



**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

Second session

SUMMARY RECORD OF THE 12th MEETING

Held at the Palais Wilson, Geneva,  
on Tuesday, 26 April 2005, at 10 a.m.

Chairperson: Mr. KARIYAWASAM

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The meeting was called to order at 10.10 a.m.

OUTCOME OF THE THIRD INTER-COMMITTEE MEETING OF HUMAN RIGHTS TREATY BODIES AND THE SIXTEENTH MEETING OF CHAIRPERSONS OF HUMAN RIGHTS TREATY BODIES (agenda item 9) (A/59/254; HRI/MC/2004/3)

1. The CHAIRPERSON welcomed Mr. Filali, the Rapporteur on the harmonization of reporting guidelines for treaty bodies and a member of the Committee on the Rights of the Child. As a newcomer to the United Nations treaty monitoring system, the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families needed to be particularly attentive to aspects related to the harmonization of reporting procedures. The Committee had no previous experience with the consideration of States parties' reports and therefore looked to Mr. Filali for advice.
2. Mr. FILALI (Rapporteur on the harmonization of reporting guidelines for treaty bodies) said that he had been appointed Rapporteur in June 2004 at the third inter-committee meeting of human rights treaty bodies, with a mandate to establish a dialogue with treaty bodies on their working methods, ascertain their position on the draft guidelines and reflect their concerns in a report to the next inter-committee meeting and meeting of chairpersons of the human rights treaty bodies.
3. He outlined the developments in the area of the harmonization of the reporting process as detailed in the document entitled "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), which had been discussed at the third inter-committee meeting. Participants in that meeting had encouraged the chairpersons of treaty bodies to include the draft guidelines in their committees' agendas and to present comments and proposals for amendments at the inter-committee meeting scheduled for June 2005.
4. After summarizing each section of the draft guidelines, he said that some treaty bodies had expressed concern that the requirements for the preparation of an expanded core document as described in the draft guidelines might actually increase the burden placed on States. Some committees were also concerned that the inclusion of issues that were of paramount importance to a given treaty body in the part of the expanded core document dealing with so-called "congruent provisions" might give the impression that those issues were of secondary importance. However, the independence of treaty bodies in the formulation of reporting requirements for the treaty-specific part of the report would by no means be curtailed. The treaty-specific targeted report would, for example, contain States' replies to the list of issues providing information on the implementation of the provisions of a given convention.
5. His dialogue with the various treaty bodies had been particularly fruitful where the committee had previously discussed the issue and reached a common position. The main aim was not to learn about the views of individual members, but rather to determine the Committee's position as a whole.

6. The CHAIRPERSON said that the working methods of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families were still in the development stage and the Committee was thus well-placed to harmonize its approach with other treaty bodies. Streamlined reporting procedures would prove useful in addressing future challenges such as the increased workload resulting from the growing number of States parties to the various instruments. The Office of the United Nations High Commissioner for Human Rights (OHCHR) encouraged the use of the draft harmonized guidelines and provided assistance to those States that already used the guidelines when preparing their reports. He invited Committee members to respond to the Rapporteur's statement.

7. Mr. GAKWANDI asked whether each individual treaty body would consider the expanded core document in its dialogue with States parties and, if so, how potential discrepancies in treaty bodies' evaluation of that document would be resolved.

8. Mr. FILALI (Rapporteur on the harmonization of reporting guidelines for treaty bodies) said that the new system did not seek to curtail the sovereignty and independence of individual treaty bodies; rather, each committee was invited to express its views on the expanded core document, focusing on the treaty-specific area of concern. Enhanced cooperation and the exchange of information between treaty bodies would strengthen their capacity to exert pressure on States to honour their treaty obligations.

9. It was difficult to anticipate all the problems that might arise from the implementation of the new system. However, any such difficulties could be addressed within the framework of the inter-committee meetings and the meetings of the chairpersons of treaty bodies. It was envisaged that those mechanisms would be established on a permanent basis. Moreover, divergences between the recommendations made by the different treaty bodies could have a positive effect, in that they could trigger constructive debate and lead to innovative solutions.

10. The CHAIRPERSON said that the main objective of harmonizing reporting procedures was to avoid duplication of efforts at the national level, thus enhancing States' capacity to meet their reporting obligations. It was unlikely that conflicts would arise from the examination of the expanded core document by different treaty bodies. Each committee would make treaty-specific recommendations, which would naturally differ from recommendations made by other treaty bodies. The purpose of the reforms was to standardize reporting requirements, not the consideration of reports.

11. Mr. EL JAMRI asked whether the decision to reform the treaty bodies' methods of work had been based upon any formal evaluation of their existing methods. He wondered, for example, how the information from sources such as NGOs and other United Nations agencies was structured to assist the committees in their consideration of States parties' reports. He would be interested, moreover, to learn of the experience of other treaty bodies in working with States parties on their reports and in exchanges of information. What were the limitations and difficulties of that approach and what problems had committees encountered in carrying out their tasks?

12. He asked whether the treaty bodies really had the resources to follow up implementation of their recommendations, particularly as experts' mandates were not necessarily coterminous with States parties' reporting periods: a country rapporteur, for example, might have left a committee before the State party submitted its next report.

13. Lastly, he said the Committee was clearly going to have to actively promote ratification, given the small number of States parties to its Convention. He wondered what experience other treaty bodies had of such promotional work.

14. Mr. FILALI (Rapporteur on the harmonization of reporting guidelines for treaty bodies) said the proposals for change formed part of the general reform of the United Nations. However, it had also become clear during the inter-committee meetings and meetings of chairpersons, inter alia, that States parties were not fully complying with their obligations, sometimes owing to a simple lack of awareness within State institutions, and that there was therefore a need to reform and revitalize the work of the treaty bodies in order to ensure proper compliance on the ground.

15. On the question of information from sources other than the State party, he said his own committee, the Committee on the Rights of the Child, worked closely with the specialized agencies and interested NGOs. NGOs used a variety of methods to transmit information: e-mail for communications relevant to the upcoming session; documents on specific issues for inclusion in experts' files; and in some cases what were known as "alternative reports", giving a critical analysis of States parties' reports. In addition, the secretariat might draw particular issues to members' - notably country rapporteurs' - attention.

16. He said follow-up was very important, but it was often difficult to ascertain what action had been taken on a committee's conclusions and recommendations until the State party submitted its next periodic report and the committee could question the delegation on any shortcomings in that regard.

17. Implementation of committee recommendations was in fact just as much a part of States' obligations under a convention as the submission of reports, although States parties were not always aware of that. The Committee on the Rights of the Child had attempted to address that problem by organizing regional conferences to enable groups of reporting States to discuss compliance.

18. It was important to avoid periodic reports becoming a descriptive document similar to the initial report, detailing changes in the law but with little or no information on how those changes had benefited people in their everyday lives.

19. The CHAIRPERSON thanked Mr. Filali for his valuable comments. He was, however, mindful that Mr. Filali was a member of the committee responsible for the most widely ratified convention, the Convention on the Rights of the Child, while his own committee was responsible for the least widely ratified convention.

20. Mr. FILALI (Rapporteur on the harmonization of reporting guidelines for treaty bodies) said human rights were indivisible and, in his view, all the treaty bodies should encourage all States parties to ratify all the human rights instruments, as the Committee on the Rights of the Child did.

21. Mr. ALBA said that, as a matter of general principle, States parties to United Nations human rights instruments had a responsibility to their own nationals in respect of particular rights. The situation with regard to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families was somewhat different insofar as the very nature of migrant workers implied a responsibility towards non-nationals of the State party. Moreover, although certain of those non-nationals might be nationals of a fellow State party to the Convention, others might be nationals of a non-signatory State. He wondered what experience other treaty bodies had of that situation and how it had been dealt with.
22. Mr. FILALI (Rapporteur on the harmonization of reporting guidelines for treaty bodies) said that States' responsibility was not necessarily limited to their own nationals. In fact, States parties had a responsibility to anyone in the territory under their jurisdiction, migrant worker or not, legal or otherwise. Human rights law was universal and applied to everyone without distinction. States had a duty to protect individuals' dignity and to provide remedies to enable individuals to defend themselves.
23. Ms. CUBIAS MEDINA said the expanded core document would be a very full document and would undoubtedly facilitate the work of States parties in the future. However, the enormous amount of information required would present problems. Not all countries would be able to meet the requirements, although they could always request technical assistance with data collection.
24. Assuming the guidelines were adopted in June 2005, she wondered when States would be expected to begin applying them. Would a new expanded core document be requested in conjunction with the next periodic report from a State party? States would require a good deal of notice to produce a document to that level of detail.
25. She also wondered whether the Committee should advise States parties now working on their reports under the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families to produce a core document at the same time, in order to avoid having to request supplementary information at a later stage.
26. Mr. FILALI (Rapporteur on the harmonization of reporting guidelines for treaty bodies) said the inter-committee meeting would discuss that question in June and then make recommendations to the committee of chairpersons, the body responsible for making a decision. He would prefer not to speculate on the outcome, but would encourage the Committee to discuss the matter and provide its own input to the inter-committee meetings and the final report.
27. As to the stages of implementation, there was nothing in the draft proposals to prevent "pilot States" coming forward. They might be recent signatories to a convention, who had no experience of reporting and could immediately adopt the new approach, possibly benefiting from technical assistance with drafting from OHCHR; or they might be more experienced States that were interested in trying out the new method. In such cases, the Government could simply communicate its interest to the relevant committee and inform it that it had decided to adopt the new approach.

28. The CHAIRPERSON, drawing the Committee's attention to the recommendations made at the third inter-committee meeting (A/59/254), said that several States had already begun to seek technical assistance from OHCHR in drafting reports in accordance with the new guidelines contained in document HRI/MC/2004/3. The Committee should respond to the inter-committee meeting by giving an opinion on the expanded core document, treaty-specific targeted reports and harmonized guidelines in its annual report. It was important to note that each treaty body would examine the common aspects of State party reports from its own perspective.

29. Mr. EL-BORAI expressed concern that the different treaty bodies might hold conflicting views on the common aspects of State party reports, and if that was so, States parties might use the opinion of one treaty body to support arguments against another. He asked whether Committee members had the freedom to obtain supplementary information on the situation in States parties from sources other than those mentioned by Mr. Filali.

30. Mr. FILALI (Rapporteur on the harmonization of reporting guidelines for treaty bodies) said that the treaty bodies were expected, in some cases, to have diverging opinions on the common aspects of State party reports. Since the process of examining the common reports had not yet begun, it was not possible to say how great any such differences of opinion would be. Although the committees were independent, cooperation between them was already standard practice, and that would continue to be the case. The chairpersons of all the committees would continue to meet annually to discuss any problems in the consideration of reports. The information sources he had mentioned were not exhaustive. Committee members could use information from any source they deemed appropriate. Many members of the Committee on the Rights of the Child referred to local newspapers from States parties and received information from persons working on the ground in those States.

31. The CHAIRPERSON said that there were many opportunities for the treaty bodies to collaborate with each other and harmonize their working methods. Although there might be slight divergences between the views of the different committees owing to the different tasks assigned to them under their individual treaties, those could be reduced by closer cooperation. He doubted that States would use any divergences of opinion to play the committees off against each other. In the event that opinions differed considerably, the inter-committee meeting and the meeting of chairpersons would be the principal forums for discussion and cooperation.

The meeting was suspended at 11.35 a.m. and resumed at 12.00 p.m.

32. Mr. GAKWANDI said that in drafting its reporting guidelines, the Committee had been largely guided by the results of the second inter-committee meeting. The United Nations Secretary-General's reform proposals and the results of the meeting on treaty body reform held in Malbun in 2003 had also been taken into account from the very beginning of the Committee's work. The Committee endorsed the idea of an expanded core document and the proposals to restrict the length of State party reports. It accepted the need for differences in form and content between initial and periodic reports, and agreed that reporting on clusters of articles, rather than on an article-by-article basis, would help reduce the length of State party reports. The Committee's working practices in respect of reporting periodicity and interaction with NGOs

differed slightly from those of some other treaty bodies. The Committee had not yet concluded its discussions on follow-up to concluding observations or on a possible agreement on sanctions for non-reporting States. The Committee would probably be guided in its decisions on those issues by the results of the fourth inter-committee meeting.

33. Mr. FILALI (Rapporteur on the harmonization of reporting guidelines for treaty bodies) said that the idea of sanctioning non-reporting States was rather excessive. The standard practice was to send such States a communication, stating that they were in violation of their reporting obligations under the relevant international treaty. The treaty body in question would set a deadline for submission of its report. In the event that the State party continued to neglect its commitments, the committee would send a further communication to the effect that it was prepared to consider the situation in that country without a report, using information from sources such as NGOs and specialized agencies. The Committee on the Elimination of Racial Discrimination had examined non-reporting States under that procedure. In the event that late submission or non-submission was due to technical difficulties in drafting reports, States could request assistance from OHCHR. For example, Togo had recently submitted its long overdue initial report to the Committee on the Rights of the Child; although the report had not been drafted in accordance with the Committee's guidelines, it had demonstrated the Government's will to begin a dialogue with the Committee. The Government of Togo had then requested technical assistance for the drafting of its second periodic report, which the Committee had been pleased to provide.

34. Mr. BRILLANTES said he was somewhat disturbed by the emphasis being placed by the Committee in its quest for innovation and harmonization on demands that States parties might find intimidating. The Committee was a monitoring, not an investigative body. While country reports should be well structured and informative, they need not be unduly complex, particularly initial reports. If a State party's initial report was short and simple, he took it that the Committee could ask for more detailed supplementary reports based on the findings of its review.

35. He wished to know to what extent a State could be held responsible for the protection of citizens of another State resident in its territory, such as citizens of a sending State resident in a receiving State.

36. Mr. FILALI (Rapporteur on the harmonization of reporting guidelines for treaty bodies) said that States parties and treaty-monitoring bodies were not adversaries but worked together to protect and promote human rights at the national level. States agreed to the reporting and monitoring procedures when they ratified a human rights instrument. A State party that set store by honouring its obligations would not view the Committee as a tribunal conducting a trial but as a body of experts with human rights experience and moral probity that sought to pinpoint difficulties and offer solutions. Monitoring bodies were less interested in the enactment or amendment of legislation than in information about the practical impact of the instrument concerned.

37. For supplementary or periodic reports, the Committee on the Rights of the Child drew up lists of issues in consultation with NGOs, national institutions and United Nations specialized agencies. The most acute and topical issues were identified and Governments were asked to submit their answers in writing.

38. Respect for sovereignty was a fundamental norm of international law. All States were deemed to be equal and to bear sole responsibility for the running of domestic affairs. Where a State's conduct was held to infringe international norms, the procedure for resolving any resulting dispute was not direct intervention but the application of relevant bilateral treaties.

39. The CHAIRPERSON said that although the issue of non-reporting was of great importance, he considered that the Committee, as a recently constituted body that had not yet examined a country report, would be well advised to reserve its judgement for the time being. The third inter-committee meeting had recommended in its report (A/59/254, annex) that the secretariat produce a comprehensive report highlighting the situation with regard to non-reporting by States parties and reports that were overdue. The Committee should await the findings of that report.

40. Summing up the discussion, he said that, in principle, the Committee supported the draft guidelines on an expanded core document and treaty-specific targeted reports (HRI/MC/2004/3). For the time being, however, the Committee, as a new treaty body, would welcome simple initial reports from States parties, preferably based on its reporting guidelines. Of course, that did not prevent States parties from modelling their core document and report on the proposals made by the inter-committee meeting.

41. What the Committee required was harmony but not uniformity. Each treaty body must retain its core competence, considering reports from its own perspective and drawing up its own concluding observations. On the other hand, any advice offered by the meeting of chairpersons or the inter-committee meeting with a view to harmonizing concluding remarks on the expanded core document would be appreciated.

42. He took it that the Committee wished to approve the foregoing summary of its views on the outcome of the third inter-committee meeting and the sixteenth meeting of chairpersons.

43. It was so decided.

#### ORGANIZATIONAL AND OTHER MATTERS (agenda item 3) (continued)

44. The CHAIRPERSON announced that the Committee had decided at its closed meeting the previous day to hold its third session from 12 to 16 December 2005.

#### MATTERS RELATING TO THE COMMITTEE'S METHODS OF WORK IN RESPECT OF THE CONSIDERATION OF REPORTS TO BE SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLE 73 OF THE CONVENTION (agenda item 6) (continued)

45. The CHAIRPERSON announced that at its closed meeting the Committee had decided against the formal adoption of working methods. It would agree instead on basic methods of work that would be updated as the Committee gathered experience and developed approaches that proved efficient and effective.

The meeting rose at 12.45 p.m.