



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

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## Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families

### Concluding observations on the initial report of Honduras\*

1. The Committee considered the initial report of Honduras (CMW/C/HND/1) at its 327th and 328th meetings (see CMW/C/SR.327 and SR.328), held on 29 and 30 August 2016. At its 339th meeting, held on 7 September 2016, it adopted the following concluding observations.

#### A. Introduction

2. The Committee welcomes the submission of the State party's initial report, which was prepared in response to the list of issues prior to reporting (CMW/C/HND/QPR/1). The Committee also welcomes the additional information provided during the dialogue by the large, multisectoral delegation, which was headed by the Deputy Minister of Labour and Social Protection, Ramón Fernando Carranza Discua, and composed of representatives of the Permanent Mission of Honduras to the United Nations Office and other international organizations in Geneva.

3. The Committee appreciates the dialogue that has taken place between its members and the delegation, which has given the Committee a clearer understanding of how the Convention is applied in the State party.

4. The Committee is aware that Honduras, as a country of origin of migrant workers and members of their families, has made progress in protecting the rights of its nationals abroad and foreign migrants in the country. However, Honduras still faces major challenges in effectively protecting the rights of migrant workers and members of their families in transit and destination countries and on their return to the State party. It also presents challenges as a country of transit and destination.

5. The Committee notes that some countries where Honduran migrant workers are employed have still not become parties to the Convention, which could constitute an obstacle to those workers' enjoyment of their rights under the Convention.

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\* Adopted by the Committee at its twenty-fifth session (29 August-7 September 2016).



## B. Positive aspects

6. The Committee welcomes the efforts made by the State party to promote and protect the rights of Honduran migrant workers abroad and welcomes the entry into force of the Act on the Protection of Honduran Migrants and Members of Their Families and its regulations (2015).
7. The Committee also welcomes the State party's accession to the following international human rights instruments:
  - (a) The International Labour Organization (ILO) Maritime Labour Convention, 2006 (MLC, 2006) in 2015;
  - (b) The Convention on the Rights of Persons with Disabilities, in 2008, and its Optional Protocol, in 2010;
  - (c) The International Convention for the Protection of All Persons from Enforced Disappearance, in 2008;
8. The Committee welcomes the adoption of the following legislative measures:
  - (a) The strategic plan against commercial sexual exploitation and trafficking in persons 2016-2022;
  - (b) The Trafficking in Persons Act, 2012, and its regulations, 2016;
  - (c) The Code on Children and Adolescents, amended in 2013;
  - (d) The Act on Equal Opportunities for Women of 2000.
9. The Committee also welcomes the following institutional and policy measures:
  - (a) The Public Policy and National Plan of Action on Human Rights, 2013-2022;
  - (b) The Plan of the Alliance for Prosperity in the Northern Triangle, 2016-2020;
  - (c) The Strategic Comprehensive Care Programme for Honduran Migrant Children and Adolescents and Their Families 2015-2019, with an Action Plan for the period 2016-2017;
  - (d) The Protocol on the Immediate Protection, Repatriation, Reception and Follow-up of Child Migrants;
  - (e) The Solidarity Fund for Honduran Migrants (FOSMIH, 2015);
  - (f) The Inter-Institutional Commission for the Protection of Persons Displaced by Violence, 2013;
  - (g) The National Policy on Prevention of Violence against Children and Young People, 2013;
  - (h) The Special Regime for the legal migration of Honduran workers in the agricultural sector in the United States of America and other countries, 2010;
  - (i) The National Migrant Welfare Policy, 2008;
  - (j) The protocol on the repatriation of child and adolescent victims of trafficking or at risk of being trafficked, 2006.

## C. Principal subjects of concern and recommendations

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

#### Legislation and application

10. The Committee notes the initiatives taken by the State party to strengthen the position and ensure the full development of migrants and members of their families and welcomes the signing of an agreement with the United Nations High Commissioner for Refugees (UNHCR) to promote the adoption of a new migration law. However, the Committee is concerned by:

(a) The failure to bring the Migration and Aliens Act (2003) and its regulations (2004), which were adopted prior to the ratification of the Convention by the State party (2006), into line with international standards on the protection of migrant workers and members of their families, especially the Convention, despite the fact that several of its articles are at variance with the provisions of the Convention;

(b) The adoption of the Act on the Protection of Honduran Migrants and Members of Their Families in 2013 without prior or adequate consultation with representatives of the main organizations and institutions with a stake in migration issues, and the failure of the Act to incorporate provisions specifically relating to women or other particular groups, such as children and adolescents, lesbian, gay, bisexual, transgender or intersex (LGBTI) persons, persons of African descent, indigenous peoples and disappeared or missing migrants.

**11. The Committee recommends that the State party should take the measures necessary to adopt and implement legislation on migration that is fully consistent with the Convention and the other international human rights treaties that it has ratified. It also recommends that, in the process of preparing that regulatory framework, it should take appropriate measures to ensure the effective participation of civil society organizations and specialized international agencies such as the new country office of the United Nations High Commissioner for Human Rights (OHCHR) in Honduras, the International Labour Organization (ILO), the United Nations Children's Fund (UNICEF), the International Organization for Migration, the Office of the United Nations High Commissioner for Refugees (UNHCR) and the United Nations Entity for Gender Equality and the Empowerment of Women.**

#### Articles 76 and 77

12. The Committee notes that the State party has not yet begun the process of making the declarations provided for in articles 76 and 77 of the Convention.

**13. The Committee encourages the State party to make the declarations provided for in articles 76 and 77 of the Convention as soon as possible.**

#### Comprehensive policy and strategy

14. The Committee notes the information provided by the State party on the progress made in implementing the National Plan of Action on Human Rights in the context of the rights of migrants in 2014, as well as the institutional reforms included in the Act on the Protection of Honduran Migrants and Members of Their Families, in particular the establishment of the National Council for the Protection of Honduran Migrants and the Joint Task Force for Migrant Children. The Committee regrets, however, that the State party has not provided sufficient information on the specific measures that it has taken, within the framework of these initiatives, to implement the Convention. While it notes the efforts made by the State party to address the various challenges in the area of migration,

the Committee is concerned at the lack of a comprehensive public migration policy focused on respecting, protecting and guaranteeing the human rights of migrants and their families, as enshrined in the Convention and in other treaties in force in the State party. It is also concerned to note that it has not provided information on a comprehensive national migration policy containing measures that would enable a comprehensive, rights-based approach to be taken to the situation of migrant workers and their family members either in, or in transit through, the State party, whether illegally or otherwise, and of migrant workers and their family members who are nationals of the State party in other countries. Furthermore, the Committee is concerned at the lack of detailed information on coordination between the authorities on migration matters at both the national and the local government level.

**15. The Committee recommends that the State party continue the process of reviewing and adopting the draft Honduran national migration policy, which has been before the National Congress since 2009. It also recommends that it adopt a comprehensive and rights-based approach by effectively implementing coordination initiatives through the National Council for the Protection of Honduran Migrants and the Joint Task Force for Migrant Children. Such a comprehensive migration policy, which would be in harmony with the Convention, should take gender issues into consideration, in a cross-cutting manner and in practice, and be properly implemented and funded. The Committee urges the State party to include in its second periodic report updated information, supported by statistics, on the specific measures that it has taken to safeguard, in law and in practice, the rights of migrant workers set out in the Convention. The Committee recommends that, in accordance with article 65 of the Convention, the State party should take the necessary steps to formulate and implement a migration policy that addresses the full range of international migration issues. It also urges the State party to define clearly the roles of the authorities with competence in migration matters and to step up its efforts to ensure that they coordinate their work effectively at the national and local levels, especially in border areas.**

#### **Coordination**

16. The Committee notes the information provided by the State party on the establishment of a working group involving the Ministry of Labour and Social Security and the National Migration Institute as part of the programme on the promotion of decent working conditions for migrant workers in the northern triangle of Central America, with a view to coordinating implementation of the Convention and acting on the Committee's recommendations. The Committee welcomes that initiative and the other efforts made by the State party to improve coordination. However, the Committee is concerned at the lack of effectiveness of State institutions in giving effect to the rights set out in the various national and international instruments relating to migration.

**17. The Committee recommends that the State party redouble its efforts to improve coordination among ministries and agencies at all levels of public administration in order to give effect to the rights protected under the Convention, thereby ensuring, among other measures, that adequate human and financial resources and capacity are allocated to the Directorate General for the Protection of Honduran Migrants, the National Council for the Protection of Honduran Migrants and other key institutions concerned with issues related to migration, labour, child protection, gender equality and other matters related to the rights enshrined in the Convention and in other treaties ratified by the State party.**

### Data collection

18. The Committee notes the efforts made by the State party to improve the collection of data on migration flows, particularly as regards Honduran migrant workers in other countries. However, it regrets the lack of statistical and qualitative information on migrant workers — from Central America or other regions, including other continents — who are in an irregular situation in the State party, as well as the lack of mechanisms for collecting and sharing information on the rights of migrant workers and their families, including those living or travelling in an irregular situation, as set out in the Convention. The Committee is also concerned by the lack of information on the various criteria required to evaluate the effective implementation of the Convention, in particular with regard to migrants in transit, migrant women, unaccompanied migrant children and cross-border and seasonal migrant workers.

19. **The Committee recommends that the State party establish a system for compiling qualitative and quantitative migration-related statistics and information that explicitly covers all aspects of the Convention, including in relation to migrant workers in an irregular situation and members of their families, and that it collect detailed data on the status of migrant workers living in or in transit through the State party, regardless of whether they are in an irregular situation. In order to ensure achievement of an effective impact on relevant policies and the implementation of the Convention, in line with Sustainable Development Goal 17.18, the Committee encourages the State party to compile information and statistics disaggregated by sex, age, nationality, reason for entry into and departure from the country and type of work performed. In cases in which it is not possible to obtain precise information, for example, in the case of migrant workers in an irregular situation, the Committee would welcome information based on studies or estimates.**

### Independent monitoring

20. The Committee welcomes the information in the State party's report that the Office of the National Commissioner for Human Rights (CONADEH) has the power to investigate all complaints made by migrant workers, including those in an irregular situation. However, the Committee is concerned that:

(a) CONADEH was downgraded to B status in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) in 2011;

(b) CONADEH has not been allocated a budget commensurate with its constitutional role as ombudsman, which, in the view of the Committee, undermines the effectiveness of its role under the Paris Principles and the international commitments of the State party.

21. **The Committee recommends that the State party take appropriate measures, including by drawing on the technical support of OHCHR, with a view to ensuring that:**

(a) **CONADEH regains its A status under the Paris Principles so that it will be able to participate in human rights forums and benefit from international cooperation, allowing it to monitor and implement human rights effectively;**

(b) **CONADEH enjoys full operational and financial independence from the Government, in accordance with the Paris Principles, including with regard to the breadth of its mandate;**

(c) **The national prevention mechanism is fully independent and mandated to conduct unannounced visits to all places where migrant workers and members of their families might be deprived of their liberty, including airport transit zones;**

(d) **CONADEH has jurisdiction to intervene in all administrative decisions relating to migration, including arrests, detentions, decisions on residency status and expulsion. It should also have jurisdiction to receive complaints concerning violations of the rights of Honduran migrants abroad, to provide legal assistance to direct or indirect victims, such as family members, and to engage in administrative and/or legal proceedings before the competent national or foreign authorities with a view to stopping, preventing or redressing such violations.**

#### **Training on and dissemination of information about the Convention**

22. The Committee notes the information provided by the State party concerning programmes to promote and disseminate the Convention more widely among the general public, officials and public servants and the staff of non-governmental organizations (NGOs) and the private sector. It also notes the efforts made by the Department of Labour Migration of the Ministry of Labour and Social Security to promote Legislative Decree No. 110, the Work Permit Act. However, the Committee is concerned that migrant workers and members of their families lack access to information about their rights under the Convention.

23. **The Committee recommends that the State party should develop ongoing education and training programmes on the content of the Convention. It also recommends that such training should be made available to all officials who work in migration-related areas, including at local level. The Committee encourages the State party to ensure that migrant workers and their families have access to information on their rights under the Convention and to work with civil society organizations in disseminating information and promoting the Convention, both in Honduras and in transit and destination countries where migrant workers and their families are located.**

#### **Participation of civil society**

24. The Committee notes the information provided by the State party on the multisectoral consultations undertaken in preparing its report. It also notes the agreements established with civil society organizations, particularly in relation to migrant children. However, it regrets the lack of mechanisms to ensure that civil society and the representatives of the main organizations and institutions involved in migration issues can participate in the planning and implementation of migration policy, policy for the protection of migrants abroad and policies to address the causes of migration. The Committee also notes the adoption of the Act on the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Officials (2015) and the associated regulations (2016). However, it is deeply concerned to have received information indicating that human rights defenders in Honduras are the targets of acts of violence, harassment and death threats. The Committee is concerned that some civil society organizations working for human rights in the State party are reportedly afraid to help undocumented migrant workers as they fear being accused of smuggling migrants, and that they have limited access to detention centres.

25. **The Committee encourages the State party to strengthen mechanisms to ensure that civil society participates in the process of reporting to the Committee and following up and implementing the recommendations, paying particular attention to the guidelines against intimidation or reprisals (the San José guidelines). The Committee also recommends that the State party should:**

(a) Facilitate the work done by civil society organizations with migrant workers, in both regular and irregular situations, when the purpose of that work is to provide humanitarian assistance, protect rights and provide social assistance to migrant workers and members of their families within the framework of the Convention, as well as to maintain smooth communication between the State party and civil society in order to enhance its efforts to protect human rights;

(b) Systematically involve civil society organizations, including organizations of Hondurans abroad, in the implementation of the Convention, migration and labour policies and other policies relating to the Convention. The Committee also reminds the State party that human rights defenders deserve special protection since their work is crucial to promoting human rights for all persons, including migrant workers and their families. The Committee therefore strongly recommends that the State party should ensure the full and effective implementation of the Act on the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Officials, and its regulations, by taking immediate action to enable journalists, human rights defenders and all civil society organizations to exercise their right to freedom of expression and opinion without threats or harassment and to engage in any other activity intended to promote and protect human rights. The Committee urges the State party to ensure that reported instances of intimidation and harassment of human rights defenders and representatives of civil society are promptly and independently investigated; that those responsible for such abuses are held accountable; and that the lives and personal safety of human rights defenders and representatives of civil society are effectively protected.

## 2. General principles (arts. 7 and 83)

### Non-discrimination

26. The Committee notes the measures taken to prevent discrimination. However, it is concerned that the national legislation on migration does not contain a clear and specific provision prohibiting gender-based discrimination and does not provide special protection to migrant women. It is also concerned about discriminatory provisions in the Migration and Aliens Act and its regulations, which restrict the entry into Honduras of persons who engage in witchcraft or begging, as well as the entry restrictions on grounds of disability.

27. **The Committee recommends that, in accordance with article 7, the State party should intensify its efforts to ensure that all migrant workers and members of their families within its territory or subject to its jurisdiction enjoy the rights provided for under the Convention without discrimination and that it should raise awareness among local authorities, migration officials and the general public of the rights of all migrant workers and members of their families and of the importance of eliminating any form of discrimination against migrant workers and their families. In particular, the Committee recommends that the State party should incorporate a gender focus in its migration, labour and related legislation. The State party should not only remove all discriminatory provisions from its migration legislation but also incorporate an explicit prohibition of discrimination on grounds of gender against migrant women and lesbian, gay, bisexual, transgender or intersex persons and also on such grounds as ethnic origin, disability, nationality, migration status or socioeconomic situation.**

### Right to an effective remedy

28. The Committee notes that it is possible to access justice through CONADEH and free legal services provided by academic institutions. However, the Committee is concerned to note that the access to justice of migrant workers, regardless of their immigration status,

is limited by the absence of appropriate and effective mechanisms, particularly in cases of migrant detention and expulsion, and by migrant workers' lack of awareness of the administrative and judicial remedies that would enable them to file complaints and obtain effective redress. The problem in question concerns both migrant workers in the State party and, in relation to the respective rights in transit or destination countries, Honduran migrant workers who are abroad or have returned to their country. The Committee is also concerned at the lack of effective procedures whereby the families of disappeared or missing migrants can institute proceedings — from Honduras — in Mexico and the United States of America, and initiate a thorough investigation of crimes committed against their relatives in transit countries, leading to the punishment of those responsible and possible redress for the violation of their rights.

**29. The Committee recommends that the State party take the following steps to facilitate access to justice for all migrant workers and members of their families:**

**(a) Design and implement effective remedies for migrant workers in the State party and its nationals in transit and destination countries, including resources that would enable family members to file claims from the State party for abuse suffered by migrant workers in other countries;**

**(b) Launch information campaigns on the available administrative and judicial remedies for filing complaints and receiving reparations.**

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

**Right to life, physical integrity and property**

30. The Committee notes information received indicating that Honduran migrant workers, and/or members of their families, have been the victims of various crimes committed by, or with the acquiescence of, third parties or even immigration agents and other officials along the migratory route towards the north, mainly in Mexico. The crimes in question include kidnapping, extortion, robbery, forced recruitment, sexual abuse and other forms of ill-treatment. The Committee is concerned about the lack of statistical information from the State party on the incidents in question and the lack of permanent and effective mechanisms for supporting victims, communicating with, and providing adequate information to, family members and supporting access to justice and other forms of reparation.

**31. The Committee recommends that the State party should strengthen mechanisms for the protection of Honduran migrant workers and members of their families who are victims of crime or abuse by the authorities throughout their journey to the north, and especially in Mexico. In particular, the Committee recommends that the State party should strengthen programmes and specific measures to guarantee migrant workers access to justice and other forms of reparation for the rights affected as well as actions aimed at facilitating access to the benefits provided for in the Victims Act adopted by Mexico.**

32. The Committee is highly concerned to have received information about the possible disappearance, mostly in Mexico, of around 480 Honduran migrants who were travelling to the United States of America in recent years, allegedly due to the actions of organized criminal gangs, but also with the participation, complicity or acquiescence of public authorities. The Committee notes that the Government of Mexico has established the crime investigation unit for migrants and the Mexican external search and investigation support mechanism, which are in the process of being implemented.

**33. The Committee recommends that the State party should take all appropriate measures to support the full implementation by the competent Mexican authorities of**



the external search and investigation support mechanism, under the crime investigation unit for migrants, and in particular that it should:

- (a) **Implement programmes aimed at providing the resources, legal assistance, information and training required to ensure that migrant workers and members of their families can effectively use this mechanism and that the initiatives in question are carried out both in Mexican territory — through the consulates — and in the State party by the competent authorities;**
- (b) **Undertake and implement every possible action to search for living migrants who are missing or have disappeared;**
- (c) **Substantially increase the support provided to committees of family members of migrants in the different regions of the country, taking into account the valuable collaborative work undertaken with State bodies responsible for protecting the human rights of migrants and their families on the migratory route;**
- (d) **Establish a flexible and effective mechanism for contacting and notifying the family members of missing, deceased and/or murdered migrants and for repatriating and returning their remains;**
- (e) **Ensure that the acts in question are seriously and diligently investigated and that the perpetrators receive sentences appropriate to the gravity of the offence;**
- (f) **Establish a regional database to search for missing or disappeared migrants;**
- (g) **Adopt specific measures to ensure the comprehensive protection of the rights of children of migrant workers who have disappeared or been murdered on the migratory route;**
- (h) **Ensure that the families of migrant victims of disappearance have the right to justice — in their country of origin and/or destination — and the right to the truth about the fate of their relatives and to adequate reparation.**

#### **Labour exploitation and other forms of ill-treatment**

34. The Committee is concerned by the limited progress that the State party has made in reducing child labour. It is also concerned that many Honduran migrant workers, including unaccompanied children in transit or destination countries, work in informal jobs, mainly in the coffee and fisheries sectors, where they work long hours in inadequate conditions without legal protection and often with an irregular migration status.

35. **The Committee recommends that the State party should take measures to protect migrant workers in destination countries, particularly in respect of upholding their labour rights and protecting them against all forms of exploitation. It also recommends that, in line with Sustainable Development Goal 16.2, the State party should take steps to provide bilateral and consular protection to ensure that unaccompanied migrant children in destination countries are not subjected to forms of child labour, including exploitative situations.**

36. The Committee is concerned to note that, according to information provided by the State party, thousands of adult and child Honduran migrants are deprived of their liberty each year in migration detention centres in Mexico and the United States and often do not enjoy fundamental guarantees of due process. The Committee is concerned by the limited actions and initiatives taken by the State party to protect the right of migrant workers and members of their families not to be arbitrarily detained. The Committee is also concerned by the lack of information on detentions of migrant workers and family members of other nationalities in detention centres, or in places such as airports, in the State party.

37. **The Committee recommends that the State party should strengthen actions aimed at protecting the right to freedom of Honduran migrant workers and their families in Mexico and the United States, in particular through:**

(a) **Initiatives and bilateral dialogues that aim to ensure that detention is used only as an exceptional measure and a last resort by States where Honduran migrant workers reside or are in transit;**

(b) **The strengthening, expansion and enhancement of consular actions aimed at protecting migrant workers and members of their families who are deprived of their liberty, particularly those detained for reasons of migration, through the provision of free legal assistance and the promotion of access to justice and other guarantees of due process. The Committee also recommends that the State party should regularly produce and disseminate qualitative and quantitative information on any form of deprivation of liberty suffered by migrant workers and members of their families in the State party. Furthermore, it recommends that any detention for reasons of migration should be in full conformity with existing legislation, in particular the Convention, and should be subject to the principle of exceptionality and in accordance with general comment No. 2 (2013) on the rights of migrant workers in an irregular situation and members of their families.**

#### **Expulsion**

38. The Committee notes the steps taken by the State party to protect its nationals abroad. However, the Committee is concerned by the large number of Honduran migrant workers and members of their families, including unaccompanied minors, who are deported or repatriated from the United States and Mexico without due respect for the procedural safeguards and other rights provided for in the Convention and without receiving sufficient consular assistance.

39. **The Committee recommends that the State party should take appropriate steps, in terms of both consular protection and bilateral agreements or dialogues, to ensure that Honduran migrant workers and members of their families, regardless of their migration status, are not arbitrarily deported or repatriated. In particular, the Committee recommends that the State party make every effort to urge countries of transit and destination to fully observe procedural safeguards for all Honduran migrant workers and members of their families, including free legal aid and the right to an effective remedy, and substantive guarantees, such as the right to family life and the principles of non-expulsion and non-refoulement.**

#### **Consular assistance**

40. The Committee notes the progress made in improving and expanding the consular services provided by the State party and the establishment of the Consular and Migration Observatory under the Ministry of Foreign Affairs and International Cooperation. It is nonetheless concerned by the fact that, despite laws on the protection of Honduran migrants, various sources report that a large proportion of migrant workers and members of their families, including children and adolescents, do not receive consular assistance or, if they do, it is insufficient and not focused on protecting their rights, especially in the context of detention and expulsion proceedings from Mexico and the United States. The Committee is also concerned at:

(a) The failure to appoint enough consular representatives based on their experience and achievements in the area of migration and human rights;

(b) The lack of permanent training mechanisms on human rights for consular staff;

- (c) The lack of consular agents specialized in the rights of migrants, including children's rights, the application of a gender perspective and the protection of women against sexual and other forms of violence;
- (d) The insufficient number of Honduran consulates in Mexico and the United States, notwithstanding the opening of new consulates in recent years;
- (e) The lack of sufficient financial resources for the State to effectively fulfil its duty to protect migrant workers and their family members;
- (f) The lack of standardized protocols on the gathering of qualitative and quantitative data by consulates, especially with regard to the rights of migrant workers and members of their families in Mexico and the United States.

**41. The Committee recommends that the State party take the necessary steps to ensure that its consular services effectively meet the needs of Honduran migrant workers and members of their families in terms of the protection of rights and assistance. In particular, it recommends that the State party:**

- (a) Formulate a policy on consular protection designed to protect the rights of migrant workers and members of their families abroad;**
- (b) Dedicate sufficient human and financial resources to the effective implementation of protection efforts;**
- (c) Recruit consular staff on the basis of merit and expertise in the rights of migrant workers and members of their families, children's rights, the application of a gender perspective and the protection of women against violence;**
- (d) Strengthen the programmes of the Office of the Deputy Minister for Consular and Migration Affairs aimed at providing ongoing training to consular staff on the Convention and other human rights instruments;**
- (e) Develop a standardized tool for the collection of quantitative and qualitative data by Honduran consulates, specifically designed to show to what extent the rights of Honduran migrant workers and members of their families, including unaccompanied minors, who are detained in and deported from countries of destination are protected or infringed and to record the reasons for migrating of persons who receive consular assistance.**

#### **Remuneration, working conditions and freedom of movement**

42. The Committee takes note of the labour inspections conducted by the Labour Inspectorate of the Ministry of Labour and Social Security to ensure compliance with the labour rights of Hondurans and foreign nationals. However, it is concerned at the lack of mechanisms to oversee the working conditions of migrant workers, including seasonal workers in the State party, especially those of Nicaraguan origin and members of Guatemalan indigenous peoples, and at the lack of information on their working conditions and the efforts made to protect their rights. The Committee is further concerned by the lack of information on initiatives to protect the rights of Honduran migrant workers in Mexico and the United States, especially those engaged in domestic and agricultural work.

**43. The Committee recommends that the State party safeguard, in law and in practice, the labour rights of all migrant workers in its territory, especially seasonal workers from neighbouring countries, in accordance with articles 25 to 27 of the Convention, including through measures that take into account their ethnic origin. The Committee also recommends that the State party systematically produce quantitative and qualitative data on migrant workers in its territory. It further recommends that the State party take the appropriate steps to protect the rights of**

migrant workers and members of their families in destination countries, including the adoption of measures to facilitate the obtainment of the requisite documentation needed to regularize their migration status, with particular emphasis on the rights of migrant workers engaged in domestic labour — in accordance with the Committee's general comment No. 1 (2011) on migrant domestic workers — and of migrants in the agricultural sector.

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

**Right to transfer earnings and savings**

44. The Committee takes note of the Innovative Programme on Productive and Supportive Remittances designed to promote community development through projects on social infrastructure and community-based, educational and/or productive services for migrants. It also takes note of the remittances sent by migrant workers, which represent an essential contribution to the economy of the State party and amounted to more than 18 per cent of gross domestic product in 2015 according to information provided by the State party. However, the Committee is concerned that the implementing regulations for the Solidarity Fund for Honduran Migrants have yet to be adopted.

**45. The Committee invites the State party to continue affording ways for families who receive remittances to use them productively and to promote awareness of the aforementioned programme throughout the country. The Committee recommends that the State party promptly adopt the implementing regulations for the Solidarity Fund for Honduran Migrants and ensure that the Fund is fully operational.**

46. The Committee notes with concern that the Constitution (art. 137) and the Labour Code (art. 11) require that 90 per cent of all jobs must be held by Honduran workers and that 85 per cent of total wages must be paid to Honduran nationals.

**47. The Committee recommends that the State party make the necessary legislative amendments to guarantee equal treatment in terms of access to employment and labour rights in keeping with the provisions of the Convention, in particular article 55.**

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

**International cooperation with countries of transit and destination**

48. The Committee notes the adoption of bilateral agreements and regional initiatives with neighbouring countries or in the context of the Regional Conference on Migration. It also notes the initiatives on labour migration under the Central American Integration System. Nevertheless, the Committee is concerned that there are gaps in these instruments with regard to the rights and guarantees provided for in the Convention and other treaties.

**49. The Committee recommends that the State party 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, regardless of their migration status. It also recommends that the State party, through dialogue and cooperation with other Central American countries, continue its efforts to adopt a common framework on labour migration within the wider context of the Central American Integration System, in accordance with the rights enshrined in the Convention.**

### **Return and reintegration**

50. The Committee notes the efforts made to support Honduran migrant workers who have returned to the State party. However, the Committee is concerned at the large number of migrant workers and/or family members who migrate again after returning. The Committee is also concerned by the number of migrants who have returned to the country with some form of disability after migrating. While the Committee takes note of the programmes in place to facilitate their social and labour reintegration, it is concerned at the lack of information on the impact of these initiatives.

**51. The Committee recommends that the State party intensify its efforts to reform the support programmes for returning Honduran migrant workers, in accordance with the principles of the Convention, with a view to their long-term reintegration into the economic, social and cultural fabric of Honduras. The Committee also recommends that the State party set up special follow-up mechanisms to this end, focusing particularly on returning migrants at risk of becoming victims of violence. The Committee further recommends that the State party strengthen the measures for the effective reintegration of migrant workers who return with a disability, including through access to decent and stable employment, and submit information on the impact of current programmes.**

### **Causes of migration and prevention of irregular migration**

52. The Committee takes note of the measures adopted by the State party to address the causes of migration. The Committee is nonetheless concerned by the high rates of poverty, unemployment, informal employment and inequality, as well as by the high rates of murder and various forms of violence (social, gender-based, domestic, institutional), land conflicts and discrimination against persons of African descent, indigenous peoples and lesbian, gay, bisexual, transgender and intersex persons. Family reunification and the demand for labour in countries of destination, especially in the informal sector, are also causes of migration. The Committee is also concerned at the lack of a comprehensive policy designed to address these causes and the limited visibility they have had in the regional agenda on migration matters.

**53. The Committee recommends that the State party develop a comprehensive, inter-agency and rights-based policy to address all the structural causes of migration, including, inter alia:**

- (a) **Rights-based, short- and long-term goals and progress indicators, disaggregated by age, sex, ethnic origin and other social characteristics;**
- (b) **Mechanisms for transparency and accountability;**
- (c) **Participation of civil society and specialized international agencies;**
- (d) **Cooperation and coordination initiatives at the local, national and regional levels.**

### **Situation of children and adolescents in the context of international migration**

54. The Committee notes the steps taken by the State party to protect children and adolescents in the context of migration. However, the Committee is concerned by:

- (a) The situation of children's rights in the State party, which leads them to migrate to other countries where they are at risk of many offences and rights abuses, chiefly as a result of detention and expulsion, as well as upon returning to the State party;
- (b) The lack of information on steps taken to provide appropriate protection to unaccompanied minors in transit;

(c) The rise in the number of migrant workers and their children and of unaccompanied minors who are deprived of their liberty in countries of transit and destination and are later repatriated;

(d) The lack of adequate comprehensive measures by the State party to protect children's rights during such processes, especially the right to legal assistance, the right to freedom and the guarantee that the best interests of the child are taken into account;

(e) The lack of effective measures to ensure their resettlement and long-term reintegration;

(f) The situation of children and adolescents in Honduras whose parents have emigrated, particularly with regard to their family and educational environment and the obstacles to being reunited with their parents through regular channels.

**55. The Committee urges the State party to take all necessary steps to safeguard the rights of the various categories of children and adolescents in the context of migration. In particular, it recommends that the State party:**

**(a) Strengthen and deepen its cooperation with countries of transit and destination with a view to adopting policies and protocols designed to ensure that children's rights in the context of migration are respected in practice; in particular, the State party should:**

**(i) End the detention of children on grounds of their migration status or that of their parents;**

**(ii) Devise alternatives — in law and in practice — to the detention of families and unaccompanied or separated minors, and ensure their implementation under the coordination of national and/or local organizations responsible for the comprehensive protection of children;**

**(iii) Regarding unaccompanied minors, design and launch a process based on the best interests of the child, with a view to adopting short- and long-term solutions, such as integration in the host country, repatriation to the country of origin or resettlement in a third country;**

**(iv) Guarantee that no child or adolescent is repatriated without prior, justified and personalized verification that the measure is in his or her best interests;**

**(v) Safeguard the due process guarantees of all unaccompanied children, such as the right to a guardian, the right to legal assistance, the right to be heard and the right to an effective remedy;**

**(vi) Include in the migration procedures of parents an assessment of the best interests of the child, in accordance with the child's age and maturity, and guarantee that children are involved in this process;**

**(b) Strengthen inter-institutional coordination mechanisms in order to ensure the effective reintegration of returning children and adolescents, through a rights-based approach, immediate protection measures and long-term solutions, including effective access to education, health, family life, justice and protection against all forms of violence;**

**(c) Formulate a comprehensive and systematic rights-based policy on the collection of qualitative and quantitative data on all categories of children and adolescents affected by migration as the basis for a comprehensive policy aimed at the protection of their rights;**

(d) **Guarantee, through legal assistance and legal and administrative protection at the binational level, that Honduran mothers and fathers who are deported from the United States can claim their right to family unity and custody of their children with United States nationality before that country's courts;**

(e) **Promote protocols and actions on consular protection, including legal assistance, with a view to ensuring that Honduran migrant workers in the United States are not, as a consequence of their irregular migration status, separated from their children born in that country.**

56. The Committee takes note of the adoption of the Trafficking in Persons Act of 2012, the development of a national anti-trafficking plan for the period 2013-2015 and the Strategic Plan against Commercial Sexual Exploitation and Trafficking in Persons in Honduras (2016-2022). It also notes, however, the small number of convictions for the offence of trafficking in persons. The Committee is concerned by the lack of information on the scope of such trafficking in the State party and on the effective protection of the rights of victims of this offence.

57. **The Committee recommends that the State party pursue its efforts to combat trafficking in persons, in particular through:**

(a) **The full and effective implementation of the Trafficking in Persons Act and the Strategic Plan against Commercial Sexual Exploitation and Trafficking in Persons in Honduras (2016-2022);**

(b) **The ongoing training of public servants, especially members of the National Civil Police, the National Migration Institute and criminal courts, prosecutors, labour inspectors, academics, health-care professionals at the national level and representatives and officials of Honduran embassies and consulates;**

(c) **The systematic collection of disaggregated data with a view to better combating trafficking in persons;**

(d) **The adoption of measures to ensure that all perpetrators of trafficking in persons, including public servants, are tried and appropriately punished;**

(e) **The intensification of campaigns for the prevention of trafficking in persons;**

(f) **The establishment of effective mechanisms to identify and protect trafficking victims;**

(g) **The development of a strategy to ensure that victims' rights are respected and to avoid revictimization and the formulation of life plans that take into account the physical, psychological and social toll of trafficking on victims;**

(h) **The intensification of international, regional and bilateral cooperation through agreements with countries of origin, transit and destination in order to prevent trafficking in persons.**

58. The Committee takes note of the information campaigns that have been carried out to raise Hondurans' awareness of the risks associated with irregular migration, the renewal of the toll-free hotline (Alho Voz) that receives complaints of human rights violations and requests for humanitarian assistance for Honduran migrant workers and the establishment of a consular protection network in southern Mexico. Nevertheless, the Committee is concerned by the increased smuggling of migrants in transit through the territory of the State party. The Committee is also concerned at reports that, since mid-2014, Honduran migrant workers and members of their families, including unaccompanied minors, have

been apprehended in the State party by special police and military units and prevented from leaving the country.

59. The Committee recommends that the State party adopt comprehensive policy measures, including bilateral and regional measures, to respond to irregular migration through and from the country. The Committee urges the State party to boost the assistance provided to migrant workers in transit in collaboration with the consular services of their countries of origin. Regarding irregular emigration by Hondurans and members of their families, the Committee urges the State party to implement initiatives focused on protection while refraining from using the military forces as an appropriate means of handling flows caused by a variety of structural factors.

## 6. Follow-up and dissemination

### Follow-up

60. The Committee requests the State party to include detailed information in its next periodic report on the measures taken to give effect to the recommendations made in these concluding observations. The Committee recommends that the State party take all appropriate measures to ensure that these recommendations are implemented, *inter alia* by transmitting them to members of the Government, the legislature and the judiciary, as well as the local authorities, for consideration and appropriate action.

61. The Committee urges the State party to invite civil society organizations to take part in the implementation of the recommendations contained in these concluding observations.

### Follow-up report

62. The Committee requests the State party to submit, within two years, or no later than 1 October 2018, written information on its implementation of the recommendations under paragraphs 11, 33, 41 and 55 above.

### Dissemination

63. The Committee also requests the State party to disseminate these concluding observations, particularly among public agencies and the judiciary, non-governmental organizations and other members of civil society, academia and the general public, and to take the necessary steps to make them known to Honduran migrant workers abroad and to foreign migrant workers in transit or residing in Honduras.

## 7. Technical assistance

64. The Committee recommends that the State party seek international assistance, including technical assistance, to design a broad-ranging programme aimed at implementing all the above-mentioned recommendations and the Convention in general. The Committee urges the State party to continue cooperating with the specialized programmes and agencies of the United Nations system, especially the Office of the United Nations High Commissioner for Human Rights, with regard to technical assistance and capacity-building in relation to the submission of reports.

## 8. Next periodic report

65. The Committee requests the State party to submit its second periodic report by 1 October 2021 at the latest and include information on the implementation of these



concluding observations. The State party may opt for the simplified reporting procedure whereby the Committee transmits to the State party a list of issues prior to the submission of the next report. The State party's replies to that list would constitute its report due under article 73 of the Convention.

66. The Committee draws attention to its guidelines on the submission of periodic reports (CMW/C/2008/1) and reminds the State party that these reports must conform with the guidelines and must not exceed 21,200 words (General Assembly resolution 68/268). Should the report exceed the word limit, the State party will be requested to shorten the report in order to comply with the aforementioned guidelines. If the State party is not in a position to revise and resubmit the report, translation of the report in time for its review by the treaty body cannot be guaranteed.

67. The Committee requests the State party to ensure the broad participation of all ministries and public entities in the preparation of its next periodic report (or the replies to the list of issues if it opts for the simplified reporting procedure) and, at the same time, carry out a broad consultation of all interested parties, especially civil society, migrant workers and human rights organizations.

68. The Committee invites the State party to submit a common core document that does not exceed 42,400 words and is prepared in accordance with the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents, which were adopted at the Fifth Inter-Committee Meeting of the human rights bodies in June 2006 (HRI/GEN.2/Rev.6).

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