

WITHOUT BORDERS: AN EXEGESIS OF HUMAN RIGHTS OF IMMIGRANT EMPLOYEES IN THE UNITED KINGDOM AND KINGDOM OF SAUDI ARABIA

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ABSTRACT

The principal aim of this paper is to test how States implement international human rights law (IHRL) with respect to the security and welfare of immigrant employees in their country of residence. The paper explicates relevant IHRL shortcomings and contrasts them with rules applicable in situations of human rights abused of immigrant employees. This paper resolves three core questions that are specifically important to immigrant employees as follows: (1) who are considered immigrant employees under each law? Addressing this question permits the testing of whether States understands the status of immigrant employees under International Human Rights Treaty Laws, (2) How is the legal status of immigrant employees managed? (3) Are immigrant employees provided with adequate safeguard along with corresponding security in their place of residence? The outcome of this inquiry revealed that States seldomly apply IHRL understanding of the status of immigrant employees in discussing some of the notable short-comings that contributes to the challenges faced by immigrant employees in their place of residence. Driven fundamentally by efforts to eradicate harmful practices and human rights abuses on immigrant employees, yet immigrant employees are exposed to all manner of employment-related abuses and discrimination in their respective work place. Nonetheless, the paper analyzed cases of discriminatory practices against immigrant employees in UK along with Saudi Arabia. The paper explores what explicit legal and regulatory constraints impedes immigrant rights at his workplace. Moreover, it considers proper measures for managing and overcoming such impediments. The paper adopts analytical approach in its argument through a review of literatures, treaties and conventions. The paper concludes that the right of immigrant employees is universal, inalienable, indivisible and interdependent, regardless of where they are and of their status.



KEYWORDS: Human Rights, Immigrant Employees, Borders, United Kingdom, Saudi Arabia.

1. INTRODUCTION

The compelling need to safeguard constitutional rights of persons around the globe necessitated the endorsement of several list of recognized constitutional rights enshrined in the UDHR by the United Nations as they are purposely established to safeguard and secure human dignity . It must be emphasized that since the creation of this international human rights treaty organization in 1948, no States around the globe has ever objected to it's emergence.¹ However, it is noteworthy that human rights remained an inalienable rights around the globe due to its nature and should be protected at all times.² Moreso, it should be noted that the Vienna Declaration and Programme of Action was equally adopted after the World Conference on Human Rights in 1993 (Vienna Declaration and Programme of Action, 1993), and since then, it has remained the basis of international human rights practice as a result of it's relevance. Be that as it may, it has been argued that UDHR was not adopted as a legally binding instrument of human rights, but rather as a mere treaty organization (General Assembly Resolution A/RES/53/144).

In this instance, it may be further argued that its practice has crystallized as customary global rules in recent times.³ In a similar note, the paper revealed that the UDHR only characterized HR purposely for the sake of HR guidelines as contained in UN Charter in a manner that the provisions in Articles 1(3), 55 and 56 were all recognized as mandatory global standards.⁴ Indeed, considering the significance of immigrant employees' rights and the security implications of global movements, it should be stressed that the compelling need to safeguard immigrant's freedoms in their place of residence has prompted the development of a few human

¹ United Nations Declaration of Human Rights (adopted 12 December 1948).

² UN Doc A/CONF.157/23(1993), 25 June 1993, endorsed by GA Res.48/121 of February 1994.

³ L.B. Sohn, "The New International Law: Protection of the Rights of Individuals Rather than States", (1982)32 American University Law Review 1, 15-17.

⁴ See The United Nations Charter, Articles 1(3),55 and 56.

rights Treaties and Conventions aimed at guaranteeing adequate security of immigrant employees' rights who several times have suffered from all manners of discriminatory practices in their countries of residence . The need to accord immigrant employees satisfactory protection of their HR is not unconnected with the prevailing concern that HR are rights guaranteed by the global and regional frameworks which should be exercised without any restrictions around the globe.⁵ For this reason, the understanding of the security implications of the rights of immigrant employees beyond borders ought to start with a deep understanding of the subject matter . It is in light of the above development, that the paper asked: Are immigrant employees holders of rights under the several international and regional human rights treaties? In this sense, there is need to fully understand the vulnerability of immigrants outside their place of residence. However, the security and freedom of immigrants are considered and well perceived as a fundamental issues as immigrant employees' rights remained a global discourse. Indeed, as residents of many developing nations with different aspects of work are engaged in relocation across global lines in search of better means of livelihood, it should be noted that these non-nationals are confronted with different sorts of abuses and infringement of their HR. Most times, they are discriminated against based on their health, religion, race, and additionally, language differences.

Thus, it is important to take the issues of HR of immigrant employees serious irrespective of their migration status. That said, it should be underscored that the reasons for unpredictable movement which lead to circumstances of having sporadic immigrants are as a result of the non-compliance with the immigration rules by immigrants, as well as the failure of States to make sufficient relocation systems to meet their financial commitments (Castles etal. 2012). Basically, this suggests that every States should strive to ensure that they provides laws that

⁵ C. Tiburcio, *The Human Rights of Aliens under International Comparative Law*. The Hague, Netherlands, Kluwer Law International, 2001.

will prohibit indiscriminate practices against immigrant employees in their countries of residence which will distinct from the regional protocols and obligations established by other global instruments, particularly from the issues that emerged from the global understanding of immigration and immigrant status. Moreover, it ought to be noted that a broad overview of the immigrant's security as non-nationals working in different nations other than their place of origin was referenced in the first Constitution of the International Labour Organization (ILO Constitution, 1919),⁶ created upon the emergence of the League of Nations in 1919.⁷

In any case, it ought to be noted that in line with the perspective of international law, basic human rights instruments also adopted the non-discretionary principles, which allows only fair and just treatment amongst nationals and non-nationals, while granting migrants several civil and political rights.⁸ Consequently, migrant's security are provided in the international human rights laws, while the most important human rights treaties are based on the UDHR 1948⁹ such as ICCPR, 1966¹⁰ along with ICESCR, 1966¹¹ which were adopted in 1966 and have been broadly endorsed by state parties wherein issues of protection was stretched out to every person, including immigrants employees. Notably, extension of these rights to vulnerable groups still remained difficult and challenging and that informed the introduction of more specific international treaties such as CEDAW, 1989¹² and CRC, 1989 into the human rights

⁶ Constitution of the International Labour Organization (adopted 1 April 1919 and entered into force 28 June 1919), available at: <<https://www.refworld.org/docid/3ddb539la.html>> accessed 9 June 2022.

⁷ League of Nations, Covenant of the League of Nations (adopted 28 April 1919), available at: <<https://www.refworld.org/docid/3dd8b9854.html>> accessed 9 June 2022.

⁸ J. Fitzpatrick, The Human Rights of Migrants, in Migration and International Legal Norms 169(T. Alexander Aleinikoff and Vincent Chetail, 1997),169-84.

⁹ Universal Declaration of Human Rights (adopted by UNGA Res. 217 A (III) of 10 December 1948), available at: <<https://www.refworld.org/docid/3ae6b3712c.html>> accessed 9 June 2022.

¹⁰ International Convent on Civil and Political Rights (adopted 16 December 1966 and entered into force 23 March 1976), available at: < <https://www.refwork.org/docid/3ae6b3aao.html>>accessed 9 June 2022.

¹¹ International Covenant on Economic, Social and Cultural Rights (adopted by the UNGA Res. 2200 A9(XXI) of 16 December 1966 and entered into force 3 January 1976).

¹² Convention on Elimination of Discrimination Against Women (adopted by the UNGA Res. 4/25 of 20 November 1989 and entered into force 2 September 1990).

architecture.¹³ These was aimed at addressing several cases of discriminatory practices against immigrant employees in their place of residence.

In light of these examples, it can be argued that at the end of the global energy emergencies of the early 1970s, there was strong pragmatic economic downturn in the western industrial States that led to a renewed interest in migration and to the adoption of the International Labour Organization Convention¹⁴ No. 97 of 1949. Indeed, this development led to the international community's concern with irregular migration and the related violations that gave rise to the endorsement of ILO Convention¹⁵ No. 143 of 1975. Notwithstanding the endorsement of this later Convention, the obligations to handle the unconfirmed immigration actually remained unattended to or dismissed by numerous Nations who are keen on sending their nationals to work in other Nations. A further contention is that destination Nations were not happy with the rise of the Convention with the belief that it would discourage temporary migration. In this case, this improvement brought a set back to the acceptance of this treaty and this, obviously, led to the emergence of ICRMWM.¹⁶ As of late, it has been seen that the issue of immigrant employees' security is generally monitored in both International and regional levels. According to ILO, the vast majority of these arrangements are not sustainable with regards to other similar treatment given to immigrant employees (Rossengaertner, S 2018, p.284).¹⁷ It ought to be noted that a considerable lot of these bilateral agreements are not carried out by the State parties, particularly in the area of providing equal security and treatment for immigrant employees or their relatives. Considering the contentions on the few bilateral agreement, it should be noted

¹³ Convention on the Rights of the Child (adopted by the UNGA Treaty Series, vol. 1249, 18 December 1979 and entered into force 3 September 1981).

¹⁴ ILO Convention No-97 1949 (adopted 1 July 1949 and entered into force 22 January 1952), available at: <<https://www.refworld.org/decide/3ddb64057.html>>. accessed 9 June 2022.

¹⁵ ILO, Migrant Workers (Supplementary Provisions) Convention, C 143, (adopted 24 June 1975 and entered into force 9 December 1978).

¹⁶ International Convention on the Rights of Migrant Workers and Members of their Families (adopted by the UNGA Res. A/RES/45/158 (adopted 18 December 1990 and entered into force 1 July 2003).

¹⁷ S. Rossengaertner, "Pathways to Protection and Permanency: Towards Regulated Global Economic Migration and Mobility", (2018),56 Columbia Journal of Transnational law 2, 284.

that in the present times, ICRMW has put forth a few attempts to safeguard immigrant employees' freedoms to the extent that the effect of this is that "an individual is regarded as a holder of right in every human right instruments" which in this context covered both the citizens and non-citizens. Essentially, a careful assessment of a few human rights literatures would show that immigrants are likewise covered by the guidelines on human rights instruments which however applies to immigration regulations and may confine the State's right to control the exit and entrance of non-nationals to their States of residence (Babara, B etal. 2008, p.19).¹⁸ One more contention in favour of a more elaborate way of dealing with issues of HR of immigrants employees is to take into consideration few of the privileges provided in the previous treaties, yet their applications to non-nationals, by and large, has not been explicitly determined. Indeed, this very point is noted as an undeniable shortcomings that no doubt, has presented immigrant employees with additional infringement and further maltreatment that made the culprits commit more atrocities believing same to attract zero consequences. Therefore, in substantiating the foregoing observations, the paper is structured as follows: it began with an outline of the UDHR along with ICRMW, especially emphasizing on the relevance of adequate safeguard of rights of immigrant employees outside their nations of origin. The paper examined the merits and demerits of immigrant employee's rights protection through human rights instruments. After this, it examines the relevance of ICRMW along with immigrants rights under the human rights instruments. This is followed by an itemized outline of findings from different Countries like UK along with Saudi Arabia. The paper concludes with a survey of their implications on sufficient protections of immigrant employee's rights.

2. APPLICATION OF THE RIGHTS TO WORK UNDER THE CONVENTION

¹⁸ B. Babara etal. Irregular Migration and Human Rights: Theoretical, European, and International Perspectives (Leiden:Martinus Nijhoff, 2004), 19.

From a more practical perspective, the essence of ICRMW is to comply with the primary objectives prescribed by ILO as provided in its Constitution the compelling need to ensure adequate safeguard of the concerns of employees who are working in regions outside their Countries of origin. Bearing in mind the competence and resourcefulness of that institution on issues relating to immigrant employees and members of their families commonly imply that the very concept of the right to work through migration is seen as exportation of human labour to Countries who are in dire need of the expertise.

In order to forestall harmful practices on such immigrant employees who are non-nationals, a few measures are put in place to safeguard their rights. Likewise, given the importance of labour migration and the convincing requirements to control global relations in various terms and to stay away from another catastrophic conflict, notwithstanding how educated the initiators of the 1919 Treaty of Versailles(Treaty of Versailles, 1919)¹⁹ to initiate the League of Nations that prompted the development of the International Labour Organization²⁰ as a specialized organization concerned about the improvement of conditions along with standard of living of employees all over the world.

Besides, the acknowledged insight behind the provisions of the ILO, it should be noted that ILO emerged to ensure that there is adequate protection of the rights of immigrant employees when hired in nations other than their own. In this sense, any law made that takes into consideration the rights of immigrant should aimed at providing equal treatment for both nationals and non-nationals. Basically, it should be noted that the right of immigrants are adequately provided for in the different rules and proposals that ILO endorsed at the preamble of the ILO for all workers. In any case, there is a long-running discussion that proposes that immigrants were the objective of a couple of explicit measures, as they were recipients of the

¹⁹ See Treaty of Versailles (adopted 28 June 1919 and entered into force 10 January 1920).

²⁰ International Labour Organization, Constitution of the International Labour Organization (ILO), (adopted 1 April 1919 and entered into force 28).

rules connecting with the preservation of the privileges and social security (Convention Relating to Maintenance of Rights and Social Security, 1925 and Convention Concerning ILO Maintenance of Migrants Pension Rights, 1935).²¹

With respect to gains of the option to manage relocation explicitly, migration is, thusly, the least complex method of getting out of penury as it enhanced financial growth and development of such a person.²² Likewise, it is vital that migrant's earnings increase multiple times as they moved from an inadequately created economy to a developed Nations. These increases remained to a great extent conceptual on the grounds that the vast majority can't move as 3% of the total populace lived in a country in which they were not conceived, a rate that has not really improved from what it was sixty years of, in any case, extraordinary international coordination through information streams, exchange or contributions (The World Bank: Global Migration and Labour Market, 2018). In addition, research has shown that every experimental investigation revealed that expanded work versatility prompts huge additions for the migrants along with positive benefits for the host countries. Notwithstanding, it could be contended in such a manner that the persuasive monetary proof of the financial benefits and social advantages of relocation lie on the political resistance to the migration that has achieved stagnation in the migration issues.

In many occurrences, it should be noted that more ladies today are relocating all alone as free workers, rather than going with their spouses who are the providers (International Organization on Migration, 2005).²³ This migration are mostly done in Countries where the prospective migrant's Countries have a shared relationship or relies upon the regional limits.²⁴ Albeit, a few Nations have reshaped their strategies on migration towards economic skilled

²¹ Convention Concerning ILO Equality of Treatment (Accident Compensation), and its Recommendation, Nos. 19 and 25, 1925, and Convention Concerning ILO Maintenance of Migrant's Pension Rights No. 48 1935.

²² World Bank Group: Moving for Prosperity, Global Migration and Labour Markets, Policy Research Report, 2018, available at: <<https://www.worldbank.org>> accessed 3 June 2022.

²³ See International Organization on Migration, 2005.

²⁴ See Organization for Economic Co-operation and Development. Hand Book for Self-Reliance, UNHCR, 2005.

migration which the beneficial nation shows a lot of interest in the youthful and dynamic age of the migrant who are economically viable when contrasted with their contemporaries in their place of residence, and thus, adds to the decrease in the reliance proportions (Gagnon, 2014). Also, in recent past, records have shown that settlers addressed 47% of the increase in the labor force of the US, while 70% in Europe (OECD, 2012). Curiously, the paper uncovered that across the OECD nations, an irrelevant number of these labor force immigrants showed up through overseas work relocation, while a sensible number showed up through different channels like an invitation from a relative, philanthropic association, or free-migration.

In this regard, as the requests of the workforce keep on expanding, it is ideal to survey the consequences for genuine pay for households as opposed to the national level which suggests that the real gains should come from the high income earners which the new migrant workers can collect in their place of origin. In that case, the dollar increase in pay will over gauge the welfare gains of the migrants. In such a manner, it may be contended that one extra dollar spent in high-income countries doesn't give a similar measure of government assistance as one extra dollar spent in the migrant country, since costs are higher in high-income countries.

Moreover, it should be recognized that the gains of the right to work through migration over the years has increased the size of the number of the migrant's destination Country along with a in the age-long pattern of the receiving Nations. What's more, as migrants show up with abilities and capacities, they are at any point prepared to add to the improvement of human resources of their host Country. For example, research has shown that in Nations like the US talented migrants contributed tremendously to increasing the expectations of examination and advancement, as well as the specialized and administrative improvement of the Nation (Chase, J. 2010).²⁵ According to the worldwide viewpoint, the fundamental significance and the

²⁵ J. Hunt "Skilled Immigrant's Contribution to Innovational and Entrepreneurship in the United States", Open for Business: Migrant Entrepreneurship in OECD Countries, (OECD Publishing Paris, 2010), available at: <<https://www.dxdor.org/10.1787/978926095830-en>> accessed 4 June 2022.

acknowledgment of the option to deal with relocation have turned into an issue of expanding significance which has been reflected in a few scholastic examinations, reports, or potentially scholarly examinations verging on the topic. This improvement shows that immigrant employees added to the development and advancement in their country of residence, while the related advantages of their Nations have forever been their settlements and the talented and experience procured during their visit in their Nation of home. However, the course of migration remained mind-boggling and testing with regards to administration structure, transient laborers security, improvement and relocation linkages, as well as worldwide concurrence with different Nations all around the globe.²⁶

3. LIMITED SCOPE OF THE RIGHTS TO WORK UNDER THE CONVENTION

The Convention on the Rights of Migrant Workers consolidates migrant workers' right to work, yet it also has several flaws. In contrast to popular belief, it is therefore feasible to argue that the Convention does not extend to the point where penalties or other consequences are imposed on States that violate its provisions. Consequently, there has been a persistent disrespect for and on-going infringement of migrant workers' rights in their countries of residency. These, however, do not imply that the global initiatives to improve migrant workers' protection have been ineffective, as evidenced by the ratification and implementation of the new Conventions on the Rights of Migrant Workers (Convention on the Right of Migrant workers and member of their families 1990).²⁷

While it is clear that within the context and circumstances surrounding migrant workers' rights, it must be emphasized that amongst the factors that most strongly influence labor migration around the globe in recent years along with significantly contributed to marginalization of the ICRMW rights- based approach has always borders on unusual immigration along with issues

²⁶International Labour Organization, labour migration, available at: <<https://www.ilo.org>> accessed 4 June 2022.

²⁷ The Convention on the Rights of Migrant Workers and Members of Their Families (adopted).

of trafficking in persons. Nevertheless, the principles has explicitly granted approval to irregular or undocumented immigrants who are categories of persons oftentimes ignored by the previous treaties. Importantly, it may be argued that the ICRMW laid emphasis on undocumented immigrant's rights by demonstrating such overbearing powers of the sending Countries in the drafting procedure, which oftentimes made destination Countries to object to the ratification process.²⁸ Indeed, there is are several views suggesting that it is a very vital issue that has shown that convention never encouraged irregular nor does it recommend their regularization process.²⁹ However, traditional view has held that the only way to address irregular migration is for States to take appropriate action when they find themselves in a situation where migrant workers and their families are present within their borders and need to ensure that the situation is under control. This includes stopping and eradicating unauthorized or secret movements and engaging immigrant employees who are in an irregular situation.³⁰ The conventional view, however, has been that only States are required to address irregular migration by preventing and eliminating illegal or covert movements and engagement of migrant workers who are in an irregular situation, as well as State taking appropriate measures when there are migrant workers and members of their families within their territories in an irregular situation to ensure that such a situation is under control.³¹

In other words, it should be noted that the convention's position on irregular immigrant employees is somewhat contradictory given that it calls for preventing unauthorized movements across borders, while also stressing the need to safeguard the rights of undocumented immigrants. Second, the problem of human trafficking presents a significant

²⁸ S. Vuceti, "Democracies and International Human Rights: Why is There No Place for Migrant Workers?" (2007) 11 *International Journal of Human Rights* 4, 403-28.

²⁹ International Convention on the Rights of Migrant Workers and Members of their Families (adopted by the GA Res. 45/158 of 18 December 1990), Article 35.

³⁰ *Ibid*, Article 68.

³¹ *Ibid*, Article 69.

obstacle to the freedom to labor via migration. The UNCTOC, 2000³² and its Protocol against the trafficking of immigrants by Land, Sea, and Air,³³ as well as the Protocol to Prevent, Suppress, and Punish Trafficking in Persons Particularly Women and Children,³⁴ were adopted as a result of the widespread consensus on the need to end cases of smuggling and trafficking. It also touches on the topic of how migration is portrayed in culture. It is clear that a cultural environment that presents significant obstacles to migration frequently complicates the ratification of the ICRMW. Indeed, there have been a lot of criticisms leveled at how migration is portrayed in culture. For instance, it's important to consider whether the racist sentiments and discriminatory actions observed in the interactions between natives and migrants align with the finding that a sizable portion of the citizens' destination countries have unfavorable opinions of migrants? These continue to be an unsolvable issue. One could argue that ratification entails admitting that immigrants are essential members of the society that require certain policies, even if they only temporarily reside in their new location.³⁵ Similarly, in South Africa, where ratification may portray migrant workers as opportunists, which in this context is marked by high levels of discrimination, misrepresentations of migrants as strangers are frequently observed (Yakushko, O, 2009). This reflects a number of commentators' points of view and serves as the foundation for the line of reasoning that focuses on the conflict between the rights of migrants and the states, which is especially evident when governments employ coercive tactics to manage issues of movements across borders. For example, denying entry, holding undocumented migrants, or expelling them from their host Nations. In this sense, it does appear

³² United Nations Convention against Transnational Organized Crime (adopted by the GA Res.A/RES/55/25 of 8 January 2001).

³³ Protocol against Smuggling of Migrants by Land, Sea and Air (adopted 15 November 2000), available at: <<https://www.refworld.org/docid/479dee>> accessed 9 June 2022.

³⁴ Protocol to Prevent, Suppress, and Punish Trafficking in Persons Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime (adopted 15 November 2000), available at: <<https://www.refworld.org/docid/4720706c0.html>> accessed 9 June 2022.

³⁵ G. Alonso Meneses, "Human Rights and Undocumented Migration Along the Mexican- US Borders" (2003) 51 UCLA Law Review, 267-81.

that these practices will be difficult to implement with the utmost respect for the rights of migrants. Therefore, in actuality, these do not constitute human rights violations (Meneses, G.A., 2003, pp. 267-81).³⁶

Evidently, it is widely accepted that a number of factors that are systematically addressed as law and order issues—such as the emphasis on border control, irregular migration, or trafficking issues—have a significant influence on modern attitudes toward migration (Berthold, P. et al. 1992, PP. 668–670). Recall that the UNGA established the first World Conference to address issues of racism and racial discriminations as a result of the connection between discrimination against migrants and discrimination based on race (ICERD, 1965). Also, States are required to take into account the importance of having an international convention that will oversee migrant rights in this regard. Comparably, given the difficulties associated with exercising the right to work through migration, it has been observed that the main barrier to broader ratification of the ILO and ICRMW has always been States' lack of political will to grant non-citizen workers the same fundamental protections under the law as citizens (Taran, P.A 2009, pp.150-168).³⁷ Therefore, there is need to ensure the execution of a right-based approach that will include ratification of ILO global work guidelines on immigrant employees,³⁸ as well as the traditional adoption of governmental regulations to global criterion as well as its effective implementations.

Also, weak labor market institutions contributes to high level inequalities in many countries of the world which led to job insecurities and major threats to the affected individuals and to the society as well. (Berg, J. 2015: P. 1-36). In this sense, it may be argued that if a country is determined to encourage equality, it then needs to strengthen its labor market institutions. This

³⁶ UN Doc.A/33/262/Section 11 Programme of Action at Paragraph 14(v).

³⁷ P.A. Taran, *The Need for a Right- based Approach to Migration in the Age of Globalization*, (Cambridge University Press 2009),150, 168.

³⁸ The Convention Concerning Migration for Employment (Revised), 1949(No.97) and The Migrant Workers (Supplementary Provisions) Convention 1975(No.143) Covering Emmigration, Immigration, and Transit, applies to those who migrate from one Country to another in search of a job that is not self-employment.

has been evidenced, for example, in the employment methods where recruitment practices by personal employment organizations along with other independent or sub-independent hirers are not well coordinated either in migrant's place of origin or at his destinations Countries which oftentimes results to the violations of personal as well as employment freedoms of immigrant employees. Furthermore, while recognizing these deficiencies, it should be noted that strengthening public employment services at all levels of government could help in guaranteeing dignity for employment freedoms of immigrant employees especially while in their place of residence (OECD: 2015, P.6). In addition, non-integration or insufficiency of immigrant employees in labour unions or contract bargaining procedures has been viewed as a notable factor that affects the working conditions of immigrants employees especially on their salaries, period of work or employment security and wellness (ICRMW: 1990, Article 40(1)&(2)). It should also be noted that the major fact behind this approach is that some Nations of the world does not allow immigrant employees to be integrated in their labour organizations (Mario, S. 2015, P.1). For this reason, migrant workers are completely excluded from labour organization's activities that affects their corporate interest.

4. HUMAN RIGHTS IMPLEMENTATION INSTRUMENTS IN THE UN SYSTEM

According to Janusz Symonides³⁹

A significant issue the of human rights implementation instruments along with the process as provided in the UN systems is that it integrate agencies or processes that clearly or specifically concerned about the right of human persons in the UN instruments.

³⁹ J. Symonides, Human Rights: Concept and Standards, (Ashgate Paris UNESCO, 2000),56.

These agencies along with the processes encompassed charter based agencies, treaty-based agencies, specialized agencies formed or integrated into into UN principles.

In light of the above discourse, this paper examines only treaty-based implementation instruments along with the processes involved in the implementation of human rights of migrant employees in the UN instruments.

a. Council on Immigrant Employees

Creating and promoting awareness of the relevance and existence of ICRMW along with the encouragement States to be contracting parties to ICRMW are one of the notable objective of the council. It is imperative to highlight that the Council has determined that it is essential to support States in ratifying the security of immigrant employees along with their families' human rights (ICRMW, 1990). The Council places emphasis on the majority of countries' reluctance or lack of interest in the convention, denouncing this approach and urging them to demonstrate a stronger commitment to its application without discrimination based on the human rights norms that they have already acceded to under other fundamental international human rights instruments. Also, the paper revealed that restrictions on the freedom of adult immigrants adversely affect the rights of their children, as well as non-regularization policies that also contributes to the discrimination of immigrants. In this respect, it worth noting that issues of discrimination in turn denied immigrant children basic right to sufficient living standards (UNICEF, Economic, Social and Cultural Rights of Migrant Children, 2010). It is respectfully maintained that the Council concerns itself on the relevance of acknowledging that immigrants are human beings who as well are holders of rights (UDHR, 1948: Article s 1&2), and not chattels in that a human rights-based procedures is advantageous for the general interest

of those engaged in cross- border movement for employment purposes. Additionally, Council members acknowledged that in order to improve migrant workers' and their families' integration into their countries of residence and allow them to contribute to the economic growth and development of those countries, human rights protection and the prevention of discrimination are crucial (ICRMW, 1990; Articles 8(1)&(2)). In this regard, the committee emphasized how critical it is to investigate strategies for achieving the portability of social security and pension benefits and to enhance migrant workers' access to the legal system in their country of employment in the event that they have unresolved wage or benefit claims.⁴⁰ Having said that, it should be highlighted that, in addition to reducing the disparities in treatment experienced by migrant workers, the preservation of their entitlement to social security is seen as an essential concern (Hirose, K 2011, P.7). In a similar vein, the committee noted that immigrants are foremost rights holders and instrumental in the advancement of human society. Therefore, in accordance with UDHR and State obligations under fundamental international human rights treaties, the Council are meant to address issues of movements across borders from human rights approach.

b. Council on the Eradication of all Forms of Racial Discrimination

This is another organ vested with the responsibilities of ensuring the implementation of the CERD, 1965 on racial discrimination around the globe. This Council was established in 1969 and constituted under Article 8 of the Convention.⁴¹ Furthermore, with the increasing desire of reducing racial discriminatory practice around the globe, Article 11 of the Convention establishes an inter-state communication procedure, where a State parties lodged their complaints against another member state that is yet to take steps in the enforcement of the treaty by way of initiating formal communication to the Council complaining about it (Ibid). The

⁴⁰The Committee's Annual Report to the General Assembly, 2006 A/61/48.

⁴¹ International Convention on the Elimination of Racial Discrimination (adopted by the UNGA Res.2106 (XX) 21 December 1965 and entered into force 4 January 1965), Article 8.

Council received and reviewed correspondences from individuals or groups alleging they have been violated by a State party of any of the rights guaranteed by the Convention under this optional procedure. Interestingly, Article 1(2) of the ICERD, 1965 prohibits discrimination based only on nationality.

However, there is evidence of discrimination against migrants in the areas of housing, education, social security benefits, and public service accessibility. Additionally, there is discrimination among migrants based on their nationality or the type of work they have performed. Furthermore, xenophobic policies and actions encourage violence and discrimination against migrants, which frequently result in anxieties or socioeconomic crises for which migrants are held accountable (Ruteere, M. A/HRC/20/33/ Para. 28). It is noteworthy that the Council is primarily concerned about non-citizens exercise of their fundamental rights, particularly the right to personal security and the rights to economic, social, and cultural freedoms. Additionally, the paper revealed that the convention takes into consideration when evaluating the effects of immigration laws or any other legislation affecting foreign nationals. This is particularly important when there is a significant influx of immigrants and refugees from nearby nations, as this could lead to challenges with implementation.

Without a doubt, the Council placed a strong focus on the regularization of undocumented migrant workers in order to make it easier to implement the convention's provisions regarding individuals without status. It may be argued that policy decisions occasionally fail to consider global evidence, which places emphasis on the idea that migration has no detrimental economic effects on the countries in which migrants reside (Ghosh, B. Geneva; IOM, 2011).

c. International Covenant on Civil and Political Rights (ICCPR)

In this context, the committee's concerns are making sure that migrants are neither forcibly deported nor placed in unlawful detention. For example, undocumented migrants ought to respect the non-refoulement principles and be granted access to human rights organizations

and legal counsel. The committee also recommended that laws prohibiting hateful and xenophobic speech be passed. The committee has determined that the main concerns of non-nationals in general and undocumented migrant workers in particular are different forms of discrimination on the access to the rights guaranteed in the covenant. Therefore, the committee suggested that all migrant workers have unrestricted access to their civil and political rights.

d. International Covenant on Economic, Social and Cultural Rights (ICESCR)

This Council in this regard is tasked with the execution of all the conditions of recruitment, worker's salaries, health care and parental aids; retirement aids; unemployment aids; workplace safety along with ability to partake in labour organizations by all individuals be it citizens or non-citizens. In this sense, States are encouraged to provide for sanctions for employers who does not comply with the conditions of recruitment, preventive measures; reparations of casualties of abuses; freedom for foreign workers of making a choice of employer during their stay and or to renew their employment at the expiration of their contract. On this basis, Council appreciates reciprocal accords for authorizing provisional employment in other to legally guarantee their safeguard from any kind of abuses .

In this respect, it should be noted that ICESCR was accepted by the UNGA in 1966 and legally enforceable on the contracting parties who consented to it by way of confirmation or by assenting to it. Also, it applicable to persons within the territorial boundaries in an impartial or neutral basis arising from ones identity, expression; denomination ; partisan; social origin; birth or other status (ICCPR, 1966: Article 2(1). Also, there is equality for all to be happy along with satisfactory working environment (Ibid, Article 7-10). More importantly, the Covenant grants the approval for the formation of or enrollment as members of labour organizations (ICCPR, 1966, Articles 8 &. 22). Interestingly, the question now is, if ICESCR along with other Covenants guaranteed everyone's workplace safety, freedy; supportive job atmosphere; labour organization liberty; adequate safeguard at work place amongst others, then why has countries

like UK along with Kingdom of Saudi Arabia are not complying with above provisions of the Covenants?

d. Council on the Eradication of Discriminatory Practices against Women

Apart from the above highlighted issues of conceptualizing and operationalizing human rights of undocumented immigrants outside their place of origin, CEDAW must also be put into effect by this Council. Article 17 of the Convention established the committee. In this context, member States are required to report to the Council through the Secretary-General of the UN on the constitutional, administrative, judicial along with similar strategies established to support the guidelines of the convention or any development made thus far in that regard. This reporting procedure is one of the significant aspects of the committee's implementation mechanism under this Convention.

Thus, in the realm of smuggling along with abuse of immigrant women which has remained the major concerns of CEDAW, the important factor to be noted is that the Council considers the susceptibility of female to smugglers as being a major issue as a result of the poor economic situation in migrant's place of birth and approved that women should be encouraged economically and this will serve as a possible solution to the smuggling of women. The measures suggested to stopped smuggling includes awareness-raising campaigns; explanation of sexual abuse and smuggling in criminal codes as serious offences, global, sectional and mutual collaborations between nations of birth, passage, and target; endorsement of all-inclusive governmental actions capable of addressing issues of avoidance, arraignment; improvement; regulations along with restrictions of sexual exploitative ventures found around the globe.

However, another reason for the emergence of this Council is its primary concern in the ratification of the UNCTOC⁴² and its Protocols,⁴³ i.e. The Protocol to Prevent, Suppress and Punish Trafficking in Persons(PPSPTP) particularly women along with Children. Also, The Protocol against the Smuggling of Migrants by Land, Sea and Air.⁴⁴ Moreover, there is an alternative protocol to the convention that is responsible for the eradication of all manners of distinction against womenfolk that introduced two alternative processes. The first is individual communications which allowed womenfolk to present petition for abuse to the Council, and second, creating an inspection strategy that will assist the council in initiating probes into conditions of organized and grave abused of the rights of womenfolk around the globe.

In light of the above development, States are obliged to ensure that there is no disparities amongst the citizens and non-citizens in the discharge of their legitimate functions along with any actions taken to achieve a particular objective must be proportional and acceptable (Girls Yean and Bosico v. Dominican Republic, 2005, No.130, Para.155). What the above suggests is for States to ensure its laws, regulatory frameworks and governmental practiced does not imposed any form of discrimination against migrants either formal or substantive discrimination (See CESCR, General Comment, 2009 no.20, para. 9).

e. Council Against Torture

The overall concept of the constitutional rights council under human rights instruments is to ensure full operational of CAT which was established in 1987.⁴⁵ In this sense, Article 19 of the Convention therefore established a reporting communication link with member States primarily concerned with implementation strategies to be used by them. The emergence of this

⁴²United Nations Convention against Transnational Organized Crime (adopted by the UNGA Res. A/RES/55/25 of 8 January 2001).

⁴³ Protocol to the United Nations against Transnational Organized Crime (adopted 15 November 2000), available at: <<https://www.refworld.org/docid/4720706c0.html>> accessed 9 June 2022.

⁴⁴ The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (adopted 15 November 2000).

⁴⁵ Protocol against the Smuggling of Migrants by Land, Sea and Air(Supplementing the United Nations Convention against Transnational Organized Crime, adopted 15 November 2000).

Convention aimed at improving the condition of migrant workers against harmful practices along with unnecessary application of forcible measures or unjust proceedings by the security operatives in their dealings with non-citizens. A number of recommendations are made in light of the difficulties in combating these harmful proceedings, including training on human rights and the Convention against Torture, setting up an independent mechanism for following up on complaints and conducting prompt investigations, offering victims' legal aid, and awarding damages when necessary. Furthermore, domestic legislation should acknowledge the absolute protection afforded by Article 3 of the CAT,⁴⁶ which is based on the principle of non-refoulement, which prohibits deportation of individuals who face torture upon returning to their country of origin. The prohibition of cruel treatment and the use of excessive force during forced removal, as well as the prohibition on the return of long-term residents who have most of their ties to the recipient country or to a country with which the return has no significant ties, are further principles that should be codified into national legislation.

In essence, this Convention places a strong emphasis on the ban on terminating migrant workers due to pregnancy. That being said, the main goal of the Convention is to guarantee that all States parties get rid of discrimination against women in the workplace (CEDAW, 1979, Article 11).

f. Council on the Rights of the Child

Another notable implementation organ provided for under the Convention on the CRC⁴⁷ was established in 1991. The Council originally had ten professionals of an impeccable character who are qualified in their areas of competence as required by the convention. The major implementation mechanism in this convention is a reporting procedure by contracting parties of the council through the UN Secretary -General. This council's primary objective is to

⁴⁶ Convention against Torture, and other Cruel, Inhuman or Degrading Treatment or Punishment (adopted by the GA Res 36/46 of 10 December 1984 and entered into force 26 June 1987), Article 19.

⁴⁷ Ibid.

examines the framework of prohibitive nationality , delay in nationalization process and the challenges of regularization of non-citizens. In this case, member States are obliged to record the birth of every child including that of the irregular immigrants, irrespective of their non-nationality status in order to prevent refugee situations along with access to their basic freedoms.

The aforementioned point is significant because, in contrast to other national children, migrant children are more frequently employed to perform covert labor, primarily in domestic and agricultural settings, or illegal activities. This raises concerns about child labor and the economic exploitation of migrant children. It suggests that States ratify ILO convention No. 138 on legal age permitted to engaged in an occupation or work.⁴⁸ and that research be done on minors working in hazardous jobs. The committee also voiced its concerns about the absence of legal representation in the juvenile justice system, the lack of proper structures for health and education, and the absence of an independent body to oversee the conditions of incarceration.

While the committee's positive viewpoints are not claimed to be the only way to guarantee that the advancement of children's rights under international law is assured, they have offered a solid foundation for comparison and the selection of best practices. Therefore, it is crucial that the committee use the information provided by Articles 44 and 45 of the Convention⁴⁹ to make general recommendations and suggestions. These recommendations and suggestions must be sent to any State party that may be affected and will be reported to the General Assembly along with any additional remarks as needed.

5. COMPARATIVE REVIEW

⁴⁸ Convention on the Rights of the Child(adopted by the UNGA Res.44/25 of 20 November 1989 and entered into force 2 September 1990), Article 43(1).

⁴⁹ International Labour Organization Convention No.138 on Minimum Age for Admission to Employment (adopted 26 June 1973 and entered into force 1976).

The need to understand the relevance of constitutional rights of immigrant employees along with their deserved protections necessitated the events that occurred during the first and second world wars. To effectively address this point, examples can be drawn from the practice in other culturally diverse foreign Jurisdictions such as UK along with Saudi Arabia bordering on employees freedom at workplace without any discriminations.

5.1 Immigrant Employees in UK

In general, Human Rights Watch has documented a wide range of abuses against immigrant household employees in UK that have been declared criminally liable under the UK Law. These abuses include forced labor, physical along with psychological abuses.⁵⁰ Examining some of the components that make up force labor as defined by international law may be made easier by having a better understanding of how force labor affects immigrant household employees in UK. It should be highlighted that, despite its widespread use, there is no system in place in UK to verify whether employers are upholding the rights of immigrant household employees along with those employed in the Country under the new visa regulation. Human Rights Watch believes that employees may be reluctant to report mistreatment to the police if they fear losing their documentation if they quit their jobs. The paper revealed that in the UK immigrant employees are faced with structural injustice and exploitation. Given the unique circumstances of migrant workers in the country, it is important to emphasize the measures provided in several treaties and conventions to ensure adequate protection of migrant workers' rights against discriminatory practices (Young, 1990).

The understanding of exploitations here, based on Young's analysis above, suggests that there are economic disparities where class distinction is paramount (Young, 1990, P. 48–49). It can be argued that, in this context, given that, according to research conducted in the United Kingdom, 80% of employment-related disputes are the result of contracts signed by the parties,

⁵⁰ See Human Rights Watch Meeting with UK Home Office Officials, London, January 29 2014

especially in the highly deregulated British labor market. This shows that emphasizing collective bargaining principles could be a key strategy for helping employees fight against exploitative behaviors. Additionally, the study noted that stigmatization and discrimination are the main reasons why migrant workers in the United Kingdom are assigned menial jobs (Anderson, 2000, P.141-142).

While the UK passed the Coroners Act in 2009, which went into effect in April 2010, outlawing slavery, servitude, and forced or compulsory labour, a law that also applies in cases where there is no smuggling. It is crucial to emphasize that this legislation does not address the issue of forced or compulsory labor. The International Convention on the Rights of Migrant Workers, among other things, forbids submitting migrant workers or members of their families to slavery or servitude, or to being forced to perform certain jobs that are inhumane or degrading.⁵¹ This is noteworthy given that the guidance also notes that other indicators of forced labor include excessive working hours imposed by the employer, substandard housing, and isolation from other people. It is important to remember that migrant workers in non-regular situations encounter a number of difficulties, including those related to their right to work, social protection, health, and forced labor in their home country (ILO, 2017c, Para. 39). Once more, numerous human rights treaties and instruments provides that States should forbid cases of torture or cruel, inhuman, or degrading treatment or punishment.⁵² However, it is a fact that the United Kingdom is required by its domestic law, international treaties it has ratified, and the European Convention on Human Rights⁵³ to prohibit slavery and forced labor, which means that the country must protect its citizens from all forms of abuse while they are on British soil. On the basis of this, as was previously shown, one could argue that the United

⁵¹International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (adopted 18 December 1990), Article 11.

⁵² 53 ICRMW, Article 52.

⁵³ See UK Immigration Rules, 1994, Para.134.

Kingdom's extensive list of options for protecting migrant domestic workers falls short of providing adequate protection from abuse and exploitation.

However, there appears to be a clear conflict between the provisions of Article 52 of the International Convention on the Rights of Migrant Workers,⁵⁴ which stipulates that migrant workers in regular situations must have the freedom to choose their employment after no more than two years, with the possibility of national preference for a maximum of five years. However, it is asserted that the standard position has been that people employed under work permits and successor schemes have only been allowed to work for specific employers. Currently, rather than four years as in previous years,⁵⁵ such migrant workers must obtain permanent residence for five years in order to have a free choice of employment. In addition, it should be noted that there are restrictions on migrant workers' entitlements in the United Kingdom when it comes to equality of treatment in social benefits, which is guaranteed by Article 43 of the Convention on the Rights of Migrant Workers⁵⁶ and calls for migrant workers in a regular situation to have equality of treatment with regard to housing, social and health services, and education for their children (Triandafyllidou and Bartolini, 2020).

In a similar spirit, Article 25 of the Convention⁵⁷ guarantees equal rights to all migrant workers, regardless of their employment status, with regard to compensation and other terms. It is noteworthy that the provisions of the Convention regarding irregular work by migrants are significantly more lenient than those of British law in this regard. The necessity for the UK to ratify the Convention would, of course, differ from the country's general immigration policy of avoiding multilateral commitments, but it would have a substantial impact on immigration policies. It is important to draw attention to the fact that certain provisions of UK immigration

⁵⁴ ICRMW, Article 43.

⁵⁵ Saudi Arabia Basic Laws 1992, Articles 26, 37 and 43.

⁵⁶ The Slavery Convention (adopted 25 September 1926, 60 LNTS 253 Reg. No.1414, and entered into force 9 March 1927), available at: <<https://www.refworld.org/docid/3ae6b3fb.html>> accessed 9 June 2022.

⁵⁷ The Vienna Convention of the Law of Treaties, (adopted 23 May 1969, UNTS Vol. 1155, p.331 and entered into force 27 January 1980).

law may incite and enable discriminatory actions against immigrants, especially, on the areas where landlords or employers not conversant with their obligations as it relates to migrants (Joint Council for the Welfare of Immigrants v. Secretary of State for the Home Department, 2019). In this instance, however, it was discovered that the Government Rights to Rent Scheme, which requires landlords to verify the immigration status of their tenants, promoted discriminatory practices and was deemed to be in violation of human rights standards (Human Rights Act, 1998). The study also showed that the migrant's sense of discrimination among his peers in the UK has an impact on his mental health (Nandi et al. 2020), sense of belonging in society, and outlook on life (Safi, 2010).

5.2. Immigrant Employees in Saudi Arabia

It is well-known that, in spite of encouraging advancements and the necessity for improved enforcement of the International Convention on the Rights of Migrant Workers in Saudi Arabia, a number of detrimental practices targeting migrant workers in Saudi Arabia have resulted from a failure to comply with the Convention. Domestically, the Saudi government is required by law to protect all residents of the country, including nationals and foreigners, from harmful customs, prejudices, and violations of human rights, such as arbitrary detention, prolonged isolation, detention without trial, torture, and unfair trials. Notably, the 1992 Royal Decree-adopted Basic Law guarantees the rights and security of both Saudi citizens and foreigners residing in Saudi Arabia.⁵⁸ However, it can be argued that the Kingdom of Saudi Arabia's treatment of migrant workers violates the most fundamental legal and human rights protected by international law and customs, despite the provisions of the International Covenant on Economic, Social, and Cultural Rights, the International Labour Convention on

⁵⁸ The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (adopted 10 December 1984, UNTS, vol.1465, p.85 and entered into force 26 June 1987).

the protection of Migrant Workers Rights, and the Universal Declaration of Human Rights (Euro-Med Monitor, 2020).

Addressing any gap in protection that may likely occur, it is imperative to understand that those rights approved by the Fundamental Laws are complimented with supplementary rights which Saudi Arabia promised to championed as contracting parties to international human rights treaties. This comprised of the Slavery Convention (SC),⁵⁹ Vienna Convention on Consular Relation(VCCR),⁶⁰ Convention on the Rights of the Child(CRC),⁶¹ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT),⁶² Convention on the Elimination of All Forms of Racial Discrimination(CERD),⁶³ along with Convention on the Elimination of All Forms of Discrimination against Women(CEDAW).⁶⁴ Interestingly, all these treaties forms part of the Saudi Arabia's national regulations and can be enforced in Sharia Courts or other constitutional along with governmental agencies or bodies. This remained essential in promoting the principle of complementarily, or the notion that national systems can and should take responsibility for the prosecution of international crimes. While recognizing Saudi Arabia's pledged to uphold international human rights treaties as provided in its Basic Law, it must be emphasized that Saudi Arabia has not ratified the two notable human rights treaties, the ICCPR along with ICESCR (ICCPR , 1966 and ICESCR, 1966). While recognizing the position of Saudi Arabia on the freedom of immigrant employees, it must be emphasized that Saudi Arabia has one of

⁵⁹ The Convention on the Elimination of All Forms of Racial Discrimination (adopted by the UNGA Res. 2106(XX) of 21 December 1965 and entered into force 4 January 1969).

⁶⁰ The Convention on the Elimination of All Forms of Discrimination against Women (adopted by the UNGA Treaty Series, vol.1249, p.13 of 18 December 1979 and entered into force 3 September 1981).

⁶¹ International Covenant on Civil and Political Rights (adopted 16 December 1966 and entered into force 23 March 1976).

⁶² International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966 by the UNGA Treaty Series vol.993, p.3 and entered into force 3 January 1976).

⁶³ 64 Committee on the Elimination of Racial Discrimination, Concluding Observations: Saudi Arabia, CERD/C162/CO/8, March 20 2003, Article 6.

⁶⁴ ILO, "Supervision of the Activities of Authorities Responsible for the Application of Legislations on Forced Labour," in Labour Legislation Guidelines, available at: <https://www.ilo.org/public/english/dialogue/ifpdialogue/11g/index.html> > accessed 8 June 2022.

the most abusive versions of the Kafala system in the region that excludes migrant workers from other social securities and reforms (Human Rights Watch, 2021). It is fair to say that as the workers regulations in Saudi Arabia becomes effective in 1969 requiring all immigrant employees be placed on contractual employment supported with a guarantor (Saudi Arabia Labour Law, 1969, Article 49c). Given the above, it is noteworthy that an age-long challenge found in the system is the fact that lawful guarantors are not necessarily defacto entrepreneurs of immigrant employees who are engaged in menial jobs, and also the only contract with legal validity are those written in Arabic (Saudi Arabia: Bureau of Consular Affairs, Washington, D.C. 2004). Therefore, it is interesting to note that the fundamental human rights to social security in the Kingdom of Saudi Arabia and other Arab States remained unaccomplished (ILO, 2023).

Nevertheless, it was discovered that, despite being a State party to the International Convention on the Elimination of All Forms of Racial Discrimination, racial discrimination is still occurring in practice at an alarming rate in Saudi Arabia because it is still a State party to the aforementioned international conventions. The report pointed out that the government hasn't done much to give the treaty's guarantees any real-world application. The Government shall, as part of its legal obligations under this treaty, ensure that every person within its jurisdiction has access to appropriate protection and remedies against any acts of racial discrimination that violate human rights and fundamental freedoms in violation of this Convention, through the appropriate national tribunals and other State institutions. Additionally, everyone shall have the right to request from these tribunals reasonable and adequate compensation or restitutions damages incurred of such discriminatory treatment (ICESCR, 1966).

At this point, it is important to stress that Saudi Arabia's Basic Law and other regulations' general declaration of the non-discrimination against migrant workers is insufficient to meet the Convention's requirements. To put it another way, the study found that there is often no

labor relationship between Saudi nationals and migrant workers in many jobs in the country, which has a negative impact on the labor pool that Saudi private companies can use (World Politics Review, August 19, 2019). In this regard, the council suggested that Government should make regulations that expressly forbid racial discrimination and create systems to oversee how the laws are being applied. An additional concern pertains to religious discrimination, whereby non-Muslim migrant workers of other faiths are expected to adapt to the lack of alternative houses of worship for their respective faiths and refrain from displaying Christian religious symbols in public, such as Christian crosses, bulletins, and scapulars. Lastly, the International Labour Organization suggests that governments enact laws that would aid in overseeing the authorities tasked with safeguarding migrant workers from exploitative practices and/or harmful labor laws (CERD/C162/CO/8/2003, Article 6). According to the general requirement of the Convention, many of these vulnerable migrant workers—the majority of whom are women—are placed in situations that could be construed as subjecting them to slavery or compulsory labor as defined by international law when their rights to freedom of movement are denied in conjunction with a difficult work environment. Considering the foregoing is it feasible to argue—both theoretically and practically—that Saudi Arabia has violated the rights of migrant workers by enforcing its labor laws in a way that is insufficient and in violation of international conventions and treaties? Saudi Arabia, like the majority of other Gulf nations, did not prioritize the rights of migrant workers as stipulated by international human rights covenants.

6. CONCLUSION

As discussed in this paper, ICRMW administered relations between immigrant employees along with their Countries of residence through constitutional rights regulations; it also sought to ensure the safeguard of immigrant employees' constitutional rights worldwide. However, it is evident that the shifting trends in employment movements around the world necessitates the

inclusion of hitherto perspectives that during the early days of across borders movements, there were either no constitutional rights regulations or it was very constrained to address the challenges of immigrant employees' freedoms in their place of work. This paper contributed to the growing developments in the promotion of immigrant employees' rights in their place of residence. Furthermore, it has been argued that immigration offenses that are employer-focused highlights the underlying power imbalances in the precarious employment of immigrants. The difficulties identified and further described in this paper indicated that immigrant employees' constitutional rights are severally been abused or neglected in their place of residence. Therefore, one could argue that the unjustified harsh treatment of immigrant employees globally is a result of most Countries' unwillingness to ratify the ICRMW.

The regulations pertaining to the constitutional rights of immigrant employees are not without flaws, especially when it comes to how these employees are treated in their countries of residence. Therefore, it is argued that States will be appropriately guided on how to guarantee immigrant employees' rights in their particular domestic situations with the appropriate reforms and ratifications of the ICRMW. In conclusion, it is always necessary to keep in mind the environmental conditionings, the positive and negative aspects, the concerns of the host countries, as well as the global context of migration, when comprehending and addressing the constitutional rights implications of immigrant workers under global movements across borders.

However, in light of the aforementioned conclusions, the writers recommended the following: First, efforts should be made to improve and enforce human rights legislation, as well as to restructure immigration laws in the UK along with the Kingdom of Saudi Arabia. Particular attention should be paid to the efficient application of important labor conventions related to migrant workers, including the application of all ILO Fundamental Principles and Rights at Work to migrant workers and other conventions pertaining to the conditions of vulnerable

migrants. Second, in order to address labor migration issues in the UK along with the Kingdom of Saudi Arabia, which are the main subjects of this paper, it would be beneficial to encourage and embrace the complementarity between the ILO Conventions and international human rights standards. Third, in development agendas aimed at reducing marginalization and disparities between nationals and non-nationals and for the protection of human rights, the UK and the Kingdom of Saudi Arabia should support interagency coordination and work that will promote the protection of migrant workers' rights in their countries. Fourth, the Kingdom of Saudi Arabia and UK ought to take a leading role in the reformation of immigration laws that will deal with the safety of immigrant laborers. The authors are certain that putting these suggestions into practice would protect immigrant employees' constitutional rights everywhere.

REFERENCES

Alonsomeneses, G (2003), "Human Rights and Undocumented Migration Along the Mexican-United States Borders", *UCLA Law Review*, 51, pp. 267-8.

Babara, B. et al.(2000) *Irregular Migration and Human Rights: Theoretical European and International Perspectives*, Leiden: Martinus Nijhoff, p.9.

Berg J (2015) *Labour Market Institution: The Building Blocks of Just Societies in the 21st Century*, Edward Elgar Publishing Cheltenham United Kingdom, p. 1-36.

Berthold, P et al. (1992) *Rapid Microevolution of Migratory Behavior in a Wild Bird Species*. *Nature Springer* 360: 668-670.

Castles et al. (2012) *Irregular Migration: Causes, Patterns and Strategies*, In Irena Omelaniuk (eds.), *Global Perspectives on Migration and Development: GFMD Puerto Vallarta and Beyond*, Newyork: Springer.

Fitzpatrick, J (1997) The Human Rights of Migrants, in Migration and International Legal Norms, T. Alexander Aleinikoff and Vincent Chetail, pp. 169-84.

Gagnon, J (2014) Demographic Change and the Future of the Labour Force in the EU27, in other OECD Countries and Selected Large Emerging Economies. Matching Economic Migration with Labour Market Needs, OECD Publishing, Paris, 37-65.

Hirose, K (2011) Social Security for Migrant Workers: A Right- based Approach, ILO, p.7.

Hunt, J (2010) Skilled Immigrants Contribution to Innovation and Entrepreneurship in the United States, Open for Business: Migrant's Entrepreneurship in O.E.C.D Countries, OECD Publishing Paris.

Rossengaertner, S (2018), "Pathways to Protection and Permanency: Towards Regulated Global Economic Migration and Mobility", Columbia Journal of Transnational Law, 56, 2, p.284.

Symonides, J (2000) Human Rights: Concept and Standards, Ashgate Paris UNESCO, p.56.

Sohn, L.B (1982) "The New International Law: Protection of the Rights of Individuals Rather than States," 32 American University Law Review 32(1), 15-17.

Taran, P.A (2009) The Need for a Right- based Approach to Migration in the Age of Globalization, Cambridge University Press; p.168.

Triandafyllidou, A and Bartolini, L (2020) Migrant with Irregular Status in Europe; Evolving Conceptual and Policy Challenges.

Tiburcio, C (2001) The Human Rights of Aliens under International Comparative Law, The Hague :Boston, M.A; M. Nijhoff Publishers.

Hunt, J (2010)"Skilled Immigrant's Contribution to Innovational and Entrepreneurship in the United States", OECD Publishing Paris.

Available at: <<https://www.dxdorg/10.1787/978926095830-en>> Accessed 4 June 2022.

Vuceti, S (2007) "Democracies and International Human Rights: Why is there no place for Migrants Workers?" *International Journal of Human Rights*, 4, 403-428.

Yakushko, O (2009) *Xenophobia: Understanding the Roots and Consequences of Natives Attitudes Towards Immigrants*, 37 *Couns Pschol*, pp.36-66.

INTERNATIONAL CONVENTION/ TREATIES

Convention on the Elimination of Discrimination against Women (adopted by the UNTS vol. 1249 of 18 December 1979 and entered into force 3 September 1981).

Convention on the Rights of the Child (adopted by the UNGA Res. 44/25 of 20 November 1989 and entered into force 2 September 1990).

ILO, Migrant Workers (Supplementary Provisions) Convention, C143, 24 June 1975 and entered into force 9 December 1978).

International Convention on the Right of Migrant Workers and Members of Their Families (adopted by the UNGA Res. A/RES/45/158 18 December 1990 and entered into force 1 July 2003).

International Conventions/Treaties Convention on the League of Nations (adopted 28 April 1919). Available at: <<https://www.refworld-org/docid/3dd8b9854.html>>

International Covenant on Civil and Political Rights (Adopted 16 December 1966 and entered into force 23 March 1976).

International Covenant on Economic Social and Cultural Rights (Adopted by the UNGA Res. 2200 A (XXI) of 16 December 1966 and entered into force 3 January 1976).

Treaty on Versailles (adopted 28 June 1919 and entered into force 1 January 1920).

United Nations Conventions Against Transnational Organized Crime (adopted the UNGA Res. A/RES/55/25, 8 January 2001).

Universal Declaration of Human Rights (adopted by the UNGA res. 217A (III) of 10 December 1948).