



**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

Sixth session

SUMMARY RECORD OF THE 54th MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 25 April 2007, at 3 p.m.

Chairperson: Mr. KARIYAWASAM

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The meeting was called to order at 3.15 p.m.

ORGANIZATIONAL AND OTHER MATTERS (provisional agenda item 8) (continued)

1. The CHAIRPERSON said that the Committee would continue its discussion of treaty body reform under agenda item 8. Mr. Alba would report on the deliberations of the working group on the harmonization of working methods of treaty bodies, on which he had represented the Committee. The Chairperson proposed that, based on the outcome of the discussion, he and Mr. Alba should then draft a final paper and send it by e-mail to the other members, who could add their comments. It was essential for the Committee to take a position on the issue before the next Inter-Committee Meeting to be held in June.
2. Mr. ALBA said that the positions of the other treaty bodies concerning the reform had been summarized in the document CMW/C/6/CRP.3. Most were not in favour of establishing a unified standing treaty body, fearing, as did the Committee, that they would lose their specificity. Since the Committee was a very recent body, it was perhaps not well placed to oppose the High Commissioner's proposals outright, but it should at least mention that particular concern.
3. The treaty bodies were aware of the practical problems that currently arose, and in particular, of the burden that the obligation to submit a large number of reports placed on States parties. It should be recalled, however, that that was one of the obligations that States parties had voluntarily assumed on ratifying the respective treaties.
4. At its last meeting in April, the working group on the harmonization of working methods of treaty bodies had formulated a number of recommendations in keeping with the discussions that had been held in November. The first proposal had been drafted in two versions, which showed that a consensus had not yet been reached. Version (a) seemed more viable than version (b), which called for more changes and, in particular, the possible replacement of the Inter-Committee Meeting and the Meeting of Chairpersons. The treaty bodies appeared to be concerned with maintaining not only their specificity but also their area of manoeuvrability.
5. Mr. EL-BORAI pointed out that the proposed reform was, on the whole, very ambiguous. A proposal had been made, for example, to establish a unified standing body, but its composition had not been specified. Moreover, it was envisaged that its members would no longer be independent experts but rather permanent officials. That would make it a political body, devoid of the diversity and the technicality that characterized the current treaty bodies. In other words, the practical and logistical problems for which solutions were being sought would merely be replaced by political problems. Likewise, the establishment of subregional committees was being considered, even though human rights were, by definition, universal. In the face of so many unanswered questions, it seemed difficult to approve the High Commissioner's proposals.
6. Mr. TAGHIZADET said that he was also of the view that the Committee should reject the proposals, none of which was convincing. It was not clear how the establishment of a unified standing treaty body would help to solve the current problems, nor how it could more effectively and surely discharge the functions of the various committees.
7. Mr. CARRION-MENA added that a consensus to that effect had apparently already emerged when the Committee had discussed the advantages and drawbacks of the reform.

He believed that with the establishment of a unified standing body, the Committee would lose not only its specificity but also its identity since, even though it was the most recent treaty body, it dealt with problems whose future implications were far-reaching.

8. The CHAIRPERSON said that that was an interesting argument that should be expressed as part of the position taken by the Committee. He recalled that the Committee's previous discussions on the reform had been summarized in the document CMW/C/6/CRP.3.

9. Mr. BRILLANTES said that he also thought that the Committee should point out that it was one of the mechanisms ensuring the protection of human rights. He suggested, however, adopting a more diplomatic approach: instead of opposing the reform outright, the Committee could approve it, on condition that the Committee's specificity and independence were preserved.

10. Mr. SEVIM recalled that in 2006, the participants at the Malbun meeting had asked many questions about the proposed unified standing treaty body - regarding its nature, the selection and appointment of its members and its organization - which had not yet been answered. He therefore believed that, for the time being, the Committee did not have the information it needed to discuss the reform of the treaty bodies.

11. The CHAIRPERSON pointed out that they were discussing not the proposals contained in the document HRI/MC/2006/2 concerning the modalities of operation of a unified standing treaty body, given that it had been clearly shown that those proposals did not constitute a viable solution, but rather the very principle of such a body. The Committee should therefore concentrate on the concerns it felt regarding the establishment of such a body.

12. Mr. EL JAMRI said that he shared the opinion that the Committee should not oppose the proposed reform outright but should try to adopt a more conciliatory approach. The Committee could indicate that, given the information it had received, it was not in favour of such a reform because it might adversely affect the effectiveness of the committees, the universality of rights and the objectivity of the experts, apart from marginalizing the Convention, which was the most recent and the least ratified of all the international treaties. Moreover, many questions remained concerning the functioning of the proposed body, including, for example, the fact that experts from States parties who had not ratified a convention would be allowed to examine the reports of countries that had.

13. Mr. ALBA said that, although he shared those concerns, he did not think it was necessary for the Committee's response to go into such detail. So as not to close the door on the proposal too soon, the Committee should be content to put out a statement in which it recognized the need to harmonize working methods, while at the same time voicing its concern at certain aspects of the proposal to establish a single body.

14. Mr. CARRION-MENA gave the example of the Committee on the Elimination of Discrimination against Women, which had expressed resolute opposition to such a mechanism. The Committee should do likewise, since, if it did not take a clear stand right from the beginning of its mandate, it risked losing both its identity and its effectiveness.

15. The CHAIRPERSON pointed out that the response of the Committee on the Elimination of Discrimination against Women had been made in a very specific context, which explained why it had been so vehement, since it had been required by the secretariat and the High Commissioner to move its operations to Geneva. The Committee on Migrant Workers could express its opinion more subtly, beginning with the recognition that the High Commissioner was seeking solutions to a practical and logistical problem, and then going on to list its concerns and to suggest that efforts should focus on the harmonization of working methods.

16. Mr. TAGHIZADET supported that idea, adding that the High Commissioner's proposals should be developed further and related more closely to the problems that the proposed reform was attempting to resolve.

17. Mr. EL JAMRI said that the Committee on Migrant Workers should detach itself from the positions taken by the other committees and develop its own position. It should express its concerns tactfully, but insist firmly on the damage that the reform might cause to the Convention.

18. The CHAIRPERSON, with the help of the secretariat and Mr. Alba, proposed preparing a draft conveying the Committee's position on the question of a unified treaty body. Following an exchange of views with the members of the Committee, he made it clear that the draft would not comment on the proposals formulated on the subject by the other committees.

19. With regard to the harmonization of the working methods of the treaty bodies, the working group entrusted with that issue had drawn up two proposals: 1 (a) the establishment of a working group composed of one representative from each treaty body that would meet two or three times a year for an initial period of two years in order to strengthen the harmonization of working methods by drawing up specific proposals and recommendations concerning the procedure used for the consideration of States parties' reports; 1 (b) the establishment of a coordinating body that would support, or even replace, the Inter-Committee Meeting of the human rights treaty bodies. In the Committee's view, the Inter-Committee Meeting was an excellent mechanism that should be retained. The risk with solution 1 (b) was not only that the Inter-Committee Meeting might disappear, but also that a single standing body to which all the committees would be subject might emerge instead. For that reason, the Committee preferred proposal 1 (a).

The meeting was suspended at 4.35 p.m. and resumed at 4.55 p.m.

20. The CHAIRPERSON invited Mr. Brillantes to report on the work of the seminar held in Geneva on 9 and 10 November 2006 on technical cooperation and the follow-up to concluding observations.

21. Mr. BRILLANTES (Rapporteur for the seminar on technical cooperation and follow-up to concluding observations) said that the seminar had been attended by representatives of the treaty bodies and members of the Voluntary Fund for Technical Cooperation in the Field of Human Rights.

22. He reviewed the many different points that had been raised during the seminar and the case studies and field experiences that had been presented (Bosnia and Herzegovina, Colombia, Guatemala and Mexico). Uganda had been singled out as a result of the particular difficulties

encountered in that country with respect to the exercise of human rights. Moreover, there had been a proposal that a distinction should be drawn between treaties expressly devoted to human rights and those, such as the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women, which were considered more as favouring social integration. The need for ensuring follow-up of concluding observations and recommendations had been raised several times. Lastly, the participants had questioned why the treaties were enforceable but concluding observations were not.

23. Referring next to the main conclusions adopted during the seminar, he said that the specialized agencies should take concluding observations into account when developing policies and strategies for specific countries. Concluding observations could also be included as an integral part of monitoring and evaluation activities in the field. The regional representatives of the United Nations High Commissioner for Human Rights should, for their part, continue to organize regional workshops that encouraged the exchange of good practices and the evaluation and improvement of efforts to implement the recommendations. The need to allocate additional resources had been emphasized. The treaty bodies should work with national institutions and, more generally, pay greater attention to the contributions of all stakeholders.

24. They should also harmonize their working methods and adopt a follow-up procedure requiring States parties to submit in writing the measures they planned to take to give effect to the concluding observations.

25. The CHAIRPERSON, returning to the issue of the non-binding nature of concluding observations, pointed out that the treaty bodies were not judicial organs. He added that certain States parties, in fact, feared that the establishment of a unified body constituted a step in the direction of a judicial body. He invited Mr. El-Borai to report on the meeting of the working group on reservations, which had been held on 14 and 15 December 2006.

26. Mr. EL-BORAI (Rapporteur for the working group on reservations) described the various issues that had been raised at the meeting, which had been held with a view to harmonizing the position of the various treaty bodies concerning reservations made by States parties. The first issue concerned the fact that the International Law Commission and the working group on reservations held differing views on the specificity of reservations insofar as they concerned human rights, with the working group considering that reservations were different in such cases. The second issue concerned the contradiction between, on the one hand, the status of persons under sharia law in Muslim and Arab countries and, on the other, the provisions of the Convention on the Elimination of All Forms of Discrimination against Women, which was the treaty most affected by reservations based on religious or cultural motivations. The question of the validity or the non-validity of reservations was also raised, along with related issues, such as who should determine the validity of a reservation and, in the case of non-validity, who should decide on the consequences that would ensue. The International Law Commission was of the view that it was not up to the treaty bodies to do so. The working group, on the other hand, took the view that, once a convention had been ratified, reservations that ran counter to the purpose of the treaty were not valid and should be considered null and void. Lastly, opinions were divided as to whether treaty bodies could require States that had made reservations that were contrary to the spirit and letter of the treaty to indicate their reasons for doing so. He hoped that the meeting that would be held on 14 and 15 May 2007 with the International Law Commission would provide more specific answers to all the questions that remained pending.

SUBMISSION OF REPORTS BY STATES PARTIES (agenda item 4)

27. The CHAIRPERSON drew the Committee's attention to a note by the secretariat concerning ways of encouraging States parties to meet their reporting obligations (CMW/C/6/CRP.2), as well as to a list of countries whose initial reports were due or had not been received as of 24 April 2007 (document without a symbol, distributed in the meeting room).

28. Ms. EDELENBOS (Secretary of the Committee) said that in January of each year, a note was sent to the permanent missions in Geneva to remind States parties of their obligation to submit reports under article 73 of the Convention.

29. Mr. ALBA asked what follow-up States parties usually gave to such reminders and what practices were followed by other treaty bodies when they encountered delays in the submission of reports.

30. Ms. EDELENBOS (Secretary of the Committee) said that as a general rule, the permanent missions in Geneva merely indicated to the Committee in their replies that the reminder would be transmitted to the competent authorities. With regard to the practices of the other treaty bodies, Committee members might wish to refer to paragraph 5 of the document CMW/C/6/CRP.2.

31. Ms. GUIMONT (International NGO Platform on the Migrant Workers' Convention) informed the Committee that her organization had organized an informal meeting on 21 January 2007 in order to allow States parties that had already submitted a report to the Committee to share their experiences and to provide recommendations to countries whose reports were due. Mexico, for example, had provided very useful information to other States parties.

32. Mr. CARRION-MENA pointed out that NGOs could bring pressure to bear on Governments that failed to meet their reporting obligations and cited the example of the Ecuadorian NGOs, whose role in that regard had been exemplary.

PROMOTION OF THE CONVENTION (agenda item 6)

33. The CHAIRPERSON said that the Committee could consider organizing a half-day of general discussion in 2008 in order to celebrate the fifth anniversary of the entry into force of the Convention. He suggested that the secretariat might reflect on the various ways in which the Committee might mark that anniversary.

34. Mr. CARRION-MENA supported the idea of organizing a general discussion but preferred the celebration of that anniversary to be a public event through which the Committee could publicize its work and the progress it had made in implementing the Convention.

35. Mr. BRILLANTES proposed inviting the United Nations High Commissioner for Human Rights and the former Secretary-General of the United Nations, Mr. Kofi Annan, who had worked hard for the adoption of the Convention, to take part in the general discussion.

36. Mr. SEVIM announced that, in July 2007, Belgium would organize the first Global Forum on Migration and Development. That event would provide an excellent opportunity for the Committee to present its work and to promote the Convention among the public at large.

37. Mr. EL-BORAI said that participation in the Forum was open to everyone, and the Committee could ask the organizers to distribute documentation on the Convention to Forum participants.

38. The CHAIRPERSON said that the idea of participating in the Global Forum on Migration and Development was an interesting one, but stressed that it was up to the secretariat to study the ways and means of doing so.

The meeting rose at 6.05 p.m.