



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-first session

Summary record of the 435th meeting

Held at the Palais des Nations, Geneva, on Wednesday, 4 September 2019, at 3 p.m.

Chair: Mr. Tall

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The meeting was called to order at 3.10 p.m.

Promotion of the Convention

Meeting with States

1. **The Chair**, welcoming the participants to the meeting, said that, at the 9th Meeting of States parties to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, held in June 2019 in New York, seven new members had been elected to replace the outgoing members of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families. The new members' four-year terms of office would start on 1 January 2020 and the Committee would welcome them at its April 2020 session. Mr. Ünver, Mr. Soualem and Mr. Charef had been re-elected. The terms of office of Ms. Landázuri de Mora and Ms. Dzumhur – the Committee's only current female members – would expire after the current session, however. They had shown steadfast commitment to advancing the cause of the rights of migrant workers and their families. After their departure, the Committee would only have one female member – the lowest number of all the treaty bodies. Member States should, therefore, consider the issue of women's representation when nominating candidates to the treaty bodies.

2. There were 258 million migrants in the world, of whom half were women, approximately 20 per cent were in an irregular situation and 30 million were children, most of them in developing countries. Migration was a daily reality, a normal way in which people, often entire communities, adapted to the effects of climate change, armed conflict and natural disasters. States must, therefore, tackle the effects of such catastrophes, remove hindrances to the enjoyment, by migrants and their families, of their fundamental rights and propose additional protection and temporary leave mechanisms to migrant workers displaced due to climate change or disasters.

3. Migrant workers' rights were frequently violated. They worked in dangerous conditions, for excessively long hours and at below the minimum wage, and faced sexual harassment and intimidation. Migrants in an irregular situation faced even worse abuses, their most basic labour rights, personal safety, right to due process, access to health-care services and children's education jeopardized. They were also subject to abusive treatment at international borders and risked becoming victims of trafficking.

4. At the annual meeting of Chairs of the human rights treaty bodies, held in June 2019 in New York, the Secretary-General had emphasized the treaty bodies' importance, as well as the worrying financial situation facing the United Nations. Despite the financial constraints, efforts had been made, he had said, to ensure that the treaty body sessions could take place as planned up to the end of 2019. The holding of the 2020 sessions, however, remained uncertain. The Chairs had presented to the Secretary-General their common ideas in preparation for the 2020 review of the treaty body system, outlining the measures that each treaty body could take. They had agreed to harmonize a number of the treaty bodies' procedures and working methods to make the reporting process more focused, coordinated and streamlined by, *inter alia*: offering the simplified reporting procedure to all States parties including, possibly, for initial reports; coordinating lists of issues between committees, with the number of questions limited to 30; harmonizing the suggested format of shadow reports; and introducing synchronized eight-year review cycles for the Human Rights Committee and the Committee on Economic, Social and Cultural Rights, while the Convention-based committees would retain four-year review cycles. Treaty bodies could also offer to send a delegation to review States parties at regional level, initially on an experimental basis, with the concluding observations adopted by the whole Committee.

5. During the drafting of General Assembly resolution 73/326 on the format and organizational aspects of the international migration review forums, adopted in July 2019, the Committee, supported by the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Special Rapporteur on the human rights of migrants, had successfully lobbied for the resolution to refer to the participation in those forums of international human rights mechanisms, including the treaty bodies and special procedures. The Committee was pleased to be collaborating, pursuant to the recommendations

contained in the resolution, with States and partners in the implementation of the Global Compact for Safe, Orderly and Regular Migration.

6. The Committee had been invited by the Government of Azerbaijan to hold an informal follow-up meeting after the current session, from 12 to 14 September 2019, in Baku. The Committee was grateful for that opportunity, which would enable it to move forward with the State's institutions and civil society on international migration issues.

7. Migration should be a positive experience for individuals and societies and contribute towards economic progress and human development, in both countries of origin and countries of destination. A clear vision of the needs of the migrant workforce in destination countries, with more avenues for regular migration and family reunification, would greatly contribute to preventing the exploitation and other dangers that threatened so many persons who were only seeking to live dignified lives. Further efforts were also needed to remedy the root causes of migrants' desperate attempts to flee their countries.

8. The Committee was currently examining three State party reports: those of Argentina, Bosnia and Herzegovina and Colombia; and the lists of issues prior to reporting for Belize and Burkina Faso.

9. **Ms. Dzumhur** said that, in the context of the complex phenomenon of international migration, the Convention set out the best strategy for protecting migrant workers' rights and preventing abuses, offering guidance on labour migration and mobility, which were increasingly being addressed at the regional and subregional levels. It provided a framework for human rights-based policymaking on migration, including irregular migration.

10. So far, the Convention had been ratified by 55 States and signed by 13 States, mainly from the African and Latin American regions. Only four States in Europe had ratified the Convention, and it must be asked what could be done to change that situation. The Committee did what it could to promote the Convention and increase the number of ratifications. Through its concluding observations, for example, it aimed to enable States parties to implement their human rights obligations. It had taken part in debates on migration and issued general comments, the fifth of which was currently being drafted. The previous two general comments had been issued jointly with the Committee on the Rights of the Child, in the context of the Committee's work with other treaty bodies, particularly those with widely ratified instruments. The Committee had also written to and held bilateral meetings with States, but was still seeking more ways to promote ratification of the Convention. The reasons for States' reluctance were unclear, especially given that the rights contained in the Convention were already defined in other instruments. The Committee would, nevertheless, continue its efforts and urged those States that had signed the Convention to ratify it and all States that had not yet signed it to consider doing so.

11. Migrants currently accounted for approximately 3 per cent of the global population. That they were compelled, to varying degrees, to leave their countries of origin, made it a universal duty to promote the Convention, extend the rights it prescribed and increase the number of ratifications.

12. **Mr. Charef** said that migration was a complex and multidimensional issue common to all societies. It was often controversial in all countries, whether of destination, transit or origin, and was frequently used to fan the flames of extremist political discourse. Against that backdrop, in 2018, 162 Member States had adopted the Global Compact for Safe, Orderly and Regular Migration, providing a comprehensive and solidarity-based approach to meeting the challenges of migration. The aim of the Compact was to promote cooperation between stakeholders, including Governments, migrants, civil society and the media, in working towards its objectives. However, the United States had withdrawn from the draft Compact in December 2017 and other States, including Australia, Israel and Poland, had followed suit. In other countries, such as Italy, Denmark and the Netherlands, pressure from far-right groups opposed to immigration and heated debate about migration, muddied by fake news reports, were threatening support for the Compact.

13. The language of the Compact affirmed international law as the basis for safe, orderly and regular international migration, which was an important source of prosperity,

innovation and sustainable development for countries of origin, transit and destination. It condemned racism and discrimination and referred to a number of important texts, including the 2030 Agenda for Sustainable Development. However, despite the Committee's active involvement in the prior reflection and consultation process, it made mention of the Convention only in a footnote. While the Compact was not binding, it provided a framework for global governance on migration, helping States make fair and responsible policy choices, while giving central importance to migrants, to guarantee their safety, dignity and human rights. However, the principles and commitments contained in the Compact still needed to be translated into practical objectives, which would require global cooperation and partnerships between States, civil society, the private sector and other stakeholders.

14. To that end, four Committee members had worked together to identify points of convergence between the Convention and the Compact. The Committee was aware of the need for regular discussions with all stakeholders in global migration towards developing effective and relevant follow-up and evaluation mechanisms to help realize the Compact's strategic objectives and priorities. The contribution of Member States was needed to realize those objectives and improve migration management from the local to the global levels through, for example, stronger legislation, greater awareness among media professionals and alerts to warn of acts of racism and discrimination. The signatories of the Compact had undertaken to strengthen international cooperation and sign agreements to facilitate the mobility of workers and promote decent work. The Compact also encouraged the collection and use of migration data in developing migration policy and evaluating adherence to commitments over time.

15. **Ms. Landázuri de Mora** said that one challenge for all States was to raise awareness of migrant women and girls in home, transit and destination countries, and to recognize the women who remained in their country of origin or returned there seeking to re-establish their relationships. In order to achieve effective protection of migrants' rights, States and regional organizations must build into their migration legislation and policies a gender and human rights perspective that recognized women's role in migration, promoted their empowerment and leadership, and stopped seeing them essentially as victims.

16. Recognition of migrant women's strengths would enable States to find a role for them as leading figures in the migration process. Migrant women could organize themselves to assert their own rights or those of other migrants. If male stereotypes relating to business were overcome, migrant women could be entrepreneurs in destination countries, even employing other migrants. The work of migrant women, whatever its nature, was often less valued than that of non-migrant women; that situation was a violation of their human rights and must be eradicated.

17. Since the Global Compact for Safe, Orderly and Regular Migration should have included a gender perspective, she wished to restate some recommendations made by the Expert Working Group for addressing women's human rights in the Global Compact. First, States should recognize the important contributions made by migrant women to socioeconomic development and social change in home, transit and destination countries, and the complex relationship between gender, migration and development. Women migrant workers' huge and increasing contribution to global value chains and housework, which was fundamental to economic growth and human development, must also be recognized and valued. Lastly, States should recognize migrant women's positive contribution to sustainable and inclusive development, something that could only be achieved if it encompassed and promoted the full economic, social and political empowerment and leadership of women and girls at all stages of migration.

18. Mass migration jeopardized the effective protection of human rights. Displacement and forced migration were a reaction to threats to life and personal integrity and occurred in all regions of the world. They resulted not from planned decisions, but from desperate measures taken simply to survive. The Governments of home and destination countries had remained silent over the disappearance of thousands of migrants: 23,294 worldwide, including 1,541 children. That could be considered as enforced disappearance and, therefore, represented an extremely serious human rights violation.

19. While, despite their efforts, States were failing to protect migrants' rights, alternative mechanisms had emerged from within civil society: the solidarity shown by host communities and non-profit organizations; and the ability of diasporas to organize themselves, sharing the experiences of those who had already travelled to facilitate future migrants' journeys. Meanwhile, xenophobic and racist responses to refugees and migrants and their families were causing exclusion, marginalization and stigmatization, and authorities, leaders, security forces and media outlets in many parts of the world tried to justify such behaviour. The Committee called on all States, their leaders and their media to refrain from promoting ideas and initiatives that divided communities and dehumanized migrants by associating migrant workers with criminality.

20. **Mr. Botero Navarro** said that the Committee's draft general comment No. 5 on migrants' rights to liberty and freedom from arbitrary detention was intended to offer States authoritative guidance on implementing their obligations under the Convention, help them meet their commitments under the Global Compact for Migration and assist other stakeholders with related advocacy initiatives.

21. In response to its request for input to the drafting process, the Committee had received over 40 contributions from stakeholders, including States, civil society organizations and migrants' organizations. Submissions had come from every continent and gave a detailed insight into the situation in 37 States with regard to the detention of migrant workers. The International Human Rights Clinic of the University of Virginia School of Law was contributing valuable research on the work of the United Nations human rights system, the jurisprudence of regional human rights systems, such as the European Court of Human Rights, and national courts' case law on the right to personal liberty and its intersectionality with other human rights. OHCHR, the United Nations High Commissioner for Refugees, the International Organization for Migration and other United Nations agencies had also made important contributions.

22. The findings showed a worrying increase in detention related to immigration in all regions. While more States were regulating migration through administrative rules, some were still criminalizing migrants in an irregular situation. In certain cases, alternatives to detention had been adopted, with positive results for the rights of migrant workers and their families, but some States had appointed private security firms to operate and oversee immigration detention centres, leading civil society organizations to express concern about human rights violations by such firms. Some States, furthermore, still permitted the detention of migrant children, and other vulnerable migrants, such as pregnant and breastfeeding women, older individuals and persons with disabilities were being placed in detention without their specific needs being identified. Lastly, migrants faced serious challenges in accessing justice and due process, such as failure by the authorities to provide interpreters or legal aid.

23. The forthcoming draft general comment would address a number of issues: it would cover the normative framework for protecting the right to personal liberty enjoyed by migrant workers and members of their families and set out general measures for implementing the Convention in order to protect that right and its intersectionality with other human rights. It would detail the fundamental principles of the Convention in that regard, such as non-discrimination, non-criminalization of migration and the exceptional nature of immigration detention. Lastly, it would establish States' legal obligations to protect the right to personal liberty and its intersectionality with other human rights, through, for instance, judicial guarantees and access to justice, the prohibition of slavery and human trafficking, and respect for the right to private and family life.

24. In implementation of the commitments made in the context of the 2020 review of the treaty bodies, a regional consultation for the Americas would be held in Mexico City on 26 September 2019. UN-Women had been approached for assistance with a thematic consultation on the draft general comment to ensure that it fully integrated a gender, age and diversity approach. The Committee also hoped to hold a regional consultation in Europe before its thirty-second session, when the draft general comment would be adopted.

25. **Mr. Garcia** (Philippines) said that, since protecting the rights of Filipino nationals living overseas was a key pillar of his Government's foreign policy, it strongly supported

initiatives such as the Global Compact for Migration and had, in related forums, advocated respect for migrants' human rights, regardless of their immigration status. The country had a holistic programme to protect the rights and welfare of Filipinos working overseas, from before their departure to after their return home, and the possible creation of a dedicated department or ministry for migrant workers was under discussion.

26. The Government supported the work of the Special Rapporteur on the human rights of migrants in engaging with the Committee and other United Nations agencies to promote follow-up to the Global Compact for Migration. There were ongoing consultations with national stakeholders to ensure that domestic policy was consistent with the Compact. The State party encouraged synergies and collaboration on migration protection between the treaty bodies and other relevant stakeholders. The Government remained fully supportive of the Committee and strongly encouraged States that had not yet done so to become parties to the Convention.

27. **Ms. Traoré Bazie** (Burkina Faso) said that her Government wished to express its full support for the work of the treaty bodies, in general, and of the Committee, in particular. As a home, transit and destination country, Burkina Faso considered cooperation with the Committee to be particularly important. The Government welcomed the ideas behind draft general comment No. 5, and hoped that it would help States parties to meet their obligations under the Convention and enable implementation of the relevant provisions of the Global Compact for Migration.

28. According to the Committee's concluding observations in respect of her country's initial report, it should submit its second periodic report no later than 13 September 2018. However, it had not yet received the list of issues, which it hoped the Committee would adopt during its current session, to allow it to meet its obligations. She would be interested to hear the main points of the Chair's discussions with the Secretary-General during the June 2019 meeting of Chairs of human rights treaty bodies, and particularly the Secretary-General's vision for the 2020 review of the treaty bodies, including in respect of the operational budget.

29. **Mr. Aslanov** (Azerbaijan) said that his Government was committed to promoting and facilitating legal migration. The State party's new e-Visa system enabled nationals of approximately 100 countries to obtain an electronic visa in three days or, in urgent cases, in three hours. The Government was also working on a new national migration strategy, which would incorporate the goals of the Global Compact for Migration. The Government was pleased to be hosting the Committee's informal follow-up meeting in Baku in September 2019, and the Permanent Mission stood ready to provide any assistance that might be needed in that connection.

30. **Mr. Taghi-Zada** said that one of the key issues that must be addressed jointly by the Committee and States parties was that most host countries were not parties to the Convention, a situation which complicated efforts to protect the rights of migrants in those countries. In that regard, it was important to remember that the human rights of migrant workers were also protected under other international human rights treaties, so that if, for example, a particular State was a party to the Convention on the Rights of the Child, violations of the rights of child migrants in that country could be brought to the attention of the Committee on the Rights of the Child. Moreover, countries of origin that were States parties to the Convention had a role to play in informing the Committee of any violations of the rights of migrant workers brought to their attention, even if the violations had occurred in countries that were not parties to the Convention. By cooperating with the other treaty bodies, the Committee could ensure that migrant workers' rights were protected even in States that were not parties to the Convention.

31. **Mr. Chissano** (Mozambique) said that Mozambique remained committed to implementing the Convention. One of the most pressing questions in the region of the Southern African Development Community was how best to bring countries together to harmonize national laws and design regional strategies. It was unacceptable that xenophobia was still prevalent in some countries in the region; it had a very detrimental effect on relationships between the peoples of the region and merited the attention of the Committee.

32. **Ms. Labiad** (Morocco) said that Morocco had taken significant measures to protect the rights of migrants and refugees. Its policy in that regard had recently been praised by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. The State's approach took due account of the importance of migration within Africa and South-South migration. A total of 24,000 persons had benefited from the country's regularization policy. National human rights bodies and migrants themselves played an important role in determining the admissibility of applications. The State had taken the decision not to place migrants in camps, but rather to pursue a policy of integration into society, in line with its commitments under the Global Compact for Safe, Orderly and Regular Migration.

33. **The Chair** said that, before the 31st meeting of the Chairs of the human rights treaty bodies in June 2019, the treaty bodies had received a letter informing them that the decision had been taken to cancel some of the sessions that had been programmed for late 2019 for financial reasons. The Chairs had requested the Secretary-General to intervene, since the cancellation of those sessions would have derailed the treaty bodies' schedules. That issue had dominated the meeting. The Secretary-General had confirmed his support for the treaty bodies, reaffirming the importance of their work and the need for them to be able to operate in the best possible conditions, and had explained the measures that had been taken in response to the situation. Thanks to his intervention, the scheduled sessions would now go ahead. However, the Secretary-General had spoken frankly and confirmed that there was a financial crisis, which would certainly have repercussions on the work of the treaty bodies in 2020.

34. It was likely that reforms would be made and that the treaty bodies would have to adapt to the current financial climate. In that context, all States parties should assume their share of responsibility to ensure that the importance of the protection of human rights in the United Nations system was not undermined. Financial crises should not lead to a regression in human rights standards. The treaty bodies themselves had made various proposals, contained in document [A/74/256](#), aimed at making the treaty body system more efficient.

35. **Mr. Oumaria**, speaking in his capacity as Country Rapporteur for Burkina Faso, said that the Committee's programme of work for the current session included the adoption of the list of issues prior to reporting for that country. He was looking forward to a fruitful dialogue with the delegation of State party at a forthcoming session.

36. **The Chair** said that the Committee's schedule had been amended owing to changes introduced with a view to harmonizing the reporting cycle, which allowed it to call on late-reporting States parties to come before it as a matter of priority. The reporting deadline for Burkina Faso had therefore been pushed back.

37. **Mr. Charef** said that the current situation with regard to racism in the region of the Southern African Development Community was deplorable. However, the issue affected all of Africa: more than two thirds of African migrants stayed within the continent. For a long time, there had been no global policy in that regard, but a road map had been presented to the Assembly of the African Union during its June 2018 session, prompting reflection at the national, subregional and continental levels with regard to the establishment of an African observatory for migration and the appointment of an African commissioner for migration. Collective efforts would be necessary if progress was to be made.

38. **The Chair** said that the member States of the Southern African Development Community region should come together to address migration-related issues, which were first and foremost the responsibility of States. The role of the media in ensuring that the public was well informed with regard to migration issues was also key. The delineation of States in Africa did not always represent the reality of the populations living in those States, with many communities separated by borders. It was therefore important to raise awareness at the regional level. There was nothing to prevent the representatives of African States in Geneva from taking the lead on the issue. Given the current challenges posed by migration, it was incomprehensible that there was no commissioner for migration issues within Economic Community of West African States or the Southern African Development Community.

39. **Mr. Nowosad** (Office of the United Nations High Commissioner for Human Rights) said that he wished to thank all those who had participated in the current meeting. The general comment being drafted was a remarkable endeavour; it had been a pleasure to work with the Rapporteur and the other members of the Committee on that project. The present meeting with States parties would be the last to be presided over by the current Chair. He therefore wished to take the opportunity to thank Mr. Tall for his commitment, his hard work and his compassion.

40. **The Chair**, thanking all those who had participated in the dialogue, said that times were particularly hard for migrants and the organizations that worked to defend the human rights and dignity of migrant workers and their families. More than ever before, a collective effort was needed to promote the Convention and to protect the rights enshrined therein. All States should garner the political will and the courage needed to promote, protect and uphold the human rights of all migrants under the Convention, other international human rights instruments and the Global Compact for Safe, Orderly and Regular Migration. The Convention and the Compact were indissociable, and the Committee had undertaken to interpret the former in the light of the latter. While the Compact was not binding, States parties to the Convention had an obligation to put it into practice. The Committee would work to ensure that States parties respected the provisions of both instruments.

The meeting rose at 4.55 p.m.