

《保護所有移徙工人及其家庭成員權利國際公約》

International Convention on the Protection of the Rights of All Migrant Workers and
Members of Their Families •

【發布單位】聯合國大會

【發布日期】一九九零年十二月十八日通過 Adopted by General Assembly
resolution 45/158 of 18 December 1990

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【序言】

本公約締約國，

考慮到聯合國關於人權的各項基本文書，尤其是《[世界人權宣言](#)》、《[經濟、社會、文化權利國際公約](#)》、《[公民及政治權利國際公約](#)》、《[消除一切形式種族歧視國際公約](#)》、《[消除對婦女一切形式歧視公約](#)》和《[兒童權利公約](#)》內載的原則，

又考慮到在國際勞工組織體制內擬訂的各項有關文書內載的原則和標準，特別是《關於移徙就業的公約》（第 97 號）和《關於惡劣情況下的移徙和促進移徙工人機會和待遇平等的公約》（第 143 號）、《關於移徙就業的建議書》（第 86 號）和《關於移徙工人的建議書》（第 151 號），以及《關於強迫或強制勞動的公約》（第 29 號）和《關於廢止強迫勞動的公約》（第 105 號），

重申聯合國教育、科學及文化組織《[反對教育歧視公約](#)》內載的原則的重要性，

回顧《[禁止酷刑和其他殘忍、不人道或有辱人格的待遇或處罰公約](#)》、《[第四屆聯合國預防犯罪和罪犯待遇大會宣言](#)》、《[執法人員行為守則](#)》和各項有關禁奴的公約，

回顧按照國際勞工組織的章程，勞工組織的目標之一是保護非在本國就業的工人的利益，銘記該組織在有關移徙工人及其家庭成員的事項方面具有專家知識和經驗，

認識到在聯合國各機關內，所進行的有關移徙工人及其家庭成員的工作的重要性，特別是在人權委員會和社會發展委員會，在聯合國糧食及農業組織、聯合國教育、科學及文化組織和世界衛生組織以及在其他國際組織內，

又認識到一些國家在區域或雙邊基礎上在保護移徙工人及其家庭成員的權利方面所取得的進展，以及在這個領域各項雙邊和多邊協定的重要性和效用，

認識到移徙現象的重要性的規模，涉及到千百萬人和影響到國際社會中的許多國家，

意識到移徙工人的流動對各國和有關人民的影響，並願意建立規範，通過接受關於移徙工人及其家庭成員待遇的基本原則，或可幫助協調各國的看法，

考慮到移徙工人及其家庭成員往往由於離開了他們的原籍國以及在就業國逗留可能遭遇到困難等等原因而面臨的脆弱處境，

深信移徙工人及其家庭成員的權利尚未在世界各地得到充分的確認，因此需要適當的國際保護，

考慮到移徙往往對移徙工人的家庭成員及其本人造成嚴重問題，特別是由於家庭分散的原因，

銘記移徙過程中所涉及的人的問題在不正常的移徙中更為嚴重，因此深信應鼓勵採取適當行動以期防止和消滅對移徙工人的秘密移動和運輸，同時保證他們的基本人權得到保護，

考慮到沒有證件或身份不正常的工人受雇的工作條件往往比其他工人不利，並且考慮到一些雇主認為這正是雇用這種勞力的一個誘因，以便坐享不公平競爭之利，

並考慮到如果所有移徙工人的基本人權受到更為廣泛的確認，雇用身份不正常的移徙工人的做法將會受阻，並且給予身份正常的移徙工人及其家庭成員某些其他權利，將可鼓勵所有移徙的人和雇主尊重並遵守有關國家所制定的法律和程式，

因此深信需要制訂一項全面的、可以普遍適用的公約以重申並建立基本規範，對所有移徙工人及其家庭成員的權利提供國際保護，

茲協議如下：

【Preamble】

The States Parties to the present Convention,

Taking into account the principles embodied in the basic instruments of the United Nations concerning human rights, in particular the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the

Rights of the Child,

Taking into account also the principles and standards set forth in the relevant instruments elaborated within the framework of the International Labour Organisation, especially the Convention concerning Migration for Employment (No.97) , the Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers (No.143) , the Recommendation concerning Migration for Employment (No.86) , the Recommendation concerning Migrant Workers (No.151) , the Convention concerning Forced or Compulsory Labour (No.29) and the Convention concerning Abolition of Forced Labour (No.105) , Reaffirming the importance of the principles contained in the Convention against Discrimination in Education of the United Nations Educational, Scientific and Cultural Organization,

Recalling the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Declaration of the Fourth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, the Code of Conduct for Law Enforcement Officials, and the Slavery Conventions,

Recalling that one of the objectives of the International Labour Organisation, as stated in its Constitution, is the protection of the interests of workers when employed in countries other than their own, and bearing in mind the expertise and experience of that organization in matters related to migrant workers and members of their families,

Recognizing the importance of the work done in connection with migrant workers and members of their families in various organs of the United Nations, in particular in the Commission on Human Rights and the Commission for Social Development, and in the Food and Agriculture Organization of the United Nations, the United Nations Educational, Scientific and Cultural Organization and the World Health Organization, as well as in other international organizations,

Recognizing also the progress made by certain States on a regional or bilateral basis towards the protection of the rights of migrant workers and members of their families, as well as the importance and usefulness of bilateral and multilateral agreements in this field,

Realizing the importance and extent of the migration phenomenon, which involves millions of people and affects a large number of States in the international community,

Aware of the impact of the flows of migrant workers on States and people concerned, and desiring to establish norms which may contribute to the harmonization of the attitudes of States through the acceptance of basic principles concerning the treatment of migrant workers and members of their families,

Considering the situation of vulnerability in which migrant workers and members of their families frequently find themselves owing, among other things, to their absence from their State of origin and to the difficulties they may encounter arising from their presence in the State of employment,

Convinced that the rights of migrant workers and members of their families have not been sufficiently recognized everywhere and therefore require appropriate international protection,

Taking into account the fact that migration is often the cause of serious problems for the members of the families of migrant workers as well as for the workers themselves, in particular because of the scattering of the family,

Bearing in mind that the human problems involved in migration are even more serious in the case of irregular migration and convinced therefore that appropriate action should be encouraged in order to prevent and eliminate clandestine movements and trafficking in migrant workers, while at the same time assuring the protection of their fundamental human rights,

Considering that workers who are non-documented or in an irregular situation are frequently employed under less favourable conditions of work than other workers and that certain employers find this an inducement to seek such labour in order to reap the benefits of unfair competition,

Considering also that recourse to the employment of migrant workers who are in an irregular situation will be discouraged if the fundamental human rights of all migrant workers are more widely recognized and, moreover, that granting certain additional rights to migrant workers and members of their families in a regular situation will encourage all migrants and employers to respect and comply with the laws and procedures established by the States concerned,

Convinced, therefore, of the need to bring about the international protection of the rights of all migrant workers and members of their families, reaffirming and establishing basic norms in a comprehensive convention which could be applied universally,

Have agreed as follows:

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第一部分 範圍和定義

PART I: Scope and Definitions

第 1 條

1. 本公約，除此後另有規定外，適用於所有移徙工人及其家庭成員，不分性別、種族、膚色、語言、宗教或信念、政治見解或其他意見、民族、族裔或社會

根源、國籍、年齡、經濟地位、財產、婚姻狀況、出身或其他身份地位等任何區別。

2. 本公約適用於移徙工人及其家庭成員的整個移徙過程，包括準備移徙、離開、過境和整個逗留期間，在就業國的有報酬活動以及回返原籍國或慣常居住國。

Article 1

1. The present Convention is applicable, except as otherwise provided hereafter, to all migrant workers and members of their families without distinction of any kind such as sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status.

2. The present Convention shall apply during the entire migration process of migrant workers and members of their families, which comprises preparation for migration, departure, transit and the entire period of stay and remunerated activity in the State of employment as well as return to the State of origin or the State of habitual residence.

第 2 條

為本公約的目的：

1. “移徙工人”一詞指在其非國民的國家將要、正在或已經從事有報酬的活動的人。

“邊境工人”一詞指在一鄰國保持慣常住所並通常每日返回或至少每星期返回一次該國的移徙工人；

(b) “季節性工人”一詞指其工作性質視季節性條件而定並且只在一年內的部分期間工作的移徙工人；

(c) “海員”一詞包括漁民在內，指受雇在其非國民的國家註冊船舶上工作的移徙工人；

(d) “近海裝置上的工人”一詞指受雇在其非國民的國家管轄範圍的近海裝置上工作的移徙工人；

(e) “行旅工人”一詞指其慣常住所在一國但由於其職業性質須在另一國或另外一些國家從事短期逗留的移徙工人；

(f) “專案工人”一詞指為就業國所接納在規定時間內完全從事其雇主在該國所進行特定專案工作的移徙工人；

(g) “特定聘用工人”一詞指以下情況的移徙工人；

(一) 由其雇主送往就業國並在限制和規定時間內從事某一特定工作或任務者；或

(二) 在限制和規定時間內從事需要專業、商業、技術或其他高度專門技能

的工作者；或

(三)應就業國雇主的要求，在限制和規定時間內從事暫時或短期的工作者；且該人於獲准停留期屆滿時，或在此以前如不再承擔該特定任務或從事該工作時，必須離開就業國；

(h)“自營職業工人”一詞是指從事非屬雇用合同的有報酬活動，通常是單獨或與其家庭成員共同通過此種活動謀生的移徙工人，以及經就業國適用的立法或雙邊或多邊協定承認為從事自營職業的任何其他移徙工人。

Article 2

For the purposes of the present Convention:

1.The term "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.

2. (a) The term "frontier worker" refers to a migrant worker who retains his or her habitual residence in a neighbouring State to which he or she normally returns every day or at least once a week;

(b) The term "seasonal worker" refers to a migrant worker whose work by its character is dependent on seasonal conditions and is performed only during part of the year;

(c) The term "seafarer", which includes a fisherman, refers to a migrant worker employed on board a vessel registered in a State of which he or she is not a national;

(d) The term "worker on an offshore installation" refers to a migrant worker employed on an offshore installation that is under the jurisdiction of a State of which he or she is not a national;

(e) The term "itinerant worker" refers to a migrant worker who, having his or her habitual residence in one State, has to travel to another State or States for short periods, owing to the nature of his or her occupation;

(f) The term "project-tied worker" refers to a migrant worker admitted to a State of employment for a defined period to work solely on a specific project being carried out in that State by his or her employer;

(g) The term "specified-employment worker" refers to a migrant worker:

(i) Who has been sent by his or her employer for a restricted and defined period of time to a State of employment to undertake a specific assignment or duty; or

(ii) Who engages for a restricted and defined period of time in work that requires professional, commercial, technical or other highly specialized skill; or

(iii) Who, upon the request of his or her employer in the State of employment, engages for a restricted and defined period of time in work whose nature is transitory or brief; and who is required to depart from the State of employment

either at the expiration of his or her authorized period of stay, or earlier if he or she no longer undertakes that specific assignment or duty or engages in that work;

(h) The term "self-employed worker" refers to a migrant worker who is engaged in a remunerated activity otherwise than under a contract of employment and who earns his or her living through this activity normally working alone or together with members of his or her family, and to any other migrant worker recognized as self-employed by applicable legislation of the State of employment or bilateral or multilateral agreements.

第 3 條

本公約不適用於：

(a) 國際組織和機構派遣或雇用或一國外派或在其境外雇用的從事公務的人員，他們的入境和身份由一般國際法或特定的國際協定或公約加以規定；

(b) 一國外派或在其境外雇用或代表一國參與發展方案和其他合作方案的人員，他們的入境和身份由與就業國達成的協定加以規定並且按照該協定他們不被視為移徙工人；

(c) 作為投資者在非原籍國居住的人；

(d) 難民和無國籍的人，但有關締約國的有關國家法律或對其生效的國際文書規定適用的情況除外；

(e) 學生和受訓人員；

(f) 未獲就業國接納入境居住和從事有報酬活動的海員和近海裝置上的工人；

Article 3

The present Convention shall not apply to:

(a) Persons sent or employed by international organizations and agencies or persons sent or employed by a State outside its territory to perform official functions, whose admission and status are regulated by general international law or by specific international agreements or conventions;

(b) Persons sent or employed by a State or on its behalf outside its territory who participate in development programmes and other co-operation programmes, whose admission and status are regulated by agreement with the State of employment and who, in accordance with that agreement, are not considered migrant workers;

(c) Persons taking up residence in a State different from their State of origin as investors;

(d) Refugees and stateless persons, unless such application is provided for in the relevant national legislation of, or international instruments in force for, the State

Party concerned;

(e) Students and trainees;

(f) Seafarers and workers on an offshore installation who have not been admitted to take up residence and engage in a remunerated activity in the State of employment.

第 4 條

為本公約的目的，“家庭成員”一詞指移徙工人的已婚配偶或依照適用法律與其保持具有婚姻同等效力關係的人，以及他們的受撫養子女和經適用法律或有關國家間適用的雙邊或多邊協定所確認為家庭成員的其他受養人。

Article 4

For the purposes of the present Convention the term "members of the family" refers to persons married to migrant workers or having with them a relationship that, according to applicable law, produces effects equivalent to marriage, as well as their dependent children and other dependent persons who are recognized as members of the family by applicable legislation or applicable bilateral or multilateral agreements between the States concerned.

第 5 條

為本公約的目的，移徙工人及其家庭成員：

(a) 如在就業國內依照該國法律和該國為締約國的國際協定，獲准入境、逗留和從事有報酬活動，則視為有證件或身份正常；

(b) 如不符合本條 (a) 項所規定的條件，則視為沒有證件或身份不正常。

Article 5

For the purposes of the present Convention, migrant workers and members of their families:

(a) Are considered as documented or in a regular situation if they are authorized to enter, to stay and to engage in a remunerated activity in the State of employment pursuant to the law of that State and to international agreements to which that State is a party;

(b) Are considered as non-documented or in an irregular situation if they do not comply with the conditions provided for in subparagraph (a) of the present article.

第 6 條

為本公約的目的：

(a) “原籍國”一詞指當事人為其國民的國家；

(b) “就業國”一詞指視情形而定，移徙工人將要、正在或已經從事有報酬活動的所在國家；

(c) “過境國”一詞指當事人前往就業國或從就業國前往原籍國或慣常居住國的任何旅途中所通過的任何國家。

Article 6

For the purposes of the present Convention:

(a) The term "State of origin" means the State of which the person concerned is a national;

(b) 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;

(c) The term "State of transit," means any State through which the person concerned passes on any journey to the State of employment or from the State of employment to the State of origin or the State of habitual residence.

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第二部 分權利方面不歧視

PART II: Non-discrimination with Respect to Rights

第 7 條

締約國依照關於人權的各項國際文書，承擔尊重並確保所有在其境內或受其管轄的移徙工人及其家庭成員，享有本公約所規定的權利，不分性別、種族、膚色、語言、宗教或信念、政治見解或其他意見、民族、族裔或社會根源、國籍、年齡、經濟地位、財產、婚姻狀況、出身或其他身份地位等任何區別。

Article 7

States Parties undertake, in accordance with the international instruments concerning human rights, to respect and to ensure to all migrant workers and members of their families within their territory or subject to their jurisdiction the rights provided for in the present Convention without distinction of any kind such as to sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status.

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第三部分 所有移徙工人及其家庭成員的人權

PART III: Human Rights of All Migrant Workers and Members of their Families

第 8 條

1. 移徙工人及其家庭成員應可自由離開任何國家，包括其原籍國在內。除法律規定，為保護國家安全、公共秩序、公共衛生或道德或他人的權利和自由，並且不違反本公約本部分所承認的其他權利的限制外，此項權利不受任何限制。

2. 移徙工人及其家庭成員應有權隨時進入其原籍國並在其原籍國停留。

Article 8

1. Migrant workers and members of their families 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 (ordre public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present part of the Convention.

2. Migrant workers and members of their families shall have the right at any time to enter and remain in their State of origin.

第 9 條

移徙工人及其家庭成員的生命權應受法律保護。

Article 9

The right to life of migrant workers and members of their families shall be protected by law.

第 10 條

移徙工人或其家庭成員不應受到酷刑或殘忍、不人道、有辱人格的待遇或處罰。

Article 10

No migrant worker or member of his or her family shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

第 11 條

1. 移徙工人或其家庭成員不得被使為奴隸或受奴役。
2. 移徙工人或其家庭成員不得被要求從事強迫或強制勞動。
3. 在苦役監禁得作為對犯罪的一種處罰的國家，本條第 2 款的規定不應視為排除按照主管法庭關於此項刑罰的判決而執行的苦役。
4. 為本條的目的，“強迫或強制勞動”一詞不應包括：

(a) 通常對依照法庭的合法命令被拘禁的人或對從此種拘禁中有條件釋放的人所要求的任何工作或勞務，非屬本條第 3 款所述者；

(b) 在威脅社會生活或福祉的緊急狀態或災難的情況下任何強制的勞務；

(c) 有關國家公民也需承擔的屬於正常公民義務一部分的任何工作或勞務。

Article 11

1.No migrant worker or member of his or her family shall be held in slavery or servitude.

2.No migrant worker or member of his or her family shall be required to perform forced or compulsory labour.

3.Paragraph 2 of the present article shall not be held to preclude, in States where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court.

4.For the purpose of the present article the term "forced or compulsory labour" shall not include:

(a) Any work or service not referred to in paragraph 3 of the present article normally required of a person who is under detention in consequence of a lawful order of a court or of a person during conditional release from such detention;

(b) Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;

(c) Any work or service that forms part of normal civil obligations so far as it is imposed also on citizens of the State concerned.

第 12 條

1.移徙工人及其家庭成員應有權享有思想、良心和宗教自由。這項權利應包括信仰或皈依自己所選擇的宗教或信仰的自由，以及不論個別或是集體、公開或是私下，通過禮拜、虔守、舉行儀式或傳播教義等來表明其宗教或信仰的自由。

2.移徙工人及其家庭成員不得受脅迫從而有損其信仰或皈依所選宗教或信仰的自由。

3.表明其宗教或信仰的自由得僅受法律所規定並為保護公共安全、秩序、衛生或道德或他人的基本權利和自由所必需的限制。

4.本公約締約國承允尊重至少有一方為移徙工人的父母和適用時法定監護人確保他們的子女按照他們自己的信仰接受宗教和道德教育的自由。

Article 12

1.Migrant workers and members of their families shall have the right to freedom of thought, conscience and religion.This right shall include freedom to have or to

adopt a religion or belief of their choice and freedom either individually or in community with others and in public or private to manifest their religion or belief in worship, observance, practice and teaching.

2.Migrant workers and members of their families shall not be subject to coercion that would impair their freedom to have or to adopt a religion or belief of their choice.

3.Freedom to manifest one's religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others.

4.States Parties to the present Convention undertake to have respect for the liberty of parents, at least one of whom is a migrant worker, and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

第 13 條

1.移徙工人及其家庭成員應有權持有主張，不受干涉。

2.移徙工人及其家庭成員應有權享有表達意見的自由；這項權利應包括通過不論是採取口頭、書面或印刷方式、以藝術形式或通過他們所選擇的任何其他媒介，尋求、接受和傳遞各種消息和思想的自由，而不論國界。

3.本條第 2 款所規定的權利的行使帶有特殊的義務和責任。因此其行使得受某些限制，但這些限制只應由法律規定並為下列條件所必需：

(a) 尊重他人的權利或名譽；

(b) 保護有關國家的國家安全或公共秩序、或公共衛生或道德；

(c) 防止任何戰爭宣傳；

(d) 防止任何鼓吹民族、種族或宗教仇恨而構成煽動歧視、敵視或暴力的行為。

Article 13

1.Migrant workers and members of their families shall have the right to hold opinions without interference.

2.Migrant workers and members of their families shall have the right to freedom of expression; this right shall include 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.

3.The exercise of the right provided for in paragraph 2 of the present article carries with it special duties and responsibilities.It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

- (a) For respect of the rights or reputation of others;
- (b) For the protection of the national security of the States concerned or of public order (ordre public) or of public health or morals;
- (c) For the purpose of preventing any propaganda for war;
- (d) For the purpose of preventing any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.

第 14 條

移徙工人或其家庭成員的隱私、家庭、住宅、通信或其他聯繫，不應受任意或非法干涉，其榮譽和名譽也不受非法攻擊。移徙工人及其家庭成員應有權享有法律保護，不受此種干涉或攻擊。

Article 14

No migrant worker or member of his or her family shall be subjected to arbitrary or unlawful interference with his or her privacy, family, , correspondence or other communications, or to unlawful attacks on his or her honour and reputation. Each migrant worker and member of his or her family shall have the right to the protection of the law against such interference or attacks.

第 15 條

移徙工人或其家庭成員的財產，不論個人所有或與他人共有，不應被任意剝奪。在根據就業國現行法律，移徙工人或其家庭成員的財產全部或部分被沒收時，當事人應有權獲得公平和適當的賠償。

Article 15

No migrant worker or member of his or her family shall be arbitrarily deprived of property, whether owned individually or in association with others. Where, under the legislation in force in the State of employment, the assets of a migrant worker or a member of his or her family are expropriated in whole or in part, the person concerned shall have the right to fair and adequate compensation.

第 16 條

1. 移徙工人及其家庭成員應有權享有人身自由和安全。
2. 移徙工人及其家庭成員應有權受到國家的有效保護，以免遭到無論公務人員或個人、團體或機構施以暴力、身體傷害、威脅和恫嚇。
3. 執法人員對移徙工人或其家庭成員身份的任何核查，均應按照法律規定的程式進行。
4. 移徙工人及其家庭成員不應遭到個別或集體任意逮捕或拘禁；除根據法律

所規定的這種理由並按照法律所規定的這種程式外，他們不得被剝奪自由。

5.被逮捕的移徙工人及其家庭成員應在被逮捕之時盡可能以他們所瞭解的語言被告知逮捕理由，並應以他們所瞭解的語言被迅速告知對他們提出的任何指控。

6.因刑事指控被逮捕或拘留的移徙工人及其家庭成員，應迅速由法官或經法律授權行使司法權力的其他官員予以傳訊，並應有權在合理的時間內受審或獲釋。候審期間通常不應予以拘押，但其釋放可以保證在司法程式的任何其他階段出庭受審並于必要時出庭接受判決的執行為條件。

7.遇某一移徙工人或其一家庭成員遭逮捕或審前關押或拘押或者以任何其他方式拘留時：

(a) 如當事人有此要求，應毫不拖延地將其逮捕或拘禁情事及其理由告知其原籍國的領事或外交當局或代表該國利益的領事或外交當局；

(b) 當事人應有權與上述當局聯繫，對當事人給上述當局的任何通信應毫不拖延地予以傳遞，當事人也應有權在毫不拖延的情況下接到上述當局送出的通信；

(c) 應毫不拖延地告知當事人此項權利及按照有關國家間適用的任何有關條約規定的各種權利，與上述當局的代表通信和會面，並同他們安排其法律代理人。

8.因遭逮捕或拘禁而被剝奪自由的移徙工人及其家庭成員應有權向法院提出訴訟，以期該法庭可毫不拖延地就其拘禁合法與否作出判決，並在拘禁不合法時下令予以釋放。他們出庭時，如不懂或不會說庭上所用語言，應于必要時獲得無需他們支付費用的譯員的協助。

9.遭到非法逮捕或拘禁的移徙工人及其家庭成員，應享有獲得可強制執行的賠償的權利。

Article 16

1.Migrant workers and members of their families shall have the right to liberty and security of person.

2.Migrant workers and members of their families shall be entitled to effective protection by the State against violence, physical injury, threats and intimidation, whether by public officials or by private individuals, groups or institutions.

3.Any verification by law enforcement officials of the identity of migrant workers or members of their families shall be carried out in accordance with procedure established by law.

4.Migrant workers and members of their families 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.

5. Migrant workers and members of their families who are arrested shall be informed at the time of arrest as far as possible in a language they understand of the reasons for their arrest and they shall be promptly informed in a language they understand of any charges against them.

6. Migrant workers and members of their families 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. It shall not be the general rule that while awaiting trial they shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings and, should the occasion arise, for the execution of the judgement.

7. When a migrant worker or a member of his or her family is arrested or committed to prison or custody pending trial or is detained in any other manner:

(a) The consular or diplomatic authorities of his or her State of origin or of a State representing the interests of that State shall, if he or she so requests, be informed without delay of his or her arrest or detention and of the reasons therefor;

(b) The person concerned shall have the right to communicate with the said authorities. Any communication by the person concerned to the said authorities shall be forwarded without delay, and he or she shall also have the right to receive communications sent by the said authorities without delay;

(c) The person concerned shall be informed without delay of this right and of rights deriving from relevant treaties, if any, applicable between the States concerned, to correspond and to meet with representatives of the said authorities and to make arrangements with them for his or her legal representation.

8. Migrant workers and members of their families who are deprived of their liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of their detention and order their release if the detention is not lawful. When they attend such proceedings, they shall have the assistance, if necessary without cost to them, of an interpreter, if they cannot understand or speak the language used.

9. Migrant workers and members of their families who have been victims of unlawful arrest or detention shall have an enforceable right to compensation.

第 17 條

1. 被剝奪自由的移徙工人及其家庭成員應受到人道的對待，並尊重其固有的人的尊嚴和文化特性。

2. 被控告的移徙工人及其家庭成員，除特殊情況外，應與已經定罪的人隔離，並應給予合乎其未定罪者身份的分別待遇。被控告的未成年人應與成年人隔離，

並應儘快予以審判。

3.任何移徙工人或其家庭成員在過境國或就業國因觸犯移徙條例被拘留時，應盡實際可能，被安置於與已經定罪的人或拘留候審的人分開的處所。

4.在法庭所判的服刑監禁任何期間內，對移徙工人或其家庭成員的待遇的基本宗旨應在改造他們，使他們日後能過正常的社會生活。未成年犯應與成年犯隔離，並應給予合乎其年齡和法律地位的待遇。

5.在拘禁或監禁期間，移徙工人及其家庭成員應如國民一樣，享有家人探訪的權利。

6.遇某一移徙工人被剝奪自由時，有關國家的主管當局應注意其家庭成員可能遭遇的問題，特別是其配偶和未成年子女的問題。

7.根據就業國或過境國現行法律受到任何形式的拘禁或監禁的移徙工人及其家庭成員，應享有與處於相同情況的這些國家國民同樣的權利。

8.如因檢查任何違反有關移徙條例情事的目的而將某一移徙工人或其一家庭成員加以拘留，不得要求其負擔由此產生的任何費用。

Article 17

1.Migrant workers and members of their families who are deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person and for their cultural identity.

2.Accused migrant workers and members of their families shall, save in exceptional circumstances, be separated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons. Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.

3.Any migrant worker or member of his or her family who is detained in a State of transit or in a State of employment for violation of provisions relating to migration shall be held, in so far as practicable, separately from convicted persons or persons detained pending trial.

4.During any period of imprisonment in pursuance of a sentence imposed by a court of law, the essential aim of the treatment of a migrant worker or a member of his or her family shall be his or her reformation and social rehabilitation. Juvenile offenders shall be separated from adults and be accorded treatment appropriate to their age and legal status.

5.During detention or imprisonment, migrant workers and members of their families shall enjoy the same rights as nationals to visits by members of their families.

6.Whenever a migrant worker is deprived of his or her liberty, the competent authorities of the State concerned shall pay attention to the problems that may be posed for members of his or her family, in particular for spouses and minor children.

7. Migrant workers and members of their families who are subjected to any form of detention or imprisonment in accordance with the law in force in the State of employment or in the State of transit shall enjoy the same rights as nationals of those States who are in the same situation.

8. If a migrant worker or a member of his or her family is detained for the purpose of verifying any infraction of provisions related to migration, he or she shall not bear any costs arising therefrom.

第 18 條

1. 在法院和法庭上，移徙工人及其家庭成員有權享有與有關國家國民平等的地位。在審判對他們提出的任何刑事指控或他們在訴訟案中的權利和義務時，他們應有權獲得一個依法設立的獨立公正的主管法庭進行公平而且公開的審理。

2. 受刑事控告的移徙工人及其家庭成員，未經依法證實有罪之前，應有權被假定為無罪。

3. 在審判對他們提出的任何刑事指控時，移徙工人及其家庭成員應有權享有下列最低限度的保證：

(a) 迅速以一種他們所瞭解的語言詳細告知對他們提出的指控性質和案由；

(b) 有充分時間和便利準備他們的辯護並同他們自己選擇的律師聯繫；

(c) 立即受審，不得無故拖延；

(d) 出庭受審並親自或通過自己所選擇的法律援助進行辯護；如果沒有法律援助，應通知他們享有這項權利；在審判有此必要的任何情況下，為他們指定法律援助，並在他們沒有足夠能力支付的任何這種情況下，可免自己付費；

(e) 詰問或間接詰問他造證人，並且使自己的證人在他造證人同樣的條件下出庭並受詰問；

(f) 如他們不懂或不會說法庭所用語言，可免費獲得譯員的協助；

(g) 不被強迫作不利自己的證言或強迫承認犯罪。

4. 對未成年人案件，審判程式應考慮到他們的年齡和說明他們重新做人的需要。

5. 被判定犯罪的移徙工人及其家庭成員，應有權由上級法庭對其定罪和判刑依法進行複審。

6. 遇某一移徙工人或其一家庭成員經最終判決判定犯有刑事罪而其後因新的或新發現的案情確實表明審判不當時，其定罪被撤銷或其被赦免的情況下，因這種定罪而受到刑罰的人應依法得到賠償，但經證明未知案情未能及時揭露應由其本人完全或部分負責者除外。

7. 對移徙工人或其家庭成員已按照有關國家法律和刑事程式經最終定罪或無罪開釋者，不得就同一罪名再予審判或科刑。

Article 18

1. Migrant workers and members of their families shall have the right to equality with nationals of the State concerned before the courts and tribunals. In the determination of any criminal charge against them or of their rights and obligations in a suit of law, they shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.

2. Migrant workers and members of their families who are charged with a criminal offence shall have the right to be presumed innocent until proven guilty according to law.

3. In the determination of any criminal charge against them, migrant workers and members of their families shall be entitled to the following minimum guarantees:

(a) To be informed promptly and in detail in a language they understand of the nature and cause of the charge against them;

(b) To have adequate time and facilities for the preparation of their defence and to communicate with counsel of their own choosing;

(c) To be tried without undue delay;

(d) To be tried in their presence and to defend themselves in person or through legal assistance of their own choosing; to be informed, if they do not have legal assistance, of this right; and to have legal assistance assigned to them, in any case where the interests of justice so require and without payment by them in any such case if they do not have sufficient means to pay;

(e) To examine or have examined the witnesses against them and to obtain the attendance and examination of witnesses on their behalf under the same conditions as witnesses against them;

(f) To have the free assistance of an interpreter if they cannot understand or speak the language used in court;

(g) Not to be compelled to testify against themselves or to confess guilt. 4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.

5. Migrant workers and members of their families convicted of a crime shall have the right to their conviction and sentence being reviewed by a higher tribunal according to law.

6. When a migrant worker or a member of his or her family has, by a final decision, been convicted of a criminal offence and when subsequently his or her conviction has been reversed or he or she has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to that person.

7.No migrant worker or member of his or her family shall be liable to be tried or punished again for an offence for which he or she has already been finally convicted or acquitted in accordance with the law and penal procedure of the State concerned.

第 19 條

1.移徙工人或其家庭成員的任何行為或不行為，于發生時依照國內法或國際法均不構成刑事犯罪者，不得據以認為犯有任何刑事罪，也不得被加以重于犯罪時適用的刑罰。如果在犯罪之後，法律規定應處以較輕的刑罰，則其應受益。

2.在對某一移徙工人或其一家庭成員所犯刑事罪量刑時，應就該移徙工人的身份、尤其是有關其居住或工作的權利給予人道的考慮。

Article 19

1.No migrant worker or member of his or her family shall be held guilty of any criminal offence on account of any act or omission that did not constitute a criminal offence under national or international law at the time when the criminal offence was committed, nor shall a heavier penalty be imposed than the one that was applicable at the time when it was committed.If, subsequent to the commission of the offence, provision is made by law for the imposition of a lighter penalty, he or she shall benefit thereby.

2.Humanitarian considerations related to the status of a migrant worker, in particular with respect to his or her right of residence or work, should be taken into account in imposing a sentence for a criminal offence committed by a migrant worker or a member of his or her family.

第 20 條

1.移徙工人或其家庭成員不得僅由於未履行合同義務而被監禁。

2.移徙工人或其家庭成員不得僅由於未履行工作合同產生的義務，而被剝奪其居住許可或工作許可，或被驅逐出境，除非履行這種義務構成這種許可的一個條件。

Article 20

1.No migrant worker or member of his or her family shall be imprisoned merely on the ground of failure to fulfil a contractual obligation.

2.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 fulfil an obligation arising out of a work contract unless fulfilment of that obligation constitutes a condition for such authorization or permit.

第 21 條

除依法經正當授權的公務人員外，任何人沒收、銷毀或企圖銷毀身份證件、准許入境或在一國境內逗留、居住或營業的證件、或工作許可證，均屬非法。經授權對這類證件進行沒收，必須提出詳細收據。在任何情況下，不允許銷毀某一移徙工人或其一家庭成員的護照或等同證件。

Article 21

It shall be unlawful for anyone, other than a public official duly authorized by law, to confiscate, destroy or attempt to destroy identity documents, documents authorizing entry to or stay, residence or establishment in the national territory or work permits. No authorized confiscation of such documents shall take place without delivery of a detailed receipt. In no case shall it be permitted to destroy the passport or equivalent document of a migrant worker or a member of his or her family.

第 22 條

1. 不得對移徙工人及其家庭成員採取集體驅逐的措施。對每一宗驅逐案件都應逐案審查和決定。

2. 只有按照主管當局依法作出的決定，方可將移徙工人及其家庭成員從締約國境內驅逐出境。

3. 應以他們所瞭解的語言將判決傳達給他們。如果沒有另外的強制性規定，經他們要求，應以書面方式將判決傳達給他們，除涉及國家安全的特殊情況外，應說明判決的理由。在作出判決之前或至遲在作出判決之時，應把這些權利告知當事人。

4. 除司法當局作出最終判決的情況外，當事人應有權提出其不應被驅逐的理由，並由有關當局對其案件進行複審，除因國家安全的重大理由另有規定外。在進行這類複審之前，當事人應有權要求暫緩執行驅逐的判決。

5. 已經執行的驅逐判決如其後予以取消。當事人應有權依法要求賠償，而以前的判決不得被用來阻止當事人再次進入有關國家。

6. 如被驅逐出境，當事人在離境之前或之後應有合理機會解決任何應得工資和其他應享權利的要求以及任何未決義務。

7. 在不影響一宗驅逐判決的執行的情況下，該一判決所涉的某一移徙工人或其一家庭成員可尋求進入非其原籍國的國家。

8. 遇某一移徙工人或其一家庭成員被驅逐出境時，驅逐出境的費用不應由其負擔。但得要求當事人支付自己的旅費。

9. 從就業國被驅逐出境的事實不得損害某一移徙工人或其一家庭成員按照該國法律所獲的任何權利，包括接受工資及其他應享的權利。

Article 22

1.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.

2.Migrant workers and members of their families may be expelled from the territory of a State Party only in pursuance of a decision taken by the competent authority in accordance with law.

3.The decision shall be communicated to them in a language they understand.Upon their request where not otherwise mandatory, the decision shall be communicated to them in writing and, save in exceptional circumstances on account of national security, the reasons for the decision likewise stated.The persons concerned shall be informed of these rights before or at the latest at the time the decision is rendered.

4.Except where a final decision is pronounced by a judicial authority, the person concerned shall have the right to submit the reason he or she should not be expelled and to have his or her case reviewed by the competent authority, unless compelling reasons of national security require otherwise.Pending such review, the person concerned shall have the right to seek a stay of the decision of expulsion.

5.If a decision of expulsion that has already been executed is subsequently annulled, the person concerned shall have the right to seek compensation according to law and the earlier decision shall not be used to prevent him or her from re-entering the State concerned.

6.In case of expulsion, the person concerned shall have a reasonable opportunity before or after departure to settle any claims for wages and other entitlements due to him or her and any pending liabilities.

7.Without prejudice to the execution of a decision of expulsion, a migrant worker or a member of his or her family who is subject to such a decision may seek entry into a State other than his or her State of origin.

8.In case of expulsion of a migrant worker or a member of his or her family the costs of expulsion shall not be borne by him or her.The person concerned may be required to pay his or her own travel costs.

9.Expulsion from the State of employment shall not in itself prejudice any rights of a migrant worker or a member of his or her family acquired in accordance with the law of that State, including the right to receive wages and other entitlements due to him or her.

第 23 條

移徙工人及其家庭成員在本公約所承認的權利受到損害時，應有權尋求其原籍國領事或外交機關或代表該國利益的國家的領事或外交機關的保護和協助。特

別是在處理驅逐出境時，應毫不拖延地將此項權利告知當事人，驅逐國當局並應為行使這項權利提供便利。

Article 23

Migrant workers 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. In particular, in case of expulsion, the person concerned shall be informed of this right without delay and the authorities of the expelling State shall facilitate the exercise of such right.

第 24 條

每個移徙工人及其每一家庭成員均應有權在任何地方獲得承認其在法律之前的人格。

Article 24

Every migrant worker and every member of his or her family shall have the right to recognition everywhere as a person before the law.

第 25 條

1. 移徙工人在工作報酬和以下其他方面，應享有不低於適用於就業國國民的待遇：

(a) 其他工作條件，即加班、工時、每週休假、有薪假日、安全、衛生、雇用關係的結束，以及依照國家法律和慣例，本詞所涵蓋的任何其他工作條件；

(b) 其他雇用條件，即最低就業年齡、在家工作的限制，以及依照國家法律和慣例經認為是雇用條件的任何其他事項。

2. 在私人雇用合約中，克減本條第 1 款所述的平等待遇原則，應屬非法。

3. 締約國應採取一切適當措施，確保移徙工人不因其逗留或就業有任何不正常情況而被剝奪因本原則而獲得的任何權利。特別是雇主不得由於任何這種不正常情況而得免除任何法律的或合同的義務，或對其義務有任何方式的限制。

Article 25

1. Migrant workers shall enjoy treatment not less favourable than that which applies to nationals of the State of employment in respect of remuneration and:

(a) Other conditions of work, that is to say, overtime, hours of work, weekly rest, holidays with pay, safety, health, termination of the employment relationship and any other conditions of work which, according to national law and practice, are covered by these terms;

(b) Other terms of employment, that is to say, minimum age of employment, restriction on work and any other matters which, according to national law and practice, are considered a term of employment.

2.It shall not be lawful to derogate in private contracts of employment from the principle of equality of treatment referred to in paragraph 1 of the present article.

3.States Parties shall take all appropriate measures to ensure that migrant workers are not deprived of any rights derived from this principle by reason of any irregularity in their stay or employment.In particular, employers shall not be relieved of any legal or contractual obligations, nor shall their obligations be limited in any manner by reason of such irregularity.

第 26 條

1.締約國承認移徙工人及其家庭成員有權：

(a) 參與工會的及任何其他為保護他們經濟、社會、文化和其他利益而依法成立的協會的集會和活動，僅受有關組織規則的限制；

(b) 自由參加任何工會或上述任何這類協會，僅受有關組織規則的限制；

(c) 向任何工會或上述任何這類協會尋求援助和協助。

2.這些權利的行使除受法律所規定並在民主社會為了國家安全、公共秩序或保護他人的權利和自由所需要的限制以外，不受任何其他限制。

Article 26

1.States Parties recognize the right of migrant workers and members of their families:

(a) 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;

(b) To join freely any trade union and any such association as aforesaid, subject only to the rules of the organization concerned;

(c) To seek the aid and assistance of any trade union and of any such association as aforesaid.

2.No restrictions may be placed on the exercise of these rights other than those that are prescribed by law and which are necessary in a democratic society in the interests of national security, public order (ordre public) or the protection of the rights and freedoms of others.

第 27 條

1.在社會保障方面，移徙工人及其家庭成員應享有與就業國國民同樣的待遇，

只要他們符合該國適用的立法以及適用的雙邊或多邊條約的規定。原籍國和就業國的有關當局可在任何時候作出必要安排來確定適用這一準則的方式。

2.在適用的立法不允許移徙工人及其家庭成員享有一種福利的情況下，有關國家應審查是否可能根據處於類似情況的本國國民所獲待遇，償還當事人對這種福利所繳的款額。

Article 27

1.With respect to social security, migrant workers and members of their families shall enjoy in the State of employment the same treatment granted to nationals in so far as they fulfil the requirements provided for by the applicable legislation of that State and the applicable bilateral and multilateral treaties.The competent authorities of the State of origin and the State of employment can at any time establish the necessary arrangements to determine the modalities of application of this norm.

2.Where the applicable legislation does not allow migrant workers and members of their families a benefit, the States concerned shall examine the possibility of reimbursing interested persons the amount of contributions made by them with respect to that benefit on the basis of the treatment granted to nationals who are in similar circumstances.

第 28 條

移徙工人及家庭成員應有權按與有關國家國民同等的待遇接受維持其生命或避免對其健康的不可彌補的損害而迫切需要的任何醫療。不得以他們在逗留或就業方面有任何不正常情況為由，而拒絕給予此種緊急醫療。

Article 28

Migrant workers and members of their families 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 shall not be refused them by reason of any irregularity with regard to stay or employment.

第 29 條

移徙工人的每一名子女均應享有具備姓名、進行出生登記和獲得國籍的權利。

Article 29

Each child of a migrant worker shall have the right to a name, to registration of birth and to a nationality.

第 30 條

移徙工人的每一名子女應照與有關國家國民同等的待遇享有接受教育的基本權利。不得以其父親或母親在就業國的逗留或就業方面有任何不正常情況為由或因為其本人的逗留屬不正常的情況，而拒絕或限制其進入公立幼稚園或學校。

Article 30

Each child of a migrant worker shall have the basic right of access to education on the basis of equality of treatment with nationals of the State concerned. Access to public pre-school educational institutions or schools shall not be refused or limited by reason of the irregular situation with respect to stay or employment of either parent or by reason of the irregularity of the child's stay in the State of employment.

第 31 條

1. 締約國應保證尊重移徙工人及其家庭成員的文化特性，並且不得阻礙他們與其原籍國保持文化聯繫。

2. 締約國可採取適當措施協助和鼓勵這方面的努力。

Article 31

1. States Parties shall ensure respect for the cultural identity of migrant workers and members of their families and shall not prevent them from maintaining their cultural links with their State of origin. 2. States Parties may take appropriate measures to assist and encourage efforts in this respect.

第 32 條

移徙工人及其家庭成員在結束他們在就業國的逗留時，應有權匯兌他們的收益和儲蓄，並且根據有關國家適用的立法，帶走他們的私人財物和物品。

Article 32

Upon the termination of their stay in the State of employment, migrant workers and members of their families shall have the right to transfer their earnings and savings and, in accordance with the applicable legislation of the States concerned, their personal effects and belongings.

第 33 條

1. 移徙工人及其家庭成員應有權獲得視情形而定原籍國、就業國或過境國告知以下方面的資料：

(a) 本公約所賦予他們的權利；

(b) 有關國家的法律和慣例規定的接納他們入境的條件、他們的權利和義務以及使他們遵守該國行政的或其他的正規手續的這類其他事項。

2. 締約國應採取其認為適當的一切措施傳播上述資料或確保雇主、工會或其他有關機關或機構提供上述資料。並應酌情與其他有關國家合作。

3. 經請求應向移徙工人及其家庭成員免費並盡可能以他們所能瞭解的語言充分提供此類資料。

Article 33

1. Migrant workers and members of their families shall have the right to be informed by the State of origin, the State of employment or the State of transit as the case may be concerning:

(a) Their rights arising out of the present Convention;

(b) The conditions of their admission, their rights and obligations under the law and practice of the State concerned and such other matters as will enable them to comply with administrative or other formalities in that State.

2. States Parties shall take all measures they deem appropriate to disseminate the said information or to ensure that it is provided by employers, trade unions or other appropriate bodies or institutions. As appropriate, they shall co-operate with other States concerned.

3. Such adequate information shall be provided upon request to migrant workers and members of their families, free of charge, and, as far as possible, in a language they are able to understand.

第 34 條

本公約本部分的任何規定不得有以下影響：免除移徙工人及其家庭成員遵守任何過境國家或就業國的法律和規章的義務，或免除他們尊重該等國家居民的文化特性的義務。

Article 34

Nothing in the present part of the Convention 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.

第 35 條

本公約本部分的任何規定不得解釋為意含沒有證件或身份不正常的移徙工人或其家庭成員情況的正常化，或其情況得致這種正常化的任何權利，也不得損

害旨在確保本公約[第六部分](#)所規定的合理而且公平的國際移徙的措施。

Article 35

Nothing in the present part of the Convention shall be interpreted as implying the regularization of the situation of migrant workers or members of their families who are non-documented or in an irregular situation or any right to such regularization of their situation, nor shall it prejudice the measures intended to ensure sound and equitable-conditions for international migration as provided in part VI of the present Convention.

[回索引](#)>>

第四部分 有證件或身份正常的移徙工人及其家庭成員的其他權利

PART IV: Other Rights of Migrant Workers and Members of their Families who are Documented or in a Regular Situation

第 36 條

在就業國境內有證件或身份正常的移徙工人及其家庭成員，除享有本公約[第三部分](#)所列的各項權利之外，還享有本部分所列的各項權利。

Article 36

Migrant workers and members of their families who are documented or in a regular situation in the State of employment shall enjoy the rights set forth in the present part of the Convention in addition to those set forth in part III.

第 37 條

移徙工人及其家庭成員有權在離國以前或至遲在就業國接受其入境之時，獲原籍國或就業國酌情充分告知適用於其入境的一切條件，特別是有關下述事項的條件：他們的逗留，他們可從事的有報酬活動，他們在就業國必須符合的規定，以及這些條件有任何變動時他們必須聯繫的機關。

Article 37

Before their departure, or at the latest at the time of their admission to the State of employment, migrant workers and members of their families shall have the right to be fully informed by the State of origin or the State of employment, as appropriate, of all conditions applicable to their admission and particularly those concerning their stay and the remunerated activities in which they may engage as well as of the requirements they must satisfy in the State of employment and the authority to which they must address themselves for any modification of those

conditions.

第 38 條

1. 就業國應盡可能批准移徙工人及其家庭成員暫時離開而不影響視情形而定其逗留許可或其工作許可。就業國這樣做時，應考慮到移徙工人及其家庭成員的特殊需要和義務，特別是在其原籍國的特殊需要和義務。

2. 移徙工人及其家庭成員有權充分獲知批准這類暫時離開的條件。

Article 38

1. States of employment shall make every effort to authorize migrant workers and members of the families to be temporarily absent without effect upon their authorization to stay or to work, as the case may be. In doing so, States of employment shall take into account the special needs and obligations of migrant workers and members of their families, in particular in their States of origin.

2. Migrant workers and members of their families shall have the right to be fully informed of the terms on which such temporary absences are authorized.

第 39 條

1. 移徙工人及其家庭成員有權在就業國領土內自由遷移和在當地自由選擇住所。

2. 本條第 1 款所述權利不應受任何限制，但經法律規定為保護國家安全、公共秩序、公共衛生或道德或他人的權利和自由所必需且不違反本公約所承認的其他各項權利的限制除外。

Article 39

1. Migrant workers and members of their families shall have the right to liberty of movement in the territory of the State of employment and freedom to choose their residence there.

2. The rights mentioned in paragraph 1 of the present article shall not be subject to any restrictions except those that are provided by law, are necessary to protect national security, public order (ordre public), public health or morals, or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

第 40 條

1. 移徙工人及其家庭成員應有權在就業國成立社團和工會，以促進和保護其經濟、社會、文化和其他利益。

2. 除法律所規定且在民主社會為國家安全、公共秩序的利益或為保護他人的

權利和自由所必需之外，不得對行使對這一項權利施加任何限制。

Article 40

1.Migrant workers and members of their families shall have the right to form associations and trade unions in the State of employment for the promotion and protection of their economic, social, cultural and other interests.

2.No restrictions may be placed on the exercise of this right other than those that are prescribed by law and are necessary in a democratic society in the interests of national security, public order (ordre public) or the protection of the rights and freedoms of others.

第 41 條

1.移徙工人及其家庭成員應有權按照其原籍國的立法規定，參加該國的公共事務，並在該國的選舉中有選舉權和被選舉權。

2.有關國家應酌情並按照本國立法規定，便利這些權利的行使。

Article 41

1.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.

2.The States concerned shall, as appropriate and in accordance with their legislation, facilitate the exercise of these rights.

第 42 條

1.締約國應考慮設立各種程式或機構，以便可在原籍國和在就業國通過這些程式或機構考慮到移徙工人及其家庭成員的特殊需要、願望和義務，並應酌情考慮是否可能讓移徙工人及其家庭成員在這些機構中有他們自由選出的代表。

2.就業國在有關地方社區的生活和行政的決定方面，應按照其本國立法的規定，便利移徙工人及其家庭成員進行磋商或參加。

3.移徙工人在就業國可享有該國行使其主權所給予他們的政治權利。

Article 42

1.States Parties shall consider the establishment of procedures or institutions through which account may be taken, both in States of origin and in States of employment, of special needs, aspirations and obligations of migrant workers and members of their families and shall envisage, as appropriate, the possibility for migrant workers and members of their families to have their freely chosen representatives in those institutions.

2.States of employment shall facilitate, in accordance with their national legislation, the consultation or participation of migrant workers and members of their families in decisions concerning the life and administration of local communities.

3.Migrant workers may enjoy political rights in the State of employment if that State, in the exercise of its sovereignty, grants them such rights.

第 43 條

1.移徙工人在以下方面應享有與就業國國民同等的待遇：

(a) 在符合有關機構和服務的人學規定和其他規章的情況下，享用教育機構和服務；

(b) 享受職業指導和就業服務；

(c) 享受職業訓練和再訓練設施和機構；

(d) 享受住房、包括公共住宅計畫，以及在租金方面不受剝削的保障；

(e) 享受社會服務和保健服務，但需符合參加各該種計畫的規定；

(f) 參加合作社和自行管理的企業，但這不應意味他們移徙工人地位的改變，並應符合有關機構的條例和規章；

(g) 享受和參加文化生活。

2.締約國應促進確保待遇實際平等的條件，使移徙工人在就業國批准的逗留條件符合適當的規定時，能夠享有本條第 1 款所述的權利。

3.就業國不應阻止移徙工人的僱主為其提供住房或社會或文化服務設備。依照本公約第 70 條的規定，就業國可要求所提供的這類設備符合該國一般適用的關於設置此類設備的規定。

Article 43

1.Migrant workers shall enjoy equality of treatment with nationals of the State of employment in relation to:

(a) Access to educational institutions and services subject to the admission requirements and other regulations of the institutions and services concerned;

(b) Access to vocational guidance and placement services;

(c) Access to vocational training and retraining facilities and institutions;

(d) Access to housing, including social housing schemes, and protection against exploitation in respect of rents;

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

(f) 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;

(g) Access to and participation in cultural life.

2.States Parties shall promote conditions to ensure effective equality of treatment to enable migrant workers to enjoy the rights mentioned in paragraph 1 of the present article whenever the terms of their stay, as authorized by the State of employment, meet the appropriate requirements.

3.States of employment shall not prevent an employer of migrant workers from establishing housing or social or cultural facilities for them.Subject to article 70 of the present Convention, a State of employment may make the establishment of such facilities subject to the requirements generally applied in that State concerning their installation.

第 44 條

1.締約國確認家庭是社會的自然基本單元並有權受到社會和國家的保護，應採取適當措施，確使保護移徙工人的家庭完整。

2.締約國應採取其認為妥當並符合其許可權範圍的措施，便利移徙工人同他們的配偶或依照適用法律與移徙工人的關係具有相當於婚姻效力的個人以及同受他們撫養的未成年未婚子女團聚。

3.就業國應根據人道的理由，有利地考慮按照本條第 2 款規定給予移徙工人其他家庭成員同等的待遇。

Article 44

1.States Parties, recognizing that the family is the 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 of migrant workers.

2.States Parties shall take measures that they deem appropriate and that fall within their competence to facilitate the reunification of migrant workers with their spouses or persons who have with the migrant worker a relationship that, according to applicable law, produces effects equivalent to marriage, as well as with their minor dependent unmarried children.

3.States of employment, on humanitarian grounds, shall favourably consider granting equal treatment, as set forth in paragraph 2 of the present article, to other family members of migrant workers.

第 45 條

1.移徙工人的家庭成員在就業國內在以下方面應享有與該國國民同等的待遇：

(a) 在符合有關機構和服務的入學規定和其他規章的情況下，享用教育設施和服務；

- (b) 享受職業指導和訓練機構和服務，但需符合參加的規定；
- (c) 享受社會服務和保健服務，但需符合參加各該種計畫的規定；
- (d) 享受和參加文化生活。

2.就業國應斟酌情況同原籍國協作，實施一項旨在促進移徙工人的子女進入當地學校系統就讀的政策，特別是在有關教學當地語文方面。

3.就業國應努力促進移徙工人子女的母語和文化學習，原籍國在這方面應斟酌情況給予協作。

4.就業國可以移徙工人子女的母語提供特別教學方案，必要時可同原籍國協作。

Article 45

1.Members of the families of migrant workers shall, in the State of employment, enjoy equality of treatment with nationals of that State in relation to:

(a) Access to educational institutions and services, subject to the admission requirements and other regulations of the institutions and services concerned;

(b) Access to vocational guidance and training institutions and services, provided that requirements for participation are met;

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

(d) Access to and participation in cultural life.

2.States of employment shall pursue a policy, where appropriate in collaboration with the States of origin, aimed at facilitating the integration of children of migrant workers in the local school system, particularly in respect of teaching them the local language.

3.States of employment shall endeavour to facilitate for the children of migrant workers the teaching of their mother tongue and culture and, in this regard, States of origin shall collaborate whenever appropriate.

4.States of employment may provide special schemes of education in the mother tongue of children of migrant workers, if necessary in collaboration with the States of origin.

第 46 條

移徙工人及其家庭成員在：

- (a) 離開原籍國或慣常居住國時；
- (b) 最初進入就業國時；
- (c) 最後離開就業國時；
- (d) 最後回返原籍國或慣常居住國時；

其個人和家庭財物以及其獲准進入就業國從事有報酬活動所需的設備，按照

有關國家適用的立法規定以及有關的國際協定和有關國家因參加關稅聯盟而承擔的義務，享有免付進出口稅捐和稅款的待遇。

Article 46

Migrant workers and members of their families shall, subject to the applicable legislation of the States concerned, as well as relevant international agreements and the obligations of the States concerned arising out of their participation in customs unions, enjoy exemption from import and export duties and taxes in respect of their personal and household effects as well as the equipment necessary to engage in the remunerated activity for which they were admitted to the State of employment:

- (a) Upon departure from the State of origin or State of habitual residence;
- (b) Upon initial admission to the State of employment;
- (c) Upon final departure from the State of employment;
- (d) Upon final return to the State of origin or State of habitual residence.

第 47 條

1. 移徙工人應有權將其收益和儲蓄、特別是為維持其家庭生計所需的款項，從就業國匯至原籍國或其他任何國家。這種匯兌應遵從有關國家適用的立法所規定的程式並遵從適用的國際協定。

2. 有關國家應採取適當措施便利這種匯兌。

Article 47

1. Migrant workers shall have the right to transfer their earnings and savings, in particular those funds necessary for the support of their families, from the State of employment to their State of origin or any other State. Such transfers shall be made in conformity with procedures established by applicable legislation of the State concerned and in conformity with applicable international agreements.

2. States concerned shall take appropriate measures to facilitate such transfers.

第 48 條

1. 在不妨礙適用的雙重徵稅協定的情況下，移徙工人及其家庭成員在就業國內的收益方面：

(a) 不應繳付比本國國民在類似情況所繳付的為高或繁重的任何種類稅款、稅捐或規費；

(b) 有權享受適用於本國國民在類似情況所享任何種類稅款的減免辦法，或任何稅款的寬減辦法，包括其受撫養家庭成員所享的稅款寬減辦法。

2. 締約國應致力採取適當措施，避免對移徙工人及其家庭成員的收益和儲蓄雙重課稅。

Article 48

1. Without prejudice to applicable double taxation agreements, migrant workers and members of their families shall, in the matter of earnings in the State of employment:

(a) Not be liable to taxes, duties or charges of any description higher or more onerous than those imposed on nationals in similar circumstances;

(b) Be entitled to deductions or exemptions from taxes of any description and to any tax allowances applicable to nationals in similar circumstances, including tax allowances for dependent members of their families.

2. States Parties shall endeavour to adopt appropriate measures to avoid double taxation of the earnings and savings of migrant workers and members of their families.

第 49 條

1. 在國家法律規定居留和就業須要分別獲得許可時，就業國應至少在准許移徙工人從事有報酬活動的同一期間，給予他們居留許可。

2. 在就業國內被允許自由選擇其有報酬活動的移徙工人，不應僅由於在其工作許可或類似許可到期之前終止其有報酬活動，而被視為身份不正常或喪失其居留許可。

3. 為允許本條第 2 款所指移徙工人有足夠時間尋找其他有報酬活動，至少在相當於可享有失業津貼的期間，不應撤銷其居留許可。

Article 49

1. Where separate authorizations to reside and to engage in employment are required by national legislation, the States of employment shall issue to migrant workers authorization of residence for at least the same period of time as their authorization to engage in remunerated activity.

2. Migrant workers who in the State of employment are allowed freely to choose their remunerated activity shall neither be regarded as in an irregular situation nor shall they lose their authorization of residence by the mere fact of the termination of their remunerated activity prior to the expiration of their work permits or similar authorizations.

3. In order to allow migrant workers referred to in paragraph 2 of the present article sufficient time to find alternative remunerated activities, the authorization of residence shall not be withdrawn at least for a period corresponding to that during which they may be entitled to unemployment benefits.

第 50 條

1. 遇某一移徙工人死亡或解除婚姻關係，就業國應有利地考慮准許以家庭團聚為由在該國居住的該移徙工人的家庭成員留在該國；就業國應考慮到他們已在該國居住時間的長短。

2. 未獲這種許可的家庭成員，應准許他們在離境前一段合理時間處理其在就業國的事務。

3. 本條第 1 款和第 2 款的規定不得解釋為損害到就業國的立法或適用於該國的雙邊和多邊條約在其他情況下給予這些家庭成員的任何逗留和工作的權利。

Article 50

1. In the case of death of a migrant worker or dissolution of marriage, the State of employment shall favourably consider granting family members of that migrant worker residing in that State on the basis of family reunion an authorization to stay; the State of employment shall take into account the length of time they have already resided in that State.

2. Members of the family to whom such authorization is not granted shall be allowed before departure a reasonable period of time in order to enable them to settle their affairs in the State of employment.

3. The provisions of paragraphs 1 and 2 of the present article may not be interpreted as adversely affecting any right to stay and work otherwise granted to such family members by the legislation of the State of employment or by bilateral and multilateral treaties applicable to that State.

第 51 條

在就業國內不被允許自由選擇其有報酬活動的移徙工人，不應僅由於在其工作許可到期之前終止其有報酬活動，而被視為身份不正常或喪失其居留許可，但居留許可明確規定以入境從事某項有報酬活動為條件者不在此列。此類移徙工人有權在工作許可所餘期間尋找其他工作、參加公共工程計畫和再訓練，但須符合工作許可具體規定的此類條件和限制。

Article 51

Migrant workers who in the State of employment are not permitted freely to choose their remunerated activity shall neither be regarded as in an irregular situation nor shall they lose their authorization of residence by the mere fact of the termination of their remunerated activity prior to the expiration of their work permit, except where the authorization of residence is expressly dependent upon the specific remunerated activity for which they were admitted. Such migrant workers shall have the right to seek alternative employment, participation in public work schemes and retraining during the remaining period of their authorization to work, subject to such

conditions and limitations as are specified in the authorization to work.

第 52 條

1. 移徙工人在就業國內應有權自由選擇其有報酬活動，但須符合下列限制或條件。

2. 就業國得對任何移徙工人：

(a) 根據本國利益的需要和國家立法的規定，限制從事某些種類的工作、職務、服務或活動；

(b) 根據其關於對境外取得的職業資格給予承認的立法規定，限制自由選擇有報酬活動。但有關締約國應盡力對這類資格給予承認。

3. 對獲准工作的時間有限制的移徙工人，就業國並得：

(a) 對自由選擇其有報酬活動的權利附加以下條件，即移徙工人已合法在其境內居留以從事國家立法規定一段期間不超過兩年的有報酬活動；

(b) 為推行給予本國國民或給予依據立法或雙邊或多邊協定為此目的同化為國民的人優先的政策，限制移徙工人從事有報酬的活動。任何此類限制對已合法在其境內居留以從事國家立法規定一段期間不超過五年的有報酬活動的移徙工人應停止適用。

4. 就業國應規定已獲接納入境工作的移徙工人可獲准自行從事工作的條件。應考慮到該移徙工人已在就業國合法停留的期間。

Article 52

1. Migrant workers in the State of employment shall have the right freely to choose their remunerated activity, subject to the following restrictions or conditions.

2. For any migrant worker a State of employment may:

(a) Restrict access to limited categories of employment, functions, services or activities where this is necessary in the interests of this State and provided for by national legislation;

(b) Restrict free choice of remunerated activity in accordance with its legislation concerning recognition of occupational qualifications acquired outside its territory. However, States Parties concerned shall endeavour to provide for recognition of such qualifications.

3. For migrant workers whose permission to work is limited in time, a State of employment may also:

(a) Make the right freely to choose their remunerated activities subject to the condition that the migrant worker has resided lawfully in its territory for the purpose of remunerated activity for a period of time prescribed in its national legislation that should not exceed two years;

(b) Limit access by a migrant worker to remunerated activities in pursuance of

a policy of granting priority to its nationals or to persons who are assimilated to them for these purposes by virtue of legislation or bilateral or multilateral agreements. Any such limitation shall cease to apply to a migrant worker who has resided lawfully in its territory for the purpose of remunerated activity for a period of time prescribed in its national legislation that should not exceed five years.⁴ States of employment shall prescribe the conditions under which a migrant worker who has been admitted to take up employment may be authorized to engage in work on his or her own account. Account shall be taken of the period during which the worker has already been lawfully in the State of employment.

第 53 條

1. 如某一移徙工人的家庭成員本人的居留或入境許可沒有時間限制或可自動延期時，則他們應獲准依照本公約[第 52 條](#)所規定適用於該移徙工人的同樣條件，自由選擇他們有報酬的活動。

2. 關於某一移徙工人的不被允許自由選擇他們有報酬活動的家庭成員，除適用的雙邊和多邊協定另有規定外，締約國應對他們申請從事有報酬活動的許可，給予較申請進入就業國的其他工人為優先的有利考慮。

Article 53

1. 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 in accordance with article 52 of the present Convention.

2. With respect to members of a migrant worker's family who are not permitted freely to choose their remunerated activity, States Parties shall consider favourably granting them priority in obtaining permission to engage in a remunerated activity over other workers who seek admission to the State of employment, subject to applicable bilateral and multilateral agreements.

第 54 條

1. 在不損及關於其居住許可或其工作許可規定以及本公約[第 25 條](#)和[第 27 條](#)規定的權利的情況下，移徙工人在下列方面應享有與就業國國民同等的待遇：

- (a) 解雇保障；
- (b) 失業津貼；
- (c) 參加旨在遏制失業現象的公共工程計畫；
- (d) 在失去工作時或在其他有報酬活動終止時獲得其他工作，但須符合本公約[第 52 條](#)的規定。

2.某一移徙工人如聲稱其僱主違反了工作合同上的條件，應有權按照本公約第 18 條第 1 款的規定，向就業國主管當局提出申訴。

Article 54

1. Without prejudice to the terms of their authorization of residence or their permission to work and the rights provided for in articles 25 and 27 of the present Convention, migrant workers shall enjoy equality of treatment with nationals of the State of employment in respect of:

- (a) Protection against dismissal;
- (b) Unemployment benefits;
- (c) Access to public work schemes intended to combat unemployment;
- (d) Access to alternative employment in the event of loss of work or

termination of other remunerated activity, subject to article 52 of the present Convention.

2. If a migrant worker claims that the terms of his or her work contract have been violated by his or her employer, he or she shall have the right to address his or her case to the competent authorities of the State of employment, on terms provided for in article 18, paragraph 1, of the present Convention.

第 55 條

獲准從事一項有報酬活動的移徙工人，在符合該種許可所附的條件的情況下，享有與從事該項有報酬活動的就業國國民同等的待遇。

Article 55

Migrant workers who have been granted permission to engage in a remunerated activity, subject to the conditions attached to such permission, shall be entitled to equality of treatment with nationals of the State of employment in the exercise of that remunerated activity.

第 56 條

1. 本公約本部分所指移徙工人及其家庭成員，除根據就業國國家立法規定的理由，並依照第三部分所述的保障規定外，不得從就業國被驅逐出境。

2. 不得為了剝奪某一移徙工人或其一家庭成員根據居留許可和工作許可而享有的權利的目的而進行驅逐。

3. 在考慮是否驅逐某一移徙工人或其一家庭成員時，應照顧到人道的考慮和當事人已在就業國居住時間的長短。

Article 56

1.Migrant workers and members of their families referred to in the present part of the Convention may not be expelled from a State of employment, except for reasons defined in the national legislation of that State, and subject to the safeguards established in part III.

2.Expulsion shall not be resorted to for the purpose of depriving a migrant worker or a member of his or her family of the rights arising out of the authorization of residence and the work permit.

3.In considering whether to expel a migrant worker or a member of his or her family, account should be taken of humanitarian considerations and of the length of time that the person concerned has already resided in the State of employment.

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第五部分 適用於特殊類別的移徙工人及其家庭成員的規定

PART V: Provisions Applicable to Particular Categories of Migrant Workers and Members of their Families

第 57 條

本公約本部分具體規定的持有證件或身份正常的特殊類別的移徙工人及其家庭成員，應享有[第三部分](#)所列權利以及除下面所述例外情況外[第四部分](#)所列權利。

Article 57

The particular categories of migrant workers and members of their families specified in the present part of the Convention who are documented or in a regular situation shall enjoy the rights set forth in part m and, except as modified below, the rights set forth in part IV.

第 58 條

1.本公約[第 2 條](#)第 2 款（a）項界定的邊境工人，考慮到他們的慣常住所不在就業國境內，應享有[第四部分](#)所規定由於他們身在該國並在其境內工作而可適用他們的權利。

2.就業國應有利地考慮在經過一段規定期間後，給予邊境工人自由選擇其有報酬活動的權利。給予該項權利應不影響他們作為邊境工人的身份。

Article 58

1.Frontier workers, as defined in article 2, paragraph 2 (a), of the present Convention, shall be entitled to the rights provided for in part IV that can be applied to them by reason of their presence and work in the territory of the State of

employment, taking into account that they do not have their habitual residence in that State.

2.States of employment shall consider favourably granting frontier workers the right freely to choose their remunerated activity after a specified period of time.The granting of that right shall not affect their status as frontier workers.

第 59 條

1.本公約第 2 條第 2 款 (b) 項界定的季節工人，考慮到他們在就業國只逗留一年中的部分時間，應享有第四部分所規定由於他們身在該國並在其境內工作而可適用他們並符合他們在該國作為季節工人的身份的權利。

2.就業國對於在其境內已受雇相當一段期間的季節工人，應在符合本條第 1 款的規定下，考慮給予從事其他有報酬活動的可能性，並且在符合適用的雙邊和多邊協定下，給予較申請進入該國的其他工人為優先的機會。

Article 59

1.Seasonal workers, as defined in article 2, paragraph 2 (b) , of the present Convention, shall be entitled to the rights provided for in part IV that can be applied to them by reason of their presence and work in the territory of the State of employment and that are compatible with their status in that State as seasonal workers, taking into account the fact that they are present in that State for only part of the year.

2.The State of employment shall, subject to paragraph 1 of the present article, consider granting seasonal workers who have been employed in its territory for a significant period of time the possibility of taking up other remunerated activities and giving them priority over other workers who seek admission to that State, subject to applicable bilateral and multilateral agreements.

第 60 條

本公約第 2 條第 2 款 (e) 項界定的行旅工人，應享有第四部分所規定由於他們身在就業國並在其境內工作而可給予他們並符合在該國作為行旅工人的身份的權利。

Article 60

Itinerant workers, as defined in article 2, paragraph 2 (A) , of the present Convention, shall be entitled to the rights provided for in part IV that can be granted to them by reason of their presence and work in the territory of the State of employment and that are compatible with their status as itinerant workers in that State.

第 61 條

1. 本公約第 2 條第 2 款 (f) 項界定的項目工人及其家庭成員，應享有第四部分所規定的各項權利，但以下條款的規定除外：第 43 條第 1 款 (b) 項和 (c) 項、有關公共住宅計畫的第 43 條第 1 款 (d) 項、第 45 條第 1 款 (b) 項和第 52 至 55 條。

2. 某一項目工人如聲稱其雇主違反了工作合同上的條件，應有權按照本公約第 18 條第 1 款的規定，向對該名雇主具有管轄權的國家主管當局提出申訴。

3. 有關締約國依照其現行雙邊或多邊協定的規定，應致力使專案工人在從事專案工作期間仍受原籍國或慣常居住國社會保障制度的充分保護。有關締約國應採取適當措施，以避免在這方面權利受到任何否定或要重複繳款。

4. 在不損及本公約第 47 條規定以及有關雙邊或多邊協定的情況下，有關締約國應允許專案工人的工資在其原籍國或慣常居住國給付。

Article 61

1. Project-tied workers, as defined in article 2, paragraph 2 (of the present Convention, and members of their families shall be entitled to the rights provided for in part IV except the provisions of article 43, paragraphs I (b) and (c), article 43, paragraph I (d), as it pertains to social housing schemes, article 45, paragraph I (b), and articles 52 to 55.

2. If a project-tied worker claims that the terms of his or her work contract have been violated by his or her employer, he or she shall have the right to address his or her case to the competent authorities of the State which has jurisdiction over that employer, on terms provided for in article 18, paragraph 1, of the present Convention.

3. Subject to bilateral or multilateral agreements in force for them, the States Parties concerned shall endeavour to enable project-tied workers to remain adequately protected by the social security systems of their States of origin or habitual residence during their engagement in the project. States Parties concerned shall take appropriate measures with the aim of avoiding any denial of rights or duplication of payments in this respect. 4. Without prejudice to the provisions of article 47 of the present Convention and to relevant bilateral or multilateral agreements, States Parties concerned shall permit payment of the earnings of project-tied workers in their State of origin or habitual residence.

第 62 條

1. 本公約第 2 條第 2 款 (g) 項界定的特定聘用工人，應享有第四部分所規定的各項權利，但以下條款的規定除外：第 43 條第 1 款 (b) 項和 (c) 項、有關公共住宅計畫的第 43 條第 1 款 (d) 項、第 52 條和第 54 條第 1 款 (d) 項。

2.特定聘用工人的家庭成員應享有本公約[第四部分](#)有關移徙工人家庭成員的權利，但[第 53 條](#)的規定除外。

Article 62

1.Specified-employment workers as defined in article 2, paragraph 2 (g), of the present Convention, shall be entitled to the rights provided for in part IV, except the provisions of article 43, paragraphs I (b) and (c), article 43, paragraph I (d), as it pertains to social housing schemes, article 52, and article 54, paragraph 1 (d).

2.Members of the families of specified-employment workers shall be entitled to the rights relating to family members of migrant workers provided for in part IV of the present Convention, except the provisions of article 53.

第 63 條

1.本公約[第 2 條](#)第 2 款 (h) 項界定的自營職業工人，應享有[第四部分](#)所規定的各項權利，但只適用於持有雇用合同的工人的權利除外。

2.在不損及本公約[第 52](#) 和 [79 條](#)的情況下，自營職業工人結束經濟活動本身並不表示對其本人或其家庭成員在就業國內逗留或從事有報酬活動許可的撤銷，但明確規定居住許可取決於接納他們入境從事具體有報酬活動的情況除外。

Article 63

1.Self-employed workers, as defined in article 2, paragraph 2 (h), of the present Convention, shall be entitled to the rights provided for in part IV with the exception of those rights which are exclusively applicable to workers having a contract of employment.

2.Without prejudice to articles 52 and 79 of the present Convention, the termination of the economic activity of the self-employed workers shall not in itself imply the withdrawal of the authorization for them or for the members of their families to stay or to engage in a remunerated activity in the State of employment except where the authorization of residence is expressly dependent upon the specific remunerated activity for which they were admitted.

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第六部分 增進工人及其家庭成員國際移徙的合理、公平、人道和合法條件

PART VI: Promotion of sound, equitable, humane and lawful conditions in connection with international migration of workers and members of their families

第 64 條

1.在不損及本公約[第 79 條](#)的情況下，有關締約國應酌情進行協商與合作，

以期增進工人及其家庭成員國際移徙的合理、公平和人道條件。

2.在這方面，不僅應適當顧及勞力需求和資源，還應顧到所涉移徙工人及其家庭成員的社會、經濟、文化及其他需要以及這種移徙對有關社會造成的後果。

Article 64

1.Without prejudice to article 79 of the present Convention, the States Parties concerned shall as appropriate consult and co-operate with a view to promoting sound, equitable and humane conditions in connection with international migration of workers and members of their families.

2.In this respect, due regard shall be paid not only to labour needs and resources, but also to the social, economic, cultural and other needs of migrant workers and members of their families involved, as well as to the consequences of such migration for the communities concerned.

第 65 條

1.締約國應設有適當機構來處理有關工人及其家庭成員的國際移徙問題。除其他外，這種機構的職務應包括：

(a) 制訂和執行關於這種移徙的政策；

(b) 同涉及這種移徙的其他締約國的主管當局交換資料，進行協商與合作；

(c) 提供關於有關移徙和就業的政策、法律和規章、關於同其他國家就移徙締結的協定和關於其他有關事項的適當資料，特別是向雇主、工人和他們的組織提供這種資料；

(d) 向移徙工人及其家庭成員提供關於離境、旅行、到達、逗留、從事有報酬活動、出境和返回所需的許可、正規手續和安排的資料，以及關於在就業國內工作和生活的條件和關於關稅、貨幣、稅款和其他有關法律和規章的資料，並給予這些方面的適當協助。

2.締約國應酌情便利提供滿足移徙工人及其家庭成員的社會、文化和其他需要所必需的適當領事服務和其他服務。

Article 65

1.States Parties shall maintain appropriate services to deal with questions concerning international migration of workers and members of their families.Their functions shall include, inter alia :

(a) The formulation and implementation of policies regarding such migration;

(b) An exchange of information.consultation and co-operation with the competent authorities of other States Parties involved in such migration;

(c)The provision of appropriate information, particularly to employers, workers and their organizations on policies, laws and regulations relating to migration and

employment, on agreements concluded with other States concerning migration and on other relevant matters;

(d) The provision of information and appropriate assistance to migrant workers and members of their families regarding requisite authorizations and formalities and arrangements for departure, travel, arrival, stay, remunerated activities, exit and return, as well as on conditions of work and life in the State of employment and on customs, currency, tax and other relevant laws and regulations.

2. States Parties shall facilitate as appropriate the provision of adequate consular and other services that are necessary to meet the social, cultural and other needs of migrant workers and members of their families.

第 66 條

1. 在符合本條第 2 款的規定下，進行活動以招募工人在另一國就業的權利應限於：

- (a) 進行這種活動的所在國的公共機構或機關；
- (b) 根據有關國家間的協定，就業國的公共機構或機關；
- (c) 按雙邊或多邊協定設立的機關。

2. 如經有關締約國按照本國立法和慣例可能設立的公共當局授權、核可和監督，機構、未來雇主或代表它們的人員也可被允許進行這種活動。

Article 66

1. Subject to paragraph 2 of the present article, the right to undertake operations with a view to the recruitment of workers for employment in another State shall be restricted to:

- (a) Public services or bodies of the State in which such operations take place;
- (b) Public services or bodies of the State of employment on the basis of agreement between the States concerned;
- (c) A body established by virtue of a bilateral or multilateral agreement.

2. Subject to any authorization, approval and supervision by the public authorities of the States Parties concerned as may be established pursuant to the legislation and practice of those States, agencies, prospective employers or persons acting on their behalf may also be permitted to undertake the said operations.

第 67 條

1. 有關締約國應酌情合作採取措施，使移徙工人及其家庭成員在決定返回或在居住許可或工作許可滿期時或在其在就業國身份不正常時，有秩序地返回其原籍國。

2. 關於身份正常的移徙工人及其家庭成員，有關締約國應根據這些國家共同

議定的條件酌情進行合作，為他們重新定居創造適當的經濟條件，並便利他們在原籍國在社會和文化方面的持久重新融合。

Article 67

1.States Parties concerned shall co-operate as appropriate in the adoption of measures regarding the orderly return of migrant workers 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.

2.Concerning migrant workers and members of their families in a regular situation, States Parties concerned shall co-operate as appropriate, on terms agreed upon by those States, with a view to promoting adequate economic conditions for their resettlement and to facilitating their durable social and cultural reintegration in the State of origin.

第 68 條

1.締約國、包括過境國在內，應進行協作，以期防止和杜絕身份不正常的移徙工人非法或秘密移動和就業。有關各國管轄範圍內為此目的採取的措施應包括：

- (a) 制止散播有關移民出境和入境的錯誤資料的適當措施；
- (b) 偵查和杜絕移徙工人及其家庭成員的非法或秘密移動，並對組織、辦理或協助組織或辦理這種移動的個人、團體或實體加以有效制裁的措施；
- (c) 對於對身份不正常的移徙工人或其家庭成員使用暴力、威脅或恫嚇的個人、團體或實體加以有效制裁的措施。

2.就業國應採取杜絕其境內身份不正常的移徙工人的就業的一切適當和有效措施，包括適當時對雇用此類工人的雇主加以制裁。這些措施不得損害移徙工人由於受雇對其雇主而言的權利。

Article 68

1.States Parties, including States of transit, shall collaborate with a view to preventing and eliminating illegal or clandestine movements and employment of migrant workers in an irregular situation.The measures to be taken to this end within the jurisdiction of each State concerned shall include:

- (a) Appropriate measures against the dissemination of misleading information relating to emigration and immigration;
- (b) Measures to detect and eradicate illegal or clandestine movements of migrant workers and members of their families and to impose effective sanctions on persons, groups or entities which organize, operate or assist in organizing or operating such movements;

(c) Measures to impose effective sanctions on persons, groups or entities which use violence, threats or intimidation against migrant workers or members of their families in an irregular situation.

2. 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. The rights of migrant workers vis-à-vis their employer arising from employment shall not be impaired by these measures.

第 69 條

1. 締約國遇其境內有身份不正常的移徙工人及其家庭成員時，應採取適當措施確保這種情況不會繼續下去。

2. 有關締約國在考慮按照適用的國家立法和雙邊或多邊協定使這類人的身份正常化的可能性時，應適當顧及他們在就業國入境時的情況、他們逗留的時間長短及其他有關的考慮，特別是有關其家庭狀況的考慮。

Article 69

1. States Parties shall, when there are migrant workers and members of their families within their territory in an irregular situation, take appropriate measures to ensure that such a situation does not persist.

2. Whenever States Parties concerned consider the possibility of regularizing the situation of such persons in accordance with applicable national legislation and bilateral or multilateral agreements, appropriate account shall be taken of 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.

第 70 條

締約國應採取不亞于適用於本國國民的措施，確保身份正常的移徙工人及其家庭成員的工作和生活條件符合強健、安全、衛生的標準和人的尊嚴的原則。

Article 70

States Parties shall take measures not less favourable than those applied to nationals to ensure that working and living conditions of migrant workers and members of their families in a regular situation are in keeping with the standards of fitness, safety, health and principles of human dignity.

第 71 條

1.締約國應在必要時提供便利，將死亡移徙工人或死亡家庭成員的遺體運回原籍國。

2.關於涉及某一移徙工人或其一家庭成員的死亡賠償問題，締約國應酌情協助當事人及時解決問題。這些問題的解決應按照本公約的規定和任何有關的雙邊或多邊協定，根據適用的國家法律進行。

Article 71

1.States Parties shall facilitate, whenever necessary, the repatriation to the State of origin of the bodies of deceased migrant workers or members of their families.

2.As regards compensation matters relating to the death of a migrant worker or a member of his or her family, States Parties shall, as appropriate, provide assistance to the persons concerned with a view to the prompt settlement of such matters.Settlement of these matters shall be carried out on the basis of applicable national law in accordance with the provisions of the present Convention and any relevant bilateral or multilateral agreements.

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第七部分 公約的適用

PART VII: Application of the Convention

第 72 條

1. (a) 為審查本公約適用情況的目的，應設立保護所有移徙工人及其家庭成員權利委員會（以下簡稱“委員會”）；

(b) 委員會在本公約開始生效時應由十名專家組成，在本公約對第四十一個締約國生效之後由十四名專家組成，這些專家應是德高望重、公正不偏且在本公約所涉領域具有公認能力的。

2. (a) 委員會的成員應由締約國從締約國提名的人員名單中以無記名投票方式選出，同時應適當考慮到公平地域分配、包括原籍國和就業國，以及考慮到各主要法系的代表性。每一締約國可從其本國國民中提名一人；

(b) 成員應以個人資格當選和任職。

3.第一次選舉應在本公約生效之日起六個月內舉行，其後的選舉每兩年舉行一次。聯合國秘書長應在每一次選舉日期至少四個月之前向所有締約國發出信件，請它們在兩個月內提名候選人。秘書長應按字母順序開列被提名人名單，注明提名的締約國，並應至遲在該次選舉日期前一個月內將被提名人的名單及履歷一併提交締約國。

4.委員會成員的選舉應由秘書長在聯合國總部召開締約國會議進行。該會議的法定人數應為締約國的三分之二，獲得出席並參加表決的締約國最多票數並為絕對多數票者當選為成員。

5. (a) 委員會成員的任期應為四年。但第一次選舉的當選成員五人的任期應在兩年結束時屆滿，該五名成員應由締約國會議主席在第一次選舉後立即由抽籤方式選定；

(b) 應在本公約對第四十一個締約國生效時，根據本條第 2、3 和 4 款的規定，選舉委員會的另四名成員。此次選舉的當選成員二人的任期應在兩年結束時屆滿；該二名成員應由締約國會議主席以抽籤方式選定；

(c) 委員會成員如獲提名可連選連任。

6. 如果委員會的一名成員死亡或辭職，或是宣佈因任何其他理由而無法再履行委員會的職責，提名該專家的締約國應從該國國民任命另一名專家接任，直到此項任期屆滿。新任命須經委員會認可。

7. 聯合國秘書長應為委員會有效履行職責提供所需的工作人員和設施。

8. 委員會成員應依照大會所定的條件，從聯合國資源支取薪酬。

9. 委員會成員應享有《聯合國特權及豁免公約》有關章節為執行聯合國任務的專家所規定的便利、特權和豁免。

Article 72

1. (a) For the purpose of reviewing the application of the present Convention, there shall be established a Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (hereinafter referred to as "the Committee");

(b) The Committee shall consist, at the time of entry into force of the present Convention, of ten and, after the entry into force of the Convention for the forty-first State Party, of fourteen experts of high moral standing, impartiality and recognized competence in the field covered by the Convention.

2. (a) Members of the Committee shall be elected 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 employment, and to the representation of the principal legal systems. Each State Party may nominate one person from among its own nationals;

(b) Members shall be elected and shall serve in their personal capacity.

3. The initial election shall be held no later than six months after the date of the entry into force of the present Convention and subsequent elections every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to all States Parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties that have nominated them, and shall submit it to the States Parties not later than one month before the date of the corresponding election, together with the curricula

vitae of the persons thus nominated.

4. Elections of members of the Committee shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the States Parties present and voting.

5. (a) The members of the Committee shall serve for a term of four years. However, the terms of five of the members elected in the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the Chairman of the meeting of States Parties;

(b) The election of the four additional members of the Committee shall be held in accordance with the provisions of paragraphs 2, 3 and 4 of the present article, following the entry into force of the Convention for the forty-first State Party. The term of two of the additional members elected on this occasion shall expire at the end of two years; the names of these members shall be chosen by lot by the Chairman of the meeting of States Parties;

(c) The members of the Committee shall be eligible for re-election if renominated.

6. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party that nominated the expert shall appoint another expert from among its own nationals for the remaining part of the term. The new appointment is subject to the approval of the Committee.

7. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee.

8. The members of the Committee shall receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide.

9. The members of the Committee shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

第 73 條

1. 締約國承允：

(a) 在公約對有關締約國生效後一年內；

(b) 此後每隔五年及當委員會要求時；就其為實施本公約各項規定所採取

的立法、司法、行政和其他措施的情況，向聯合國秘書長提出報告，供委員會審議。

2.按照本條編寫的報告還應說明影響本公約執行情況的任何因素和困難，並應載列涉及有關締約國的移徙流動的特徵資料。

3.委員會應決定適用於報告內容的任何進一步指導方針。

4.締約國應向本國的民眾廣泛提供其報告。

Article 73

1.States Parties undertake to submit to the Secretary-General of the United Nations for consideration by the Committee a report on the legislative, judicial, administrative and other measures they have taken to give effect to the provisions of the present Convention:

(a) Within one year after the entry into force of the Convention for the State Party concerned;

(b) Thereafter every five years and whenever the Committee so requests.

2.Reports prepared under the present article shall also indicate factors and difficulties, if any, affecting the implementation of the Convention and shall include information on the characteristics of migration flows in which the State Party concerned is involved.

3.The Committee shall decide any further guidelines applicable to the content of the reports.

4.States Parties shall make their reports widely available to the public in their own countries.

第 74 條

1.委員會應審查每一締約國所提出的報告，並應將它可能認為適當的這類評論遞送有關締約國。該締約國可向委員會提出對委員會按照本條所作任何評論的意見。在審議這些報告時，委員會可要求締約國提供補充資料。

2.聯合國秘書長應在委員會每屆常會召開前的適當時間，將有關締約國提出報告的副本以及與審議這些報告有關的資料送交國際勞工局總幹事，以便勞工局可就本公約所涉屬於國際勞工組織職權範圍內的事項提供專家意見以協助委員會。委員會在審議時應考慮勞工局可能提供的這類評論和材料。

3.聯合國秘書長同委員會磋商後，還可將這些報告中屬於其他專門機構和政府間組織主管範圍內的有關部分的副本送交它們。

4.委員會可請各專門機構和聯合國其他機構以及政府間組織和其有關機關就本公約所涉屬於它們活動範圍內的事項提交書面資料，供委員會審議。

5.委員會應邀請國際勞工局指定代表以諮詢身份參加委員會會議。

6.委員會可邀請其他專門機構和聯合國各機構以及政府間組織的代表出席

委員會審議屬於它們主管領域事項的會議並發表意見。

7.委員會應向聯合國大會就本公約的執行情況提出年度報告，其載有它本身根據特別是審查締約國提出的報告和任何意見所提出的考慮和建議。

8.聯合國秘書長應將委員會的年度報告遞送本公約締約國、經濟及社會理事會、聯合國人權委員會、國際勞工總局總幹事和其他有關組織。

Article 74

1.The Committee shall examine the reports submitted by each State Party and shall transmit such comments as it may consider appropriate to the State Party concerned.This State Party may submit to the Committee observations on any comment made by the Committee in accordance with the present article.The Committee may request supplementary information from States Parties when considering these reports.

2.The Secretary-General of the United Nations shall, in due time before the opening of each regular session of the Committee, transmit to the Director-General of the International Labour Office copies of the reports submitted by States Parties concerned and information relevant to the consideration of these reports, in order to enable the Office to assist the Committee with the expertise the Office may provide regarding those matters dealt with by the present Convention that fall within the sphere of competence of the International Labour Organisation.The Committee shall consider in its deliberations such comments and materials as the Office may provide.

3.The Secretary-General of the United Nations may also, after consultation with the Committee, transmit to other specialized agencies as well as to intergovernmental organizations, copies of such parts of these reports as may fall within their competence.

4.The Committee may invite the specialized agencies and organs of the United Nations, as well as intergovernmental organizations and other concerned bodies to submit, for consideration by the Committee, written information on such matters dealt with in the present Convention as fall within the scope of their activities.

5.The International Labour Office shall be invited by the Committee to appoint representatives to participate, in a consultative capacity, in the meetings of the Committee.

6.The Committee may invite representatives of other specialized agencies and organs of the United Nations, as well as of intergovernmental organizations, to be present and to be heard in its meetings whenever matters falling within their field of competence are considered.

7.The Committee shall present an annual report to the General Assembly of the United Nations on the implementation of the present Convention, containing its own

considerations and recommendations, based, in particular, on the examination of the reports and any observations presented by States Parties.

8.The Secretary-General of the United Nations shall transmit the annual reports of the Committee to the States Parties to the present Convention, the Economic and Social Council, the Commission on Human Rights of the United Nations, the Director-General of the International Labour Office and other relevant organizations.

第 75 條

- 1.委員會應自行制訂其議事規則。
- 2.委員會應選出其主席團成員，任期兩年。
- 3.委員會通常應每年舉行會議。
- 4.委員會會議一般應在聯合國總部舉行。

Article 75

- 1.The Committee shall adopt its own rules of procedure.
- 2.The Committee shall elect its officers for a term of two years.
- 3.The Committee shall normally meet annually.
- 4.The meetings of the Committee shall normally be held at United Nations Headquarters.

第 76 條

1.本公約締約國可在任何時候根據本條規定宣佈它承認委員會受理和審議以下來文的許可權：一個締約國指稱另一個締約國沒有履行其在本公約規定下所承擔義務的來文。根據本條規定，只有已作出聲明承認委員會對它的許可權的締約國所提出的來文，方可予以受理和審議。委員會不得受理涉及尚未作出這種聲明的締約國的來文。根據本條規定所受理的來文應按以下程式處理。

(a) 如本公約一個締約國認為另一個締約國沒有履行其在本公約規定下所承擔的義務，可用書面函件將此事項提請該締約國注意。締約國也可將此事項通知委員會。受函國在收到函件三個月內，應給予送函國一個書面解釋或任何其他說明以澄清事項，其中在可能和有關情況下，應提及就此事項所已採取的、尚待採取的或者已經有的國內程式和補救措施；

(b) 在受函國收到初次函件後六個月內，就此事項如果未能有令雙方滿意的調整，任何一方應有權向委員會和向對方發出通知，將此事項向委員會提出；

(c) 遵照公認的國際法原則，委員會只有在它已確定就此事項已採取並試盡一切可能的國內補救辦法之後，才應處理提交給它的事項。但在委員會認為補救辦法的施行發生不當稽延的情況下，本規則不適用；

(d) 在符合本款(c)項規定情況下，委員會應向有關締約國提供斡旋，以期在尊重本公約所載列的義務的基礎上友好地解決問題；

- (e) 委員會審查根據本條規定的來文時，應舉行非公開會議；
- (f) 對於按照本款 (b) 項規定向它提出的任何事項，委員會可要求 (b) 項所指的有關締約國提供任何有關資料；
- (g) 本款 (b) 項所指的有關締約國應有權在委員會審議該事項時出席會議並作出口頭和 (或) 書面陳述；
- (h) 委員會應在收到根據本款 (b) 項提出的通知後十二個月內提出報告：
 - (一) 如在本款 (d) 項的範圍內達成解決辦法，委員會的報告應限於簡述事實經過和達成的解決辦法；
 - (二) 如未在本款 (d) 項的範圍內達成解決辦法，委員會的報告應載列關於有關締約國之間問題的相關事實。報告應附有有關締約國的書面函件和口頭陳述的記錄。委員會還可僅向有關締約國傳達它或許認為與它們之間問題有關的任何意見。任何情形下，報告都應送交有關締約國。

2. 本條規定應在本公約十個締約國根據本條第 1 款作出聲明時即行生效。締約國應將這種聲明交存聯合國秘書長，秘書長應將副本分送其他締約國。可隨時通知秘書長撤銷聲明。這種撤銷不應影響對根據本條已分送來文所載任何事項的審議；在秘書長收到撤銷聲明的通知後，根據本條不得受理任何締約國的其他來文，除非有關締約國已作出新的聲明。

Article 76

1. A State Party to the present Convention may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the present Convention. Communications under this article may be received and considered only if submitted by a State Party that has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure:

- (a) If a State Party to the present Convention considers that another State Party is not fulfilling its obligations under the present Convention, it may, by written communication, bring the matter to the attention of that State Party. The State Party may also inform the Committee of the matter. Within three months after the receipt of the communication the receiving State shall afford the State that sent the communication an explanation, or any other statement in writing clarifying the matter which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending or available in the matter;
- (b) If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial

communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State;

(c) The Committee shall deal with a matter referred to it only after it has ascertained that all available domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where, in the view of the Committee, the application of the remedies is unreasonably prolonged;

(d) Subject to the provisions of subparagraph (c) of the present paragraph, the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of the respect for the obligations set forth in the present Convention;

(e) The Committee shall hold closed meetings when examining communications under the present article;

(f) In any matter referred to it in accordance with subparagraph (b) of the present paragraph, the Committee may call upon the States Parties concerned, referred to in subparagraph (b), to supply any relevant information;

(g) The States Parties concerned, referred to in subparagraph (b) of the present paragraph, shall have the right to be represented when the matter is being considered by the Committee and to make submissions orally and/or in writing;

(h) The Committee shall, within twelve months after the date of receipt of notice under subparagraph (b) of the present paragraph, submit a report, as follows:

(i) If a solution within the terms of subparagraph (d) of the present paragraph is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached;

(ii) If a solution within the terms of subparagraph (d) is not reached, the Committee shall, in its report, set forth the relevant facts concerning the issue between the States Parties concerned. The written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report. The Committee may also communicate only to the States Parties concerned any views that it may consider relevant to the issue between them.

In every matter, the report shall be communicated to the States Parties concerned.

2. The provisions of the present article shall come into force when ten States Parties to the present Convention have made a declaration under paragraph 1 of the present article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any

matter that is the subject of a communication already transmitted under the present article; no further communication by any State Party shall be received under the present article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration.

第 77 條

1. 本公約締約國可在任何時候根據本條規定宣佈它承認委員會受理和審議以下來文的許可權：在該締約國管轄下聲稱本公約所規定的他們的個人權利受到該締約國侵犯的個人或其代表送交的來文。委員會不得受理涉及尚未作出這種聲明的締約國的來文。

2. 根據本條規定，任何來文如採用匿名方式或經委員會認為濫用提出此類來文的權利或與本公約規定不符，委員會應視為不能受理。

3. 委員會除非已查明下述情況，不應審議個人根據本條規定的任何來文：

(a) 同一事項過去和現在均未受到另一國際調查程式或解決辦法的審查；而且

(b) 個人已用盡一切國內補救辦法：但在委員會認為補救辦法的施行發生不當稽延或是對該個人不可能有任何實質性上的助益的情況下，本規則不適用。

4. 在符合本條第 2 款規定情況下，委員會對於根據本條規定提交委員會的任何來文，應提請根據第 1 款已作出聲明且被指稱違反本公約任何規定的締約國予以注意。受函國應在六個月內向委員會提出書面解釋或說明以澄清事項，如該國已採取任何補救辦法，也應加以說明。

5. 委員會應參照個人或其代表以及有關締約國所提供的一切資料，審議根據本條所受理的來文。

6. 委員會審查根據本條規定的來文時，應舉行非公開會議。

7. 委員會應將其意見告知有關締約國和個人。

8. 本條規定應在本公約十個締約國根據本條第 1 款作出聲明時即行生效。締約國應將這種聲明交存聯合國秘書長，秘書長應將副本分送其他締約國。可隨時通知秘書長撤銷聲明。這種撤銷不應影響對根據本條已分送來文所載任何事項的審議；在秘書長收到撤銷聲明的通知後，根據本條不得受理個人或其代表的其他來文，除非有關締約國已作出新的聲明。

Article 77

1. A State Party to the present Convention may at any time declare under the present article that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim that their individual rights as established by the present Convention have been violated by that State Party. No communication shall be received by the

Committee if it concerns a State Party that has not made such a declaration.

2.The Committee shall consider inadmissible any communication under the present article which is anonymous or which it considers to be an abuse of the right of submission of such communications or to be incompatible with the provisions of the present Convention.

3.The Committee shall not consider any communication from an individual under the present article unless it has ascertained that:

(a) The same matter has not been, and is not being, examined under another procedure of international investigation or settlement;

(b) The individual has exhausted all available domestic remedies; this shall not be the rule where, in the view of the Committee, the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to that individual.

4.Subject to the provisions of paragraph 2 of the present article, the Committee shall bring any communications submitted to it under this article to the attention of the State Party to the present Convention that has made a declaration under paragraph 1 and is alleged to be violating any provisions of the Convention. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

5.The Committee shall consider communications received under the present article in the light of all information made available to it by or on behalf of the individual and by the State Party concerned.

6.The Committee shall hold closed meetings when examining communications under the present article.

7.The Committee shall forward its views to the State Party concerned and to the individual.

8.The provisions of the present article shall come into force when ten States Parties to the present Convention have made declarations under paragraph 1 of the present article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter that is the subject of a communication already transmitted under the present article; no further communication by or on behalf of an individual shall be received under the present article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party has made a new declaration.

第 78 條

本公約[第 76 條](#)規定的適用，不得妨礙聯合國及其各專門機構的組織法文書或通過的各項公約所規定的關於解決本公約所適用領域的爭端或控訴的任何程式，也不得阻礙締約國按照相互之間現行的國際協定訴諸任何解決爭端的程式。

Article 78

The provisions of article 76 of the present Convention shall be applied without prejudice to any procedures for settling disputes or complaints in the field covered by the present Convention laid down in the constituent instruments of, or in conventions adopted by, the United Nations and the specialized agencies and shall not prevent the States Parties from having recourse to any procedures for settling a dispute in accordance with international agreements in force between them.

[回索引](#)>>

第八部分 一般規定

PART VIII: General provisions

第 79 條

本公約的任何規定不得影響每一締約國制定批准移徙工人及其家庭成員入境的準則的權利。關於有關移徙工人及其家庭成員的合法情況和待遇的其他事項，締約國應受本公約規定的限制的約束。

Article 79

Nothing in the present Convention shall affect the right of each State Party to establish the criteria governing admission of migrant workers and members of their families. Concerning other matters related to their legal situation and treatment as migrant workers and members of their families, States Parties shall be subject to the limitations set forth in the present Convention.

第 80 條

本公約任何規定不得解釋為減損《[聯合國憲章](#)》和各專門機構組織法中關於聯合國各機構和各專門機構在本公約所涉事項方面個別職責的各項規定。

Article 80

Nothing in the present Convention shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters

dealt with in the present Convention.

第 81 條

1. 本公約任何規定不得影響由於以下的規定給予移徙工人及其家庭成員較為有利的權利或自由：

- (a) 締約國的法律或慣例；或
- (b) 對有關締約國生效的任何雙邊或多邊條約。

2. 本公約任何規定不得解釋為任何國家、團體或個人有權從事任何活動或行動以損害本公約所載列的任何權利和自由。

Article 81

1. Nothing in the present Convention shall affect more favourable rights or freedoms granted to migrant workers and members of their families by virtue of:

- (a) The law or practice of a State Party; or
- (b) Any bilateral or multilateral treaty in force for the State Party concerned.

2. Nothing in the present Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act that would impair any of the rights and freedoms as set forth in the present Convention.

第 82 條

本公約所規定的移徙工人及其家庭成員的權利不得放棄。不容許對移徙工人及其家庭成員施加任何形式壓力以圖他們放棄或摒絕上述任何權利。不得以合同方式克減本公約所承認的權利。締約國應採取適當措施確保這些原則獲得尊重。

Article 82

The rights of migrant workers and members of their families provided for in the present Convention may not be renounced. It shall not be permissible to exert any form of pressure upon migrant workers and members of their families with a view to their relinquishing or foregoing any of the said rights. It shall not be possible to derogate by contract from rights recognized in the present Convention. States Parties shall take appropriate measures to ensure that these principles are respected.

第 83 條

本公約每一締約國承允：

- (a) 確保任何被侵犯本公約所承認的權利或自由的人應得到有效的補救，儘管此種侵犯是執行公職之人所為；
- (b) 確保任何尋求此種補救的人應由主管司法、行政或立法當局或由國家法律制度規定的任何其他主管當局審查和裁決其要求，並研擬司法補救的可能性；

(c) 確保主管當局在准予此等補救時應予施行。

Article 83

Each State Party to the present Convention undertakes:

(a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

(b) To ensure that any persons seeking such a remedy shall have his or her claim reviewed and decided by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;

(c) To ensure that the competent authorities shall enforce such remedies when granted.

第 84 條

每一締約國承允採取立法及其他必要措施以執行本公約各項規定。

Article 84

Each State Party undertakes to adopt the legislative and other measures that are necessary to implement the provisions of the present Convention.

[回索引](#)>>

第九部分 最後條款

PART IX: Final provisions

第 85 條

指定聯合國秘書長為本公約保管人。

Article 85

The Secretary-General of the United Nations is designated as the depositary of the present Convention.

第 86 條

1. 本公約開放給所有國家簽署。本公約須經批准。
2. 本公約開放給任何國家加入。
3. 批准書或加入書應交由聯合國秘書長保存。

Article 86

1.The present Convention shall be open for signature by all States.It is subject to ratification.

2.The present Convention shall be open to accession by any State.

3.Instruments of ratification or accession shall be deposited with the Secretary-General of the United Nations.

第 87 條

1.本公約自第二十份批准書或加入書交存之日起三個月後的月份首日發生效力。

2.對於在本公約生效後批准或加入的每一國家，本公約對該國自交存批准書或加入書之日起三個月後的月份首日發生效力。

Article 87

1.The present Convention shall enter into force on the first day of the month following a period of three months after the date of the deposit of the twentieth instrument of ratification or accession.

2.For each State ratifying or acceding to the present Convention after its entry into force, the Convention shall enter into force on the first day of the month following a period of three months after the date of the deposit of its own instrument of ratification or accession.

第 88 條

批准或加入本公約的國家不得拒絕適用本公約的任何一個部分，或在不損及 [第 3 條](#) 的情況下，在適用本公約時排斥任何一類移徙工人。

Article 88

A State ratifying or acceding to the present Convention may not exclude the application of any Part of it, or, without prejudice to article 3, exclude any particular category of migrant workers from its application.

第 89 條

1.任何締約國可在本公約對該有關國家生效五年以後，向聯合國秘書長提出一項書面通知，退出本公約。

2.退約應于聯合國秘書長收到通知之日起十二個月後的月份首日發生效力。

3.退約不得有以下這種作用：免除在退約生效之前按照本公約對任何行為或不行為應負的義務；退約也決不得影響委員會繼續審議退約生效之前已經開始審議的任何問題。

4.自締約國退約生效之日起，委員會不應開始審議關於該國的任何新問題。

Article 89

1. Any State Party may denounce the present Convention, not earlier than five years after the Convention has entered into force for the State concerned, by means of a notification in writing addressed to the Secretary-General of the United Nations.

2. Such denunciation shall become effective on the first day of the month following the expiration of a period of twelve months after the date of the receipt of the notification by the Secretary-General of the United Nations.

3. Such a denunciation shall not have the effect of releasing the State Party from its obligations under the present Convention in regard to any act or omission which occurs prior to the date at which the denunciation becomes effective, nor shall denunciation prejudice in any way the continued consideration of any matter which is already under consideration by the Committee prior to the date at which the denunciation becomes effective.

4. Following the date at which the denunciation of a State Party becomes effective, the Committee shall not commence consideration of any new matter regarding that State.

第 90 條

1. 在本公約生效五年後，任何締約國可隨時以書面通知聯合國秘書長要求修訂公約。秘書長即可向締約國傳達任何修訂提議，並要求締約國就是否贊同召開締約國會議審議並表決提議事宜通知秘書長。在通知發出四個月內如有至少三分之一的締約國同意召開會議，秘書長應召開由聯合國主持的此種會議。任何修訂經出席並參加表決的大多數締約國通過，應提交大會批准。

2. 此等修訂由聯合國大會批准並為締約國三分之二多數按照各自的憲法程式加以接受後，即行生效。

3. 此等修訂生效時，對已予接受的締約國有約束力，其他締約國仍受本公約的規定和它們已接受的任何先前修訂的約束。

Article 90

1. After five years from the entry into force of the Convention a request for the revision of the Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate any proposed amendments to the States Parties with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that within four months from the date of such communication at least one third of the States Parties favours such a conference, the Secretary-General shall

convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting shall be submitted to the General Assembly for approval.

2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties in accordance with their respective constitutional processes.

3. When amendments come into force, they shall be binding on those States Parties that have accepted them, other States Parties still being bound by the provisions of the present Convention and any earlier amendment that they have accepted.

第 91 條

1. 聯合國秘書長應接受締約國在簽署、批准或加入時提出的保留，並將保留案文分發所有國家。

2. 不得提出與本公約目的和宗旨抵觸的保留。

3. 締約國可隨時向聯合國秘書長提出通知，請求撤銷保留，並由他將此項通知告知所有國家。該項通知收到後，當日生效。

Article 91

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of signature, ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to this effect addressed to the Secretary-General of the United Nations, who shall then inform all States thereof. Such notification shall take effect on the date on which it is received.

第 92 條

1. 兩個或兩個以上的締約國之間關於本公約的解釋或適用方面的任何爭端，如不能談判解決，經一方要求，應交付仲裁。如果自要求仲裁之日起六個月內，當事各方不能就仲裁的組成達成協議，任何一方得遵照《[國際法院規約](#)》提出請求，將爭端提交國際法院審理。

2. 每一締約國得在簽署或批准本公約或加入本公約時，聲明該國不受本條第 1 款的約束。其他締約國對於作出這項聲明的任何締約國，也不受該款的約束。

3. 按照本條第 2 款的規定作出聲明的任何締約國，可隨時通知聯合國秘書長撤回該項聲明

Article 92

1.Any dispute between two or more States Parties concerning the interpretation or application of the present Convention that is not settled by negotiation shall, at the request of one of them, be submitted to arbitration.If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2.Each State Party may at the time of signature or ratification of the present Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of the present article.The other States Parties shall not be bound by that paragraph with respect to any State Party that has made such a declaration.

3.Any State Party that has made a declaration in accordance with paragraph 2 of the present article may at any time withdraw that declaration by notification to the Secretary-General of the United Nations.

第 93 條

1.本公約的阿拉伯文、中文、英文、法文、俄文、西班牙文文本具有同等效力，均交存聯合國秘書長。

2.聯合國秘書長向所有國家遞送本公約證明無誤之副本。

為此，下列全權代表經由各自政府正式授權，在本公約上簽字，以昭信守。

Article 93

1.The present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

2.The Secretary-General of the United Nations shall transmit certified copies of the present Convention to all States.

In witness whereof the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.