

***GLOBALIZATION, MIGRATION AND UNIONS:  
IMPERATIVES FOR ORGANIZING AND ADVOCACY***

**Overview presentation at the  
ETUI-EFBWW Seminar**

**The construction labour market in EU countries and  
the integration of third country nationals**

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**Introduction**

This event is about migration, it is also about the future of trade union organizing and unions themselves. As a contribution to this discussion, I offer perspective on what migration is about today, its context of globalization and deregulation, and about why a “rights based approach” is essential. I conclude by urging seven key lines of action by unions.

I speak from 35 years of full time professional work in refugee resettlement, immigrant support, anti-discrimination and integration, and international migration. I also speak as a unionist, an elected member of the executive committee of the Staff Union of the ILO, a 2,000 member strong union affiliated with PSI.

**I. LABOUR MIGRATION IS ESSENTIAL TODAY**

Migration today is about labour. ILO estimates that some 105 million of the total 214 million people living outside their countries of birth or citizenship in 2010 are economically active, engaged in the world of work.<sup>1</sup> This means most working-age adults in the global migrant population –including refugees. Counting children and aged dependents of working migrants, we can say that more than 90% of migration today is labour migration.

These figures undercount migrant labour since they do not include short-term temporary or seasonal migrants, such as Uzbek workers in Kazakhstan, Guatemalans in Mexico, Mozambicans in South Africa, Poles in Portugal, Jamaicans in Canada for example. An uncounted number of workers go from homelands to other nearby countries for a few months each year.

International mobility of skills and labour is making vast contributions to development for more than 100 countries by providing skilled labour, new technological competencies, labour force to sustain otherwise unviable sectors or enterprises, otherwise unavailable health care, as well as

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*This paper reflects the professional specialist perspective of the author. Ideas expressed herein do not necessarily represent or engage official views or policy of the International Labour Office.*

<sup>1</sup> ILO. A Rights Based Approach to Labour Migration. 2010.

large shares of labour in entire sectors of agriculture, construction, hotel and restaurant, cleaning and maintenance, and tourism.

Foreign born workers now comprise about 10% of labour forces in Western European countries and around 15% in immigration countries of Australia, Canada and the USA. Taking account of first and second generation offspring of immigrants since the 1960s would give figures of around 20% of work forces "*issue de l'immigration*" in several Western European countries.

In this era of internationalisation of labour mobility, migration is driven not only by demographic changes, but especially by globalization and the dynamics of capitalist development itself.

Evolution and diversification of technology, transformations and relocations of industrial processes and changes in the organization of work itself are constant characteristics of the world of work today. As well, changing location and structure of the work required to produce and distribute goods, services and knowledge. These constant evolutions demand accelerating complexity, diversity and specialization in the competencies and skills of work forces in each and every country. Mobility of capital and rapid evolutions in technology and organization of work require that labour and skills are available where new investments are being made and where rapid changes in work activity are taking place.

No country today can form or train the entire range and number of evolving skills and competencies needed to perform the ever more complex, inter-related work that needs to be done on its territory to function in a globalized economic context. The result is demand for specialized skills that simply cannot be met locally: skills needs evolve more quickly than training systems, displaced and older workers cannot always be retrained for new technologies and skills sets. Even if disposition exists, the technological basis, the facilities and locally available specializations may not be adequate. In some countries, the allocation of resources, the technological basis, and/or the disposition of training policy and institutions is just not there.

For an expanding number of countries, these dilemmas are compounded by demographics, where the size, composition and age profile of the entire 'native' work force is evolving: declining in number, increasing in age, constricting in breadth of competencies, and diminishing relative to increasing numbers of retired people –who are dependant on contributions of the active work force for social security.

Migration serves to adapt the skills, age and sectoral composition of national and regional labour markets. Migration provides responses to fast-changing needs for skills and personnel resulting from technological advances, changes in market conditions and industrial transformations. In countries of aging populations, migration is replenishing declining work forces and injecting younger workers, in turn contributing to increased dynamism, innovation and mobility in those work forces.

Already today for a majority of countries around the world, migration –international labour and skills mobility-- has become the key factor to sustaining and renovating essential processes of development: production of goods, services and knowledge, distribution, including construction of facilities for housing, education, healthcare and transportation.

New evidence based on recent forecasting suggests that the world may be on the eve of far greater international mobility as factor of survival of viable economies. A dramatic example:

application of a new ILO forecasting methodology shows that China alone will face a deficit of 124 million workers in its labour force within 20 years. This is more than the entire total today of economically active migrants worldwide. The Japanese labour force is predicted to shrink by 37% over the next 25 years. Native populations and work forces both are already shrinking in numerous countries in Europe.

### Globalization and regulation

Globalization processes have been both stimulated and regulated not only by ‘market forces’ of capitalism, but also by international systems of rules, standard setting, monitoring and promotion agencies, conflict resolution mechanisms and public promotion. The World Trade Organization (WTO) and the General Agreements on Tariffs and Trade (GATTs) processes are the most visible: setting, regulating and enforcing conditions of international commerce, trade and economic competitiveness. The World Intellectual Property Organization has systematized global rules for protection and circulation of technology. The International Standards Organization (ISO) has elaborated common norms in ever expanding areas of technology and knowledge essential to production, infrastructure, service, transportation, and distribution activities. Tragically, international flows of capital itself --the fundamental element for financing development of means of extraction, production, distribution and service provision—have not been regulated. Many attribute the nature, depth and breadth of the current global “financial” crisis to this lacuna.

## **II DEREGULATION AND EXPLOITATION**

Labour migration is taking place in a context of deregulation of work and of labour markets. Salient characteristics of changes in work today include increasingly precarious employment, informalisation of economic activity, and deteriorating conditions at work. These changes affect large numbers of workers in industrialised countries as well as in developing countries.

Deregulation --the reduction in application of labour standards as well as market and financial controls—occurs in the context of huge competitive pressures on wages and conditions of work. Liberalised global circulation and marketing puts goods, services and technology produced in low wage, low protection countries in direct and unfettered competition with goods and services produced under regimes of more regulated and higher wages and working conditions.

These competitive pressures provide a huge incentive for seeking and hiring labour compelled to accept lowered standards and more precarious and ‘flexible’ employment everywhere, in industrialized as well as less-developed countries.

On the supply side, a large and continuous availability of labour is assured by what may be the biggest failing of globalization: its inability to create decent employment in countries with growing and youthful populations. Generally high unemployment rates, lack of formal jobs and absence of decent working conditions in many less developed countries assure a high supply of labour and skills compelled to look elsewhere for sustenance and employment.

In day-to-day reality, migration has become a central and significant arena of dispute and redefinition in relations between labour and capital. Migration is the terrain of contention over the distribution of benefits deriving from economic activity; in other words, how much of wealth

generated is returned to capital and how much is paid out in wages and benefits to working people. It is THE zone of contention over the levels of protection and regulation of conditions of employment and work. In the most dramatic cases, that contention over protection, or lack of protection, is now fought out literally in the streets as well as workplaces. Migration also has become a defining context for the extent that working people –foreign workers in particular-- can –or cannot-- organize to articulate and defend their interests.

It thus makes migration a cutting edge of contention between the economic logic of globalization and the values embodied in human rights and labour standards concepts and law. And that puts migration at the heart of the agenda of the organizations of working people.

As you well know in the construction industry, migrant labour largely fills “three-D” jobs: dirty, dangerous and degrading. Efforts to fill 3-D jobs and to acquire economic competitiveness at internationally competitive low cost produce a continuous demand for cheap and low-skilled migrant labour in numerous sectors of national economies. Small and medium size companies and labour-intensive economic sectors do not have the option of relocating operations abroad. Demands for migrant workers provide a significant impetus to labour flows and facilitate incorporation of undocumented migrants.

Migrant workers are concentrated in sectors and activities where labour standards are weak, and or where enforcement of existing standards is lax or non-existent. Migrant workers face lacunae of real protection of health and safety. In Western Europe, foreign workers face occupational injury and death rates twice as high as for nationals. More generally, employment for many is associated with underpayment or non-payment of wages, physical abuse, sexual harassment and violence against women workers, denial and repression of freedom of association and trade union rights.

Migrants in irregular situations are even more vulnerable to exploitation and abuse. The presence of unauthorized migrants seems all too often tolerated by authorities in certain circumstances – such as in sectors or areas where national workers are unavailable, or to sustain enterprises or economic activity that would otherwise disappear if prevailing wages had to be paid and/or conditions of work enforced. The appeal of recruiting migrants in irregular situations is that it can impede upward pressures on or indeed push down local wages and protections. The absence of legal recognition heightens the exploitability and lowers the costs of migrant labour, in some cases arguably allowing marginally competitive activity to remain in business.

Globally, some fifteen percent of international migrant workers are in irregular situations: without legal authorization for residence and/or employment, or undocumented. An on-line database on irregular migration in the European Union shows that migrants in irregular situations number between 2.8 and 6 million, giving a range of 11% to 23% of total stocks across the EU.<sup>2</sup>

The flow of low-skilled migrants is channelled by clandestine means precisely because of the non-existence of legal migration categories that would allow for legal entry in destination

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<sup>2</sup> CLANDESTINO *Undocumented Migration: Counting the Uncountable. Data and Trends Across Europe*

Research project funded by the European Commission, DG RTD, FP6, 2007-2009. For more information, visit <http://clandestino.eliamep.gr> (country reports and research briefs), and <http://irregular-migration.hwvi.net> (database).

countries. Once they are in host countries, these migrants remain confined to jobs in unstructured or informal sectors, in irregular work and under exploitative conditions of employment.<sup>3</sup> In contrast, ILO research underlines that legal labour migration channels contribute to both reducing trafficking and the smuggling of migrants.

### Policy conundrums

These structural contradictions play out in contradictory behaviour of governments. Tough political rhetoric and border control measures contrast with a degree of tolerance of irregular migrants working on their territories, providing for a supply of cheap and flexible but vulnerable and unprotected workers. Flows of low-skilled migrants are channeled by clandestine means in the absence of legal migration categories that allow legal entry; once in host countries, migrants in irregular status remain confined to jobs in unstructured or informal sectors, under exploitative conditions of employment.

Economic and administrative policy dilemmas are reinforced in political discourse and ideological frameworks. The utility of migrants in irregular and exploited situations contradicts normative and ideological values of most industrialized countries. In response, irregular migration is associated with crime, arms, drug trafficking and terrorism while social stigmatisation is reinforced by language of illegality.

Contradictions pitting an amalgam of restriction and control measures against a rights-based approach to regulating migration are further reflected in international political developments. A growing assault on the universality of international principles of human rights evolved over the last decade and is now focused on migration and the treatment of non-nationals.

Post-September 11 doctrines articulate the notion that the extent and nature of threats to national and State security posed by ‘international terrorism’ justify --even require-- restrictions on human, civil and judicial rights of migrants –migrant workers to be precise.

Meanwhile, a “utilitarian consequentialist” approach argues for an explicit trade-off of lowered application of rights and unequal treatment for non-national workers in exchange for increased opportunities for employment in potential host countries. Rights are commodified as negotiable bundles that may be traded, sold or renounced in exchange for economic benefits in form of access to foreign labour markets.

Discrimination plays an important role in maintaining –and justifying—stratification and segmentation in the labour market. Compounding the challenges of discrimination and integration are identities of nation-states constructed around mono-racial, mono-cultural, monolingual, and mono-religious definitions of belonging.

### **So what is at stake?**

On one hand, we see explicit application of the deregulatory agenda to an especially vulnerable part of working populations.

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<sup>3</sup> Abella, M.I., "Mondialisation, marchés du travail et mobilité", in *Migrations et avenir*, CIEMI, Paris, Vol. 14, No. 79, January-February 2002.

On the other hand, we are seeing dehumanization and exclusion of a growing part of the working population.

Both the deregulation and the dehumanization are justified in *alienating* imagery of migrants – foreigners-- as outsiders, unequals, opportunist competitors, and as akin to criminality.

A growing number of workers are confined by legal, economic and political circumstances to non-existence, to outright illegality. I still hear too often brothers and sisters called illegals as if they are criminal and abhorrent by definition. If we accept the logic that there are some humans who are not, who are “illegal,” the foundations of the rule of law are stripped of their meaning. I underscore: labour rights are human rights. If they are not universal –in employment, in the workplace, how can anyone be protected?

In the bigger picture, this combination of deregulation and dehumanization may add up to a broad economic and social restructuring reinforcing dichotomisation of nations into two tiered societies divided between affluent elites and marginalized working poor.

History shows that regulation providing protection for migrant workers –indeed any workers-- cannot be left alone to market mechanisms. When highly competitive and now globalized market pressures are brought to bear in the absence of protections and appropriate regulation, migration is usually characterized by abuse and exploitation of migrant workers, marginalization and social exclusion of migrant and immigrant origin populations, fear of loss of jobs blamed on immigration, increasing anti-immigrant sentiments and, ultimately, communal violence.

For unions, the choice is stark. Either adopt an assertive organizing and advocacy stance or see deeper deregulation and cutbacks, further divisions among workers, and ever weaker unions.

### **III. INTERNATIONAL STANDARDS FOR A “RIGHTS-BASED APPROACH”**

The development experience of Western industrialized countries showed that reducing exploitation and ensuring equality of treatment were essential elements for building prosperity, social cohesion and democratic governance of societies. A comprehensive body of law recognizing and providing for protection of rights of migrants evolved over the last century. International instruments explicitly establishing principles and defining norms for protection of human and labour rights emerged at the beginning of the 20<sup>th</sup> century.

The central notion of human rights is "the implicit assertion that certain principles are true and valid for all peoples, in all societies, under all conditions of economic, political, ethnic and cultural life." Universal principles of human rights implemented in the rule of law provide the foundation for governance—governance of nations, of community relations, and of international migration. This notion reflects historical experience that social cohesion and social peace can only be sustained under conditions of democratic rule, which in turn requires the accountability, the credibility and the enforceability provided under rule of law.

The need to provide for protection of workers outside their own countries emerged early in this process; it was explicitly raised in the Treaty of Versailles that ended World War I (and established the Constitution of ILO); the first specific international treaty on migrant workers was

drawn up in the 1930s and the ILO Convention on migration for employment was adopted in 1949, shortly after the Universal Declaration of Human Rights emerged in 1948.

Three fundamental notions characterize protections in international law for migrant workers and members of their families.

- Equality of treatment and non-discrimination between regular migrant/immigrant workers and nationals in the realm of employment and work.
- Universal human rights apply to all migrants, regardless of status.
- The broad array of International Labour Standards providing protection in treatment and conditions at work –safety, health, maximum hours, minimum remuneration, non-discrimination, freedom of association, maternity, etc.—apply to all workers.

Certain principles and rights at work are deemed to be fundamental for the protection of human rights for all workers, including migrant workers, by the ILO and its member States. The 1998 ILO Declaration on Fundamental Principles and Rights at Work established that all ILO members (which include all EU member States) have an obligation to *respect and to promote and to realize in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions*

Furthermore, International Labour Standards are considered applicable to the protection of *decent work* conditions for all migrant workers. These include conventions on occupational safety and health, conditions of work, protection of wages and labour inspection, employment policy, social security, maternity protection, the regulation of private and public employment agencies, as well as those covering sectors employing a large number of migrant workers.

The notion of universal applicability of labour standards to all workers was explicitly upheld in an international court. In 2003, the Inter-American Court on Human Rights “...decide(d) unanimously, that...the migrant quality of a person cannot constitute justification to deprive him of the enjoyment and exercise of his human rights, among them those of labor character. A migrant, by taking up a work relation, acquires rights by being a worker, that must be recognized and guaranteed, independent of his regular or irregular situation en the State of employment. These rights are a consequence of the labor relationship.”<sup>5</sup>

Three specific international instruments explicitly define the application of human and labour rights to migrant workers: ILO Convention 97 on Migration for Employment (of 1949), ILO Convention 143 on migrant workers (Supplementary Provisions) (of 1975), and the 1990 International Convention on the Protection of All Migrant Workers and Members of Their Families. These three instruments comprise an *international charter on migration*, providing together a broad and comprehensive framework covering most issues of treatment of migrants. These are not just instruments on rights, they contain provisions to encourage and guide intergovernmental consultation, information sharing and cooperation on nearly all aspects of international migration.

84 countries –nearly two thirds of the some 130 countries for which international migration is an important feature-- have ratified at least one of these three complementary conventions. Eleven

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<sup>4</sup> ILO Declaration on Fundamental Principles and Rights at Work, 1998: para.2

<sup>5</sup> Corte Interamericana de Derechos Humanos: *Condición Jurídica y Derechos de los Migrantes Indocumentados*. Opinion Consultativa OC-18/03 de 17 de Septiembre de 2003.

member States of the EU have ratified one or both of the ILO Conventions on migrant workers: Belgium, France, Germany, Italy, the Netherlands, Norway, Slovenia, Spain, Sweden, Portugal and the UK. For reference, Algeria, Egypt, Libya and Morocco have ratified the ICRMW, Algeria also ratified ILO Convention 97.

The ICRMW now has 45 ratifications plus 14 additional signatories. Ratifying States will have already incorporated its content into national legislation, while signatory states are generally also bound by its content. National studies conducted in several EU member states found that legislation of these States is already entirely or largely in conformity with the content of the ICRMW; these studies concluded that resistance to ratification is for political, not legal, reasons.

### Law versus Policy

Migration –and regulation to deal with it-- is essential to assure the present and future well-being, if not economic survival, of the EU, and soon will be for countries on the South side of the Mediterranean as well. The elaboration of explicit policy and legislation is, however, fraught with tension given the nature of migration and its susceptibility to conflicts of interests.

Recent developments in the EU context are not encouraging. References to international standards are conspicuous by their absence in elaboration of EU policy and directives. The EU is having great difficulty elaborating common policy on migration beyond certain high skilled categories. This leaves a huge and untenable gap in Community and member State ability to regulate and ensure protection for a large part of migration --that of low and middle skilled migration, where the needs for rights protection, regulation and cooperation are considerably more demanding than for high-skilled migration and inter-company transfers.

The lack of adoption of protection and regulation standards suggests a trend towards a regime of non-application of law protecting human and labour rights –*une espace de non-droit*—for a substantial and growing part of European work forces in order to secure its status as a reserve of cheap, flexible and unprotected labour.

Non-protection for a substantial group of people poses a serious challenge to the rule of law, to democratic governance and to social cohesion. This exclusion risks formalizing an explicitly divided society characterised by a socially marginalized, legally unprotected and often racially differentiated labouring class serving a population whose relative freedoms and benefits deriving from the arrangement are justified by reinforcement of exclusive ethnic and national identities.

Recent manifestations of discontent and sometimes-violent protests and police repression in communities of immigrant origin across Europe as well as in countries on the Southern shores of the Mediterranean highlight the threat to social cohesion arising from exclusion. Imposition of a regime of repressive control on movement and on access to and conditions of work may subdue marginalized populations for a time. However, it is at the cost of the ethos and practice of democracy, which require universal and inalienable application of human rights, non-discrimination, and equality of opportunity and treatment.

## **IV. IMPACT OF THE CRISIS**

Today, the biggest danger to social cohesion everywhere is the rising tide of xenophobia and violence against foreigners. Scratch a headline and behind it is a story of hostility, attacks,

tensions, conflict involving foreigners, often migrant workers, although sometimes refugees or other outsiders.

The global employment crisis –following the financial crisis—remains in full force. Most predictions are that layoffs and downsizing of employment will continue for some time, and that job recovery will be slow. A review of economic crises over the last 70 years showed that it usually takes four to five years or more for employment levels to reach the pre crisis levels. And in between, unemployment levels remain high.

In times of crisis, migrants are victims of a shame that is not named. Migrants are the first to be blamed; they are scapegoats for unemployment, insecurity, crime, even disease and ill health. Angry, frustrated citizens follow the lead of politicians who blame migrants by taking direct action themselves.

The crisis has had particular impacts on migrant workers. Among them:

- 1) Migrants and persons of foreign origin are disproportionately among those laid off or unemployed.
- 2) Migrants remaining employed faced reductions in pay and worsened conditions.
- 3) Migrant workers have less access to social safety net support. While there may be opportunities for some work in host countries, there are simply none at all at home.
- 4) Migrant workers are compelled to take whatever work they can find. They accept even more substandard pay and abusive conditions than before.
- 5) Scapegoating of migrants and xenophobic violence against foreigners are on the rise throughout the world.

## **V. KEY ELEMENTS FOR UNION ACTION**

Protecting migrants –and national workers—and ensuring functional labour markets while upholding social cohesion requires deliberate policy attention and a comprehensive set of measures and institutions to achieve. Unions as the organizations based on worker interests have crucial responsibilities in shaping, and implementing, policies and practices that provide for rights protection, dignity and empowerment of migrant workers and their families.

Policy and action addressing migration and integration need to cover administration of immigration, legal protection measures, labour market regulation, labour inspection, social protection, health, education, housing, policy protection and much more. An array of measures is needed to prevent abusive practices and promote decent and productive work for women and men migrants in conditions of freedom, equity, security, and human dignity.

The International Labour Organization developed guidance for development, strengthening, implementation and evaluation of national, regional and international labour migration policies and practices. This guidance, based on international norms, social partner experience, and good practice, is contained in the *ILO Multilateral Framework on Labour Migration: Non-binding principles and guidelines for a rights-based approach to labour migration*.<sup>6</sup>

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<sup>6</sup> ILO. *Multilateral Framework on Labour Migration: Non-binding principles and guidelines for a rights-based approach to labour migration*, Geneva, International Labour Office, 2006.

Based on this knowledge and experience, I recommend seven key action lines as *the way forward* for unions.

**Seven priorities for union action:**

1. For unions, the starting point is unionizing migrant workers and facilitating union leadership among migrant workers. This includes active outreach to newly arriving migrants, such as those coming from destabilized situations in nearby regions.
2. Secondly, worker unions must advocate for governance of migration under the rule of law. This means promoting ratification and application of the key international legal standards: ILO migrant worker Conventions 97 and 143 and the International Convention on rights of migrant workers.
3. Calling for equality of treatment and anti-discrimination measures for all workers is fundamental. This includes renouncing “national preference” in union and public discourse.
4. Supporting enactment of national action plans on discrimination and xenophobia. (The Ireland National Action Plan Against Racism is a great model, built on cooperation between government, employers, trade unions and civil society.)
5. Insisting on labour inspection in sectors and workplaces where migrant workers are concentrated. This will ensure decent treatment in the face of pressures to cut pay and increase exploitation, and discourage exploitation obtaining unfair competitive advantage.
6. Building a common union action front for defense of migrant workers and rights-based governance of migration at national, regional and global levels.
7. Strengthening cooperation among social partners and with civil society action, and with global union federations.

The ILO Multilateral Framework on Labour Migration provides comprehensive guidance for advocacy to obtain rights-based migration governance. To further support smart action by unions and other actors, ILO has two on-line data bases of ‘good practices’ as examples or models of what to do:

- Many examples of implementation of guidelines in the ILO Multilateral Framework on labour migration are online at: <http://www.ilo.org/dyn/migpractice/migmain.home>
- More than 140 profiles of anti-discrimination and equality of treatment actions in 24 countries can be found at <http://www.ilo.org/migrant/equality/>.

A considerable number of trade union practices are featured in both of these web databases.

Commitment by unions to applying a rights based approach is key to ensuring defense of workers and ultimately, well-being of citizens and newcomers alike. You have now a few more elements to act with knowledge, and a few more notions of a viable and sustainable way forward.

The challenges of meeting labour needs, ensuring productivity and competitiveness and ultimately improving well-being in today's globalized world necessarily mean migration and increasing diversity across the world.

How our societies—and our unions-- treat migrants and how diversity is incorporated will determine whether we succeed in building societies of justice, dignity, democracy, and human security.

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### *Useful websites*

ILO International Migration Program (MIGRANT):

<http://www.ilo.org/public/english/protection/migrant/index.htm>

ILO Database on International Labour Standards (ILOLEX):

<http://www.ilo.org/ilolex/english/index.htm>

ITUC

<http://www.ituc-csi.org/>

PSI

<http://www.psi.ch/>

IBFW

<http://www.ibfw-beratung.de/>

Global Campaign for the convention on rights of migrant workers

[www.migrantsrights.org](http://www.migrantsrights.org)

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[www.december18.net](http://www.december18.net)

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