



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

Concluding observations of the Committee on the initial periodic report of Rwanda, adopted at its seventeenth session (10–14 September 2012)

Rwanda

1. The Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families considered the initial report of Rwanda (CMW/C/RWA/1) at its 205th and 206th meetings (CMW/C/SR.205 and SR.206), held on 10 and 11 September 2012. At its 211th and 212th meetings (CMW/C/SR.211 and SR.212), held on 13 and 14 September 2012, the Committee adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the initial report of the State party, despite its late submission, and the constructive dialogue it has had with the delegation. It is grateful to the State party for its replies to the list of issues and the additional information provided by its delegation. It nevertheless regrets that the report and the written and oral replies do not provide sufficient information or statistical data on certain points.

3. The Committee notes that several countries where large numbers of Rwandan migrant workers are employed are not yet parties to the Convention, which makes it difficult for these workers to exercise their rights under the Convention.

B. Positive aspects

4. The Committee notes with satisfaction the following legislative and policy measures:

(a) The adoption of Law No. 04/2011 of 21 March 2011 on immigration to and emigration from Rwanda and of Ministerial Order No. 02/01 of 31 May 2011 establishing regulations and procedures implementing the Law;

(b) The adoption of a national migration policy in 2008 and of a national employment policy;

(c) The creation of the Directorate-General of Immigration and Emigration and the Migration Information Centre, and the existence of a website on immigration to and emigration from Rwanda; and

(d) The conclusion of double taxation agreements with several countries.

5. The Committee notes with satisfaction that the State party has ratified the core international human rights instruments, with the exception of the International Convention for the Protection of All Persons from Enforced Disappearance.

6. The Committee welcomes the ratification by the State party of the Protocol on the Establishment of the East African Community Common Market in 2009.

C. Principal subjects of concern, suggestions and recommendations

1. General measures of implementation (arts. 73 and 84)

Legislation and application

7. While noting that consultations are ongoing within the State party regarding the declarations provided for in articles 76 and 77 of the Convention, recognizing the Committee's competence to receive communications from States parties and individuals, the Committee notes that the State party has not yet made those declarations.

8. The Committee invites the State party to make the declarations provided for in articles 76 and 77 of the Convention.

9. While noting that consultations are also ongoing concerning ratification of the International Labour Organization (ILO) Migration for Employment Convention (Revised), 1949 (No. 97) and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), the Committee notes that the State party has not yet become a party to those Conventions, or to the Private Employment Agencies Convention, 1997 (No. 181) and the Domestic Workers Convention, 2011 (No. 189).

10. The Committee invites the State party to consider ratifying ILO Conventions Nos. 97, 143, 181 and 189.

11. The Committee takes note of the delegation's statements on the preparation of a draft law that would give greater independence to the National Human Rights Commission. It remains concerned, however, about reports indicating the lack of independence, in practice, of the Commission.

12. The Committee recommends that the State party ensure that the new Law on the National Human Rights Commission effectively guarantees the Commission's independence, in accordance with the Principles relating to the Status of National Institutions (the Paris Principles, annexed to General Assembly resolution 48/134 of 20 December 1993) and that such independence is respected in practice. The Committee also recommends that the State party provide the Commission with a specific mandate on migrant workers.

Data collection

13. The Committee regrets the lack of information and detailed statistics on most of the questions relating to migration. It recalls that such information is essential to understanding the migration situation in the State party and evaluating the implementation of the Convention. The Committee also regrets the lack of information on the number of Rwandan migrant workers and members of their families abroad, including those in an irregular situation.

14. **The Committee requests the State party to include in its next periodic report disaggregated data on the areas where migrant workers, including those in an irregular situation, are employed and on their conditions of employment, as well as on the enjoyment of their rights under the Convention. The Committee also requests disaggregated information on the number of Rwandan migrant workers and members of their families abroad, including those in an irregular situation. Where precise information is not available, the Committee would appreciate receiving data based on studies or estimates.**

Training and dissemination of information on the Convention

15. The Committee is concerned at the lack of information and training programmes specifically on the Convention for relevant public officials such as judges, prosecutors, police officers, immigration officials, labour inspectors, social workers and other agents of the State who deal with migrant workers at the national and local levels.

16. **The Committee recommends that the State party hold regular training sessions on the provisions and direct applicability of the Convention, for judges, prosecutors, police officers, immigration officials, labour inspectors, social workers and other agents of the State who deal with migrant workers at the national and local levels.**

2. General principles (arts. 7 and 83)

Right to an effective remedy

17. The Committee notes that migrant workers may lodge appeals in the courts and may also appeal to the Labour Inspector, the National Human Rights Commission, the Office of the Ombudsman, the parliamentary Human Rights Commission, trade unions, the Arbitration Committee of the National Labour Council, and Rwandan arbitration and mediation organizations. However, the Committee is concerned at the lack of information on complaints about violations of migrant workers' rights, which reflects the difficulties migrant workers and members of their families face in trying to avail themselves of a remedy for violations of their fundamental rights.

18. **The Committee recommends that the State party ensure that migrant workers and the members of their families, including those in an irregular situation, enjoy in law and in fact the same rights as nationals to lodge complaints about violations of their fundamental rights under the Convention and to access effective remedies.**

3. Human rights of all migrant workers and members of their families (arts. 8 to 35)

19. The Committee is concerned at reports that a certain number of children from neighbouring countries are subjected to forced labour in the State party.

20. **The Committee recommends that the State party increase labour inspections and impose appropriate penalties on employers exploiting child migrant workers or subjecting them to forced labour and abuse, especially in the informal economy.**

21. The Committee notes with concern that Law No. 04/2011 of 21 March 2011 on immigration to and emigration from Rwanda (arts. 37 to 49) criminalizes a number of immigration-related offences by migrant workers.

22. **The Committee recommends that the State party bring Law No. 04/2011 of 21 March 2011 on immigration to and emigration from Rwanda into conformity with the spirit of the Convention, with a view to decriminalizing immigration offences committed by migrant workers or members of their families, treating such violations**

as administrative offences and establishing appropriate penalties for offences of this kind.

23. The Committee is concerned at the fact that migrants arrested for immigration offences are detained with persons who have committed offences under common law.

24. **The Committee recommends that the State party:**

(a) **Ensure that detention of migrants for violations of immigration law is used only as a measure of last resort and in special facilities; and that, insofar as practicable, migrants detained for immigration offences are held separately from ordinary prisoners; and**

(b) **Include in its next periodic report detailed information on the number of migrants detained for immigration offences and on the place, average duration and conditions of their detention.**

25. The Committee is concerned at the lack of data disaggregated by sex, age and nationality on migrant workers and members of their families expelled from the State party since 2008. With regard to Ministerial Order No. 02/01 of 31 May 2011 establishing regulations and procedures implementing Law No. 04/2011 of 21 March 2011 on immigration to and emigration from Rwanda, the Committee is concerned at the lack of provisions protecting the right of migrants: (a) to submit the reason why they should not be expelled; (b) to have their case reviewed by the competent authority; and (c) to seek a stay of the expulsion decision pending such review.

26. **The Committee recommends that the State party include in its next periodic report data disaggregated by sex, age, nationality and grounds for expulsion on migrant workers and members of their families expelled from the State party since 2008. It also recommends that the State party amend Law No. 04/2011 of 21 March 2011 on immigration to and emigration from Rwanda as well as Ministerial Order No. 02/01 of 31 May 2011 establishing regulations and procedures implementing the Law in order to give migrants subject to expulsion proceedings the right, except where a final decision is pronounced by a judicial authority: (a) to submit the reason why they should not be expelled; (b) to have their case reviewed by the competent authority; and (c) to seek a stay of the expulsion decision pending such review, in accordance with article 22, paragraph 4, of the Convention.**

27. The Committee notes the lack of detailed information received about measures taken by the State party to facilitate recourse for Rwandan migrant workers living abroad to the assistance of the consular or diplomatic authorities of the State party in case of expulsion.

28. **The Committee recommends that the State party include in its next periodic report detailed information about measures taken by the State party to facilitate access for Rwandan migrant workers living abroad to the assistance of the consular or diplomatic authorities in the event of expulsion.**

29. While welcoming the fact that labour inspectors are working in every district of the State party and that a National Labour Council has been established to monitor the implementation of labour laws and policies, the Committee is concerned at the lack of protection of the rights of migrant workers employed in the informal sector, particularly those employed in domestic service.

30. **The Committee urges the State party to protect the rights of migrant workers in the informal sector, particularly those employed in domestic service:**

(a) **By ensuring that their working conditions are systematically monitored through labour inspections, taking into account general comment No. 1 (2010) on migrant domestic workers;**

(b) By imposing fines on employers who treat migrant workers less favourably than Rwandan nationals; and

(c) By ensuring that migrant workers have access to effective mechanisms for lodging complaints against their employers when they violate their rights.

31. While noting the existence of Law No. 62/2007 of 30 December 2007 on the creation, organization, operation and management of the mutual health insurance scheme, which provides that all Rwandan residents must be covered by health insurance, the Committee is concerned at the fact that access to the mutual health insurance system is only in the process of being extended to migrant workers. It is also concerned at reports that, in some sectors, migrant workers are not eligible to subscribe to a health insurance scheme. In addition, the Committee regrets that, in spite of a sizeable emigrant population, the number of bilateral and multilateral social security agreements concluded by the State party is still limited.

32. **The Committee recommends that the State party:**

(a) Ensure that all migrant workers and members of their families are able to subscribe to a mutual health insurance scheme and that they are informed of their rights in this regard; and

(b) Pursue the conclusion of bilateral and multilateral social security agreements in order to guarantee the social protection of migrant workers.

33. While noting the information provided by the State party about the availability of universal free primary and secondary education, the Committee is concerned at the lack of statistics on primary and secondary school enrolment rates for children of migrant workers and access to education for the children of migrant workers in an irregular situation.

34. **The Committee recommends that the State party take all necessary measures to ensure that children of migrant workers in an irregular situation have access to education on the basis of equality of treatment with nationals of the State party. The Committee also recommends that the State party take all necessary measures to include in its next periodic report data disaggregated by gender, age and nationality on the number of children of migrant workers enrolled in primary and secondary schools, including those in an irregular situation or whose parents are in an irregular situation.**

35. The Committee is concerned at the fact that migrant workers lack information about their rights under the Convention, and particularly their right to have access to basic social services, their right to join trade unions and their right to the same treatment as nationals of the State party in respect of conditions of work.

36. **The Committee recommends that the State party intensify its efforts to ensure that migrant workers and members of their families have effective access to information about their rights under the Convention and under immigration law, in particular their rights to have access to basic social services, to join trade unions and to the same treatment as nationals of the State party in respect of conditions of work.**

4. Other rights of migrant workers and their families who are documented or in a regular situation (arts. 36 to 56)

37. The Committee notes that Rwandans living abroad, who account for a sizeable proportion of the Rwandan population, cannot be elected at elections of the State party.

38. **The Committee encourages the State party to consider adopting all the necessary measures to ensure that Rwandans living abroad can be elected at elections of the State party.**

39. While noting the information received from the State party indicating that migrant workers in Rwanda are free to transfer their earnings and savings to their State of origin, the Committee notes that the State party has not taken any measures to facilitate such transfer.

40. **The Committee encourages the State party to take measures to facilitate the transfer by migrant workers of their earnings and savings from the State party to their State of origin or any other State.**

5. Promotion of sound, equitable, humane and lawful conditions in connection with international migration of workers and members of their families (arts. 64 to 71)

41. The Committee regrets the lack of specific information on the services provided by the State party's consular or diplomatic authorities to Rwandan migrant workers living abroad.

42. **The Committee recommends that the State party ensure that its consular or diplomatic authorities provide information and appropriate assistance to Rwandan migrant workers and members of their families living abroad regarding requisite authorizations and formalities and arrangements for their departure, travel, arrival, stay, remunerated activities, exit and return, as well as on conditions of work and life in the State of employment and on customs, currency, tax and other relevant laws and regulations.**

43. The Committee is concerned at the lack of legislative or regulatory provisions to regulate the return of Rwandans who do not meet the criteria set out in article 6 of Law No. 04/2011 of 21 March 2011 on immigration to and emigration from Rwanda, namely, the requirement that they hold a valid travel document or other proof of Rwandan citizenship. The Committee is also concerned at the lack of specific information on measures taken by the State party to facilitate the long-term economic, social and cultural reintegration of Rwandans returning to the State party.

44. **The Committee recommends that the State party:**

(a) **Review Law No. 04/2011 of 21 March 2011 on immigration to and emigration from Rwanda and/or Ministerial Order No. 02/01 of 31 May 2011 establishing regulations and procedures implementing the Law so as to regulate and facilitate the return to the State party of Rwandan migrant workers who do not meet the criteria set out in article 6 of the Law, namely, the requirement that they hold a valid travel document or other proof of Rwandan citizenship; and**

(b) **Adopt measures, such as the establishment of local mechanisms, to facilitate the voluntary return of Rwandans living abroad and members of their families, as well as their long-term economic, social and cultural reintegration in the State party.**

45. The Committee is concerned at reports that Rwandan children are being recruited and sent to Kenya, Uganda and Tanzania, where they are forced to perform agricultural labour or subjected to domestic slavery or prostitution, and that some children from neighbouring countries are subjected to prostitution in the State party. The Committee is also concerned at the absence of studies, analyses and disaggregated data that would allow an assessment to be made of the extent of trafficking into, in transit through and from the State party, and of any law against trafficking in persons.

46. **The Committee recommends that the State party:**

(a) **Adopt a law to combat trafficking in persons and protect victims of trafficking;**

(b) Provide training to border guards, labour inspectors, immigration officials and other law enforcement officials to ensure the prompt identification of victims of trafficking;

(c) Establish effective mechanisms for the identification and protection of victims of human trafficking;

(d) Bring perpetrators of crimes related to trafficking to justice; and

(e) Undertake an assessment of trafficking in persons to, in transit through and from the State party and systematically compile disaggregated data in this regard.

47. The Committee is concerned at reports that a certain number of migrant workers have not been registered and that some employers are delaying the registration of migrant workers in the State party.

48. **The Committee recommends that the State party address the delays in the registration of migrant workers by their employers and ensure that all migrant workers are registered, to avoid them being placed in an irregular situation.**

6. Follow-up and dissemination

Follow-up

49. The Committee requests the State party to include in its second periodic report detailed information on measures taken to follow up on the recommendations made in the present concluding observations. It recommends that the State party should take all appropriate measures to ensure that the recommendations are implemented.

50. The Committee requests the State party to involve all the civil society organizations working on migration issues at the national level in the preparation of its second periodic report.

Dissemination

51. The Committee likewise requests the State party to disseminate the present concluding observations widely, including to Government agencies, Parliament, the judiciary, relevant local authorities, non-governmental organizations and other members of civil society, and to take steps to make them known to Rwandan migrants abroad and foreign migrant workers residing or in transit in the State party.

7. Next periodic report

52. The Committee requests the State party to submit its second periodic report by 1 October 2017.