



Immigrants: Entitled to Human Rights Protection

Population migration is a common phenomenon. Some of the major reasons for migration are poverty and the inability to earn enough or produce enough to support oneself or a family. In 2000, the International Labour Organization (ILO) produced statistics which stated that 3% of the world population migrates annually (around 175 million people) of that number, 120 million were found to be migrant workers and members of their families, and the rest were refugees, asylum seekers and permanent immigrants. Studies consistently show that migrant workers contribute substantially to the economic success of their host states. However, despite their vast numbers and economic importance, they often lack basic legal protections and are considered cheap, docile and flexible labor. They are discriminated against in regards to the types of jobs they can obtain. They are also excluded from the scope of regulations covering working conditions and although they contribute to social security system they and their families rarely enjoy the same benefits and access to social services as nationals of the host States. Most of these workers are subject to exploitation and abuse, in part because they are unaware of the human rights protections and fundamental freedoms guaranteed to them under international treaties and national laws.

In pertinent parts, the preamble of the United Nations (UN) Charter states that the UN is determined “to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small.” There are other important treaties that specifically address this issue. The Universal Declaration of Human Rights (UNDHR), the International Covenant of Economic, Social and Cultural Rights (ICESCR), and the International Covenant of Civil and Political Rights (ICCPR) are documents collectively considered as

an International Bill of Rights. For example, the ICCPR states in Article 6 that, “*Every* human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.” These are rights that apply to all humans, and all humans include immigrants.

In recognition of these fundamental principles and acknowledging that migrant workers are especially vulnerable to exploitation and human rights abuse because of threat of apprehension and deportation, the ILO, of which the United States is a member, set up the International Labour Standards (ILS). Under the ILS some of the basic labour rights include: freedom of association, collective bargaining, equality of opportunity and treatment and other standards regulating conditions across the entire spectrum of work-related issues, standards and fundamental principles and rights at work, etc. The ILO has over the years observed that many immigrants have remained vulnerable to human rights abuses, including restrictions to their freedom of movement, exploitation, arbitrary detention, discrimination, racism, harassment and physical or sexual violence. The ILO has adopted two major Migration Conventions to deal with these human rights abuses. Even though the United is a member of ILO and has a significant immigrant population, it has not signed or ratified any of these Conventions.

The latest migration Convention, The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (The Migrant Workers Convention), was adopted by the UN General Assembly in 1990. It came into force on July 1, 2003, and 27 countries have ratified the Convention to date. The purpose of the Convention is to provide international legal protection for migrant workers and ensure accountability of governments and other actors. This Convention recognizes that fundamental human rights extend to both documented and undocumented migrant workers. It reemphasizes most of the rights provided by other human rights documents and specifically protects the right to life, the right to liberty and security of person, the right to be recognized as a person before the law and the right to family reunification. It also prohibits arbitrary arrest or detention, measures of collective expulsion, arbitrary arrest or detention, etc.

Human Rights Watch has observed that the some of the United States immigration policies have

violated fundamental human rights laws. Some of these violations include: categorizing “special interest” detainees, arbitrary and secret detention of non-citizens, secret deportation hearings, authorization of military commissions to try non-citizens, etc. These provisions violate the Geneva Convention on the treatment of detainees and give no access to counsel. The US has used its counter-terrorism policies as an excuse to violate the rights of non-nationals. However, this approach cannot stand, because combating terrorism requires a reaffirmation of human rights values, not a rejection of these values.

As far as the issue of undocumented immigration, the Leadership Conference on Civil Rights (LCCR) finds it interesting that some citizens are opposed to immigrants given that the history of the United States was built on unauthorized immigration. The LCCR observed that many of the settlers came here and stole the land from Native Americans, and that immediately after the founding of the United States, Europeans had no real limitations on migrating to the US. Furthermore, the LCCR observed that border enforcement does not fairly address the illegal issue, because 40% of illegal immigrants enter the United States legally and then overstay work or educational visas. A large number of these visa violators are Europeans or Canadians and not Mexicans or Haitians. LCCR recommends that there should be a restoration of due process when dealing with immigrants, and that all immigration policies must be fair and consistent with humanitarian values. The New American Opportunity Campaign (NAOC) also call for comprehensive legislation that rewards work, reunites families, restores the rule of law, reinforces the nation's security, respects the rights of US born and immigrant workers and redeems the American dream.

The global community needs to continue to participate in the protection of the rights of immigrants, and the United States is no exception. The US has pledged, under the Universal Declaration of Human Rights, “to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms.” This is a pledge that extends to all humans - whether documented or not, whether an immigrant or not!

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