



**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**
Nineteenth session

Summary record of the 235th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 10 September 2013, at 3 p.m.

Chairperson: Mr. El Jamri
later: Mr. Taghizade

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The meeting was called to order at 3.05 p.m.

Consideration of reports submitted by States parties under article 73 of the Convention *(continued)*

Initial report of Morocco (CMW/C/MAR/1, CMW/C/MAR/Q/1, CMW/C/MAR/Q/1/Add.1)

1. *At the invitation of the Chairperson, the delegation of Morocco took places at the Committee table.*
2. **The Chairperson** said that, in line with established procedure, he would not be chairing the meeting, as he was a Moroccan citizen.
3. *Mr. Taghizade (Vice-Chairperson) took the Chair.*
4. **Mr. Souhail** (Morocco) said that the State party's report was the outcome of a consultative process, involving Government bodies, national institutions and civil society, coordinated by the Interministerial Delegation for Human Rights. In recent years, migration flows everywhere in the world had become more complex, making migration a global concern. It was not worth ratifying international instruments without first ensuring that the right conditions existed for their implementation. The Convention needed to embody a real charter of migrants' rights, and could serve as a tool to guide and shape policymaking in the field of migration.
5. Stressing the State party's commitment to human rights, as reflected in the provisions of the new Constitution, which explicitly referred to the primacy of international conventions, he drew the Committee's attention to a range of activities and measures undertaken by Morocco in the field of migration, migrants' rights and human trafficking.
6. The State party was actively involved in the treaty body strengthening process and had received a number of visits within the special procedures framework of the United Nations Human Rights Council. In spite of delays, Morocco continued to fulfil its reporting obligations under various international treaties and endeavoured to implement the recommendations made in that regard. For example, in 2012, Morocco had drafted a National Action Plan to follow up the implementation of recommendations made within the framework of the Universal Periodic Review, as well as other United Nations mechanisms.
7. Morocco was a country of origin, transit and destination for migrants. In spite of challenges such as tighter European Union border controls, in addition to conflicts and political crises in Africa, the State party remained committed to protecting the rights of all migrants. He noted that Morocco had exceptionally devoted a ministerial department to supporting the Moroccan community abroad and had set up the Council for the Moroccan Community Abroad to ensure good governance in that area. The provisions of the Moroccan Constitution, as well as its Criminal and Labour Codes, explicitly prohibited discrimination on any grounds, including nationality, ethnic origin or race. Foreign workers, irrespective of their status, had the same right to social security and access to basic health care as Moroccan nationals, and enjoyed the same fundamental freedoms. Legislation introduced in 2003 on foreign residents, emigration and irregular migration made explicit reference to international conventions, and established guarantees to protect vulnerable groups. A process of institutional and judicial reform was also under way, improving the management of migration and adopting a holistic approach to the issues of migration, trafficking and asylum. A national asylum procedure was currently being developed, in cooperation with the Office of the United Nations High Commissioner for Refugees.
8. Alongside measures to uphold migrants' rights, action was also being taken to combat trafficking, with a specific focus on protecting the rights of victims. That work was

being carried out in close cooperation with the International Organization for Migration, the Office of the United Nations High Commissioner for Refugees and relevant countries of origin.

9. Recent legislative developments had included the drafting of bills relating to, or inspired by, a number of International Labour Organization conventions, as well as efforts to harmonize legislation on trafficking. A recently drafted bill on employment had taken up the definition of racial discrimination laid down in the Convention, and introduced severe penalties for any form of racial discrimination.

10. There were ongoing efforts to develop new policies, with input from civil society, aimed at strengthening the capacity of NGOs working with migrants and encouraging the creation of new NGOs. The National Human Rights Council had also prepared a thematic report on the situation of migrants and refugees in Morocco, containing recommendations relating to migration policy. The King had taken note of the recommendations and stressed that a holistic approach was required, in line with international law and based on multilateral cooperation. Steps were being taken by the relevant authorities to implement the recommendations.

11. Morocco continued to face various challenges with regard to migration management, in the light of the emergence of complex regional and subregional migratory patterns and sophisticated human trafficking networks. Those new challenges required multilateral solutions. It was necessary for countries of origin, transit and destination to work together in order to implement development projects and capacity-building measures, including those aimed at ensuring the enforcement and effective protection of rights. Examples of efforts undertaken by the State party had included the implementation of a border control strategy to combat transnational trafficking networks and the signing of a joint declaration with the European Union on partnership and mobility. Morocco had also participated in a number of regional and subregional forums, such as the 5+5 Dialogue forum, and had hosted a range of conferences on migration and development, including a regional conference on migration management and human rights, held in 2013 to mark the tenth anniversary of the Convention, which had raised awareness of the provisions of the Convention and the work of the Committee. It was important to promote the Convention and to continue cooperation at both regional and international level.

12. He stressed that much still remained to be done to protect the rights of migrants, and drew attention to the fact that a number of European countries were not yet parties to the Convention, and seemed moreover reluctant to take steps to ratify that instrument. He therefore called for cooperation in that regard, and encouraged the adoption of a global approach, taking joint responsibility for upholding human rights.

13. **Ms. Dicko** (Country Rapporteur) requested further information on the practical measures implemented by the State party, such as action to prevent discrimination, ensure access to justice and education and register births. It was important to assess how the articles of the Convention were implemented in practice.

14. She noted that the State party had yet to make the declarations provided for under the Convention, which it had ratified in 1993, recognizing the competence of the Committee. However, she hoped that it would be possible to discuss that issue, as well as other matters, during the course of an interactive dialogue with the State party.

15. She also raised the matter of the Moroccan workers and their families, who had been expelled from Algeria in 1975. The issue had been raised during the Committee's consideration of the periodic report of Algeria, but no answer had been provided at that time. Given that Morocco had an obligation to protect its citizens abroad, she asked whether the State party could shed any light on the matter, and whether any measures had been taken, or were planned, to compensate the families involved.

16. **Mr. El-Borai** (Country Rapporteur) said that, in view of the State party's increasing importance as a transit and host country for migration as well as a country of origin, the lack of pertinent, up-to-date statistics was a source of concern; in one case, the State party cited figures that were six years' old and, in another, figures from nine years ago.

17. Noting the State party's hesitancy in signing three key International Labour Organization (ILO) Conventions (No. 97, No. 143 and No. 189), apparently due to inconsistencies with national legislation, he asked the delegation to clarify the rank of international instruments within the legal hierarchy. Assuming that duly ratified international instruments took precedence over national laws, conflicting provisions of national law, such as the criminal penalties for irregular migration referred to in paragraph 62 of the report, would automatically be abrogated upon ratification without the need for legislative amendment, in which case inconsistencies of that kind should not constitute an obstacle to ratification.

18. Although migrant workers had the right to vote in principle, very few of them exercised that right in practice and migrants appeared to enjoy very basic few rights in Morocco in general. With that in mind, he would appreciate clarification regarding the prerequisites that foreign nationals must satisfy in order for their children to be admitted to State schools and how many of them were entitled to social security benefits under Moroccan law.

19. **Mr. Sevim**, noting that the majority of Moroccan migrant workers were to be found in European Union member States, said that the rights they enjoyed in those States had been seriously eroded in recent years, while conditions of entry had been tightened. For example, in the Netherlands the minimum age requirement had been raised from 18 to 21, with a further increase to 24 tabled, and would-be immigrants were required to take a Dutch language test; migrant workers' right to transfer their social security benefits outside the European Union had been curtailed and in some cases suspended; and pension entitlements and child allowances had been reduced by around 40 per cent. With a Moroccan NGO having instituted a legal challenge to the changes that would shortly be heard before the Dutch courts, he would like to know whether the Moroccan authorities would be providing legal and other assistance to the Moroccan nationals affected, both in the Netherlands and elsewhere. He would also like to know whether the State party envisaged entering into a readmission agreement with the European Union.

20. With regard to the situation of migrant workers in Morocco, he would like to know: what basic conditions they must satisfy in order to be granted a residence or work permit; what fees were payable; what the prerequisites for family reunification were; what conditions applied to the export or transfer of social security benefits outside Morocco; and whether migrant workers had the right to form or to join a trade union.

21. **Mr. Kariyawasam** asked what the authorities were doing to build familiarity with the Convention's provisions and migrant workers' rights among stakeholders, especially in rural areas where literacy rates were not as high as in cities, and whether training was provided for judges and law enforcement officers. Information about action to combat the racial prejudice and discriminatory treatment that migrant workers from sub-Saharan African endured when working in or passing through Morocco would be appreciated, including, in particular, measures to prevent the psychological abuse reportedly suffered even by migrant workers in a regular situation. Had any cases of migrant ill-treatment on the basis of racial discrimination been investigated and had the perpetrators been brought to justice?

22. Noting the particular vulnerability of female domestic workers, he asked whether any specific policies were in place to protect their rights and prevent abuse in that sector. He also invited the delegation to comment on reports that irregular migrant workers in

Morocco tended not to seek medical treatment when sick due to fear of arrest, highlighting that under the Convention hospitals were required to provide care irrespective of status. Lastly, he sought information about measures adopted to ensure: that foreign nationals were able to register children born to them in Morocco and were aware of their rights in that area; that the children of migrant workers attended school and enjoyed the same education rights as Moroccan children; and that migrant workers who felt their rights had been violated had access to redress and reparation.

23. **Mr. Tall** asked the delegation to provide details of the mechanisms used to ensure follow-up and implementation of the observations and recommendations made by the various United Nations human rights bodies. More specifically he recalled that the State party had undertaken to formulate a specific plan of action following the universal review process in 2012 and asked whether such a plan had been implemented and, if so, what results had been achieved, whether any problems had been encountered and whether civil society had been involved.

24. He wished to highlight two specific areas of concern with regard to implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The first was the violence and harassment that migrants in Morocco continued to experience at the hands of police officers, especially in border areas. Reports spoke of failures to respect procedural obligations and migrants being expelled without formality, in some cases being abandoned in the desert without food or drink. He would like to know how officers implicated in those practices were sanctioned. Education, training and awareness-raising were vital to combat such violations and the racial discrimination that was often at their origin.

25. His second concern was the situation of women in domestic service. According to alternative sources, young female domestic workers from the Philippines and sub-Saharan Africa were often subjected to physical, psychological and sexual violence, their rights were frequently violated and their passports were confiscated. He would like to know what the Government was doing to protect those women and ensure that they were paid fairly and on time.

26. An update on progress towards the adoption of a consolidated law against trafficking in human beings would be appreciated, as well as information about any steps taken to ensure protection for trafficking victims, bearing in mind that, according to reports, they often received little or no support and were either arrested or expelled. Lastly, he invited the delegation to comment on reports of systemic disorganization and corruption within the airport security services that resulted in long periods of detention for foreign nationals arriving at or in transit through Casablanca airport.

27. **Ms. Ladjel** drew attention to the fact that, in the documents submitted to the Committee, the State party referred to the number of Moroccans living outside the country on three separate occasions, each time citing a different figure. She asked the delegation to provide exact, up-to-date statistics, as well as more information about the surveys conducted by the Moroccan Association for Migration Studies and Research.

28. Referring to specific paragraphs of the report, she asked in what year the 3,400 migrants mentioned in paragraph 45 had returned voluntarily to their countries and what the circumstances of their return had been, and why, as indicated in paragraph 398, foreign minors should be exempted from expulsion decisions, assuming their filiation and the whereabouts of their family were known. Who would care for those children if they remained in Morocco? She also sought an explanation as to why, since the onset of the economic crisis, only seasonal agricultural workers who had previously worked in Spain were being hired, as indicated in paragraph 407. Was it perhaps because those workers had benefited from some form of training? Lastly, she asked the delegation to clarify why, as

indicated in paragraph 441, the children of adult migrants in a regular situation received only a freedom of movement card instead of a residence card as their parents did.

29. **Mr. Carrión Mena** commended the State party's clear determination to comply with the Convention but asked what steps were being taken to flesh out its migration policy. Regretting the lack of disaggregated data, he asked what the obstacles to data collection in Morocco were. He enquired about efforts to educate public servants about the Convention and to inform migrants of their rights. He requested further information about allegations of ill-treatment of migrants in an irregular situation and of racial discrimination against sub-Saharan migrants. What was the country's policy on refugee status and the number and background of persons to whom it had been granted? Additional information would also be helpful regarding efforts to improve the treatment of Moroccan migrant workers, particularly in Spain. He wished to know whether the economic crisis in Europe had caused Moroccan migrants to return home and, if so, what policies had been adopted to address their needs. Lastly, he asked what progress had been made in combating human trafficking and whether any studies had been carried out on that topic.

30. **Ms. Miller-Stennett** requested additional information about the policy on migration flows, specifically how it protected migrant workers entering and leaving the country, how close it was to adoption and implementation and what other organizations were involved in its formulation. She asked what support measures were in place for victims of trafficking, whether legislation dealt appropriately with traffickers and how the public was being educated to recognize, report and protect itself against trafficking. She wished to know whether there were any formal agreements to encourage seasonal or circular migration and, if so, with which countries. In the same vein, she enquired about measures to ensure the safety, fair treatment and employment security of Moroccan migrant workers.

31. **Mr. Ibarra González** invited the delegation to comment on reports that security forces systematically confiscated migrants' documents, on any steps taken to end the practice and on allegations of the collective expulsion of migrants. Did the State party intend to amend the law to abolish such expulsions? Referring to paragraphs 257 and 258 of the report, he asked whether, in practice, foreign nationals were indeed admitted to hospital and billed for care on a par with Moroccans, how many had been treated since the health-care reform and what measures were in place to ensure migrants in an irregular situation could access health care without fearing expulsion. Lastly, he wished to know what mechanisms were available to help Moroccans living abroad transfer their savings or pensions back to Morocco.

32. **Mr. Nuñez-Melgar Maguiña**, referring to a number of mechanisms, laws and action plans for the protection of migrant rights, asked whether they also covered migrants in an irregular situation. He regretted that fines and prison sentences continued to be given to such migrants and stressed that an administrative offence should not go to criminal trial. He asked whether confiscating the documentation of migrants in a regular situation was officially permitted and whether any measures were being taken to abolish the practice. He enquired about the extent of recourse to collective expulsion. He wished to know how migrants were informed of their rights and whether migrants subject to an expulsion order received consular services. Were measures in place to ensure equal access by foreign workers to education, health care and social services? He asked whether there was a socioeconomic reintegration policy for Moroccan returnees and whether it was possible for them to transfer their foreign earnings. He also asked whether the Palermo Protocol had been incorporated into national legislation and what penalties were set out for human traffickers.

33. **Mr. Brillantes** asked whether there were any programmes to protect and assist Moroccan migrants who were caught up in natural disasters or other crisis situations, such as the current unrest in Egypt or the Syrian conflict. He also wished to know whether the

Government felt obliged to protect the welfare of migrant workers from Western Sahara, given that the claims of Morocco to that territory had not yet been satisfied. He enquired about any regulation of private recruitment agencies and the status of ratification of International Labour Organization Private Employment Agencies Convention, 1997 (No. 181).

The meeting was suspended at 5.15 p.m. and resumed at 5.45 p.m.

34. **Mr. Souhail** (Morocco) said that Morocco had a 50-year history of maintaining ties with its nationals working abroad, but stressed that the country was in the midst of a social, economic and democratic transition that diverted resources towards new priorities. Furthermore, the support provided to Moroccan expatriates varied from one host country to the next and was defined through bilateral agreements with those countries. International conventions superseded national legislation and reforms were under way to align the law with international instruments. Moroccan law applied to all those living in the country regardless of their nationality and all had equal access to legal remedy. Moreover, migrant workers in a regular situation benefited from the same economic and social rights as Moroccan workers, while efforts were being made to extend the protection of the law to those working in the informal sector. Training on the Convention was already available to public officials and would be provided in future to the media and civil society.

35. **Mr. El Haiba** (Morocco) said that a strategic plan, involving the relevant ministries, the National Human Rights Commission and civil society, was being implemented to ensure more effective follow-up to the recommendations of the various United Nations bodies. The plan targeted a number of areas, including democratic development and the rule of law; ratification of optional protocols regarding individual complaints mechanisms; alignment of national legislation with international instruments, including a component on training of law enforcement officers and customs agents; promotion of the economic, social, cultural, civil and political rights of all persons, including migrant workers; enhanced protection of the rights of certain categories of the population, such as women, children and persons with disabilities; and fostering a human rights culture through education, with a focus on the role of the media.

The meeting rose at 6 p.m.