

## Reservations, Understandings and Declarations Model International Mobility Convention

November 2017

I sign the International Convention on the Rights and Duties of All Persons Moving from One State to Another and of the States they Leave, Transit or Enter (“the Convention”) to show my support for the ambitious endeavor of promoting the creation, by States, of a rights-respecting governance regime for all aspects of international migration. However, I write separately to note that I have reservations: I do not agree that the Convention represents a consensus or that it articulates the rights protecting international migrants at the level currently provided by international law. (Many of these rights are set out in the International Migrants Bill of Rights, of which I am a co-author, and which serves as a restatement of the international law protecting all international migrants – regardless of the cause of their migration.) Furthermore, I have concerns regarding the proposed establishment of a treaty regime that would create and proliferate categories of international migrants which are not currently recognized by the law, such as “visitors,” only to assign them rights protections set well below the level provided by international law. I feel strongly that a robust, uniform, articulation and application of the existing rights standards protecting all migrants should be the cornerstone of any governance reform or regime. However, despite these shortcomings (which I and my fellow co-chairs of the IMBR Initiative have raised with our fellow Commission members throughout the proceedings of the International Mobility Commission), the Convention is a major achievement. In myriad areas, the Convention offers substantial innovations along with clear articulations of existing law which will provide States important tools for conceiving of and overcoming impediments to radical or even moderate global governance reform. In this way, I hope that support for the Convention and this endeavor will improve State treatment of migrants, in law and in practice. It has been an honor to contribute to the work of the International Mobility Commission and I look forward to seeing how the Convention is received and acted upon by States at a vitally important time for those concerned with the protection of the rights of all migrants.

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I sign the Convention in support of the effort it represents to provide a holistic and innovative approach to the rights of migrants and others who cross borders. I underline the support the Convention provides for already agreed human rights, and emphasize that it should not be read as authorizing any diminution of such rights. I have, however, reservations with regard to: (1) The treatment of “irregular” migrants. The regularization in loco of the position of such migrants should be the priority of states and inter-state cooperation, whereas deportation and any form of involuntary return should be a measure of last resort to be applied in cases of significant threat to security and public order; (2) The treatment of domestic workers under the Convention's article 111(1). Migrant domestic workers and their families should be entitled to the same rights in respect to housing, social housing and protection from exploitation that is provided to all migrant workers, migrant residents and members of their families. Additionally, I understand that references to non-discrimination are to be interpreted as regarding all forms of discrimination, whether *de jure* or *de facto*.

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