



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

Distr.  
GENERAL

CMW/C/SR.23  
19 December 2005

Original: ENGLISH

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COMMITTEE ON THE PROTECTION OF THE RIGHTS OF ALL MIGRANT  
WORKERS AND MEMBERS OF THEIR FAMILIES

Third session

SUMMARY RECORD OF THE 23rd MEETING\*

Held at the Palais Wilson, Geneva,  
on Wednesday, 14 December 2005, at 10 a.m.

Chairperson: Mr. KARIYAWASAM

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\* No summary records were issued for the 21st and 22nd meetings.

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GE.05-45548 (E) 161205 191205

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

ORGANIZATIONAL AND OTHER MATTERS (agenda item 3) (continued)

Discussion on treaty body reform (A/59/2005/Add.3 and A/60/278)

1. The CHAIRPERSON said that the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families had been invited by the United Nations High Commissioner for Human Rights to express its views on the treaty body reform process, and in particular on the eventual introduction of a unified treaty body. He recalled that the treaty body reform process, which had its origins in the broader reform initiatives set out in the Secretary-General's report entitled "In larger freedom: towards development, security and human rights for all" (A/59/2005), had been broadly welcomed by Member States and that the establishment of a unified treaty body was deemed necessary in order to reduce the increasing burden on States parties and on the Office of the United Nations High Commissioner for Human Rights. Bold and innovative thinking would be needed: the introduction of a unified treaty body would, for example, require the adoption and ratification of one or several amending protocols, which raised the question of what would happen in the event that a State party did not ratify the amending protocol.

2. Mr. BRUNI (Treaties and Commission Branch) said that the need for rationalization of the treaty-monitoring system had been made more urgent by the proliferation of human rights treaties: a number of new treaties were at various stages of elaboration. One option under consideration was to unify the monitoring mechanism of all treaties, as proposed by the High Commissioner in her plan of action (A/59/2005/Add.3). Outlining the progress that had been achieved in the treaty body reform process, he said that the views put forward during the first round of consultations would be taken into account in the development of a concept paper that would be produced by the Office of the United Nations High Commissioner for Human Rights by early 2006. The concept paper would be the subject of a further round of consultations with all concerned, and would then be revised before being submitted to the fifth inter-committee meeting and eighteenth meeting of chairpersons of treaty bodies in June 2006. The High Commissioner hoped to be able to convene an intergovernmental conference to examine the options in detail towards the end of 2006.

3. Ms. IZE-CHARRIN (Chief of the Treaties and Commission Branch) said that the input of the Committee was sought on two key issues: the first issue was how to give the treaty body system greater authority. The main challenges that the treaty bodies faced were States parties submitting their reports late, or not at all, and lack of public awareness about their work: a recent survey had shown that less than 1 per cent of the population of Latin America knew about the Convention on the Rights of the Child, even though it was the most ratified human rights treaty. The second issue was how to ensure that the specialist expertise accrued in the individual treaty bodies - which could be summed up by the word "specificity" - was not lost.

4. The CHAIRPERSON said that although the introduction of the harmonized reporting guidelines would also be of benefit to a unified treaty body, harmonization and treaty body reform were being carried out independently of one another.

5. Mr. EL-BORAI asked whether any specific proposal had been made with regard to the establishment of a unified body.
6. Mr. BRUNI (Treaties and Commission Branch) said that no specific proposal had been made and that all options were open. He emphasized the need for innovative thinking: for example, there was a trend in the new draft treaties under preparation to envisage new ways of monitoring treaty implementation, such as country visits, which would have to be taken into account in the implementation of treaty body reform.
7. Mr. ALBA noted that, as a new Committee, the Committee on Migrant Workers found itself in the difficult position of being asked to consider proposals that might dilute its identity before it had had sufficient opportunity to establish one. He asked whether the unified treaty body was intended to encompass only the seven core United Nations human rights treaties, or all treaties. He noted that some treaties, such as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, would lend themselves more easily than others to being considered in combination with other treaties. He noted that some States seemed to feel that there was no need to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families because many of the issues it addressed were already covered by other treaties.
8. The CHAIRPERSON agreed that, as a new treaty body, the Committee would be at particular risk of losing its identity if it was merged with other committees into a unified treaty body. A further question that arose in connection with the proposal to establish a unified treaty body was the nature of that body's composition; he feared that a large body comprising permanent expert members would become indistinguishable from the United Nations Secretariat. In order to maintain each treaty body's specificity, any unified treaty body should have several "sub-chambers" comprising experts from each of the existing seven treaty bodies. He suggested that there might be a threshold at which a new treaty was deemed to require a sub-chamber.
9. Ms. CUBIAS MEDINA said that the only way that the treaty bodies would achieve greater political or judicial authority would be through the creation of a world court of human rights. She therefore wished to know whether the introduction of such a court had been discussed as a possibility. Although the treaty body reforms focused on the creation of new structures, it was the authority carried by the decisions of the bodies that was important. A court would also allow each treaty body to maintain its specificity.
10. Mr. GAKWANDI said he did not share the Chairperson's fears that a unified treaty body comprising permanent members would become indistinguishable from the Secretariat. Full-time, paid members of a unified treaty body would be responsible for considering the common core documents submitted by States parties, while part-time members who were experts on the individual treaties could be invited to participate in treaty-specific discussions. Moreover, a unified treaty body that was in permanent session would increase the visibility of the seven core human rights treaties and thus strengthen the promotion of human rights and increase public awareness of the available ways and means of realizing human rights and appealing to the treaty-monitoring system for assistance. Such a body could work alongside the Secretariat to educate the general public about human rights and, thanks to its permanent status, would be able

to intervene more swiftly to address individual complaints. He was therefore in favour of establishing a permanent unified body, with the flexibility to invite experts to consider treaty-specific information.

11. Mr. EL-BORAI said that he favoured the establishment of an expanded committee to consider the common aspects of the core document and several smaller, specialized subcommittees to consider treaty-specific reports. He wondered whether membership of an expanded treaty body would be confined to experts from States that had ratified all seven of the core human rights treaties and, if so, whether that would pressurize States into ratifying treaties before they were capable of implementing them. An alternative to that situation would be to adopt the approach used by the International Labour Organization, whereby States parties would be obliged to adhere to the principles of all the treaties, whether they had ratified them or not. Since the subcommittees under the new system would not be independent of each other, he wondered what procedure would be adopted in the event that they disagreed or contradicted each other in their consideration of State party reports.

12. Mr. EL JAMRI said he wished to know whether the establishment of a unified treaty body would result in the marginalization of the least ratified treaties such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. He wondered how differences in ratification would be managed in a single treaty body, and how the smooth transition from seven independent treaty bodies to one unified mechanism would be ensured. He expressed concern that the unification of working methods would be affected by the fact that not all States were a party to all seven treaties. He wondered whether it would be easier to ensure the implementation of the Convention on Migrant Workers by establishing a broader, more prestigious treaty-monitoring body.

13. Mr. ALBA expressed concern that the individual specificities of the seven core human rights treaties would be lost if a unified treaty body was established.

14. The CHAIRPERSON said it was important to retain the specificity of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and to ensure that the establishment of a unified treaty body did not result in the marginalization of the Convention. Marginalization could be avoided by inviting experts to participate in treaty-specific discussions, as suggested by Mr. Gakwandi.

15. Mr. TAGHIZADE said that the most important factor for consideration should be the interests of the end-users of the Convention: the Committee had to decide whether it considered States, their populations or individual citizens to be the end-users. The current system was effective partly because Committee members retained links with their own countries, whereas if they became members of a permanent treaty-monitoring body, they might be forced to give up their duties elsewhere. Unification should not be allowed to lead to the replacement of an effective system with a bureaucratic treaty-monitoring body.

16. Mr. GAKWANDI said that although under the current system the seven treaty bodies had equal status, the amount of annual meeting time allocated to them differed in accordance with the number of ratifications of the relevant treaty and the level of public awareness of the specific rights protected by it. One particular danger of the unification process was that the larger

committees, such as the Committee on the Rights of the Child and the Committee on the Elimination of Discrimination against Women would overshadow the Committee on Migrant Workers. A unified body ran the risk of having its agenda dictated by lobbies for popular human rights issues, which could be detrimental to other, less visible vulnerable groups. Every effort must be made to avoid that situation.

17. Mr. CARRIÓN-MENA said he agreed with Mr. Taghizade that the Committee must not lose sight of its own objectives. Treaty body unification could result in the dilution of the Committee's work, which was still in the early stages of development, since the other treaty bodies had more seniority and experience. Particular attention must be paid to the resistance shown by industrialized receiving countries to ratifying the Convention, and the risk that those countries would attempt to filter the Convention out of the system. That risk was heightened by the fact that the Committee was newly established and was still developing its working methods.

18. Ms. CUBIAS MEDINA said that migrant workers and members of their families were the end-users of the Convention. The support of the other treaty-monitoring bodies was essential for increasing the number of ratifications of the Convention, and a new, unified treaty body could help to promote migrant workers' rights. Other international instruments, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the International Covenant on Economic, Social and Cultural Rights, addressed issues related to the rights of migrant workers, such as detention conditions, migrant women's rights, migrant children's rights, trafficking in persons and torture. The Committee should consider what it could gain from a unified treaty-monitoring system in terms of raising awareness of the importance of migrants' rights in relation to the other core human rights treaties.

19. Mr. ALBA said that the Committee would have to contend with the frequently expressed view that the Convention on Migrant Workers did not constitute one of the core United Nations human rights treaties. Moreover, some lawyers held that migrant workers in an irregular situation did not qualify as the subjects of rights. Such attitudes would not help preserve the specificity of the Convention in the context of the proposed unified treaty body. It should be noted that the population group served by the Convention was at the centre of debate in many countries, and that what distinguished migrant workers from the subjects of other human rights treaties was that they were non-citizens in the countries in which the rights conferred on them by the Convention were usually exercised.

20. The fact that none of the States that had ratified the Convention had requested the establishment of an individual complaints procedure lowered the standing of the Convention with respect to the other treaties, and detracted from the right to redress of individual "end-users" of the Convention.

21. The CHAIRPERSON said that, withstanding Mr. Alba's comments, the idea that the Convention was one of the core United Nations human rights treaties was gaining ground. It was important to bear in mind, when talking of the exercise of the rights set forth in the Convention, that it was practically impossible to designate a country as simply a country of origin, transit or destination with regard to migrant workers: in fact, some countries qualified as all three.

22. Mr. BRUNI (Treaties and Commission Branch) said that, the purpose of establishing a unified body was to develop a monitoring mechanism that would simplify reporting procedures and ensure more effective implementation of all treaties, both existing and future. Discussions had taken place in several other treaty-monitoring bodies on the notion of setting up a unified treaty body that functioned as an international human rights court, like the courts found in regional human rights systems. Whereas many of the participants in the discussions had found it difficult to envisage a unified treaty body that dealt with all aspects of the reporting procedure, most of them could envisage one that was entrusted with individual complaints procedures. The idea of having the proposed body consist of part-time members had also been suggested in other forums.

23. The reaction of other committees to the proposal for a unified treaty body had been similar to that of the Committee on Migrant Workers: both positive and negative viewpoints had been expressed and numerous valid ideas that merited further consideration had been put forward. From a legal perspective, numerous obstacles still lay ahead. Nevertheless, where there was political will and general agreement, a political solution could often be found. For instance, the Committee against Torture and the Committee on the Elimination of Racial Discrimination had initially been funded by contributions from States parties, but after the break-up of the Soviet Union - which had until then provided some 25 per cent of their budgets - a new solution had had to be found. As it would have taken decades for all States parties to approve the necessary amendments to the conventions concerned, the General Assembly had simply adopted a resolution that provided for funding the two treaty bodies from the regular budget of the United Nations.

24. Those who stood to benefit from the proposed reform of the United Nations treaty body system were first and foremost the rights holders. However, from a technical standpoint, a unified treaty body would also enhance the effectiveness of the human rights treaties and simplify their implementation by States. The definition of a “core” United Nations human rights treaty was one that provided for the establishment of a committee of independent experts to monitor the implementation of treaty provisions by States parties. According to that definition, the Committee on Migrant Workers was a core United Nations treaty.

25. The CHAIRPERSON suggested that, in conveying the Committee’s views to the High Commissioner on the question of a unified treaty body, he would synthesize the general points made by the Committee, focusing on the importance of preserving the specific characteristics of the Convention. Overall, there appeared to be general agreement among Committee members that a unified treaty body should be set up. Some had referred to the advantages that such a body offer the Committee on Migrant Workers in terms of the potential synergies to be achieved by jointly addressing issues of common concern to several bodies.

26. Mr. TAGHIZADE stressed that it was essential to retain the specificity of each treaty body: after all, to use a medical analogy, not every disease could be cured with the same treatment. Requiring States to attend to the specific requirements of each treaty in their reports would compel them to seek up-to-date information from the relevant government departments, which would in turn facilitate a proper diagnosis of each problem, which, in the case of the Convention on Migrant Workers, was how best to protect the rights of migrant workers and their families.

27. The CHAIRPERSON said that the Committee, in its response to the High Commissioner, should draw attention to the need to provide for adequate treaty-specific reporting when formulating the proposals for an expanded core document and harmonized guidelines.
28. Mr. GAKWANDI said that one of the arguments in favour of a unified treaty body was that it would ease the reporting requirements of States. It was difficult to see how States could benefit from such an arrangement if they were required to prepare seven separate reports. It seemed logical to move towards a system in which the State party would prepare an expanded core document that contained sections on the various conventions to which it was a party, and which would be submitted to a single treaty body for consideration.
29. Ms. DIEGUEZ said that it was impossible to separate discussion of a unified treaty body from discussion of the expanded core document, since a unified treaty body would be dealing with an expanded core document covering all aspects of human rights. She did not understand how rights specific to migrants could be dealt with more effectively by a group of experts dealing with human rights common to all treaty bodies.
30. Mr. GAKWANDI suggested that the Committee's response to the High Commissioner should include an explanation of the reasoning behind their views. For example, one argument in favour of a unified treaty body was that it would enhance efficiency and therefore benefit vulnerable groups; a standing body with full-time members would indeed be likely to clear the backlog of work and deal with issues more efficiently. Another argument was that costs would be reduced, although it was not yet clear how many members the new body would have or how much they would be paid; in fact, without any figures, it was impossible to tell whether costs would go up or down. Another argument was that it would ease the burden on States, although he did not see how that was possible if States had to submit the same number of reports as they currently did.
31. The CHAIRPERSON suggested that, in his reply to the High Commissioner, he could say that the members of the Committee had taken note of the proposal to establish a unified treaty body system and had expressed the fear that the adoption of such a system might discourage States from ratifying the Convention on Migrant Workers. On a positive note, he could say that migrant workers and members of their families might benefit from the Convention being addressed alongside the other, better established conventions. He could also stress that, although Committee members realized that a unified treaty body system would have a different reporting system based on an expanded core document, they felt that the specificity of the Convention on Migrant Workers must be retained in any unified treaty body system.
32. Mr. CARRIÓN-MENA said that, in his opinion, the members of the Committee needed more details before they could formulate a considered view on the proposal. It would be dangerous to be too hasty in approving the establishment of a unified treaty body without first receiving guarantees that the specificity of the Convention on Migrant Workers would be maintained.

33. The CHAIRPERSON suggested that, instead of summarizing the views expressed by the members of the Committee, he could forward the summary record of the current meeting, which would include all the substantive points made by members of the Committee.
34. Mr. EL-BORAI agreed with Mr. Carrión-Mena that the Committee should wait for more details about the unified treaty body before drawing any conclusions.
35. Mr. GAKWANDI said that the proposal for a unified treaty body was an interesting one but he did not have sufficient information to form an opinion. He hoped that the concept paper to be produced by the secretariat would, for example, provide comparative figures on costs. For the time being, the Committee should simply say that the proposal needed further examination.
36. The CHAIRPERSON noted that to postpone taking a position on the proposal would not be of any help to the United Nations High Commissioner for Human Rights. Other committees had either provided summary records of their discussions or given more substantive input. There was a danger that if the Committee did not submit anything, its views and concerns would not find their way into the concept paper.
37. Mr. TAGHIZADE said that, in any event, a statement should be made to the effect that many members of the Committee felt there was insufficient information to make an informed response.
38. Ms. CUBIAS MEDINA said that such a statement would cancel out the whole morning's discussion. While members might not be able to reach a decision on whether or not it was in favour of the proposed unified treaty body until they had more information, they could still formulate a response that highlighted the need to retain the specificity of the Committee on Migrant Workers and their particular concern that the Convention, as one of the least widely ratified human rights instruments, might be weakened by the introduction of a unified treaty body.
39. Mr. ALBA said that he was in favour of sending a letter that stressed members' desire to maintain the Committee's specificity but welcomed the proposal in principle.
40. The CHAIRPERSON suggested that he could draft a letter summarizing all the views expressed by members of the Committee and noting that they awaited further information on financial and other aspects, and send it to the High Commissioner together with a copy of the summary record of the current meeting.
41. It was so decided.

#### Sessions of the Committee in 2006

42. The CHAIRPERSON said that the planned dates for the fourth session of the Committee were from 24 to 28 April 2006 and, for the fifth session, from 30 October to 3 November 2006. He took it that those dates were acceptable to the members of the Committee.
43. It was so decided.



Reminders concerning the submission of reports by States parties

44. The CHAIRPERSON said that many States parties had not yet submitted their reports to the Committee. He took it that he had the agreement of the members to send reminders to the States parties in question.

45. It was so decided.

Appointment of a representative to the inter-committee technical working group on the harmonized reporting guidelines

46. The CHAIRPERSON noted that the Committee needed to appoint a new English-speaking representative to the inter-committee technical working group on the harmonized reporting guidelines to succeed Mr. Gakwandi, whose term expired on 31 December 2005.

47. Ms. DIEGUEZ nominated Mr. Alba.

48. The CHAIRPERSON said he took it that the Committee wished to appoint Mr. Alba as its representative on the working group on the harmonized reporting guidelines.

49. It was so decided.

The meeting rose at 12.35 p.m.