



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

Distr.: General
5 November 2021

Original: English

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

Summary record of the 470th meeting*

Held at the Palais des Nations, Geneva, on Thursday, 7 October 2021, at 3 p.m.

Chair: Mr. Ünver

Contents

Promotion of the Convention (*continued*)

*Launch of general comment No. 5 (2021) on migrants' rights to liberty, freedom
from arbitrary detention and their connection with other human rights*

* No summary record was issued for the 469th meeting.

This record is subject to correction. Corrections should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of the present record to the Documents Management Section (DMS-DCM@un.org).

Any corrected records of the public meetings of the Committee at this session will be reissued for technical reasons after the end of the session.



The meeting was called to order at 3.15 p.m.

Promotion of the Convention *(continued)*

Launch of general comment No. 5 (2021) on migrants' rights to liberty, freedom from arbitrary detention and their connection with other human rights

1. *At the invitation of the Chair, the panellists and other guests joined the meeting via video link.*

Introduction and welcoming remarks

2. **The Chair** said that general comment No. 5 (2021) on migrants' rights to liberty, freedom from arbitrary detention and their connection with other human rights had arisen from the Committee's deep concern at the growing trend towards the criminalization of migration and the increasing recourse to detention for migrants. The text was the result of a participatory and inclusive process, and the Committee was profoundly grateful for the input received from a range of stakeholders. The general comment provided an authoritative interpretation of articles 16 and 17 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

3. The purpose of the general comment was to provide States parties with guidance on fulfilling their obligations under the Convention in relation to the right to liberty and protection against arbitrary detention. It also focused on States' obligations arising from the intersection of those rights with other human rights, and it addressed the implementation of the Global Compact for Safe, Orderly and Regular Migration. In addition, the general comment provided other stakeholders with guidance on how to implement initiatives to promote and protect human rights and to monitor compliance.

4. **Mr. Botero Navarro** said that he was deeply grateful for the over 100 submissions received from a diversity of stakeholders in preparing the general comment. Their presence at the launch was testament to the strong bond that united them and the Committee in the protection and promotion of the human rights of all migrants and members of their families. The general comment and the Committee's actions in response to the unprecedented crisis arising from the coronavirus disease (COVID-19) pandemic constituted a solid foundation on which to move forward.

Panel discussion with former immigration detainees

5. **Mr. Muhamat** (Global Detention Project) said that, as a formerly detained refugee, he knew first-hand what it was like not to have a voice and to lose hope of ever being able to live in society. Having been held for six and a half years at the Australian immigration detention centre in Nauru, he did not believe that detaining migrants was an appropriate solution. Detention was dehumanizing – even people's names no longer belonged to them. It came down to a choice between fighting for one's rights and fighting for one's dignity, and most chose dignity. It should not be shameful for people to say they were refugees or migrants, or for States to accept them and their families for who they were, as they had not left their homes voluntarily but had been compelled to leave. It was very challenging to flee human rights violations and journey to a place where human rights were supposed to be fully respected only to discover that migrants were not seen as completely human.

6. His message was for States, in particular the European Union, which appeared to consider immigration detention policies, such as that of Australia, as a success to be emulated. In his opinion, such policies were a failure, not least because the authorities never bothered to canvass the views of detained migrants themselves, in order to understand the real cost and impact of detention. Detaining migrants automatically created two groups – us and them, migrants and host communities – and inevitably led to miscommunication and misunderstanding. Immigration detention centres should be closed and an approach found to breathe humanity back into the migration process.

7. **Ms. Franco** (Grassroots Leadership) said that her decision to leave her home country had been a very difficult one. And that difficulty had been compounded by the chaotic manner in which she had been received in the United States of America. She had been arrested on

arrival and placed in a migrant detention centre, where all her belongings had been taken from her and she had been unceremoniously hosed down, given ill-fitting clothing and been handcuffed and shackled – in other words, treated as a criminal and a modern-day slave on the basis of her skin colour.

8. Detainees were nothing but numbers because that was all that private prisons needed in order to make money off migrants' trauma and suffering. No one had value in such places, and the staff showed no concern about inmates' nutrition or state of health. For instance, when she had swapped bunks with an elderly woman who was unable to climb up to her assigned bunk or when she had helped another detainee to stand up after a fall, she had been punished by being placed in solitary confinement. There was no privacy, and all activities, including eating, bathing and using the toilet took place in the same large room. Detainees were allowed outdoors for only one hour per day.

9. She had been released after 18 months, only to be imprisoned again to await deportation. She had now been in the United States for 10 years, but even after being released from immigration detention, she remained undocumented and had never lived free from persecution and the fear of rearrest. Even those who managed to regularize their situation continued to live with the stigma of being a migrant that stemmed from negative preconceived ideas about the intentions of migrants, and all because they were not white. Nevertheless, despite the hardships, she would not stop being a voice for those who remained in detention, and she appealed to people with power to shut down immigration detention centres, which dehumanized people and compounded their trauma.

Presentation of key concerns, main findings and recommendations contained in general comment No. 5 (2021)

10. **Mr. Botero Navarro** said that one of the central messages of the general comment was that States and all other actors involved should abolish the harmful practice of detaining migrants. The Committee hoped that the general comment would contribute to the development of legal standards to begin that process.

11. In the context of international migration, the immigration control measures adopted by some States might, and in many cases did, amount to clear violations of the rights of migrant workers and their families. Those measures included automatic mandatory detention, the detention of children with or without their families or with adults who were not related to them, the detention of pregnant women, trafficking victims, asylum seekers, refugees, stateless persons and other migrants in vulnerable situations, the separation of families, prolonged or indefinite detention, barriers to access to legal remedies, and overcrowding and inhumane detention conditions.

12. The Committee had observed that the criminalization of migration tended to involve manipulating criminal law to punish or seek to prevent irregular migration in a manner that was overwhelmingly disproportionate and inconsistent with Convention obligations. States needed to be aware that, under international human rights law, they had an obligation not to criminalize migration. While immigration detention was not a recent phenomenon, the Committee had witnessed a worrying rise in the use of private prisons over the past decade. Immigration detention had become a very profitable industry for private contractors and, in some cases, for States. The Committee had noted with extreme concern that the migrants being detained were disproportionately poor and people of colour, who were also those who had the greatest difficulty defending themselves or obtaining legal assistance in immigration, asylum or international protection procedures.

13. The general comment focused not only the right to liberty but also on its intersection with other human rights. Detention had numerous negative effects on migrants, resulting from various factors, including its indeterminate duration, family separation, lack of access to food, safe water and medical care and deliberate physical and psychological abuse.

14. The right to liberty, protected under article 16 of the Convention, applied to all forms of detention and must be guaranteed to all persons without discrimination, including migrants, regardless of their migration status. The prohibition of arbitrary detention was absolute. Detention in the context of migration must always be based on a legitimate

objective, used as an exceptional measure of last resort and subject to periodic re-evaluation and judicial review.

15. Globally, countries used different terms to refer to immigration detention, such as “processing”, “reception”, “retention” or “placement”, often avoiding the word “detention” to evade scrutiny and the application of procedural safeguards. Yet, protection under article 16 of the Convention applied to any deprivation of liberty of a migrant, regardless of the term used.

16. The Committee considered “deprivation of liberty” to refer to any form of detention or imprisonment or the placement of a person in a public or private custodial setting which that person was not permitted to leave at will, by order of any judicial, administrative or other authority, in accordance with the definition set out in the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Accordingly, “immigration detention” referred to any situation in which a person was deprived of liberty on grounds related to his or her migration status, regardless of how the measure was defined in national policy or law, the name given to the deprivation of liberty or the name of the place where the person was held.

17. The fundamental principles of the Convention regarding the right to liberty included the non-criminalization of migration. Irregular entry, stay or exit constituted at most administrative offences and should never be considered as criminal acts. The Committee opposed the framing of migration by States as a threat to local communities and the consequent adoption of national laws, policies and practices that designated migrants as dangerous persons or even criminals.

18. Another important principle was the exceptionality of immigration detention. Immigration policies should be based on a presumption of freedom and not of detention. Although the right to liberty was not unlimited, the deprivation of liberty on grounds related to an individual’s migration status must serve as the last possible measure, to be adopted only once all less harmful alternatives had been analysed and ruled out.

19. According to the principle of non-detention of migrant children, migrant children, whether accompanied by their families, unaccompanied or separated from their families, should never be deprived of liberty for migration-related reasons. Detention of children was always prohibited under international human rights law as unnecessary and disproportionate. Lastly, in line with the principle of non-detention of migrants in vulnerable situations, protection against detention should be afforded to vulnerable persons, such as pregnant women, asylum seekers, refugees, stateless persons and victims of trauma or torture.

20. **Ms. Diallo** said that the general comment set out the legal obligations of States parties regarding the protection of the right to liberty of migrant workers and their families, the first of which was to consider alternatives to detention in each individual case. States should take measures to abolish immigration detention and to prioritize non-custodial alternatives, in accordance with their commitments under the Global Compact for Safe, Orderly and Regular Migration.

21. The Committee defined “alternatives to detention” as referring to all community-based care measures or non-custodial accommodation solutions that were less restrictive than detention and which must be considered in the context of lawful detention decision procedures to ensure that detention was necessary and proportionate in all cases, with the aim of respecting the human rights and avoiding the arbitrary detention of migrants, asylum seekers, refugees and stateless persons. Alternative measures applied by States were often modelled on those used in criminal justice systems, which could be excessively restrictive and inappropriate for a migration context.

22. Alternatives to detention were intended to be more humane and to protect people’s health, well-being and human rights. The Committee therefore recommended that States should emphasize community-based non-custodial measures that included case management and other forms of support and were adapted to the specific needs and vulnerabilities of each person. The pandemic and the risk of the spread of COVID-19 in immigration detention had increased the need for States to consistently consider alternatives before imposing custodial measures.

23. Detention should never be excessive or indefinite, since it would then become arbitrary. States should therefore establish in their legislation the maximum period of detention that could be applied during immigration proceedings. Detention should be permitted only for the shortest possible period and should be frequently reviewed to assess whether it remained the only option.

24. Migrants faced multiple obstacles to exercising their right to access to justice under articles 16, 17 and 18 of the Convention, including language barriers, a lack of knowledge about applicable laws, the absence of support networks and their fear of being detected by the authorities and detained or deported. The Committee recommended that States parties should take all necessary measures to ensure that migrant workers deprived of liberty had access to justice in transit and destination States.

25. The general comment set out the judicial guarantees that States parties should provide for migrant workers and their families in all administrative and judicial proceedings related to their immigration status. Those guarantees included the right to be informed of the reasons for detention under article 16 (5) of the Convention, the right to a judicial review of detention under article 16 (6) and (8), the right to consular assistance and protection under articles 16 (7) and 23, access to free legal and interpretation assistance and the right to be notified of decisions on immigration proceedings.

26. States parties were also obliged to respect the prohibition of torture and ill-treatment, the prohibition of slavery, servitude and forced or compulsory labour, the right to privacy and family life and the right to health. States should ensure that detained migrants had access to physical and mental health services, including sexual and reproductive health services, and psychological care.

27. In the context of the COVID-19 pandemic, States should take the necessary measures to prevent the spread of the virus and ensure that detained migrants had access to medical care and could maintain contact with their families and the outside world. The Committee urged States to implement the recommendations of its joint guidance note on the impacts of the COVID-19 pandemic on the human rights of migrants and on equitable access to COVID-19 vaccines for all migrants, in particular by including migrant workers in national COVID-19 prevention and response plans and policies.

28. States had the obligation to respect migrants' right to property and to protect their personal identity documents under articles 15 and 21 of the Convention. States must also ensure that detention conditions did not constitute torture or ill-treatment or increase the risk of violations of other rights. Lastly, the Committee urged States to monitor human rights in places of detention, which could be achieved through cooperation between detention authorities and other stakeholders, such as national human rights institutions, parliamentarians, civil society, academia and international organizations.

Panel discussion with international experts

29. **Mr. Flynn** (Panellist, Global Detention Project) said that the general comment was timely because migrants' rights, chief among them the right to liberty, were being ignored or violated across the world. While global debate often revolved around developing better management strategies and improving service provision for migrants and asylum seekers, the Committee placed the focus clearly on the preservation of migrants' fundamental rights.

30. The general comment was comprehensive, exhaustively addressing many key issues related to immigration detention, including the standard of non-detention of children and other vulnerable migrants, the privatization of detention, the role of procedural safeguards, the importance of the lawfulness, necessity, proportionality and exceptionality of detention, the confusing language used by States to denote immigration detention and the externalization of detention and immigration controls to other countries. Such externalization arguably broadened the geographic relevance of the Convention, because many of the global North countries that had avoided ratification supported detention in States parties. In its discussion of jurisdiction, the general comment reaffirmed the responsibility of detention-exporting countries for the human rights violations that migrants suffered in States parties.

31. The definition of the concept of “alternatives to detention” used in the general comment provided a much-needed corrective to the harmful notion that such alternatives could take the form of any law, policy or practice by which persons were not detained. In fact, the specific function of the concept was as a test in lawful detention decision procedures to determine whether any measures short of detention could achieve the same result. If “any law, policy or practice” that kept migrants from being detained was understood as an alternative to detention, that would encompass liberty itself, access to asylum procedures and discretionary decisions on non-detention taken by officials. Such a definition prioritized a notion of “universal detainability” over the universality of the right to liberty.

32. The clear affirmation in joint general comment No. 3 of the Committee/No.22 of the Committee on the Rights of the Child (2017) that the immigration detention of children always constituted a child rights violation had been a turning point, leading to a better understanding of the need to nurture the well-being of refugee, migrant, and asylum-seeking children. He hoped that the new general comment would serve a similar standard-setting role, helping to re-prioritize the right to liberty in discussions of global migration.

33. **Mr. Chetail** (Panellist, Global Migration Centre) said that numerous States were using immigration detention as a deterrent with no concern for the basic dignity of migrants or regard for international human rights law, creating an exploitative, ineffective, unjust and dehumanizing system. The general comment was particularly timely given the extensive and illegal detention of migrants across the world. The text was comprehensive and detailed, and provided a clear reminder of States’ obligations. At the same time, it was inclusive, as it was addressed to both States and other stakeholders, and broad, as it covered not only the prohibition of arbitrary detention but many other interrelated rights. Its most important aspect was the clear statement of the obligation not to criminalize migration. That principle applied not only to detention, but also more generally, because criminalization was at the core of many national migration policies. It was important for the Committee to reiterate that irregular entry, stay or exit should never be considered a criminal offence because many State representatives did not yet accept the principle.

34. The Committee’s recognition that immigration detention was ineffective as a way of combating irregular migration was crucial. State representatives often considered criminalization to be the only possible response to irregular migration, whereas it was not only contrary to international law but counterproductive from a purely utilitarian perspective. The explanation of the presumption in law against detention was also important.

35. Another valuable contribution of the general comment was its extension of the principle of non-detention to encompass not only migrant children but other vulnerable persons, including pregnant women, persons with disabilities, survivors of torture and victims of trafficking. The Committee had addressed the trend of States using private subcontractors as a strategy to avoid meeting their obligations, emphasizing that the State remained responsible for detention conditions in such cases. Significantly, the Committee had reaffirmed that the principle of non-refoulement was not limited to victims of persecution but applied to all cases of removal in which the person faced being subjected to inhuman or degrading conditions of detention.

36. Key challenges for the future would be to increase the number of States parties to the Convention and to address the lack of implementation of migrants’ rights in the field of detention. The implementation gap was not caused by a lack of international standards but by a deliberate strategy of States to violate migrants’ rights as part of their migration policies, based on xenophobia and exacerbated by economic crisis and the targeting of non-citizens to mask domestic political failures. In addition, many States had not fully incorporated international law into their national legislation. Although the solutions to the implementation gap must ultimately be political, the general comment provided a clear reminder of the current state of international law.

37. **Mr. González Morales** (Panellist, Special Rapporteur on the human rights of migrants) said that the Committee’s human rights perspective on immigration detention was crucial, in view of the centrality of detention to the current debate on migration. The general comment was an important contribution to ensuring that immigration detention was carried

out in line with international standards and would be invaluable for his work as Special Rapporteur.

38. In the current context, when States used various euphemisms to refer to immigration detention, it was vital to stress that all forms of deprivation of liberty constituted detention. As highlighted in the general comment, the extensive use of immigration detention observed in recent decades was part of a broader trend to criminalize migration. Widespread immigration detention led to the identification of migrants with criminality, even in the case of administrative detention, as the general public did not differentiate between criminal and administrative detention.

39. Detention was usually accompanied by serious restrictions on the right of access to justice. Empirical research had shown that the likelihood of obtaining refugee status and liberty for asylum seekers depended on the availability of legal assistance. Migrants without adequate access to justice risked remaining in detention for long periods.

40. The general comment reiterated the need to prohibit the immigration detention of children. He as Special Rapporteur – along with the Committee, the Committee on the Rights of the Child and other international and regional mechanisms – had called on States to end the practice, and States had committed to that goal under the Global Compact for Safe, Orderly and Regular Migration. As also highlighted in the general comment, alternatives to immigration detention should not involve the same measures as alternatives to penal detention, because their purpose was completely different. In the context of the pandemic and the attendant health risks posed to detained persons, he had joined the Committee in calling on States to release all those in immigration detention, barring exceptional circumstances.

41. Lastly, given the serious consequences for migrants of prolonged and often arbitrary detention, it was essential to ensure that the independent bodies that monitored detention conditions had access to the necessary disaggregated data. Their monitoring visits to detention centres must be facilitated and dissemination of the resulting reports allowed.

42. **Mr. Gois** (Migrant Forum in Asia) said that the general comment was very timely, particularly for migrant workers in Asia and the Middle East, thousands of whom had been rounded up and detained during the pandemic, while the rest of the world was being protected by public health measures. The general comment should become a fundamental document for the working group on detention under the Global Compact for Safe, Orderly and Regular Migration, because the rights-based approach to migration was not well understood even within the United Nations system.

43. In Asia, migrant workers' undocumented status and the related risk of detention and deportation was usually the fault of employers, who deliberately kept their workers in an irregular situation to maintain power over them. That made the rights-based approach of the general comment all the more crucial for the region. Another important feature of the general comment was that it highlighted how alternatives to detention – often presented as a universal solution – could become another form of custody similar to that used in the criminal justice system. The Migrant Forum in Asia looked forward to the policy and legal work that would grow from the general comment.

44. **Mr. Castilla** (Institut de Drets Humans de Catalunya) said that he wished to commend the Committee's work in producing the general comment and in highlighting certain aspects that could be further developed to facilitate its implementation. That implementation was sorely needed, although the harsh reality was that much of the document's contents would be unwelcome in many quarters. It would have been useful to provide examples of distortion of the concept of alternatives to detention and to indicate, at least in abstract terms, the specific harmful migration policies in which immigration detention was used as a general rule. An obvious example was the European Union directive on returns, which provided for the extension of detention up to 18 months, which would constitute arbitrary detention. The inclusion of such examples would send the message that migration policies contrary to international standards already existed, especially in States that were not parties to the Convention.

45. The section on dissemination, which specified that the general comment should be broadly disseminated and used as a basic document by all relevant authorities, was important. It would have been useful to include mention of judges, to ensure that they felt involved in the implementation of the general comment. He wished to suggest that all the Committee members should personally deliver the general comment to the migration authorities of their countries, as a symbolic gesture to give impetus to implementation and help ensure that migrants' rights were respected.

46. **Mr. Corzo Sosa** said that, by serving as a comprehensive guide to immigration detention, the general comment would mark a turning point. It was particularly important because detention was one of the most challenging migration-related issues. An often-overlooked aspect the text addressed was the matter of which actors were empowered to carry out detention. Public security forces, including military units, were often involved in immigration detention when, in fact, such bodies lacked the necessary capability, sensitivity and awareness to treat migrants appropriately and to assess their situation properly. Conditions of detention were also important, particularly given the many human rights violations that occurred in detention centres. In that regard, the general comment introduced very important standards, including the right to food with respect to religious freedom.

47. It had been important to firmly establish the frequently overlooked principle that detention should be a measure of last resort. Another concept that posed problems for implementation was "alternatives to detention" because, particularly in Latin America, the prevailing mindset was often that detention was the only option. The general comment highlighted the positive alternatives of treating irregular entry and stay as an administrative rather than a criminal matter and providing migrants with pathways to regularize their situation. The Committee had met with the Global Alliance of National Human Rights Institutions (GANHRI) to address the need for national human rights institutions to incorporate the general comment into their work.

48. **Mr. Charef** said that he had been extremely moved by the painful personal testimony given earlier in the meeting. So many had lost their lives in their quest for a better future elsewhere yet, despite the tragedies, those with political responsibility continued to adopt coercive measures that were almost always ineffective, inefficient and very costly in human lives.

49. Migration had always been a part of humanity's collective history, as numerous studies had shown. In the late nineteenth and early twentieth centuries, 50 million people had left Europe to settle in the Americas and Australia, for example. It had not been easy for them but they had faced fewer problems than migrants now faced. He hoped that the general comment would raise awareness and help ensure respect for the dignity and rights of all migrants.

50. **Mr. Soualem** said that, 20 years previously, the dichotomy had been freedom or security, in the context of the fight against terrorism. Now, 20 years on, in the context of migration, the choice was between freedom or detention – detention, moreover, without having committed a crime. Merely to cross a border or to fall into an illegal situation was to risk criminalization.

51. The general comment would certainly be a catalyst for ratification of the Convention. It went to the heart of the matter and would become a benchmark for debate. It would without doubt have legal ramifications because it would be used in litigation. In addressing a problem faced by foreigners in a country that was not their own, it expounded minimum rules that applied to all human beings and that must be observed in all circumstances everywhere. The International Covenant on Civil and Political Rights and the jurisprudence of the Human Rights Committee had paved the way, and the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families had adapted those principles to the migration context.

52. **Mr. García Sanz** said that the general comment set out a long list of topics that few people wished to discuss, but testimony from some of those who had encountered those issues at first hand had made it possible to understand their impact. They needed to be tackled seriously and thoroughly by other human rights bodies, civil society, Governments and academia, without losing sight of the fact that it was those who were not part of those forums

– migrant workers themselves and the members of their families – who were central to the discussion.

53. **Mr. Kariyawasam** said that the occasion had taken him back to the time when he had first become aware of migrant workers, during the first Gulf War in the 1990s, while in post at his country's embassy in Riyadh. Migrant workers from all over the world had fled the war and he had realized that there was no one to help them. Since then he had been committed to helping to make a better life for migrant workers and members of their families.

54. He recalled that the Committee's brief was migrant workers. Migration itself was an ancient phenomenon and its motivations myriad, but the Committee's job was to create a rights-based legal and regulatory framework specifically for those migrants and members of their families who left their own countries to work in other parts of the world. As part of the jurisprudence the Committee was developing to enable them to enjoy their rights, starting from their country of origin, through transit countries to their destination, the general comment would become a reference document for authorities, for judges and for border officials.

55. The Convention itself was an instrument for the future. Migrants and their problems were constantly in the news, but migrant workers and members of their families were a special category and it was important for the Committee to focus on that group and to continue developing jurisprudence of the kind exemplified by the general comment. The day would come when that jurisprudence would be needed and then the Committee's work would be vindicated by wider ratification of the Convention. For migration was not a North-South phenomenon, contrary to a widespread belief. More migrant workers moved within the North, either within the European Union or across the Atlantic to and from North America, than moved from South to North.

56. He called on Committee members to cite the general comment as they promoted and disseminated the Convention in their own countries, as an example of a legal underpinning of the rights-based approach to migrant workers, their working conditions and their future.

57. **Mr. Babacar** said that the general comment encapsulated the human values enshrined in the Convention. Its launch should mark the start of a broader campaign to encourage States to accede to the Convention.

58. **Mr. Oumaria** said that the Committee's partnership with GANHRI would be of great importance in promoting the general comment, as part of measures to protect the rights of migrant workers. The general comment would be an excellent instrument for national human rights institutions, not least because it complemented the Optional Protocol to the Convention against Torture and the national preventive mechanisms created under the Optional Protocol.

59. **Ms. Diallo** said that she wished to draw her colleagues' attention to a highly pertinent international campaign against arbitrary detention that was being launched that same day in the context of the forty-eighth session of the Human Rights Council. It could be an opportunity to publicize the general comment and to collaborate with others already active in the field. The Committee could also encourage States parties to cooperate with civil society organizations and national human rights institutions in disseminating the general comment.

Closing remarks

60. **Mr. Botero Navarro** said that, in presenting the general comment to the international community, civil society and, above all, migrant workers, the Committee was holding out the hope of a modicum of justice for millions of people who were suffering by being arbitrarily deprived of their liberty because of their migration status. The detention of migrants because of their migration status was one of the most reprehensible actions of modern society. Those in detention centres in many parts of the world were often the most vulnerable, the poor, people of colour. Migrant detention had become a tool for the mass incarceration of people who in many cases were simply looking for better life options. It had to stop.

61. He hoped that the standards set in the general comment would help to restore migrants' status as rights holders. What was most important was the protection of the right to personal freedom, as opposed to detention ordered because a person had entered a country, because of the colour of their skin or because of their poverty. That would require

commitment and work and there was an enormous challenge ahead in making sure that migrants were deemed to be rights holders. The Committee must keep pushing for ratification of the Convention, but also for the standards in the general comment to be implemented in practice.

62. The human rights of migrants were debated in numerous forums but regrettably some States were not genuinely committed to protecting migrants in practice. Raising awareness of the general comment as a document was important, but so was its implementation in practical terms. Those who needed it – people working with migrants, Governments, litigants, civil society organizations and migrants themselves – must take ownership of it and put it to use. Its provisions should be reflected in practice, in law and in domestic case law.

63. **The Chair** said that general comment No. 5 would give the Committee renewed inspiration for its future work. Recalling that 7 October was the World Day for Decent Work, he reiterated the call for States to ratify the International Convention on the Rights of All Migrant Workers and Members of Their Families as the main legal instrument for the protection of migrants' human rights.

The meeting rose at 5.45 p.m.