



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 on the initial report of Morocco adopted by the Committee at its nineteenth session (9–13 September 2013)

1. The Committee considered the initial report of Morocco (CMW/C/MAR/1) at its 235th and 236th meetings (CMW/C/SR.235 and 236), held on 10 and 11 September 2013, and adopted the following concluding observations at its 241st meeting (CMW/C/SR.241), held on 13 September 2013.

A. Introduction

2. The Committee welcomes the submission, albeit with some delay, of the State party's initial report and thanks the State party for its written replies to the Committee's list of issues (CMW/C/MAR/Q/1/Add.1).

3. The Committee commends the State party for its high-level delegation, headed by the Minister of Labour and Vocational Training, Mr. Abdelouahad Suhail and the Inter-ministerial Delegate for Human Rights, Mr. Mahjoub El Haiba. The delegation was also composed of the Permanent Representative of the Kingdom of Morocco to the United Nations Office at Geneva, and representatives of various ministries and of the Permanent Mission. The Committee appreciates the dialogue that took place between the delegation and the members of the Committee, even though many of the replies were incomplete and not sufficiently precise or clear.

4. The Committee notes that some of the countries that employ Moroccan migrant workers are not yet parties to the Convention, which constitutes an obstacle to the enjoyment by those workers of the rights to which they are entitled under the Convention.

B. Positive aspects

5. The Committee notes with appreciation the following legislative and political measures taken by the State party:

(a) The adoption of a new constitution in July 2011, which gives primacy to duly ratified international treaties over internal law and provides for the harmonization of national legislation with the Convention;

(b) The creation in 2011 of a new national human rights institution, the National Human Rights Council, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles);

(c) The creation of a ministerial department with responsibility for the Moroccan community residing abroad, the Council of the Moroccan Community Abroad and the Hassan II Foundation for Moroccans Residing Abroad;

(d) The implementation of programmes and measures on cooperation with specialized international organizations, including the Office of the United Nations High Commissioner for Refugees and the International Organization for Migration, such as the memorandum of understanding on cooperation to facilitate the voluntary return of irregular migrants; and the organization of seminars on the rights of migrant workers, including a regional seminar on “Migration Governance and Human Rights” held in Rabat on 5 July 2013.

6. The Committee warmly welcomes the initiative taken by His Majesty King Mohammed VI in advocating a new policy on migration management based on a humanistic approach, the international commitments of the State party and renewed partnerships.

7. The Committee welcomes the report of the National Human Rights Council, which contains relevant recommendations for structural reforms to migration management.

8. In addition to those international human rights instruments already ratified, the Committee is pleased to note that the State party has recently ratified the following instruments:

(a) The International Convention for the Protection of All Persons from Enforced Disappearance, in 2013;

(b) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, in 2011;

(c) The Convention on the Rights of Persons with Disabilities and its Optional Protocol, in 2009.

C. Main areas of concern, suggestions and recommendations

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

Legislation and implementation

9. The Committee notes with satisfaction that the State party has expressed its commitment to ensuring that its domestic law is in line with the Convention and that it is drawing up a comprehensive migration policy that covers asylum seekers and refugees. The Committee is nonetheless concerned that certain provisions of Act No. 02-03 of 11 November 2003 on the entry of foreign nationals into Morocco and their residence in the country, illegal emigration and immigration (hereinafter Act No. 02-03) are not in conformity with the State party’s international human rights obligations and, in particular, with the Convention.

10. **The Committee recommends that the State party should take measures to bring Act No. 02-03 into line with the Convention in order to extend the protection of the rights recognized therein to all migrant workers and members of their families in the State party and to ensure that the comprehensive migration policy currently being drawn up makes reference to the various international human rights instruments, and**

in particular to the Convention. Thereafter, the Committee recommends that the State party should establish a mechanism to monitor the implementation of legislation on migrant workers and of the Convention.

11. The Committee welcomes the steps taken by the State party with a view to making the declaration under article 77 of the Convention and to recognizing the Committee's competence to receive communications from individuals. However, the Committee regrets that no steps have been taken to make the declaration under article 76.

12. The Committee recommends that the State party should continue taking steps towards making the declarations provided for in articles 76 and 77 of the Convention.

13. The Committee welcomes the steps taken by the State party towards ratification of the International Labour Organization (ILO) Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), and the ILO Domestic Workers Convention, 2011 (No. 189), in addition to its ratification, now under way, of the ILO Migration for Employment Convention (Revised), 1949 (No. 97).

14. The Committee invites the State party to continue taking steps towards the ratification of ILO Conventions Nos. 97, 143 and 189.

Data collection

15. The Committee regrets the lack of accurate and reliable data and statistics on the majority of issues relating to migration. It recalls that such information is indispensable in order to understand the situation with regard to migration in the State party and to evaluate the level of implementation of the Convention. The Committee also regrets that in the reports it has received there is contradictory information concerning the number of Moroccan migrant workers and members of their families abroad, including those in an irregular situation.

16. 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 information on the number of Moroccan 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 reliable data based on studies or credible estimates.

Training on and dissemination of the Convention

17. The Committee notes the efforts made by the State party to disseminate and publish the Convention. However, the Committee is concerned by the absence of specific training programmes on the content of the Convention for the officials concerned, in particular judges, police officers, immigration officers, labour inspectors, social workers, health professionals, stakeholders at the local level and civil society organizations, and about the lack of measures aimed at making the Convention known to the general public.

18. The Committee recommends that the State party should:

(a) Strengthen in practical terms the training provided to all public officials working in the area of labour migration, in particular police officers and border guards, as well as officials dealing with migrant workers at the local level and consular staff;

(b) Take practical measures to ensure access by migrant workers to information and provide them with guidance on their rights under the Convention;

(c) **Continue cooperation with civil society organizations in order to disseminate information on and promote the Convention.**

2. General principles (arts. 7 and 83)

Non-discrimination

19. The Committee is deeply concerned by reports of discrimination against migrant workers in the State party. In particular, the Committee is disturbed by information indicating that sub-Saharan migrant workers are victims of racial discrimination and are represented in a racist manner in the media.

20. The Committee recommends that the State party should ensure that all migrant workers and members of their families within its territory or subject to its jurisdiction enjoy the rights provided for in the Convention without any discrimination, in conformity with article 7. The Committee also recommends that the State party should immediately take effective measures to combat the racial and social stigmatization of migrant workers, in particular sub-Saharan migrant workers. The Committee invites the State party to adopt a law against racism and all racial discrimination and to conduct awareness and education campaigns on this subject.

Right to an effective remedy

21. The Committee notes that, according to the information provided by the State party, migrant workers and members of their families may use any of the remedies available in the event of an abuse of power or a violation of their rights. However, the Committee is deeply concerned about the lack of information on cases of complaints of violations of migrant workers' rights, which reflects the difficulties that migrant workers and members of their families face in seeking redress for violations of their fundamental rights.

22. The Committee reminds the State party that the mere absence of complaints and legal action by migrant workers whose rights have been violated may be largely an indication that the legislation on the subject is inadequate, that the available remedies are not generally known or that the authorities are unwilling to prosecute. It recommends that the State party should disseminate information to migrant workers and members of their families, including those in an irregular situation, concerning the judicial and other remedies available to them and that it should deal with their complaints as effectively as possible. It also recommends that the State party should ensure that migrant workers and members of their families, including those in an irregular situation, have the same opportunities as nationals of the State party to file complaints and to obtain effective redress from the courts when their rights under the Convention have been violated.

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

23. The Committee notes with concern that Act No. 02-03 penalizes with fines or imprisonment any persons who leave Moroccan territory irregularly. The Act also stipulates that any foreign nationals living in Morocco under any kind of residence permit are free to leave the country, except if they are subject to an administrative decision whereby they must inform the administrative authorities of their intention to leave the country.

24. Taking into account article 8 of the Convention, the Committee recommends that the State party should take the necessary measures to ensure that all migrant workers and members of their families are free to leave the State party, including Moroccan migrant workers and members of their families.

25. The Committee regrets that Act No. 02-03 (chapters VII and VIII) criminalizes irregular migration and provides penalties of imprisonment and fines for Moroccan and foreign migrants in an irregular situation. The Committee regrets that the State party has not provided information either on the implementation of these legal provisions in practice or on the number of migrant workers placed in administrative custody or judicial detention.

26. **Taking into consideration its general comment No. 2 (2013) on the rights of migrant workers in an irregular situation and members of their families, the Committee considers that the undocumented entry or exit of migrant workers and residence exceeding the duration of their residence permits cannot be considered to be crimes. Consequently, the Committee recommends that the State party decriminalize irregular migration and make provision for appropriate administrative penalties for such offences.**

27. While noting that the State party has criminalized all acts of torture in articles 231 et seq. of Act No. 43-04 of 14 February 2006, the Committee is deeply concerned about reports that irregular migrant workers are victims of physical and psychological abuse, including sexual abuse and potentially fatal extreme violence, as well as of ill-treatment by some of the security services and by criminal groups in the State party. The Committee notes that the victims of this violence include unaccompanied minors and pregnant women. The Committee regrets that the State party has not provided information on measures taken to correct this situation and to afford the necessary protection to migrant workers and members of their families.

28. **The Committee recommends that the State party should take measures and step up its efforts to urgently rectify the problems of ill-treatment and other acts of violence committed against migrant workers and members of their families, regardless of who perpetrates such acts. In particular, the Committee recommends that the State party should take the following measures:**

(a) **Ensure that migrant workers and members of their families have access to independent complaint mechanisms and to legal counsel and interpreters;**

(b) **Ensure that any acts of torture or cruel, inhuman or degrading treatment, and any attempt on the life of a migrant worker are the subject of inquiries and investigations;**

(c) **Ensure that the perpetrators of such acts are tried and sentenced appropriately;**

(d) **Hold training sessions on human rights, on avoidance of the use of violence and specifically on the content of the Convention for police officers and border guards.**

29. The Committee notes the efforts made by the State party to ensure access to health services for all migrant workers regardless of their status, in the same conditions as Moroccan citizens. However, the Committee is concerned by reports that most migrant workers, above all those in an irregular situation, experience difficulties in accessing emergency care or treatment and most fear arrest by the authorities if they request medical assistance. The Committee also regrets the fact that migrant workers, especially those in an irregular situation, often live in precarious conditions, without access to basic health services.

30. **The Committee recommends that the State party should put in place effective measures to ensure that migrant workers and members of their families, including those in an irregular situation, have access to emergency medical care, as well as to basic health services. The Committee further recommends that the State party carry out awareness campaigns for health practitioners on the rights of migrant workers.**

31. The Committee notes with concern information indicating that the State party carries out collective expulsions of migrant workers and members of their families to Algeria and Mauritania and that often the migrants, in particular pregnant women and unaccompanied minors, are abandoned in desert areas, including in mined areas or areas where they are likely to become victims of violence, including sexual violence against women, in precarious conditions that leave them more vulnerable to attacks and exploitation. While noting the State party's efforts to establish monitoring mechanisms, the Committee observes that further efforts are needed to ensure compliance with the legal provisions on expulsion or refoulement.

32. The Committee recommends that the State party should take appropriate measures to establish a legal framework governing expulsion and removal, in accordance with the Convention, and to take into consideration its general comment No. 2 (2013), which in particular establishes that the persons concerned have the right to explain why they should not be expelled and to have their cases examined by a competent authority. The Committee further recommends that the State party establish monitoring mechanisms to ensure that removal of migrants to the border takes place with strict respect for the international standards concerning migrants.

33. The Committee notes that article 19 of Act No. 02-03 establishes the cases in which foreigners' residence permits may be revoked. The Committee is concerned about reports that the Moroccan authorities systematically and arbitrarily confiscate and destroy the documents of migrant workers turned away at the border when they try to assert their rights.

34. The Committee recommends that the State party take adequate measures to end the abuse and violations to which migrant workers and members of their families are subjected. Specifically, it urges the State party to establish a mechanism for monitoring the activities of the Moroccan authorities responsible for or involved in migration procedures so as to ensure that abuses and violations committed against migrant workers and their family members, such as the confiscation and destruction of their identity documents, are the subject of inquiries and that those responsible are prosecuted and punished in accordance with article 21 of the Convention.

35. While noting that a bill on domestic workers was adopted by the Council of Government of the State party on 2 May 2013 and submitted to parliament on 8 August 2013, the Committee notes with concern that migrant domestic workers, including those in irregular situations, and women in particular, are particularly vulnerable to various types of exploitation.

36. The Committee recommends that the State party should, in its bill on domestic workers, ensure conformity with the Convention and take into account the following elements mentioned in the Committee's general comment No. 1 (2010) on migrant domestic workers:

(a) Labour inspections to monitor the working conditions of migrant domestic workers;

(b) Fines and other penalties for employers who exploit migrant domestic workers or subject them to forced labour or abuse, especially in the informal economy;

(c) Access to effective mechanisms to file complaints against employers and to prosecute and punish those who are responsible for abusive practices.

37. The Committee recognizes the efforts made by the State party to ensure that migrant workers have access to birth registration. However, the Committee notes with concern that,

in practice, migrant workers, especially those in an irregular situation, face administrative obstacles during registration.

38. The Committee recommends that the State party take the measures necessary to ensure that all children of migrant workers, including those in an irregular situation, are registered when born.

39. The Committee notes with concern that the children of migrant workers face difficulties in gaining access to education owing to the conditions imposed, which include presentation of a birth certificate, residence certificate, certification of employment of the parents, education or equivalence certificates for children who have already received an education in their countries of origin, an age limit for registration and knowledge of Arabic as a precondition for registration.

40. The Committee recommends that the State party take all necessary measures to ensure that children of migrant workers, including those in an irregular situation, have access to education on the basis of equality of treatment. The Committee further recommends that the State party should establish programmes, policies and mechanisms to prevent discrimination in the school system. The Committee invites the State party to make all necessary provisions so that its next periodic report includes data disaggregated by sex, age and nationality on the number of children of migrant workers in primary and secondary schools, including when such children or their parents are in an irregular situation.

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

41. The Committee notes with satisfaction that the Moroccan Constitution recognizes the right of Moroccans residing abroad to vote and be elected. The Committee welcomes the efforts made by the State party to allow Moroccan migrant workers living abroad to participate in the 2011 constitutional referendum, but regrets that there is still no means to ensure their participation in elections.

42. The Committee encourages the State party to take measures to facilitate the exercise of the right to vote by all Moroccan migrant workers living abroad.

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

43. The Committee notes the mechanisms established by the State party in cooperation with the International Organization for Migration to ensure economic and social integration of Moroccan migrant workers who voluntarily return to the State party. However, the Committee regrets that it has received no specific information on the implementation of these mechanisms. In the light of the information that was provided, the Committee notes the lack of effective measures to take account of the concerns of Moroccan migrant workers expelled from Algerian territory in the past by promoting adequate economic conditions for their resettlement and facilitating their sustainable social and cultural reintegration in the State party, in accordance with article 67 of the Convention.

44. The Committee recommends that the State party take the necessary measures to ensure the reintegration of Moroccans who return to the State party. The Committee also recommends that the State party take effective measures with regard to Moroccans expelled from Algerian territory, in accordance with article 67 of the Convention. The Committee invites the State party to provide information in this regard in its next periodic report. The Committee also invites the State party to

provide information on international cooperation efforts undertaken pursuant to article 64 of the Convention.

45. The Committee notes the help provided by the State party to Moroccan migrant workers living abroad through legal aid programmes, administrative and social assistance programmes and other cultural and educational programmes, and also the increase in the number of consular posts. However, the Committee regrets the absence of information on the impact of such programmes and on how Moroccan migrant workers living abroad in an irregular situation benefit from them.

46. The Committee recommends that the State party ensure that its consular or diplomatic authorities provide information and appropriate assistance to Moroccan migrant workers and members of their families living abroad, including those in an irregular situation.

47. The Committee notes the efforts made by the State party to combat human trafficking, including the launching of a national strategy to combat trafficking in persons in 2007, but notes with concern information to the effect that some migrant women have been forced into prostitution and migrants have been subjected to forced labour in the State party. The Committee also notes that Moroccan men, women and children are subjected to prostitution and forced labour in Europe and the Middle East. The Committee notes with concern that victims of trafficking are afraid to file complaints for fear of expulsion and that few traffickers are tried or convicted. The Committee regrets that the State party provided no specific data indicating the scope of this practice in the country, in particular with regard to the number of victims. The Committee further regrets that there is no law or policy on combating human trafficking and that the measures taken to prevent trafficking and to protect and assist the victims are limited in nature.

48. The Committee recommends that the State party should take the necessary measures to ensure that its national strategy to combat trafficking in persons includes in particular the following measures:

- (a) Adoption of a law to combat trafficking in persons and protect victims of trafficking;**
- (b) Systematic collection of disaggregated data on trafficking in persons;**
- (c) Intensification of prevention campaigns, especially in border areas, where victims of trafficking are most numerous;**
- (d) Establishment of effective mechanisms for the identification, protection and assistance of all victims of trafficking, in particular, by providing shelters and initiating projects to help them rebuild their lives;**
- (e) Improvement of training for police and other law enforcement officers, judges and prosecutors, labour inspectors, teachers and staff of health services, embassies and consulates of the State party.**

6. Follow-up and dissemination

Follow-up

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

50. The Committee urges the State party to involve civil society organizations working in the field of migration at the national level in preparing its second periodic report.

Dissemination

51. The Committee also urges the State party to disseminate the present concluding observations widely, including among public bodies and the judiciary, non-governmental organizations and other members of the civil society, and to take steps to make them known to Moroccan migrants living abroad as well as foreign migrant workers in transit or residing in Morocco.

7. Next periodic report

52. The Committee invites the State party to submit its second periodic report by 13 September 2018. Alternatively, the State party may also opt for the simplified reporting procedure whereby the Committee draws up a list of issues for the State party. The State party's replies to the list of issues constitute its report under article 73 of the Convention, without the State party having to submit a traditional periodic report. This new optional procedure was adopted by the Committee at its fourteenth session in April 2011 (see A/66/48, paragraph 26).

53. The Committee urges the State party to ensure the wide participation of all ministries and public bodies in the preparation of the next report and to consult a variety of migrant workers' and human rights organizations.

54. The Committee invites the State party to follow the harmonized guidelines on reporting under the international human rights treaties (HRI/GEN/2/Rev.6), including the guidelines on a common core document and treaty-specific documents. The Convention-specific document should be limited to 40 pages, while the updated common core document should not exceed 80 pages.
