



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 Twentieth session

Summary record of the first part (public)* of the 242nd meeting

Held at the Palais Wilson, Geneva, on Monday, 31 March 2014, at 10 a.m.

Chairperson: Mr. El Jamri

later: Mr. Carrión Mena

Contents

Opening of the session

Introductory statement by the Representative of the United Nations High Commissioner for Human Rights

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

Adoption of the agenda

Consideration of reports submitted by States parties under article 73 of the Convention

Dialogue with national human rights institutions and non-governmental organizations

* The summary record of the second part (closed) of the meeting appears as document CMW/C/SR.242/Add.1.

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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 twentieth session of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Introductory statement by the Representative of the United Nations High Commissioner for Human Rights

2. **Mr. Salama** (Representative of the United Nations High Commissioner for Human Rights) said that the relatively high turnover of Committee members was a positive sign. As the Convention marked its tenth anniversary, and the treaty body system as a whole entered a new era, the experience of older members and the fresh insight of newer members would both be valuable.

3. The United Nations High Commissioner for Human Rights had convened a High-Level Meeting on Migration and Human Rights in September 2013 and the General Assembly had convened a High-Level Dialogue on Migration and Development in October 2013. At those meetings, the Secretary-General and the High Commissioner had both referred to the human rights dimension of migration. A declaration had been adopted during the High-Level Dialogue that recognized the cross-cutting nature of migration issues and the need to address them in a balanced manner while integrating development, an appropriate socioeconomic environment and respect for the human rights of migrants. The declaration also acknowledged migrants' important contributions to development in countries of origin, transit and destination.

4. A joint press conference had been given during the High-Level Dialogue by Committee member Mr. Kariyawasam and the Special Rapporteur on the human rights of migrants, shortly after the Lampedusa boat tragedy in which 366 migrants had lost their lives. Attention had been drawn to the lack of adequate protection mechanisms for migrants, particularly with respect to smuggling. Shortly after that, the Special Rapporteur on the human rights of migrants and other independent experts had issued a statement calling on member States to adopt a new approach to migration that placed migrants at the forefront and provided new channels for regular migration. Otherwise the number of migrants risking their lives at sea would only increase.

5. He recommended for Committee members' reading the report of the Secretary-General on the promotion and protection of human rights, including ways and means to promote the human rights of migrants (A/68/292); the report of the Secretary-General on international migration and development (A/68/190); and the latest report of the Special Rapporteur on the human rights of migrants (A/68/283).

6. The Human Rights Council continued to focus on the rights of migrants; at its twenty-fourth session the High Commissioner and the Deputy High Commissioner had reported on the activities of the Office of the High Commissioner for Human Rights (OHCHR) with respect to the human rights of migrants and refugees in a number of States, including Greece and Australia. OHCHR was working to integrate human rights standards into all aspects of migration policy at the national, regional and international levels, notably in its preparations for the seventh Global Forum on Migration and Development, due to take place in Stockholm in 2014. It had prepared a report on migration and human rights ahead of the High-Level Dialogue on Migration and Development in 2013 and had helped to prepare the sixth Global Forum on Migration and Development, held in Mauritius in 2012. The High Commissioner's annual report, summarizing both achievements and persistent challenges in the work of her Office, had been presented to the Human Rights Council at its twenty-fifth session. In the report, the High Commissioner had noted that more needed to be

done to fully protect the human rights of migrants and asylum seekers in accordance with international law.

7. The Human Rights Council had adopted resolution 23/20 on the human rights of migrants, which called on States to sign and ratify the Convention and asked the Secretary-General to continue to promote it. Furthermore, in March 2014, the Human Rights Council had held a high-level panel on promoting and protecting the rights of migrants.

8. On International Migrants Day, 18 December, a joint statement by the Director-General of the International Labour Organization (ILO) and the High Commissioner had paid tribute to the 232 million migrants worldwide and highlighted the need to implement more effective human rights and labour standards for migrants, as well as measures to combat discrimination and xenophobia. A joint statement had also been issued on that occasion by the Special Rapporteur on the human rights of migrants, the Committee's Chairperson Mr. El Jamri and the Rapporteur on the Rights of Migrants for the Inter-American Commission on Human Rights. Their statement urged States to consider issues such as the decriminalization of irregular migration, alternatives to administrative detention for migrants in an irregular situation, the rights of migrant children and combating xenophobia. It also called on States to ratify and implement all international and regional human rights treaties, including the Convention.

9. Regarding treaty body strengthening, a draft resolution had been adopted by the Fifth Committee of the General Assembly in late March 2014. The draft resolution had been the product of hard work by all stakeholders, and in particular by the chairpersons of the treaty bodies on the Addis Ababa guidelines on the independence and impartiality of members of the human rights treaty bodies, which had been crucial to avoiding the introduction of a code of conduct for the treaty body system.

10. The High Commissioner's message was that the treaty bodies should act as a system. Their strength lay in unity and their impact depended on the degree to which treaty body members trusted and empowered their chairpersons. It was a delicate issue, requiring a balance between due respect for the views of all experts and the need for treaty bodies to speak with one voice, particularly with regard to decision-making and interaction with member States. The High Commissioner therefore valued the so-called Poznań formula that required prior consultation with all Committee members before meetings of chairpersons, in order to speed up decision-making.

11. He encouraged all Committee members to read the draft General Assembly resolution on treaty body strengthening, which he found to be quite clear. He hoped that all the treaty bodies, their chairpersons and OHCHR would take full advantage of the benefits of the resolution, namely more meeting time, more resources and the alignment of working methods among treaty bodies where possible.

12. **The Chairperson** said that the treaty body system had just had to fight for its survival and in so doing had shown that it was the best system established so far to defend human rights. Recognition of that fact had led to an increase in resources for its work, and the treaty body system, while based in Geneva, had begun to hold meetings in other places that were able to offer another perspective, including New York and Brussels. He noted the particular importance of working in an impartial and independent manner, which had been key to the success of the draft resolution.

13. The Committee should be proud of its own role in the development and strengthening of the treaty body system. The Convention remained the best available tool to protect the rights of migrants, particularly in a context of increasing international migration and trafficking in persons. The Committee welcomed the work of United Nations agencies and civil society to promote the Convention and encouraged all stakeholders to find new ways to raise awareness of it.

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

14. **The Chairperson** welcomed Ms. Castellanos Delgado, Mr. Ceriani Cernadas, Mr. Haque and Mr. Pime to the Committee and invited them to make the solemn declaration under rule 11 of the Committee's provisional rules of procedure.

15. *Ms. Castellanos Delgado, Mr. Ceriani Cernadas, Mr. Haque and Mr. Pime made the solemn declaration provided for in rule 11 of the Committee's provisional rules of procedure.*

The public part of the meeting was suspended at 10.30 a.m. and resumed at 11.10 a.m.

Adoption of the agenda (CMW/C/20/1)

16. *The agenda was adopted.*

Consideration of reports submitted by States parties under article 73 of the Convention*Dialogue with national human rights institutions and non-governmental organizations*

17. **Ms. Sana** (Center for Migrant Advocacy, Philippines) said that the Government of the Philippines had come a long way in providing protection for migrant workers; however, there remained gaps between policy and the situation on the ground. Her organization was concerned about partial compliance with articles 33, 37 and 65, paragraph 1 (d), of the Convention, on the duty to provide information to migrants and other parties throughout the migration process; partial compliance with article 65, paragraph 2, on the provision of consular services to migrant workers; violations of article 11, through the exploitation and enslavement of Filipinos working abroad, especially domestic workers; and inadequate incentives for the return and reintegration of Filipinos.

18. Accordingly, she recommended that Philippine embassies and consulates should be allocated adequate human and material resources; a mechanism should be set up to monitor the practices of agencies recruiting Filipinos to work abroad; migrant workers should be encouraged to file complaints against abusive recruiters and employers; the Government should ratify the International Labour Organization Private Employment Agencies Convention, 1997 (No. 181); clear, quantifiable and disaggregated indicators should be defined to measure the effectiveness of policies for the protection of migrants, especially domestic workers, in countries of destination; steps should be taken to break the cycle of migration through a development agenda that promoted national employment; a database should be established to record the skills of returning Filipinos with a view to their optimal employment in the country; and the Government should seek greater cooperation from countries of destination.

19. **Mr. Sandoval Góchez** (Red Regional de Organizaciones Civiles para las Migraciones, El Salvador) said that, contrary to what the Salvadoran Government had stated in its periodic report, none of the members of his regional network had been invited to participate in the preparation of the report. The Government tended to claim that most migrants worked in the informal economy in order to justify not protecting them or providing services. However, his network disagreed with the Government's categorization and took the view that domestic labour, agriculture, security and construction were not informal sectors. It called on the Government to collect and publish statistics on migrant workers in the country. In addition, local authorities discriminated against migrant workers, often detaining them arbitrarily and deporting them illegally. The Government did not take sufficient measures to protect Salvadorans working abroad. His network was currently

developing an education programme for implementation by Salvadoran consulates around the world.

20. **Mr. Kariyawasam** requested further information about the shortcomings in the services provided by Philippine missions to Filipinos abroad.

21. **Ms. Sana** (Center for Migrant Advocacy) said that the services provided to overseas Filipino workers were insufficient for a number of reasons. Embassies and labour offices were understaffed, with a ratio of 1 staff member for every 50,000 workers in Saudi Arabia, and 1 for every 33,000 in the Asia-Pacific region. There were also inadequate material resources. In Jeddah, for example, it had not been possible to visit detention facilities for migrant workers owing to a lack of service vehicles. Lastly, although Philippines domestic law contained provisions for the deployment of social welfare attachés and sharia lawyers to diplomatic missions, the Government had failed to implement them in practice.

22. **Ms. Castellanos Delgado** thanked Mr. Sandoval and said that she agreed with his comments entirely. Central America faced considerable challenges, including corruption and poverty, which drove local workers to leave in search of better living conditions. At a time of great division within countries in the region, there was a need to find unity in diversity, to support national governments and strengthen channels of communication. In that connection, she wished to know what efforts Mr. Sandoval's organization had made to approach and liaise with the Government of El Salvador with a view to further assisting migrant workers.

23. **Mr. Sandoval Góchez** (Red Regional de Organizaciones Civiles para las Migraciones, El Salvador) said that his organization cooperated very closely with the State on issues pertaining to migrant workers. In its alternative report, however, it had indicated that the Government of El Salvador was failing to address several problems. The Ministry of Labour and Social Welfare, for instance, only offered support to workers in the formal economy, despite the fact that the majority of migrant workers in the country were in an irregular situation. In the Government's view, the latter category included domestic, social, security and construction workers, even though they had a minimum wage and regulated working hours. As a result, the working conditions in such sectors were not monitored, and workers encountered significant difficulties in accessing social protection.

24. **Mr. Ceriani Cernadas** wished to know whether there was a policy to protect the rights of overseas Filipino workers in an irregular situation, particularly those who were in detention or in the process of being expelled. If so, it would be useful to know how the policy was implemented in countries with a high concentration of such workers.

25. He asked whether there were any statistics on the number of migrant workers in an irregular situation in El Salvador, and whether mechanisms were in place to regularize them. Lastly, he wished to know whether there were procedures to monitor migrants in an irregular situation, and whether the Government took measures to expel them from the country.

26. **Ms. Sana** (Center for Migrant Advocacy) said that the Philippines Government was committed to extending protection to overseas Filipino workers in an irregular situation through its Department of Foreign Affairs. Steps were being taken to disseminate information at the community level, including pre-employment seminars on the risk of human trafficking. Nevertheless, the Government was not being proactive enough in reaching out to communities targeted by unscrupulous recruiters. It should also play a more active role in informing Filipinos working in destination countries such as Malaysia, where measures were being taken to clamp down on undocumented migrants. Programmes and policies for the protection of migrants did exist, but many undocumented workers were unable to make use of them because of a lack of basic information and awareness.

27. **Mr. Sandoval Góchez** (Red Regional de Organizaciones Civiles para las Migraciones, El Salvador) said that, while studies had been conducted into the profile of migrant workers in El Salvador, there were no reliable statistics on their number. The figures put forward by civil society organizations differed markedly from government estimates.

28. In eastern areas of the country, which had the largest migrant populations, local governments acted as judge, jury and executioner in an arbitrary fashion. There were newspaper reports of mayors laying the blame for crime, noise pollution and unemployment at the door of migrants. The State had confessed to having no control over local government authorities, which were therefore free to arrest, detain and expel migrants as they pleased.

29. **Mr. Taran** (Global Migration Policy Associates) said that the Committee continuing dedication and dynamism were a cause for optimism. He felt a degree of anxiety, however, at the new rhetoric on migrants' rights in intergovernmental discussions, which gave little or no consideration to the Convention. That tendency had been exemplified by the High-level Dialogue on International Migration and Development, in which the Convention had been mentioned as a point of reference rather than as an instrument whose provisions should be implemented. The lack of contemporary action to promote the Convention and call for its ratification was also worrisome. A shift in the focus of international debates on migration had led to migrants being valued as actors of development rather than as human beings, and trading the protection of rights for greater economic gain came at a significant cost.

30. In industrialized countries, where foreign-born citizens already accounted for a large percentage of the workforce, the combined effects of zero population growth and population ageing would exacerbate the need for migrant labour in coming years. In China alone, the workforce was predicted to decline by as much as 100 million people by 2040. Some of the countries most dependent on migrant workers, however, were those in which the situation of such workers was particularly dire. Many died in industrial or work-related accidents, were subjected to violence or denied their rights. With that in mind, he hoped that the Committee would consider issuing explicit guidance on applying the provisions of the Convention, and monitor whether all international labour standards were applied to migrant workers irrespective of their status or country of residence.

31. In summary, there were four points that the Committee should consider. Firstly, urgent attention had to be paid to promoting the Convention, a task that could not be left to NGOs and civil society organizations, which lacked the necessary resources. The 16 States that had signed the Convention but not ratified it should be enjoined to ratify it as soon as possible. Secondly, there was a need for rigorous supervision and concrete indicators on the enjoyment or denial of the rights set out in the Convention. Thirdly, he would encourage greater dialogue and communication among treaty bodies, whose areas of interest and responsibility often overlapped. Lastly, almost nothing consequential was being done to address the issues of discrimination and xenophobia, and that allowed employers to act with impunity and gave rise to situations akin to ethnic cleansing, with migrants being placed in what amounted to concentration camps. Moreover, the phenomenon of racial polarization had entered mainstream political discourse and represented a clear and present danger that, if left unchecked, would end any hope of implementing the Convention or pursuing its wider ratification.

The public part of the meeting rose at noon.