



Precarious Legal Status and the Protection of Migrant Workers' Rights: An International Compliance Analysis of Algerian Law

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ABSTRACT

Labour migration is considered one of the most significant forms of human mobility today, as individuals seek to improve their living conditions by pursuing employment opportunities beyond their countries of origin. The impact of migrant workers extends beyond their personal and familial economic stability, contributing to two broader developmental goals: fostering socio-economic progress and reducing poverty in their home countries through remittances, and supporting labour market demands and economic activity in host states. Despite these vital contributions, migrant workers remain among the groups most exposed to vulnerability, owing to precarious working conditions, restrictive migration policies, and the limited effectiveness of existing legal protection mechanisms.

Against this background, this research examines the principal challenges that hinder the strengthening of legal protection for migrant workers. It further assesses the extent to which current national and international frameworks align

with the relevant international instruments, while exploring possible approaches to enhancing these protective measures to ensure the full respect of migrant workers' rights and fundamental freedoms.

INTRODUCTION

The individual's right to freedom of movement, including the right to leave one's country for any other State, is enshrined in numerous international instruments. These guarantees were first recognized in Article 13(2)¹ of the 1948 Universal Declaration of Human Rights,² followed by Article 12³ of the 1966 International Covenant on Civil and Political Rights,⁴ as well as in various instruments issued by the International Labour Organization (ILO), which aim to safeguard the rights and interests of workers, including migrant workers who cross national borders in search of employment opportunities that ensure a dignified life for themselves and their families.⁵

Given that migrant workers constitute a vulnerable category requiring protection—not only in terms of guaranteeing their right to work, but also in safeguarding their fundamental human rights due to the serious violations they often face – the International Convention on the Protection of the Rights of All Migrant Workers and

Members of Their Families⁶ was adopted. This Convention represents the first United Nations instrument specifically aimed at enhancing the protection of migrant workers' rights.

Migrant labor constitutes approximately 10% of the workforce in Western Europe and 15% in North America, while these percentages are even higher in certain African countries and the Middle East, where foreign workers make up a significant portion of the labor force.⁷ According to ILO statistics, the Arab region, including the Middle East and the Gulf Cooperation Council, hosted approximately 24.1 million migrant workers in 2019, representing 49% of the workforce in the region, compared to 4.9% globally. Furthermore, the total number of migrant workers increased to 169 million in 2021, more than triple the 53 million recorded in 2010, representing 5% of the global labor force compared to less than 2% in 2010.⁸

The need to enhance the protection of migrant workers and supervision of the implementation of adopted measures is pressing, beyond ensuring adequate working conditions and social security coverage.⁹ While the rights

1 It states: "Everyone has the right to leave any country, including his own, and to return to his country".

2 UN General Assembly, Universal Declaration of Human Rights (A/RES/217A(III), 10 December 1948). <https://www.un.org/ar/about-us/universal-declaration-of-human-rights>.

3 It provides: "Everyone has the freedom to leave any country, including his own".

4 UN General Assembly, International Covenant on Civil and Political Rights (A/RES/2200A(XI), 16 December 1966) entered into force 23 March 1976. <https://www.ohchr.org/ar/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>.

5 Ali Al-Din Ahmed, R. (2018). The legal status of the migrant worker: A study in light of the rules of international treaty law and national legislation. *Journal of Legal and Economic Research*, 65, p. 21.

6 UN General Assembly, International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (A/RES/45/158, 18 December 1990) entered into force 1 July 2003. <https://www.ohchr.org/ar/instruments-mechanisms/instruments/international-convention-protection-rights-all-migrant-workers>.

7 Muslim, S., Hadiwinata, K., Khoirunnisa, R., Hadiyantina, S., Ayub, Z. A. (2024). ILO conventions and migrant workers: Construction of protection in national labor law. *NURANI: Jurnal Kajian Syari'ah dan Masyarakat*, 24(2), p. 303. <https://doi.org/10.19109/nurani.v24i2.22152>.

8 International Labour Organization. (2021). ILO global estimates on international migrant workers: Results and methodology (3rd ed.). <https://www.ilo.org>.

9 Servais, J.-M. (2019). *International migration and*

of migrant workers are widely addressed in international law, there is a paucity of research examining how precarious or irregular legal status constrains the effective realization of these rights within national legal frameworks, particularly in North African countries such as Algeria. Compared to national workers, migrant workers face numerous challenges arising from the legal frameworks of host States, which create additional barriers to accessing their internationally guaranteed rights.

Accordingly, this study seeks to fill this gap by analyzing the relationship between the legal status of migrant workers and the protection of their rights in Algeria, identifying the legislative and institutional factors that limit the practical enforcement of rights for both documented and undocumented workers. This research aims to contribute to scholarly understanding of how precarious legal status impacts the enjoyment of labor rights, and to provide practical recommendations for strengthening legal protections for all migrant workers.

In this context, the study addresses the following central research question: To what extent does the precarious legal status of migrant workers affect their ability to enjoy legal protection within the Algerian legal system?

To address this central question and its related inquiries, this research paper is structured into two main sections: 1. **Migrant workers and the foundations of international protection**; 2. **Protection of migrant workers in national legislations and the challenges they face**.

METHODOLOGY

The study is based on a doctrinal legal analysis, examining key international legal instruments concerning the rights of migrant workers, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, ILO Convention

No. 97 of 1949, and ILO Convention No. 143 of 1975, in addition to Algerian national legislation on foreign labor and relevant interpretative documents.

The research combines descriptive and analytical methods, relying on primary sources such as international and national legal texts, alongside academic studies and official reports. This approach aims to identify legislative gaps, elucidate the legal challenges faced by migrant workers, and formulate practical recommendations to strengthen the protection of their rights.

Algeria has been selected as the case study country due to its relevance as both a typical and a critical example among migrant-receiving states. On the one hand, Algeria represents a typical case insofar as it hosts a significant population of migrant workers while operating within a legal framework characterized by restrictive migration policies and fragmented regulation of foreign labor—features commonly observed in several migrant-receiving countries. On the other hand, it constitutes a critical case because it reveals systemic challenges in reconciling formal international legal commitments with effective domestic implementation. The persistence of a precarious legal status for migrant workers, coupled with limited enforcement mechanisms, highlights structural gaps between international standards and national practice. Analyzing the Algerian legal framework therefore allows for a meaningful assessment of compliance with international obligations and provides insights into broader structural issues affecting migrant workers' rights in comparable legal systems.

The study does not employ quantitative or statistical methods; instead, it focuses on legal text analysis, comparative legislative review, and the exploration of the legal and rights-based dimensions of migrant worker protection, while providing actionable recommendations to enhance the effective implementation of international standards at the national level.

labour law. Journal of Comparative Labour and Social Security Law, 4, p, 59. <https://doi.org/10.4000/rdctss.1326>.

Migrant Workers and the Foundations of International Protection

Before examining the foundations of international law in shaping the legal protection afforded to migrant workers, it is essential first to clarify the concept of a migrant worker. Who qualifies as a migrant worker? Does this term encompass both regular and irregular workers?

The Conceptual Definition of Migrant Workers

The definition of a migrant worker is provided in Article 2(1) of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which states:

“A migrant worker is a person who is to be engaged, is engaged, or has been engaged in a remunerated activity in a State of which he or she is not a national”.

To avoid potential overlaps or ambiguities, Article 3 of the same Convention provides a list of categories of persons to whom the definition of a migrant worker does not apply. These include: officials of international organizations; government officials; persons sent or employed by a State, or on its behalf, outside its territory; persons participating in development programmes or other forms of cooperation; investors; refugees and stateless persons; students and trainees; and seafarers and workers on offshore installations who have not been authorized to reside and engage in remunerated activities in the State of employment.

Furthermore, the Convention provides a specific definition of the concept of family members of migrant workers, particularly since it is formally entitled “The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families” Article 4 states:

“...the term ‘members of the family’ refers to persons married to migrant workers or hav-

ing with them a relationship that, according to applicable law, produces effects equivalent to marriage; as well as their dependent children and other dependent persons who are recognized as members of the family in accordance with applicable legislation or relevant bilateral or multilateral agreements between the concerned States”.

Notably, this article relies heavily on national legislation, granting State Parties flexibility in determining who qualifies as a family member under their domestic legal systems. However, this approach may result in significant disparities in protection between States, potentially creating situations of discrimination or depriving certain categories of individuals of the rights guaranteed under the Convention.

The Foundations of International Protection for the Rights of Migrant Workers

The discussion of the right to work necessarily leads to the International Labour Organization (ILO), established in 1919, which is exclusively mandated to protect the rights of all individuals who possess the status of “worker”, regardless of their legal position, including migrant workers, whether in a regular or irregular situation. The ILO has adopted several instruments dedicated to this category, notably:

Convention No. 97 of 1949 on Migrant Workers¹⁰

This was the first ILO Convention to focus exclusively on migrant workers.¹¹ It entered into

10 International Labour Organization (ILO). *Migration for Employment Convention (Revised (No. 97, 1 July 1949))*, entered into force 22 January 1952. https://www.ilo.org/sites/default/files/wcmsp5/groups/public/%40ed_norm/%40normes/documents/normativeinstrument/wcms_c097_ar.pdf.

11 Al-Kalash, L. M. H. (2018). *International and national freedoms and fundamental rights of migrant workers*. Master’s thesis, College of Law, Middle East University.

force on 22 January 1952 and comprises 32 articles and three annexes. The Convention emphasizes the necessity of respecting the principle of equality of treatment between migrant workers lawfully present in the host State and the nationals of that State regarding their rights and guarantees. It further requires that migrant workers be allowed to transfer their earnings and savings and mandates the establishment of medical units responsible for verifying the health conditions of migrant workers both upon departure and upon arrival.

Although Convention No. 97 suffers from a low ratification rate, it has nevertheless played a fundamental role in shaping the legal discourse on migration and continues to influence bilateral labour agreements. This Convention served as a precursor to later instruments, such as Convention No. 143 and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW). Its legal provisions continue to function as a normative reference in ILO jurisprudence and in contemporary migration policies.

Convention No. 143 of 1975 concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers¹²

Adopted on 24 June 1975 and entering into force on 3 December of the same year, this Convention comprises 24 articles. Through this instrument, the ILO underscored the necessity of respecting the human rights of all migrant workers, eliminating clandestine migration for employment, and combating the irregular employment of migrants. It also introduced an

important provision—absent from earlier instruments—in Article 8, which stipulates that the loss of employment by a migrant worker lawfully residing in the State shall not affect his legal status, nor shall it, under any circumstances, lead to the withdrawal of his residence permit.

The Convention reinforces the principle of equality of opportunity and treatment regarding the working conditions of migrant workers lawfully present in a State's territory.¹³ It calls upon States to adopt all necessary measures to prevent the unlawful employment of migrant workers and to facilitate the reunification of their families, including spouses, children, and parents. Furthermore, the Convention ensures that migrant workers – including those in an irregular situation – have the right to present their claims before a competent authority in disputes concerning their rights. This provision is vital to guarantee that all workers, regardless of their legal status, can access legal remedies and are protected against exploitative practices by employers.

It is evident from this Convention that it establishes a precise distinction between the rights granted to irregular migrant workers and the broader labour and social entitlements guaranteed to those in a regular situation, aiming to balance humanitarian protection with the sovereign prerogatives of States in regulating migration. While the Convention's legal character is widely recognized, its practical impact has been affected by the limited scope of ratification.

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)

Following the United Nations' affirmation that the promotion and protection of the rights of migrant workers are fully aligned with human rights principles, the International Convention

ty, Jordan, p. 57.

12 International Labour Organization. Migrant Workers (Supplementary Provisions) Convention (No. 143, 24 June 1975) entered into force 9 December 1978. https://www.ilo.org/sites/default/files/wcmsp5/groups/public/%40ed_norm/%40normes/documents/normativeinstrument/wcms_c143_ar.pdf.

13 Al-Kalash, Op.cit, p. 61.

on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW) was adopted in 1990, becoming the first comprehensive international instrument dedicated to safeguarding the rights of migrant workers. It is classified among the “core international human rights instruments” as defined by the Office of the United Nations High Commissioner for Human Rights.¹⁴

As of November 2025, 60 States had ratified the Convention, most of which are migrant-sending countries. Zimbabwe became the most recent State Party in 2024. This remains a relatively limited number when measured against the Convention’s importance and global relevance.

The Convention seeks to establish minimum standards that States Parties must apply to migrant workers and their families falling under their jurisdiction. It calls for measures to prevent clandestine movements and trafficking of migrant workers, while ensuring their protection under fundamental human rights standards.

The Convention comprises 93 articles organized into nine parts, which define the categories of individuals covered, including both regular and irregular migrant workers. It affirms the principle of equal treatment among all workers – nationals, regular migrants, and irregular migrants – while providing broader rights and enhanced protections to regular migrant workers.

It enumerates a wide range of rights, encompassing general human rights as well as labour-specific rights, such as the right to life, liberty, freedom from torture or inhuman treatment, and freedom of opinion and expression, among others.¹⁵

With respect to economic, social, and cultural rights, the Convention draws extensively

from the International Covenant on Economic, Social, and Cultural Rights (ICESCR). Article 32 grants migrant workers and their families the right to transfer their earnings, savings, personal belongings, and household effects upon the end of their stay. In the event of death, States Parties must facilitate, where necessary, the repatriation of the remains of deceased migrant workers and their family members. Some scholars argue that, in certain respects, the Convention is more restrictive than the aforementioned Covenant.¹⁶

A significant development introduced by the Convention is its recognition, for the first time, of the right of migrant workers to join trade unions under Article 40, thereby affirming their right to trade-union representation aimed at protecting and promoting their economic, social, cultural, and other interests. The Convention also prohibits any person—other than an authorized public official¹⁷ from confiscating a migrant worker’s identity documents under any circumstances.

Furthermore, the Convention guarantees the right of undocumented or irregular migrant workers to receive urgent medical care. Under Article 29, children of migrant workers have the right to a name, birth registration, and nationality. They are also entitled to access education on an equal basis with nationals, and their admission to preschool or public educational institutions may not be denied due to the irregular status of either parent.

Protection of Migrant Workers in National Legislation and the Challenges Faced

The implementation of any international convention requires ensuring harmony between its provisions and the domestic legislation of

14 Muslim, S., Hadiwinata, K., Khoirunnisa, R., Hadiyantina, S., Ayub, Z. A., Op. cit, p. 303.

15 Ben Taher, A. (2020). International protection of migrant workers’ rights within the framework of the International Labour Organization and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. *Journal of Humanities, University of Oum El Bouaghi*, 7(2), p. 110.

16 Nafziger, J. A. R., & Bartel, B. C. (1991). The migrant workers convention: Its place in human rights law. *International Migration Review*, 25, p. 781. <<https://doi.org/10.1177/019791839102500406>>.

17 Ben Taher, Op.cit, p. 111.

the States that have ratified it. Accordingly, aligning national legislation with the ratified international instruments becomes a necessary legal obligation. In this regard, it is noteworthy that Algeria has taken care to accede to several international conventions concerning migrant workers, beginning with ILO Convention No. 97 of 1949 on Migrant Workers, ratified on 19 October 1962, as well as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which Algeria ratified pursuant to Presidential Decree No. 04-441 of 29 December 2004.

The Legal Framework Governing the Employment Conditions of Foreign Nationals in Algeria

The Algerian Labour Law No. 90-11 of 21 April 1991, as amended and supplemented, does not contain provisions specifying the conditions for employing foreign labour in Algeria. It merely stipulates, under Article 21, that employers may resort to hiring foreign workers whenever qualified national labour is unavailable, thereby referring the regulation of foreign workers' employment to other regulatory texts—most notably Law No. 81-10¹⁸ concerning the conditions of employment of foreign workers. This law sets out several substantive and procedural requirements governing the employment of foreign nationals, emphasizing that any foreigner intending to engage in remunerated activity in Algeria must hold either a work permit or a temporary work authorization issued by the competent authorities.¹⁹

18 People's Democratic Republic of Algeria. Law No. 81-10 (July 11, 1981), on the conditions of employment of foreign workers. Official Gazette 28 (July 24, 1981).

19 The authorization for employing foreign workers takes several forms:
Preliminary approval: This is a permit issued by the Ministry of Labour after consulting the consular authorities of the respective country, following the submission of a request for a foreign worker to enter for employment purposes;
Temporary work authorization: Issued by the competent authorities under the Ministry of Labour to pre-

While these provisions provide a formal regulatory framework, a compliance assessment against international standards reveals significant gaps. According to ILO Conventions No. 97 and No. 143, as well as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, states are required to ensure that migrant workers—regardless of documentation—enjoy equal protection and access to employment rights. However, as Freedland and Costello note, migration law plays a decisive role in creating status-based distinctions in the application of labour law, determining whether individuals are allowed to work “legally” or are classified as “illegal” or “undocumented” workers, a division that constitutes “one of the most basic distinctions in personal work status” and directly affects the scope of labour protection available to them.²⁰

In comparison, Algeria's framework primarily addresses documented workers and imposes restrictions, such as fixed-term contracts, which do not fully align with the principle of non-discrimination and equal treatment under international law. Furthermore, the legal requirement that foreign workers' residence and employment status be contingent upon specific authorizations reinforces a condition of dependency and precarity, which, according to comparative labour law scholarship, exposes migrant workers to heightened vulnerability and limits their effective access to labour rights. Comparative examples from countries with stronger migrant protection regimes show that mechanisms such as automatic contract renewal, legal safeguards for irregular workers, and accessible complaint procedures are essential for ensuring effective

pare the foreign workers' entry file while awaiting the issuance of a temporary work permit and passport;
Temporary work permit: Allows the foreign worker to carry out work not exceeding a period of three (3) months;

Work passport: Issued to personnel who are qualified to begin work after obtaining preliminary approval from the Ministry and a special authorization.

20 Costello, C., Freedland, M. (2014). *Migrants at work: Immigration and vulnerability in labour law*. Oxford University Press, pp. 10-13.

compliance with international standards.

Moreover, pursuant to Article 10 of Law No. 81-10, and in contrast to employment contracts concluded with national workers—which are presumed to be of indefinite duration unless otherwise provided by law—contracts concluded with foreign workers must necessarily be fixed-term, with a maximum duration of two years, renewable only upon issuance of a work permit. In cases where a temporary work authorization is granted, the employment contract must be limited to a period of three months or less, and such authorization may not be renewed more than once per year. Under no circumstances may the renewal of either a work permit or a temporary work authorization result in reclassifying a fixed-term contract into an indefinite-term contract.

From an international compliance perspective, these limitations demonstrate a partial alignment with core conventions. While Algeria provides fundamental rights such as remuneration and social security coverage, the restrictions on contract duration and renewal, and the exclusion of undocumented workers from many protections, highlight non-compliance with the minimum standards of ILO and UN conventions. This gap is not unique to Algeria, but comparative analysis shows that countries with stronger enforcement mechanisms ensure that all migrant workers, including those in irregular status, can exercise their labor rights effectively, thus fully meeting international obligations.

The law guarantees foreign workers most of the rights enjoyed by any worker in Algeria, including the right to receive remuneration²¹ and to benefit from social security coverage against various risks. Article 28 of Law No. 08-11²² con-

cerning the conditions of entry, residence, and movement of foreigners in Algeria requires that the employment of a foreign national be declared within 48 hours to the territorially competent services of the ministry in charge of employment. In the absence of such services, the declaration must be submitted to the territorially competent police department or gendarmerie unit.

From the foregoing, it is evident that the protection of migrant workers' rights under Algerian legislation remains limited and fragmented and is largely oriented toward documented workers. National legal provisions have not yet fully incorporated the core international conventions governing migrant workers' rights, thereby revealing a clear gap between Algeria's international obligations and its domestic legal framework. In this context, the fragmentation of international labour standards, together with their inadequate transposition and practical implementation at the national level, constitutes one of the principal challenges to the effective protection of migrant workers' labour rights.²³

Consequently, it can be concluded that the legal protection currently afforded to migrant workers in Algeria is partial and largely confined to regular workers. This situation underscores the pressing necessity for a comprehensive reform of national legislation and the establishment of robust protective mechanisms capable of ensuring full compliance with international human rights and labour standards, thereby guaranteeing equal legal protection for all migrant workers irrespective of their legal status.

Challenges to the Protection of Migrant Workers' Rights

Migration has a significant impact on the global economy. Accordingly, it is essential to

21 According to Article 16 of Law No. 81-10 mentioned above: "A foreign worker subject to this law shall receive the same salary corresponding to the reference number of the position that his Algerian counterpart of the same level could occupy, and, where applicable, an increase in remuneration within the Algerian territory when required".

22 People's Democratic Republic of Algeria. Law No. 08-11 (June 25, 2008), concerning the conditions of entry, residence, and movement of foreigners in Algeria. Official Gazette 36 (July 2, 2008).

23 Artemov, V., Simonenko, O., Zhalubak, V., Mykhailyk, O., Borsuk, N. (2025). Legal Mechanisms for Protecting Migrants' Labour Rights in Host Countries. *Revista Jurídica Portucalense*, 1(38), p. 391. [https://doi.org/10.34625/issn.2183-2705\(38\)2025.ic-20](https://doi.org/10.34625/issn.2183-2705(38)2025.ic-20).

recognize that the contributions of migrants to the economies and societies of host countries, as well as to the development of their countries of origin, depend on legal protection and the acknowledgment of their human rights by these states.²⁴

Although there is a continuous emphasis on the necessity of ensuring protection for all migrant workers, regardless of their legal status in the host country, the reality demonstrates the exact opposite. Migrant workers continue to face various forms of abuse and exploitation,²⁵ particularly those engaged in temporary or seasonal work, those in an irregular situation, or those lacking the required documentation. They are frequently subjected to deceptive recruitment practices, the absence of written employment contracts, non-payment or underpayment of wages, and the confiscation of identity documents—as observed in certain sponsorship systems—despite the explicit legal prohibition of such practices. They may additionally suffer from limited awareness of their rights and applicable laws, fear of identity disclosure leading to arrest and deportation, and restricted access to social services. According to Gleeson,²⁶ fear of detection and deportation significantly discourages undocumented workers from asserting their labour rights, rendering legal protections largely ineffective in practice.

In this context, the case of *Chowdury and Others v. Greece* (30 March 2017) constitutes a significant judicial precedent in the field of migrant workers' rights protection. The case involved 42 Bangladeshi workers recruited to work in strawberry harvesting at a farm in the Manolada region of Greece without obtaining work permits. Their employers failed to pay their wages and compelled them to work under harsh physical conditions under the supervision of armed guards. Several workers were shot by

the guards while claiming their rights, resulting in dozens of injuries. The European Court of Human Rights (ECHR) held that the situation amounted to human trafficking and forced labor, and that the Greek State had failed to prevent trafficking, protect the victims, conduct an effective investigation, and punish those responsible. This judgment represents a landmark precedent, as it was the first time that an international court condemned a Member State for the exploitation of irregular migrant workers, establishing the principle that the right to protection cannot be nullified by the irregular legal status of the worker.²⁷

Similarly, the case of *Zoletic and Others v. Azerbaijan* (07 October 2021) illustrates another dimension of the exploitation faced by migrant workers. The claimants filed complaints regarding inhumane living and working conditions, non-payment of wages, occupational discrimination, restrictions on freedom of movement, and health hazards in the workplace. The ECHR ruled that an employee's prior consent is insufficient if their vulnerability or legal status is exploited; in other words, the exploitation of vulnerability distinguishes lawful work from forced labor. The Court further emphasized the State's responsibility to ensure the protection of all workers, including undocumented migrants, from violations and exploitation, and to adopt preventive measures safeguarding their fundamental rights.²⁸

In the Algerian context, undocumented migrant workers face similar structural challenges: the national legal framework primarily protects documented workers, while irregular workers remain exposed to exploitation and have limited access to legal remedies. An analy-

24 Muslim, S., Hadiwinata, K., Khoirunnisa, R., Hadiyantina, S., Ayub, Z. A., Op.cit, p. 305.

25 Servais, J.-M., Op.cit, pp. 60-62.

26 Gleeson, S. (2010). Labor Rights for All? The Role of Undocumented Immigrant Status for Worker Claims Making. *Law & Social Inquiry*, 35(3), pp. 33–36. <https://doi:10.1111/j.1747-4469.2010.01196>.

27 European Court of Human Rights. (2017, March 30). *Chowdury and Others v. Greece*. Application No. 21884/15. Strasbourg: ECHR. <https://hudoc.echr.coe.int/eng#%7B%22appno%22:%5B%2221884/15%22%5D%7D> (Last access: November 22, 2025).

28 European Court of Human Rights. (2021, October 07). *Zoletic and Others v. Azerbaijan*, Application No. 20116/12. Strasbourg: ECHR. <https://hudoc.echr.coe.int/fre#%7B%22itemid%22:%5B%222001-212040%22%5D%7D> (Last access: November 21, 2025).

sis of these European precedents demonstrates that the legal status of migrant workers is a decisive factor in determining the scope and effectiveness of rights protection. Accordingly, these cases function not merely as illustrative examples but as analytical tools to identify legislative gaps, understand how precarious legal status undermines rights, and propose reforms that could strengthen protection for all workers, including those in irregular situations.

Consequently, these judicial precedents underscore the urgent need for Algeria to establish a comprehensive protection framework, incorporating effective enforcement mechanisms and preventive measures to ensure that all migrant workers, regardless of their legal status, can exercise their fundamental rights. The most important of these mechanisms include the following:

- Harmonizing national legislation with international conventions, as this strengthens legal protection and reduces the exploitation gaps that often arise from legislative ambiguity;
- Strengthening labour inspectorates with robust monitoring mechanisms is crucial to ensure employer compliance with legal standards and to address violations effectively. Research shows that the protection of migrant workers' rights relies not only on legislative frameworks but also on the effectiveness of enforcement. In practice, legal protection is measured not by what is written in law but by its actual implementation, which explains the wide gap between countries that rigorously apply international standards and those that merely acknowledge them;²⁹
- Promoting fair and adequate working conditions, ensuring minimum wage guarantees, and facilitating access to decent and healthy living conditions for migrant workers;
- Enabling migrant workers to join trade unions without restrictions and ensuring their representation in social dialogue, which constitutes a fundamental pillar of their protection;
- Coordinating efforts among states through bilateral or multilateral agreements aims to ensure the protection of migrant workers' rights. This cooperation focuses on establishing binding mechanisms through which states commit to monitoring the conditions of migrant workers, exchanging information related to employment contracts, working conditions, and potential violations, in addition to enforcing legal rights and safeguarding workers in the event of any infringement. This international framework enables joint action to prevent exploitation and ensures the effective implementation of international legal standards;³⁰
- Implementing permanent monitoring mechanisms of migrant workers' conditions and preparing regular reports to assess compliance with their rights and identify the issues and challenges they face;
- Coordinating efforts with institutional actors and non-governmental organizations to provide legal and social support for migrant workers and safeguard their fundamental rights.

CONCLUSION

Migration is a global phenomenon accompanied by numerous challenges, among which the protection of migrant workers stands out as a key concern. This study demonstrates that the precarious legal status of migrant workers in Algeria directly restricts the effective realization of their rights, affecting access to fair remuneration, social security, and legal recourse in cases of abuse or exploitation. Workers in irregular situations are particularly vulnerable, as the le-

29 Artemov, V., Simonenko, O., Zhalubak, V., Mykhailyk, O., Borsuk, N., Op. cit, p. 399.

30 Ibid., p. 401.

gal framework primarily addresses documented labour, leaving undocumented workers exposed to unsafe working conditions and limited enforcement of their fundamental rights.

The analysis of the Algerian case highlights several specific findings: first, national legislation, while formally providing for basic labour rights, remains fragmented and largely confined to regular workers, failing to fully incorporate the provisions of core international conventions, including ILO Conventions No. 97 and 143, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Second, the implementation gap and administrative limitations exacerbate workers' vulnerability, illustrating how precarious legal status functions as a structural barrier to the enjoyment of rights. Third, comparative references to international standards show that effective protection requires not only legal provisions but also coordinated enforcement mechanisms and political commitment, which remain underdeveloped in the Algerian context.

Accordingly, this research advances existing academic understanding by demonstrating that the legal status of migrant workers is not merely a formal condition but a decisive factor shaping the realization of their rights. The study's findings underscore the pressing need for a comprehensive reform of national legislation, the establishment of robust protective mechanisms, and the incorporation of international standards into domestic law. Such measures are essential to guarantee equal legal protection for all migrant workers in Algeria, irrespective of their documentation, and to enhance the country's contribution to global labour rights protection.

Based on these conclusions, several legal recommendations can be proposed:

- Encouraging states to ratify the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, as it constitutes a guiding framework for states and an important legal instrument for national and international organizations concerned with protecting and promoting the rights of migrant workers;
- Conducting a comprehensive review of national legislation by expanding the scope of fundamental rights and protections to include all migrant workers, regardless of their legal status, in addition to developing effective protection mechanisms that ensure compliance with international human rights and labour standards;
- Strengthening cross-border legal cooperation through bilateral and multilateral agreements under which states commit to monitoring and safeguarding the rights of migrant workers;
- Enhancing substantive and procedural safeguards in labour laws by integrating international standards into national legislation and developing effective enforcement mechanisms to ensure the practical protection of labour rights.

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