



**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

Fifth session

SUMMARY RECORD OF THE 44th MEETING*

Held at the Palais Wilson, Geneva,
on Wednesday, 1 November 2006, at 3 p.m.

Chairperson: Mr. KARIYAWASAM

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* No summary record was issued for the 43rd meeting.

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The meeting was called to order at 3.20 p.m.

PROMOTION OF THE CONVENTION (agenda item 5) (continued)

1. The CHAIRPERSON said that so far only 34 States had acceded to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and that none of them were developed countries of destination. There had been no new ratifications for a full year. The six other core human rights treaties had all been ratified by over 100 States. There was a sentiment that the Convention lacked the traction or momentum necessary to ensure the protection of migrant workers. For the instrument to be as effective as possible it would be necessary to include among its States parties not only countries of origin and transit, but also host countries.

2. He had recently taken part in the Eighth International Conference of National Institutions for the Promotion and Protection of Human Rights, held in Santa Cruz, Bolivia, which had adopted a declaration that clearly called for the ratification and implementation of the Convention. The Santa Cruz Declaration was all the more important because the Conference had included the national human rights institutions of the Western Group, which meant that all national human rights institutions throughout the world had taken a clear position in favour of ratification, regardless of their States' ratification status. What measures could be taken by the Committee, and possibly by non-governmental organizations (NGOs), to increase the visibility of that Declaration and its support for ratification?

3. The Committee might consider holding a day of general discussion devoted to the promotion of the Convention. According to the secretariat, the organization of such an event would require about a year of preparation to invite experts and give them time to draw up their reports, so if the Committee was able to decide upon a topic at the current session, the event could take place in November 2007. Some of the themes that could be addressed included misconceptions about the Convention or the promotion of the Convention in the context of the human rights treaty system. He invited the Committee members and the NGOs present to make suggestions for possible topics of discussion.

4. Mr. EL JAMRI said that notwithstanding the relatively low number of ratifications, the Convention had come to be recognized not only by States but also by civil society as the reference instrument of international human rights law for the rights of migrant workers and their families. He knew that numerous efforts had been made in Europe by NGOs and regional governments to support the Convention. In Belgium and France, for instance, local legislatures had called upon the national authorities to proceed with ratification, and there was an awareness of the need to ratify the Convention in Spain as well. Already, Committee members had done a great deal to promote the Convention whenever possible, for example by responding to individual invitations to speak on related matters, and they shared their experiences at each session. It would be useful to build on that work. He asked whether it would be feasible for the Committee to contact decision-makers such as parliamentarians in the countries that had not yet acceded to the treaty, for example by means of a letter explaining the advantages and benefits of becoming a State party. A communication from the Committee would no doubt carry more weight than one coming from an NGO. The Committee should also underscore the linkage

between migrants' rights and development. Lastly, he proposed the establishment of a small coordinating commission consisting of one or two Committee members and representatives of NGOs, to support promotion and awareness activities.

5. The CHAIRPERSON, while acknowledging that the small number of NGOs supporting the Convention and the Committee's work were highly motivated and dedicated, said that for the other core human rights treaties, especially those dealing with civil and political rights, there had been a pattern of support and advocacy for ratification from a broad range of NGOs, and also from States parties. He wondered whether the Committee should specifically call upon States parties to take a more active role in that regard.

6. Mr. CARRIÓN-MENA said that the responsibility for promoting further ratification of the Convention, in particular by countries of destination, should be borne not only by the Committee, but also by the States parties. At previous meetings, some members of the Committee had mentioned the fact that many States were apparently hostile to ratifying the Convention. It was necessary to convince such States that the phenomenon of migration was not in itself a problem, but that it involved certain problems which must be tackled at the international level. It was therefore in the interest of the developed countries to accede to the Convention, as it was the most effective international instrument in that field. Because the developed countries benefited greatly from migration, their reluctance to accede to the Convention reflected a certain level of hypocrisy.

7. While there were limits to what the 10 Committee members could do to promote ratification, NGOs had a greater capacity to influence public opinion and policy, and their work might be more effective in countering the hostility towards the Convention. He pointed out that alternative international forums had been held on migration outside the framework of the United Nations, and that such events were unfortunately prejudicial to the Convention, which should be the basic instrument dealing with migrants' rights. He was about to take part in an Ibero-American summit in Montevideo that would address migration and development issues. The Latin American countries had much in common, but it was difficult to arrive at practical agreements on their positions with regard to migration. The Committee should encourage other institutions to work with it to overcome the reluctance to accede to the Convention.

8. Mr. ALBA said that, on the one hand, it was heartening to find that although the Convention had taken 13 years to attract the 20 ratifications required for it to enter into force, it had been ratified by 14 more States in the past three years alone. On the other hand, there was a serious North-South divide in support for the instrument, and it would apparently be increasingly difficult for a developed country to be the first to accede to it - all the more so in the climate prevailing since the attacks of 11 September 2001, which increasingly gave precedence to security concerns over human rights issues.

9. The general discussion might be devoted to a topic such as distinctions and interactions between migrant workers and other displaced persons and refugees. It might be advisable to choose a topic that was somewhat controversial to draw attention to the Convention and its applicability to practical problems.

10. The CHAIRPERSON said that, in addition to increasing the overall number of ratifications of the Convention, there needed to be a strategy to increase ratifications from all three categories of countries - sending countries, transit countries and receiving countries - in order to have a significant effect on the protection of the rights of migrant workers. At present, most receiving countries were not represented, which reduced the effectiveness of the Convention.

11. With regard to the topic for the planned day of general discussion, he suggested that the Committee choose a general topic and include other ideas in subcategories.

12. Mr. TAGHIZADE said that the Committee needed to review the role of the Convention in the light of the changing world situation, at a time when there was increased interaction between different civilizations and when labour migration was a growing phenomenon. Irregular migrants were marginalized in their host countries, which led to an increasingly negative attitude by their hosts towards them and their countries of origin. They existed in an “illegal zone” where they did not want to be discovered, which left them vulnerable to manipulation by criminals or terrorists. Therefore, efforts should be made to explain that their vulnerability could be reduced by ratifying the Convention and doing away with the distinction between irregular and regular migrants as far as their integration and the protection of their human rights were concerned. Receiving countries needed to be convinced that the Convention on Migrant Workers was in fact one of the most useful tools in the fight against racial conflict and terrorism in the twenty-first century. The Committee should be more proactive in explaining those aspects of the Convention.

13. Ms. CUBIAS MEDINA said that the Committee should make use of the expertise of its members to work with regional organizations and encourage States parties to aggressively promote the inclusion of the Convention in regional declarations, since countries in regional groupings faced many of the same migration-related issues. Seminars on the human rights of migrants should be held in countries which were not yet parties to the Convention, with the support of the United Nations High Commissioner for Human Rights, non-governmental organizations and the other human rights treaty bodies. The work of those treaty bodies overlapped with the work of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and they should work together to promote understanding and ratification of the Convention on Migrant Workers. She suggested that the Committee should consider some form of publication on the human rights of migrant workers that included references to security issues following the attacks of 11 September 2001, in order to demonstrate that the Convention did not reduce security or promote terrorism in any way. It should be emphasized that irregular migrants were not terrorists and that, in fact, effective migration management based on respect for the human rights of migrants would increase security.

14. The CHAIRPERSON said that any publication would need to be thoroughly researched and therefore could not be produced quickly; perhaps it could be based on the material prepared for the planned day of general discussion in 2007. There was certainly a need to address misconceptions about the Convention. There was already a degree of regional activity to promote the Convention. In some regions, NGOs were more active than States. The Committee should find a way to make regional cooperation on migration issues more appealing to States.

15. Mr. SEVIM said that in countries in the European Union and the European Economic Area, the rights of migrants had sharply declined over the past 10 to 20 years and discrimination was increasing. Those factors were affecting ratifications of the European Convention on the Legal Status of Migrant Workers and the International Labour Organization (ILO) conventions concerning the rights of migrants. He wondered how, in that atmosphere, the Convention on Migrant Workers could be promoted in the European Union. Perhaps non-governmental organizations could make contact with migrants in Europe to promote the Convention? Migrants played a very important role in Europe and, in some countries, migrants or descendants of migrants were now members of parliament or local government representatives.

16. He asked whether the other United Nations human rights treaty bodies could ask their States parties why they had not ratified the Convention on Migrant Workers, which was, after all, one of the core international human rights treaties. Although trade union organizations such as the International Confederation of Free Trade Unions (ICFTU) did not currently address the problems of migrants, they should be contacted and given information about the Convention.

17. He noted that, whether they had ratified any given ILO convention or not, ILO member States had to submit reports to the Organization: perhaps a similar procedure could be introduced for the Committee on Migrant Workers.

18. The CHAIRPERSON said that at the fourth inter-committee meeting of human rights treaty bodies it had been decided that other committees would recommend ratification of the Convention on Migrant Workers in their concluding observations.

19. Mr. BINGHAM (International Catholic Migration Commission) said that his organization was an enthusiastic member of the International NGO Platform on the Migrant Workers' Convention. He had seen a change in the international debate on labour migration over the past two years: the preparations for the High-Level Dialogue on International Migration and Development had at least succeeded in introducing the positive aspects of migration into that debate. Consequently, the topic of the day of general discussion should not focus on the misconceptions about the value of migration. As the Convention on Migrant Workers offered a practical framework for tackling the problems of migration and development, the discussion should focus instead on the Convention as a practical problem-solver, not simply as a list of rights, and should aim to produce practical suggestions that would be useful to Governments.

20. The CHAIRPERSON suggested that the main topic of the day of general discussion could be the practical value of the Convention, while the sub-topics could include international migration and development, irregular migration and regional measures. The Committee needed to decide whether it would like to ask the secretariat or himself to write to the States Members of the United Nations who were not yet parties to the Convention, in preparation for the day of general discussion.

21. Mr. TARAN (International Labour Organization) said he wished to express his personal views as a specialist on migration rather than on behalf of ILO. The Convention was facing a crisis, with ratification at a halt and the rights-based approach to the protection of migrant workers facing stalemate, as had been evident at the General Assembly's recent High-Level Dialogue on International Migration and Development. Emphasis on the rights-based approach

had been consistently voiced at all the international conferences held on the issue in the 1990s, and at all sessions of the Commission on Human Rights and the General Assembly. On every occasion, States had been clearly called upon to ratify the Convention. It was therefore disappointing that, in the Secretary-General's report to the High-Level Dialogue, States had not been urged to ratify the Convention. The Chairperson's report on the Dialogue merely mentioned the fact that several participants had urged ratification.

22. It was a particular cause for concern that international dialogue on migration was being removed from the multilateral system. That system, which it had taken the international community half a century to set up, was aimed at providing the minimum standards of human rights protection within the rule of law. There had been a significant shift in emphasis at the High-Level Dialogue towards seeing migrant workers as contributors to the economy and recognizing them as production factors in a globalized capitalist economy rather than as human beings who required legal, social and political protection. In recent years, international labour mobility had become extremely important for the survival of national economies against a background of technological and demographic changes. For example, it was estimated that 750,000 members of the Russian workforce would retire in 2006 and not be replaced by Russian nationals, and that the net decline in the workforce by 2010 would total 5 million. Was it a coincidence that at least 5 million foreign migrants were working in the Russian Federation, most of them in an irregular situation? In many western European countries foreigners accounted for between 10 and 15 per cent of the workforce, while the figure was higher in the United States of America and had reached 25 per cent in Switzerland. In the richest countries, irregular migrant workers provided a cheap, docile and flexible workforce that was of increasing importance since those countries had to compete with the lower production costs of less-developed countries.

23. Respect for workers' rights inevitably carried an economic cost, which undoubtedly explained the increased resistance to ratify the Convention detected among the Governments of host countries, not only in the West but also in parts of Latin America, southern Africa and much of Asia. Those countries often cited the Convention's reference to the rights of irregular migrants as their principal reason for not ratifying it. Since ratification was essentially a political issue, sufficiently influential advocacy would play a critical role in breaking down the stiff resistance to it. In the past, there seemed to have been a correlation between intensive international campaigns to promote the Convention and spates of ratifications. There had only been eight ratifications until 1998, when the Steering Committee of the Global Campaign for the Ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families had become active. The Steering Committee was, he recalled, a powerful coalition of NGOs, trade unions, religious representatives, human rights bodies and a number of intergovernmental organizations. There had followed 15 ratifications between 1998 and 2003, when the Convention entered into force, and a further 11 ratifications over the following two years. Since the Steering Committee had become dormant, there had been far fewer ratifications, and none at all for a year.

24. It was, on the other hand, an encouraging fact that 76 States had ratified at least one of the three main international instruments concerning migrant workers' rights: the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the ILO Migration for Employment Convention (Revised), 1949 (No. 97); and the ILO

Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143). Yet while in recent years the major foundations that funded NGOs had been ready to support their denunciations of violations or abuses, they had been unwilling to offer financial support for any moves specifically aimed at promoting the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families or other rights-based approaches to the protection of migrant workers. It was therefore for the States parties to the Convention to play a leading advocacy role. They would have an opportunity to do so at a number of forthcoming international forums on migration, where NGOs and intergovernmental organizations would probably be sidelined. The Governments of the States parties were best placed to take part in international policy debates on the issue and persuade non-States parties to ratify the Convention.

25. To the same end, members of the Committee should take advantage of their regular access to many countries' foreign and labour ministries. Whereas it would probably be difficult to influence European States, they might have more success with the countries of the Commonwealth of Independent States, Latin America and Africa, where they had direct contacts with the Governments concerned. Quiet diplomacy would probably prove more effective than high-profile media campaigns, although the Mexican Government, for example, had been particularly vocal at recent international meetings. They should also encourage the sponsorship of General Assembly resolutions that openly called for ratification of the Convention.

26. During the day of discussion, participants should, in his view, challenge the dehumanizing economics-based approach to migrant workers. Emphasis might be laid on four inextricably interlinked factors: the regulation of migration, the protection of migrant workers' rights, economic development and social cohesion. Those fundamental elements and the links between them had not been properly addressed at the General Assembly's High-Level Dialogue on International Migration and Development in September 2006, which had been far more about migration than about development. Reference could also be made to the protection of migrant workers' rights in the increasing number of regional economic initiatives, in South America, Africa and Asia. He mentioned ILO studies conducted in Africa, which had closely examined ways of harmonizing good practices and bringing national legislation into line with international standards. The Organization had also explored the reasons why some States had not ratified certain international instruments and had demonstrated how such instruments could help States within a given region harmonize their approach to issues such as migrant workers' rights.

27. The CHAIRPERSON said that States parties had been making efforts for many years to promote the Convention at international forums, including the General Assembly. It had, however, proved impossible to agree on consensus resolutions that explicitly urged its ratification. Texts that did so would have to be voted on and would not be passed. Therefore, the draft resolution on international migration and development, submitted at the sixty-first session of the General Assembly on behalf of the Group of 77 and China, went no further than to recall the Convention's existence. While he agreed that regional efforts could be useful, he felt that the real key lay with host countries in the West and North, which were also home to the major donors. They were interested in protecting human rights in general, but less so in protecting those of migrant workers. He agreed that the Convention faced a crisis and innovative ways had to be found to overcome that crisis. Ensuring that more States ratified the Convention should in itself help to promote it. Efforts should be concentrated on ratification by the richer countries that were not necessarily host countries to migrant workers.

28. Ms. D'AUCHAMP (December 18) recalled that NGOs throughout the world had striven relentlessly to promote the Convention's ratification and implementation, with greater success in some regions than others. They had also been mobilized for the General Assembly's High-Level Dialogue on International Migration and Development. The report of the preparatory hearing with representatives of civil society had emphasized the rights-based approach to the issue and included a clear call for more States to ratify the Convention.

29. With regard to the Committee's role in promoting the Convention, firstly it should cooperate closely with civil society. The International NGO Platform on the Migrant Workers' Convention was always ready to work with the Committee. Secondly, it should recognize the crucial role that might be played by regional parliaments, such as the European Parliament, and non-national parliaments in some countries that were not States parties. Thirdly, the Inter-Parliamentary Union (IPU) had held a debate on the Convention on the Elimination of All Forms of Discrimination against Women and might be persuaded to hold a similar debate on the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

30. At its recent meeting, the International NGO Platform on the Migrant Workers' Convention had discussed a number of strategies for promoting the Convention. There was a need to improve the information given to those States that were reluctant to ratify the Convention, clarifying their misunderstandings and countering their arguments. They should be shown that the Convention could be of practical benefit to all countries. The Convention's reference to migrants in an irregular situation could prove a sticking point for some countries, so the Committee needed to find ways of holding a constructive debate on that aspect. More emphasis should be laid on Part VI of the Convention, which offered countries tools for combating or preventing illegal migration. At present many countries were under the impression that the Convention favoured uncontrolled migration. There was therefore a need to strike a balance between protecting the fundamental rights of migrant workers and ensuring that States could protect themselves from influxes of illegal migrants. Finally, the Committee should concentrate on persuading non-States parties, whether they were countries of origin, transit or destination, to join in the dialogue on the issue, as a first step towards ratification.

31. The CHAIRPERSON wondered whether high-level delegations from non-States parties, especially European Union member States, could be invited to participate in the Committee's discussion.

32. Mr. BRILLANTES suggested that diplomats, as well as members of the Committee, might put joint pressure on foreign ministers or heads of State as a more effective way of promoting the Convention. They might focus on a given region, such as the Middle East, where large numbers of migrant workers could be found, including at least 1.7 million Philippine nationals alone. Such joint efforts should prove a more effective way of persuading States to ratify the Convention than separate initiatives. The Committee might consider examining the reports of non-States parties or inviting those States to appear before the Committee, to inform them of the disadvantages to them of not ratifying the Convention. The Committee might even contemplate sending reports to the General Assembly singling out countries, such as Brazil, which had shown reluctance to ratify the Convention. Countries could be prodded into reaction and be persuaded that ratification of the Convention was in their interests, as it was the best way to address the migration problems they faced.

33. Mr. CARRIÓN-MENA said that to disseminate and promote the Convention on Migrant Workers, the United Nations could adopt the same strategy as the one used by Ecuador, Colombia and the Dominican Republic to try to dissuade the Government of the United States of America from setting up a fence along the border with Mexico. That strategy consisted of asking influential Americans of Hispanic origin or former Latin American immigrants - federal legislators, lawmakers and governors of the states neighbouring Mexico, as well as actors, sportsmen, entrepreneurs, academics and scientists - to speak out against the law.
34. The CHAIRPERSON stressed that the Committee had to be careful, in its advocacy and promotion of the Convention, not to criticize the sovereign political decisions of non-States parties.
35. Mr. TARAN (International Labour Organization) noted that there was little diplomatic pressure on reluctant host States to ratify the Convention when only a minority of States of origin - about a third - had signed it. Moreover, 16 States that had signed the Convention had not yet ratified it. If the number of States parties to the Convention rose to 50 it would carry more political weight within the international community.
36. The International Labour Organization had succeeded in boosting the number of ratifications of its own migrant-related conventions by means of “targeted advocacy”; he recommended that members of the Committee, the secretariat of the Office of the United Nations High Commissioner for Human Rights, the International Labour Organization and concerned NGOs should draw up a programme of targeted action focused on those 16 signatory States, who should be easily convinced to ratify a convention they had already signed. Those ratifications would in turn generate further support for the Convention on Migrant Workers among host countries.
37. The CHAIRPERSON said he would be interested to know what role the ILO secretariat had played in getting the International Labour Organization’s conventions ratified.
38. Mr. TARAN (International Labour Organization) said that the ratification of conventions had been a key component of ILO technical cooperation activities, and that ILO had gone on to hold discussions with governments, employers and trade unions.
39. Mr. EL JAMRI said the Committee had to target its action carefully and prioritize the different ways to promote the Convention, especially since the means available to the Committee and NGOs were limited.
40. The States that had not ratified the Convention had their reasons for not doing so: the Committee should therefore focus its efforts on those States that might well be prepared to ratify the Convention, including African, Arab and European States. The Committee would be well-advised to focus on promoting the Convention among European Union countries, where civil-society mobilization was already strong. NGOs, with the help of some political representatives, had already organized campaigns in most countries of the European Union to promote the ratification of the Convention. In Spain and Belgium, regional governments had asked their federal Governments to ratify the Convention and some important European Union bodies had called on member States to ratify the Convention.

41. He suggested that universities offering high-level courses on human rights could participate in a day of general discussion on the rights of migrant workers by using modern communication tools. He also suggested that the Committee should support studies on migration flows in sub-Saharan, African and southern European countries.

42. Mr. EL-BORAI suggested that the Committee could request States that had not ratified the Convention to nevertheless produce a report on the rights of migrant workers, as the International Labour Organization had done in the case of the Declaration on Fundamental Principles and Rights at Work.

43. The CHAIRPERSON said that International Migrants Day, on 18 December, could be an opportunity for the Committee to act on some of the suggestions made. In the meantime, he encouraged the NGOs belonging to the International NGO Platform on the Migrant Workers' Convention to pursue their useful advocacy work.

SUBMISSION OF REPORTS BY STATES PARTIES (agenda item 4) (CMW/C/5/1)

44. The CHAIRPERSON said that so far the Committee had received only four reports from States parties to the Convention, while 25 initial reports were overdue. That situation reflected badly on the credibility of the Committee's work and discouraged States that were not parties to the Convention from acceding to it. To encourage States parties to submit their reports, he suggested that the secretariat should be requested to remind them of their reporting obligations and of the importance of fulfilling those obligations for the credibility of the Convention. Another possibility would be to invite States parties to a meeting with the Committee to discuss the submission of reports during its next session.

45. Mr. ALBA stressed that it should be made clear to the States parties that had not yet submitted their reports that it was in the interest of their own citizens to create a climate of greater acceptance of the rights of migrant workers; their failure to report hindered the creation of such a climate and did a disservice to the States parties that had submitted their reports.

The meeting rose at 5.40 p.m.