



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 Belize in the absence of a report*

1. In the absence of a report by the State party, the Committee considered the situation in Belize with respect to the implementation of the Convention at its 264th meeting (CMW/C/SR.264), held on 2 September 2014. On the basis of information from, inter alia, other United Nations bodies and mechanisms, the Committee adopted, at its 268th meeting held on 4 September 2014, the following concluding observations.

A. Introduction

2. Belize acceded to the Convention on the Protection of All Migrant Workers and Members of Their Families on 14 November 2001. The State party was under the obligation to submit its initial report under article 73, paragraph 1, of the Convention by 1 July 2004. At its eighteenth session in April 2013, the Committee adopted a list of issues prior to the submission of the initial report (CMW/C/BLZ/QPR/1), based on rule 31 bis of the Committee's provisional rules of procedure (A/67/48, para. 26), which was transmitted to the State party on 1 May 2013.

3. The Committee regrets that the State party did not submit a reply to the list of issues, which would have constituted its report under article 73 of the Convention, despite numerous formal and informal requests to do so. The Committee also regrets that the State party has not submitted factual information about the country, in line with the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents (HRI/MC/2006/3 and Corr.1). The Committee considers that the State party's failure to honour its reporting obligations under the Convention amounts to a breach of article 73. The Committee also regrets that the State party did not send a delegation, which prevented it from engaging in a constructive dialogue with the State party. The Committee wishes to impress upon the State party that non-compliance with its reporting obligations creates serious obstacles to the effective functioning of the mechanism set up to monitor the implementation of the Convention.

4. As was indicated to the State party on 25 July 2014, the Committee proceeded to review the implementation of the Convention in the State party, in the absence of a report

* Adopted by the Committee at its twenty-first session (1–5 September 2014).



and without the presence of a delegation, on the basis of information that was available to it.

5. The Committee notes that the migratory processes in the State party embody intraregional and interregional movements mainly in the direction of North America. It also notes the existence of a migrant population predominantly from Central America.

B. Positive aspects

6. The Committee acknowledges that since its accession to the Convention, the State party has become a party to a number of other international human rights instruments, inter alia:

(a) The Convention on the Rights of Persons with Disabilities, on 2 June 2011;

(b) The Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, on 14 September 2006;

(c) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, on 1 December 2003;

(d) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, on 1 December 2003;

(e) The United Nations Convention against Transnational Organized Crime, on 26 September 2003;

(f) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Woman and Children, supplementing the United Nations Convention against Transnational Organized Crime, on 26 September 2003;

(g) The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, on 9 December 2002.

7. The Committee recognizes, as positive, that the 1981 Constitution of the State party guarantees the protection of the fundamental rights and freedoms of the individual, irrespective of his or her place of origin (art. 3).

C. Principal subjects of concern, suggestions and recommendations

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

Legislation and application

8. The Committee regrets the lack of information on measures taken to ensure that the provisions set forth in the Convention are effectively incorporated into the domestic legislation.

9. **The Committee urges the State party to take the necessary steps to ensure that its national laws and policies are in line with the provisions of the Convention and other international human rights treaties.**

10. The Committee notes that the State party has not made the declarations provided for in articles 76 and 77 of the Convention recognizing the competence of the Committee to receive and consider communications from States parties and individuals.

11. **The Committee encourages the State party to consider making the declarations provided for in articles 76 and 77 of the Convention, as soon as possible.**

12. The Committee notes that the State party is a party to a number of International Labour Organization (ILO) instruments but that it has not acceded to its Minimum Wage Fixing Convention, 1970 (No. 131); Safety and Health in Construction Convention, 1988 (No. 167); Private Employment Agencies Convention, 1997 (No. 181); Domestic Workers Convention, 2011 (No. 189); and Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143).

13. **The Committee invites the State party to consider acceding to ILO Minimum Wage Fixing Convention, 1970 (No. 131); Safety and Health in Construction Convention, 1988 (No. 167); Private Employment Agencies Convention, 1997 (No. 181); Domestic Workers Convention, 2011 (No. 189); and Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143).**

Data collection

14. The Committee is concerned at the lack of available official statistical data on migration, including irregular migrants and victims of trafficking, disaggregated by sex, age, nationality and migration status. The Committee is also concerned at the State party's failure to establish the origin, transit and destination of migration flows in the country, as no comprehensive database on migration is currently in place or envisaged in that regard.

15. **The Committee recommends that the State party create a centralized and comprehensive database on migration which should cover all aspects of the Convention. The database should include qualitative and statistical data, disaggregated by sex, age, nationality and migration status, so as to facilitate the adoption of measures for effectively implementing the provisions of the Convention. The State party should ensure that the database is adequately resourced and functioning, and should seek to cooperate with its consular and diplomatic representation abroad in order to compile data on migration and, among other measures, endeavour to systematically evaluate the situation of irregular migrants and victims of trafficking in the State party.**

Training on and dissemination of the Convention

16. The Committee notes that human rights training programmes have been carried out for immigration officers, new police recruits and the Belize Defence Force, in collaboration with the United Nations High Commissioner for Refugees, the Belize Human Rights Commission and the Red Cross, respectively. However, the Committee regrets that no information is available on migration-specific training programmes and materials on the Convention, nor on the dissemination of such information among all relevant stakeholders, including government bodies, domestic courts and civil society organizations. The Committee is also concerned at the lack of information on the existence of pre-employment or pre-departure training programmes for migrant workers.

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

(a) **Ensure that migration-specific human rights training programmes are available for all public officials working in the area of migration, in particular immigration officers, law-enforcement officers and defence forces, as well as judges, prosecutors, relevant consular officers, civil servants, local officials and social workers;**

(b) **Work in close collaboration with civil society organizations and the media, in order to disseminate information about and promote the Convention, including through the media;**

(c) **Take further steps to ensure access by migrant workers to information and guidance on their rights under the Convention in all commonly used languages in the country, in particular through orientation courses or seminars prior to employment or departure.**

2. General principles (arts. 7 and 83)

Non-discrimination

18. While noting with interest that the principle of non-discrimination is enshrined in the 1981 Constitution of Belize, the Committee remains gravely concerned at the discriminatory provisions contained in Chapter 156 of the Immigration Act (2000), relating to foreign nationals. In particular, the Committee is concerned that entry can be denied to a migrant worker and dependent children under 16 years of age on discriminatory grounds, including health or medical status, irrespective of whether or not there is a risk or danger to public health; physical or psychosocial disability, if it is considered likely to become a burden on public funds; as well as to homosexuals; prostitutes; and persons suffering from a communicable disease, including migrant workers living with HIV/AIDs. The Committee is also concerned that Section 24 (4) (c) of the Act empowers immigration officers to request any migrant worker wishing to enter the country to undergo a medical examination, on the basis of such discriminatory grounds.

19. **The Committee urges the State party to:**

(a) **Repeal all discriminatory provisions regarding entry of migrant workers into the State party contained in section 5 (1) of Chapter 156 of the Immigration Act (2000);**

(b) **Bring the laws and practice regarding entry of migrant workers and members of their families in line with article 8, paragraph 1, of the Convention, so as to ensure that permission for a migrant worker to enter the State party is not restricted, unless deemed necessary for the protection of national security, public order, health or morals, in accordance with the rights set forth in the Convention;**

(c) **Ensure the right to privacy of all migrant workers and members of their families wishing to enter the country, in accordance with article 14 of the Convention;**

(d) **Ensure that no medical examination is required on the basis of discriminatory grounds, including non-risk health or medical conditions, physical or psychosocial disability, real or perceived HIV/AIDS status or other communicable disease, sex work or sexual orientation or gender identity;**

(e) **Remove all restrictions on the rights of children of migrant workers based on the particular status or condition of their parents.**

20. The Committee notes with concern that section 42 of the Labour (Amendment) Act (2011) protects migrant workers from discrimination only with respect to unfair dismissal or discipline. The Committee is concerned that most labour complaints came from migrant workers from neighbouring countries in Central America.

21. **The Committee recommends that the State party amend the Labour (Amendment) Act (2011) to ensure that its legislation and practice is in compliance with article 25 of the Convention. In particular, the Committee recommends that the State party take all necessary measures to ensure that all migrant workers receive**

equally favourable treatment as that applied to nationals of the State party and that irregular migrant workers are not deprived of any labour rights by reason of their irregularity.

Right to an effective remedy

22. The Committee is concerned about the limited access to justice for migrant workers, regardless of their migration status, due to their lack of awareness of the administrative and judicial remedies available to them, of their right to file complaints and obtain effective redress, as well as other obstacles relating to access to justice, in particular delays in the delivery of justice attributable to a lack of efficiency in managing cases and registries of domestic courts. The Committee is also concerned about the following:

(a) The provisions of the Immigration Act (sect. 27.1), which stipulate that “an immigration officer who decides that a person is a prohibited immigrant may (a) order him to leave Belize and proceed immediately in the same vessel in which he arrived; or (b) order him to leave Belize within sixty days of entering Belize, and, if the immigration officer thinks fit, by a specified vessel; or (c) cause him to be arrested and brought before a magistrate’s court with a view to a removal order being issued”;

(b) The denial, stipulated by law, of the right of appeal against certain decisions, such as contained in sections 27.2, 28.6 and 30.6, and the lack of free legal representation, which is available only for capital offences;

(c) The lack of information concerning other administrative, judicial and other remedies available to migrant workers and members of their families in the State party, as well as information on cooperation with countries of origin and existing remedies in countries of employment.

23. The Committee recommends that the State party:

(a) Take effective measures to ensure that, in any migration procedure, migrant workers and the members of their families have access to justice on an equal basis with nationals of the State party, including by providing free legal assistance, and guarantee access to complaints procedures, irrespective of their migration status, as well as redress from the courts and other mechanisms when their rights under the Convention are violated;

(b) Systematically inform migrant workers and members of their families, including those in an irregular situation, about the available administrative, judicial and other remedies in the State party;

(c) Ensure that courts and judicial personnel have sufficient resources to address delays in the delivery of justice, in particular as regards management of cases and registries of the State party’s courts;

(d) Take effective measures, including through agreements with countries of origin, to ensure that consular and diplomatic staff accredited in the State party are fully informed of the available remedies so as to offer consular protection and assistance to migrant workers whose rights under the Convention may be impaired, in accordance with article 23 of the Convention.

24. The Committee notes with interest the Ombudsman Act (2000), which confers investigative powers on the Ombudsperson. However, the Committee is concerned about the selection criteria and dismissal procedures of the Ombudsperson and the prohibition to initiate proceedings or submit the Ombudsperson to the direction or control of any person or authority. The Committee is also concerned that:

- (a) The Ombudsman Act does not include a comprehensive mandate pertaining to the rights of migrant workers;
- (b) The investigations undertaken by the Ombudsperson can be scrutinized by the executive at any time (sect. 28.1);
- (c) Actions taken by the Belize Defence Force or falling under the Defence Act cannot be subject to investigation (sect. 12.2);
- (d) No information has been made available regarding the financial and human resources of the Office of the Ombudsperson to conduct its work effectively.

25. **The Committee urges the State party to:**

- (a) Provide the Office of the Ombudsperson with a broad mandate to effectively promote and protect the rights of migrant workers and members of their families under the Convention, in full compliance with the Paris Principles (General Assembly resolution 48/134, annex);**
- (b) Amend the Ombudsman Act (2000) to ensure that any action taken by members of the Belize Defence Force or falling under the Belize Defence Act can be effectively investigated by the Ombudsperson, and that no migrant worker is left outside of the protection of law whenever the Belize Defence Force may be in charge of his or her expulsion or deportation from the State party;**
- (c) Ensure that adequate financial and human resources are made available to enable the Office of the Ombudsperson to effectively discharge its mandate.**

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

26. The Committee is particularly concerned:

- (a) At the criminalization of irregular migrants arising from certain provisions of the law, such as those contained in sections 32.3, 33.4 and 34.1, 2 and 3 of the Immigration Act (2000);
- (b) At the treatment of undocumented migrants as criminal offenders and the period of time that they are detained in prison before being returned to their countries of origin;
- (c) At the detention, including indefinite detention, of migrant workers along with convicts under inhumane conditions and without basic assistance, including the possibility of seeking and establishing contact with lawyers and family relatives;
- (d) That children under 18 years of age, as well as unaccompanied minors, are held in detention facilities for committing infractions listed under the Immigration Act, before being deported.

27. **The Committee recalls that irregular entrance into a country or expiration of authorization to stay is an administrative infraction, not a criminal offence. Consequently, such situation cannot imply a punitive sanction. The Committee recalls that children should never be detained on the basis of their or their parents' immigration status, and urges the State party to:**

- (a) Remove from the its legislation any provision that considers any irregular immigration situation as a criminal offence;**
- (b) Take all appropriate measures to ensure that administrative detention of migrant workers and members of their families on the basis of their migration status is an exceptional measure only for the shortest time possible, and adopted in the framework of a process that includes all due process guarantees;**

(c) **Adopt, by law and in practice, alternative measures to detention of migrant workers and members of their families;**

(d) **Ensure that migrant workers and members of their families held in detention centres have access to legal aid and consular services, that they are held in humane conditions, and that their treatment is otherwise in full compliance with articles 16 and 17 of the Convention;**

(e) **Cease the detention and expulsion of migrant children on the basis of their migration status, and ensure that the best interest of the child and the principle of non-discrimination are taken as primary considerations.**

28. The Committee is also concerned about provisions in the Immigration Act (2000) that allow for the collective expulsion of irregular migrants.

29. **The Committee urges the State party to:**

(a) **Ensure that collective expulsions are prohibited by law and that each case is examined and decided individually;**

(b) **Ensure that expulsions may only be carried out following a decision by a competent authority, in accordance with the law, and that the decision and the stated reasons are communicated to the migrant worker concerned in a language that he or she understands, and in writing;**

(c) **Take appropriate steps to inform migrant workers and members of their families of their rights in a deportation procedure, to submit evidence as to why they should not be expelled and to have their case reviewed by a competent authority, including a competent Court of Justice;**

(d) **Ensure migrant workers and members of their families their right to seek a stay of the expulsion decision, pending review by a competent authority;**

(e) **Ensure that migrant workers and members of their families are given the opportunity to settle claims for wages and other entitlements due, as well as any pending liabilities.**

30. The Committee is concerned about the situation of people requiring international protection, and notes that the Refugee Eligibility Committee has been inactive since 1997, which has a negative impact on all persons in need of humanitarian protection and assistance, including the fulfilment of the non-refoulement principle.

31. **The Committee recommends that the State party take all necessary measures to put in place a legal framework for expulsion procedures, in accordance with the provisions of the Convention and the Committee's general comment No. 2 on the rights of migrant workers in an irregular situation and members of their families, with regard to the fulfilment of the non-refoulement principle.**

32. The Committee notes that nationality in the State party is based on *jus soli*, whereby every child born in the territory of the State party automatically becomes a national of the country. However, the Committee remains concerned at persistent challenges in accessing birth registration, including by children of irregular migrants, particularly in rural areas, which greatly impairs their right to access social services.

33. **The Committee recommends that the State party take steps to make birth registration procedures more efficient and provide birth certificates for all children born in the State party, in accordance with article 29 of the Convention. The Committee further recommends that the State party carry out awareness-raising campaigns, particularly for vulnerable populations and in rural areas.**

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

34. The Committee regrets the lack of information on measures taken by the State party to facilitate family reunification.

35. The Committee recommends that the State party provide specific information in its next periodic report on practical measures taken to facilitate family reunification.

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

36. The Committee regrets that no official information has been made available concerning the general situation of children of migrant workers in the State party.

37. The Committee recommends that the State party conduct a nationwide study on migrant children, including both migrant children in the State party and children of Belizean migrant workers abroad who have been left behind in the State party, in order to better design policies and programmes.

38. While noting that the Labour Act (2000) prohibits children under 14 years of age from entering into contracts (sect. 54.1), the Committee is seriously concerned that the Labour Act allows for the employment of children, 12 years of age and under, particularly in agriculture or horticulture (sect. 170). Furthermore, the Committee is concerned that the Labour Act permits the employment of children, 16 years of age, to perform high-risk and hazardous tasks, including operating trimmers or mechanical stokers, and does not specify basic safety conditions for their well-being.

39. The Committee recommends that the State party:

(a) Repeal discriminatory provisions in section 170 of the Labour Act (2000) that authorizes the employment of children under the age of 12 years, including migrant children, and ensure a full ban on the recruitment and employment of all children under 14 years of age;

(b) Intensify efforts to combat migrant child labour through labour inspections in the agriculture and informal sectors, and ensure that anyone employing children are held accountable and that the children are rehabilitated;

(c) Conduct awareness-raising campaigns, in particular in rural areas, with a view to eradicating migrant child labour and other child labour practices, such as the recruitment of children in the agricultural sector;

(d) Ensure that every employed migrant child below the age of 16 is not subjected to hazardous or high-risk activities, and that they perform tasks that are age appropriate and that do not interfere with their schooling and leisure time;

(e) Redouble efforts within the framework of the 2009 National Child Labour Policy and the National Plan of Action for Children and Adolescents (2004–2015) to ensure the protection of children below the age of 18 against the worst forms of child labour.

40. The Committee notes the enactment of the Trafficking in Persons (Prohibition) Act (2013), which incorporates broader and stronger provisions on trafficking than its predecessor, the Prohibition of Trafficking in Persons Act 18/2003. In particular, the Committee notes that the new legislation contains, inter alia, a broad definition of trafficking and trafficking-related offences; recognizes the international and national dimensions of trafficking by individuals or criminal groups; recognizes its extraterritorial

jurisdiction as regards trafficking; establishes the Anti-Trafficking in Persons Council, with broad powers; and defines trafficking as an indictable offence before the Supreme Court. However, the Committee is concerned:

(a) That under the previous legislation, no convictions had been carried out since 2005, and that since 2013, under the new legislation, only a few convictions have been successfully prosecuted;

(b) At the failure of the State party to adequately identify victims of trafficking, especially migrant workers in an irregular situation;

(c) At the lack of awareness and understanding of State officials dealing with cases of trafficking, as well as corruption and the involvement of law enforcement agents in criminal trafficking activities;

(d) At information concerning sexual exploitation of migrant children and the prevalence of sex tourism in the country.

41. The Committee recommends that the State party strengthen its efforts to combat trafficking in persons, in particular women and children, and that it:

(a) Promptly, effectively and impartially investigate, prosecute and punish all acts of trafficking in persons, including sexual exploitation of children from disadvantaged families and other related offences, and deal expeditiously with the cases filed against illegal recruiters;

(b) Enhance existing identification procedures; develop referral mechanisms to improve assistance to victims of trafficking, with the involvement of service providers and the Ombudsperson; and establish hotlines for anonymous referrals of potential victims;

(c) Amend the current Trafficking in Persons (Prohibition) Act (2013) to create hybrid offences that could be tried by either the Supreme Court or Magistrate Courts;

(d) Reinforce the mechanisms of support, rehabilitation, protection and redress, including the State-funded social rehabilitation services and assistance in reporting incidents of trafficking to law enforcement officials, and ensure their availability to all victims of trafficking, including at provincial and local levels;

(e) Enhance training and capacity-building for law enforcement officials, judges, prosecutors, labour inspectors, service providers, teachers and embassy and consular personnel in the State party;

(f) Carry out an assessment of the effectiveness, and monitor the implementation, of the Trafficking in Persons (Prohibition) Act (2013), in particular with respect to corruption and complicity of public officials with trafficking, capacity-building for prosecutors, magistrates and judges dealing with cases of trafficking, and include relevant statistical data in its next periodic report;

(g) Intensify efforts to raise awareness on trafficking in persons, in particular as regards misleading and false information regarding the migration process; place public information materials in all transport terminals, in order to educate the public about trafficking and protection of migrants, in particular conducting campaigns in the tourism sector to prevent sex tourism; and encourage the private sector to adopt a “zero tolerance” policy to sex tourism and to protect children against trafficking and commercial sexual exploitation;

(h) Systematically collect disaggregated data on trafficking in persons.

6. Follow-up and dissemination

Follow-up

42. The Committee requests the State party to include in its next periodic report detailed information on measures taken to follow up on the recommendations contained in the present concluding observations. The Committee recommends that the State party should take all appropriate measures to ensure that those recommendations are implemented, including by transmitting them for consideration and action to members of the Government and the National Assembly, as well as local authorities.

43. The Committee requests the State party to involve civil society organizations more closely in the implementation of recommendations contained in the present concluding observations.

Dissemination

44. The Committee likewise requests the State party to disseminate the Convention and the present concluding observations widely, including to public agencies, the judiciary, non-governmental organizations and other members of civil society, so as to increase awareness thereof among judicial, legislative and administrative authorities, civil society and the public in general.

Technical assistance

45. The Committee recommends that the State party avail itself of international assistance, including technical assistance, to develop a comprehensive programme for the implementation of the above recommendations and the Convention as a whole. The Committee also calls upon the State party to continue its cooperation with the specialized agencies and programmes of the United Nations system.

7. Next periodic report

46. The Committee requests the State party to submit its combined initial and second periodic reports by 5 September 2016 and to include therein information on the implementation of the present concluding observations. Alternatively, the State party may follow the simplified reporting procedure, whereby the Committee draws up and adopts a list of issues that is transmitted to the State party prior to the submission of its next report. The replies of the State party to that list of issues will constitute its report under article 73 of the Convention. In that way, the State party does not submit its report in the traditional manner. This new optional procedure was adopted by the Committee at its fourteenth session in April 2011 (see A/66/48, para. 26).

47. The Committee draws the State party's attention to its harmonized treaty-specific guidelines (CMW/C/2008/1) and reminds it that periodic reports should be in compliance with the guidelines and not exceed 21,200 words (General Assembly resolution 68/268). In the event that a report exceeding the established word limit is submitted, the State party will be asked to shorten the report in accordance with the above-mentioned guidelines. If the State party is not in a position to review and resubmit the report, translation of the report for purposes of examination by the treaty body cannot be guaranteed.

48. The Committee requests the State party to ensure the wide participation of all ministries and public bodies in the preparation of its next periodic report (or replies to the list of issues, in the case of the simplified reporting procedure) and, at the same

time, to consult broadly with all relevant stakeholders, including civil society, migrant workers and human rights organizations.

49. The Committee also invites the State party to submit an updated common core document, not exceeding 42,400 words, in accordance with the requirements in the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents, approved at the fifth inter-committee meeting of the human rights treaty bodies in June 2006 (HRI/MC/2006/3 and Corr.1).
