



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-second session

Summary record of the 450th meeting*

Held via videoconference on Wednesday, 14 April 2021, at 4 p.m. Central European Summer Time

Chair: Mr. Ünver (Vice-Chair)

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* No summary records were issued for the 448th and 449th meetings.

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The meeting was called to order at 4 p.m.

Promotion of the Convention *(continued)*

Informal meeting with States and other stakeholders

1. **The Chair**, welcoming the participants, said that managing migration flows required a comprehensive approach that was focused on the human rights of migrants. In particular, States should provide additional protection and make temporary stay arrangements for migrants who had been displaced as a result of climate change or natural disasters and could not return to their countries.
2. The rights of migrant workers, especially those in an irregular situation, were frequently violated. Many worked excessively long hours in dangerous conditions for less than the minimum wage. Migrants in an irregular situation were often unable to exercise basic labour rights and did not have guaranteed access to health care and education for their children.
3. The coronavirus disease (COVID-19) pandemic had left migrant workers – many of whom were contributing to the pandemic response as essential workers – in an increasingly vulnerable situation. Many migrants had been stranded in border areas as States had closed their borders to contain the spread of the disease. States must uphold the principles of non-discrimination, non-stigmatization, medical confidentiality and human dignity in their treatment of migrants and should include migrants in their pandemic response plans. The Committee was particularly concerned about the significant number of deportations that had taken place during the pandemic. Unless proper precautions were taken, deportation exposed migrants to dangerous conditions, especially if they were being deported to countries with a high rate of infection.
4. The Committee had set up a working group to advocate for the implementation of the Global Compact for Safe, Orderly and Regular Migration. It had also included a standard paragraph on implementation of the Global Compact in its concluding observations on the reports of States parties and had drafted a comparative analysis of the Convention and the Global Compact that would form the basis for a general comment. The Convention served as a tool for both States and migrant workers; for that reason, the effective implementation and wider ratification of the Convention were of great importance. The ratification of the Convention by Fiji and Togo had brought the number of States parties to 56. Eighteen States parties had fallen behind on their reporting obligations under article 73.
5. Over the previous year, the Committee had adopted a number of documents intersessionally, including six lists of issues prior to reporting and two guidance notes on issues relating to the pandemic. It had made several public statements, some of them together with the Special Rapporteur on the human rights of migrants and various regional mechanisms. It had also continued preparing its draft general comment No. 5 on migrants' rights to liberty and freedom from arbitrary detention.
6. The Committee looked forward to working with States on the treaty body review process. It was concerned, however, about the lack of coordinated action on the part of Member States to support the treaty body system and called on the General Assembly to ensure that the funds set aside for the treaty bodies in the regular budget of the United Nations enabled them to discharge their mandate in full.
7. **Ms. Diallo**, noting that the pandemic had had a significant impact on the rights of migrant workers and their families, said that she wished to remind States parties of their obligations under the Convention. In accordance with article 7, migrant workers must be taken into account in national responses to the pandemic, without discrimination. The right of migrant workers to leave any State could not be subject to any restrictions except those provided for in article 8. Their right to life must be protected, pursuant to article 9, and migrants could not be refused emergency medical care on the basis of their migration status. In addition, States should take measures to ensure that all migrants had effective access to health care. Under article 33, migrant workers were entitled to be informed of their rights and the restrictions being imposed in the context of the pandemic, free of charge and in a language they understood.

8. To comply with article 14, States must not take any measures to monitor the pandemic that constituted arbitrary or unlawful interference with the privacy of migrant workers. Under article 17, States should take steps to prevent the spread of COVID-19 in migrant detention centres and should consider alternatives to immigration detention. Under article 22, migrant workers must not be subject to collective expulsion, regardless of their migration status, and States should suspend the execution of expulsion orders to protect the right of asylum. Lastly, States should ensure that migrant workers had access to consular or diplomatic assistance in the event of violations of their rights in the context of the pandemic, in accordance with article 23.

9. **Mr. Corzo Sosa** said that migrants were people, not numbers. In many cases, they were migrating because they had no choice. Before turning migrants away, States should consider who they were, why they had left their home countries and what they might have to offer. Border areas were becoming increasingly overcrowded, as more and more migrants arrived and were prevented from moving on. Those migrants, who were unlikely to give up and turn back, were vulnerable to people smugglers and organized crime. States should cooperate to find solutions.

10. To better understand the situation of individual migrants – and to be in a position to determine whether migrants' lives would be at risk if they were returned to their countries of origin – States should also consider the root causes of migration. States facing an influx of migrants should remember that their own populations might one day be forced to flee on account of climate change or other factors beyond their control. Equally, States whose people took flight in large numbers should consider where they had failed. To ensure that migration was safe, orderly and regular, States should look beyond the general standards enshrined in law to the personal stories of those who were knocking at the door.

11. **Mr. Botero Navarro** said that, in collaboration with the Special Rapporteur on the human rights of migrants, the Committee had issued a joint guidance note on the impact of the pandemic on the human rights of migrants in which it had stressed that migrants, especially those in an irregular situation, had become even more vulnerable as a result of the pandemic and had highlighted the valuable contribution of migrants who were working in essential sectors such as health care and food production. It had called on States to protect the rights of migrant workers and their families, including by taking them into account in national COVID-19 prevention and response plans, reviewing the use of immigration detention and considering the temporary suspension of deportations.

12. Together with the Special Rapporteur, the Office of the United Nations High Commissioner for Human Rights and various regional mechanisms, the Committee had also issued a joint guidance note on access to COVID-19 vaccines for all migrants. In that note, it had called for the development of cooperation mechanisms to ensure equitable access to vaccines for COVID-19 in all countries, including developing countries. Steps were being taken to raise awareness of that note and the recommendations that it contained.

13. **Mr. Charef** said that, although migration was widely discussed, many States had been reluctant to take something more than a national approach to managing it. Debate often became heated – for example, following mass migration to the European Union in 2015 and, more recently, from the Bolivarian Republic of Venezuela.

14. The goal of facilitating orderly, safe, regular and responsible migration had been included in the 2030 Agenda for Sustainable Development in part precisely to make international cooperation on migration more robust. Subsequently, negotiations involving States, international organizations and civil society had culminated in the adoption, in 2018, of the Global Compact, endorsed by the General Assembly in its resolution 73/195. Although it was not legally binding, the Compact reaffirmed existing commitments to ensuring protection of the human rights of migrants and, like the Convention, struck a balance between the sovereign right of States to control their borders and the protection of migrants' rights.

15. The implementation of the Compact would be discussed primarily at the International Migration Review Forum, to be held once every four years. The United Nations had established regional networks on migration to facilitate the provision of support to Member States in respect of the Compact. A regional conference on the Compact would take place in Africa in June 2021.

16. The effects of the pandemic had exacerbated the already dire situation of migrants. Lockdowns had severely affected many key economic sectors that employed large numbers of migrants. Although the pandemic had shown that many States did not consider the protection of migrants important, it had also thrown into sharp relief the importance of international cooperation, shared responsibility, multilateralism and solidarity. Migrants and their families, regardless of their migration status, must be included in economic recovery programmes. Governments must put in place targeted programmes to ensure that migrants and the members of the families, who must not be discriminated against or made scapegoats, had access to information, assistance and employment.

17. The Committee had established a working group to highlight synergies between the Convention and the Compact and develop an integrated vision of migration focused on the nexus between migration and development. In cooperation with the Global Alliance of National Human Rights Institutions, the Committee had identified several possible areas for collaboration that reflected the objectives of the Compact. The Committee's aim was to seize the opportunity, a historic one, to transform the global governance of migration, putting migrants and their rights at the heart of the process.

18. **Ms. Poussi** said that the Group of Five for the Sahel was an institutional framework for cooperation on development and security policy, which had been established in 2014 by Burkina Faso, Chad, Mali, Mauritania and the Niger. Despite the Sahel's huge potential, it faced major challenges. The Group's five member countries sought to ensure that conditions in the region were conducive to inclusive and sustainable development, enhanced security, democratic governance and improved standards of living.

19. The five member countries were low-income countries with lagging development indicators, owing in large part to rapid population increases. A joint force had been established by the Group to combat both jihadi groups and traffickers of migrants, drugs and weapons. Insecurity, combined with the effects of the pandemic, had interrupted the provision of essential public services and exacerbated standard drivers of migration such as unemployment, food insecurity and climate change. Many young persons in the region felt that their only choice was to leave.

20. Managing migration in the region was difficult owing to a lack of data, insufficient checks and inadequate border controls. The members of the Group were the countries of origin of 14.5 per cent of international migrants. The destination for the vast majority of persons on the move in West Africa as a whole was another country in the region, with less than 10 per cent headed for Europe. The Group's five countries were both sending countries and countries through which migrants transited. Regardless of their destination, African migrants typically used irregular migration routes, leaving them vulnerable to human rights violations. There had been 200 deaths along the Western Mediterranean route in 2021 alone.

21. To address the challenges facing its members, the Group had developed what it had called the Priority Investment Programme, which focused on governance, security, infrastructure and economic resilience. It had also adopted joint measures with the European Union and undertaken broader initiatives such as the Sahel Alliance, a partnership with European countries and financial institutions through which hundreds of security, demographic, economic and social projects were funded.

22. In addition, the five countries of the Group had concluded bilateral agreements on migration management, including with European countries. In the Group's view, migration should be considered not only from a security standpoint but also as a potential contribution to development. The Group's five members had committed to working towards safe, orderly and regular migration in line with the Global Compact.

23. **Mr. Babacar** said that economic globalization had led to an unprecedented increase in the number of migrant workers, who were estimated to account for 73 per cent of all migrants. The demand for unskilled labour in industrialized countries had increased, leading to mass migration, which was accompanied by human rights violations and transnational crime. In recent years, considerable efforts had been made to collect reliable and comparable data on labour migration, but major gaps remained. Although migrant workers made positive contributions to development, they often faced discrimination in access to employment, and when they did find work, the conditions in which they worked were often unacceptable.

24. The International Labour Organization (ILO) had been quick to acknowledge the challenges related to the governance of labour migration and to put in place instruments to protect workers and highlight the benefits of labour migration. States that had ratified the ILO Migration for Employment Convention (Revised), 1949 (No. 97), were obliged to facilitate international migration for employment, ensure that migrant workers had access to a free service to assist them and provide them with accurate information, take appropriate steps against misleading propaganda on migration, ensure adequate medical protection and allow the transfer of earnings and savings. Immigrants lawfully present in a country must be treated no less favourably than nationals with respect to working conditions, trade union freedom and social security.

25. The ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), provided for measures to combat clandestine migration and illegal employment, broadened the scope of equal treatment compared to ILO Convention No. 97 to cover employment and occupation, cultural rights and individual and collective freedoms and required the facilitation of family reunification. The Forced Labour Convention, 1930 (No. 29), and the Abolition of Forced Labour Convention, 1957 (No. 105), also contributed to the prevention of exploitation. All Member States should ratify and implement the relevant ILO instruments and the Convention.

26. **Ms. Jayasuriya** (United Nations Children's Fund (UNICEF)) said that the pandemic had resulted in greater threats to the human rights of children whose lives were affected by migration and highlighted the costs of exclusion. Recovery would require access to basic services for all children, regardless of their migration status. Barriers would have to be removed, firewalls would have to be created between service providers and immigration authorities and efforts would have to be made to combat xenophobia, discrimination and racism.

27. The pandemic had made it harder for migrant children to gain access to health care, including immunization. Less than half of all national COVID-19 vaccine deployment plans explicitly included migrants. UNICEF would therefore continue to help Governments ensure that public health rather than political considerations determined how vaccines were allocated. It would also help them develop inclusive social protection systems with expanded eligibility criteria and thus ensure that migrant children benefited from socioeconomic recovery programmes. Such children had been hit disproportionately hard by school closures and the disruption of other support services. UNICEF was working with partners to close the digital divide by including migrant children in national efforts to improve connectivity and fair access to online education.

28. Migrant children and their families had faced increasing stigmatization, discrimination and violence since the onset of the pandemic. The reopening of borders must be prioritized to protect access to asylum and facilitate family reunification. UNICEF and its partners were working to end child immigration detention by building on positive steps taken by States during the pandemic and promoting a community of practice among States championing alternatives to detention. With the International Organization for Migration (IOM), UNICEF had developed guidance on child-sensitive reintegration assistance. It worked with other partners to help empower migrant children to reach their potential, including through collaborative projects such as Yoma, an "opportunity marketplace" allowing young people in Africa to learn and generate income.

29. **Mr. González Mayagoitia** (Mexico) said that inclusive rights-based policies were required if, despite the challenges posed by the pandemic, migrant workers were to be able to exercise their rights and gain access to basic services. The joint guidance notes of the Committee and the Special Rapporteur on migrants on the impact of the pandemic on the human rights of migrants and on access to vaccines were very valuable in that regard.

30. In Mexico, the right to health and access to vaccines were ensured for migrants in line with the principle of equality and non-discrimination. The number of migrant health workers employed in Organisation for Economic Co-operation and Development countries had increased by 60 per cent over the previous decade, illustrating the contribution of migrants to the global health sector. Forecasts to the contrary notwithstanding, remittances sent to Mexico from the migrant community had increased during the pandemic.

31. Climate change was likely to be another driver of migration, and it would be necessary to develop comprehensive rights-based policies on all aspects of migration if the challenges presented by climate-related migration were to be met. Greater international cooperation would also be required. Mexico recognized that both the Global Compact and the Convention were instruments that could be used to guide the pandemic response and recovery.

32. **Ms. Tuominen** (United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women)) said that UN-Women recognized the Committee's commitment to addressing the specific needs of migrant women and girls – the Committee co-chaired, for instance, the Expert Working Group that had been set up under the Global Compact to address women's human rights. The pandemic had exacerbated existing inequalities faced by migrant women and made it more likely for them to be discriminated against because of their race, gender or migration or other status. Owing to the nature of their work, they were also more likely to be exposed to the virus. In addition, the economic impact of the pandemic was more strongly adverse for migrant women, who earned less than other workers, had relatively little in savings and did not enjoy great job security. Accordingly, UN-Women commended the Committee's recommendation that States should take a gender-responsive approach to national COVID-19 prevention and response policy.

33. **Mr. Safikhani** (Office of the Commissioner for Human Rights (Ombudsman), Azerbaijan) said that he welcomed the Committee's inclusion of national human rights institutions in the dialogue. During the pandemic, the protection of human lives took priority. His office had focused on ensuring that the rights of all groups, including migrants, foreign nationals and stateless persons, were taken into account in his country's response. In its capacity as the national mechanism for the prevention of torture, it had investigated the conditions in which migrants had been held and made relevant recommendations. The State Migration Service had waived the requirement to apply for a visa extension for migrants who, because of the pandemic, had been unable to leave the country.

34. **Ms. Althaus** (International Organization for Migration) said that the pandemic had exacerbated the vulnerabilities of many groups and led to an increase in violent xenophobia, gender-based violence and child abuse. In that context, migrants should be taken into account as a vulnerable group when States devised their national response and recovery plans. Including migrants in pandemic responses would be essential if there was to be an effective and sustainable recovery. IOM was thus working to help States ensure equal access to vaccination for migrants.

35. One of the Organization's priorities was to prevent the erosion of rights at borders. Any exceptional border measures should be rights-based, proportionate and non-discriminatory. Furthermore, States should identify means, including temporary permits and short-term visas, of allowing migrants to remain legally within their borders and thus be protected from exploitation, abuse and violations of their rights. The principle of non-refoulement applied not just to refugees but also to migrant workers and should not be undermined on account of the pandemic. Rather than turning people away on public health grounds, States should ensure that arrangements for health screening were in place and make it possible for migrants to quarantine.

36. One of the few positives to emerge from the pandemic was that many States had decided to adopt alternatives to detention. Migrants in immigration detention were at high risk because the virus spread more rapidly in enclosed environments. In some cases, regrettably, quarantine had been used as an excuse to justify the indiscriminate detention of migrants. Some migrants had also been quarantined in facilities that also held suspected criminals. Liberty should be the rule and immigration detention the exception.

37. Migrants often fell victim to discrimination or discriminatory policies, despite working in crucial front-line jobs. People of certain ethnicities had been made scapegoats or stigmatized for spreading the virus, and assaults and hate crimes had been reported in countries of both origin and destination. In their pandemic response plans, States must therefore take steps to prevent and punish discrimination and provide effective remedies to victims.

38. Lastly, she drew attention to the IOM guidance to enhance migrant worker protection during the pandemic, including that which had been developed in conjunction with the

International Chamber of Commerce, and the COVID-19 analytical snapshots that the Organization had published on its website.

39. **Ms. Padmasari** (Indonesia) said that the Committee's meeting with States parties and other stakeholders was timely, as the pandemic had worsened the situation of migrant workers everywhere. Immediate measures were needed to ensure that migrant workers and members of their families had access to health care. As there were currently only 56 States parties to the Convention, she asked how the Committee intended to achieve universal ratification.

40. **Mr. Ayala Meléndez** (Colombia) said that his Government shared the Committee's view that it was important to integrate migrant workers regardless of their migration status. Faced with the arrival of 1.8 million Venezuelan citizens, the Colombian Government had recognized that closing the borders and keeping migrants in an irregular situation was unfeasible. Instead, it had opted to integrate them into the country's economic life by introducing a special residence permit that granted them access to employment, health and education.

41. **The Chair** said that Colombia was to be thanked for its effort to regularize the situation of the many migrants it had received.

42. **Mr. Flynn** (Global Detention Project) said that his organization eagerly awaited the publication of the Committee's general comment No. 5 on migrants' rights to liberty and freedom from arbitrary detention, which would be a critical component of the human rights framework for migrants. He hoped that the general comment would emphasize the requirement for States to carefully assess the necessity and proportionality of any detention.

43. **Mr. García Andueza** (Bolivarian Republic of Venezuela) said that historically, Venezuela had been a receiving country; it had welcomed more than 6 million Colombian migrants and refugees. However, Venezuela was currently subject to unilateral coercive measures imposed by the United States in an attempt to destroy its economy and undermine its legitimate Government. Those measures had caused the temporary migration of Venezuelan citizens to neighbouring countries. The Government regretted that its calls for coordinated policies to protect the rights of Venezuelan migrants abroad had gone unheeded. Many citizens had returned to Venezuela owing to a lack of opportunities and a lack of access to health care. In recent years, the Government had repatriated more than 23,000 Venezuelans under the Return to the Homeland Plan.

44. **Mr. Thapa Kshetri** (National Human Rights Commission, Nepal) said that cooperation between national human rights institutions in countries of origin and destination was an effective mechanism for protecting the rights of migrant workers. The National Human Rights Commission of Nepal had signed memorandums of understanding with its counterparts in Malaysia and Qatar. Such arrangements had proved fruitful in the case of six Nepalese nationals who, while in transit to the United States, had been smuggled into Indonesia and detained. On receiving word of their arrest, the Commission had contacted the National Commission on Human Rights of Indonesia, which had been able to monitor the treatment of the detainees. The National Human Rights Commission of Nepal had recommended that the Nepalese Government should ratify the Convention.

45. **Mr. Taghi-Zada** said that he had wondered why relatively few States had ratified the Convention and why States that received more migrant workers seemed particularly reluctant to ratify it. In his view, one reason was that some of the other human rights treaties had constituencies that participated in elections and thus put greater political pressure on Governments to uphold their rights. Migrant workers usually did not have that possibility.

46. **The Chair** said that convincing the traditional receiving countries to accede to the Convention had been a challenge since its inception. The Committee recognized that countries were not ratifying the Convention as quickly as it would like and was planning to develop new communications strategies to increase the visibility of the Convention.

47. **Mr. Corzo Sosa** said that the situation of children on the move was a concern that the Committee regularly addressed during its consideration of States parties' periodic reports. Children were not spared displacement, the magnitude of which was likely to increase as the effects of internal conflicts and climate change became more acute.

48. The Committee had taken note of the figures pointing to an increase in remittance flows – a clear indication that immigration contributed to the economic progress of destination countries. Migration could not be controlled by any one country acting on its own; rather, it required shared responsibility, solidarity and cooperation.

49. The Committee continued to promote the universal ratification of the Convention. It regularly reminded States of the importance of the Convention and appealed to States parties to amplify its calls for other countries to ratify it.

50. **Mr. Botero Navarro** said that the representatives of States that had not yet ratified the Convention should do everything in their power to encourage their Governments to ratify the Convention, since ratification was the best way for a country to demonstrate its commitment to migrants' rights. The example of Colombia clearly showed that States could effectively combat irregular migration through the creation of regular migration channels.

51. **Mr. García Sáenz** said that Colombia had indeed set a fine example, in particular by implementing a recommendation contained in a joint statement on a regional response to the mass migration of Venezuelans from their country to countries elsewhere in the Americas adopted by the Inter-American Commission on Human Rights and committees, organs and special procedures of the United Nations.

52. **The Chair** said that migration should contribute to economic progress and human development both at home and abroad. A clear vision of destination countries' migrant labour needs and more channels for regular migration and family reunification would help prevent exploitation and other dangers faced by people on the move. Efforts were also needed to address the root causes of people's desperate attempts to flee their homes.

53. The Committee was grateful for the support of States parties and other stakeholders. In difficult times for migrant workers and the organizations that defended their human rights and dignity, it was necessary to promote the Convention with renewed determination. All States should find the courage to promote, protect and respect the human rights of all migrants under the Convention and other international human rights instruments, including the Global Compact.

The meeting rose at 6.05 p.m.