



## Benchmark on Protecting the rights of migrant worker's and their families

Universal Declaration of Human Rights	Fundamental Rights and Freedoms Constitution (chapter 2)	International Conventions the Maldives is party to	International convention on the protection of the rights of migrant workers and their families	Benchmark
Article 2	Non Discrimination (Article 17)	ICCPR Article 2,24,26; ICESCR Article 3,7,10; ICERD Article 2,4; CEDAW 1,2	Article 1,7	<ul style="list-style-type: none"> <li>Fundamental rights stated on this benchmark should be applicable to all migrant workers and members of their families without distinction of any kind such as sex, race, color, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status.</li> </ul>
Article 1	Equality (Article 20)	ICCPR Article 3,14,26; ICESCR Article 2; ICERD Article 5,6; CEDAW 2,3,15; CAT Article 12,13	Article 44,18,55,64	<ul style="list-style-type: none"> <li>Under this benchmark, state authorities should maintain equality in upholding the values and protecting the rights of Migrant workers and their families that they are entitled to through the constitution and international conventions that Maldives is party to.</li> </ul>
Article 3	Right to Life (Article 21)	ICCPR Article 6	Article 8,9,16,68	<ul style="list-style-type: none"> <li>The right to life of migrant workers and members of their families shall be protected by law.</li> </ul>

				<ul style="list-style-type: none"> <li>• Migrant workers and members of their families shall have the right to liberty and security of person.</li> <li>• 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. Measures should be undertaken 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.</li> </ul>
Article 22,25	Economic and Social rights (Article 23)	ICCPR Article 23; ICESCR Article 1,3,8,9,10,11,2; ICERD Article 2,5; CEDAW 3,5,11,12,13,14	Article 26,27,28,43,32,45,46,47,64,70	<ul style="list-style-type: none"> <li>• 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 fulfill 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.</li> <li>• 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 to them by reason of any irregularity with regard to stay or employment.</li> </ul>

				<ul style="list-style-type: none"><li>• 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.</li><li>• Migrant workers shall enjoy equality of access to adequate housing and protection against exploitation in respect of rents.</li><li>• Migrant workers shall enjoy equality of access to social and health services, provided that the requirements for participation in the respective schemes are met.</li><li>• 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.</li><li>• States concerned shall take appropriate measures to facilitate such transfers.</li><li>• 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</li></ul>
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				<p>communities concerned.</p> <ul style="list-style-type: none"> <li>• As per this Benchmark, state 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.</li> </ul>
Article 4	No slavery or forced labour (Article 25)	ICCPR Article 8	Article 11,68	<ul style="list-style-type: none"> <li>• No migrant worker or member of his or her family shall be held in slavery or servitude.</li> <li>• No migrant worker or member of his or her family shall be required to perform forced or compulsory labour.</li> <li>• For the purpose of the present article the term "forced or compulsory labour" shall not include: <ul style="list-style-type: none"> <li>(1) Any work or service 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;</li> <li>(2) Any service exacted in cases of emergency or clamity threatening the life or well-being of the community;</li> <li>(3) Any work or service that forms part of normal civil obligations so far as it is imposed also on citizens of the State concerned.</li> </ul> </li> </ul>

Article 19	Freedom of expression (Article 27)	ICCPR Article 19, ICERD Article 5	Article 13	<ul style="list-style-type: none"> <li>• Migrant workers and members of their families shall have the right to hold opinions without interference.</li> <li>• 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.</li> <li>• 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: <ul style="list-style-type: none"> <li>(1) For respect of the rights or reputation of others;</li> <li>(2) For the protection of the national security of the States concerned or of public order or of public health or morals;</li> <li>(3) For the purpose of preventing any propaganda for war;</li> <li>(4) For the purpose of preventing any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.</li> </ul> </li> </ul>
	Freedom of and acquiring	ICCPR Article 14,17; CEDAW	Article	<ul style="list-style-type: none"> <li>• Any verification by law enforcement officials of the identity of migrant workers or members of their</li> </ul>

	<p>imparting knowledge (Article 29)</p>	<p>Article 10; CAT Article 11</p>	<p>18,16,13,21,37,33,38,64,68</p>	<p>families shall be carried out in accordance with procedure established by law.</p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• 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, 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 therefore.</li> <li>• 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.</li> <li>• 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.</li> </ul>
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				<p>families free of charge, and, as far as possible, in a language they are able to understand.</p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> <li>• The measures to be taken to this end within the jurisdiction of each State concerned shall include appropriate measures against the dissemination of misleading information relating to emigration and immigration.</li> </ul>
	Right to strike (Article 31)	ICESCR Article 8		<ul style="list-style-type: none"> <li>• Every person employed in the Maldives and all other workers have the freedom to stop work and to strike in order to protest.</li> </ul>
Article 23	Right to work	ICESCR Article 6,7; ICERD	Article	<ul style="list-style-type: none"> <li>• Migrant workers shall enjoy treatment not less favourable than that which applies to nationals of</li> </ul>

	(Article 37)	Article 5; CEDAW 7,8,10,11	25,52,38,49,51,54,55,61	<p>the State of employment in respect of remuneration and:</p> <p>(1) 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;</p> <p>(2) 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.</p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> </ul>
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				<ul style="list-style-type: none"><li>• Migrant workers shall enjoy equality of treatment with nationals of the State of employment in relation to access to vocational training and retraining facilities and institutions.</li><li>• 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.</li><li>• 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.</li><li>• In order to allow migrant workers 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.</li><li>• 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</li></ul>
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				<p>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.</p> <ul style="list-style-type: none"> <li>• For any migrant worker a State of employment may: <ul style="list-style-type: none"> <li>(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;</li> <li>(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.</li> </ul> </li> <li>• For migrant workers whose permission to work is limited in time, a State of employment may also 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.</li> </ul>
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				<ul style="list-style-type: none"> <li>• For migrant workers whose permission to work is limited in time, a State of employment may also 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.</li>   <li>• 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.</li>   <li>• Without prejudice to the terms of their authorization of residence or their permission to work and the rights provided for in this benchmark, migrant workers shall enjoy equality of treatment with nationals of the State of employment in respect of protection against dismissal; unemployment benefits; access to public work schemes intended to combat unemployment; access to alternative employment in the event of loss of work or termination of other remunerated activity.</li>   <li>• If a migrant worker claims that the terms of his or her work contract have been violated by his or her</li> </ul>
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				<p>employer, he or she shall have the right to address his or her case to the competent authorities of the State of employment.</p> <ul style="list-style-type: none"><li>• 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.</li><li>• 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.</li><li>• Without prejudice 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.</li></ul>
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	Right of Pension (Article 38)			<ul style="list-style-type: none"><li>• Under this Benchmark, Migrant workers are entitled to pension under the regulation of Maldives retirement pension scheme and necessary arrangement should be made by the state to ensure this.</li></ul>
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Human Rights Commission of the Maldives  
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