



International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

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Summary record of the 206th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 11 September 2012, at 10 a.m.

Chairperson: Mr. El Jamri

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The meeting was called to order at 10.05 a.m.

Consideration of reports submitted by States parties under article 73 of the Convention *(continued)*

Initial report of Rwanda (continued) (CMW/C/RWA/1; CMW/C/RWA/Q/1 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Rwanda took places at the Committee table.*
2. **Ms. Nyirahabimana** (Rwanda) explained that Rwandans living abroad enjoyed the right to vote, which they exercised at the Rwandan Embassy in their host countries, and the right to stand as candidates in elections, for instance, to the East African Legislative Assembly. Moreover, some ministers and heads of public institutions were chosen from among members of the diaspora, on the grounds that full participation was necessary for the country's development. Each year, Rwandans living abroad and Rwandans who had remained at home took part in a national dialogue, lasting three to five days, on various matters related to governance. Rwandan children living abroad were given special courses in civic education, and the "Come and See. Go and Tell" programme permitted Rwandans living abroad to come and see for themselves the situation in the country and to tell others about it when returning to their country of residence.
3. The embassies maintained close ties with the expatriate community and gathered donations from Rwandans living abroad that contributed to the country's development. Protecting the interests of Rwandans living abroad was critically important, as shown by the repatriation of Rwandan citizens during the Arab Spring. She acknowledged that data from the embassies should be better disaggregated so that more precise information could be offered to the Committee about Rwandans throughout the world.
4. **Mr. Mutabazi** (Rwanda) said that the provisions of the Law on Immigration and Emigration addressed the rights of seasonal workers and border workers; there were great numbers of border workers, owing to the geographical position of Rwanda as a landlocked country, and to the significant migration flows on the African continent and in the region. Border workers, who included both foreigners in Rwanda and Rwandans on the other side of the border, were issued special multiple-entry visas that cost US\$ 100 and were valid for two years.
5. In addition, a number of regional protocols, such as those covering the Great Lakes region, signed by Rwanda, Burundi and the Democratic Republic of the Congo, permitted and favoured the free movement of people, while promoting the right of establishment and the right to engage in commerce. The immigration authorities of the States parties to those instruments issued the necessary documents to the seasonal or border worker, for a fee of less than US\$ 10, an affordable sum. The member States of the East African Community (EAC), which were Uganda, Kenya, Tanzania, Burundi and Rwanda, had also concluded various protocols on the free movement of workers, goods and services, which helped seasonal and border workers to become established in the region. Citizens of those countries needed only a national identity card to enter EAC countries, and there was no restriction on the length of stay or the reason for entering. *Laissez-passer* were issued free of charge to members of border communities, so that they could come and go across the border.
6. Officials in charge of the border areas met together monthly at a border post to discuss immigration problems, to consider solutions and to determine the status of offenders. Many electronic tools had been introduced to make it easier for border residents to pass through customs, in particular the electronic portals now being tested between the Democratic Republic of the Congo and Rwanda. Both the Law on Immigration and

Emigration and the regional protocols provided that borders must remain open around the clock, which had resulted in a sharp increase in trade in the region and more peaceful relations between peoples.

7. Rwandan workers living abroad could transfer funds to Rwanda without hindrance, either through banking institutions or by informal means. As for workers in an irregular situation, he said that immigration authorities and police in the region cooperated actively with each other to better monitor entry and exit, by using similar border check systems in all countries of the region. Several recent cases had demonstrated the effectiveness of the system, as, for instance, the interception by Rwanda of 62 Bangladeshis being transported to South Africa for exploitative purposes and 5 Ugandan girls en route to Hong Kong, where they would have been subject to sexual exploitation. In both cases, the traffickers had been arrested and prosecuted.

8. He had duly noted that data on repatriated Rwandans should be more precisely disaggregated so as to provide a better picture of the situation of migrant workers and their families. He pointed out that in 2011, with the assistance of the Ministry of Disaster Management and Refugee Affairs, there had been 6,793 registered repatriations, mostly of women.

9. Ever since the genocide of 1994, during which many children had lost their lives, protecting children had been a priority for the Government of Rwanda. In order to prevent the traffic in children, no child was permitted to leave Rwanda unless accompanied by a parent or guardian. The competent authorities carried out checks to ensure that children were not trafficking victims.

10. Although the figures were not as high as in other regions, they indicated that Rwanda was probably a human-trafficking transit country. In addition to laws and regulations, awareness campaigns were carried out, using traditional and social media, to describe how traffickers operated and how to avoid falling into their hands. Immigration authorities had also been holding briefings for migrant workers on the legislation in force, so that they would not find themselves in an irregular situation.

11. To combat illegal immigration, the Government of Rwanda had also bolstered border controls, and was blocking the entry or exit of people in an irregular situation. Those turned back were mostly people who were carrying forged documents or marijuana, or attempting to enter the country at illegal entry points, or whose visas had expired or who did not possess the requisite visa, or who had been found guilty of money laundering.

12. Altogether, 581 people had been expelled from Rwanda – 62 women and 519 men. Those expelled, most of whom lacked a valid passport, were returned to their country of origin at the expense of the Government, and handed over to the immigration authorities.

13. Although the porous borders meant that there were no exact statistics related to family reunification, the Government had recorded 900 cases of family reunification in Rwanda during 2009. There had been 2,508 such cases in 2011, an increase attributable to the living conditions of emigrants in Rwanda and to favourable laws. Family reunification was also eased by the prompt issuance of visas and work permits (between 24 hours and four working days). In addition, under recent legislation related to migration, dependants were authorized to work and fees for the work permit were one half the fee paid by the main breadwinner of the family. Visas and work permits were issued free to citizens of the East African countries.

14. **Mr. Nkerabigwi** (Rwanda) said that the Convention had been translated into Kinyarwanda, and had also been published in French and English, both official languages of the country. It had been widely distributed among the various partners, including government bodies, non-governmental organizations (NGOs), United Nations institutions

and trade unions, so that they could help to familiarize migrant workers with its provisions. The next step would consist in conducting an evaluation to determine how much migrant workers had, in fact, learned about the Convention.

15. Replying to the question about social security agreements with partner States, he explained that Rwanda was a party to two regional agreements, one with the EAC, the other with the Economic Community of the Great Lakes Countries. Those agreements facilitated the transfer of migrant workers' social security contributions from the country in which they worked to their country of origin, after their return home. The system set up within the framework of those agreements worked well; it had, for instance, made it possible to transfer social security contributions of Rwandans who had worked in neighbouring countries prior to 1994.

16. As for readmission agreements, he said that Rwanda had not concluded any agreements of that kind with partner States. Negotiations with the Russian Federation had been undertaken in 2009, but without success.

17. **Mr. Rusanganwa** (Rwanda), referring to the request for examples of instances in which migrant workers had brought cases before the courts, said that the lack of statistics did not mean that there had been no cases of that kind, since such statistics were not disaggregated by nationality. He emphasized that even before Rwanda had ratified the Convention, migrant workers had been able to bring their cases before the courts. He said that foreigners and nationals would be differentiated in future reports.

18. With regard to the detention of migrant workers, no distinction was made between detained foreigners and detained nationals; their conditions of detention were the same. In accordance with international laws and standards, detained persons enjoyed the right to health, and benefited from sports facilities and electricity. In 2011, a presidential decree had been issued establishing conditions for the construction of prisons, in accordance with the Standard Minimum Rules for the Treatment of Prisoners. As a result of that decree, four prisons had been closed down and others built. Moreover, since the Supreme Court had reminded judges that they should invoke the provisions of international instruments, he hoped that in future the terms of the Convention would be cited in a greater number of cases.

19. **Ms. Nyirahabimana** (Rwanda) said that foreign nationals enjoyed life in Rwanda. The working conditions, the business environment, and health and education policies were all favourable. Data concerning migration flows were not detailed enough; Rwanda would be sure to include disaggregated data in the next report. She also indicated that the courts and detention centres would be asked to collect reliable statistics on violations of the Labour Code. In her view, a visit from the Special Rapporteur on the human rights of migrants to examine the situation of migrant workers and members of their families would be appropriate.

20. **Ms. Poussi** (Country Rapporteur) asked whether the National Human Rights Commission of Rwanda had the independence it needed to carry out its mandate, whether it abided by the Paris Principles, and whether it had sufficient funding. She would also like to know whether, in the event of the death of a migrant worker, or the dissolution of the marriage, family members were permitted to remain in the country, or at least were given a reasonable period of time before being obliged to depart. She lamented the gaps in the ministerial order related to the expulsion of migrants. Under the terms of article 22, paragraph 4, of the Convention, a migrant worker or family member had the right to submit the reason he or she should not be expelled, to have his or her case reviewed by the competent authority, and to seek a stay of the decision of expulsion. The ministerial order contained no provisions addressing those rights. She would like to know whether other laws took those elements into consideration.

21. As for the criminalization of immigration-related offences, she said that in her view the punishments imposed, including imprisonment, were severe; she would like to know how Rwanda justified the existence of such provisions. Lastly, she wondered whether the Government had encountered difficulties in ensuring respect for the rights of Rwandans in host countries that had not ratified the Convention.

22. **Ms. Dicko** asked whether the Government had set up, within the framework of its migration policy, a mechanism for coordinating the activities of the different institutions responsible for matters relating to travel documents, employment and work, health, returning home, and money transfers.

23. **Mr. Carrión Mena** said that, having taken note of all the limitations on the implementation of various provisions of the Convention mentioned by the delegation of Rwanda, he wondered whether the country had the institutions necessary to comply with its obligations under that instrument.

24. As for the relationship between the Government and civil society, he would like further information on the functions of NGOs, on their relations with the Government, and on any programmes they were carrying out to promote the Convention.

25. **Mr. Brillantes** observed that the initial report of the State party was mostly devoted to the treatment of immigrant workers, which gave the impression that Rwanda was more an importer than an exporter of labour. The delegation should confirm whether that impression was correct. As for Rwandans who went abroad seeking work, he would like to know whether any institution was responsible for giving them assistance. Did the Government give licences to private companies offering recruitment services for work abroad? In which countries were work opportunities the most sought after? Did Rwandan workers abroad have access to diplomatic services, to the mass media and to culture, and could they take part in elections held in their country of origin? In the event that a Rwandan migrant worker died abroad, what authority was responsible for repatriating his body? In general, how much protection was given to Rwandans working abroad?

26. **Mr. Tall** (Rapporteur) said, with reference to the Law on Immigration and Emigration, that he would like to know where a migrant worker subject to provisional interception within the context of an administrative investigation was held. Could he be imprisoned? Under what conditions was he held? Was he held along with ordinary criminals? Citing article 12 of that law, regarding the burden that a foreigner might represent for Rwanda, he asked on what basis it was determined that a foreigner constituted a burden. In the absence of clearly defined criteria, the notion of “burden” could result in arbitrary decisions. With regard to appealing a deportation order against a migrant worker, the National Intelligence and Security Service was not in a position to guarantee the fairness of the procedure, which posed a problem given the migrant’s right to an independent and impartial judgement.

27. **Mr. Taghizade** said it was understandable that Rwanda did not yet have statistical data on migration flows but surprising that it could not give some approximate figures. As for Rwandans who had settled abroad, he would like clarifications on the protection of their rights in the country of residence, in particular regarding their participation in elections, their return to the country, and the transfer of funds.

The meeting was suspended at 11.35 a.m. and resumed at noon.

28. **The Chairperson** said that he would like to know what the Government of Rwanda intended to do about the tardy registration of migrant workers by their employers and about unregistered migrants. He would also like more information on the school enrolment of migrant workers’ children in both regular and irregular situations, on the situation of

migrant workers in the informal sector, on migrants' access to health insurance, and on the right of Rwandans living abroad to stand for office in a national election.

29. **Ms. Nyirahabimana** (Rwanda), replying to questions raised by the Chairperson, explained that all Rwandans could stand for office, under the same conditions, whether settled abroad or living in Rwanda. The law was clear on that matter and contained no special stipulations regarding place of residence. As for schooling for children of migrant workers, she said that education was available and free of charge for all children, whatever their social status. The Government, however, had no disaggregated data on that topic. Health insurance, known as "Mutuelle de santé", was available for all Rwandans, whether or not they worked. A regulatory framework should be established.

30. The National Human Rights Commission, established in 1999, had done a great deal of work in the area of human rights, which had included, inter alia, recommending that the Government ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The selection of members, which until recently had been arranged informally, was now a clearly defined process. The Commission drew up a budget and submitted it to the Government. It managed its own financial and human resources on an autonomous basis, and reported to Parliament on its activities.

31. There were good relations between the Government and NGOs, some of which had participated in the preparation of the initial report. NGOs carried out important work in the field; in the aftermath of the genocide, they had offered psychological support and brought hope to the people of Rwanda.

32. **Mr. Rusanganwa** (Rwanda) explained that, since the review of the legislation on the National Human Rights Commission, the procedure for the appointment of members had been clearly defined. Under that procedure, a selection committee ensured that the different sectors of Rwandan society were represented. That legislation also provided that the Commission would be financially autonomous. Currently, the president of the Commission was chiefly responsible for its budget.

33. NGOs had contributed to the re-establishment of a judicial system; they had trained judges, built new infrastructure, and provided materials. Generally speaking, they played an important role in disseminating information and generating awareness, and had made a significant contribution to the preparation of the initial report.

34. **Mr. Mutabazi** (Rwanda) said that, in the event of the death of a spouse or separation from a spouse, migrant workers were authorized by law to remain in Rwanda for a period of 90 days, which could be extended for an additional 90 days. A special authorization therefore amounted to a maximum of 180 days, which was long enough for the person concerned to find work or prepare to depart.

35. Rwanda had no places of detention specifically for migrant workers. The law provided that the High Court should hear the cases of people at risk of expulsion; they therefore enjoyed fair treatment. The expulsion was stayed until the decision had been handed down, and the person in question was given a special residency permit for the duration. As for the alleged severity of the legislation governing violations of the Law on Immigration and Emigration, the Committee's observations would be taken into account with a view to possible amendments thereto. In practice, the fines imposed were light, since the main purpose was not to punish but to generate awareness.

36. The Directorate-General of Immigration and Emigration was the institution responsible for formulating national migration policy. According to the Law on Immigration and Emigration, in the event of an epidemic, and thus also a quarantine, it was the Minister of Health who would determine what foreigner could or could not enter or exit. Under that scenario, the Directorate-General would work closely together with the Ministry

of Health to control migration flows. The measures brought to bear were based on international standards, such as the obligation to carry an international vaccination certificate. In the interests of efficiency, the Government of Rwanda had given the Directorate-General of Immigration and Emigration the task of issuing visas and work permits, which had resulted in shorter waiting periods. The current waiting period for a work or residence permit must not exceed four days. Owing to the simplified procedure, it was no longer necessary to visit several different administrative offices, and the passport was stamped only once. It should also be noted that the immigration authorities would henceforth be issuing travel documents to Rwandan nationals.

37. By raising awareness about the Law on Immigration and Emigration, it had been possible to reduce delays in the registration of migrants needing visas and work permits. In late 2008, 280 migrants had been in an irregular situation. Ninety-five per cent of those migrants were now regularized after having obtained a visa or paid a fine. None had been arrested.

38. **Mr. Nkerabigwi** (Rwanda) said that, in the past, Rwandans had received no assistance from the State in seeking employment abroad. In about the last six years, cognizant of the important role of the diaspora in the development of the country, the Government had been striving to promote employment abroad. That was now an integral part of the policies of the Ministry of Foreign Affairs, which would soon be setting up a department to help Rwandans find work abroad. The aim was to generate awareness among young people by offering them training, particularly in business management, so that they would invest in or generate employment in the member States of the EAC, or beyond. There were Rwandans in many countries of the world, but for historical and geographical reasons, the neighbouring countries were the most popular. According to estimates, more than 4 million Rwandans were living in Uganda, where they worked in agriculture and raised livestock, owing to a lack of available land in Rwanda.

39. **Ms. Nyirahabimana** (Rwanda) noted that it would be useful to describe, in the next report, the hierarchy of remedies available to migrant workers. The Government should amend the legislation to include those remedies. The situation of Rwandans living abroad, including in States that were not parties to the Convention, must also be taken into account. Precise statistics should be developed about the diaspora and its activities; in order to assist Rwandans living abroad, the Government must base its decisions on understanding and not solely on guesswork. As for the participation of Rwandans living abroad in national elections, the election laws only provided for voting by Rwandans in Rwanda, and the establishment of constituencies abroad had not yet been weighed.

40. **Ms. Poussi**, after pointing out the unusual nature of the discussion between the Committee and Rwanda, and the constructive spirit in which it had unfolded, said she wished to thank the State party for having submitted its report, albeit belatedly, despite the difficulties it had faced. The legislation adopted by Rwanda, in particular the migration policy, demonstrated its political will to promote and protect the rights of migrant workers.

41. The Committee welcomed the national consultations held by the Government of Rwanda for the purpose of ratifying such fundamental texts as Conventions No. 97 and No. 143 of the International Labour Organization on migrant workers, and the declarations it had made in accordance with articles 76 and 77 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

42. Having no official statistics, the Committee could not fully understand the situation of migrants in Rwanda, and was therefore not in a position to make a precise and objective judgement on some aspects of their situation; it nevertheless looked forward with interest to the information it would receive in the next report and appreciated the positive attitude of the delegation.

43. **Ms. Nyirahabimana** (Rwanda) thanking the Committee for the constructive dialogue, said that its observations would be duly considered with a view to improving the situation of migrant workers and their families. The Committee's recommendations would be shared with all partners, including NGOs and civil society, and official statistics would be presented in the next report.

44. **The Chairperson** congratulated the State party for having presented its initial report, and thanked the delegation of Rwanda for its active participation in the consideration of the report, by answering the written and oral questions. The Committee was especially pleased to have held the dialogue with a high-level delegation, headed by an ambassador and made up of representatives from the capital – which attested to Rwanda's interest in the Convention.

45. It was essential to develop an understanding of the provisions of the Convention. For instance, when the Convention addressed the detention of migrants, it was not referring to migrants that had committed an ordinary crime, who should receive the same treatment as nationals committing ordinary crimes. It was referring to migrants who had been detained because they were in an irregular situation or had committed a breach of the Labour Code. The Convention called for such persons to be subject to separate treatment and to be held separately; it also stipulated that detention should not be the general rule.

46. Measures to generate awareness about the Convention were also an occasion to highlight the positive elements brought out in the report, such as the Government of Rwanda's willingness to implement the Convention, which was evident in the efforts it had made at the legislative and practical levels, and in working together with other countries in the region. It would also be useful to build institutional and operational capacities, and to strengthen the competencies of stakeholders.

47. Aware of the complex nature of the Convention, the Committee saw its work from a pedagogical perspective. Since the Convention was a cross-cutting instrument affecting all aspects of life and a number of social categories, its implementation required considerable effort by all concerned. In that regard, Rwanda could count on support not only from the Committee, but also from its partners as a whole.

The meeting rose at 1 p.m.