

Check against delivery



**Statement by
FRANCISCO CARRION MENA**

**COMMITTEE ON THE PROTECTION OF THE RIGHTS OF
ALL MIGRANT WORKERS AND MEMBERS OF THEIR
FAMILIES**

70th session of the General Assembly
Third Committee
Item 73 b and c

23 October 2015
New York



*Chair,
Distinguished delegates,
Colleagues and friends,*

In my capacity as the Chair of the Committee on the Protection of the Rights on All Migrant Workers and Members of Their Families, I am honoured to address the Third Committee of the General Assembly.

International migration is a complex phenomenon dealing with overlapping issues relating to the human rights of migrants, mixed migration flows, international protection, smuggling and trafficking, as well as other push and pull factors affecting migration. This calls for a comprehensive strategy to ensure the full protection of the human rights of migrants.

As the Committee marks the 25th anniversary of the adoption of the Convention, there are more than 232 million migrants throughout the world of which half are women, and an estimated 20 percent are in an irregular situation. Often a lack of reasonable avenues for regular migration leads migrants to sacrifice their dignity, safety and even their lives in order to try and reach their destination. Thousands die every year while navigating the waters of the Mediterranean Sea, the Indian and Pacific Oceans, or crossing the deserts and rivers of Africa and the Americas.

Increased border surveillance and securitization, together with reductions in avenues for legal migration, force migrants to seek more perilous routes often relying on smugglers or falling prey to traffickers. The overall effect of restrictive State law enforcement policies has been to put migrants at greater risk and render them more vulnerable to human rights abuses and violations. Border areas are not exempt from human rights obligations. States' legitimate interests in securing their borders and exercising immigration control cannot override their obligation to respect, protect and fulfil the human rights of all persons in all areas under their jurisdiction, regardless of their migration status.

There have been disturbing reports of migrants in detention where they can face violence, deplorable conditions, including overcrowding and inhumane sanitary facilities and inadequate medical care. Hundreds of thousands of children worldwide are affected by immigration detention. Children should never be detained based on their migration status or that of their parents; it is not in the best of the child to do so. Children in detention are often deprived of access to education and health facilities, and exposed to violence and sexual abuse. Research has shown that the detention of children can have serious long-lasting negative impacts on their mental, emotional and physical health and development. States must adopt alternatives to detention that allow children to remain with family members and/or guardians while their immigration status is being resolved.

Thousands of migrants are subjected to abuse and exploitation in the fishing industry in Asia, in construction and domestic work in the Middle East, and the agricultural fields of Europe and North America. Migrants often do not have the right to unionize in many countries to protect their rights, and migrant domestic workers are not covered by labour laws in certain countries.

Migrant workers are not just commodities but human beings with human rights. As populations age and shrink in developed countries while increasing dramatically in developing ones, international migration will continue to grow as an international phenomenon. Migration can and should be a positive and empowering experience for individuals and their societies; one that contributes to

economic progress and human development, both at home and in destination countries. After a quarter-century, the Convention is now more relevant than ever. And yet there have been disappointingly a very low number of ratifications to this vital text – only 48. No major destination country has ratified this Convention.

I would like to call upon those States that are not yet parties, to ratify or accede to the Convention which provides a comprehensive normative framework for defining national and international migration policy.

The Convention, as one of the core international human rights instruments, is firmly grounded in the principles and standards of the wider human rights framework. It seeks to establish minimum standards that States parties should apply to migrant workers and members of their families, irrespective of their migratory status. The Convention does not create new rights or establish additional rights for migrant workers. It does not reach above general international human rights standards which protect all human beings, but it does give specific form to these standards so that they are meaningful in the particular context of migration.

*Chair,
Distinguished delegates,*

Status of the Convention

As mentioned there are now 48 States parties to the Convention, the most recent being Madagascar, which deposited its instrument of ratification on 13 May 2015 which I very much welcome. There are 18 signatory States, which have not yet ratified and I call upon these States to undertake the necessary domestic procedures to ratify expeditiously. To date, four States have made the declaration recognizing the competence of the Committee to receive and consider individual communications, in accordance with article 77 of the Convention. This provision will come into force once ten States parties have made the declaration envisaged in the article.

Reporting

During its twenty-first and twenty-second sessions, the Committee considered five reports of States parties and adopted related concluding observations. It also adopted six lists of issues prior to reporting under the simplified reporting procedure of the Committee with a view to ensuring compliance by all States parties on an equal basis with their reporting obligations under article 73 of the Convention. It additionally adopted one list of issues on an initial report. Since 2006, the Committee has considered the implementation of the Convention in 39 States parties, and issued concluding observations thereon, and has also adopted 43 lists of issues on reports received or under the simplified reporting procedure of the Committee. Initial or periodic reports due under article 73 of the Convention had not yet been received from as many as 22 States parties, which impedes the work of the Committee. I call upon States parties to the Convention to submit their overdue reports or avail themselves of the simplified reporting procedure.

*Chair,
Distinguished delegates*

Treaty Body Strengthening/Meeting of Chairpersons

The Committee has been very supportive of the treaty body strengthening process and continues to harmonize and strengthen its working methods in this regard. During the twenty-first session, the Committee decided to strengthen the role of the Country rapporteur by allowing time

prior to the constructive dialogue with the State party for the rapporteur to brief the Committee on priority concerns in the State party that it may wish to raise during the dialogue. It also decided to initiate a follow-up procedure, whereby it requests States parties to provide information on the implementation of priority recommendations highlighted in the concluding observations within two years.

During its twenty-second session, the Committee endorsed the guidance note on the alignment of methodologies for the constructive dialogues with States parties and a common format for short, focused and actionable concluding observations, which were discussed at the twenty-sixth meeting of the Chairs of the human rights treaty bodies. The Committee also discussed the issue of reprisals and decided to refer such matters to the Bureau for review, which in turn would make recommendations to the Committee for a decision. The Committee also discussed its practice with respect to the guidelines on the independence and impartiality of members of the human rights treaty bodies.

The Chair additionally participated in an informal meeting of the Chairs at Wilton Park in the United Kingdom, where discussions took place on how to achieve greater compliance by States with their reporting and human rights obligations under treaties. The Chairs also issued a joint statement on the post-2015 development agenda highlighting that development efforts need to address the human rights concerns of all marginalized and disempowered groups, including migrant workers.

*Chair,
Distinguished delegates*

Partners

The Committee continues to encourage the input and support of civil society organizations; the role of national human rights institutions in its work and in follow-up to its recommendations; and the role of parliamentarians in implementation of the Convention and other actors, including the United Nations programmes, funds and specialized agencies. The Committee continues to benefit from information submitted on countries under consideration by the United Nations country teams and is especially grateful to ILO, which has a consultative capacity in the meetings of the Committee, as well as UNHCR and IOM for providing country specific information.

The Committee continues to work with the Special Rapporteur on the human rights of migrants, Mr. Francois Crepeau, including by issuing joint press statements and participating in joint press conferences and other activities to promote the ratification of the Convention, the work of the Committee and the human rights of migrant workers. It has also sought to extend its cooperation to regional mandate holders. In this regard, a joint statement entitled “Open, safe and regular migration channels crucial to stop human rights violations against migrants” to mark International Migrants Day was issued on 18 December 2014, by me as Chair of the CMW Committee, the United Nations Special Rapporteur on the human rights of migrants; the Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants of the African Commission on Human and People’s Rights; and the Rapporteur on the Rights of Migrants of the Inter-American Commission on Human Rights of the Organization of American States.

The Committee also met with members of the Steering Committee of the Global Campaign for Ratification of the Convention on the Rights of Migrants, which comprises representatives of intergovernmental agencies and leading international human rights, church, labour and migrant’s organizations. The discussion focused on ways to further promote the human rights of migrant workers, ratification of the Convention and activities to mark the 25th anniversary of the adoption of the Convention.

The Committee continues to engage with States parties and States signatories and also holds meetings from time-to-time with States to provide updates on the work of the Committee and other relevant matters. At its twenty-second session, the Committee held an informal meeting with States parties and briefed them on the status of the Convention and the activities relating to the promotion of the ratification of the Convention, as well as to mark the 25th anniversary of the adoption of the Convention. Activities to promote ratification of the Convention included urging signatory States to ratify the Convention, liaising with civil society and international trade unions, following up recommendations made during the second cycle of the Universal Periodic Review with both the States concerned and relevant OHCHR field presences, as well as the personal advocacy and commitment of the High Commissioner for Human Rights.

Members of the Committee attended the Second Global Forum on Human Rights, held in Marrakech in November 2014, which was organized by Morocco's National Council for Human Rights and the Kingdom of Morocco. The Forum brought together over 6,000 participants and provided a platform to discuss various human rights issues, including the human rights of migrant workers. The forum also provided an opportunity for Committee members to highlight the work of the Committee and promote ratification of the Convention. The Committee would again like to thank the Kingdom of Morocco for its tremendous support and generosity in this regard.

The Committee has also strengthened its cooperation with civil society organizations with respect to promoting the Convention, including during the Global Forum on Migration and Development in Stockholm in 2014, as well as regarding activities to mark the 25th anniversary of the adoption of the Convention.

The Committee additionally has further developed its media strategy and has issued several press statements relating to immigration detention of children and the migration crisis in the Mediterranean demanding that States adopt a new approach to migration to ensure the full protection of the human rights of migrants.

*Chair,
Distinguished delegates,*

General Comments and Days of General Discussion

To provide clarification and promote understanding of the Convention's substantive content and the specific nature of discrimination against migrant workers and members of their families, the Committee, in addition to the constructive dialogues with the States parties and the resulting concluding observations, also elaborates general comments. The Committee has elaborated two general comments, one on domestic migrant workers and one on the human rights of migrant workers in an irregular situation.

The Committee decided, at its twenty-first session, to elaborate a general comment of the human rights of children in the context of migration jointly with the Committee on the Rights of the Child. A concept note has been drafted and work on the general comment will begin shortly.

*Chair,
Distinguished delegates,*

Promotion of the Convention

In addition to the earlier mentioned activities, Committee members have been active in promoting the Convention and the human rights of migrant workers through speaking engagements at United Nations and other fora, advising States parties on treaty implementation and the reporting

process, and contributing to publications on the human rights of migrant workers and other migration-related issues. These opportunities are vital to raise awareness of the Convention and pressing issues for migrant workers. During the twenty-first and twenty-second sessions, the Committee worked with OHCHR to organise side events during the Human Rights Council and the launch of two publications, namely: Recommended Principles and Guidelines on Human Rights at International Borders, and The Economic, Social and Cultural Rights of Migrants in an Irregular Situation. The Committee also met with OHCHR regarding the Guiding Principles on Business and Human Rights and their relevance for the Committee, as well as UNHCR to discuss the challenges relating to complex mixed migration flows and international understandings of refugees and migrants.

*Chair,
Distinguished delegates,
Colleagues and friends,*

The Committee has worked with competence and dedication to assist States parties in complying with, and implementing, their treaty obligations under the Convention to the fullest extent and to stimulate legal and policy reform for the protection of the human rights of migrant workers and members of their families. In all of its work, the Committee has strived to emphasize the specificity of discrimination against migrant workers and the need to give high prominence to the promotion and protection of the human rights of migrant workers. Despite progress, there remain enormous challenges. The potential of the Convention to bring about change at the national and international level has not been exploited to the fullest largely as a result of the lack of visibility, accessibility, comprehension and political will. However, due to the commitment of the Committee, States parties, as well as civil society organizations, including trade unions, the Convention has led to important changes on the ground. They include improvements in laws, policies and programmes, which have improved the lives of many migrant workers and members of their families. It is somehow incomprehensible that in a world where we are seeing some of the largest migratory flows of people in history that there remains a lack of political will to ensure there is appropriate priority given to ensure the protection of the human rights of migrants. I call on States through this Committee to therefore accord the appropriate attention to the plight of migrant workers and their families, including through ratification of the Convention. I thank you Chair, Excellencies and delegates for your attention.