



**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 first part (public)* of the 232nd meeting

Held at the Palais Wilson, Geneva, on Monday, 29 September 2013, at 10 a.m.

Chairperson: Mr. El Jamri

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* No summary record was prepared for the second part (closed) of the meeting.

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The meeting was called to order at 10.10 a.m.

Opening of the session

1. **The Chairperson** declared open the nineteenth session of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Opening Statement by Ms. Pansieri, Deputy High Commissioner for Human Rights

2. **Ms. Pansieri** (Deputy High Commissioner for Human Rights) pointed out that the Kingdom of Morocco and the International Organization for Migration (IOM) had organized a regional seminar on migration policy and human rights in Rabat on 5 July 2013 to mark the tenth anniversary of the entry into force of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Furthermore, at its sixty-eighth session, the General Assembly of the United Nations would be underscoring the links between international migration and development, particularly during the high-level dialogue on migration and development, scheduled for 3 and 4 October 2013; the discussions on the post-2015 development agenda; and the treaty body strengthening process established under international human rights instruments.

3. The common vision of the post-2015 development agenda, which was being developed within the international community, must absolutely take migration into account. Migrants must not be considered solely as commodities or fund providers, but as rights-holding human beings. In that respect, the Office of the United Nations High Commissioner for Human Rights (OHCHR) would shortly be organizing an event on domestic migrant workers, in which the Committee Chairperson would participate.

4. At the sixty-eighth session of the General Assembly, the Member States were expected to agree on a substantive resolution, the content of which was still being negotiated, on the treaty body strengthening process, in order to resolve structural problems. At the request of the co-facilitators, the 25th Annual Meeting of Chairpersons had been held in New York, from 20 to 24 May 2013. At that event, the Chairpersons had called for observance of the following five principles: strengthened human rights protection, respect for the independence of the treaty body system, reinvestment of any cost savings in the treaty body system, use of modern technologies to enhance the accessibility of treaty bodies, and a sustainable response to the challenges facing the system.

5. She acknowledged the pioneering role played by the Committee on Migrant Workers, the first to have adopted all of the recommendations in the report by the High Commissioner for Human Rights on strengthening the treaty body system (A/66/86), and which had also adopted the guidelines on the independence and impartiality of members of the human rights treaty bodies established under human rights instruments (the Addis Ababa Guidelines).

6. At its twenty-third session, the Human Rights Council had adopted resolution 23/20 on the human rights of migrants and had considered the report of the Special Rapporteur on the human rights of migrants (A/HRC/23/46) and the report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/HRC/23/56). At that session, the High Commissioner for Human Rights had pointed out that health care, education, housing and fair administration of justice were not commodities for sale to a few, but rather rights to which all were entitled without discrimination.

7. She highlighted the deep commitment of the Office of the United Nations High Commissioner for Human Rights to the ratification and application of all standards and conventions, particularly the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Migration was a cross-cutting element in the four-yearly management plan of the High Commissioner for Human Rights.

8. **The Chairperson**, expressing regret at the slowdown in Convention ratifications, said that clear positions on migration were being adopted at international level. Several countries were trying to draw a distinction between the rights of migrants in a regular situation and those in an irregular situation, which posed a new challenge for the coming years. The issue would be addressed in the near future at a meeting with the representative of the European Union in Geneva. The Convention was more relevant than ever as migratory flows and cases of human trafficking and smuggling were on the rise and mechanisms to protect migration and its histories therefore remained essential.

9. He had attended the regional meeting of experts in Rabat and the meeting of treaty body chairpersons, at which it had been decided that they would meet more frequently in New York in order to facilitate contact between the chairpersons and Member States. Their physical presence in New York would enable them better to explain their actions and their positions and encourage an equal approach to the Human Rights Council and the treaty bodies, and the inclusion of migrants' rights in the post-2015 development agenda.

Adoption of the Agenda (CMW/C/19/1)

10. *The agenda was adopted.*

Promotion of the Convention

11. **Mr. Salama** (Director, Human Rights Treaties Division, Office of the High Commissioner for Human Rights, OHCHR) recalled that the Chairperson of the Committee had played an important role as chair of the Meeting of Chairpersons, and encouraged the ongoing exchange with all stakeholders. The draft resolution currently under consideration included provisions for strengthening technical capacity, as sought by the African States and the Caribbean Community (CARICOM).

12. **The Chairperson** recalled that the videoconference held in 2012 in connection with the adoption of the Addis Ababa Guidelines had been the first stage of encounters between Member State representatives and treaty body members, enabling the latter to publicize their work, and all stakeholders to state their positions.

13. **Mr. Carrión Mena** welcoming the work of the Committee but acknowledging its continued vulnerability owing primarily to its small membership, said that it was not for Committee members as such, but rather for the United Nations Secretariat and the system as a whole, to promote ratification of the Convention. The usual procedure for promoting ratification was inadequate. Instead, what was needed was an ad hoc initiative to ensure more active State participation. It fell to OHCHR to take stock of the measures adopted to support the Committee's actions and to consider the way forward.

14. In that context, he recommended that OHCHR should focus, above all, on developed countries that took in large numbers of migrants and benefited from migratory flows but had not ratified the Convention. Lastly, since the last session, he had attended several conferences on migration in Ecuador and had contributed to the establishment of a regional trafficking observatory located in Quito.

15. **Mr. Taghizade** asked whether representatives of the same State party often presented different points of view, depending on whether they were meeting in Geneva or New York.

16. **Mr. Tall** said that he welcomed the Committee's leadership role and thanked Morocco for having organized some months previously a regional meeting on the occasion of the entry into force of the Convention. The meeting had enabled representatives of different countries in the region to address various migration issues together.

17. In May 2013 he had participated, as a Committee member, in a national advocacy seminar organized by Amnesty International and the OHCHR regional office in Dakar. He would wish for similar events to support the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. He was concerned at the reduction in activities to promote the Convention and would like to know what measures were currently under way to further encourage ratification.

18. **Mr. Salama** (Director, Human Rights Treaties Division, OHCHR) asked Mr. Heenan to provide details on the measures taken by the High Commissioner to promote ratification of the Convention, given the decline in the number of ratifications. To his thinking, the situation was not due to insufficient measures to promote the Convention, but to a deeper crisis related to acceptance, understanding and implications of the norms and principles set out in the Convention. In addition, the Rabat meeting had revealed the dichotomy between ratification from a theoretical perspective, and the effective strengthening of human rights, which was based on concrete measures, particularly the adoption of action plans.

19. In addition to the role of OHCHR in promoting the Convention, States parties also had a responsibility in that regard and should encourage accession to the Convention, especially via bilateral and multilateral relations. The issue of State party measures to promote the values of the Convention in the context of their relations with other countries should remain permanently on the agenda of State party conferences.

20. **Mr. Heenan** (Office of the High Commissioner for Human Rights) said that he had previously occupied the post of director of the regional office in Cambodia. Although securing the Cambodian State's accession to the Convention had not been easy, the efforts of OHCHR had nevertheless borne fruit, thanks to media and public interest in the migrant rights issue. Initiatives included a conference to which the office had invited experts and ministers to enter into dialogue with the public authorities, publicize the Convention and present its advantages. The Convention had been translated into the local language, had been widely disseminated, and was shortly to be ratified by Cambodia.

21. **Mr. Kariyawasam** underscored the fact that, while migrant workers were a vulnerable population group, they were not recognized as such. Few host States had ratified the Convention to date but it was essential that they participate. The secretariat and the States parties should spearhead efforts to fill the gap. In that respect, it was gratifying that a meeting on the question of domestic migrant workers was scheduled for the high-level dialogue on migration and development.

22. **Mr. Taghizade** said that, unlike that of other instruments, the purpose of the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families was not to defend the citizens of the States parties, but rather to protect the rights of foreign nationals. The Convention was a forward-looking instrument, linked as it was to the phenomenon of globalization and based on a global vision of the world. The road was set for exponential growth of migrants in an irregular situation, and the United Nations should endeavour to anticipate developments in that light. In any event, the rights of all migrants should be protected, including those of migrants in an irregular situation.

23. **Mr. Salama** (Director, Human Rights Treaties Division, OHCHR), sharing Mr. Taghizade's opinion, said that the reason for the Committee's weaknesses was that migrant workers carried no weight in governments' views. To address that deficiency, he recommended increased resources for the Committee, and strengthening of the role of treaty body chairpersons so that the Committee's voice was heard. He also regretted the mismanagement of resources for the implementation of the Convention and hoped that the issues raised at the Rabat meeting would be more closely examined.

Consideration of reports submitted by States parties under article 73 of the Convention*Dialogue with representatives of non-governmental organizations (NGOs) and national human rights institutions on the initial report of Morocco*

24. **Mr. Rachidi** (Anti-racist Group for the Support and Defence of Foreigners and Migrants (GADEM)) said that the previous decade had witnessed recurring and often violent targeted repression of nationals of sub-Saharan countries in an irregular situation in Morocco. Many people had been killed as a result of direct intervention by the Moroccan and Spanish security forces. The Moroccan Government's dismissal of migrants' allegations could signal an institutionalization of violence. Notwithstanding the improvement in the handling of pregnant women and children, migrants were the victims of various practices, such as racial profiling, arbitrary detention, racism, mass expulsion, among others.
25. **Mr. Hamzaoui** (Association of Moroccan victims of arbitrary expulsion from Algeria (AMVEAA)) recalled that 45,000 Moroccan families who had been living in Algeria for decades had been forcibly expelled in 1975. Most of their members remained in a dire situation, which was why AMVEAA requested the Committee to recommend that the State party should allow victims access to all existing remedies, should call upon all competent international human rights bodies and authorities, and should support the AMVEAA initiatives to defend the rights of victims and ensure that Algeria took the Committee's 2010 recommendations into account.
26. **Mr. Jaite** (Moroccan Human Rights Association (AMDH)) said that, Morocco was no longer only a migrant transit country, but also a host country. Migrant workers were increasingly victims of violence, the shooting in autumn 2005 at the enclaves of Ceuta and Melilla, killing 17 people being but one tragic example. Furthermore, racist and xenophobic discourse was becoming commonplace, including at senior levels of government. AMDH therefore considered that Morocco should take the following measures: adopt a legislative and regulatory framework governing the entry and stay of foreigners, providing a series of guarantees for migrants; enact a law on domestic workers in accordance with international conventions and investigate their complaints of ill-treatment; take measures to combat racism against sub-Saharan migrants; abolish the impunity enjoyed by certain perpetrators of violence against migrants; ensure protection of women and children; and adopt national asylum laws.
27. **Mr. Chahboun** (Moroccan Human Rights Organization (OMDH)) called on the Moroccan Government to ratify the International Labour Organization (ILO) Forced Labour Convention, 1930 (No. 29) and the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure. He recommended that the Moroccan Government should examine and amend Act No. 02/03 on migration, its provisions not being in line with international law. He also requested that the European Union fulfil its responsibilities to Moroccan workers and migrants.
28. **Mr. Kassou** (National Human Rights Council of Morocco (CNDH)) called on the public authorities, all social actors and partner countries of Morocco to join forces to develop and implement a genuine public policy to protect rights, based on international cooperation, and including civil society. In that context, the Moroccan Government should put in place a national legal and institutional asylum framework, that encouraged the integration of refugees and asylum seekers in Morocco. It should also develop and implement exceptional measures to regularize the status of certain categories of migrants in an irregular administrative situation, and guarantee them effective access to justice; devise a training programme for authorities responsible for migrants; and protect, in particular,

migrant women and unaccompanied minors. Regarding the fight against trafficking in persons, the Moroccan Criminal Code should be amended so as more adequately to define and sanction that crime and more effectively protect minors. A certain number of reforms should also be introduced to enable foreigners in a regular situation to take part in local elections and join national trade unions and associations.

29. CNDH urged Moroccan media and journalists to avoid all messages inciting hatred or discrimination against foreigners and to help raise the population's awareness of racism and xenophobia.

Dialogue with representatives of non-governmental organizations (NGOs) and national human rights institutions on the initial report of Burkina Faso

30. **Mr. Kabore** (Centre for International Migration and Development Studies and Research (CERMID)) commended the State for its efforts to protect the rights of migrant workers in Burkina Faso, although, unfortunately, such rights were still insufficient. In order to remedy the situation, he recommended the following measures: establishing a ministry for nationals of Burkina Faso abroad to better meet the needs of the diaspora, strengthening the migration policy and the capacity of existing reception facilities, strengthening bilateral cooperation to establish the conditions for a lasting peace with States that received large numbers of Burkina Faso nationals, lifting customs barriers that hampered the free movement of persons and goods, and supporting civil society organizations that assisted migrant workers in Burkina Faso.

The meeting rose at 12.40 p.m.