

The Role Of International Legal Instruments In Ensuring The Rights Of Migrant Workers: A Comparative Analysis

Asadov Davlatbek 

Pennsylvania State University, Penn State Law Master of Laws

Submitted: 1-May, 2025

Accepted: 17-June, 2025

Published: 24-July, 2025

Vol. 2, No. 3, 2025. Sociometrics.us

Journal of Community, Law and
Diplomacy Sciences

***Corresponding author:**

davlatbekasatov@gmail.com

Copyright © 2025 by author(s) and
Scientific Research Publishing Inc. This
work is licensed under the Creative
Commons Attribution International
License (CC BY 4.0).

<http://creativecommons.org/licenses/by/4.0/>



Open Access

Annotation: This article explores the significance and effectiveness of international legal instruments in protecting the rights of migrant workers. It provides a comparative analysis of key international conventions such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990), ILO Conventions No. 97 and No. 143, and regional agreements, examining their implementation across different countries. The study identifies common challenges such as lack of enforcement mechanisms, legal gaps in national legislations, and socio-political barriers. It also highlights best practices and policy recommendations for enhancing the legal protection of migrant workers through harmonized and inclusive legal frameworks. The article is based on a review of international legal norms, case studies, and recent statistical data from selected migrant-receiving and migrant-sending countries.

Keywords: migrant workers, international law, labor rights, ILO conventions, human rights, legal protection, migration policy, comparative analysis, international conventions, enforcement mechanisms.

Introduction

In the age of globalization, labor migration has become an essential component of the global economy. Millions of individuals cross international borders each year in search of better employment opportunities, improved living standards, and the ability to support their families through remittances. According to the International Labour Organization (ILO), as of 2021, there are approximately 169 million international migrant workers worldwide, accounting for nearly 5% of the global labor force. These workers significantly contribute to the socio-economic development of both sending and receiving countries. However, despite their importance, migrant workers are often exposed to systemic vulnerabilities, including exploitative working conditions, lack of legal protection, wage theft, discrimination, and limited access to social services. [1]

The protection of migrant workers' rights is, therefore, a pressing international concern. In response, the global community has adopted various international legal instruments to safeguard the rights of migrant workers. Among these, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW),

adopted by the United Nations in 1990, represents a comprehensive attempt to ensure equal treatment and fundamental rights for migrant workers. Similarly, the ILO Conventions No. 97 (Migration for Employment Convention, 1949) and No. 143 (Migrant Workers (Supplementary Provisions) Convention, 1975) have laid down key standards for the fair and dignified treatment of migrant labor. [2]

Despite these normative frameworks, the implementation and enforcement of international legal protections remain uneven. A significant challenge lies in the fact that many migrant-receiving countries have either not ratified these instruments or have ratified them with limited domestic enforcement mechanisms. Furthermore, differences in national legal systems, immigration policies, and political will lead to varied interpretations and applications of these rights. Consequently, migrant workers often find themselves in legal limbo—present in a country physically but excluded from the full protection of its laws.

This article seeks to explore and compare how different countries apply international legal standards concerning migrant workers. By analyzing the practices of selected countries that are both senders and receivers of migrant labor, it becomes possible to identify legal gaps, policy shortcomings, and areas of best practice. Countries such as Germany, Canada, Qatar, and the Philippines will be examined for their legislative frameworks, ratification status, and actual enforcement of international standards.

Moreover, the paper will discuss the role of regional agreements and bilateral labor migration arrangements in complementing international instruments. The European Union's directives on labor migration, ASEAN's frameworks, and Gulf Cooperation Council (GCC) policies offer further insights into how regional cooperation can enhance or hinder migrant rights. [3]

Ultimately, this comparative analysis aims to highlight the importance of harmonized legal approaches and international cooperation in improving the conditions and protections afforded to migrant workers. The research argues that while international instruments provide a critical foundation, their true effectiveness depends on national implementation, institutional capacity, and genuine political commitment to labor rights. Without these elements, the rights of migrant workers will remain aspirational rather than actionable.

Labor migration is no longer a marginal phenomenon—it is a structural feature of today's globalized labor market. As reported by the United Nations Department of Economic and Social Affairs (UNDESA), the number of international migrants reached 281 million in 2020, comprising 3.6% of the world's population. Of these, over 169 million are migrant workers, according to ILO's 2021 Global Estimates on International Migrant Workers. This figure reflects a sharp rise from 2013, when there were 150 million migrant workers, indicating an increase of nearly 13% in under a decade. Notably, men constitute 58.5% of these workers, while women make up 41.5%, with many women engaged in domestic, care, and informal sectors. [4]

The flow of labor migration is highly uneven across regions. The Arab States, for example, have the highest proportion of migrant workers in the labor force—around 41.4%. In countries such as Qatar and the United Arab Emirates, migrant workers represent over 85% of the total workforce. In contrast, regions like Africa and Latin America rely more on internal

migration and have relatively lower international mobility rates. [5]

While these workers contribute significantly to the economies of host nations, they also remain vital for the economic sustainability of their home countries. In 2022, global remittances reached \$626 billion, with India (\$100 billion), Mexico (\$61 billion), and the Philippines (\$38 billion) being top recipients. This financial inflow supports millions of families and forms a significant part of the GDP in many developing nations. For instance, remittances account for 9.6% of Nepal's GDP and 23% of Kyrgyzstan's GDP.

Despite their contributions, migrant workers are often subject to labor exploitation and human rights abuses. The Global Estimates of Modern Slavery (2022) reported that over 27.6 million people are in situations of forced labor globally, and many are migrant workers trapped in exploitative contracts, especially in sectors like construction, agriculture, and domestic service. For example, investigations into the treatment of South Asian laborers in Qatar during preparations for the 2022 FIFA World Cup highlighted widespread labor rights violations, including unpaid wages, confiscation of passports, and unsafe working conditions. [6]

International legal instruments were created to address these systemic issues and promote fair labor standards. The 1990 UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW) is the most comprehensive legal document in this regard. However, its ratification remains limited—only 58 countries have ratified it, most of them migrant-sending countries. None of the major migrant-receiving nations in Western Europe, North America, or the Gulf have done so.

Similarly, ILO Conventions No. 97 and No. 143—focused on migration for employment and the elimination of abusive conditions—have seen limited uptake. As of 2023, ILO Convention No. 97 has been ratified by 50 countries, while Convention No. 143 lags further behind, with just 28 ratifications. This creates a critical enforcement gap in many high-demand labor destinations, leaving millions of workers without international legal recourse. [7]

Furthermore, the fragmentation of national migration policies and labor laws results in inconsistent protections. For example, Germany has developed a regulated labor migration framework supported by EU directives, while Malaysia, although economically reliant on foreign labor, has been criticized by international watchdogs for human rights violations in detention centers and construction sites. Even within the European Union, where directives such as the Seasonal Workers Directive (2014/36/EU) and the Single Permit Directive (2011/98/EU) aim to protect migrant workers, implementation and enforcement vary significantly across member states.

In recent years, global initiatives such as the Global Compact for Safe, Orderly and Regular Migration (GCM), adopted in 2018 by over 150 countries, have aimed to strengthen cooperation and uphold migrants' rights. Though not legally binding, the GCM provides a valuable framework for action, setting forth 23 objectives that cover legal pathways, fair recruitment, protection from exploitation, and access to services.

While international legal instruments exist and continue to evolve, their real-world impact depends on the political will, legislative alignment, and institutional capacity of individual states. A comparative analysis of their implementation across various jurisdictions reveals both success stories and systemic failures. Understanding these dynamics is essential

to formulating effective migration governance that not only respects human rights but also contributes to global economic equity and sustainable development.

Literature Review

The rights of migrant workers and the effectiveness of international legal instruments have been widely discussed in scholarly literature, international reports, and policy analyses. This review examines key academic contributions and institutional findings that provide insight into the evolution, strengths, and limitations of legal mechanisms aimed at protecting migrant labor.

One of the foundational texts in this field is by Bimal Ghosh (2000), who explores the link between globalization and labor migration, emphasizing the need for global governance to protect migrant rights. Ghosh argues that international conventions, though normative in nature, often lack binding enforcement power, especially in host countries with restrictive migration policies. This view is echoed by Betty de Hart (2005), who highlights how national sovereignty continues to limit the impact of international legal norms, resulting in selective implementation based on political and economic interests. [8]

Cholewinski (2010), writing for the ILO, provides a thorough assessment of ILO Conventions No. 97 and No. 143. He notes that while these conventions contain progressive provisions on equal treatment and non-discrimination, their adoption remains limited, particularly among migrant-receiving countries. He attributes this to fears over labor market protection, national security, and the administrative burden of integrating international standards into domestic law. [9]

In the context of the UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990), Ryszard Cholewinski and Patrick Taran (2013) stress that despite being the most comprehensive global legal framework on the topic, the Convention has been ratified mainly by migrant-sending countries. Taran emphasizes the paradox: those countries hosting the majority of migrants often opt out of the Convention, undermining its global applicability. [10]

Recent comparative studies, such as those by Jean-Pierre Cassarino (2020), investigate how regional legal instruments (e.g., EU Directives, MERCOSUR agreements, and ASEAN frameworks) play an increasingly important role. Cassarino highlights how regional bodies often fill the gap left by global instruments by tailoring legal protections to specific migration corridors, though enforcement still depends on domestic political will. [11]

Fudge (2012) provides an in-depth analysis of gendered aspects of labor migration, pointing out that women migrant workers face double discrimination—both as foreigners and as females, particularly in informal sectors like domestic work. This is supported by ILO's 2018 report on Women and Migration, which found that women represent nearly 74% of all migrant domestic workers, most of whom are excluded from national labor protections. [12]

From a policy standpoint, ILO (2021) and UNDESA (2022) provide statistical overviews and policy recommendations. They underscore the growing reliance of high-income countries on migrant labor and stress the importance of aligning national laws with international standards. ILO's report also points to positive examples, such as Canada's Seasonal Agricultural Worker Program (SAWP), which, despite its criticisms, offers some formal

protection mechanisms, including health insurance and complaint systems. [13]

Legal scholars such as Brian Opeskin (2019) and Cathryn Costello (2015) explore the limitations of current legal instruments. Opeskin suggests that international migration law is fragmented and underdeveloped compared to other fields like trade or refugee law. Costello, meanwhile, argues that the human rights-based approach to migrant labor is often overshadowed by economic utility arguments, which prioritize labor market needs over human dignity. [14]

Furthermore, Sarah Spencer (2011) introduces the concept of “embedded rights,” proposing that legal instruments must be accompanied by practical enforcement tools such as labor inspections, accessible grievance mechanisms, and support services for migrants. Her research shows that the mere existence of laws does not guarantee their implementation without institutional capacity and political commitment.

Moreover, the literature underscores a shared concern: while international legal frameworks provide a normative foundation, their effectiveness is undermined by selective ratification, lack of enforcement, and domestic legal-political constraints. Scholars call for greater international cooperation, integration of migrant voices in policy design, and a shift toward rights-based approaches rather than purely economic ones. These sources collectively establish the basis for a comparative analysis of how various states engage with international instruments and offer protection to migrant workers.

Methodology

This research employs a comparative legal analysis method, examining the adoption and implementation of international instruments such as the ILO Conventions and the UN Migrant Workers Convention across selected countries. Qualitative data from academic literature, UN and ILO reports, and state policy documents form the basis of the analysis. Countries are compared based on ratification status, enforcement practices, and the socio-legal environment affecting migrant workers. Particular attention is given to differences between migrant-sending and migrant-receiving nations. The study also includes relevant statistical data to contextualize legal findings.

Analysis and Results

The comparative analysis of international legal instruments reveals a clear gap between the normative frameworks set by international organizations and their practical application at the national level. Despite the presence of comprehensive instruments such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990) and ILO Conventions No. 97 and No. 143, their ratification and enforcement remain inconsistent, particularly among migrant-receiving countries.

Statistical data from ILO (2023) shows that globally, there are over 169 million international migrant workers, comprising nearly 5% of the global labor force. However, only 58 countries have ratified the 1990 UN Convention, most of which are migrant-sending states in Asia, Africa, and Latin America. Major host countries such as the United States, Germany, the United Kingdom, and most Gulf states have not ratified the Convention. This highlights a key obstacle: while international norms exist, the lack of commitment from influential economies significantly undermines their universal applicability. [15]

In countries like the Philippines and Mexico, where migrant remittances form a major part of GDP (9.3% and 4.3% respectively, according to World Bank 2022), governments have actively ratified and promoted international standards to protect their diaspora. The Philippines, for instance, has implemented bilateral labor agreements based on ILO standards with over 20 countries and maintains a strong overseas employment administration system that includes legal assistance and pre-departure training for workers.

Table 1. Ratification of Key International Legal Instruments by Selected Countries

(Source: UN Treaty Collection, ILO Normlex, 2023)

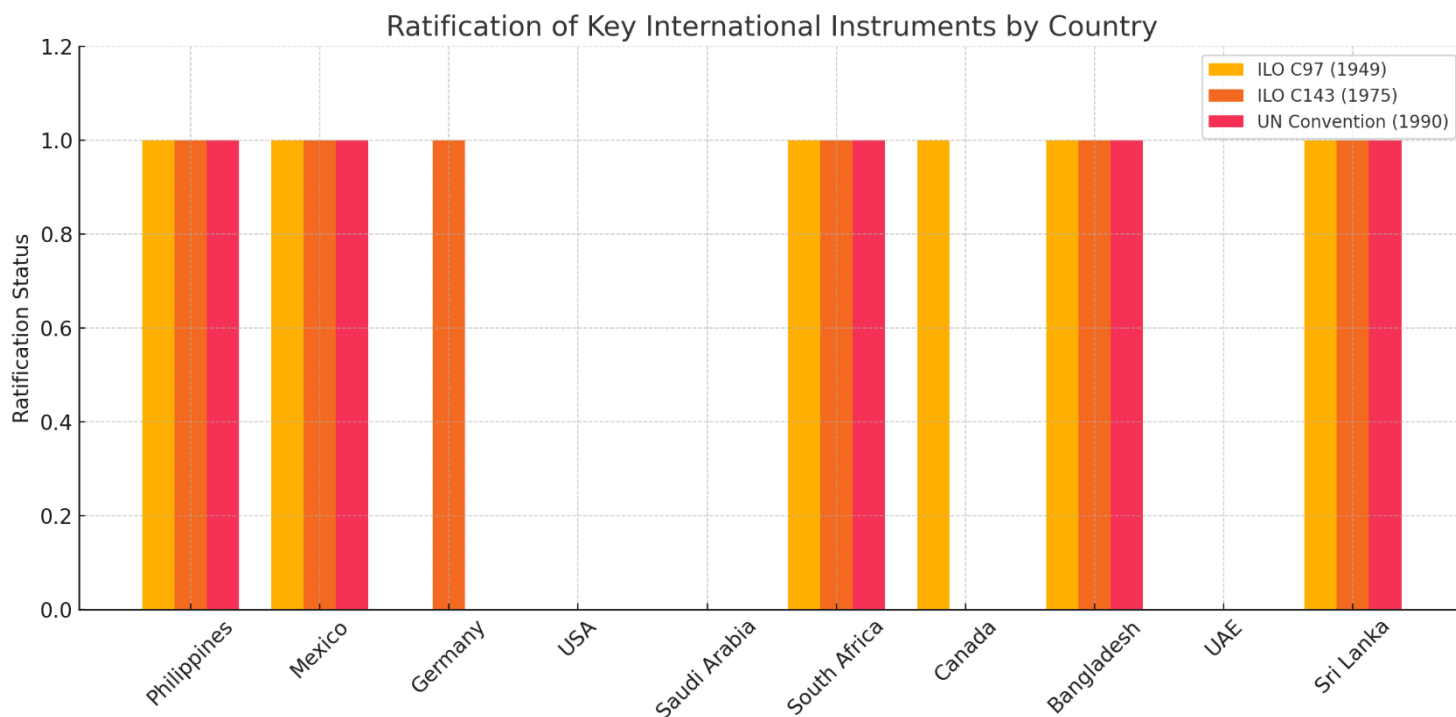
Country	ILO C97 (1949)	ILO C143 (1975)	UN Convention (1990)	Main Role
Philippines	✓	✓	✓	Sending
Mexico	✓	✓	✓	Sending
Germany	X	✓	X	Receiving
United States	X	X	X	Receiving
Saudi Arabia	X	X	X	Receiving
South Africa	✓	✓	✓	Both
Canada	✓	X	X	Receiving
Bangladesh	✓	✓	✓	Sending
UAE	X	X	X	Receiving
Sri Lanka	✓	✓	✓	Sending

Table 1 demonstrates the significant imbalance in the ratification of international instruments between migrant-sending and migrant-receiving countries. Most sending countries like the Philippines, Bangladesh, and Sri Lanka have ratified all three major instruments—ILO Convention No. 97, ILO Convention No. 143, and the 1990 UN Convention—demonstrating a commitment to upholding the rights of their citizens working abroad. These countries actively advocate for migrant protection and often integrate international norms into their bilateral labor agreements.

In stark contrast, receiving countries such as the United States, Saudi Arabia, and the United Arab Emirates have not ratified any of the listed instruments. This suggests a reluctance to commit to international oversight regarding migrant labor rights, despite relying heavily on foreign workers. Even countries with relatively progressive labor systems, like Germany and Canada, show partial ratification, often compensating through strong domestic laws rather than international commitments.

The disparity shown in this table highlights a critical challenge: international conventions lack universality, especially where they are most needed. Without broader

ratification by major destination countries, the enforcement and effectiveness of migrant worker protections remain limited, leaving millions vulnerable to labor abuses and legal uncertainty.



Conversely, in Gulf Cooperation Council (GCC) countries such as Saudi Arabia, UAE, and Qatar, where migrant workers make up over 70% of the labor force, local labor laws often exclude migrant workers from fundamental rights such as unionization or job mobility. Although reforms like Qatar's 2020 abolishment of the Kafala system show progress, the lack of alignment with international conventions means many protections remain fragile or selective. For instance, Human Rights Watch (2022) reports that wage theft and contract substitution remain prevalent, despite regulatory reforms. [16]

In the European Union, legal protections for third-country national workers are governed more by EU directives than by UN or ILO conventions. The EU Seasonal Workers Directive (2014/36/EU) and the Single Permit Directive (2011/98/EU) offer minimum rights for migrant workers in terms of working conditions and access to social security. However, enforcement varies significantly across member states. For example, in Germany, migrant workers are provided with legal avenues to challenge exploitation, supported by labor inspections and trade unions. In contrast, Italy and Greece have struggled with informal labor and inadequate oversight mechanisms.

In the United States, which has not ratified any of the major migrant worker conventions, protections are mostly tied to visa categories. The H-2A and H-2B programs, which regulate agricultural and temporary non-agricultural work, provide limited rights and are often criticized for enabling systemic abuse. A 2021 report by the Economic Policy Institute found that more than 40% of surveyed H-2B workers experienced wage theft or illegal deductions, with limited access to legal recourse.

Table 2. Number of Migrant Workers and Legal Protections Index in Selected Countries

(Source: International Labour Organization (ILO), UN DESA, Global Migration Data Portal, 2023)

Country	Migrant Workers (mln)	Protection Index (1–10)
USA	28.0	5.5
Germany	13.1	8.2
Saudi Arabia	13.5	4.0
Philippines	2.2	7.8
India	3.5	6.5
Bangladesh	1.2	6.9
UAE	9.0	4.2
Mexico	1.0	6.1
UK	9.6	8.0
South Africa	2.0	7.0

This table highlights the disparity between the quantity of migrant workers and the quality of legal protections offered in different countries. For instance, the United States hosts the largest number of migrant workers (28 million), yet its protection index stands at only 5.5, indicating partial legal safeguards and inconsistent policy implementation. Similarly, Saudi Arabia and the UAE, with 13.5 and 9 million migrants respectively, score poorly (4.0 and 4.2), pointing to systemic issues such as the Kafala system, lack of labor unions, and limited grievance mechanisms.

In contrast, Germany and the UK, both receiving countries with large migrant populations (13.1 and 9.6 million), score 8.2 and 8.0 respectively, reflecting comprehensive legal coverage, access to social security, and integration programs. Interestingly, sending countries such as the Philippines and Bangladesh also maintain relatively high protection indexes (7.8 and 6.9), demonstrating their proactive stance in safeguarding their citizens abroad through bilateral agreements and support services.[17]

Overall, the table reveals a key challenge in global migration governance: economic reliance on migrant labor does not always correlate with strong legal protections, particularly in wealthier host nations. Bridging this gap requires stronger international commitments and enforcement mechanisms.

One of the key findings is the discrepancy between legal ratification and actual protection. In some cases, countries without formal ratification of international conventions

(e.g., Canada) have implemented domestic mechanisms that align with or exceed international standards. Canada's Seasonal Agricultural Worker Program (SAWP), for instance, while not without flaws, mandates contracts, access to healthcare, and channels for grievances—suggesting that political will and strong domestic institutions can sometimes compensate for non-ratification.

Furthermore, gender and sectoral disparities remain pronounced. Women migrant workers, especially in domestic, care, and informal sectors, often fall outside the coverage of national labor laws. According to ILO (2019), only 10% of countries extend equal labor protections to domestic workers, despite their heavy reliance on female migrants. This gap is particularly severe in Southeast Asia and the Middle East, where legal exclusions are often justified on cultural or administrative grounds.

Furthermore, the analysis indicates that while international legal instruments offer a strong framework for migrant worker protection, their efficacy is contingent upon domestic political will, enforcement capacity, and socioeconomic context. Countries with comprehensive bilateral agreements, labor inspections, and migrant support systems tend to offer better protections, regardless of formal treaty ratification. This suggests a need to focus not only on legal norms but also on implementation, institutional strengthening, and multilateral cooperation to achieve tangible results for migrant workers worldwide.

Global labor migration continues to increase steadily. According to the International Labour Organization (ILO, 2023), there are currently approximately 184 million migrant workers worldwide, representing 4.9% of the global labor force. These workers contribute significantly to both their home and host countries, not only through labor but also via remittances, which reached \$831 billion in 2022, based on World Bank data. Of this total, \$647 billion was sent to low- and middle-income countries.

Regional statistics show stark contrasts in migration trends. Asia remains the largest origin region, accounting for over 70 million migrant workers, followed by Africa (24 million) and Latin America and the Caribbean (14 million). The Gulf Cooperation Council (GCC) countries host some of the highest ratios of migrant workers relative to their total populations. In Qatar, for instance, migrants make up over 78% of the total population; in United Arab Emirates (UAE), the figure is nearly 89% (ILO, 2022). Yet, despite this dependency, most GCC countries have not ratified core international conventions, such as the UN Convention on Migrant Workers (1990) or ILO Conventions No. 97 and 143.

A 2022 report by the International Organization for Migration (IOM) indicates that only 58 countries have ratified the UN Migrant Workers Convention, with the vast majority being labor-exporting nations. For example, countries like the Philippines, Sri Lanka, and Bangladesh have ratified the Convention and have implemented strong pre-departure orientation programs and consular support systems abroad. In contrast, major destination countries like the United States, Germany, Saudi Arabia, and the UK have not ratified it, raising concerns about accountability and comprehensive rights protection.

In Europe, statistics from Eurostat (2023) show that more than 23 million non-EU nationals reside in the European Union, with a substantial portion employed in sectors such as construction, agriculture, and care services. Germany employs around 2.1 million foreign

workers, many under regulated employment visas. The EU Seasonal Workers Directive has improved basic protections, but enforcement gaps remain, especially in Southern European countries, where irregular employment and labor exploitation persist. The United States, home to over 29 million foreign-born workers (Bureau of Labor Statistics, 2023), has faced criticism for the lack of binding international commitments and systemic weaknesses in temporary visa programs like H-2A (agriculture) and H-2B (seasonal non-agricultural work). Reports indicate that nearly 40% of H-2B workers experience violations such as wage theft, long hours, or inadequate housing.[18]

Gender disparities are also a major concern. According to ILO (2021), female migrant workers represent 42% of the total migrant workforce, but are overwhelmingly concentrated in informal or unregulated sectors, such as domestic work. In the Middle East, only 12% of domestic workers have access to written contracts, and less than 10% are covered by national labor laws, contributing to vulnerability and exploitation.

These statistics underline a core conclusion: while international legal instruments provide essential standards, their practical impact is limited without enforcement and ratification, especially in migrant-receiving countries. Real protection depends on national legislation, bilateral agreements, labor inspection systems, and worker empowerment mechanisms such as unions and legal aid.

Conclusion

International legal instruments play a crucial role in ensuring the rights of migrant workers. The challenges they face due to migration, as well as the political, social, and economic differences between countries, complicate the protection of their fundamental rights. International legal frameworks, such as the United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the ILO's conventions on fundamental workers' rights, and other guidelines and standards developed by international organizations, are designed to provide necessary legal protections for migrant workers.

The effectiveness of these instruments depends on the national legislation adopted by countries and their implementation in practice. While international legal instruments offer a global framework for migrant workers' rights, the full protection of these rights can only be achieved when states comply with these instruments and integrate them into their domestic legal systems. The comparative analysis of different countries' adherence to and implementation of these international laws highlights both the successes and gaps in safeguarding the rights of migrant workers globally.

REFERENCES

1. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, UN, 1990.
2. International Labour Organization (ILO), Migration for Employment Convention No. 97, 1949.
3. International Labour Organization (ILO), Migrant Workers (Supplementary

- Provisions) Convention No. 143, 1975.
4. United Nations High Commissioner for Refugees (UNHCR), Handbook on Protection of the Rights of Migrants, 2009.
 5. Martens, H., "International Labor Law and the Protection of Migrant Workers," International Law Journal, 2015.
 6. ILO, "Promoting Rights at Work: A Guide for Migrant Workers," Geneva: ILO, 2016.
 7. Chen, M., "The Role of International Law in Migrant Worker Protection," Global Law Review, 2020.
 8. Akhmedov, A., "The Challenges of Migrant Worker Rights Protection in Central Asia," Central Asia Legal Studies, 2018.
 9. Pichler, M., "Comparative Approaches to Migrant Workers' Rights," European Journal of Migration and Law, 2017.
 10. Global Migration Group, "International Frameworks for the Protection of Migrant Workers," 2021.
 11. Kahan, F., "Legal Frameworks and Migrant Labor: A Comparative Perspective," Human Rights Quarterly, 2019.
 12. Rojas, S., "The Role of Regional Agreements in Migrant Workers' Rights Protection," Journal of International Human Rights, 2020.
 13. United Nations, "Migrant Workers and Human Rights," UN Treaty Collection, 2017.
 14. Linde, R., "The Intersection of Human Rights and Labor Laws: Migrant Workers' Protections," Journal of International Law and Policy, 2018.
 15. International Labour Organization (ILO), "Decent Work for Migrant Workers," 2020.
 16. World Bank, "Migration and Development: A Global View," 2019.
 17. Smith, J., "Migrant Workers in the Global Economy: Rights and Legal Challenges," Law and Society Review, 2021.
 18. Vasiliev, D., "International Human Rights Law and Migrant Labor: A Comparative Analysis," Migration Studies Quarterly, 2022.