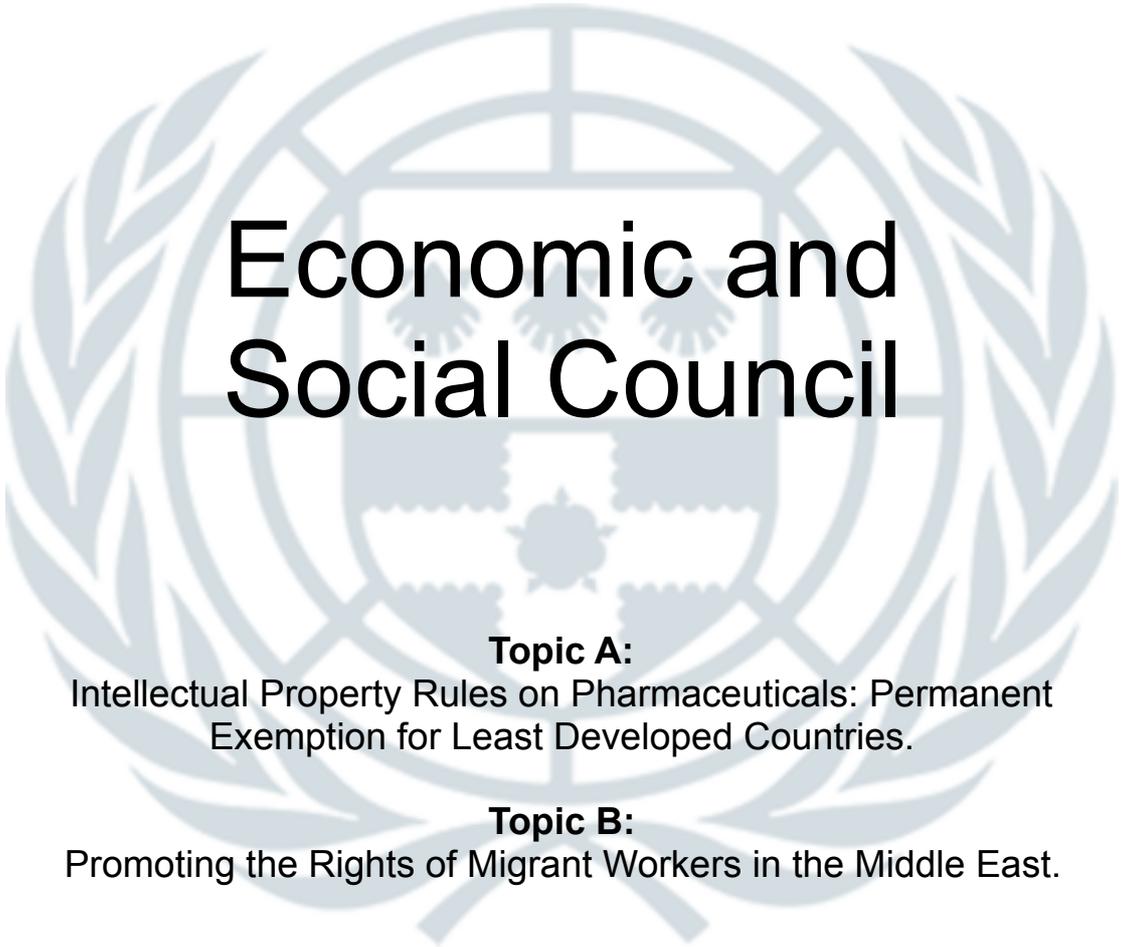


# **University of Reading International Model United Nations Conference 2015**



## **Economic and Social Council**

### **Topic A:**

Intellectual Property Rules on Pharmaceuticals: Permanent Exemption for Least Developed Countries.

### **Topic B:**

Promoting the Rights of Migrant Workers in the Middle East.

## **Study Guide**

David Callaghan and Zara Ireland

# Head Chair



## Introducing David Callaghan

David was heavily involved in Model UN during his time at university.

An alumnus of Reading University MUN, David helped establish the very first Reading MUN conference.

He has attended many conferences throughout his time as both a delegate and chair.

After graduating, David completed a post with the Superfast Cornwall project, helping establish fibre broadband in his home county of Cornwall where he still now works as a Marketing Manager for a pharmaceutical regulatory affairs company.

# Co-Chair



## Introducing Zara Ireland

Zara Ireland is ironically from Scotland!

Three months ago, she moved back from Qatar, where she had been living for the past six years.

This is where she began her MUN journey and attended conferences across the country, meeting people from all over the world.

Now she is living in West Yorkshire and is studying A-level Literature, Economics, Spanish and History.

After her A-levels, her goal is to study Law and Spanish at university and in the future she would love to work in international human rights law.

Outside of MUN, she loves travelling, reading and hiking, especially in the beautiful Scottish countryside.

ReadiMUN will be her first conference in the UK and she is really looking forward to being a part of the whole experience!

# Topic A: Intellectual Property Rules on Pharmaceuticals: Permanent Exemption for Least Developed Countries

## **Should Least Developed Countries (LDCs) be exempt from requirements to grant patents or related intellectual property rights on pharmaceutical products?**

Least Developed Countries want an indefinite extension of the waiver that would last as long as a country remained 'least developed' per UN classification. An indefinite waiver would represent a clear victory for LDCs, as it would have recognized their needs above other countries continuing promotion of more restrictive intellectual property rules.

Least-developed countries are disproportionately exposed to the health risks associated with poverty, and "patent protection contributes to high costs, placing many critical treatments outside the reach of LDCs", according to the LDC group.

LDCs also bear increasing health burdens from non-communicable disease. For example, cancer incidence is expected to rise to 82 percent in 2030 in low-income countries compared to 58 percent in upper-middle and 40 percent in high-income countries.

Those who recently have supported an indefinite extension of the waiver far outnumber those who opposed it, and included the governments of all developing countries; U.N. agencies, such as the World Health Organization, the Joint United Nations Programme on HIV/AIDS (UNAIDS), and the United Nations Development Programme (UNDP); the European Union; the Vatican; various members of the United States Congress, including presidential candidate Sen. Bernie Sanders (I-Vt.); and leading public health non-governmental organizations, including Doctors Without Borders (MSF), Oxfam, Health GAP, Public Citizen, Third World Network (TWN), the Union for Affordable Cancer Treatment (UACT), Knowledge Ecology International (KEI), and dozens of NGOs in least developed countries.

The United States opposed an indefinite waiver, instead seeking a ten-year extension, with reports from informed sources indicating that the Obama administration was in part motivated by pharmaceutical industry complaints that the U.S. Trade Representative (USTR) had failed to "deliver" on stringent patent regulations in the Trans-Pacific Partnership. In a June presentation at the WTO, LDCs called a time limited waiver "unconscionable," and said that anything less than an indefinite waiver "jeopardizes the health situation of the people and communities within LDCs."

As over 100 NGOs, including groups in LDCs and the United States, have pointed out, governments will not amend their patent laws to allow for the manufacture or distribution of low-cost generic drugs without the certainty of an indefinite extension.

Is access to generic medicines essential for the long-term stability of health systems in LDCs? Almost 1 billion people live in LDCs, most of them in extreme poverty. In 2014, per capita healthcare spending was less than \$50 in LDCs, and the per capita income was only \$915. Neither patients nor governments can afford expensive brand name drugs in LDCs, which are home to over 10 million of the world's HIV/AIDS patients.

The European Commission supports the indefinite exemption for developing country Members of the World Trade Organization (WTO) from TRIPS (Trade Related Aspects of Intellectual Property Rights) obligations on pharmaceutical products. These TRIPS obligations include pharmaceutical patents, pharmaceutical test data protection, exclusive marketing rights, and the mailbox provisions.

LDC's have very weak technological capacities and are disproportionately exposed to the health risks associated with poverty, such as under-nutrition, unsafe water and poor sanitation. Widespread poverty in LDCs means that governments struggle to provide prevention, treatment and care especially where the required pharmaceutical interventions are unaffordable because of patent protection. High prices for medicine are one of the main reasons why people in poor countries do not have access to adequate health care. Generic medicines (which are not patented) are much cheaper.

Although the protection of intellectual property rights causes many problems, it barely gets any attention. Until now, the LDC's have a non-permanent exception to the rule, and this has to be renewed every few years. LDCs have an exemption under current law, but it will expire at the beginning of 2021. They sought a permanent extension two years ago, but were denied owing to opposition from the U.S. and EU.

The International Federation of Pharmaceutical Manufacturers & Associations does not support a permanent extension of the LDC exemption, arguing that it does "not appear to be necessary at this stage, as the current waiver is in force until 2021." It further notes that "the vast majority of essential medicines are not protected by intellectual property (IP) and therefore IP plays no role in limiting access to these medicines." When it comes to patented medications, the IFPMA writes that "intellectual property may be one of many factors to be taken into account in policies to expand access."

For most developing and least-developed countries, the domestic pharmaceutical industry consists of small and medium-size companies focused on generic (off-patent) manufacturing and traditional and herbal medicines. (Exceptions to this trend, however, can be found in Brazil, India, and Thailand, all of which have substantial industrial capacity to manufacture generic pharmaceuticals). As the IFPMA says, IP enforcement cannot be what's keeping these countries from expanding generic manufacturing capacity. Instead, the problem is that there are few incentives for foreign direct investment by the leading multinational pharmaceutical manufacturers, which are based in France, Germany, Switzerland, the United Kingdom, and the U.S.

The issue of LDCs' low-cost access to patent-protected pharmaceuticals is much thornier. Under the current TRIPS agreement, when a national government needs to use a pharmaceutical in a health-care emergency, it has the option of compulsory licensing, where domestic companies are allowed to manufacture a patented medication without the IP owner's consent. Nations also decide their own policies on "parallel importing"; this is when a country imports drugs sold elsewhere rather than

buying them through the manufacturer's official channels. (It is useful when drug makers charge different prices in different nations).

## Delegate Expectations

Delegates are expected to bring their country's current foreign policy to the table and ensure they are able to demonstrate an awareness of the issue as it stands and the challenges the UN, as a body, face. As this topic is new to the committee, there are opportunities here for ECOSOC to guide this topic through its early days – but caution must be taken. Any resolution that is sought must be balanced in representing the mood of the international community, represent the interests of the international pharma market, and look to safeguard the health of LDCs. Delegates should be able to present alternative solutions that are both original and tackle the problem at hand. It goes without saying that a high degree of diplomacy and tact will need to be deployed in seeking a successful resolution.

## Questions to consider

- How does the topic fit the Millennium Development Goals?
- What is your country's relationship and position with the World Intellectual Property Organisation?
- How can this issue be solved in a sustainable manner?
- Is a permanent exemption necessary or are short-term rules more manageable?
- Are there enough reasons for LDCs to develop past this status if they have permanent exemption?
- What is the best role for ECOSOC to play in this new area of interest for them?

## Keywords

- LDCs
- Pharmaceutical Industry
- International Intellectual Property Rights
- Intellectual Property Watch
- WIPO
- WTO
- Sustainability

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# Topic B:

## Promoting the rights of migrant workers in the Middle East

### Introduction

The Middle East is home to approximately 10 million migrant workers, the majority of whom are from South Asia and Africa, and work in the construction or domestic sectors. In some Middle Eastern countries, the number of migrant workers significantly exceeds the number of national workers. For example, migrant workers make up more than 90 percent of the population in the UAE and Qatar. Beat Andrees, a member of the International Labour Organisation stated that “Labour migration in this part of the world is unique in terms of its sheer scale and its exponential growth in recent years.”

Such workers, however, often find themselves in vulnerable situations due to rigid labour laws, which operate the ‘Kafala system’. The Kafala system dictates that all migrant workers in the domestic or construction sector must be sponsored by an employer. This ties workers to their sponsor and prevents them from changing jobs without their sponsor's permission. Moreover, migrant workers cannot leave the country without their permission or without gaining an ‘exit permit’. This is a blatant violation of their human rights and can lead to forced labour, with migrants being kept in the country against their will. In some cases, employers have been known to confiscate workers’ passports. Furthermore, such laws imposed on labourers are incompatible with Article 13 of the Universal Declaration of Human Rights in which it states that ‘everyone has the right to leave any country, including his own, and to return to their country’.

Aside from the fundamental laws that lead to the violation of a worker’s rights in the Middle East; shocking living and working conditions have also been reported. For example, in Saudi Arabia there have been continuous reports of foreign workers being raped, exploited, under- or unpaid, physically abused and overworked. Similarly, in Qatar which is currently preparing to host the 2022 World Cup, living conditions have been reported to be disgusting and slum like, with workers being cramped together in tiny rooms in bunk beds that lack proper mattresses. Such reports of squalid living and working conditions and violations of fundamental human rights are consistent throughout many Middle Eastern countries.

### Background information

#### Living and working conditions

Throughout the Middle East, reports of poor living and working conditions are continuously reported; highlighting the seriousness of the issue at hand. For example, over a thousand low income workers were interviewed in Qatar, ninety percent of which were not in possession of their passport. In 2014 in Kuwait there were over eight thousand complaints of delayed wages and passport confiscation. Though specific national laws and practices differ throughout nations in the Middle East, the use of the Kafala system and exclusive legal systems enable such

persistent violations of migrant workers' rights. To begin to solve this pressing issue, Middle Eastern countries must re-evaluate national laws, rectifying gaps and weaknesses that may leave domestic workers at risk of abuse and exploitation, and adopt international standards that ensure full respect for their rights.

## Labour rights

International labour standards have grown into a comprehensive system of instruments on work and social policy, predominantly to do with labour relations, workers' pay, benefits, and safe working conditions. The United Nations Declaration of Human Rights itself refers to labour rights in article 23, in which it states:

The rights are supposed to be applicable to every labourer, without discrimination. Yet in spite of this, it is evident that these labour rights are not being applied to many workers in the Middle East.

- Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment
- Everyone, without any discrimination, has the right to equal pay for equal work
- Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection
- Everyone has the right to form and join trade unions for the protection of his interests

## Kafala system

The kafala system (sponsorship system) is a system used to monitor the construction and domestic migrant labourers in Lebanon, Saudi Arabia, Jordan, Bahrain, Iraq, Kuwait, Oman, Qatar, and the UAE. The system requires all unskilled labourers to have an in-country sponsor, usually their employer, who is responsible for their visa and legal status. However, it is generally criticised for leaving migrant workers vulnerable and susceptible to human rights violations.

## Qatar 2022

It has been over four years since Qatar won the bid to host the World Cup 2022. Since Qatar won the bid, however, there has been a lot of controversy. One of the most prominent issues that has arisen has been the issue of the rights of labourers in preparation for the World Cup, predominantly in the construction industry. Reports of living and working conditions being poor and dangerous are of an even bigger concern due to a worrying number of migrant workers' deaths in Qatar. "The annual death toll among those working on building sites could rise to 600 a year - almost a dozen a week - unless the Doha government makes urgent reforms", said Sharan Burrow, General Secretary of the International Trade Union Confederation.

## Saudi Arabia

There is an abundance of cases in Saudi Arabia with regards to harsh mistreatment of migrant workers. Such cases include migrant workers being raped, exploited, under- or unpaid, physically abused and overworked. The international organisation Human Rights Watch has described these conditions as "near-slavery" and attributes them to "deeply rooted gender, religious, and racial discrimination".

Furthermore, the Saudi Arabian law is not believed to deliver a compelling and authorised protection for migrant workers, and several incidents have sparked international outcries. For example, in 2011 an Indonesian maid was beheaded for killing her employer's wife, reportedly after years of abuse.

In January 2013 a Sri Lankan maid was beheaded after she was convicted of murdering a child under her care, an occurrence which she attributed to the infant choking. According to figures by Amnesty International, in 2010 at least 27 migrant workers were executed and, as of January 2013, more than 45 foreign maids were on death row awaiting execution.

## Relevant UN treaties

- International Convention on the Protection of all Migrant Workers and Members of Their Families, 18 December 1990, Resolution 14/158
- Universal Declaration of Human Rights, 10 December 1948, 217 A (III)
- Forced Labour Convention, 28 June 1930, 14th ILC session (No. 29)
- United Nations Treaty Body Monitoring of Migrant Workers in the Middle East, November 2004
- Domestic Workers Convention, 2011 (No. 189)

## Case Study

### Sajith, 47, Sri Lanka

Sajith is an immigrant who has been working in Qatar for over two years, and has yet to visit his home and family once. He has almost lost all of the sight in his left eye after a masonry nail went into it whilst he was working. He was not provided with safety glasses, which would have provided his eyes with sufficient protection and the situation could have been avoided in the entirety. However, since Sajith does not get paid when he is off sick, he could only afford to take 15 days off. Moreover, Sajith does not have any insurances and consequently did not receive any compensation for his injury. To avoid upsetting his family in Sri Lanka, Sajith has yet to tell them about his injury.

Sajith is a mere example of one of many workers who go to the Middle East seeking work to enable them to provide for their families in their home countries. And whilst many of them receive better pay than they would back home, they are forced to be subject to some of the shocking conditions present labourers in certain Middle Eastern nations with many facing severe exploitation of not just their labour rights but their fundamental human rights.

## Actions of Non-Governmental Organisations

### Amnesty International

Amnesty International is a non-governmental organisation focused on human rights. It continuously works to ensure the promotion and protection of migrant workers' rights in the Middle East. For example, in 2008 Amnesty published a press release condemning Jordan's treatment of domestic migrant workers and calling upon the Jordanian authorities for immediate and substantial reforms. Moreover, Amnesty

International also criticised the UAE for its treatment of migrant workers in its 2014/2015 report, saying they were “exploited and abused”. In Saudi Arabia, Amnesty found evidence of recruiting agents violating emigration laws and policies, including by failing to conduct due diligence to ensure that migrant workers are not deceived. Amnesty also interviewed migrant workers who ended up working in Saudi Arabia in jobs different from the ones they were promised. A third of the migrant workers Amnesty interviewed reported facing problems with wage payments – including wages being arbitrarily deducted, underpayment, late payment and even non-payment. Also, in Qatar, Amnesty has reported and identified the shocking conditions of workers and called on Qatari authorities to view this issue as a matter of priority to prevent further incidences of abuse.

## Human Rights Watch

Human Rights Watch is an international non-governmental organization that conducts research and advocacy on human rights. An October Human Rights Watch report, ‘I Already Bought You’, highlights patterns of abuse against domestic workers in the United Arab Emirates and Qatar respectively, including unpaid wages, no rest periods, excessive workloads, food deprivation, and confinement in the workplace. In several cases, domestic workers reported physical or sexual abuse and had been in situations of forced labor, including trafficking. During a meeting between labour ministers from Gulf and Asian countries on November 26<sup>th</sup> and 27<sup>th</sup>, 2014, Rothna Begum, Middle East women’s rights researcher at HRW stated “Whether it’s the scale of abuse of domestic workers hidden from public view or the shocking death toll among construction workers, the plight of migrants in the Gulf demands urgent and profound reform. This should include a thorough overhaul of the abusive kafala visa sponsorship system.”

## International Labour Organisation

The International Labour Organisation is a United Nations agency dealing with labour issues, particularly international labour standards and decent work. The ILO has recently released a report titled Tricked and Trapped: Human Trafficking in the Middle East. The report is based on more than 650 interviews which were conducted in Jordan, Lebanon, Kuwait and the UAE over a two-year period. The study sheds light on the situation of trafficked adult workers in the Middle East, the complex processes by which they are ‘tricked and trapped’ into forced labour and sexual exploitation, and the constraints that prevent them from leaving. The ILO Regional Office for Arab States promotes decent work in the Levant and the Gulf, covering 11 countries: Lebanon, Syria, Jordan, Iraq, Kuwait, Saudi Arabia, Yemen, UAE, Oman, Qatar and Bahrain.

## Migrants-Rights.org

Migrants-Rights.org is an online content-based advocacy forum that aims to advance the rights of migrant workers in the Middle East, and to encourage social action to address human rights abuses. It does so through the use of campaigns which describe the most pressing issues facing migrant workers in the Middle East, and how they can be addressed by government, private and civil society organizations and individuals. Such campaigns include: “Formalize Rights for Domestic Workers”, “End the Kafala System” and “Set Standard Working Thermal Limits”.

## Previous attempts to solve the issue

Following recommendations made by Human Rights Watch to the UAE, from 2009 to 2014 the UAE made changes in regulations to improve some of the rights of migrant workers in general, and in some cases, the rights of domestic workers. Moreover, Bahrain claimed to repeal the kafala system in 2009. However, in November 2009 Human Rights Watch (HRW) stated that "authorities do little to enforce compliance".

Additionally, the passing of certain resolutions provides guidelines for Middle Eastern nations with regards to the treatment of migrant workers, namely the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. However, many nations in the Middle East have yet to ratify the convention.

In Qatar, Qatari authorities have been attempting to solve the issue and it is perceived that Qatar will abolish the kafala system and introduce new labour laws. Many firms in Qatar have also made promises that necessary action will be taken to ensure the improvement of workers' rights.

Dubai took action in 2005 to ensure that construction companies paid their migrant workers, including setting up a hotline for migrants. Many migrants arrive in debt to recruiters, and some contractors keep the migrants' passports and several months' wages to discourage them from running away. A strike by 1,000 migrants in September 2005 over unpaid wages led to the government ordering the company to pay back wages immediately, which it did.

## Possible Solutions

This pressing issue of labour rights in the Middle East can begin to be amended and ultimately solved in many different ways. It is important to consider changes that can be made not solely by the authorities within the labour-receiving nations but also by labour-sending countries and the companies that employ migrant workers.

Authorities within the Middle East should strive to implement existing legislation, including the enforcing of the prohibition against the confiscation of passports. Moreover, it could also enforce labour migration legislation through labour inspection, dissuasive sanctions and penalties including fines and criminal prosecutions.

On top of that, both Middle Eastern countries and countries that are sending employees should closely monitor recruitment which is undertaken by employment agencies in order to minimise abuse and introduce criminal proceedings against offenders. Labour-sending and labour-receiving nations should work together to negotiate bilateral agreements to ensure that employers abide by employment contracts, conditions and benefit. Labourers should also be supported through special government agencies which seek to protect and uphold the conditions of contract and employment including health and safety.

Awareness raising through educating the general public, employers, and labourers themselves could be an effective strategy in solving this issue and advancing the rights of these workers. Finally, ensuring that the "kafala system" is abolished and ensuring that employers abide by said abolishment would be instrumental in solving this increasingly pressing issue.