative and administrative measures to ensure that state agents, tourists and tourism professionals comply with the principles and responsibilities set forth in the present Section through appropriate legislative, administrative, social and educational measures, except as otherwise required hereafter.
4. Tourists have a right to receive and States Parties have a duty to ensure that tourism professionals provide tourists with objective and honest information on their places of destination and on the conditions of travel, hospitality and stays. Tourism professionals should ensure that the contractual clauses proposed to their customers are readily understandable as to the nature, price and quality of the services they commit themselves to providing and the financial compensation payable by them in the event of a unilateral breach of contract on their part.
5. The exploitation of human beings in any form, particularly sexual, especially of children, conflicts with fundamental human rights and the aims of

legitimate tourism; as such, in accordance with international law, tourists should neither engage in nor encourage such activity. Both host States and tourists' States of origin should ensure that all acts of prostitution of children are offences under its criminal law and penalize offenses.

6. Cruise ships and other sea-borne facilities are subject to all the commitments undertaken by their State of registration and/or ownership, including all the relevant provisions in the present MIMD, in particular, emergency medical care, timely information on the status of the ship itinerary and a refund for terminated voyages.

7. All tourists, tourism professionals and host States should safeguard the natural and cultural environment with a view to achieving sound, continuous and sustainable economic growth, satisfying equitably the needs and aspirations of present and future generations.



Students

1. The term “international student” refers to any person engaging in learning at an educational institution outside of his or her State of citizenship. The term “educational institution” refers to any institution or entity certifying, facilitating the enrollment of and providing learning opportunities to international students or scholars. A “host institution” is an educational institution within the host State at which an international student engages in learning. The term “home institution” refers to an educational institution in the State of origin with which an international student remains registered before, during or after the period in which he or

she engages in learning at the host institution.

2. International students have all the rights and responsibilities of visitors as specified under Section I (and of tourists, as under Section II, if they engage in tourism). They may have rights in addition to the ones described below as a function of membership in a regional association or in accord with bilateral treaties.

3. Host States should ensure that educational institutions respect the rights of international students herein, in particular to know the terms of admission and costs of the educational pro-

gram; to have full rights of access to the educational facilities of the host institution on par with national students enrolled in similar degree programs at a similar stage of preparation; and to know what personal information is collected about them by an educational institution and that the educational institution is safeguarding that information.

4. Educational institutions will award relevant degrees and credentials on the basis of academic performance as promised to the international student on enrollment.

5. Educational institutions will return the tuition payment, in whole or in part, if they fail to provide the educational services promised at the time of enrollment.

6. International students and accompanying members of their families shall have the right to freedom of expression; including freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of their choice, in accordance with the freedoms of nationals in host State law.

7. International students shall provide accurate information in their representations to educational institutions, government entities and others in the international education community. International students shall abide by the host institutions' honor systems. Fraud or misrepresentation of achievements are valid reason for expulsion from an educational institution.

8. International students shall in addition to adhering to the laws of the host State abide by the rules and regulations of the host institution.



Migrant Workers, Investors and Residents

1. “Migrant worker” refers 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. “Migrant resident” refers to a person who maintains a residence for at least a year, relies upon an independent source of income and is not employed.

“Migrant entrepreneur” or “migrant investor” refers to an individual who creates or provides a substantial (as specified in national law) investment in a business or related corporate entity. “Temporary migrant worker” refers to a migrant worker whose permission to work and reside in a State of employment is limited

in time and who does not fall under any of the other definitions under the present article. For the purposes of the present Declaration, the term “State of employment” means a State where the migrant worker is to be engaged, is engaged or has been engaged in a remunerated activity, as the case may be. The term “State of long-term residence” means a State where the migrant resident has established a permanent abode.

2. Migrant workers, investors and residents have all the rights and responsibilities of visitors as specified under Section I and of tourists and students, as under Section II and III, if relevant. They may have rights in addition to those described below in accord with bilateral and regional treaties.

RIGHTS OF ALL MIGRANT WORKERS, INCLUDING UNDOCUMENTED OR IRREGULAR WORKERS, AND MEMBERS OF THEIR FAMILIES

3. States of employment shall ensure that migrant workers shall enjoy treatment not less favorable than that which ap-

plies to nationals of the State of employment in respect of remuneration, conditions of work and safe and secure working environments, including, overtime, hours of work, weekly rest, holidays with pay, safety, health, employer-provided healthcare, termination of the employment relationship, protection against dismissal and any other conditions of work, which, according to national law and practice, are covered by these terms;

4. States of employment shall provide for effective remedies to all migrant workers for any breach of employment contracts on the same basis as available to national workers.

5. States Parties recognize the right of migrant workers and members of their families under the same conditions as national workers to take part in meetings and activities of trade unions and of any other associations established in accordance with law, with a view to protecting their economic, social, cultural and other interests, subject only to the rules of the organization concerned.

6. Migrant workers and members of their families shall not be refused emergency medical



care, including reproductive health care.

7. Each child of a migrant worker, including those born in the State of Employment countries, shall have the basic right of access to:

- (a) Necessary medical assistance and health care with an emphasis on primary health care;
- (b) Primary and secondary education on the basis of equality of treatment with nationals of the State concerned.

8. States Parties shall adopt, implement and enforce legislation and policies to assist and protect migrant workers from abusive practices, including by establishing mechanisms for migrant workers to lodge complaints and seek remedy without discrimination, intimidation or retaliation.

9. Migrant workers and members of their families shall have the right to participate in public affairs of their State of origin and to vote and to be elected at elections of that State, in accordance with its legislation.

10. Nothing in the present Declaration shall have the effect of relieving migrant workers and the

members of their families from either the obligation to comply with the laws and regulations of any State of transit and the State of employment or the obligation to respect the cultural identity of the inhabitants of such States.

11. Migrant workers and members of their families shall not be subject to measures of collective expulsion. Each case of expulsion shall be examined and decided individually.

ADDITIONAL RIGHTS OF MIGRANTS AND MEMBERS OF THEIR FAMILIES WHO ARE DOCUMENTED OR IN A REGULAR SITUATION

12. Migrant residents, entrepreneurs/investors and workers and members of their families who are documented or in a regular situation in the host State shall enjoy the rights set forth in the present part below of this Declaration in addition to those set forth above. Those who are admitted on a permanent basis obtain additional rights as specified below.

13. Migrant residents have the right to rent or purchase property and sell or lease their property

provided they maintain a status of residence for at least half of every year they claim residence.

14. Migrant residents may retain bank accounts in their State of origin and travel with unlimited visas to and from their State of origin.

15. In order to facilitate international investment on terms that contribute to the development of States Parties and to protect the rights of investors and entrepreneurs to clear and transparent rules of investment, States Parties undertake to make available certain visas for migrant entrepreneurs, and similar business individuals and investors (together, “entrepreneurship visa”), in coordination with their respective domestic legal frameworks.

16. While such a framework will depend on each domestic system and its immigration policies and is ultimately a matter of state discretion, States Parties are encouraged to incorporate the following non-exclusive principles into their systems of evaluating candidates for initial and renewed visas:

(a) The business plan of the applicant and the applicant’s educational and professional background, as appropriate



for the specific industry;

(b) Third-party endorsement by individuals or organizations with specialized knowledge of the relevant industry;

(c) A de-emphasis on, or alternatives to, investment thresholds, as appropriate for the specific industry;

(d) Sufficient time for businesses to generate profits, balancing the purpose of the visa with the recognition that many ultimately successful businesses may not be immediately profitable;

(e) Clear and transparent extension and settlement criteria;

17. States Parties undertake to make publicly available regular reports every four years on their implementation and regulation of the entrepreneurship visas.

18. Reports should include, at a minimum: the criteria used to award entrepreneurship visas; detailed information on



those awarded and denied entrepreneurship visas by industry; detailed information regarding the rights and privileges attached with each category of entrepreneurship visa, including but not limited to the duration of visa; processes, if any, to full citizenship; any intermediate review process throughout the duration of the visa and rights during that process (such as the right to appeal and the right to due process); detailed information on investment thresholds and any monetary contributions given to the State Party in connection with or with the expectation of securing an entrepreneurship visa.

19. States Parties may, at their discretion, impose duties on applicants for entrepreneurship visas in connection with this article. Duties may include the applicant's obligation to provide truthful and candid disclosures throughout the application process.

RIGHTS OF TEMPORARY MIGRANT WORKERS (CIRCULAR MIGRATION)

20. States of employment shall adopt measures to ensure that temporary migrant workers lawfully within its territory enjoy the

relevant rights listed above and:

- (a) Equal treatment with nationals regarding access to courts to resolve employment disputes
- (b) Access to national employment and training opportunities (after a reasonable period of employment that may not exceed five years).

21. States Parties may issue work authorizations for temporary migrant workers, that:

- (a) Make the right freely to choose their remunerated activities subject to the condition that the migrant worker has resided lawfully within its territory for the purpose of remunerated activity for a period of time prescribed in its national legislation that may not exceed two years.
- (b) Within a period of time not exceeding six months limit the authorization to work to one employer.
- c) Subject to paragraph a. of the present article, limit the authorization to work to the sector or region within which a work visa has been issued.

22. Temporary migrant workers shall, upon loss of their employment through no fault of their own, be allowed to find alternative employment during



a period of no less than one month, following which States of employment may require temporary migrant workers who can no longer work because of injury or illness to return to their State of origin once they are able to do so.

23. States of employment must on request issue exits and re-entries visas to temporary migrant workers to and may limit these to no fewer than three per year.

24. States of employment may not limit equal access to primary or secondary education to children of temporary migrant workers who have been authorized to bring their families with them.

25. States of origin may not limit access to social rights for temporary migrant workers upon return.

26. States of employment may restrict for a maximum of five years access to meanstested social rights for temporary migrant workers if there is demon-

strable evidence that granting the rights creates a net fiscal loss for that State.

27. States of employment shall make appropriate arrangements to ensure the maintenance of acquired rights and rights in course of acquisition of temporary migrant workers, including ensure the transfer to temporary workers of any contributory benefits (including portable pensions) upon their return to their State of origin.

28. It is at the discretion of the State of employment to decide the duration of the period for which a temporary work authorization is issued. This period should allow periods spent away from the destination state and should be set so as to ensure that temporary migrant workers can generate the net financial gains necessary to make migration financially worthwhile.

29. States of employment shall ensure that foreign workers in good standing who are employed or have offers of employment at the end of the period for which they have a work authorization are allowed to re-apply for a new work authorization.

30. States of employment shall implement transparent criteria for regulating the transfer of



migrant workers from temporary residence status to permanent residence status after a specified period of time not exceeding five years. No temporary migrant worker shall be renewed in temporary status longer than seven years.

31. After seven years States of employment must offer permanent residence to temporary migrant workers who have met all the conditions of their employment together with all applicable laws of the State of employment.

32. Temporary migrant workers in full compliance with the laws of the State of employment shall be allowed to re-apply for another temporary visa, after an interval that in no case extends beyond one year.

**ADDITIONAL RIGHTS
OF MIGRANT
WORKERS AND
MEMBERS OF THEIR
FAMILIES WHO ARE
ADMITTED WITHOUT
TIME LIMITATION
OR ON A PERMANENT
BASIS**

33. No migrant worker or member of his or her family shall be

deprived of his or her authorization of residence or work permit or expelled merely on the ground of failure to fulfill an obligation arising out of a work contract unless fulfillment of that obligation constitutes a condition for such authorization or permit. It shall be unlawful for anyone, other than a public official duly authorized by law, to confiscate, destroy or attempt to destroy work permits.

34. Employers shall not be allowed to terminate the employment of a woman merely on the grounds of pregnancy, unless it is determined that her work is prejudicial to the health of the mother or the child, or being pregnant while engaged in the employment risks the safety of those relying on her.

35. Migrant workers shall be allowed to lodge an appeal against the termination of his or her employment and should be allowed redress for unjustified termination on the same terms as national employees.

36. Migrant workers who, through no fault of their own, have lost their employment shall be allowed sufficient time (at least three months) to find alternative employment.

37. Migrant workers, migrant residents and members of their families shall have the right to liberty of movement in the territory of the State of residence or employment and freedom to choose their residence there.

38. Migrant workers, migrant residents and members of their families shall have the right to form associations and (for workers) trade unions in the State of residence or employment for the promotion and protection of their economic, social, cultural and other interests.

39. Migrant workers, investors and residents and members of their family shall be eligible to apply for regular permanent residence after a specified period of time not exceeding five years. After seven years States of employment or residence must offer permanent residence to migrant workers, investors and residents who have met all the conditions of their residency and/or employment together with all applicable laws of the State of employment or residence.

40. States shall offer citizenship to migrant workers, migrant residents and members of their families subject to the rules and requirements relating to natu-

ralization applied in that State, after a specified period of legal residence in the country not exceeding ten years.

41. Neither marriage nor the dissolution of a marriage between a national of a State Party and an alien, nor the change of nationality by one of the spouses during marriage, shall automatically affect the nationality of the other spouse.

42. Migrant workers, migrant residents and members of their families shall enjoy equality of treatment with nationals of the State of residence or employment in accordance with national laws and no later than five years after admission. For permanent migrant workers, this applies in relation to:

- (a) Access to unemployment benefits, vocational guidance and placement services;
- (b) Access to vocational training and retraining facilities and institutions;
- (c) Access to housing, including social housing schemes, and protection against exploitation in respect of rents.

For migrant residents and migrant workers, this applies in relation to:

- (a) Access to educational in-



stitutions and services subject to admission requirements and other regulations of the institutions and services concerned;

(b) Access to social and health services, provided that the requirements for participation in the respective schemes are met;

(c) Access to social security on the same basis as nationals;

(d) Access to co-operatives and self-managed enterprises, which shall not imply a change of their migration status and shall be subject to the rules and regulations of the bodies concerned;

(e) Inclusion of children of migrant workers and residents in the local school system, particularly in respect of teaching them the local language.

43. Members of a migrant worker's family who have themselves an authorization of residence or admission that is without limit of time or is automatically renewable shall be permitted freely to choose their remunerated activity under the same conditions as are applicable to the said migrant worker.

44. In the case of death of a migrant worker or dissolution of

marriage, the State of employment shall favorably consider granting family members of that migrant worker residing in that State on the basis of family reunification an authorization to stay and work if they have resided in the State of employment for four years and in no case less than equal in length of time to the time they have already resided in that State.

PROVISIONS APPLICABLE TO PARTICULAR CATEGORIES OF MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES

45. Other particular categories of migrant workers and members of their families specified in the MIMC include domestic workers, frontier workers, seasonal, project-tied and itinerant workers and other categories who are documented or in a regular situation. Their rights are specified in the MIMC.

**PRINCIPLES FOR
THE PROMOTION OF
SOUND, EQUITABLE,
HUMANE AND LAWFUL
CONDITIONS IN
CONNECTION WITH
INTERNATIONAL
MIGRATION OF
WORKERS, RESIDENTS,
INVESTORS AND
MEMBERS OF THEIR
FAMILIES**

46. States Parties shall take appropriate measures to regulate legal recruitment practices and establish conditions for cheaper, faster and safer transfer of remittances in both source and recipient countries.

47. States Parties, including States of transit, shall collaborate with a view to preventing and eliminating irregular or clandestine movements and employment of migrant workers, residents and investors in an irregular situation. States of employment shall take all adequate and effective measures to eliminate employment in their territory of migrant workers in an irregular situation, including, whenever appropriate, sanctions on employers of such workers.

48. Whenever the States Parties concerned consider the possibili-

ty of regularizing the situation of migrant workers, residents and investors in an irregular situation in accordance with applicable national legislation and bilateral or multilateral agreements, they shall take into consideration the circumstances of their entry, the duration of their stay in the States of employment and other relevant considerations, in particular those relating to their family situation.

49. States Parties concerned shall co-operate as appropriate in the adoption of measures regarding the orderly return of migrant workers, residents, investors and members of their families to the State of origin when they decide to return or their authorization of residence or employment expires or when they are in the State of employment in an irregular situation.

Refugees, Forced Migrants, Asylum Seekers and International Protection

1. The purpose of this Section is to lay down standards for the qualification of persons as beneficiaries of international protection, to provide for a uniform status for refugees and other forced migrants eligible for international refuge, and to establish standards for the provision of interim protection and the content of the protection granted.
2. A “forced migrant” is:
 - (a) Every person who owing to a threat of “serious harm” consisting of a threat to an individual’s physical survival, which is external to her or him, or threats of torture or inhuman or degrading treatment or punishment or arbitrary incarceration, is compelled to leave his or her State of origin or place of habitual residence in

order to seek refuge in another place outside his or her State of origin. These threats may arise during indiscriminate violence, severe international or internal armed conflict, environmental disaster, enduring food insecurity, acute climate change, or events seriously disturbing public order;

(b) A person for whom there is substantial grounds for believing that the person concerned, if returned to his or her State of origin, or in the case of a stateless person, to his or her State of former habitual residence, would face a real risk of suffering serious harm.

3. A “refugee” is a forced migrant who owing to well-founded fear of being persecuted for reasons of race, gender, religion, nationality, membership of a particular social group or political opinion, is outside the State of her or his origin and is unable or, owing to such fear, is unwilling to return to that country; or who, not having a nationality and being outside the State of her or his former habitual residence is unable or, owing to such fear, is unwilling to return to it.

4. The rights protections articulated in this section shall be without prejudice to the rights

laid down in the 1951 Refugee Convention or in earlier chapters of this Declaration. Nothing in this Declaration or the MIMC on which it is based shall be deemed to impair any rights and benefits granted by States in bilateral, regional or global multilateral treaties to refugees or other forced migrants apart from this Declaration.

5. A person who is a refugee or other forced migrant shall be entitled to international protection. International protection shall be realized by States through the granting of international refugee status, or when urgent circumstances temporarily do not allow for the individual assessment of protection claims, by the granting of interim protection.

6. States Parties shall take measures to establish a harmonized asylum procedure, to be conducted by a competent authority under globally uniform standards. The goal of such measures will be the implementation of a comprehensive system in which a central expert authority determines, in a single procedure, the protection needs of an applicant. In cases in which UNHCR performs a status determination this will be sufficient to entitle an individual to international protec-



tion under the provisions of the present Declaration (and MIMC), although this shall not preclude States Parties from requiring additional security screening and other procedures following such recognition.

7. As part of assessing claims for international protection, States Parties may determine that a person is not in need of international protection if:

(a) She or he could find effective protection in another part of the State of origin, if under all circumstances it would be reasonable to expect her or him to do so; and

(b) She or he can safely and legally travel to and enter that part of the country and can reasonably be expected to reside and settle there.

8. States Parties may introduce or retain more inclusive standards in addition to those listed in this chapter for determining who qualifies as a person eligible for international refuge or interim protection.

9. Every person enjoying international protection has duties to the country in which they find themselves, which require in particular that they conform to laws and regulations taken

for the purposes of maintaining public order.

10. Nothing in this Declaration (or in MIMC) shall prevent a State, in time of war or other grave and exceptional circumstances, from taking provisionally measures which it considers to be essential to the national security in the case of a particular person, pending a determination by the State Party that that person is in fact a person entitled to international protection and that the continuance of such measures is necessary in her or his individual case in the interests of national security. All such measures must remain reasonable and proportionate.

STATUS DETERMINATION

11. States Parties shall not impose penalties, on account of their illegal entry or undocumented presence, on persons who, coming from a territory where they faced a wellfounded fear of persecution or were at risk of serious harm enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or undocumented presence.

12. Individuals and their families while awaiting status determination will make their whereabouts known to the authorities. States shall not apply restrictions to the movements of persons awaiting status determination other than those which are necessary and such restrictions shall only be applied until their status in the country is regularized or they obtain admission into another country. Any such restrictions must remain reasonable and proportionate; detention must only be a choice of last resort, after exhausting all alternatives, and only for as long as it is absolutely necessary for the purposes of status determination. States shall allow all such persons a reasonable period and all the necessary facilities to obtain admission into another country.

13. In applying this article, children should not, as a general rule, be detained. When considering whether minors should be subject to any form of detention, authorities should respect the principle of the best interests of the child. Where detention is exceptionally justified for other reasons, it shall conform to the law of the relevant country and only be used as a measure of last resort and for the shortest appropriate period of time. In

consequence, all efforts, including acceleration of relevant processes, should be made to allow for the immediate release of unaccompanied or separated children from detention and their placement in other forms of appropriate accommodation that provide adequate assistance and protection.

14. No State shall expel or return (“refouler”) a person in any manner whatsoever to the frontiers of territories where her or his life or freedom would be threatened on account of her or his race, gender, religion, nationality, membership of a particular social group or political opinion, or where the person would be at risk of serious harm.

15. States Parties shall not expel a person entitled to international protection lawfully in their territory save on grounds of national security or public order. The expulsion of such a person shall be only in pursuance of a decision reached in accordance with due process of law.

16. All States Parties having access to the Mobility Visa Clearing House and benefitting from the effective operation of the Responsibility Sharing Mechanism described in section VIII under-



take to admit asylum seekers in accord with paragraphs (a) and (b) below:

(a) A person coming directly from a territory where she or he faced a well-founded fear of persecution or were at risk of serious harm, whose status has been confirmed by UNHCR, and who requests the benefit of this Convention at the frontier or in the territory of a Contracting State shall be admitted to the territory of that State pending a determination of her or his request, which shall be considered by a specially competent authority and shall, if necessary, be reviewed by a higher authority.

(b) States Parties shall ensure that persons coming directly from a territory where they faced a well-founded fear of persecution or were at risk of serious harm and whose status has been confirmed by UNHCR as entitled to international protection cannot be denied access to air, land, or sea carriers, solely because they do not have a valid right to enter the country of destination. This does not prevent States Parties from requiring carriers to identify such persons on arrival to the authorities and for States to establish specific reception procedures upon arrival.

RIGHTS OF REFUGEES AND FORCED MIGRANTS

17. All persons entitled to international refuge status, whether as refugees or forced migrants within the States Parties' territories, shall always have the right to treatment at least as favorable as that accorded to nationals with respect to:

(a) Freedom to practice their religion and express beliefs as well as equal freedom as regards the religious education of their children;

(b) Rights previously acquired by such persons and dependent on personal status, more particularly rights attaching to marriage or other civil union, shall be respected by States Parties;

(c) The acquisition of movable and immovable property industrial and intellectual and other rights pertaining thereto, and to leases and other contracts relating to movable and immovable property;

(d) Joining non-political associations and trade unions;

(e) Free access to the courts of law on the territory of all States Parties;

(f) The same treatment with respect to public relief and as-

sistance as is accorded to their nationals;

(g) A residence permit which must be valid for at least three years and renewable, unless compelling reasons of national security or public order otherwise require;

(h) The choice of their place of residence and to move freely within the territory of States Parties, subject to any regulations applicable to foreign nationals generally in the same circumstances;

(i) For those unable to obtain a national passport, documents which enable them to travel outside their territory, unless compelling reasons of national security or public order otherwise require;

(j) Wage-earning employment immediately after international status has been granted; or no more than three months after the date of application for international forced migrant or refugee status has been filed or lodged;

(k) Access to public housing as favorable as possible, and, in any event, not less favorable than that accorded to foreign nationals legally resident in their territory;

(l) Access to primary and secondary education on the basis of equality of treatment



with nationals of the State concerned;

(m) Access to higher education as favorable as possible, and, in any event, not less favorable than that accorded to foreign nationals, including the recognition of foreign school certificates, diplomas and degrees, the remission of fees and charges and the award of scholarships;

(n) Emergency medical care, including reproductive health care, and following a set period if there is one, the same treatment as nationals with regard to the provision of medical care.

18. States Parties shall issue identity papers to any person entitled to international protection in their territory who does not possess a valid identity document.

19. A person may cease to be eligible for international refugee status when the circumstances which led to the granting of



international status have ceased to exist or have changed to such a degree that protection is no longer required, within the fixed period noted in paragraph 20.

20. The cessation of international refuge status does not necessarily imply return:

(a) In situations of protracted displacement States shall as far as possible facilitate the integration and naturalization of beneficiaries of international refuge status;

(b) States shall provide persons under international refuge with permanent residency status or an equivalent legal status after a fixed period not exceeding six years;

(c) States requiring support for resettlement programs and actions related to the integration of persons enjoying international refuge status whose stay is of a lasting and stable nature shall have access to financial and technical assistance provided by the Responsibility Sharing Mechanism and the Global Refugee Fund as established by the present Declaration.

21. A person shall not be eligible for international refuge status when there are serious reasons for considering that:

(a) He or she has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;

(b) He or she has committed a serious non-political crime outside the State of reception prior to his or her admission to that State. The severity of the expected harm is to be weighed against the nature of the criminal offense of which the person concerned is suspected. Particularly cruel actions, even if committed with an allegedly political objective, may be classified as serious non-political crimes. This applies both to the participants in the crime and to its instigators;

(c) He or she has been guilty of acts contrary to the purposes and principles of the United Nations;

(d) There are reasonable grounds for regarding him or her as a danger to the security of the host State or, having been convicted by a final judgment of a particularly serious crime, he or she is a danger to the community of that State.

INTERIM PROTECTION

21. “Interim protection” shall be provided as a procedure of exceptional character to provide immediate and temporary protection, in the event of the presence, arrival, or imminent arrival of a large number of forced migrants who are unable to remain within or return to their State of origin because of the threat of serious harm of a recognizably limited duration.

22. States Parties may extend interim protection to groups not covered by paragraph 2 of the present Section, in particular if there is also a clear and justified risk that the procedure for determining eligibility for international refugee status will be unable to process this influx without adverse effects for its efficient operation, in the interests of the persons concerned and other persons requesting protection.

(a) Interim protection shall be without prejudice to recognition of refugee status under the Geneva Convention or any other Treaty, Declaration, or regional instrument pertaining to the status of refugees; it shall also be without prejudice to recognition of international refugee or forced migrant status under

the conditions provided for in the present Declaration (or MIMC);

(b) The establishment, implementation and cessation of interim protection shall be the subject of regular consultations with the UNHCR and other relevant international organizations.

23. The initial duration of interim protection shall be one year. Unless ended under the cessation terms of this Section, it may be extended automatically by six monthly periods for a maximum of one more year.

24. The end of interim protection does not necessarily imply return. No later than two years after the grant of interim protection status, States Parties shall review the situation and, if the need for international protection continues, they shall grant international refugee status to the individuals concerned.

25. A forced migrant may cease to be eligible for interim protection when the circumstances which led to the granting of interim protection status have ceased to exist or have changed to such a degree that protection is no longer required, within the fixed period noted above.



26. States may exclude a person from interim protection if there are serious reasons similar to those for denying forced migrant or refugee status. Persons who have been excluded from the benefit of interim protection shall be entitled to mount a legal challenge in the state concerned.

27. Persons enjoying interim protection have rights equivalent to those of forced migrants and refugees during the period of their interim protection.

28. States Parties shall take the measures necessary to make possible the voluntary return of persons enjoying international protection whose need for international protection has ended. In collaboration with the

State of origin, States Parties shall ensure that the provisions governing voluntary return of persons enjoying international protection facilitate their return in safety and dignity, with due respect for human rights.

29. The State of origin, on receiving back such persons, shall facilitate their reintegration. Persons enjoying international protection who return to their country shall in no way be penalized for having left it for any of the reasons giving rise to their need for international protection.

30. States Parties shall take the measures necessary to ensure that the enforced return of persons whose need for international protection has ended and who are not eligible for admission is conducted with due respect for human dignity.



Assistance and Protection of Migrant Victims of Trafficking and Migrants Caught in Countries in Crisis

The purposes of this Section are to prevent and combat the international trafficking in persons, paying particular attention to minors; to protect and assist migrants who are victims of such trafficking, with full respect for their human rights; to establish standards for assisting migrants caught in countries in crisis; and to promote cooperation among States Parties in order to meet

those objectives and enable the return of such migrants to their countries of origin.

1. “Trafficking in persons” means the recruitment, transportation, transfer, harboring or receipt of a person who is a migrant, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power



or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

2. “Migrants in countries in crisis” applies to any person outside her or his State of origin, or in the case of a stateless person, her or his State of former habitual residence, who is at risk of serious harm due to being caught in a country experiencing a crisis, whether natural or man-made, where the magnitude of the crisis demands a significant humanitarian response.

3. In appropriate cases and to the extent possible under its domestic law, each State Party shall:

(a) Protect the privacy and identity of victims of trafficking in persons, including, inter alia, by making legal proceedings relating to such trafficking confidential;

(b) Ensure that its domestic legal or administrative system contains measures that provide to victims of trafficking in persons, in appropriate cases needed information and assistance to enable their views and concerns to be presented and considered at appropriate stages of

criminal proceedings against offenders.

4. Each State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.

5. Victims of trafficking in persons shall not be held in detention facilities as a result of their status as victims or immigration status. Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons. In addition to any other guarantees provided for in this Declaration, child victims, especially infants, shall be given special care and attention. If the victim is an unaccompanied minor the State party shall: appoint a legal guardian to represent the interests of the child; take all necessary steps to establish his or her identity and nationality; and make every effort to locate and return the victim to his or her family when this is in the best interest of the child.

6. The State Party of which a victim of trafficking in persons is a national or in which the person had the right of permanent

residence at the time of entry into the territory of the receiving State Party shall facilitate and accept, with due regard for the safety of that person, the return of that person without undue or unreasonable delay.



7. Where protection cannot be effectively provided to migrants in countries in crisis by a host State experiencing a conflict or natural disaster, efforts should be made to facilitate the temporary evacuation of individuals to States of transit or their direct repatriation to their State of origin.

8. States Parties acknowledge that, in accordance with general international law, the State of origin of a migrant in a country in crisis holds special responsibility for the provision of assistance and effective protection. Accordingly, the State of origin should provide for appropriate measures, through consular action and negotiations with the host State or states of transit, to assist its nationals as well as support their voluntary repatriation when necessary.

9. In situations in which a crisis arising from a conflict or natural disaster presents an ongoing threat to a person in a host State and requires them to cross

international borders to escape harm, States of transit should temporarily provide interim protection on humanitarian grounds to migrants in countries in crisis, pending their safe and humane repatriation to their State of origin or their ability to voluntarily return to the host State.



Family Reunification

1. Family unity is a widely recognized legitimate reason for migration and is a central right protected by international human rights and humanitarian law. States Parties, recognizing that the family is a natural and fundamental group unit of society and is entitled to protection by society and the state, shall take appropriate measures to ensure the protection of the unity of the families.

2. “Family” shall include Members of the Nuclear Family, defined as:

(a) The sponsor’s spouse or the sponsor’s unmarried partner, with whom the sponsor is in a duly attested stable long-term relationship, in ac-

cordance with the national law of the state of origin;

(b) The minor children, including adopted children, of the sponsor and/or of his/her spouse or partner;

(c) The minor children, including adopted children, of the sponsor where the sponsor has full or partial custody and, where custody is shared, provided the other party sharing custody has given his or her consent;

(d) The minor children, including adopted children, of the sponsor’s spouse or partner, where the spouse or partner has full or partial custody and, where custody is shared, provided the other party sharing custody has given his or her consent; or

(e) The adult unmarried children of the sponsor or his or her spouse or partner, including adopted children, where they are objectively unable to provide for their own needs on account of their state of health, disability or other analogous circumstances.

3. In cases of conflicts of interpretation arising from different nationalities, States Parties shall adopt an interpretation nor more restrictive than that of the country of origin and in all cases most in line with the right to family life.

4. Members of the Extended Family are defined as:

(a) The parents and other first-degree relatives in the direct ascending line of the sponsor or his or her spouse;

(b) Any other person who is dependent on the sponsor, or his/her spouse, and is recognized as such by the applicable legislation of the State of origin and the host State, or applicable bilateral or multilateral agreements between the States concerned.

5. Unless the host State's applicable immigration legislation provides otherwise, third country nationals in tourist or visitor status do not qualify for family

reunification privileges in the host State.

6. A third country national in student status may ordinarily apply to be joined by his or her Nuclear Family members in the host State provided the following conditions are satisfied: the sponsoring student must hold a residence permit valid for at least one year and the sponsoring student shall provide proof of sufficient resources to cover the family's living expenses, including housing and medical insurance, without resort to the host State's public welfare system.

7. States Parties shall take appropriate measures to ensure the protection of the unity of the families, particularly the Nuclear Families, of migrant workers, migrant investors and migrant residents provided the respective migrants satisfy the following conditions:

(a) The sponsoring migrant resident or migrant worker must hold a residence permit valid for at least one year;

(b) The sponsoring migrant resident or migrant worker shall provide proof of sufficient resources to cover his/her family's living expenses, including housing and medical insurance, without resort to the host State's public welfare system,



unless the host state extends rights and benefits to the family members of such workers.

8. States Parties shall take appropriate and expedited measures to ensure the active protection of the family members of refugees and other forced migrants. In particular, States Parties shall take measures to facilitate the reunification of “The Nuclear and Extended Families” of beneficiaries of international protection who cannot lawfully be returned to their State of origin.

9. States Parties shall take measures to allow the children of beneficiaries of international protection to apply for derivative international protection and shall allow parents of children who are beneficiaries of international protection to apply for derivative international protection.



Treaty Body and Implementation

1. For the purpose of reviewing and implementing the application of this Declaration and the MIMC, there shall be established a multi-stakeholder Committee³ that shall consist of ten experts elected in staggered terms by secret ballot by the States Parties from a list of persons nominated by the States Parties, due consideration being given to equitable geographical distribution, including both States of origin and States of destination. Each State Party may nominate one person from among its own nationals who will, when elected, serve in their personal capacity for a term of four years and be known as “State experts.”
2. An equal number of “Non-State experts” will be elected on the same terms from among candidates nominated by ten cities/regions, ten NGOs focusing on refugee and migrant issues, ten corporations in the private sector and ten groups that represent refugees and migrants. The initial nominating bodies (a total of fifty, each proposing one nominee) will be chosen by the State experts and then by the Committee as a whole (in future elections).
3. The International Organization for Migration and the Office of



the United Nations High Commissioner for Refugees shall co-chair the Committee and provide needed secretariat.

REPORTS AND IMPLEMENTATION

4. The Committee will review States' reports on the legislative, judicial, administrative and other measures they have taken to give effect to the provisions of the present Declaration and MIMC:

- (a) Within one year after the adoption of MIMD and the entry into force of MIMC for the State Party concerned;
- (b) Thereafter every five years and whenever the Committee so requests;
- (c) Agencies, funds and programs of the United Nations, other international organizations and civil society organizations are invited to submit complementary reports on the implementation of MIMD and MIMC.

5. The Committee will receive and investigate claims that another State Party is not fulfilling its obligations under the Convention. These claims can be made by individuals, organizations or other States parties. After investigation and decision (by a majority vote),

the Committee will offer recommendations on how compliance can be improved.

6. In the event of persistent noncompliance, the Committee with a two-thirds vote may refer the matter to the United Nations General Assembly, the Security Council or the Office of the Prosecutor of the International Criminal Court. In doing so, the Committee may refer to violations of international humanitarian law by the parties to a conflict or to the principles of Responsibility to Protect. It may recommend asset seizure for purpose of providing financial support to forced migrants and refugees generated by the conflict in question.⁴

7. States Parties, in accordance with their system of organization, shall designate one or more focal points within government for matters relating to the implementation of the present Convention, and shall, in accordance with their legal and administrative systems, maintain, strengthen, designate or establish within the State Party, at the latest one year after the entry into force of the present Convention or of its ratification or accession, a framework to promote, protect and monitor implementation of the MIMC. Civil society, including migrants and

their representative organizations, shall be invited to participate fully in the monitoring process.

MOBILITY VISA CLEARING HOUSE

8. The Committee shall establish a “Mobility Visa Clearing House” web platform accessible by States Parties, corporations, nongovernmental organizations and individuals to facilitate the safe, orderly and regular migration of individuals.

9. All States Parties to MIMC will list the number and kind of labor and investor visas they propose to offer for the following year and provide links to the government websites that provide visa application forms and information regarding application requirements and links to online visa application processes through which individuals may apply or employers may petition governments on behalf of prospective employees from abroad.

(a) The Committee shall assist state parties that do not have a government website with visa application forms and information by requesting technical assistance from fellow state parties that do have such websites;

(b) States Parties are further encouraged to establish online visa application processes in order to expedite and facilitate safe, orderly and regular migration;

(c) States Parties that already have online visa application processes are encouraged to consider developing web platforms that enable prospective visa applicants to post “expressions of interest” detailing those individuals’ skills and qualifications and enable employers to view these expressions of interest and contact prospective employees whose work visa petitions they may choose to sponsor.

10. The International Labor Organization will be invited to specify the skills classifications for these visas and assist States Parties in certifying the information needed to meet the classifications.

11. Individuals and sponsoring nongovernmental organizations, corporations, local governments and States Parties can propose candidates for those visas, including the requested documentation.

12. States Parties issuing the visas retain the discretion to accept or reject the credentialing guidelines provided by the International La-



bor Organization and determining whether a specific individual meets its criteria.

13. At the minimum States Parties will take measures to give preference to refugees and forced migrants in the allocation of at least 10% of all annual labor visas. This shall be met on the basis of States' participation in the Mobility Visa Clearing House or, prior to implementation, as part of States Parties domestic immigration programs and policies. The award of these preferential labor visas does not subtract from or substitute for any of the protections granted to refugees and forced migrants on the basis of their protected status.

14. In allocating labor migration visas to persons covered in paragraph 13 due consideration will be given to the resettlement and mobility interests of refugees and to the circumstances of their current host communities.

REMITTANCE SUBCOMMITTEE

15. The Committee in cooperation with the International Fund for Agricultural Development, the International Organization for Migration and the World

Bank will establish a Remittance Subcommittee.

16. The Subcommittee will issue an annual report surveying the facility and costs of remittances from migrants to their designated recipients for the purpose of making recommendations for reducing costs and ensuring reliable delivery of funds.

RESPONSIBILITY SHARING

17. The Office of the United Nations High Commissioner for Refugees will be invited to issue an annual report documenting the number of recognized refugees and forced migrants and their current location of asylum and costs per person of that asylum.

18. The Committee in conjunction with UNHCR will host an annual meeting for all States Parties at which UNHCR will publish the "responsibility shares" of each State Party. At the first such meeting these shares shall be a combined function of 40% of the size of the population, 40% of GDP, 10% of the average number of refugee and forced migrant asylum applications in the previous year, and 10% of the unemployment rate. To avoid excessive

shares occasioned by a single factor, such as large population, each factor of the top five States will be capped at the level of the fifth in rank order. In subsequent years, the States Parties by a two-thirds vote of the Committee will set as it sees fit the appropriate proportions of the responsibility sharing formula.

19. Each State Party will pledge the number of resettlement visas for refugees and forced migrants and the amount of funding that it will provide in the coming year, explaining how it meets its responsible share of the global commitment to cooperate to assist refugees and forced migrants. No State Party will meet its responsible share solely by resettlement or solely by funding.

20. UNHCR will be requested to monitor these pledges, reflect upon their collective sufficiency, report on the fulfillment by each State Party of its responsible share of resettlement and funding and publish those assessments in each subsequent annual report on responsibility sharing.

21. States Parties will encourage the formation of bilateral and multilateral capacitybuilding networks aimed at:

(a) Facilitating contact and exchange of international protection know-how between States Parties;

(b) Refining and promoting best practices for accommodating refugees received via responsibility sharing.

COMPREHENSIVE GLOBAL PLANNING PLATFORM

22. The Committee in cooperation with UNHCR and IOM will establish a “Comprehensive Global Planning Platform” in cooperation with donor States Parties, the World Bank and foundations.

23. The Comprehensive Global Planning Platform will establish working groups to propose solutions to protracted refugee situations with the aim of facilitating return, local integration or resettlement.

24. The Platform, in order to improve the quality of global deliberation and problem solving for migrants and refugees, will establish a research function to report and assess the flow of global visitors, refugees and migrants, and their impacts on countries of origin, transit and destination.



25. The Platform will liaise with the global private and nongovernmental sector to promote partnerships to better serve the interests of migrants, refugees and States Parties.

GLOBAL REFUGEE FUND

26. The Committee will establish a voluntary “Global Refugee Fund” inviting the cooperation of UNHCR, IOM, donor States Parties, the World Bank and other relevant agencies.

27. The Global Refugee Fund will be invited to supplement the responsibility sharing mechanism and directed to support:

- (a) The efforts of States in receiving refugees and displaced persons and in guaranteeing access to consistent, fair and effective asylum procedures;
- (b) Resettlement programs and actions related to the integration of persons whose stay is of a lasting and stable nature;
- (c) The provision of emergency measures to address sudden arrivals of large numbers of persons who may need international protection.

28. The Global Refugee Fund shall be governed by a Board composed of two members of the Committee as Chair and Chair designate; one representative each invited from UNHCR, IOM and the World Bank; and the four leading donor States and two private donors in the preceding two years.

29. States Parties can allocate financial pledges made in fulfillment of the Responsibility Sharing Mechanism to this Fund.

REFERENCES

¹ The Model International Mobility Declaration reflects and draws on the views expressed by the MIMC Commission members and other selected public signatories who have signed the Model International Mobility Convention, which can be found at: www.mobilityconvention.columbia.edu. Sources for the various paragraphs in this Declaration can be found in the corresponding articles of the MIMC or as noted below.

² In addition to the contributions made by the MIMC Commission in the drafting of the Convention, this Declaration has benefitted from suggestions from Professor Mireille Delmas-Marty at the Paris Peace Forum; Professor Beth Simmons at the Univ. of Pennsylvania; Drs. and Professors Steven Nam, Daniel Connolly, Park Mi-hyung, Lee Shin-wha, Lee Byoung-ha, Chung Suh-yong, Shin Hee-Soek, Park Eun at the Seoul Forum; from Sabine Klahr, John Kydd and Susan Oh; and from Professors Rainer Bauböck and Margit Ammer at the Vienna Forum; and Dr. Jean-Thomas Arrighi at the EU. The current draft of MIMD reflects the additional valuable edits of Professor Diego Acosta, Professor Rainer Bauböck, Ms. Emma Borgnäs, Dr. Rebecca Brubaker and Professor Kiran Banerjee.

³ Paras 1-7 of the present Declaration revise the terms and powers allocated to the Committee in MIMC.

⁴ See eg Goodwin-Gill, G. and Sazak, S. (2015) 'Footing the Bill: Refugee-Creating States' Responsibility To Pay', *Foreign Affairs*, <https://foreignaffairs.com/articles/africa/2015-07-29/footing-bill>, accessed 29 November 2018; and, for available domestic remedies, Yi Chao, "The Need to Establish and Enforce Liability of Refugee-Generating Entities" at <https://ssrn.com/abstract=3259351>.







MODEL INTERNATIONAL MOBILITY CONVENTION

AN INITIATIVE OF CARNEGIE COUNCIL
FOR ETHICS IN INTERNATIONAL AFFAIRS

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