



International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

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Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families Thirty-sixth session

Summary record (partial)* of the 513th meeting

Held at the Palais Wilson, Geneva, on Monday, 27 March 2023, at 10 a.m.

Chair: Mr. Corzo Sosa

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* No summary record was prepared for the rest of the meeting.

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The meeting was called to order at 10 a.m.

Opening of the session

1. **The Chair** declared open the thirty-sixth session of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Opening statement by the representative of the Secretary-General of the United Nations

2. **Mr. Ori** (Office of the United Nations High Commissioner for Human Rights (OHCHR)) said that he wished to congratulate Ms. Gahar on her appointment as the newest member of the Committee and to commend the Committee on its progress towards achieving gender parity.

3. Not only was the phenomenon of contemporary migration a symptom of serious social, economic and, now, environmental stressors, it also engaged fundamental human rights and responsibilities. Migrants, particularly those in irregular situations, were disproportionately vulnerable to human rights abuses and often had no guarantee of due process nor access to remedies. Moreover, as border controls had become stricter and regular pathways to entry had narrowed, migrants' journeys had become longer and more dangerous. Between 2014 and 2021, more than 40,000 women, men and children had lost their lives or been reported missing on migratory routes worldwide. Countless other disappearances were, no doubt, never reported. Yet the human rights dimension of migration continued to be widely neglected and the issue was often discussed merely in terms of economic development or border security. Migration was sometimes even couched in inflammatory and xenophobic terms in attempts to use migrants as scapegoats for social and economic difficulties.

4. In recognition of the serious human rights challenges faced by migrant workers, OHCHR had been working to close the gap between the norms enshrined in international human rights law and the many rights violations that occurred in practice. OHCHR had strongly advocated for the inclusion of a human rights perspective in migration policies and their implementation and called for the realization of the human rights of all migrants, regardless of migration status. In that regard, OHCHR had developed a training guide on the human rights perspective on migration, to which the Committee had made a significant contribution.

5. He welcomed the decision of the Committee to draft general comment No. 6 on the Convergence of the Convention and the Global Compact for Safe, Orderly and Regular Migration, which would provide guidance to States on how to implement the two instruments in a synergistic and complementary manner. Migration through regular channels was vital for protecting the rights of migrants and their families. In addition, regular migration stood to benefit destination countries by contributing to the fulfilment of national policy goals; transit countries by reducing the length of migratory routes and thereby reducing the associated risks; and origin countries through the receipt of remittances from settled migrant workers. The Committee's concluding observations and general comments had contributed significantly to expanding regular migration pathways and guaranteeing both temporary and permanent regularization channels in destination countries. He particularly wished to commend the Committee for its work to support migrant children, including through the joint general comment No. 3 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 22 of the Committee on the Rights of the Child (2017) on the general principles regarding the human rights of children in the context of international migration.

6. **The Chair** said that the Committee had been engaged in a number of activities during the intersessional period, including drafting a joint declaration on information and communications technologies and female migrant workers and attending meetings with expert groups, the Inter-American Court of Human Rights and the International Labour Organization (ILO). He wished to voice his concern about the fact that the members of the Committee had been unable to participate in a focal point meeting owing primarily to the absence of interpretation. He wished to emphasize that interpretation was crucial to the successful performance by the Committee of its work.

Adoption of the agenda

7. *The agenda was adopted.*

Solemn declaration by the newly appointed members of the Committee under rule 11 of the rules of procedure

8. *Ms. Gahar made the solemn declaration provided for in rule 11 of the Committee's rules of procedure.*

Promotion of the Convention

Informal meeting with non-governmental organizations and national human rights institutions

9. *In accordance with rule 12 of the Committee's rules of procedure, Mr. Charef withdrew during the informal meeting.*

10. **A representative of the National Human Rights Council** said that his organization had led an investigation into the tragic events at the Nador-Melilla crossing. A preliminary report on the findings had been published and shared with the Committee. The tragedy demonstrated the need for Euro-African cooperation founded on solidarity and shared responsibilities and within a global governance framework that responded to current challenges in the realm of migration. As part of its mandate to promote the rights of migrant workers and the members of their families, his organization had delivered training, organized in partnership with the International Organization for Migration (IOM), the Office of the United Nations High Commissioner for Refugees (UNHCR) and OHCHR, to various stakeholders. The Council currently chaired the Network of African National Human Rights Institutions Working Group on Migration and had hosted a side event on migration during the third World Forum on Human Rights held in Rabat, Morocco, and co-organized by the Council and the International Centre for the Advancement of Human Rights.

11. He welcomed the progress made by the State party in improving protection for the rights of migrant workers and the members of their families, including the drafting of a national policy to regularize the situation of 50,000 migrants, based on the Council's recommendations; the promulgation of the Act to combat human trafficking; and the inauguration of the African Migration Observatory. In addition, the rights to legal identity, health and education were fully provided for under regulations currently in force. However, there were outstanding challenges concerning documentation for migrants and refugees. At the same time, foreign residents in Morocco needed to be guaranteed access to work and technical difficulties had to be overcome to improve their access to justice.

12. **A representative of Comité Migrations Souss-Massa** said that the State party should outline its plans to adopt a law governing migration and asylum in Morocco, taking into account the criticisms of previous and current laws. It should also share its assessment of the repeated large movements of migrants from the northern and southern regions of Morocco to the Souss-Massa, the legal framework within which those movements took place and the measures foreseen to guarantee the rights of the migrants involved.

13. **A representative of Comité Migrations Souss-Massa** said that Morocco should ratify fundamental human rights instruments, interact regularly with United Nations human rights mechanisms and implement their recommendations; strengthen cooperation with other African nations to ensure a continuous relationship between migrants and their countries of origin and to advance the human rights situation in Africa; and harmonize its national regulations and legislation with its international obligations, ensuring the primacy of international agreements over national law. Moreover, the State party should adopt regional migration strategies and create specialized structures to monitor, study and generate data on migration; enhance training on human and migrant rights for State officials; and provide specialized institutions and civil society organizations with the human and material resources necessary to help them promote and protect migrant rights. Lastly, the State party should simplify and update legislation governing the legal status of migrants to enable them to fully enjoy and exercise their rights, particularly the right to education, which should be accessible for all children, regardless of the migration status of their parents.

14. **A representative of Forum Justice et Droits de l'Homme** said that the national strategy for migration and asylum aimed to support the integration of migrants in regular situations into the areas of education, training, work, housing and business, at the same time ensuring that migration flows were controlled while fully respecting human rights. Nevertheless, progress in aligning national legislation with international standards had been slow, leaving migrants in irregular situations vulnerable, subject to exploitation in the areas of work and housing, and without access to legal complaint mechanisms or health care.

15. The Government should publish follow-up reports on the national strategy for migration and asylum and implement a support plan for non-governmental organizations (NGOs) working for the integration and inclusion of migrants. Act No. 02.03, which envisaged sanctions for migrants in an irregular situation, should be repealed, while the Bill on the entry and residence of foreigners in Morocco and on migration and the Bill on asylum should be swiftly enacted. Mechanisms to help irregular migrants access the health-care system should be implemented and all migrants, regardless of their status, should have the right to take legal action if their rights were violated. Campaigns to forcibly remove irregular migrants from coastal towns to inland towns, where they were at greater risk of vulnerability, should be ceased immediately and labour inspections should be intensified, with a view to prosecuting violations and to encouraging employers to regularize the situation of migrant workers. Families of irregular migrants with children in the school system should be able to regularize their situation and register in the social security system.

16. **A representative of Red Acoge**, speaking via video link and also on behalf of Andalucía Acoge, said that the migration agreements which had been signed between Morocco and Spain since 1992 were deeply concerning and had had a serious impact on human rights, leaving no safe or legal routes for migrants and refugees to enter Spain from Morocco. Since such agreements were first signed, arbitrary detentions, collective deportation and violations of the principle of non-refoulement had become routine. Persons involved in cases of summary deportation lacked due process and effective legal protection. The agreements had also led to increased harassment of migrants, particularly sub-Saharan migrants, living in or passing through Morocco.

17. The violence perpetrated by Moroccan and Spanish police on 24 June 2022 in the border region between Nador and Melilla was to be condemned. Human rights had been violated through the excessive and lethal use of force, illegal refoulement and arbitrary detention, and victims had been denied their rights to asylum and to emergency health care. No transparent investigation or judicial processes had been opened into the case.

18. Red Acoge called for an immediate end to the use of violence by Moroccan law enforcement agents against the migrant population, improved monitoring and accountability mechanisms and guarantees that all violations of human rights would be investigated and prosecuted. Arbitrary detentions should cease immediately and Morocco should end its participation in collective expulsions, especially those carried out in the autonomous Spanish cities of Ceuta and Melilla. Lastly, migration policy and bilateral agreements should be amended to facilitate safe and legal routes for migrants and to guarantee that border controls were compliant with international human rights law.

19. **A representative of Amnesty International**, speaking via video link, said that on 24 June 2022, Moroccan police and border guards had used batons and tear gas to violently disperse up to 2,000 black people, largely from sub-Saharan Africa, who had been seeking to cross from Morocco into Melilla. At least 37 people had died and some of the dozens of people who had been injured had reportedly been taken away and abandoned at remote locations around Morocco. No information had been received about the fate or whereabouts of 77 persons since they were last seen in the custody of State authorities on that day and access had been denied to expert organizations seeking to locate them. To date, no Moroccan officials had been brought to justice for those human rights violations.

20. The Government should ensure that independent and impartial investigations were carried out into the deaths, torture, ill-treatment and enforced disappearances that had occurred on that day, including an investigation into concerns that such offences had been racially motivated. It was important to establish a protection system for refugees at borders and to develop a human rights-based approach to migration.

21. **A representative of the Groupe Antiraciste de Défense et d'accompagnement des Etrangers et Migrants (GADEM)**, speaking via video link, said that, despite 10 years having passed since the authorities had announced their intention of amending Act No. 02.03, it still provided for the offence of “irregular emigration”, which was widely used to criminalize irregular migration and prevent migrants’ full enjoyment of their rights, including the right to justice. The Act also made repeated reference to public order, a concept which had no legal basis in Morocco and therefore allowed for arbitrary application of the law by officials. In addition, it contained restrictive conditions for obtaining or renewing residence permits, even for persons who had benefited from extraordinary regularization initiatives in 2014 and 2017.

22. Under the Act, motivation was rarely given for administrative decisions to refuse entry, carry out deportations or reject applications for work or residence permits. The time limit for appealing decisions was also very short and there was no appeals process at all for deportation or refusal-of-entry decisions. Some decisions could even be implemented despite an appeal against them having been made. Black people who were not of Moroccan nationality were systematically subjected to collective arrests, with no consideration for individual situations. Persons who were deemed to be at risk of irregular emigration were regularly removed from areas near European borders; such practice was subject to no judicial review.

23. The Group called for the Government to hold open and constructive dialogue with different stakeholders in the area of migration; to adopt legislation on the rights of migrants which complied with the international obligations of Morocco and guaranteed effective enjoyment of rights; and to ensure effective judicial control in administrative actions and decisions which impacted the rights of migrants.

24. **A representative of the Agence internationale pour le développement**, speaking also on behalf of the Association des Marocains Victimes d’Expulsion Arbitraire d’Algérie, said that, in 1975, some 500,000 persons living legally in Algeria had been deported to Morocco without warning and in serious violation of their human rights.

25. The Agency called on the Government to take measures to cooperate with Algeria in order to provide reparations to victims, to alleviate the victims’ vulnerable socioeconomic situation and to implement the recommendations contained in paragraphs 43 and 44 of the Committee’s previous concluding observations (CMW/C/MAR/CO/1). The Government should also work to improve living conditions for affected families, including by providing decent housing; implement a transitional justice process to repair the harm suffered by Moroccan citizens; include the children of victims in quotas for the employment of former freedom fighters in the public sector; and provide technical and material support for victims’ rights associations.

26. **A representative of the Forum Anoual pour le développement et la citoyenneté** said that extraordinary regularization initiatives carried out in Morocco in recent years had improved the situation of refugees, migrant workers and their families; some 50,000 persons had been granted official status and received a three-year renewable residence permit. However, many migrants in an irregular situation still faced the threat of deportation from towns near European borders, as well as problems related to work, food and health care.

27. The Forum recommended that a new law should be adopted to protect the rights of migrants and refugees in line with international standards and that the criteria for obtaining regular status and renewing residence permits should be reviewed. Migrants who had been detained following the events in the region between Nador and Melilla should be released and the strict security policy in place at the borders with Ceuta and Melilla should be relaxed. The Government should facilitate migrants’ access to work, housing, health and justice and support the integration of children from migrant families into the school system. A national strategy to combat and prevent trafficking in persons and to protect migrants from organized crime was also needed. Lastly, the rights of migrants should be included in education and in human rights-based awareness-raising campaigns.

28. **A representative of the Association Thissaghness pour la Culture et le Développement (ASTICUDE)** said that, with few exceptions, legislation for the protection of the rights of migrants had seen little improvement. The Bill on the entry and residence of

foreigners and on migration and the Bill on asylum had not yet been adopted as replacements for Act No. 02.03. It was therefore important for Morocco to swiftly accede to ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), ILO Domestic Workers Convention, 2011 (No. 189) and ILO Equality of Treatment (Social Security) Convention, 1962 (No. 118) and to ratify the Convention relating to the Status of Stateless Persons.

29. The progress made in promoting the rights of migrants enshrined in the Convention needed to be incorporated into the Labour Code and the Family Code. The Association called on the Government to adopt legislation to combat discrimination and to ensure that migrants enjoyed freedom of expression and association. Migrants should also have access to medical and social security coverage and the refoulement of individuals and groups should end, in line with the Migrant Workers Convention and the Convention relating to the Status of Refugees.

30. **A representative of the Ligue Marocaine de la citoyenneté et des droits de l'homme** said that Morocco had adopted a national migration and asylum policy following the Committee's review of its initial report. The rights-based policy was focused on strengthening the legal framework on migration, asylum and human trafficking with a view to regularizing the status of irregular migrants and improving the processing of asylum applications. Noting the repression and harassment of migrants in Tunisia following racist remarks by the President of that country, he recalled that some individuals chose to migrate voluntarily, for instance to improve their standard of living, pursue better education opportunities or reunite with relatives, while others were forced to leave their homes due, inter alia, to conflict, persecution, natural disasters, statelessness or trafficking. More should be done at the international level to protect the rights of migrants and members of their families, including Moroccan migrants who had been expelled from Algeria.

31. **A representative of the Centre for Migrant Advocacy** said that the Government's failure to effectively monitor compliance with laws and bilateral agreements to protect overseas Filipino workers had had dire consequences for those workers, many of whom were women engaged in low-wage domestic work. In reference to the recent case of Jullebee Ranara, a domestic worker in Kuwait who had been killed after reportedly being raped, allegedly by her employer's son, it was worth noting that, in Kuwait alone, there had been over 61,330 welfare cases involving migrants between 2017 and 2022. Most related to labour disputes, but nearly a thousand cases involved sexual abuse or harassment and several hundred concerned rape. In addition, local governments had been reaching bilateral agreements with their counterparts in the Republic of Korea to send Filipino seasonal workers to work in that country's agriculture and fisheries sectors. The programme was not sanctioned and contravened the Government's strict recruitment regulations, putting participants at risk of illegal recruitment and debt bondage.

32. In that light, the Committee should urge the State party to assess the Household Service Workers Policy reform package and the five bilateral agreements in that domain, as well as private recruitment agencies' compliance with welfare monitoring. The State party should also be encouraged to report on efforts to create decent job opportunities that were equally accessible to men and women, and to provide sustainable gender-responsive reintegration. It also needed to issue clear guidelines to local governments on the protection of seasonal migrant workers. Lastly, she requested the Committee to enquire about steps taken to ensure that the new Department of Migrant Workers had sufficient resources to deliver on its mandate.

33. **A representative of the Development Action for Women Network**, on behalf of the Philippine Migrants Rights Watch, said that the Government's efforts, particularly the recent establishment of the Department of Migrant Workers, contradicted the legal stipulation that the State should not promote overseas employment as a means of economic growth and national development. The Committee was requested to urge the State party to ensure that the Department of Migrant Workers had the institutional capacity to effectively coordinate with other actors in promoting and protecting the welfare of Filipino migrants and members of their families.

34. The State party should be reminded that reintegration required a coordinated effort to remedy the lack of employment opportunities for returnees, for instance through job

placement programmes and entrepreneurship and vocational training, to address the psychosocial challenges faced by returnees and to offset the financial cost of abrupt returns, such as those prompted by the coronavirus disease pandemic.

35. In the specific case of women migrants, she requested the Committee to encourage the State party to strengthen the implementation and enforcement of existing laws and policies protecting the rights of women overseas workers, engage in dialogue with host countries to address the specific needs of that category of migrant and ensure that standard Filipino contracts were recognized by host countries.

36. **A representative of the Catholic Bishops' Conference of the Philippines** said that, while the Government should be congratulated for its efforts to combat trafficking in persons and illegal recruitment, the periodic report did not contain much information on the prosecution of traffickers and corrupt uniformed personnel and public officials who allowed human trafficking and illegal recruitment to thrive. For example, online media reported that immigration officers were facilitating the departure of Filipinos who had been recruited to work in online fraud schemes in Myanmar and Cambodia. The report was also silent on the plight of foreign migrants who were trafficked into the Philippines, where their passports were confiscated and they were forced to work long hours and pay huge sums to avoid being sold to another agency.

37. **The Chair** said that the Committee was grateful for the information and suggestions of the NGOs, which provided a useful counterweight and would make for a more balanced dialogue with the delegations of the States parties. As Country Rapporteur for the Philippines, he wished to know whether the local governments had the power to enter into agreements with the Republic of Korea and whether all the legal and regulatory measures were in place to enable the Department of Migrant Workers to operate.

38. **A representative of the Centre for Migrant Advocacy** said that the programme to recruit Filipinos for the Korean agriculture and fisheries sectors was legitimate from the Korean standpoint; however, in the Philippines, agreements reached by local governments had to be endorsed by the Department of Migrant Workers. The Department should issue clear guidance on the matter to local governments rather than reply to their queries piecemeal. Moreover, guidance would also mitigate the risk of corruption arising from the fact that applicants to the programme had to pay a deposit in order for their candidacy to be considered.

39. **A representative of the Development Action for Women Network** said that, contrary to the relevant legal framework, the Department of Migrant Workers appeared to be focused more on promoting the deployment of Filipino workers than on protecting their rights and welfare.

The discussion covered in the summary record ended at 11.50 a.m.