

# THE INTERNATIONAL MIGRANT BILL OF RIGHTS

## *The International Migrant Bill of Rights – a comprehensive normative framework*

Every region in the world today is affected by international migration in some way. Numerous countries serve as places of origin, transit and destination for migrants. Out of a world population of 7 billion it is estimated that 232 million people live outside their country of origin, having migrated for multiple and diverse reasons.<sup>1</sup>

But despite the growing importance of the phenomenon and the potential opportunities and challenges posed, the global governance of migration has suffered from institutional and normative gaps.

Institutionally, the multilateral framework for regulating and coordinating State responses to international migration has been fragmented and ad hoc.<sup>2</sup>

This fragmentation is mirrored on the normative plane where geo-political interests and historic events have led to the adoption of specialized instruments for *some* and not all categories of migrants.<sup>3</sup>

The International Migrant Bill of Rights (IMBR) was developed to respond to this gap by creating a normative framework applicable to *all* international migrants.<sup>4</sup>

## *How does the IMBR define a migrant?*

The IMBR defines a migrant as any person who is outside of a State which he or she is a citizen or national – or in the case of a stateless migrant, his or her State of birth or habitual residence.<sup>5</sup>

The advantage of this definition is that it ensures all types of migrants – irrespective of their legal status, personal circumstances, or reasons for migrating – are protected by the Bill.<sup>6</sup>

This is consistent with the principle that human rights are inherent to all human beings and are not the privilege of citizens or those lawfully present within a State's territory.<sup>7</sup>

## *The IMBR's status and content*

The IMBR is a soft law document that lists 22 human rights that include civil and political and socio-economic rights.<sup>8</sup>

Although it is not legally binding,<sup>9</sup> the norms underlying it (drawn from human rights and refugee law) are. Further, in keeping with its

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<sup>1</sup> [Office of the High Commissioner of Human Rights, 'Migration and Human Rights'](#).

<sup>2</sup> A. Betts 'Introduction: Global Migration Governance' in Alexander Betts (ed) *Global Migration Governance* (2011) p 1.

<sup>3</sup> For example, refugees, asylum-seekers and migrant workers have their own specialized normative regimes.

<sup>4</sup> [Georgetown Law, International Migrant Bill of Rights](#).

<sup>5</sup> Georgetown Law, International Migrant Bill of Rights Article 1(1). There is no single accepted definition of a migrant in human rights law. Other definitions include the [UN definition of a long term and short term immigrant](#).

<sup>6</sup> [Georgetown Law, International Migrant Bill of Rights: A commentary](#). p 7.

<sup>7</sup> Universal Declaration of Human Rights (UDHR), 1948. G.A Res. 217A (III). Article 1. A narrow exception of human rights are limited to citizens. These are the right to enter and stay in a country and the right to vote and be elected, according to the Special Rapporteur on the human rights of migrants, see F. Crepeau '[Mainstreaming a human rights-based approach to migration within the High Level Dialogue](#)'. Plenary General Assembly Session, October 2013. Committee on Economic, Social and Cultural Rights General Comment No. 20, para. 30. (CESCR/GC/2009/20). Human Rights Committee General Comment No. 15, para. 1. (HRC/GC/1986/15).

<sup>8</sup> The IMBR consists of 23 articles in total, and one of the articles is the definition of a migrant.

<sup>9</sup> For example, States are not bound by the IMBR document itself.

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progressive spirit the IMBR also includes a 'margin of enhancement to existing law' by capturing positive developments in migration law and practice.<sup>10</sup>

In adopting a soft law form, the IMBR was inspired by the influential Guiding Principles on Internal Displacement.<sup>11</sup>

## *The IMBR's relationship with established legal frameworks relevant to specific categories migrants*

The IMBR's wide definition and comprehensive protections allow it to be used to supplement the specialized frameworks applicable to refugees, asylum-seekers, migrant workers, and persons trafficked across international borders.

## *How can the IMBR be used?*

While there are indications that States are looking for better guidance in understanding the human rights obligations they owe to migrants,<sup>12</sup> there is also a counter-trend seen in the reluctance to adopt migrant rights' conventions.<sup>13</sup>

In response to this impasse, a soft law framework like the IMBR may have at least three advantages:

- It can be used to **build political consensus** for the treatment of migrants where States are not ready to adopt formal obligations.
- States and other actors can use it as a foundation to **generate important practice**.<sup>14</sup>
- It can be used as a **powerful advocacy tool** for migrants and advocates.

## *The IMBR Initiative*

The IMBR was developed by the IMBR Initiative. This is a student-led project operating under the auspices of Georgetown Law's Global Law Scholars Program. Since its launch in 2008, it has expanded over the years to include the Center for Migration and Refugee Studies at the American University in Cairo, the Minerva Center for Human Rights at the Hebrew University of Jerusalem, and the Migration Studies Unit at the London School of Economics.<sup>15</sup>

To date the IMBR Initiative has developed:

- [The IMBR document](#);
- An [80 page commentary](#) expounding on the rights in the IMBR;
- A practitioner's handbook to the IMBR;

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<sup>10</sup> [Georgetown Law, International Migrant Bill of Rights](#).

<sup>11</sup> A non-binding instrument that identified and consolidated international rights and freedoms applicable to internally displaced persons. United Nations Human Rights Commissioner for Refugees (UNHCR) Guiding Principles on Internal Displacement, 1998. E/CN.4/1998/53/Add.2.

<sup>12</sup> The European Commissioner-designate for Migration and Home Affairs is reported to have said 'We [EU] need a legal framework. Not just on asylum. But for irregular migration as well. Malta Today ['Frontex can develop into an 'authority that protects borders, save lives'](#) 30/09/14. A. Betts 'Towards a "Soft Law" Framework for the Protection

of Vulnerable Irregular Migrants' (2010) 22 *International Journal of Refugee Law* 209 at 214.

<sup>13</sup> For example, the very low ratification rate of The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families is cited by some as an example that 'a great majority of countries do not consider migrant rights as human rights that should be guaranteed by law' see M. Ruhs *The Price of Rights: Regulating International Labor Migration* (2013) p 13.

<sup>14</sup> For example, States, NGOs, and other actors can use it as a guide to develop policies and best practices.

<sup>15</sup> [Georgetown Law, International Migrant Bill of Rights](#).

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- [IMBR Indicators](#).<sup>16</sup>

Between October 2013 and December 2014, the IMBR initiative partnered with the Regional Mixed Migration Secretariat (RMMS) based in Nairobi to pilot the IMBR indicators. The overall objective of the project is to use the indicator questions to provide a snap shot picture of the extent migrant rights are protected by Kenyan laws and policies. RMMS is also providing feedback on the indicator questions for their further refinement.

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<sup>16</sup> These are questions used to assess the extent a State's laws and policies meet the standards set out in the IMBR.