



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

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***Report of the Committee on Migrant workers on its informal
meeting : . .
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Convention Abbreviation: CMW

COMMITTEE ON THE PROTECTION OF THE RIGHTS OF ALL
MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES
Informal Meeting
Geneva, 11 to 15 October 2004

**REPORT OF THE COMMITTEE ON MIGRANT WORKERS ON ITS
INFORMAL MEETING**

1. The Committee on Migrant Workers held an informal meeting at the United Nations Office at Geneva, Palais Wilson from 11 to 15 October 2004, which all members attended. The Committee held nine plenary meetings.

I. Outcome of the third inter-committee meeting and sixteenth meeting of chairpersons of human rights treaty bodies

2. The Committee welcomed the election of its Chairperson, Mr. Prasad Kariyawasam, as chairperson of the third inter-committee meeting and the sixteenth meeting of chairpersons of human rights treaty bodies, and took note with interest of the report of the meetings. The Committee also took note of the secretariat's report containing the draft guidelines on an expanded core document and treaty-specific targeted reports and harmonized guidelines on reporting under the international human rights treaties (HRI/MC/2004/3) and decided to comment

on this report at its next formal session in 2005, in time for the next inter-committee meeting.

II. Provisional guidelines for reporting by states parties to the convention

3. The Committee discussed its reporting guidelines while keeping in mind the need to streamline reporting under the different United Nations human rights treaties as well as the desirability of an expanded core document. It met with representatives of the International Labour Organization (ILO), who provided guidance to the Committee based on their vast experience with reporting under the ILO conventions. The Committee also took note of guidelines adopted by other human rights treaty bodies.

4. The Committee invited the International Catholic Migration Commission to give a presentation of a study which it had carried out together with the non-governmental organization "December 18" on how other human rights treaty bodies address the issue of migrant workers in their concluding observations.

5. At the end of its meeting, the Committee agreed to adopt the provisional guidelines for the presentation of initial reports by States parties contained in annex I. It requested the secretariat to transmit the guidelines to all States parties and to encourage States parties to use them when preparing their initial report. At the same time, the Committee decided that those States parties whose initial reports were already in preparation at the time of transmittal of the guidelines, be encouraged to complete and submit their reports to the Committee even though they had not been prepared in conformity with the guidelines.

III. Amendment to the Committee's rules of procedure

6. The Committee decided to adopt at its next formal session the following text, to be inserted in its provisional rules of procedure:

- a) The Secretary-General shall provide the Committee with summary records of its proceedings, which shall be made available to the members in English, French and Spanish;
- b) Summary records are subject to correction, to be submitted to the secretariat by participants in the meetings in the language in which the summary record is issued. Corrections to the record of the meetings shall be consolidated in a single corrigendum to be issued shortly after the end of the session concerned;
- c) The summary records of public meetings shall be documents for general distribution unless, in exceptional circumstances, the Committee decides otherwise;

d) Sound recordings of the meetings of the Committee shall be made and kept in accordance with the usual practice of the United Nations.

IV. Promotion of the Convention

7. The Committee discussed ways and means of promoting the Convention and was mindful of the importance of maintaining the independence and credibility of the Committee.

8. Members made, inter alia, the following suggestions:

- Representatives of regional organizations and mechanisms should be invited to attend the Committee's meetings;
- A standard Power-Point presentation on the Convention and the Committee should be prepared in English, French and Spanish, for use by all members;
- The Committee should work closely together with civil society in the promotion of the Convention;
- Members of the Committee should participate in meetings and fora on issues of migration and may consider distributing work among themselves by geographical zones;
- A common e-mail address should be created in order to facilitate continuous communication between members;
- Members may consider contacting their Governments in order to encourage them to approach neighbouring States to promote ratification of the Convention;
- Media could be contacted in order to help promote the Convention.
- The Chairperson should contact the United Nations High Commissioner for Human Rights in order to increase the role of the Office in raising awareness about the Convention and promoting its ratification as well as to explore ways of increasing resources for the work of the Committee.

9. The Director-General of the International Organization for Migration, the Executive Director of the Global Commission on International Migration, and the representative of the International Labour Organization shared their views and ideas on the promotion of ratification of the Convention with the Committee and informed the members about the activities undertaken by their respective organizations relevant to the work of the Committee.

10. The Committee also had an exchange of views with non-governmental organizations on their activities for the protection of migrants' rights and the promotion of the Convention.

11. The Committee welcomed the willingness of international organizations and agencies and non-governmental organizations to share their ideas about the promotion and implementation of the Convention and looks forward to continuing cooperation with them.

V. Future sessions of the Committee

12. The Committee discussed topics for the agenda of its next formal meeting. The following proposals were made:

- Formal adoption of the provisional guidelines for the presentation of initial reports by States parties;
- A meeting with States parties on the modalities of reporting;
- Working methods in relation to the examination of reports of States parties;
- Further consideration of the provisional rules of procedure;
- A substantive discussion on terminology.

13. The secretariat was requested to prepare background information on the working methods of other human rights treaty bodies as well as on the issue of terminology.

14. The Committee referred to its request addressed to the Secretary-General during its first session in March 2004 to arrange for two sessions of the Committee in 2005. The Committee indicated the following tentative dates for its sessions in 2005:

Second session: 25 to 29 April 2005

Third session: 31 October to 4 November 2005.

Annexes

- I. Provisional guidelines
- II. List of external participants
- III. Documents issued in connection with the informal meeting

Annex I

Provisional Guidelines regarding the form and contents of initial reports to be submitted by States parties under article 73 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families

INTRODUCTION

1. Article 73 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families provides that States parties undertake to submit to the Secretary General of the United Nations for consideration by the Committee a report on the

measures they have taken to give effect to the provisions of the Convention. The Committee has agreed to the following guidelines in order to give indications to States parties on the form and contents of their initial reports.

2. Those States parties whose initial reports are already in preparation at the time of transmittal of these guidelines can complete and submit their report to the Committee even if the report has not been prepared in conformity with the present guidelines.

A. PART I. INFORMATION OF A GENERAL NATURE

3. This part should:

a) *Describe the constitutional, legislative, judicial and administrative framework governing the implementation of the Convention, and any bilateral, regional or multilateral agreements in the field of migration entered into by the reporting State party.*

b) *Provide quantitative and qualitative information, as disaggregated as possible, on the characteristics and nature of the migration flows (immigration, transit and emigration) in which the State party concerned is involved.*

c) *Describe the actual situation as regards the practical implementation of the Convention in the reporting State and indicate the circumstances affecting the fulfillment of the obligations of the reporting State under the Convention.*

d) *Include information on the measures taken by the State party for the dissemination and promotion of the Convention and on the cooperation with civil society in order to promote and respect the rights contained in the Convention.*

B. PART II. INFORMATION IN RELATION TO EACH OF THE ARTICLES OF THE CONVENTION

4. This part should provide specific information relating to the implementation by the reporting State of the Convention, in accordance with the sequences of the articles and their respective provisions. In order to facilitate the reporting procedure for the States parties, the information may be provided per clusters of articles as follows:

a) GENERAL PRINCIPLES:

- Articles 1(1), 7: non discrimination;

- Article 83: right to an effective remedy;
- Article 84: duty to implement the Convention.

b) PART III OF THE CONVENTION: Human rights of all migrant workers and members of their families:

- Article 8:
Right to leave any country including own and to return.
- Articles 9, 10:
Right to life; prohibition of torture; prohibition of inhuman or degrading treatment.
- Article 11:
Prohibition of slavery and forced labour.
- Articles 12, 13 & 26:
Freedom of opinion and expression; freedom of thought conscience and religion; right to join a trade union.
- Articles 14, 15:
Prohibition of arbitrary or unlawful interference with privacy, home, correspondence and other communications; prohibition of arbitrary deprivation of property.
- Article 16 (§1-4), 17 & 24:
Right to liberty and security of persons; safeguards against arbitrary arrest and detention; recognition as a person before the law.
- Articles 16 (§5-9), 18, 19:
Right to procedural guarantees.
- Article 20:
Prohibition of imprisonment, deprivation of authorization of residence and/or work permit and expulsion merely on the ground of failure to fulfill a contractual obligation.
- Articles 21, 22, 23:
Protection from confiscation and/or destruction of ID and other documents; protection against collective expulsion; right to recourse to consular or diplomatic protection.
- Articles 25, 27, 28:
Principle of equality of treatment in respect of: remuneration and other conditions of work and terms of employment; social security; and right to receive urgent medical care.
- Articles 29, 30, 31:
Right of a child of a migrant worker to a name, registration of birth and nationality; access to education on the basis of equality of treatment; respect for the cultural identity of migrant workers and members of their families.
- Articles 32, 33:

Right to transfer in the state of origin their earnings, savings and personal belongings; right to be informed on the rights arising from the Convention and dissemination of information.

c) PART IV OF THE CONVENTION: other rights of migrant workers and their families who are documented or in a regular situation:

- Article 37:

Right to be informed before departure of the conditions of admission to the State of employment and of their remunerated activity.

- Articles 38, 39:

Right to be temporarily absent without effect upon authorization to stay or work; right to liberty of movement and to choose the residence in the territory of the State of employment.

- Articles 40, 41, 42:

Right to form associations and trade unions; right to participate in public affairs of their State of origin and to vote and be elected at election of that State; procedure and institutions taking care of the needs of migrant workers and possible enjoyment of political rights in the State of employment.

- Articles 43, 54, 55:

Principle of equality of treatment with nationals of the State of employment in relation to the issues indicated; equality of treatment as to protection against dismissal, unemployment benefits and access to public work schemes and alternative employment; equality of treatment in the exercise of a remunerated activity.

- Article 44 & 50:

Protection of the unity of the families of migrant workers and reunification of migrant workers; consequences of death or dissolution of marriage.

- Article 45 & 53:

Enjoyment of equality of treatment for members of the families of migrant workers in the indicated aspects and measures taken to guarantee integration of children of migrant workers in the local school system; right to freely choose a remunerated activity for members of a migrant worker's family.

- Articles 46, 47, 48:

Exemption from import and export duties and taxes in respect of particular belongings; right to transfer earnings and savings from the State of employment to the State of

origin or any other State; imposition of taxes and avoidance of double taxation principle.

- Articles 51, 52:

Right to seek alternative employment in case of termination of the remunerated activity for migrant workers not authorized to freely choose their remunerated activity; conditions and restrictions for migrant workers who can freely choose their remunerated activity.

- Articles 49 & 56:

Authorization of residence and authorization to engage in a remunerated activity; general prohibition and conditions of expulsion.

d) PART V OF THE CONVENTION: Provisions applicable to particular categories of migrant workers and members of their families

The State party should indicate the provisions or measures adopted for the particular categories of migrants indicated in articles 57 to 63 of the Convention, if any.

e) PART VI OF THE CONVENTION: Promotion of sound, equitable, humane and lawful conditions in connection with international migration of workers and members of their families

The State party should indicate the measures taken to ensure promotion of sound, equitable, humane and lawful conditions in connection with international migration of workers and members of their families. In particular:

- Article 65:

Establishment of appropriate services to deal with questions concerning international migration of workers and members of their families.

- Article 66:

Authorized operations and bodies for the recruitment of workers for employment in another State.

- Article 67:

Measures regarding the orderly return of migrant workers and members of their families to the State of origin, their resettlement and cultural reintegration.

- Article 68:

Measures aimed at the prevention and elimination of illegal or clandestine movements and employment of migrant workers in an irregular situation.

- Article 69:

Measures taken to ensure that migrant workers in an irregular situation do not persist in this condition within the territory of a State party and circumstances to take into account in case of regularization procedures.

- Article 70:

Measures taken to ensure that living conditions of migrant workers and members of their families in a regular situation are in keeping with the standards of fitness, safety, health and principles of human dignity.

- Article 71:

Repatriation of the bodies of deceased migrant workers or members of their families and compensation matters relating to the death.

PRESENTATION OF THE REPORT

5. The report should be accompanied by sufficient copies (if possible in English, French or Spanish) of the principal legislative and other texts referred to in the report. These will be made available to members of the Committee. It should be noted, however, that they will not be reproduced for general distribution with the report. It is desirable therefore that, when a text is not actually quoted in or annexed to the report itself, the report should contain sufficient information to be understood without reference to it.

6. States parties may wish to present their initial report under article 73 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families in conjunction with the Common Core Document referred to in document HRI/MC/2004/3 which contains draft guidelines for its preparation. This option has been encouraged by the third inter-committee meeting held in Geneva on 21-22 June 2004 (see document A/59/254, Report of the Sixteenth Meeting of the Chairpersons of the Human Rights Treaty Bodies).

7. Initial reports under article 73 of the Convention should be submitted in electronic form (on diskette, CD-rom or by electronic mail), accompanied by a printed paper copy. The report should not exceed 120 pages (A4-size paper, with 1.5 line spacing; and text of 12 points in the font Times New Roman).

Annex II

External Participants

International Labour Organization:

Mr. Lee Swepston, Chief Equality and Employment Branch, Human Rights Coordinator

Mr. Patrick Taran, Senior Migration Specialist
Ms. Kaat Landuyt

International Organization for Migration:
Mr. Brunson McKinley, Director General
Mr. Richard Perruchout, legal advisor

Global Commission of International Migration:
Mr. Rolf Jenny, Executive Director

United Nations High Commissioner for Refugees:
Ms. Grainne O'Hara, legal adviser

Amnesty International, Ms. Pia Oberoi
December 18, Ms. Myriam de Freyter
International Catholic Migration Commission, Ms. Mariette Grange
International Confederation of Free Trade Unions, Mr. Dan Cunniah
Franciscans International, Mr. Yao Agbetse
Migrant Rights International/Migrant Forum in Asia, Ms. Genevieve Gencianos

Annex III

Documents Issued In Connection With The Informal Meeting Of The Committee On Migrant Workers

CMW/2004/L.1 Provisional agenda and annotations

CMW/2004/L.2 Draft reporting guidelines

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**Office of the United Nations High Commissioner for Human Rights
Geneva, Switzerland**