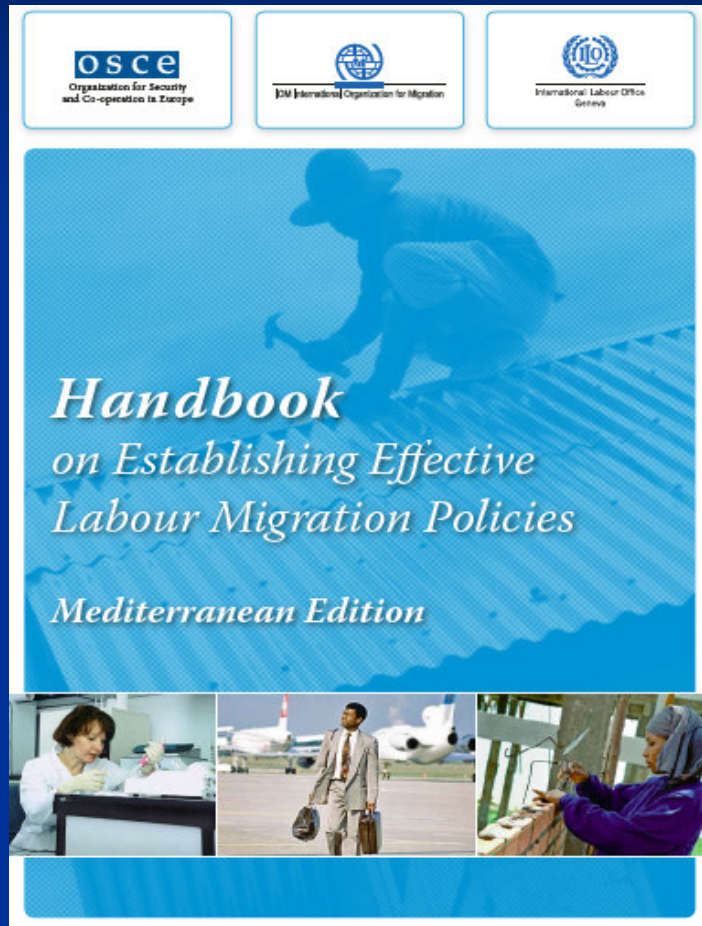


International Legal Framework for the Protection of Migrant Workers

Launch Seminar on the Mediterranean
edition of the Handbook on
Establishing Effective Labour
Migration Policies

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Presentation outline

- International human rights law
- ILO international labour standards
- Specific conventions protecting migrant workers
 - UN Convention on Migrant Workers 1990
 - ILO Conventions No. 97 (1949) and 143 (1975)
- Regional legal/policy frameworks
 - Council of Europe
 - EU policy
 - Americas, Asia

International human rights law

- International Bill of Human Rights
 - Universal Declaration of Human Rights 1948
 - Covenant on Civil and Political Rights 1966
 - Covenant on Economic, Social and Cultural Rights 1966
- Other core human rights instruments in force (thematic or protecting specific groups)
 - Convention on the Elimination of All Forms of Racial Discrimination 1965
 - Convention on the Elimination of All Forms of Discrimination Against Women 1979
 - Convention against Torture 1984
 - Convention on the Rights of the Child 1989
 - Convention on Migrant Workers 1990

International human rights law



- Universal principle of non-discrimination
 - Human rights applicable to nationals and non-nationals alike with few exceptions (e.g. political rights)
- Some rights of particular relevance to migrant workers and their families, e.g.
 - Right to leave own country and enter/ return to that country
 - Right to freedom of assembly/ association
 - Rights to equal work and employment conditions
 - Rights to education/ health
 - Right to family life

International labour standards

- ILO Constitution espouses principles of social justice protecting persons in their working environment including those “in a country other than their own”
- International labour law comprises numerous Conventions and Recommendations
 - Includes ILO Conventions No. 97 (1949) and No. 143 (1975) which specifically protect migrant workers
- ILO Declaration on Fundamental Principles and Rights at Work 1998
 - Member States must adhere to principles in the 8 core ILO Conventions (abolition of forced labour; elimination of child labour; trade union rights; and non-discrimination) even when they have not ratified the instrument/s in question

Regional legal/ policy frameworks

➤ Europe

➤ Council of Europe (47 Member States)

- Principal organization in Europe concerned with the protection of human rights

➤ European Union (27 Member States)

- Free movement of EU workers regime
- EU law and policy on asylum and migration from third countries

➤ Africa (African Charter on Human and Peoples' Rights 1981)

- Strategic Framework for a Policy on Migration in Africa

➤ Americas (American Convention on Human Rights 1969)

- Special Rapporteurship on Migrant Workers and Their Families

➤ Asia (ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers 2007/ Colombo Process)

Council of Europe standards

- European Convention on Human Rights 1950
 - Applicable to all persons within jurisdiction of a State party
 - Important rights of particular relevance to migrants (to respect for family life/ non-discrimination)
- European Social Charter 1961/ Revised Charter 1996/ Collective Complaints Protocol 1995
- European Convention on the Legal Status of Migrant Workers 1977
 - Only applicable to lawfully resident migrant workers from other Contracting Parties

EU – Commission policy plan on legal migration (COM(2005) 669, 21 Dec 2005)

- Follows Commission Green Paper on an EU approach to managing economic migration (Jan 2005) and proposed Directive on economic migration (2001)
- Describes situation and prospects of labour markets in EU as a “need” scenario
- Establishes a road map for 2006-2009
 - Legally binding measures proposed
 - General Framework Directive to guarantee a common framework of rights to all TCNs in legal employment in EU (Oct 2007)
 - 4 Specific Directives on conditions of entry and residence of highly skilled workers (Oct 2007), seasonal workers, intra-corporate transferees and remunerated trainees
 - Other activities (e.g. cooperation with third countries /circular migration/ mobility partnerships)

Concluding observations

- Greater awareness of application of international human rights and labour standards to all migrant workers and members of their families
 - Assisted by the work of human rights treaty bodies
 - Role of Special Rapporteur on the human rights of migrants
 - Renewed attention of ILO
- Regional developments (Europe, Africa, Americas, ASEAN)
- Global and regional processes increasingly devote attention to protection of human rights of migrant workers
 - Global Forum on Migration and Development (Manila, Oct 2008)
 - Colombo Process

Thank you for your attention