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Agenda item 14

MEASURES TO IMPROVE THE SITUATION AND ENSURE THE
HUMAN RIGHTS AND DIGNITY OF ALL MIGRANT WORKERS

Report of the Working Group established under
resolution 1978/22 of the
Economic and Social Council

Chairman-Rapporteur: Mr. Mario Jiménez de la Espada (Spain)

1. The Working Group open to all Member States of the United Nations met in Geneva from 18 to 22 December 1978, as requested by the Economic and Social Council in its resolution 1978/22, and held ten meetings. Mr. Mario Jiménez de la Espada (Spain) was elected Chairman-Rapporteur by acclamation. The following Member States appointed representatives to the Working Group: Algeria, Argentina, Belgium, Canada, Central African Empire, Colombia, Cuba, Cyprus, Denmark, Dominican Republic, Finland, France, Germany, Federal Republic of, Greece, Guatemala, India, Indonesia, Iran, Iraq, Italy, Jordan, Madagascar, Mali, Mexico, Morocco, Mozambique, Netherlands, Nigeria, Norway, Panama, Peru, Philippines, Portugal, Senegal, Spain, Sri Lanka, Sudan, Sweden, Tunisia, Turkey, Union of Soviet Socialist Republics, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela and Yugoslavia. The session was attended by observers for the United Nations High Commissioner for Refugees, the United Nations Division of Social Affairs in Geneva, and representatives of ILO, UNESCO, WHO, the Arab Labour Organization, the Commission of the European Communities, the Council of Europe, ICEM, and the Organization of American States. The Working Group expressed its appreciation for the valuable assistance which it received from these Organizations.

2. The International Union for Child Welfare submitted to the Working Group a written statement on the rights of children of migrant workers.

3. The Working Group first held a general debate on the subject-matter and on the report of the Secretary-General entitled "measures to improve the situation and ensure the human rights and dignity of all migrant workers" (E/CN.4/1325), prepared pursuant to paragraph 1 of Commission resolution 21 B (XXXIV) and to Council resolution 1978/22. The report of the Secretary-General was commended by the Working Group. Unfortunately, this report which, according to the above-mentioned resolution of the Council, should have reached Member States before December, reached participants in all working languages only on the first day of the session. The representatives of the Division of Human Rights explained the reason for the delay.

4. It was suggested by Cyprus that a special machinery should be established within the United Nations in order to deal with problems of migrant workers. Another

delegation considered that it would be preferable, before contemplating the establishment of new machinery, to carry out a practical assessment of the manner in which procedures existing or being established within the Economic and Social Council, the Commission on Human Rights, ILO and UNESCO were actually applied to migrant workers.

5. It was further suggested that the Secretary-General should prepare a report to the thirty-fifth session of the General Assembly, focusing in particular on the areas mentioned in operative paragraph 7 of the draft resolution submitted to the Working Group (see adopted text in para. 9 below).

6. Some delegations stated, upon the suggestion of Mexico, that a recommendation should be made to the Commission on Human Rights to the effect that the Commission, in considering the situation of migrant workers, should explore the possibility of preparing a convention on the rights of migrant workers, in order to co-operate with the Secretary-General of the United Nations in the work entrusted to him by the General Assembly in paragraph 7 of its resolution of 20 December 1978. Some other delegations expressed the view that such a recommendation was not desirable.

7. A draft resolution sponsored by Colombia, Mali, Morocco, Spain, Tunisia, Turkey and Yugoslavia was introduced by Turkey during the fourth meeting of the Working Group.

8. An open-ended drafting committee was established to formulate proposals on the basis of the draft resolution. In the course of the discussion, a number of amendments were submitted and a number of revisions were made by the sponsors.

9. At its tenth meeting, the Working Group approved the following draft resolution which it submits for consideration by the Commission on Human Rights:

"Measures to improve the situation and ensure the human rights
and dignity of all migrant workers and their families

"The Commission on Human Rights,

Recalling the provisions of the Universal Declaration of Human Rights,

Bearing in mind the previous resolutions of the General Assembly and the Economic and Social Council relating to migrant workers, and in particular the General Assembly resolution concerning migrant workers which was adopted in December 1978,

Further recalling its resolutions 21 A and B (XXXIV),

Considering the Migrant Workers (Supplementary Provisions) Convention, 1975, and the Recommendation concerning Migrant Workers, 1975, adopted by the General Conference of the International Labour Organisation,

Having examined the report of the Secretary-General (E/CN.4/1325) prepared in accordance with Economic and Social Council resolution 1978/22;

Considering and appreciating the work on migrant workers already done by various international organizations,

Noting that, despite the efforts made at the international, multilateral and bilateral levels, migrant workers continue to encounter, in certain fields, practical difficulties which deprive them of the full and genuine enjoyment of human rights,

Recognizing that every relationship between employers and workers gives rise to rights and obligations and that violation of these rights may constitute a violation of the human rights of migrant workers when such workers' rights are also human rights, as defined in the Universal Declaration of Human Rights,

Believing that special attention should be paid to the problems of migrant workers and of their families,

Emphasizing that the situation of the children of migrant workers is of paramount importance,

1. Invites all States to:

(a) Work towards the creation, at the national level, of the necessary conditions which would prevent migrant workers and their families in their working and private life from encountering discrimination;

(b) Take all appropriate measures to ensure that the human rights, defined in the Universal Declaration of Human Rights, including the economic and social rights of migrant workers, be fully safeguarded under their domestic legislation;

(c) Apply relevant international instruments, bilateral and multilateral, and, if necessary, to conclude new bilateral and multilateral agreements designed, in particular, to improve the conditions of migrant workers and of their families and to eliminate the illicit traffic in foreign labour and the violations of human rights resulting therefrom;

2. Invites the Governments of host countries to:

(a) Assure migrant workers and the members of their families of equality of treatment in the field of labour, particularly concerning the economic and social rights, living and working conditions, wages, the right of association and other related rights;

(b) Adopt effective measures to ensure that the migrant workers and their families are familiar with and can avail themselves of all their civil, economic and social rights, including rights relating to social security;

(c) Take the necessary steps to promote the normalization of the family life of migrant workers through the reunification of their families on their territories, within the framework of their legislative systems;

(d) Give special attention to the situation of the children of migrant workers, envisage appropriate measures which would enable those children, while preserving their national values, to adjust to the society in which they live, and establish, in co-operation with the countries of origin, appropriate machinery to assure them of a bi-cultural education, and give to the children of migrant workers, as far as possible, access to the teaching of their mother tongue and culture, the general conditions applicable to such teaching, including those relating to co-ordination with standard teaching, to be laid down by the host country in co-operation with the country of origin;

(e) Implement policies relating to training, health, housing and educational and cultural development, similar to those enjoyed by citizens of the host country, for migrant workers and their families and guarantee them the free exercise of activities calculated to preserve their cultural values;

3. Invites the Governments of countries of origin to provide migrant workers with effective protection and to inform them as fully as possible of their rights and obligations;

4. Requests host countries and countries of origin to co-operate in various ways through the conclusion of bilateral or multilateral agreements capable of solving the problems facing migrant workers and to work together in examining the reintegration of migrant workers in case of voluntary return to the country of origin, and recommends to this end that special attention should be paid to voluntary reintegration in the country of origin, which should be smooth and should take the economic context of the country of origin and possible vocational retraining into account;

5. Recommends that the United Nations bodies and the competent specialized agencies, particularly the International Labour Organisation, should pay continuing attention to migrant workers, and intensify their action in this field;

6. Requests the United Nations bodies, the specialized agencies and the other world-wide and regional intergovernmental organizations and competent non-governmental organizations, and the countries of origin and host countries of migrant workers, to communicate to the Commission the model agreements and agreements which they formulate on the various aspects of inter-State relations in so far as they concern migrant workers;

7. Decides:

(a) to supervise, with the assistance of ILO, UNESCO and WHO, and the other competent intergovernmental organizations and those NGOs which have consultative status, the application of the principles of the Universal Declaration of Human Rights to all migrant workers;

(b) to give priority, at its next session, to the following three questions:

(i) protection of the children of migrant workers against any form of discrimination and measures to be taken in order to facilitate their adaptation to the culture of the host country while maintaining and developing their knowledge of the language and national culture of the country of origin;

- (ii) violations of the human rights of migrant workers resulting from the illicit traffic in such workers;
- (iii) access of migrant workers to remedies in enterprises, from the administration, in courts and against all forms of arbitrary expulsion;

8. Decides to keep on its agenda the item entitled 'measures to improve the situation and ensure the human rights and dignity of all migrant workers', in particular for the purpose of studying the situation of those groups of migrant workers who continue to encounter practical difficulties with regard to the complete and genuine enjoyment of human rights."

10. The representative of the United States expressed reservations concerning the inclusion of paragraph 8 of the preamble.

11. The representative of the Federal Republic of Germany stated that it was understood, when operative paragraph 2 (a) was formulated, that nothing in this provision could be interpreted in a way which might hinder the host countries from giving priority to their own nationals or - in the case of the European Economic Community - to a national from one of the member countries, when a vacant post has to be filled.

12. Some delegations, while not wishing to prevent the adoption by consensus of the draft resolution prepared by the Working Group, were nevertheless of the view that the draft resolution should include a reference to the fact that the human rights set out in international legal instruments, including the International Covenants on human rights, should be safeguarded for all migrant workers, regardless of their manner of entry into the host country.

AnnexList of Participants

ALGERIA	Mr. Sarni Mr. A.R. Bendisari
ARGENTINA	Mr. Atilio Molteni
BELGIUM	Mr. P.H. Doms
CANADA	Mr. John Bruce Gillies
CENTRAL AFRICAN EMPIRE	Mr. Gatoro Georges
COLOMBIA	Mrs. Angela Herrán
CUBA	Mr. F. Ortiz-Rodriguez Mrs. Nilda A. Arango
CYPRUS	Mr. Michael Pissas
DENMARK	Mr. Finn Nielsen
DOMINICAN REPUBLIC	Mr. Homero L. Hernández
FINLAND	Mrs. Tuuli Raivio Mr. Ingmar Ström
FRANCE	M. J. Fernand-Laurent Mme Solange Shulman-Perret
GERMANY, FEDERAL REPUBLIC OF	Mr. Rudolf Echterhölter Mr. Wiprecht von Treskow
GREECE	Mr. Elias Gounaris Miss Liana Vourakis
GUATEMALA	Ambassador A. Maldonado-Aguirre Ms. Norma M. de Contreras
INDIA	Mr. K.S. Sodhi
INDONESIA	Mr. Mohamad Sidik Mr. Bubiman Darmosutanto
IRAN	Mrs. Soussan Raadi-Azarakhchi
IRAQ	Mr. Mohammed-Ali S. Hashim
ITALY	Mr. Carlo Calia Mr. Folco de Luca
JORDAN	Mr. Saleh Kabariti
MADAGASCAR	Mrs. Zimah Rasamuel

MALI	Ms. Mariam Ndiaye Coulibaly
MEXICO	Mr. J.L. Vallarta Ms. Rose María Villarello Reza
MOROCCO	Mr. Mohamed Ighidi Mr. Ali Bojji
MOZAMBIQUE	Ms. Maria Noemia Luis Francisco
NETHERLANDS	Mr. A. Vesseur
NIGERIA	Mr. S.A. Anjorin Mr. F. Williams Mr. Adeyemi Fatunase
NORWAY	Ms. Margareth Torsvik Vikki Mr. Nils Olav Stava
PANAMA	Ms. María Chen
PERU	Ms. Rosa Esther Silva y Silva Mr. J. Aurich Montero
PHILIPPINES	Mr. Jose A. Naldo
PORTUGAL	Mr. C. Castro Almeida
SENEGAL	Mr. Alicune Sene Mr. Samba Mbodj Mr. Raymond Diatta Mr. B.P. Crespin
SPAIN	Ms. Maria Rosa Boceta Mr. M.J. de la Espada Mr. J.F. de la Vega Sanz
SRI LANKA	Mr. K.K. Breckenridge
SUDAN	Mr. Charles Manyang De Awol
SWEDEN	Ms. Ulla Fredriksson Mrs. Ulla Baudin
TUNISIA	Mrs. Halima Ben Amor Mr. Sadok Hadj Hassine
TURKEY	Mr. Burhan Ant Mr. Elvend Kantar
UNION OF SOVIET SOCIALIST REPUBLICS	Mr. Igor Jouznetsov Mr. Pavel Dzioubenko
UNITED ARAB EMIRATES	Mr. Saadoon El-Rayiss

UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND

Mr. David Snoxell

UNITED STATES OF AMERICA

Mr. M.P.E. Hoyt
Mrs. Gloria Gaston-Shapiro
Mr. John C. Stephens

VENEZUELA

Mr. Héctor Griffin
Mr. Rafael Rangel

YUGOSLAVIA

Mrs. Gordana Diklić-Trajković

UNITED NATIONS ORGANS

United Nations High Commission
For Refugees

Mr. J. Patmogie
Mr. Carlos Rodriguez

Division of Social Affairs

Miss Gilda Mara

SPECIALIZED AGENCIES

ILO

Mr. Jean Lasserre-Bigorry
Mr. Jean-Paul Arles

UNESCO

Mr. J.L. Boisson

WHO

Dr. M.A. Khalil

INTERGOVERNMENTAL ORGANIZATIONS

Arab Labour Organization

Dr. Mohammed Mokrane

Commission of the European Communities

Mr. G. Callovi
Mr. C. Dufour

Council of Europe

Mr. Francesco Catalano

ICEM

Mr. Fernando Bueno do Prado
Mr. R. Lohrmann

OAS

Mr. Felix Hurtado de Mendoza

NON-GOVERNMENTAL ORGANIZATIONS WITH CONSULTATIVE STATUS

Commission of Churches on International
Affairs of the World Council
of Churches

Mr. Alan Matheson

International Federation of Women Lawyers

Mrs. Antoinette Rivollet

International Union for Child Welfare

Mr. Evi Underhill

International Union of Family
Organizations

Mrs. Anne-Maria Hofer

World Young Women's Christian
Association

Miss Brigitte Lacroix