



**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

Seventh session

SUMMARY RECORD (PARTIAL)* OF THE 59th MEETING

Held at the Palais Wilson, Geneva,
on Monday, 26 November 2007, at 10 a.m.

Chairperson: Mr. KARIYAWASAM

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* No summary record was prepared for the rest of the meeting.

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

OPENING OF THE SESSION (agenda item 1)

1. The CHAIRPERSON declared open the seventh session of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families.

STATEMENT BY THE REPRESENTATIVE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

2. Ms. CONNORS (Representative of the United Nations High Commissioner for Human Rights) wished the Committee success on behalf of Mr. Salama, Chief of the Treaties and Council Branch, who was unable to be present, and reviewed developments since the Committee's sixth session.

3. Reform of the human rights treaty body system remained a subject of debate amongst States parties, members of treaty bodies, United Nations entities, national human rights institutions, non-governmental organizations and others. In July of the current year, an informal brainstorming on enhancement of that system had been held at Berlin. The discussions there had demonstrated once again that there was a need to harmonize the treaty bodies' working methods and that the inter-committee meeting had a role to play in that respect.

4. The treaty body system had also been the focus of the sixth inter-committee meeting. It had been agreed that there should be two inter-committee meetings a year, with the participation of the chairpersons of the treaty bodies, and that those meetings should be tasked with making, on the basis of the chairpersons' proposals, recommendations for the improvement and harmonization of the treaty bodies' working methods.

5. The chairpersons had approved those agreements at their nineteenth meeting, which had taken place immediately after the sixth inter-committee meeting. They had underlined the need for effective cooperation between the treaty bodies and the Human Rights Council concerning in particular the universal periodic review (UPR) and stressed that, as that mechanism would be complementary to the treaty bodies' work, maintaining a continuing dialogue was essential. They had approved the proposal that treaty bodies' findings and recommendations, especially their concluding observations, should be among the information used for the UPR and had recommended that all treaty bodies enhance their interaction with the special procedures mandate holders with a view to, inter alia, developing effective approaches to the UPR and coordinating country-specific inputs to that mechanism.

6. Following the chairpersons' meeting, all the permanent missions to the United Nations Office at Geneva had been sent a note verbale recommending that States parties should follow the harmonized guidelines on reporting under the international human rights treaties, including the guidelines on a common core document and treaty-specific documents. The Secretariat would hold briefings for States parties to disseminate those guidelines further and clarify aspects of them. In August 2007, the Committee on the Elimination of Racial Discrimination had adopted revised guidelines for reporting to it. Following an informal meeting in late October, the Committee on the Elimination of Discrimination against Women was well advanced in the revision of its guidelines. Other bodies, including the Committee on Economic, Social and

Cultural Rights, had also made good progress and would be examining revised guidelines at their next sessions.

7. The Committee on Migrant Workers, which had only recently established its guidelines concerning initial reports, still had to draw up guidelines for the submission of subsequent reports. It might wish thereafter to reconsider its guidelines for initial reports to bring them into line with the guidelines for the common core document. Three States had already drafted their common core documents and several others were receiving technical assistance for that purpose from the Office of the High Commissioner for Human Rights (OHCHR)

8. Since the Committee's previous session, the Human Rights Council had held its fifth session in June and the first part of its sixth session in September of the current year. On 18 June, in its resolution 5/1, the Council had defined the modalities for a UPR consistent with its mandate under General Assembly resolution 60/251 of 15 March 2006. That resolution had mandated the Council with undertaking, on the basis of objective and reliable information and so as to ensure universal coverage and the equal treatment of all countries, a review of the fulfilment by each State of its human rights obligations and commitments. It stressed that the review should be a cooperative mechanism based on interactive dialogue with the full involvement of the country concerned and taking into account the country's capacity-building needs. The Council had also defined the principles, objectives and periodicity of the review, as well as the follow-up procedure. The UPR would be based on three kinds of information: information prepared by the State concerned, such as a report prepared in consultation with relevant national actors; a compilation prepared by OHCHR of the information contained in the reports of treaty bodies and special procedures, including comments by the State concerned, and in other relevant United Nations documents; reliable information from other stakeholders such as non-governmental and regional organizations, national human rights institutions, human rights defenders, academic institutions and civil society representatives. In that respect, the Committee might wish to reflect on how its input could be included in the review documentation.

9. The Human Rights Council had also selected the countries to be considered by the Working Group on the Universal Periodic Review during the first cycle (2008-2011). In order for all 192 member States to be reviewed over a four-year cycle, 48 countries should be reviewed each year. The Working Group would therefore hold three sessions a year and consider 16 countries at each of them. The countries that would be reviewed in 2008 were Bahrain, Ecuador, Tunisia, Morocco, Indonesia, Finland, the United Kingdom of Great Britain and Northern Ireland, India, Brazil, the Philippines, Algeria, Poland, the Netherlands, South Africa, the Czech Republic and Argentina. Several of them were parties to the Convention on Migrant Workers.

10. A UPR Voluntary Trust Fund had been established to facilitate the participation of developing countries, particularly least developing countries, in the UPR mechanism. The Council had also called for the establishment of a voluntary fund for financial and technical assistance that, in connection with multilateral funding mechanisms, would assist countries in implementing, with their consent, the recommendations emanating from the UPR.

11. The General Assembly had adopted a number of new human rights instruments in 2007. To date, the International Convention on the Rights of Persons with Disabilities and its Optional Protocol had 118 signatories and seven ratifications and 63 signatories and three ratifications

respectively. The International Convention for the Protection of All Persons from Enforced Disappearance had 71 signatories and one ratification.

12. On 13 September 2007, after more than two decades of negotiations, the General Assembly had adopted the Declaration on the Rights of Indigenous Peoples. The Declaration recognized to indigenous peoples individual and collective rights, including the rights to an identity, culture and language and educational, health and employment rights. It expressly prohibited discrimination against such peoples and promoted their effective participation in all matters concerning them. It also recognized their rights to remain distinct and to pursue their own visions of economic, social and cultural development and encouraged cooperation between States and indigenous peoples. It represented a step forward in the consolidation of the international human rights system and should provide an impetus for renewed international efforts to address the pressing concerns of the world's 370 million indigenous people.

13. With regard more specifically to migrants, the first Global Forum on Migration and Development had been held at Brussels in July 2007. Many participants having emphasized the importance of discussing them, migrants' rights would be on the agenda of the second Global Forum, to be held in the Philippines. OHCHR had, together with the Steering Committee on the Promotion of the Ratification of the Migrants Rights Convention, held a briefing meeting attended by representatives of 27 States, most of which were not parties to the Convention. Together with the Inter-Parliamentary Union (IPU) and the International Labour Organization, OHCHR had organized for parliamentarians a three-day seminar on migration and human rights and was now discussing the possibility of publishing a handbook on migrants' human rights as a follow-up to that event.

14. Since the Committee's previous session, Albania had acceded to the Convention, bringing the number of States parties to 37, and Guatemala had recently made the declaration under articles 76 and 77 whereby it recognized the Committee's competence to examine communications. She hoped that other countries would follow their example. Azerbaijan and Bosnia and Herzegovina had submitted their initial reports under article 73. The General Assembly would soon consider the Committee's request to hold a two-week session in April and a one-week session in the autumn and the secretariat would inform the Committee of the outcome.

15. At the current session, the Committee would consider the initial report of Ecuador and meet in closed session with non-governmental organizations and United Nations agencies in preparation for consideration of the reports of Syria and Bolivia. It would also be briefed on the Third Committee's follow-up to the Secretary-General's study on violence against children.

16. The CHAIRPERSON thanked the representative of the High Commissioner for her comprehensive statement and assured her of the Committee's appreciation for OHCHR's support and encouragement. The information provided on the recent activities of the human rights protection system would be very useful. In particular, it was very important for the Committee to be told of the innovations regarding the UPR, since that procedure would complement its own work and the two mechanisms should reinforce one another.

17. It was encouraging to know that human rights would be discussed at the Manila session of the Global Forum on Migration and Development; their absence from the agenda for the

Brussels session had been worrying. It was to be hoped that such meetings would pay increasing attention to migrants' rights. He would do all he could as Permanent Representative of Sri Lanka to bring that about.

ADOPTION OF THE AGENDA (agenda item 2) (CMW/C/9/1)

18. *The provisional agenda and the programme of work were adopted.*

19. The CHAIRPERSON invited members to report on their activities since the previous session. He had taken part in the seminar on migration and human rights organized by IPU and OHCHR. Some one hundred parliamentarians from all over the world had attended. Encouragingly, several parliamentarians from European Union countries had shown interest in the Convention. While they had been supporters of migration and thus in a minority in their own parliaments, they had been firm in saying that meetings like the seminar helped to support their work in their countries. Other similar seminars had been held, which should help to promote the Convention more, especially in regions where it had not been ratified. However, while the parliamentarians had expressed a real willingness to work for migrants, they had seemed uncertain how to go about it. It would be helpful, therefore, if the secretariat sought ways of presenting the Convention to them more clearly.

20. He had also attended the Berlin brainstorming, which had discussed the outcomes of the inter-committee meeting and the chairpersons' meeting and issues connected with reform of the treaty bodies. While the Committee had discussed the question of reform several times, it should do so again: it needed to refine its position so that its members were ready to respond to questions at any moment.

21. Mr. BRILLANTES announced the signature at the recent thirteenth summit of the Association of Southeast Asian Nations (ASEAN), held at Singapore, of the ASEAN Charter, article 14 of which provided for the establishment of a regional human rights body. ASEAN's ten member States still had to ratify the Charter, but the place of human rights was now assured. At their twelfth summit, held in January 2007 at Cebu (Philippines), the ASEAN countries had signed the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers. They had done so on the proposal of Indonesia, which it could therefore be expected would soon accede to the Convention.

22. He welcomed the fact that many participants at the Brussels Global Forum on Migration and Development had at last stressed the importance of a rights-based approach to migration. Preparations being in hand for the second such forum, at Manila, the Committee should ensure that the meeting took up the question of human rights, particularly those of migrants, in some way or other.

23. The CHAIRPERSON hoped that the signing of the ASEAN Charter would encourage many ASEAN countries to join the Philippines in ratifying the Convention. With a view to the Manila Global Forum, he requested the members of the Committee to reflect at their current session on ways the Committee could invite the Philippine Government to focus all or part of the discussions on human rights.

24. Mr. TAGHIZADE said that a pan-European ministerial conference on ageing had been held in Spain earlier in the current month. It had recognized, on the basis of expert studies, that increasing migratory flows while respecting human rights was the best way of combating population ageing in Europe. However, as the authorities of the States concerned had shown no political will in that regard, no concrete measures had yet been adopted.

25. The Committee must make its position clear. The things happening in the world made it important for stakeholders to pay special attention to respect for migrants' rights, including in the various international meetings and conferences on sustainable development.

26. Mr. CARRION-MENA, referring to the Chairperson's remark concerning participants' reactions at the IPU seminar on migration at Geneva the previous month, said that parliamentarians' considerable influence in their home countries made it essential to involve them in the process of increasing awareness of the provisions of the Convention. The Committee should therefore step up its efforts to promote the Convention in order to win over countries that were not yet conscious of the need for a rights-based approach to migration.

27. Mr. EL-BORAI drew attention to the increasingly worrying problem of migration and clandestine immigration in the Arab world. In the case of Egypt, for example, the past three months had seen the deaths of some 50 young citizens in an irregular situation when their boats had been lost at sea. In the Gulf countries, migrant workers, especially Indians and Pakistanis in the United Arab Emirates, were now more numerous than nationals.

28. Governments were beginning to react to that phenomenon. During the current year, the International Federation for Human Rights and the Egyptian Organization for Human Rights had held a meeting at Cairo on 6 November which had recommended that Mediterranean basin countries should ratify the Convention and, on 4-7 July, there had been a roundtable in Tunisia for Arab interior ministry officials with responsibility for migration issues. None the less, the Committee must strive to promote the Convention in the Arab world in some way, for many of the experts attending those meetings had been unaware of the instrument's existence..

29. In that connection, he had written an Arabic-language leaflet about the Convention clearly explaining migrants' rights.

30. The CHAIRPERSON commended Mr. El-Borai for his leaflet and suggested that a copy should be given to the secretariat for possible distribution. It was a fact that the Convention was often unfamiliar even in countries which had ratified it. Countries of origin of migrants that were parties to the instrument could do more than at present for their nationals.

31. In addition, more ratifications by receiving countries were needed if the Convention was really to take off. That could be achieved through, inter alia, events such as the 2008 Global Forum on Migration and Development, in which many of those concerned with the question of migrant workers would participate. There was no real body in which migrant workers' needs could be publicized, which was why the IPU seminar had been so helpful in setting out the situation.

32. Mr. ALBA remarked that the United States of America had been trying for over two years to reform its immigration law, but that its efforts had failed because Congress had rejected the

relevant bill. Many people thought there would be no further attempt before 2009. The practical effect of the absence of legislation was the growing prevalence of the "enforcement first" approach. Border controls in the south-eastern United States had become much more thorough, impeding entry to the country by undocumented persons who had previously been tacitly tolerated by all concerned. The Government was making a big effort to apply the law strictly, inter alia by carrying out workplace inspections that were increasingly leading to expulsions and repatriation, mostly to Mexico and Central America. It was widely recognized that migratory flows in that part of the world, which had previously been part of a bilateral system involving Mexico and the United States, now constituted a very special and complex regional system, with migrants coming from Nicaragua and passing through Guatemala and Mexico to reach the United States. Mexico was trying to control entries via its southern border far more closely than in the past. Faced with that difficulty, migrants were now turning, as elsewhere in the world, to sea crossings, which were costly and could give rise to human trafficking. The risks for the migrants were clear, as evidenced by the previous month's shipwreck off the Mexican state of Oaxaca, in which 20 people had drowned.

33. He welcomed Guatemala's declaration of recognition of the Committee's competence under articles 76 and 77 of the Convention to examine communications from States or individuals. Guatemala was the first country to have made such a declaration. While many countries said in their reports that they could not properly protect their nationals because receiving countries had not ratified the Convention, a number of Central American countries had ratified it, which should enable the adoption of collective regional policies to protect the rights of all migrant workers.

34. Mr. SEVIM pointed out that meetings such as the 2006 substantive session of the Economic and Social Council, during which issues relating to international migration had been raised, and, in the current year, July's Global Forum on Migration and Development and the first Euro-Mediterranean Ministerial Meeting on Migration, which had taken place on 18/19 November in Portugal, had focused on economic development and not on human rights. It was likely that receiving countries, which had promoted a new type of migration at those meetings, would subsequently discuss a new type of human rights and a new type of migrants' rights. He hoped that the second Global Forum on Migration and Development, to be held in the Philippines in 2008, would, as planned, include a section on human rights.

35. The CHAIRPERSON said that, because of the way societies were developing, receiving countries were indeed trying to derogate from the law. The Committee must, therefore, pay close heed to observance of the rights set forth in the Convention. It must fix a position and decide on the content of its contribution to the next Global Forum.

36. He requested from OHCHR, through Ms. Connors, information on the activities of the Global Migration Group, a very important body that included OHCHR, the Office of the United Nations High Commissioner for Refugees and a number of other institutions. He would like the Committee to be informed at each session what the Group was doing because its aim was to coordinate the activities of the international institutions that worked in the field of migration even if they did not all deal with human rights. The rights-based approach must come from Geneva.

37. Ms. EDELENBOS (Secretary of the Committee) said that the Global Migration Group was a mechanism for coordination between the some 10 United Nations agencies based in Geneva, New York, Washington, Vienna and elsewhere that belonged to it. Its meetings generally took the form of videoconferences. The chair rotated every six months and was currently held by the United Nations Department of Economic and Social Affairs. At the Brussels Global Forum on Migration and Development the Group had given a short presentation covering its members and the activities of each of them. It had not yet decided in what form it would participate in the Manila Global Forum.

The meeting was suspended at 11: 30 a.m. to enable the Committee to meet in closed session; it resumed at 12.15 p.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 6)

INTRODUCTION OF THE SECOND ALTERNATIVE REPORT OF THE INTERINSTITUTIONAL ALLIANCE FOR MONITORING AND DISSEMINATION OF THE INTERNATIONAL CONVENTION FOR THE PROTECTION OF THE RIGHTS OF ALL MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES

38. The CHAIRPERSON invited the representative of the Interinstitutional Alliance for Monitoring and Dissemination of the International Convention for the Protection of the Rights of All Migrant Workers and Members of their Families to introduce that body's second alternative report concerning compliance with the Convention by Ecuador.

39. Mr. ONANDIA ZARRABE (Interinstitutional Alliance for Monitoring and Dissemination of the International Convention for the Protection of the Rights of All Migrant Workers and Members of their Families) said the Alliance he represented comprised a number of academic, trade-union, religious and civil society organizations working in Ecuador. The first report it had submitted to the Committee, in April of the current year, had concerned general and administrative issues relating to Ecuador's application of the Convention; the second report concerned structural and administrative problems affecting implementation of the Convention in the country.

40. As said in that report, the main problem in Ecuador regarding migration was the inadequacy of the country's regulatory system because the Ecuadorian authorities had yet to harmonize domestic law with the Convention. In addition, although it had signed bilateral agreements to regulate migratory flows with a number of countries, Ecuador had no appropriate migration policy, so that its actions were governed by the demands of destination countries. To remedy those problems, the Interinstitutional Alliance recommended that Ecuador should bring its domestic law and regulations into line with the provisions of the Convention and adopt a migration policy that respected human rights and the principle of diversity. It should also repeal the measures that restricted the exercise of migrant workers' rights and ensure that Ecuadorians abroad had better consular protection.

41. The Alliance further recommended that Ecuador should recognize the Committee's competence under articles 76 and 77 of the Convention to receive and consider communications from States and individuals alleging breach of the instrument. It also believed that, once it had considered the country's initial report, the Committee should recommend that Ecuador transmit

its concluding observations to the Ecuadorian Constituent Assembly to be taken into account in the country's ongoing reform process.

42. Because immigrants were often in an irregular situation, their rights to life, property and personal safety were jeopardized, they were economically exploited and their participation in political life was limited. The Alliance recommended that Ecuador should adopt specific mechanisms to protect its migrant population and should devise a policy to counter human trafficking and trafficking of migrants.

43. In general, the Alliance considered that Ecuador should take steps to end the systematic expulsion, exclusion and detention of migrants. The difficulties of migrants' lives in the country were largely due to an increase in the acts of discrimination, xenophobic practices and mistreatment they suffered with regard to employment. In addition, migrants were very often deprived, contrary to article 26 of the Convention, of the right of association or the right to participate in trade union activities and their rights to health, education and housing were not respected either. The Alliance recommended that Ecuador should establish a reliable statistical system so that it could draw up appropriate public policies to protect migrants' rights and introduce an expanded, comprehensive and integrated regularization process matching migrant workers' profile, needs and situations. The country should also reform its expulsion procedures to eliminate their often arbitrary nature.

44. The CHAIRPERSON, speaking in his personal capacity, observed that Ecuador was both a country of origin and a transit country for migrant workers. It was also a country with a large number of female migrant workers, particularly Peruvians employed in households, but the alternative report surprisingly contained no statistics concerning them. He asked Mr. Onandia Zarrabe what concrete measures Ecuador could take to protect their interests and safeguard their integrity and well-being.

45. Mr. ALBA said that he was grateful for Mr. Onandia Zarrabe's remarks but would like more information concerning the bilateral agreements concluded with Spain to regularize the situation of Ecuadorian workers illegally resident there. He also wished to know the Interinstitutional Alliance's opinion of the effects of the measures taken by Ecuador concerning aliens in transit.

46. Ms. CUBIAS MEDINA asked how Ecuadorian migrant workers could be afforded better consular protection and what the Interinstitutional Alliance thought Ecuador should do to protect undocumented migrant workers transiting the country en route to the United States of America and to combat the expulsion and repatriation of migrant workers' children.

47. Mr. ONANDIA ZARRABE (Interinstitutional Alliance for Monitoring and Dissemination of the International Convention for the Protection of the Rights of All Migrant Workers and Members of their Families) said that his organization had made several proposals to the Ecuadorian authorities for advancing the status of women, including migrant workers, and changing Ecuadorians' social and cultural attitudes to them. It had also called for the revision of the bilateral agreements with Spain, which it felt met the needs of that country and not of Ecuador, the country of origin.

48. Ms. DIEGUEZ stressed that migration agreements often depended on the political will of the destination country, not of the country of origin. In her view, the application of the agreements it had signed with Spain was beyond Ecuador's capacity.

49. Mr. EL JAMRI asked what method had been followed in preparing the second alternative report, what were the relations between the Interinstitutional Alliance and Ecuador and what was the Alliance's preferred plan of action for promoting implementation of the Convention.

50. Mr. ONANDIA ZARRABE (Interinstitutional Alliance for Monitoring and Dissemination of the International Convention for the Protection of the Rights of All Migrant Workers and Members of their Families) said that he had no statistics to hand on the number of female migrant workers living in Spain or the number of migrant workers transiting Ecuador, but would give them to the Committee later. The second alternative report had been drawn up by a group of trade union, religious and civil society organizations active in Ecuador. The Interinstitutional Alliance intended to pursue the process engaged in with the Ecuadorian authorities to improve the situation of migrant workers there.

51. The CHAIRPERSON thanked the representative of the Interinstitutional Alliance for his comments and said that the Committee would commence its consideration of the initial report of Ecuador at its next meeting.

The meeting rose at 12.40 p.m.
