



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 Thirty-seventh session

Summary record (partial)* of the 532nd meeting

Held at the Palais Wilson, Geneva, on Monday, 27 November 2023, at 3 p.m.

Chair: Mr. Corzo Sosa
later: Mr. Taghi-Zada (Vice-Chair)

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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 3.05 p.m.

Promotion of the Convention

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

1. *At the invitation of the Chair, representatives of non-governmental organizations and national human rights institutions from Uruguay, Chile and Mexico joined the meeting via video link.*

2. **A representative of the National Human Rights Institution and Office of the Ombudsman, Uruguay**, said that, although Uruguayan migration legislation was generally considered advanced, the National Human Rights Institution and Office of the Ombudsman had identified a number of regulatory gaps and legislative obstacles that could threaten the rights of migrant workers. Worryingly, a bill on the deportation of foreign nationals who committed serious crimes had recently been announced and the consideration by parliament of a bill on the inclusion in the Criminal Code of penalties for certain discriminatory acts had been delayed. Moreover, the existing regulations governing old-age pensions and associated subsidies and allowances had still not been updated. Many migrants did not currently have access to benefits because they had not met the lengthy residence requirement laid down in Uruguayan law.

3. Further causes for concern were the delays in the implementation of public policies for migrants, specifically the national plan for the integration of migrants, asylum-seekers and refugees, and the underfunding and low visibility of institutions responsible for upholding migrants' rights, such as the Honorary Commission against Racism, Xenophobia and All Other Forms of Discrimination and the Refugee Commission. The current gaps in the protection of migrants' rights could be closed by, inter alia, improving the implementation of reception and protection plans for migrants seeking refugee status in emergency situations or in situations where they were particularly vulnerable and stepping up awareness-raising and training activities for border officials.

4. Uruguay was one of the few countries in the world that distinguished between nationality and citizenship, and foreign nationals who were legally resident in the country were eligible to apply only for Uruguayan citizenship, not Uruguayan nationality. That meant that their freedom of movement was limited; it affected their rights to an identity and a nationality, and it could lead to persons who had lost their previous nationality becoming stateless.

5. Although the measures adopted by Uruguay to document migrants and to regularize their situation were widely considered to be adequate and an example of good practice, some migrants still encountered obstacles in that connection. For example, refugees from Cuba who wished to change their refugee status to that of a legal resident were required by the National Migration Directorate to leave the country and re-enter after having obtained the appropriate visa. Similarly, several civil society organizations had reported that certain groups of migrants, especially those arriving from African States, were more likely to experience difficulties in obtaining visas to enter the country, often because they could not obtain the necessary supporting documentation from their country of origin. Steps should be taken to remove all unnecessary restrictions on changing immigration status and obtaining visas to enter Uruguay.

6. Regrettably, forced evictions of migrants, which left women, children and adolescents particularly vulnerable, continued to occur. More efforts should be devoted to pre-empting forced evictions and to finding a permanent solution to that problem. Special attention should likewise be paid to the situation of migrants deprived of their liberty, as they often did not have a social support network or sufficient financial resources to meet their needs.

7. The mechanisms in place to detect and address cases of human trafficking for the purposes of sexual and labour exploitation should be strengthened and strategies put in place to ensure that all victims of trafficking were provided with rapid and appropriate housing solutions. Victims should also be provided with the financial resources necessary to cover

their basic needs. More needed to be done to promote access to justice and to improve institutional response times in that connection.

8. Lastly, information and awareness-raising campaigns on migrant issues, which played a key role in combating the stigmatization and discrimination of migrants, should be publicized more widely. Additional information on all the points raised could be found in the report submitted to the Committee by the National Human Rights Institution and Office of the Ombudsman in October 2023.

9. **A representative of Servicio Jesuita a Migrantes, Chile**, said that the Chilean authorities had taken several measures to restrict access to national territory, such as deploying members of the armed forces to guard the country's northern border. While it was impossible to know exactly how many persons had entered the country through unofficial border crossings, the data available suggested that the number of instances of illegal entry had more than tripled between 2020 and 2022. Over 90 per cent of instances of illegal entry were attributable to Bolivian, Colombian, Haitian and Venezuelan nationals. Concerns had been raised about the risks that such an increase in irregular migration might pose to vulnerable migrants and about the potential for border areas to become a hotbed for human trafficking and migrant smuggling networks.

10. The new Migration and Aliens Act (No. 21.325) likewise provided for border control measures, including an expedited expulsion mechanism for migrants who entered Chile illegally. Although only limited use had been made of the mechanism to date owing to the lack of agreement among the Chilean, Bolivian and Peruvian authorities regarding its use to deport migrants from Chile, concern had been expressed about the weakness of due process guarantees. The ongoing debate within the Chilean legislature over whether to criminalize illegal entry into Chile was also a cause for alarm.

11. The surge in irregular migration in Chile was also being driven by several factors linked to regularization, such as the requirement for Venezuelan, Haitian, Dominican and Cuban nationals, who were migrating to Chile in ever greater numbers, to obtain a visa to enter the country. Since that requirement had been introduced, the number of those nationals resorting to clandestine entry had increased considerably. Regrettably, the administrative sanctions for illegal entry into Chile were such that persons who did so would have few, if any, avenues through which to regularize their situation.

12. Following the entry into force of the Migration and Aliens Act, it was no longer possible to change immigration status from within Chile. That meant that a person who entered as a tourist, found a job, and wished to change to a work visa, must leave the country to complete the process. Only those who qualified for a family reunification permit because they had a direct family link with a Chilean national or permanent resident could change their status in Chile. As a result of that policy, many vulnerable Haitian or Venezuelan nationals chose not to regularize their situation for fear of being sent back to their country of origin.

13. A biometric registration process had recently been rolled out for foreign nationals who had entered Chile through an unofficial border crossing or had otherwise evaded immigration control. While the aim of the process was ostensibly to provide migrants in an irregular situation with an immediate means of regularizing their status, unbeknownst to the migrants who completed the exercise, registering with the authorities alone was not sufficient and registration was but one of several requirements that had to be met in order for them to be eligible for regularization. Furthermore, a number of migrants who had registered had ended up in detention on account of a pending expulsion order issued without their knowledge. Migrants who met all the requirements for regularization likewise faced challenges, such as excessive delays in the processing of their regularization applications and, in the case of Haitian and Venezuelan nationals, difficulties in obtaining official documentation from their country of origin.

14. Regrettably, the complexity of validating foreign qualifications continued to be a bar to employment for many migrant workers and refugees, and measures were under discussion that, if adopted, would make the Chilean asylum procedure even more cumbersome and exclusive. Chile was failing as a country if it failed to understand the humanitarian dimension of migration. The ongoing criminalization of migration posed a great challenge at both the national and international levels. Migrant workers in an irregular situation were too often

forced into informal spaces where abuse was rampant and where the threat of human trafficking was ever-growing. States needed to commit to making orderly, safe and regular migration a reality.

15. **A representative of Amnesty International, Chile**, said that the situation of refugees and migrants in Chile was worsening, while the lack of progress made in implementing the recommendations contained in the Committee's previous concluding observations (CMW/C/CHL/CO/2) only exacerbated the lack of protection for their rights. Amnesty International had received information to the effect that the Chilean authorities routinely turned back migrants at the border or returned them in violation of their right to seek asylum. The legislative and executive branches had, through various legislative initiatives, sought to expedite expulsions and increase the number of removals carried out at the border. Certain provisions of the Migration and Aliens Act on summary and collective expulsions did not protect individuals from violations of their rights to seek asylum, to not be returned to a place where their life might be at risk, to due process and to an effective judicial remedy. Amnesty International had also been alerted to the discrimination faced by Haitian nationals and to statements by public officials stigmatizing foreign nationals, particularly Venezuelans, in an irregular migration situation.

16. Worryingly, there was no open regularization process. The effectiveness of the temporary extraordinary regularization programme rolled out by the Government in 2021, under which migrants in an irregular situation could obtain a one-year visa, had been undermined by the decision to require Venezuelan nationals to obtain a visa to enter Chile, as the related formalities were impossible for them to complete owing to the prevailing situation in their country of origin. Although the Migration and Aliens Act stated that the new National Policy on Migration should set clear objectives to enable the thousands of migrants in an irregular situation to obtain a temporary residence permit, no measures to achieve that end had been included in the final version of the Policy. On the contrary, the document expressly stated that the existing visa system would not be modified.

17. Amnesty International recommended that the Chilean authorities should ensure effective access to the procedure for acquiring refugee status; respect the principle of non-refoulement in all circumstances; refrain from turning migrants back at the border and carrying out collective expulsions or deportations without due process and from expelling migrants, particularly Venezuelan and Haitian nationals, to places where their lives might be at risk; revise the Migration and Aliens Act to bring it into line with current international standards on the prohibition of collective expulsions; and abolish visa requirements for persons fleeing countries where massive human rights violations were taking place. Additional information on all the points raised could be found in the report recently submitted to the Committee by Amnesty International.

18. *In accordance with rule 12 (3) (b) of the Committee's rules of procedure, the Chair withdrew from the meeting in advance of the discussion of the situation regarding migration in Mexico.*

19. *Mr. Taghi-Zada (Vice-Chair) took the Chair.*

20. **A representative of the Grupo de Trabajo sobre Política Migratoria, Mexico**, said that, while her organization welcomed the progress made in strengthening the frameworks regulating migration and asylum in Mexico, it remained concerned about the insufficient budgetary and human resources allocated for their implementation and about the lack of political will to modify provisions that violated the human rights of migrants. The country's current migration and asylum policy was hostile to irregular migration and favoured migration control and the militarization of that control. Many of the measures taken by the Mexican authorities in that connection were a response to the "externalization" of the southern border of the United States of America. Mexican migration policy had forced migrants and applicants for international protection to use unsafe migration channels where they risked falling victim to human trafficking, smuggling, kidnapping, enforced disappearance or sexual abuse.

21. The Government had sought to address the structural causes of migration through regional initiatives implemented in cooperation with Central American countries and the United States, with the aim of halting migration flows. However, after five years in power, it

was clear that the Government's efforts had failed. It had likewise failed to honour its commitment to submit a constitutional amendment that would pave the way for the repeal of article 33 of the Constitution, which empowered the executive branch to expel from national territory, immediately and without a judicial hearing, any foreign national whose residence in Mexico it deemed undesirable and, consequently, for the withdrawal of the State's reservation to article 22 (4) of the Convention. Similarly, reforms aimed at ensuring that detention for migration-related reasons was used only as an exceptional measure had still not been enacted. Fortunately, the Supreme Court had ruled that the duration of such detention should be limited to 36 hours, in line with the Constitution.

22. Civil society organizations and entities in the inter-American and United Nations human rights systems had reported that the prevailing conditions in migrant holding centres and temporary shelters operated by the National Institute of Migration amounted to cruel, inhuman or degrading treatment and that they put migrants' lives at risk. Alarming, the executive and legislative authorities continued to argue that they were not competent to deal with migration and asylum issues, even though the Constitution itself provided for their joint responsibility in such matters. That reluctance to assume responsibility could be explained by the fact that the applicable regulatory frameworks did not adequately delineate responsibilities for respecting, protecting and upholding migrants' rights.

23. The resources of the State were currently being channelled towards strengthening migration control measures rather than towards identifying, directing and providing comprehensive care to migrants and persons in receipt of international protection. As a consequence, the Commission on Assistance for Refugees and the system for the protection of the rights of children and adolescents were unable to fulfil their respective mandates owing to a lack of resources. Efforts to combat discrimination, xenophobia, racism and aversion to poor people were likewise lacking. Far from encouraging regular migration, the Mexican authorities discouraged it by making regularization mechanisms inaccessible and unaffordable.

24. **A representative of the Centro de Derechos Humanos Fray Matías de Córdova, Mexico**, said that, between 2018 and 2022, the number of migrants and asylum-seekers entering Mexico had almost quadrupled. Despite that influx, the current Government had failed to offer persons who had been forced to migrate owing to violence, political and social crises, unemployment and climate change a means of regularizing their situation in Mexico. On the contrary, an increasing number of migrants were being detained and deported. That situation was a consequence of the militarization of the country's migration policy, under which some 30,000 members of the National Guard and other armed forces had been deployed at the country's northern and southern borders to carry out migration-related operations. Such measures were a response to the "externalization" of the southern border of the United States and the implementation of megaprojects such as the Mayan train project and the Interoceanic Corridor of the Isthmus of Tehuantepec.

25. In Mexico, pathways to regularization were limited and did not address the structural factors occasioning the displacement of thousands of people from and through Central and South America. Between 2022 and 2023, the Mexican authorities had set up camps for migrants and asylum-seekers at the country's southern border. In those camps, migrants and asylum-seekers had to wait for up to 20 days to obtain a document authorizing them to enter the country for business or tourism purposes. That document did not, however, serve as a pathway to temporary or permanent regularization.

26. The camps reportedly lacked basic services and were usually located far from urban centres, making food difficult to obtain and exposing migrants to adverse weather conditions. They also reduced migrants' mobility which, added to the lack of avenues for regularization, created conditions that prevented people from enjoying their rights to health, housing, education and formal employment. Frequent changes in migration management practices and asylum procedures made it difficult for persons applying for international protection to obtain proof of steps completed in the asylum procedure. Persons eligible for regular resident status faced long waiting times that placed them at risk of detention and deportation.

27. Immigration detention was systematic in Mexico. Reportedly, it had increased by 200 per cent between 2018 and 2023, and involved multiple and systematic human rights

violations such as torture and psychological and sexual abuse. Conditions in migrant holding centres, whose infrastructure could be likened to that of prisons, had a psychosocial impact on residents and posed a danger to life: a person of Cuban origin who had been detained for a second time at the Siglo XXI migrant holding centre had died on 16 November 2023.

28. She would like the Committee to ask the delegation of Mexico for information about any initiatives to promote the temporary or permanent regularization of migrants and their families; about legislative, judicial or administrative actions providing options for temporary or permanent regularization; and about mechanisms enabling migrants to reside in the country lawfully, both before and after their arrival. It would be interesting to receive data, disaggregated by age, sex, gender, nationality and federative entity, on how many persons had regularized their situation in the country after staying in migrant holding centres. She would also like to receive disaggregated data on the number of actions carried out since 2018 to provide migrants using health or education services with options for temporary or permanent regularization. Information on legislative and public policy measures aimed at keeping regularization procedures affordable would be gratefully received. Lastly, she wished to know how many actions had been implemented aimed at consulting migrant communities and civil society organizations.

29. **A representative of the Coordinación Binacional de Organizaciones de Ex Braceros, Mexico**, said that the Bracero Program, which had seen 4.6 million Mexican farm labourers migrate temporarily to the United States of America on short-term employment contracts between 1942 and 1964, had been one of the most unjust mechanisms of exploitation, human rights violations and labour rights violations in history. Many participants had died as a result of the working conditions and been buried in mass graves. The 10 per cent that had been withheld from workers' salaries for disbursement on their return to Mexico had still not been paid out. She would like to know how the Government intended to repay that historic debt, and wondered to what extent the example provided by the Bracero Program could be used to help resolve other situations in which migrants had suffered rights violations.

30. It would be interesting to learn of any measures taken to combat the human rights abuses experienced by present-day migrant workers holding the H-2A and H-2B visas that authorized temporary employment in the agricultural and service sectors in the United States. They too experienced poor working conditions, exploitation, non-compliance with employment contracts, withholding of documents, deduction of accommodation and food costs by employers and payments for illegal recruitment. In their communities of origin, there were reports of deception, fraud and undue charges by recruiting agencies and contractors, who operated without official oversight and with or without registration.

31. In the light of the abandonment of the Programme for Agricultural Day Labourers, she would like to know what steps had been taken to attend to the needs of the more than 3 million day labourers from Indigenous and rural communities working in the agricultural sector, and their families. She wondered how issues they faced – which included housing, health and food insecurity; labour exploitation; poor working conditions; human trafficking; and conditions of forced labour – were being addressed and their rights promoted in their communities of origin, transit and settlement in Mexico. It would also be interesting to know how workers who initially migrated internally for agricultural work were protected from labour exploitation, forced labour and/or human trafficking when offered employment on an H-2A visa in the United States.

32. **A representative of the International Detention Coalition, Mexico**, said that Mexico had made progress since its previous meeting with the Committee. However, the lack of accurate statistics made it difficult to ascertain how many migrants were detained in holding centres and how many of them succeeded in gaining regularization; had access to alternatives to detention as they sought regularization; were granted the right to request asylum while in detention; were transferred to the Commission on Assistance for Refugees; or were able to gain access to legal advice and representation. She would like the Committee to request information from the Government about any steps taken to institutionalize dialogue with civil society organizations working on behalf of migrant workers; to ensure that persons held in detention were not subjected to torture or cruel, inhuman or degrading treatment or punishment; and to ensure that detained women migrant workers and their families had

access to free legal assistance and due process guarantees from the moment a decision was taken to deprive them of their liberty. It would be interesting to learn about any legislative, judicial and administrative measures adopted to ensure that detention was not used systematically but only when deemed necessary, proportional and reasonable. She would also be grateful for statistics on the number of persons admitted to migrant holding centres over the previous five years, with an indication of how many had gained access to the refugee status recognition procedure and to an alternative to detention.

33. Of particular concern was the situation of child and adolescent migrants because, although their presence in migrant holding centres had been confirmed, official statistics were not available. She would like to know what measures had been adopted to prevent children or adolescents from being deprived of liberty, and would be grateful for information about the Administrative Office for the Referral of Accompanied, Unaccompanied and Separated Children and Adolescents.

34. Despite government claims of efforts to raise standards in immigration detention centres, and corresponding commitments that had been made, conditions had not improved, and serious human rights violations continued to be documented, including overcrowding, threats, poor food, unsanitary conditions and a lack of menstrual hygiene products. Such violations had reached a critical point in a tragedy in March 2023 in which 40 persons held at Ciudad Juárez migrant holding centre had died. She hoped to receive detailed information about the participation of the survivors of that tragedy, their families and their legal representatives in the drawing up of a comprehensive reparation plan.

35. **A representative of the Instituto para las Mujeres en la Migración, Mexico**, said that setbacks in the Government's migration and asylum policy since 2017 had adversely affected the rights of women and girls, including women migrant workers. Budget cuts to programmes to combat gender-based violence had increased; the budget allocated to maternal, sexual and reproductive health programmes and Women's Justice Centres had been reduced to by 70 per cent in 2018; and there had been an 8.5 per cent decrease in the funding of the Commission on Assistance for Refugees since that year. The Unit for the Investigation of Crimes against Migrants and the Mechanism for Mexican Support Abroad in Search and Investigation Activities of the Prosecutor General's Office were also insufficiently resourced. She would like the Committee to ask the delegation what measures had been implemented to reverse funding cuts and to increase the budget of initiatives designed to combat, punish and provide compensation for violence against women and girls in migration situations.

36. She also wondered what actions had been implemented to improve the management and resolution of administrative migration procedures – which were reportedly affected by a number of shortcomings that negatively influenced the resolution of refugee status for women – so that they complied with legal deadlines; provided direct and individualized support; analysed each risk situation from a gender perspective; undertook actions and decisions jointly with women and girls; provided referrals to other services when there were urgent protection needs; restored violated rights; and mitigated the risk of revictimization or double violation of rights.

37. Migrant women were poorly protected from the risk of gender-based violence. Five times more migrant women in Mexico had experienced sexual violence than migrant men. Given that data from 2021 indicated that 86 per cent of migrant women intercepted at the border by the armed forces had been subjected to violence, it would be interesting to know of any steps taken to demilitarize migration controls and checks.

38. Deprivation of liberty for migratory reasons continued to be the rule rather than the exception; under the current Government, detention of female migrants had increased by 79 per cent and that of male migrants by 51 per cent. She wondered what action had been taken on alternatives to detention for migrants, including open or semi-open reception facilities, bonds, special support centres for migrants in vulnerable situations, community-based alternatives and alternative care options.

39. The employment rights of migrant women, especially those working in informal sectors, lacked effective protection, and such women were underrepresented in access to employment programmes and visas. Most employers in the domestic and household sectors were not officially registered, making it difficult for migrant domestic workers to regularize

their immigration status. Legislative progress in that area had not led to public policy changes. She would like to know about any measures taken to ensure that migrant women working in the informal sector had access to social security, decent working conditions, pensions and grievance or conciliation mechanisms.

40. **A representative of Kids in Need of Defense, Mexico**, said that legal reforms and other initiatives had helped to improve the situation and access to rights of children and adolescents in migration situations. However, further actions were necessary in order to prevent and eradicate the risks that they continued to face and to implement lasting solutions that prioritized their best interests.

41. She would like the Committee to ask the delegation about any efforts to ensure that the budget allocated to children in migration situations was adequate, in particular that assigned to the National System for the Comprehensive Protection of Children and Adolescents, the National System for Integral Family Development and offices for the protection of children and teenagers. She would be interested to know about progress, challenges and results in the issuance of “visitor for humanitarian reasons” cards and the unique population registry code to all children and adolescents and their parents, relatives or caregivers.

42. It would be interesting to learn more about referral procedures and alternative care models implemented in the country. That included information about databases indicating the location of children and adolescents and their families, the types and models of alternative care that had been adopted and the conditions in which alternative care was provided. She wished to know about any steps taken to guarantee and preserve the right to family unity, prevent family separation and restore the right to live as a family. It would be interesting to receive information about child labour involving foreign children and adolescents, and about measures taken to combat labour exploitation of migrant children, especially in the north and south of the country.

43. She would like to receive quantitative information about the access of children and adolescents in migration situations to identity, health and education services, and she wondered what actions had been taken to ensure their participation in decision-making processes relating to the protection and restitution of their rights. Information about processes and mechanisms to ensure that children and adolescents were assisted in their asylum, migration or other administrative and judicial procedures would be welcome, along with details of any arrangements to provide them with free and high-quality legal guidance. It would be useful to learn about any measures taken to protect and socially reintegrate Mexican children who had returned to the country and, in the case of foreign children in Mexico, any steps taken to coordinate with receiving entities and communities of origin.

44. **A representative of the Consejo Ciudadano del Instituto Nacional de Migración, Mexico**, said that he was concerned that the Government had not addressed the Committee’s previous concluding observations in terms of bringing national legislation into line with the provisions of the Convention, specifically with regard to guaranteeing the right to a hearing before possible deportation. Article 7 of the Federal Labour Act continued to discriminate against migrants, and companies had come under more pressure, in recent years, to comply with the discriminatory requirements. There had been a lack of response from the immigration authorities about the increase in the number of complaints of human rights violations filed with the National Human Rights Commission.

The discussion covered in the summary record ended at 4.10 p.m.