



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 second periodic report of Guatemala*

1. The Committee considered the second periodic report of Guatemala (CMW/C/GTM/2) at its 413th and 414th meetings (CMW/C/SR.413 and CMW/C/SR.414), held on 2 and 3 April 2019. At its 429th meeting, held on 12 April 2019, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the submission of the State party's second periodic report, which was prepared in response to the list of issues prior to submission of the report (CMW/C/GTM/QPR/2), as well as the additional information provided during the dialogue by the high-level delegation, which was headed by the Chair of the Presidential Commission for the Coordination of Human Rights Policy, Jorge Luis Borrayo Reyes, and comprised representatives of the Ministry of Labour and Social Welfare, the Social Welfare Secretariat of the Office of the First Lady, the Social Welfare Secretariat, the Ministry of Foreign Affairs, the Ministry of the Interior, the Ministry of Health and Social Welfare, the Congressional Commission on Migrants, the National Council for Assistance to Guatemalan Migrants, the National Institute of Forensic Sciences, the Guatemalan Migration Institute, the Presidential Commission for the Coordination of Human Rights Policy, the Ministry of Economic Affairs, and the Permanent Mission of Guatemala to the United Nations Office at Geneva.

3. The Committee appreciates the open and constructive dialogue held with the delegation. The Committee commends the State party for the timely submission of its report and for its high-quality content, which demonstrates the State party's interest in sharing the work it has done to implement the Convention.

4. The Committee acknowledges that Guatemala, as a country of origin of migrant workers, has made progress in protecting the rights of its nationals working abroad. However, the Committee also notes that, as a country of origin, transit, destination and return, the State party is facing an unprecedented situation owing to mixed migratory movements, in particular mass migrations known as "migrant caravans", headed for the United States of America and Mexico, and that this makes it difficult for Guatemala to fulfil its obligation to protect the rights of migrant workers and members of their families under its jurisdiction.

5. The Committee notes that a large part of the population in Guatemala suffers from adverse living conditions as a result of high rates of poverty, corruption, violence and crime,

* Adopted by the Committee at its thirtieth session (1–12 April 2019).



social exclusion of certain groups and underemployment, and natural disasters and climate change, in particular in areas of the so-called “dry corridor”. These are also the structural causes that lead to forced migration. The Committee notes that the foregoing has a higher impact on the most vulnerable sectors of the population, such as indigenous peoples, peasant farmers and poor people. The Committee takes note of the State party’s efforts to reverse this situation and uphold their people’s right to migrate or not to be forced to migrate.

6. The Committee notes that some countries where Guatemalan migrant workers are employed are not parties to the Convention, which may constitute an obstacle to the enjoyment by migrant workers of their rights under the Convention and that, in spite of this, Guatemala has continued to support its nationals in those countries.

B. Positive aspects

7. The Committee welcomes the adoption of the following legislative measures:

(a) Congressional Decree No. 10-2015, amendments to the Migration Act (Congressional Decree No. 95-98);

(b) Elections and Political Parties Act, Congressional Decree No. 26-2016, establishing the right to vote for Guatemalans living abroad;

(c) Congressional Decree No. 44-2016, on the adoption of the Migration Code;

(d) Congressional Decree No. 19-2017, on the adoption of an amendment to the Constitution of the International Organization for Migration.

8. The Committee also welcomes the following institutional and policy measures:

(a) The adoption of the State Policy to Combat Trafficking in Persons and Provide Comprehensive Protection for Victims 2014–2024, of the Secretariat against Sexual Violence, Exploitation and Trafficking in Persons;

(b) The adoption of the 2017–2032 National Decent Employment Policy of the Ministry of Labour and Social Welfare, of which the Migration for Development Programme is a part;

(c) The adoption of the State Policy and Action Plan for the Comprehensive Protection of Children and Adolescents (2017–2032) of the Secretariat against Sexual Violence, Exploitation and Trafficking in Persons, which includes a component on unaccompanied migrant children and adolescents;

(d) Adoption of the “Migrants Become Entrepreneurs” programme of the Ministry of Economic Affairs;

(e) The restructuring of the Office of the Advocate for Children and Adolescents of the Attorney General’s Office, which resulted in the creation of the Migrant Children and Adolescents and International Abduction Unit;

(f) The establishment of the Commission for the Comprehensive Care of Migrant Children and Adolescents by Government Order No. 146-2014.

9. The Committee also notes with satisfaction the invitations extended by the State party to the United Nations special procedures, including:

(a) The Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material, 2013 (A/HRC/22/54/Add.1);

(b) The Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 2011 (A/HRC/17/25/Add.3);

(c) The Special Rapporteur on the rights of indigenous peoples, 2011 (A/HRC/18/35/Add.3).

10. The Committee considers it positive that the State party voted in favour of the Global Compact for Safe, Orderly and Regular Migration, adopted by the General Assembly in its resolution 73/195, of 19 December 2018, and recommends that the State party work towards fully implementing the Convention.

11. The Committee wishes to highlight the establishment of and the activities carried out by a number of collegiate bodies, such as councils, working groups and committees, that have worked in a coordinated manner on programmes and projects devoted to migrants, and it acknowledges the State party's efforts to coordinate the activities of all its institutions to comply with its obligations under the Convention.

C. Principal subjects of concern and recommendations

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

Legislation and application

12. The Committee notes with appreciation the various laws, policies, programmes and other initiatives introduced to protect the rights of migrant workers in the State party and of its citizens abroad, particularly since the adoption of the new Migration Code (Decree No. 44-2016), which entered into force on 1 May 2017. The Committee is, however, concerned at the lengthy implementation of the Code and its secondary legislation. The Committee also expresses its concern about the content of articles 46, 50 and 195 of the Code, with regard to various rights of the Convention and the principle of non-refoulement.

13. The Committee recommends that the State party put into practice supplementary regulations to effectively implement the Migration Code; such regulations should be in line with the Convention and the Committee's general comments. When all such regulations have been adopted, the Committee recommends that the State party follow up on their application so as to align with the Convention any provisions that might be inconsistent with it. It also invites the State party to provide, in its third periodic report, more information regarding the application of the Convention and of the Committee's general comments by domestic courts. The Committee recommends amending articles 46, 50 and 195 of the Code, so as to fully guarantee the right to non-refoulement, as well as the prohibition of denial of entry at the border or indirect refoulement, in accordance with paragraphs 50 and 51 of general comment No. 2 (2013) on the rights of migrant workers in an irregular situation and members of their families and article 22 of the Convention.

Ratification of relevant instruments

14. The Committee notes that the State party has ratified almost all the major human rights treaties, as well as a number of International Labour Organization (ILO) conventions. Nevertheless, the Committee notes that the State party has not yet ratified the International Convention for the Protection of All Persons from Enforced Disappearance, the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the Optional Protocol to the Convention on the Rights of Persons with Disabilities, the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, the ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) and the ILO Domestic Workers Convention, 2011 (No. 189).

15. The Committee recommends that the State party consider ratifying or acceding to the above instruments as soon as possible.

Comprehensive policy on migration

16. The Committee notes the efforts made by the State party to address various migration-related issues. However, the Committee is concerned that the comprehensive policy on migration has not yet been implemented. While the Committee considers the

restructuring of the State party's institutions as a positive step towards improving management of migration matters, it is nevertheless concerned about the time that this is taking and about the fact that the delay is having a weakening effect on institutions.

17. **The Committee recommends that the State party give priority to institutional reform and allocate adequate resources towards implementing the comprehensive policy on migration, in line with the Convention and the Migration Code, swiftly and effectively in respect of all the entities involved. In addition, the Committee recommends that the State party emphasize the need to address gender-related issues and human rights approaches in all the institutions that deal with migration. The Committee also recommends that the finalized version of the policy on migration be widely disseminated among Guatemalans, so as to ensure its effective implementation, and that it involve civil society and clearly define the roles of each institution that deals with migration at the national, departmental and local levels, making sure that there is no overlap of functions and that security agencies do not take over functions of the Migration Institute. The Committee recommends that the State party take the necessary measures to ensure that the comprehensive policy on migration takes a human rights approach.**

Coordination

18. The Committee notes that, according to the Migration Code, the new Migration Institute will be the highest migration authority in the State party and will have broad powers to manage migration in the State party, while holding a fundamental role in the implementation of the Convention.

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

(a) **Take the necessary measures to ensure that the Migration Institute is provided with the necessary human, technical and financial resources for it to be an efficient, transparent entity with a human rights perspective, and for it to hire highly qualified staff who have received human rights training, are dedicated to public service and are familiar with gender and child protection issues;**

(b) **Adopt the necessary domestic legislation, once finalized, in connection with which the Committee highlights the importance for the new Migration Institute to move away from public-security-based approaches or the criminalization of migration, while preparing to manage individual migration, mass migration and contingencies, based on the lessons learned in recent months;**

(c) **Ensure collaboration and cooperation among the institutions that deal with migration and optimize the work of entities such as the National Council for Assistance to Guatemalan Migrants by boosting support for their offices located in border areas.**

Data collection

20. The Committee is concerned about the insufficient disaggregated statistics on migration flows into, out of and through the State party, in particular on migrant workers and members of their families in an irregular situation, as well as other migration issues, such as migrant workers in detention in the State party, migrant workers who are nationals of the State party and who are in detention in the State of destination, and the number of unaccompanied migrant children in the State party.

21. **The Committee recommends that, in line with target 17.18 of the Sustainable Development Goals and following an approach based on human rights, gender equality and non-discrimination, the State party:**

(a) **Strengthen the data collection system for all entities that provide services to migrant workers and members of their families;**

(b) **Conduct a systematic assessment of the situation of migrant workers in a regular or irregular situation, and report thereon to the Committee in its next periodic report;**

(c) **Verify the information on detained migrants and on unaccompanied migrant children and compare this information with that of neighbouring countries and destination countries (Mexico and the United States), in connection with which it also recommends that the State party take steps to ensure that measures will be taken for the immediate assistance and protection of those groups of migrant workers and members of their families.**

Training on and dissemination of the Convention

22. The Committee takes note of the measures adopted by various Government institutions to disseminate the Convention and to train some staff who are responsible for protecting migrant workers' rights. However, the Committee is concerned that there is still no continuous training on the Convention and that efforts to provide training on the Convention to all relevant stakeholders remain insufficient.

23. **The Committee reiterates its previous recommendation (CMW/C/GTM/CO/1, para. 17) that the State party:**

(a) **Improve and expand education and training programmes on the rights enshrined in the Convention and related domestic legislation, with a view to establishing them as ongoing programmes that adopt a gender perspective; such programmes should target all public institutions for awareness-raising purposes and should be compulsory for staff at institutions responsible for matters relating to migration, including law enforcement and border authorities, judges, prosecutors and local authorities;**

(b) **Use effective mechanisms to evaluate the impact of such training, for instance, how many tribunals apply the Convention in cases involving migrants and how many centres for minors have taken action in follow-up to the recommendations of joint general comments Nos. 3 and 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and Nos. 22 and 23 (2017) of the Committee on the Rights of the Child, on the human rights of children in the context of international migration in countries of origin, transit, destination and return;**

(c) **To increase its cooperation with universities, civil society organizations and the media to disseminate information about the Convention and encourage migrant workers and members of their families to demand respect for their rights under the Convention.**

Participation of civil society

24. The Committee notes that the Migration Code contains a provision on cooperation, assistance and joint activities involving civil society. However, the Committee has received information about a proposal for legal reform that could limit the autonomy and functionality of the work of civil society organizations, including those working for the rights of migrant workers.

25. **The Committee encourages the State party to ensure the continued broad participation of Guatemalan migrants' organizations abroad, notably in Canada, the United States and Mexico, the human rights organizations of migrants in Guatemala and organizations and committees of family members of migrants from other countries in Central America. The Committee also recommends that any new standards be issued in compliance with the Convention without eroding acquired rights and without limiting the functionality of the work of civil society organizations that promote the rights of migrant workers and members of their families.**

2. General principles (arts. 7 and 83)

Non-discrimination

26. The Committee notes that the State party's constitutional and legislative framework includes provisions to combat discrimination and xenophobia and recognizes the equal

rights and dignity of all individuals in the territory of the State party, whether or not they are nationals. However, the Committee is concerned about the following:

(a) Discriminatory attitudes on the part of some public officials, the mistreatment of women and lesbian, gay, bisexual, transgender and intersex persons, as well as xenophobic responses in border areas of Guatemala;

(b) The marginality and poverty faced by indigenous peoples and peasant-farmer communities in the State party, who, because of their situation, are frequently subjected to evictions and displacement from their ancestral lands or the places where they have lived and worked for years, and many of whom have been forced to migrate to other countries.

27. The Committee recommends that the State party:

(a) **Further promote the hospitality and solidarity for which Guatemalans are well known and advocate, in migrant host communities, a culture of peace and dialogue, in other words, the peaceful resolution of conflicts and the appreciation of diversity, in order to meet the challenges of migration and the mass movement of persons;**

(b) **Give local governments the support they need to manage migration in their districts without resorting to the use of law enforcement;**

(c) **Adopt specific legislation classifying as a punishable act the various forms of discrimination, in accordance with article 7 of the Convention, and to amend national legislation where necessary to bring it into line with the Convention;**

(d) **Focus on combating social stigmatization and sanction all forms of aggression and violence against migrants, with particular emphasis on protecting women, lesbian, gay, bisexual, transgender and intersex persons, and children victims of assault, and develop campaigns against machismo and homophobia and promote social inclusion and respect for diversity;**

(e) **Take urgent measures to protect indigenous communities that are forced to migrate and grant them access to basic services, a good education and health care;**

(f) **Introduce a special programme to provide migration guidance to indigenous communities, with their voluntary consent, so that they are familiar with their rights and obligations in their own language and are made aware of the support that their country can offer them as migrants outside Guatemala.**

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

Protection from violence, physical injury, threats and intimidation

28. The Committee notes with concern reports that Guatemalan migrant workers and/or members of their families travelling along the migratory route towards the north have been the victims, at the hands of organized crime groups, gangs (maras) and even some police officers, immigration officers and other civil servants, of crimes including kidnapping, extortion, robbery, forced recruitment, sexual abuse, physical violence and other forms of ill-treatment. The Committee is also concerned about the lack of information from the State party on the incidents in question and the lack of effective mechanisms for filing complaints, supporting victims and facilitating access to justice and other forms of reparation. The Committee notes with concern the information it has received on acts of extortion carried out by officers of the National Civil Police during immigration controls and proceedings, acts that have intensified with the detention of buses transporting migrant workers in border areas, such as San Marcos, Huehuetenango, El Quiché, Petén, Chiquimula and Jutiapa. It is also concerned about the vulnerability of the personal data of migrant workers and their families when they seek social services from institutions.

29. The Committee recommends that the State party:

(a) **Strengthen mechanisms for protecting migrants who fall victim to crimes or abuse committed by organized crime groups or authorities along the migratory route towards the north, particularly in Mexico, including the specific**

measures taken to ensure migrant workers' access to justice, such as facilitating the filing of complaints, due process, the protection of witnesses and comprehensive reparation of the rights concerned;

(b) Sign partnership agreements involving the judicial authorities of Guatemala and Mexico;

(c) Establish a protocol of cooperation on legal aid for victims and maintain an ongoing dialogue with the National Human Rights Commission of Mexico;

(d) Take measures to ensure that the use of force in migration operations is governed by the principles of legality, absolute necessity and proportionality, and that it has a legitimate aim;

(e) Take measures to investigate, prosecute and punish, administratively and criminally, cases involving extortion and other offences committed by officers of the National Civil Police against migrant workers;

(f) Take measures to establish "firewalls" (protection of personal information and data) between migration control authorities and public institutions, such as the police and the authorities responsible for administering justice, health care and education, for all migrant workers and members of their families, regardless of their migration status.

30. The Committee takes note of the initiatives introduced to support families and the mechanisms created in respect of the search of missing or disappeared migrants, and recognizes the efforts made to that end by the State party, including in corpse identification, record-keeping, forensic analysis and the collaboration established with other States. The Committee expresses its concern about the activities of organized crime groups and the possible involvement of public officials in these disappearances through complicity or acquiescence.

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

(a) Make every effort to search for living migrants who are missing or have been disappeared;

(b) Strengthen the flexible mechanism for contacting, searching for and notifying the family members of missing, deceased and/or murdered migrants through a single procedure that facilitates the reporting of cases, and for repatriating and returning their remains when necessary;

(c) Uphold the rights of the families of disappeared migrant victims to justice and to the truth about the fate of their relatives and to comprehensive, appropriate and effective reparation.

Border management and migrants in transit

32. The Committee takes note of the State party's efforts to facilitate the transit of migrants through its territory and acknowledges that those who pass through its territory along the migratory route towards the north are not isolated or punished. The Committee is concerned at the slow response from the State party's authorities to the first "migrant caravan" in October 2018 and at the lack of a permanent strategy to deal with the mass movements that have continued since then. The Committee takes note of the memorandum of cooperation on border security signed on 27 March 2019 by Guatemala, the United States, El Salvador and Honduras. The Committee expresses its concern about the fact that the bilateral and multilateral agreements on border security and immigration control that have been signed with countries in the region may be contrary to the Convention and other instruments of international human rights law.

33. **In line with the Recommended Principles and Guidelines on Human Rights at International Borders of the Office of the United Nations High Commissioner for Human Rights, the Committee recommends that the State party:**

(a) Respect the human rights of migrants along the entire migration route and at border crossings;

(b) **Ensure that border management includes the development and oversight of joint plans with neighbouring countries, especially Mexico, for the safe and orderly passage of migrant caravans;**

(c) **Combat all forms of violence and enforce the principle of non-refoulement and the prohibition of arbitrary and collective expulsions of migrants;**

(d) **Finalize and execute the strategy to deal with mass movements of people, with the participation of local governments, civil society, human rights defenders and consulates in the countries of origin of people who travel in migrant caravans;**

(e) **Take the necessary measures to ensure that any bilateral and multilateral agreement on migration, as well as its implementation, is in conformity with the Convention, and in particular that such agreement does not involve the return, expulsion or deportation of migrant workers to their countries of origin or to third countries where their right to life or physical integrity may be violated, where the principle of non-refoulement is not respected or where torture and other cruel, inhuman or degrading treatment is not prohibited.**

Labour exploitation and other forms of ill-treatment

34. The Committee takes note of the State party's efforts to prevent forced labour, in particular through inspections carried out by the Ministry of Labour and Social Welfare. However, it notes with concern allegations that migrant workers, especially those in an irregular situation working in the State party, are often subjected to labour exploitation, including forced labour.

35. **Taking into account its general comment No. 2, the Committee recommends that the State party, in line with the Sustainable Development Goals (targets 8.7 and 16.2), increase labour inspections and prosecute, punish and sanction all persons or groups that exploit documented or undocumented migrant workers, including child migrant workers, or subject them to forced labour or abuse.**

36. The Committee welcomes the provision of data on remittances from Guatemalan migrant workers abroad and notes the economic strategies that are being developed to protect migrant workers' resources and ensure the free flow of their household income. Nevertheless, it considers that there is no comprehensive approach to protecting the interests of migrants and seeking opportunities in the management of remittances.

37. **Bearing in mind the vast number of remittances that Guatemala receives and the significant increase in that number in recent years, the Committee recommends establishing regulations on the transfer of resources to Guatemala and ensuring that rates are reasonable and conditions safe. It also recommends adopting a public policy to channel remittances towards improving people's quality of life, well-being and education, and towards productive enterprises, while ensuring that these resources do not fall into the hands of criminal organizations and their accomplices by means of extortion, blackmail or migrant smuggling/trafficking.**

Due process, detention and equality before the courts

38. The Committee is concerned at migrants' lack of access to justice, limitations on the ability of migrants in transit to file complaints, the fear that migrants have of being arrested if they bring an action before the courts because they are in an irregular situation, and the justice authorities' lack of knowledge of migration regulations, the Convention and the manner in which it should be applied in the handling of cases in court.

39. **The Committee recommends creating prosecutor's offices that specialize in crimes against migrants, and suggests establishing simplified processes for registering complaints and collecting testimonies from migrants so that investigations can be launched against criminal organizations that prey on migrants through various forms of extortion, exploitation and violation of their rights. It also recommends that justice be served regardless of whether a migrant has left the territory of Guatemala and that justice be demanded for Guatemalans abroad who have been victims of such crimes.**

Deprivation of liberty and conditions of detention

40. The Committee is concerned at the lack of detailed statistical information on various matters that have been put to the State party previously, relating to the detention of migrants, including migrant workers in Guatemala, and at the information received regarding the administrative detention of migrants prior to expulsion, including in airports.

41. **The Committee recommends phasing out all migration-related measures of deprivation of liberty and making any deprivation of liberty absolutely prohibited for children and adolescents. The Committee also recommends that the State party apply alternative measures for unaccompanied minors and that it place them in care centres run by personnel specializing in children, in line with joint general comments Nos. 3 and 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and Nos. 22 and 23 (2017) of the Committee on the Rights of the Child.**

Consular assistance

42. The Committee takes note of the progress made by the State party in improving and expanding the consular services available to Guatemalan migrant workers and members of their families, including through its 41 embassies with consular sections, 32 consulates and 90 honorary consulates. The Committee also appreciates the use of mobile consulates to bring services closer to citizens and the cooperation with other States to grant access to consular assistance in missions in other countries where it is not possible to set up a Guatemalan office. However, it considers that there is a lack of civil society involvement.

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

(a) **Continue building the capacity of its consulates and embassies to provide advisory services, legal assistance and protection to Guatemalan migrant workers and members of their families who live abroad, and implement the Protocol for Rights-Based Consular Assistance in the provision of all consular services;**

(b) **Involve civil society organizations, associations, volunteer organizations and churches in the management and care of migrants in countries of both origin and destination in order to enjoy the support and solidarity of its own nationals.**

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

Children in situations of international migration

44. The Committee notes the steps taken by the State party to protect children and adolescents in the context of migration, and the provisions of the Migration Code in this respect. The Committee appreciates the efforts made to enable the family reunification of almost 6,000 Guatemalan migrant children with their parents in destination countries. The Committee welcomes the adoption of the 2015 Protocol for Psychosocial Support in the Reception of Unaccompanied Migrant Children and Adolescents, which is being updated, and of the 2017 Protocol for the Reception and Care of Migrant Children and Adolescents, which it recognizes as examples of good practice, although they have been implemented unevenly thus far. The Committee is concerned at the situation of children's rights in the State party, which leads them to migrate to other countries; the rise in the number of migrant workers and their children and of unaccompanied minors who are deprived of their liberty; and the lack of comprehensive measures to protect the rights of children in expulsion proceedings.

45. **In line with joint general comments Nos. 3 and 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and Nos. 22 and 23 (2017) of the Committee on the Rights of the Child, the Committee recommends that the State party:**

(a) **Ensure that procedures involving unaccompanied children necessarily take account of the best interests of the child, with a view to adopting short- and long-**

term solutions, such as family reunification, integration in the host country, repatriation to the country of origin or resettlement in a third country;

(b) **Guarantee that no child or adolescent is repatriated without prior, justified and case-by-case verification that the measure is in his or her best interests and that his or her life will not be endangered;**

(c) **Follow up on pending cases involving Guatemalan mothers and fathers deported from the United States and children and adolescents who travelled alone and are in the custody of the United States authorities.**

International cooperation with countries of transit and destination

46. The Committee notes the existence of bilateral agreements with Mexico and Belize and the regional initiatives adopted with neighbouring countries or in the context of the Regional Conference on Migration. It also takes note of the Central American Border Control Agreement between El Salvador, Honduras, Nicaragua and Guatemala, and the labour migration programme drawn up with Canada. The Committee understands that the holistic vision of the Plan of the Alliance for Prosperity in the Northern Triangle between Guatemala, El Salvador and Honduras is to address the structural causes of migration and prevent irregular migration. However, it considers that implementation is inefficient and that the actions under some of these plans do not reach the most vulnerable population groups, who are forced to migrate. Furthermore, since these mechanisms were set up prior to the mass migrations, they are ill-suited to this new reality and to the needs of the groups involved.

47. **The Committee recommends that the State party redouble its efforts to raise awareness of and implement the Central American Border Control Agreement, set up a mechanism to assess the impact of the Plan of the Alliance for Prosperity in the Northern Triangle, and consider adjusting or supplementing these initiatives in order to deal with the current migration situation and to address any inconsistencies with the Convention. The Committee also recommends that the State party continue to promote, at the bilateral and regional levels, initiatives and agreements aimed at safeguarding the rights and guarantees contained in the Convention in respect of migrant workers and members of their families, such as fair wages and access to social security, regardless of their migration status.**

Private recruitment agencies

48. The Committee notes the steps being taken to regulate and monitor private recruitment agencies, including the efforts of the Ministry of Labour to adopt regulations on the registration, authorization and operation of recruiters, recruitment agencies and placement agencies of Guatemalan workers inside and outside Guatemala, the purpose of which is to grant authorization to and register agencies that recruit people for work abroad.

49. **In accordance with the United Nations Guiding Principles on Business and Human Rights, the Committee recommends that the State party:**

(a) **Strengthen the legal and regulatory framework applicable to private recruitment agencies;**

(b) **Strengthen recruitment monitoring and inspections to prevent private recruitment agencies from charging fees for their services to migrant workers and from acting as intermediaries for abusive foreign recruiters;**

(c) **Ensure that private recruitment agencies provide complete information to individuals seeking employment abroad and that they guarantee the effective enjoyment of all agreed employment benefits, in particular fair wages and decent working conditions;**

(d) **Put in place an easily accessible complaints mechanism to enable migrants who consider that they have been affected by the actions of recruitment agencies to access justice and receive free legal aid, including when it is the family members of migrant workers who make the complaints.**

Return and reintegration

50. The Committee takes notes of the work of the inter-institutional coordinating committee for the reception of migrants who have been forced to return to Guatemala and the various support programmes in place for returning migrants, including the “A Migrant’s Trace” strategy, the “Stay” and “Migrants Become Entrepreneurs” programmes, and the “2 x 1” project, which provide for initiatives such as the decent reception of returning migrants, vocational training, labour-market integration and self-employment and entrepreneurship schemes. Nevertheless, the Committee is concerned at the scant information provided about the impact of these programmes on the effective reintegration of returning migrant workers.

51. The Committee recommends that the State party, in accordance with article 67 of the Convention and the Sustainable Development Goals (target 10.7), to intensify initiatives to support migrants – with a focus on gender and cultural relevance – in returning to their places of origin and to expand measures for the durable reintegration of deported persons or returned persons. It also recommends offering psychosocial assistance to those whose human rights have been violated during the processes of leaving, transit, migration or return.

Trafficking in persons

52. The Committee notes the adoption of the State Policy to Combat Trafficking in Persons and Provide Comprehensive Protection for Victims 2014–2024, of the Secretariat against Sexual Violence, Exploitation and Trafficking in Persons, and the new regulations establishing the Migration Code. The Committee is concerned at the lack of information on the scale of trafficking in persons in the State party, the lack of sufficient human, technical and financial resources to prevent such trafficking, the lack of training for officials responsible for the implementation of anti-trafficking legislation and the limited administration of justice for trafficking victims.

53. The Committee recommends that the State party step up its efforts to combat trafficking in persons, in line with the Sustainable Development Goals (target 5.2), and in particular that it:

(a) **Effectively implement the legislation and public policies to combat trafficking in persons and provide comprehensive protection for victims for the period 2014–2024, including by establishing clearly defined goals, regular evaluations, the collection of reliable statistics and the allocation of an adequate budget;**

(b) **Improve the training of police officers and other law enforcement officials, border guards, judges, prosecutors, labour inspectors, teachers, health-care personnel and the State party’s embassy and consular personnel in order to combat trafficking in persons;**

(c) **Enhance international, regional and bilateral cooperation by concluding agreements with countries of origin, transit and destination on the prevention of trafficking in persons and the detection of organized crime networks, and cooperate with public prosecutor’s offices to arrest, prosecute and punish criminals.**

5. Dissemination and follow-up

Dissemination

54. **The Committee requests the State party to ensure the timely dissemination of the present concluding observations, in the official languages of the State party, to the relevant State institutions, including to government ministries, the legislature, the judiciary and relevant local authorities, as well as to non-governmental organizations and other members of civil society. The State party is encouraged to make the system for follow-up to the Committee’s recommendations a flexible tool, to be updated regularly and accessible to the public, alongside the system already set up by the State party.**

55. The Committee recommends addressing the implementation of the Convention, in particular the present observations and conclusions for the State party, together

with civil society organizations and that they explore the proposals made by civil society with respect to specific migration problems in Guatemala given their deep understanding of the daily reality of migrants.

Technical assistance

56. The Committee recommends that the State party avail itself of technical cooperation from the international community in order to follow up on the recommendations contained in the present concluding observations, in line with the 2030 Agenda for Sustainable Development.

Follow-up to concluding observations

57. The Committee requests the State party to provide, within two years (that is, by 1 May 2021), written information on the implementation of the recommendations contained in paragraphs 25, 31, 33 and 45 above.

Next periodic report

58. The Committee requests the State party to submit its third periodic report by 1 May 2024. The Committee encourages the State party to continue to follow the simplified reporting procedure in that regard. The Committee draws the State party's attention to its harmonized treaty-specific guidelines (HRI/GEN/2/Rev.6).
