



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 Twenty-third session

Summary record of the first part (public)* of the 291st meeting

Held at the Palais Wilson, Geneva, on Monday, 31 August 2015, at 10 a.m.

Chairperson: Mr. Carrión-Mena

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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 10.05 a.m.

Opening of the session

1. **The Chairperson** declared open the twenty-third 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. Heenan** (Chief, Groups in Focus, Human Rights Treaties Division, Office of the United Nations High Commissioner for Human Rights (OHCHR)) said that he wished to welcome Committee members on behalf of the United Nations High Commissioner for Human Rights, and he congratulated Mr. El-Borai, Mr. El Jamri, Ms. Ladjel and Mr. Núñez-Melgar Maguiña on their recent re-election to the Committee. That re-election had taken place at the seventh meeting of States parties to the Convention, which had also included a panel discussion, attended by many States parties, marking the twenty-fifth anniversary of the adoption of the Convention.

3. In his opening statement to the twenty-ninth session of the Human Rights Council in June 2015, the High Commissioner for Human Rights had focused on human rights concerns throughout the world, drawing particular attention to the issue of migration, which he had described as “a symptom caused by despair”, with millions being compelled “by political turbulence, repression, violence and war ... to risk their lives to find a place of relative safety”. He had strongly opposed the notion that migrants were a burden, expressed his alarm at the international community’s failure to protect their rights and drawn attention to crises involving migrants in several parts of the world. With particular reference to the current crisis in the Mediterranean, the High Commissioner had made clear his view that militarized deterrence and enforcement would fail. At the same time, he had commended the European Union for its determination to tackle the issue of migration more comprehensively and encouraged it to take bolder steps to inculcate the notion that migrants should be welcomed however skilled or unskilled they were. States were free, he had said, to open or close their borders to migrants but their unwillingness to ratify the Convention was likely to encourage the exploitation of migrants.

4. The twenty-ninth session of the Human Rights Council had also considered mission reports by the Special Rapporteur on the human rights of migrants and adopted a resolution on the protection of migrants’ rights. OHCHR had organized a number of side events on migration issues, and had been requested to submit a study on the situation of migrants in transit before the Council’s March 2016 session. The Committee’s input to that study would be particularly welcome.

5. The Member States of the United Nations had recently endorsed the post-2015 outcome document on sustainable development goals entitled “Transforming our World: the 2030 Agenda for Sustainable Development”. It would be submitted to the summit for the adoption of the post-2015 development agenda, to be held in New York in September 2015, and it offered a universal, integrated and indivisible vision of sustainable development, encompassing key dimensions of all human rights and placing the struggle against inequality, discrimination and exclusion at its very heart. One of the issues it addressed was migration, with Member States committing themselves to ensuring it took place with “full respect for human rights and the humane treatment of migrants regardless of status”.

6. The document highlighted the importance of disaggregated data, a key lesson learned from the Millennium Development Goals process. It also provided for an accountability framework. Follow-up and review of progress towards the sustainable

development goals was entrusted to the high-level political forum on sustainable development but the treaty bodies, including the Committee, would also have much to contribute. Accountability was grounded in indicators which were currently being discussed; a preliminary list would be published in November 2015 after the adoption of the sustainable development goals.

7. He wished to draw the Committee's attention to some of the outcomes of the twenty-seventh Annual Meeting of Chairpersons of the Human Rights Treaty Bodies, held recently in San José, Costa Rica, and in particular to the San José Guidelines against Intimidation or Reprisals, which the participants had endorsed. At their meeting, the chairpersons had also had the opportunity to meet with representatives of the Inter-American Commission on Human Rights, the Inter-American Court of Human Rights and numerous national human rights institutions, with a view to enhancing mutual cooperation. At the beginning of the meeting the Minister of Foreign Affairs of Costa Rica had called on academic institutions around the world to reflect on ways to further strengthen the treaty body system. Such a reflection would be welcome, as it would build on the recently concluded treaty body strengthening process.

8. OHCHR would continue to support the Committee by encouraging ratification of the Convention, liaising with civil society and following up on recommendations made during universal periodic reviews. The High Commissioner was continuing to champion the rights of migrants through bilateral meetings, speaking engagements and press statements, and he would be participating in the Committee's high-level event marking the twenty-fifth anniversary of the adoption of the Convention.

9. **The Chairperson** said that he wished to draw members' attention to the importance of the High Commissioner's statement to the twenty-ninth session of the Human Rights Council. In focusing on the issue of migration, he had gone so far as to name a number of countries, reminding them of the principle of solidarity and of the importance of respecting the human rights of migrants. The High Commissioner's remarks were a useful stimulus for the work of the Committee.

10. **Mr. Kariyawasam** said that he too wished to express his satisfaction at the way the High Commissioner for Human Rights was leading efforts to mainstream the rights of migrant workers. Daily reports of tragedy were emerging from the ongoing crisis of migrants trying to cross the Mediterranean Sea. It was natural for migrant workers to seek economic betterment and it was everyone's responsibility to protect their rights and welfare. Although the Convention was not directly relevant to the current situation in the Mediterranean, OHCHR and the Committee had a duty to act. He was pleased that the United Nations Member States had chosen to recognize migrant workers' rights in the context of the sustainable development goals. He welcomed the accountability framework; he hoped that it would help to ensure that States fulfilled their commitments with respect to the sustainable development goals and that it would lead to universal ratification of the Convention.

11. **Mr. Ceriani Cernadas** said that the Committee would do well to reflect on ways to cooperate more effectively with other human rights bodies of the United Nations system. Coordination of the work of the Committee, the Special Rapporteur on the human rights of migrants and the OHCHR, in particular, could be much improved. In addition, the Committee had a considerable amount of information that it could contribute to the report that was to be submitted to the Human Rights Council in 2016.

12. **Mr. El Jamri** said that the Committee should highlight the contribution migrant workers could make to the achievement of development goals. Regarding the current migration crisis, he said that the international community appeared to be in state of passivity. No real solutions were being proposed, and no one appeared to be

addressing the root causes of the migratory flows. Since 2007, discussion of migration issues had taken place outside the United Nations system, at the Global Forum on Migration and Development, every meeting of which had issued a number of non-binding recommendations. It was perhaps time for those discussions to be brought back into the United Nations.

13. **Ms. Ladjel** said that, in view of the international community's current interest in migration matters, the Committee ought to take a clear position on possible responses to the issues arising in various parts of the world. The Committee should no longer settle for considering the reports of States parties or drawing up lists of issues and concluding observations. The Committee should monitor events on the ground closely.

14. **Mr. Tall** said it was his impression that the current exodus from unsafe parts of the world was one of the worst humanitarian crises since the Second World War. The Committee could not go on doing its usual work as if nothing had changed. It should set aside time during the current session to consider solutions to the problem.

15. **Mr. Taghizade** said that he would welcome Mr. Heenan's views on what the Committee could do to influence on current events. Like Ms. Ladjel and Mr. Tall, he believed that it would not do for the Committee to proceed with its consideration of the reports of States parties as if everything were in order. Extraordinary events sometimes required an extraordinary response.

16. **Mr. El-Borai** said that televised images of fleeing migrants had compelled him to wonder about the importance of the Committee's work, which appeared to have been eclipsed by the current state of affairs. He therefore wished to know whether the Committee, notwithstanding its mandate, would be able to devote one meeting to a discussion of what it could do to address the situation of the migrants currently attempting to reach Western Europe. It did not seem to him the moment for a strict interpretation of the Convention.

17. **Mr. Núñez-Melgar Maguiña** said that the Committee had been established to address matters relating to persons who sought to work in labour markets other than their own. The situation around the world had now grown so complex, however, that the Committee had no choice but to ask itself what it could do and how far its mandate extended. In any event, the Committee, in addition to fulfilling its customary mandate, could cooperate with other bodies, including OHCHR, in order to make a greater impact. It should also develop strategies for responding to such migration crises as the current ones in the Mediterranean, the Balkans and elsewhere. To do so would be fully in the spirit of the Convention.

18. **Mr. Brillantes** said that the accomplishments referred to in Mr. Heenan's opening statement had regrettably been overshadowed by the unfolding catastrophe. The Committee must respond to the situation, but it must also be careful not to take on responsibilities that did not fall within its remit: it was therefore necessary to ascertain whether the migrants involved were migrant workers. Although there appeared to be a consensus that it was no longer enough for the Committee to confine itself to considering the reports of States parties or drafting lists of issues and concluding observations, he did not altogether subscribe to that point of view. More could be done, of course, but the Committee should ensure that any action it took was effective.

19. **Ms. Castellanos Delgado**, stressing that interpreting the Convention too narrowly would do nothing to help the migrant cause, said that the Committee could not ignore the current situation, which was growing more dire each day. She was extremely saddened that no progress had been achieved since she had joined the Committee. The reporting procedure and the dialogues with States parties were simply inadequate in the face of the daily tragedies. It behoved all the Committee members to

do everything in their power to find a solution to the crisis. No one could condemn the Committee for standing behind migrants and refugees and fighting for their rights.

20. **Mr. Pime** recalled that, while it was understandable to question the significance of the Committee's contribution in such times, the Committee was bound by the terms of the Convention. He proposed that the Committee should allocate a few hours to discussing how to do more without exceeding its mandate.

21. **Mr. Tall**, supported by **Ms. Ladjel**, said that the current situation was of the utmost gravity and that the Committee ought to have a meaningful discussion about how to address it. However, there would be no room in that discussion for legal questions about the Committee's mandate. Legal instruments, including the Convention, were the product of a specific context and no one could have anticipated at the time of adoption how dramatic the situation would be in 2015. The Committee should not hamstring itself; rather, it should show courage and innovation and be the catalyst of a broad international coalition on the issue of migration. If it stood by while thousands died, he did not see how it could then question States parties about their observance of migrant rights.

22. **Mr. Ceriani Cernadas** said that he agreed with Mr. Tall that the Committee should not become too fixated on the letter of the Convention; however, all considerations, including the matter of the Committee's jurisdiction, should be taken into account when deciding how to respond to the current crisis. If the Committee relied on the fundamental principles of the human rights system, namely universality and progressiveness, then it would be easy to interpret the Convention in such a way as to allow the Committee to tackle any challenge that arose. The Convention should not be invoked to prevent the Committee from strengthening and diversifying its strategies and actions. The situation was an extraordinary one and the Committee had to rise to the occasion. The United Nations system and all competent bodies should pay far greater attention to migration: it was not merely an addendum to the human rights agenda, it was a central issue and would remain so for a long time. The Committee needed to do much more than simply tally the dead and should hold a number of meetings to seriously discuss its contribution.

23. **Mr. Taghizade** said that addressing the migrant crisis in the Mediterranean was a huge undertaking which the Committee would do well to tackle step by step, the first step being to decide whether it was justified in adopting extraordinary measures in some situations.

24. **Mr. El Jamri** said that he agreed with all the members' statements and recalled that, under article 74 of the Convention, the Committee was free to meet with a wide array of organizations to discuss various issues. The Committee should attend upcoming events such as the Global Forum on Migration and Development, the Beijing + 20 conference and the climate change conference, in order to foreground the issue of migration. The Committee's annual report to the General Assembly would also be a major opportunity to remind the international community that the world was again confronted with the same situation — increased migration flows and a rise in trafficking in persons — that had first led to the adoption of the Convention and that it should again take action to guarantee safe migration.

25. **Mr. Heenan** (Chief, Groups in Focus, Human Rights Treaties Division, OHCHR) said that the primary question was what the Committee could do to resolve the migrant crisis. While there was no doubt that the Committee had a role to play, it should not forget that it also fought for the rights of the millions of migrants who were not in crisis and that its everyday work did have an impact. Whatever the Committee's message, it would be crucial to propose solutions and not merely quote the Convention. It would be useful if the Committee could determine its strategy in time

for the twenty-fifth anniversary celebrations of the Convention on 8 September as they would be attended by a large number of participants from many sectors. Providing credible input, for instance at the high-level meeting of the European Union on 14 September devoted to the migration crisis, would lead to invitations to take part in other events.

26. **The Chairperson** said that he was pleased that a discussion on the topic had begun. Time would be found in the programme of work to continue it.

Adoption of the agenda (CMW/C/23/1)

27. *The agenda (CMW/C/23/1) was adopted.*

The public part of the meeting rose at 11.40 a.m.