



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

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## Meeting of the States Parties

### Summary record of the 6th meeting

Held at Headquarters, New York, on Thursday, 30 May 2013, at 10 a.m.

*Temporary Chair:* Mr. Salama . . . . . (Representative of the Secretary-General)

*Chair:* Mr. Kanda . . . . . (Ghana)

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*The meeting was called to order at 10.15 a.m.*

### **Opening of the Meeting by the representative of the Secretary-General**

1. **The Temporary Chair**, speaking on behalf of the Secretary-General, said that since the Fifth Meeting, in 2011, Mozambique and Chad had signed the Convention and that, with Indonesia's deposit of its instrument of ratification, the number of States parties to the Convention had increased from 45 to 46. While that increase was welcome, the limited number of States that had ratified or acceded to the Convention remained the most significant challenge faced by the Committee in ensuring the protection of the rights of all migrant workers and members of their families. The Office of the High Commissioner for Human Rights (OHCHR) continued to use occasions such as the yearly commemoration of International Migrants Day on 18 December to promote further ratification of the Convention.

2. On 18 December 2012, the High Commissioner had sent letters commending the States that had accepted, during the first cycle of the Human Rights Council's universal periodic review, the recommendation that States should consider ratifying the Convention. A joint statement by United Nations experts entitled "Migrants deserve full recognition as rights holders" had been issued on the occasion of International Migrants Day, 18 December 2012, and on 28 September 2012, the Committee on the Rights of the Child had organized a day of discussion on the theme "The rights of all children in the context of international migration". The tenth anniversary of the entry into force of the Convention would be celebrated on 1 July 2013. He noted with satisfaction that many of the States parties present at the Meeting were active in promoting the Convention and encouraged them to continue to do so.

3. The Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families had held 18 sessions to date. Since the Fifth Meeting of the States Parties, the Committee had considered three initial and four second periodic reports and adopted conclusions and recommendations aimed at effective implementation of the Convention at the national level. At its eighteenth session, held from 15 to 26 April 2013, it had adopted General Comment No. 2 on the rights of migrant workers in an irregular situation and members of their families and, on 22 April 2013, had

held a day of general discussion on the role of migration statistics for treaty reporting and migration policies with a focus on government policy; inter-State cooperation and collaboration with non-governmental actors; and statistics on so-called "hidden populations", data protection and confidentiality. It had also held an informal closed meeting with 24 States to discuss collaboration with stakeholders, working methods, treaty body strengthening and ways to raise the visibility of the Convention and encourage more States to become parties to it.

4. With the aim of reducing the reporting burden on States parties and improving its own working methods, the Committee had implemented the simplified reporting procedure proposed in the report of the United Nations High Commissioner for Human Rights on the strengthening of the human rights treaty bodies pursuant to Assembly resolution 66/254 (A/66/860) and had adopted seven lists of issues, which, together with the replies of the State parties concerned, would constitute their reports to the Committee. The new procedure, which was already being applied by other treaty bodies, had the advantage of enabling States to prepare more targeted reports while allowing the Committee to plan its sessions with greater predictability.

5. The Committee had also decided to adopt a schedule that would make it possible to assess all States parties to the Convention over a five-year reporting cycle in line with article 73, paragraph 1 (b), of the Convention. As a result, the Committee would examine a total of nine States parties per year beginning in 2014 and would therefore require additional meeting time and resources. At its seventeenth session, the Committee had decided to request one additional week of meeting time annually, together with the corresponding resources, and at its eighteenth session it had adopted a statement on programme budget implications for submission to the General Assembly. It had also adopted all the recommendations contained in the report of the High Commissioner, as well as the guidelines on the independence and impartiality of members of the human rights treaty bodies ("the Addis Ababa guidelines") (A/67/222, annex 1).

6. In a meeting with the co-facilitators of the intergovernmental process on treaty body strengthening (the Permanent Representatives of Indonesia and Iceland), the Committee, together with representatives

of the Committee against Torture and the Committee on the Elimination of Discrimination against Women, had held a frank exchange on the proposals contained in the report of the High Commissioner (A/66/860). The Committee's members had highlighted the fact that the treaty body system, established by instruments that were legally binding at the international level, was the main pillar of the human rights system and should be funded appropriately in order to carry out the mandates entrusted to the treaty bodies by the States parties. They had also expressed their support for harmonizing and rationalizing working methods in a manner that did not have a negative impact on rights-holders and had stressed that any resulting savings should be invested in capacity-building to ensure that the committees' recommendations were implemented at the country level.

7. Of particular interest in the High Commissioner's report were a number of recommendations related to treaty body membership. Noting that the nomination and election process was of paramount importance to the expertise and efficiency of each treaty body, she had invited States parties to adopt, within their respective settings, national policies and processes with respect to the nomination of experts and had proposed the establishment of an open public space for all States parties to present their potential candidates for treaty body membership.

8. She had maintained that those policies should be based on a number of principles and, in that connection, had recommended the nomination of candidates through an open and transparent selection process from among persons who had a proven record of expertise in the relevant area and the willingness to take on the full range of responsibilities related to the mandate of a treaty body member, and the avoidance of nominations or election of experts while they were holding positions in the government or any other positions that might expose them to pressures or conflict of interest or generate a real or perceived negative profile in terms of independence that would impact negatively on the credibility of the candidates personally as well as on the treaty body system as a whole.

9. In order to ensure the renewal and diversity of membership in the treaty bodies, she had also suggested that the terms of service of experts should, as a general rule, be limited to a maximum of two

terms, without prejudice to the mandates of the current members of those bodies.

### **Election of the Chair**

10. **Mr. Çevik** (Turkey) nominated Mr. Kanda (Ghana) for the office of Chair of the Meeting.

11. *Mr. Kanda (Ghana) was elected Chair by acclamation.*

12. *Mr. Kanda (Ghana) took the chair.*

### **Adoption of the agenda (CMW/SP/12)**

13. *The agenda was adopted.*

14. **The Chair** drew attention to rules 2 and 3 of the rules of procedure (CMW/SP/3). Rule 2 provided that the credentials of representatives and the names of members of delegations should be submitted to the Secretary-General not less than one week before the date of the opening of the Meeting, and that such credentials should be issued by the Head of State or Government or by the Minister for Foreign Affairs. As he had yet to receive proper credentials from some of the States parties represented at the meeting, he suggested that, in accordance with rule 3, the representatives of those States parties should be permitted to participate in the Meeting provisionally and urged them to submit their credentials as soon as possible.

15. *It was so decided.*

### **Election of other officers of the Meeting**

16. *Ms. del Águila Castillo (Guatemala) and Mr. Nina (Albania) were elected Vice-Chairs by acclamation.*

### **Election of seven members of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW/SP/13)**

17. **The Chair** invited the States parties to elect, in accordance with article 72, paragraphs 1 to 5, of the Convention, seven members of the Committee to replace those whose terms of office would expire on 31 December 2013. The biographical data of the nine candidates nominated by States parties could be found in document CMW/SP/13.

18. *At the invitation of the Chair, Ms. Diaz Gras (Mexico) and Mr. Umar (Nigeria) acted as tellers.*

19. *A vote was taken by secret ballot.*

<i>Number of ballot papers:</i>	44
<i>Number of valid ballots:</i>	44
<i>Number of members voting:</i>	44
<i>Required majority:</i>	23
<i>Number of votes obtained:</i>	
<b>Mr. Kariyawasam</b> (Sri Lanka)	41
<b>Mr. Haque</b> (Bangladesh)	39
<b>Mr. Brillantes</b> (Philippines)	38
<b>Mr. Tall</b> (Senegal)	35
<b>Ms. Castellanos Delgado</b> (Honduras)	32
<b>Mr. Ceriani Cernadas</b> (Argentina)	30
<b>Ms. Dicko</b> (Mali)	29
<b>Mr. Günsev</b> (Turkey)	29
<b>Mr. Ibraimov</b> (Kyrgyzstan)	23

20. *Having obtained the required majority, Mr. Brillantes (Philippines), Ms. Castellanos Delgado (Honduras), Mr. Ceriani Cernadas (Argentina), Mr. Haque (Bangladesh), Mr. Kariyawasam (Sri Lanka) and Mr. Tall (Senegal) were elected members of the Committee for a four-year term beginning on 1 January 2014.*

21. *Two candidates having received the required majority and an equal number of votes, a second vote was taken by secret ballot.*

<i>Number of ballot papers:</i>	45
<i>Number of valid ballots:</i>	45
<i>Number of members voting:</i>	45
<i>Required majority:</i>	23
<i>Number of votes obtained:</i>	
<b>Ms. Dicko</b> (Mali)	25
<b>Mr. Günsev</b> (Turkey)	20

22. *Having obtained the required majority, Ms. Dicko (Mali) was elected a member of the Committee for a four-year term beginning on 1 January 2014.*

### Other matters

23. **Mr. Castilho** (Secretary of the Conference of the States Parties), delivering a statement on behalf of Mr. El Jamri, Chair of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, said that the international community must strengthen the treaty framework in order to protect migrants from systematic discrimination and violation of their basic human rights. Migrant workers in an irregular situation and members of their families were particularly vulnerable to exploitation and abuse,

including slavery, forced labour, torture and other inhuman treatment, violence, threats, intimidation, discrimination and lack of due process.

24. In 2010, the total number of international migrants had been estimated at 214 million; that figure would only increase as individuals from less developed economies continued to seek better opportunities elsewhere. Moreover, the patterns of migration were changing: South-to-South migration now equalled South-to-North migration in volume, while North-to-South migration was a growing phenomenon.

25. Migrant workers, including those in an irregular situation, contributed to the social, cultural and economic development of their States of origin and employment; remittances to their extended families in developing countries had totalled \$401 billion in 2012 and could exceed \$500 billion by 2015. Such workers filled gaps in the labour markets of their States of employment while lifting whole villages out of poverty in their countries of origin.

26. The Committee welcomed the second High Level Dialogue on Migration and Development, to be held in New York on 3 and 4 October 2013, as an opportunity to discuss those issues and to highlight the human rights of migrant workers. It hoped that the discussion would lead to a rights-based approach to migration at the national level and would encourage more States to consider becoming parties to the Convention.

27. Recalling the new procedures implemented by the Committee, including the fixed reporting calendar, the simplified reporting procedure and a procedure whereby it could review a State party's implementation of the Convention in the absence of a long-overdue report, he called on States parties to support the request for additional meeting time in 2014 and 2015, to be submitted to the General Assembly at its sixty-eighth session.

28. **Mr. Escalante Hasbún** (El Salvador) expressed his delegation's concern at the implications of the complex treaty body strengthening process as outlined in the statements made by the Representative of the Secretary-General and the Chair of the Committee. One of the ideas put forward was that of giving renewed impetus to conferences of States parties, as had been done with the Convention on the Rights of Persons with Disabilities and the International Convention for the Protection of All Persons from Enforced Disappearance. Implementation of the

Convention was of great political importance to his country, particularly as the majority of its 2.5 million migrant workers abroad were living in countries that had not ratified that instrument. His delegation would continue to encourage wider ratification and implementation of the Convention.

29. According to the Journal of the United Nations, the Meeting had been allocated a room and conference services until 6 p.m. In future, the States parties should use the time allotted not only to elect members of the Committee, but to discuss substantive matters such as the implementation of specific articles of the Convention and ways to promote its ratification, particularly by States in which large numbers of migrant workers resided. The Seventh Conference of the States Parties should provide a forum for thematic discussion with panellists, including on the Committee's General Comment No. 1 concerning domestic migrant workers. Such events, which were in line with the treaty body strengthening process and the ultimate goal of implementation of the Convention, would not require the approval of the General Assembly as no additional expenses would be incurred.

30. **Mr. Fernandez Valoni** (Argentina), **Ms. Diaz Gras** (Mexico), **Ms. Dávila Dávila** (Colombia) and **Ms. del Águila Castillo** (Guatemala) endorsed the proposal made by the representative of El Salvador and said that addressing substantive issues would give more prominence to the Meetings of States Parties to the Convention, provide an opportunity for fruitful discussion and promote implementation of the Convention.

31. **Mr. Salama** (Director, Human Rights Treaties Division, Office of the United Nations High Commissioner for Human Rights) said that there was much to be gained from using meetings of States parties to discuss issues of common interest; France and Argentina had set a good example in that regard by organizing a thematic discussion with representatives of victims during the Meeting of the States Parties to the International Convention for the Protection of All Persons from Enforced Disappearance. The treaty bodies needed to be strengthened in response to ever-changing situations and challenges and, despite the complexity of the treaty body system and its multiple stakeholders, the proposal made by the representative of El Salvador was feasible.

32. States had two types of legal responsibility under human rights treaties: their individual responsibility to report to and interact with the treaty bodies, which were based in Geneva, and their collective responsibility with regard to the Convention and Conferences of the States Parties, which were held at United Nations Headquarters in New York; balance and interaction were thus required at all levels. Without prejudice to the merits of the most recent Conference of States Parties to the Convention on the Rights of Persons with Disabilities, many States parties had simply delivered prepared statements on their countries' implementation of that Convention, confusing their individual responsibility to the treaty body with their collective responsibility. As a result, the Meeting had appeared simply to be considering a number of States' periodic reports in the absence of the Committee, an approach that could not be said to constitute a rationalization of time and resources. That experience had shown that the objective of such a discussion must be clearly established in advance.

33. If the proposal was to include a new permanent item in the agenda of the Conference of States Parties, a number of issues must be taken into account: the status of ratification and the efforts of OHCHR and States parties to promote accession to the Convention; the status of reporting, particularly in light of ongoing discussions on reporting formats and calendars designed to improve compliance; the status of implementation, follow-up and the communication of good practices in the absence of a complete report on national implementation; and the need to keep States parties informed about the Committee's work.

34. Lastly, the issue of the resources available to the Committee was often mentioned in separate procedural resolutions, together with requests for additional meeting time, without considering the real problems faced by States parties. Launching into broad political discussions on technical matters would result in compromises and accommodations based more on artificial balances than on the merits of the issues and in unequal treatment of treaties, which went against the very notion of the equality of rights. As the High Commissioner had shown in her report, the current system would collapse if no action was taken. The proposal made by the delegation of El Salvador would require a new approach involving constant monitoring of States' commitment to and implementation of treaties and of the responsibilities of OHCHR. All of

those issues could, however, be included in a well-conceived agenda and dealt with in a single day.

35. **Mr. Castilho** (Secretary of the Conference of the States Parties) confirmed that conference services had been provided for the entire day and agreed that in the future, it would be appropriate to take advantage of those resources. There had been precedents; the delegation of El Salvador might wish to take the lead in organizing activities with a view to the discussion of substantive matters at the next Conference of the States Parties.

#### **Closure of the Meeting**

36. **The Chair** declared closed the Sixth Meeting of the States Parties to the Convention.

*The meeting rose at 12.20 p.m.*