



**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**  
Twenty-fifth session

**Summary record (partial)\* of the 326th meeting**

Held at the Palais des Nations, Geneva, on Monday, 29 August 2016, at 10 a.m.

*Chair:* Mr. Brillantes

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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 10.10 a.m.*

### **Opening of the session**

1. **The Chair** declared open the twenty-fifth 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. **Mr. Salama** (Director, Human Rights Treaties Division, Office of the United Nations High Commissioner for Human Rights (OHCHR)) welcomed the Committee members on behalf of the United Nations High Commissioner for Human Rights and said that he wished to draw their attention to a number of recent developments.

3. At the 2016 High-level Political Forum on Sustainable Development, the treaty body Chairs had provided substantive input that highlighted the contribution of the treaty bodies to the 2030 Agenda for Sustainable Development and to the Sustainable Development Goals and targets. All the submissions had been posted online on the Sustainable Development Knowledge Platform.

4. In the global update that the High Commissioner had given at the thirty-second session of the Human Rights Council on 13 June 2016, he had lamented that hate was becoming mainstreamed and that walls were returning. He had paid tribute to States that had welcomed large numbers of desperate migrants and refugees and had criticized many others that had not done their part to address the European migrant crisis. He had stressed that the only sustainable way to resolve issues arising from migration was to improve human rights in countries of origin.

5. The High Commissioner had given an account of field visits along the Central Mediterranean and Balkan migration routes, where OHCHR staff had observed a worrying increase in the practice of detaining migrants. He had stated that detention was never in the best interests of the child and had deplored the widespread anti-migrant rhetoric that was fostering a climate of xenophobia but had also praised a number of European cities that had responded commendably to the needs of vulnerable newcomers.

6. On 15 June 2016, in a panel discussion to commemorate the thirtieth anniversary of the adoption of the Declaration on the Right to Development, the High Commissioner had stated that true development generated greater social justice and reduced the towering inequalities that confiscated the rights of the marginalized and poor. He had concluded by recalling that the 2030 Agenda promoted an integrated vision of development and set out responsibilities for both the global North and the global South, with the aim of further empowering all members of society to claim all their human rights.

7. In the build-up to the high-level meeting on addressing large movements of refugees and migrants that was to be held in New York on 19 September 2016, representatives of OHCHR were calling for three key points to be taken into consideration, namely the primacy of human rights, the importance of approaching such movements first and foremost through a human rights protection lens and the urgent need for comprehensive, human rights-based migration and asylum governance measures. Given the significant gaps that existed in the understanding of the protection to which migrants moving in large numbers were entitled, OHCHR was developing a set of principles and practical guidance based on existing laws and standards on the protection of human rights in large and/or mixed movements, with particular emphasis on migrants in vulnerable situations who did not benefit from refugee protection.

8. The co-facilitators of the high-level meeting had issued the zero draft of the outcome document, in which they called for the full implementation of all provisions of the 2030 Agenda that related to refugees and migrants; the mainstreaming of migration in global, regional and national sustainable development and humanitarian policies and programmes; the development of guidelines on the treatment of vulnerable migrants who did not qualify for refugee status; and the creation of more opportunities for safe, orderly and regular migration.

9. Intense negotiations on the zero draft had taken place among Member States in New York just prior to the start of the Committee's current session. Strong advocacy by civil society actors had played a key role in preventing backtracking on important human rights issues, including the detention of child migrants. Many human rights advocates shared concerns that the outcome document lacked the necessary vision and fell short of creating a new framework for the protection of migrants and refugees. The document did, however, include a number of principled commitments, including to fully protect the human rights of all refugees and migrants, regardless of their status, and to devise responses to large movements of refugees and migrants that would demonstrate full respect for international human rights law and other standards. The document also called on all States to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The adoption of the draft on 19 September 2016 should be seen as the beginning of a process that would include the negotiation of the global compacts that were to be adopted in 2018.

10. On 15 June 2016, the charitable organization Terre des Hommes had co-organized a side event during the thirty-second session of the Human Rights Council on the theme "Guiding actions concerning children on the move and other children affected by migration". The event had provided an opportunity to present principles for improving the quality of protection afforded to such children and to enhance programming, accountability, advocacy and communication in that area.

11. On 21 July 2016, OHCHR and UN-Women had organized a side event during the sixty-fourth session of the Committee on the Elimination of Discrimination against Women, which the latter had hosted jointly with the Committee on Migrant Workers. The event had focused on promoting and protecting the labour and human rights of women migrant workers, whose distinct needs had been emphasized by panellists, as well as on addressing their rights through the treaty body reporting process.

12. On 14 June 2016, the Special Rapporteur on the human rights of migrants had presented a thematic report to the Human Rights Council on the impact of bilateral and multilateral trade agreements on the human rights of migrants (A/HRC/32/40). In it, he noted that facilitated and well-regulated mobility was necessary to ensure inclusivity and equity in the enjoyment of the benefits of trade for all migrants. In his report, the Special Rapporteur sought to offer States practical guidance and to engage international organizations, the private sector, trade unions and other civil society actors in the full realization of migrants' rights.

13. In his report to the General Assembly, the Special Rapporteur would focus on large movements of migrants and would propose ways in which the global compact for safe, regular and orderly migration could be developed to better protect the human rights of migrants, for example by developing more opportunities for regular migration and ensuring ethical recruitment practices.

14. The Human Rights Council Advisory Committee had prepared a progress report on the global issue of unaccompanied migrant children and adolescents and human rights (A/HRC/33/53), which contained details of best practices and recommendations for the protection of those rights.

15. The Secretary-General's report entitled "In safety and dignity: addressing large movements of refugees and migrants" (A/70/59) focused on three pillars: the need for a comprehensive framework to address issues of common concern, including the causes of such movements; the protection of persons who were compelled to undertake such journeys; and the prevention of discrimination and xenophobia.

16. In May 2016, OHCHR had co-organized a side event on migrants at a Global Forum on Migration and Development (GFMD) Friends of the Forum meeting. The discussion had focused on the impact of the existing international normative framework, the promotion and protection of the human rights of migrants, including women and children, and challenges and best practices in the context of international migration.

17. On 1 June 2016, a multi-stakeholder meeting had been convened to consider a set of principles and practical guidance on the human rights protection of migrants in vulnerable situations. The meeting had offered an opportunity to engage in a strategic discussion on how to ensure that the human rights of migrants featured prominently on the agenda of the high-level meeting to be held in September 2016.

18. OHCHR had participated in the Migrants in Countries in Crisis Initiative, which had involved consultations in Geneva and the launch of the Guidelines to Protect Migrants in Countries Experiencing Conflict or Natural Disaster. The Guidelines provided practical, non-binding guidance for States, private sector actors, international organizations and civil society.

19. On 12 May 2016, Terre des Hommes and other civil society actors in Geneva had convened a multi-stakeholder consultation on recommended principles to guide actions concerning children on the move and other children affected by migration. As he understood it, the principles would be reviewed and possibly endorsed by the Committee at the current session so that they could feed into the high-level meeting to be held in September 2016.

20. Lastly, he was pleased to inform the Committee that the 2016 Treaty Event, to be held from 19 to 23 September at United Nations Headquarters, would focus on the theme of human mobility, in order to underline the commitment of the United Nations to the rights of refugees and migrants at the present crucial juncture.

21. The secretariat's capacity to service the Committee's session was stretched owing to an increasing workload and insufficient staffing. Moreover, as part of the United Nations greening policy, the distribution of hard copy documentation had been substantially reduced, the aim being to have paper-smart sessions for all treaty bodies by 1 January 2017. Notwithstanding resource constraints, OHCHR continued to support the Committee and the promotion of the Convention through events, advocacy by the High Commissioner and extensive liaison with partners and field presences.

22. **The Chair**, noting that, earlier in 2016, Turkey and other Member States of the United Nations Economic Commission for Europe had discussed the European migrant crisis, asked whether Turkey and the Committee had missed an opportunity to call for wider ratification of the Convention.

23. **Mr. Salama** (Director, Human Rights Treaties Division, OHCHR) said that it was never too late to encourage the ratification of the Convention, and that times of crisis offered opportunities for change. The European migrant crisis was ongoing, and its sheer magnitude might yet prompt States to ratify the Convention and to adopt compacts on shared responsibilities and rule-based governance. In any event, the Committee was a key actor in advocating change.

24. **Mr. Ceriani Cernadas** said that the process that would begin on 19 September 2016 presented an opportunity for OHCHR and other relevant United Nations bodies to

renew their efforts to promote the Convention as a tool that was central to the negotiation of compacts on migration and to the issue of human mobility in general.

25. **Mr. El Jamri** said that, ever since the creation of the Committee, defenders of migrants' rights had continually urged States to show greater respect for those rights. In his view, it was time to move beyond mere urging to implementation. He would like to know what was being done in practice, notably by the Human Rights Council, to further migrants' rights. It was regrettable that the concept of vulnerable groups appeared to have been reduced to cover only children. Important though children's rights were, it was equally important not to separate the various vulnerable groups but to continue defending the rights of all such groups, which included women, migrants in an irregular situation and unaccompanied children, and at all stages of their journey.

26. He wondered what the global compact on responsibility-sharing for refugees would do for migrants' rights that was not already being done by existing human rights instruments. The response to the issue of migration depended not on economic or legal measures but on political will. He would welcome further information on the debate on the global compact, in particular the discussions held in the Human Rights Council. The Committee had always considered the Council to be responsible for taking political action on treaty bodies' substantive suggestions, for example on migration policy. He would like to know if that complementarity between the Council and the treaty bodies still existed or if it was now in some way in doubt.

27. His own region, Africa and the Mediterranean, was facing enormous difficulties in the area of migration, and he called on States to apply special measures to a continent that was suffering from neglect. It was not necessarily a matter of taking direct action on migration, for migration was often a consequence of other upheavals such as war or climate change, and action in those areas could have a positive impact. Lastly, he recalled that the Convention was not sufficient in itself: other initiatives were needed, and States parties to the Convention should try to exert greater influence on international decisions and implement best practices in migration governance.

#### **Adoption of the agenda (CMW/C/25/1)**

28. *The agenda was adopted.*

#### **Promotion of the Convention**

##### *Informal meeting with non-governmental organizations and national human rights institutions*

29. **Ms. Valladares** (Coalición contra la Impunidad de Honduras) said that the Committee against Torture had recently taken note of the high levels of violence in all areas of life in Honduras, and the Special Rapporteur on the human rights of internally displaced persons, reporting on his visit to Honduras in 2015, had pointed out that internal displacement caused by widespread violence was a precursor to migration. There were some 174,000 internally displaced persons in Honduras, and they came from only 20 of the country's nearly 300 municipalities. Finding no security within the country, these persons were forced to emigrate in search of protection. The Office of the United Nations High Commissioner for Refugees (UNHCR) had registered over 14,000 Honduran asylum seekers in 2015 and reported that there were over 19,000 asylum applications from Hondurans that were pending in various countries. She would like to know what specific measures Honduras was taking to redeploy the armed forces that had been providing support to security and police forces, in accordance with the public undertaking the State party had made during the consideration of its latest report to the Committee against Torture.

30. In 2015, more than 8,000 children and adolescents had been deported from Mexico and the United States, while the figure for 2016, as at 31 July, was nearly 6,000. State support for such children was confined to meeting basic needs, and no attempt was made to provide them with protection or help them to resettle in Honduras. Many of them were unable to return to their place of origin because of ongoing violence. The State should adopt a comprehensive policy to safeguard their human rights.

31. **Ms. Silva de Souza** (Coalición contra la Impunidad de Honduras) said that the thousands of Honduran nationals who left the country in search of work and a better standard of living were subjected to violence and human rights violations in transit and destination countries. Of those who were sent back to Honduras, some 90 per cent set off to emigrate again shortly thereafter.

32. Consulates were a natural source of protection, but few migrants had access to them; in any case the Honduran consulates did not have the capacity to assist migrants. Accordingly, the number of consulates should be increased, and they should be staffed with career diplomats and given adequate human resources to help migrants who were in transit or applying for asylum, as well as to follow up on cases of deprivation of liberty and disappearance. She would like to know what specific measures the State of Honduras was taking to improve consular services to migrants on their way to Guatemala, Mexico or the United States. She would also like to know what mechanisms existed for disciplining officials who failed to perform their duties.

33. The fact that so many migrants disappeared during their journey had prompted Mexico to set up a special unit to investigate offences against migrants and a mechanism to provide support to families searching for migrants who had disappeared. She asked what action the State of Honduras had taken to enable Honduran nationals to make use of that mechanism.

34. The Act on the Protection of Honduran Migrants and Members of Their Families had still not been implemented, notably in respect of resettlement of returnees, and there were still no regulations governing the Solidarity Fund for Honduran Migrants. Lastly, she wished to know what specific action Honduras had taken or was planning to take to persuade the authorities of the United States to allow Hondurans with Temporary Protected Status (TPS) in that country to obtain resident status and thus secure their rights.

35. **Ms. Piper** (Global Migration Policy Associates), referring to the second periodic report of Sri Lanka (CMW/C/LKA/2), said that the term “maids” should be avoided and preference given to “domestic workers”, which was the term used in the International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189). The term “runaway” was also inappropriate, since it implied that women were themselves to blame for leaving their employers and obscured the reasons why they left, which might include abuse of their rights or the commission of violent acts against them. The report provided no information on foreign workers in Sri Lanka, whether in regular or irregular status, yet there had been 12,000 Chinese and Indian skilled workers in the country in 2011, for example. An effort must be made to compile data on skilled and unskilled worker inflows from abroad and to protect their rights under the Convention. The Ministry of Foreign Employment and the Sri Lanka Bureau of Foreign Employment should upload relevant documents onto their websites in Sinhala and Tamil as well as in English.

36. The State party report maintained that Sri Lankan migrant workers could not vote because a voter must attend the polling station in person. According to a statement made by the Minister of Foreign Employment in November 2015, migrant workers might obtain voting rights in five years. Yet postal voting had long been an option.

37. The protection of women migrant workers, especially women domestic workers, was a matter of major importance, given their large number. Instruments such as bilateral

agreements and memorandums of understanding, as mentioned in the State party report, did not usually cover women domestic workers. There was, however, a domestic workers agreement with Saudi Arabia, and it would have been helpful for the State party to describe its experience with that agreement. She would like to know about the outcome of regional negotiations on minimum standards for the protection of women migrant workers. In general, women who migrated abroad were disproportionately blamed for problems that occurred at home during their absence; it was therefore important to put in place support programmes for fathers who were left behind.

38. With regard to the oversight of foreign employment agencies, she would appreciate information on how private agencies intended to observe their code of conduct, given that compliance with it was only voluntary. An explanation was needed as to why, despite the fact that over 2,000 complaints about recruitment agencies had been received in 2014, only one licence had been revoked. Lastly, she wondered whether it would be possible to institute bilateral recruitment arrangements with other destination countries.

39. **Ms. Valdez Rivera** (Institute for Women in Migration, Mexico) said that she would encourage the Committee to broaden its focus so as to consider not only migrant women in host countries but women at all stages of the migration process in countries of origin, transit and destination. Women were making a specific impact by taking on tasks that were actually the responsibility of States, such as those involved in the search for relatives and in defending migrants' rights in transit countries.

40. As far as terminology was concerned, it was important not to speak of "vulnerable persons" but rather of the "conditions of vulnerability" that affected such persons as unaccompanied minors. The concept of safe, orderly migration, as it was applied in Central America, Mexico and North America, needed to be defined. For the Mexican Government, the concept appeared to provide an excuse for immigration officials, police and the military to set up road checkpoints across the country — a development that affected not only the migrant population but even certain sectors of the Mexican population. In one case, members of a Mexican indigenous group had been arrested, made to state their nationality as Guatemalan and subsequently deported.

41. Given that the detention of migrants was supposed to take place only in exceptional circumstances, she would like to know how the Mexican Government applied that principle when carrying out checks and detaining migrants. She asked the Committee to determine what special measures were in place to ensure the exceptional nature of such detention and also to inquire about the impact of such detention on women. It would be useful to know what mechanisms the State used to establish that detention was not unreasonable or disproportionate in each individual case.

42. As to the rights of returning migrants, she said that Mexico was very good at setting up legal frameworks to demonstrate compliance with the Convention but that the Committee should evaluate the real impact of that legislation on the ground. There were cases of Mexican children, born to Mexican parents and returned to Mexico from the United States, who were denied access to education. As to returning migrant women and girls, it was important to link the Convention to general recommendation No. 26 on women migrant workers of the Committee on the Elimination of Discrimination against Women and to identify exactly what kinds of violence were compelling them to migrate again, even after having been deported and despite all the associated difficulties.

43. **Mr. Arcentales** (Coalición por las Migraciones y el Refugio), speaking via video link, said that, from the information provided by previous speakers, it was clear that the dynamics driving the unprecedented migration crises in Central and South America were interrelated and were the result not only of migration flows across the continent but also those taking place in other parts of the world. Regarding the situation in Ecuador,

migration-related legislation dating from 1971 was still in force, despite the Committee's previous concluding observations (CMW/C/ECU/CO/2) and the deficiencies it noted in Ecuadorian regularization and deportation processes. Although a bill on migration had been submitted to the National Assembly for approval, there were serious concerns that it was not in conformity with either the Convention or the constitutional provisions concerning human mobility.

44. It had proved difficult for civil society organizations to obtain access to official information, in particular when drafting shadow reports. Moreover, the Government had failed to respond to a request for information on the number of persons who had been deported from Ecuador since 2010.

45. Little progress had been achieved in terms of regularizing the status of the large number of migrants unlawfully present in Ecuador. Persons from countries such as Haiti and Cuba and from the African and Asian continents, in particular, experienced major problems in regularizing their status. Similarly, he was concerned at the large number of deportation cases in which due process had not been observed. By way of example, the Government had, in July 2016, carried out the mass expulsion of more than 150 Cuban nationals, disregarding judicial decisions to release around 80 of the individuals concerned. In that connection, the Government of Ecuador had not taken any concrete action to address the escalation in xenophobia faced, in particular, by Cuban, Haitian and Colombian nationals. As to the offence of trafficking in persons, the Government appeared to detain migrants more readily than to pursue the perpetrators of that offence. Lastly, it was worrying that the Government had significantly reduced the scope of support programmes aimed at facilitating the reintegration of returning Ecuadorian migrants.

46. **Ms. Udagama** (Human Rights Commission of Sri Lanka), speaking via video link, described the mandate of the newly constituted Human Rights Commission of Sri Lanka and said that, regrettably, the Commission had not been consulted during the preparation of the State party's second periodic report that was due to be considered by the Committee at the current session. Moreover, owing to concerns regarding the Commission's independence, the latter had been downgraded to "B" status, and it was now working towards regaining its "A" status. The Commission functioned not only as an investigative body empowered to conduct enquiries into complaints of human rights violations but also advised the Government on, inter alia, the formulation and implementation of policies and legislation to ensure that Sri Lanka met its human rights obligations. To that end, the Commission had recently set up a number of committees to study various thematic areas, including human rights issues relating to migrant workers.

47. Thus far, migrant workers and members of their families had submitted very few complaints of human rights violations to the Commission; instead, the majority of such complaints were being submitted to the Sri Lanka Bureau of Foreign Employment. The Commission was, however, deeply concerned at reports of the ill-treatment of Sri Lankan migrant workers in destination countries and failures by consulate staff to provide them with adequate support and protection. The Commission was in the process of recommending that certain social services should be offered to the families in Sri Lanka of migrant workers who had left the country, since current policies on the situation of those families were weak at best.

48. **Mr. Ceriani Cernadas**, referring to the information cited previously that 90 per cent of migrants who were returned to Honduras soon attempted to emigrate again, asked whether that statistic had come from official sources and whether there had been an increase or a decrease in that phenomenon over the past few years.

49. **Ms. Silva de Souza** (Coalición contra la Impunidad de Honduras) said that the 90 per cent figure was an estimate based on work carried out in centres for returning migrants.



Prior to 2014, there had been a decrease in the number of persons seeking to emigrate again immediately following their return. Over the past three years, however, persons who were leaving Honduras to seek a safe haven from the violence in the country were indeed emigrating again in those proportions, and it was likely that those numbers would increase. It was estimated that 100,000 Hondurans left the country each year, of whom some 90 per cent were on circular journeys. Of particular concern was the fact that children, adolescents and families were among the persons attempting to return to those migratory routes.

50. **Ms. Landázuri de Mora** said that the information provided on the situation in Mexico had been particularly useful. While well-drafted legislation was of course to be commended, the Government of Mexico needed to do more to ensure that the laws concerned were widely disseminated. In that connection, she would welcome further examples of the disparities between the legislation and its implementation on the ground. She would also be interested to hear how the Government fulfilled its responsibilities, not only to Mexican citizens, but also to persons of other nationalities who were crossing its territory with the aim of reaching the United States of America.

51. **Ms. Ladjel** said that she would welcome information on any gaps in the Migration and Aliens Act of Honduras that had been identified by NGOs and that should be raised by the Committee during the consideration of the State party's report.

52. **Ms. Silva de Souza** (Coalición contra la Impunidad de Honduras) said that one of the major deficiencies of the Migration and Aliens Act was the fact that it made no provision for migrants who returned to the country with injuries or disabilities that were sometimes life-changing. In addition, it did not establish mechanisms to prevent, rather than punish, migration or to provide support for the reintegration of migrant workers and members of their families who had returned from the United States or Mexico. Another concern was that there were no implementing regulations for the Solidarity Fund for Honduran Migrants.

53. **The Chair** thanked the participants for the valuable information they had provided during the session.

*The public part of the meeting rose at 11.40 a.m.*