



**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

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 74 OF THE CONVENTION**

**Concluding observations of the Committee on the Protection of the Rights
of All Migrant Workers and Members of Their Families**

EGYPT

1. The Committee considered the initial report of Egypt (CMW/C/EGY/1) at its 50th and 51st meetings (see CMW/C/SR.50 and SR.51), held on 23 and 24 April 2007, and adopted the following concluding observations at its 57th meeting, held on 27 April 2007.

A. Introduction

2. The Committee welcomes the submission of the initial report of the State party and is gratified by the constructive and fruitful dialogue initiated with a competent high-level delegation. The Committee thanks the State party for its written replies to the list of issues (CMW/C/EGY/Q/1/Add.1) and the additional information submitted by the delegation which enabled the Committee to gain a clearer idea of the situation with regard to the implementation of the Convention in the State party.

3. The Committee recognizes that Egypt is a country with significant numbers of all three types of migrants, as it is a country of origin, transit and destination for migrant workers.

4. The Committee notes that most of the countries in which Egyptian migrant workers are employed are not yet parties to the Convention, which may constitute an obstacle to the enjoyment by those workers of the rights to which they are entitled under the Convention.

B. Positive aspects

5. The Committee appreciates the State party's commitment to migrant workers' rights as illustrated by the fact that it was the first country to accede to the Convention.

6. The Committee appreciates the State party's ongoing efforts to regulate private recruitment agencies and to close down those which do not comply with the Labour Code.

7. The Committee also welcomes that the State party has adhered to the following instruments:

(a) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the Protocol against the Smuggling of Migrants By Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, respectively ratified on 5 March 2004 and acceded on 1 March 2005, respectively;

(b) International Labour Organization (ILO) Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, of 1999, ratified on 6 May 2002;

(c) The optional protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict, acceded on 12 July 2002 and 6 February 2007, respectively.

C. Factors and difficulties impeding implementation of the Convention

8. While the Committee notes that the State party envisages the possibility of lifting the state of emergency which has been in force since 1981, it also takes note that an amendment to the Constitution adopted on 19 March 2007 allows for the adoption of anti-terrorism legislation. The Committee remains concerned that this new legislation may affect the implementation of certain laws and international treaties, including the Convention.

9. The Committee notes with concern that Law No. 84 of 2002 places restrictions on the activities of non-governmental organisations working in the field of human rights, including the rights of migrant workers. It emphasizes the important role civil society plays as a partner in implementing the provisions of the Convention.

D. Principal subjects of concern, suggestions and recommendations

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

Legislation and application

10. The Committee notes with concern the State party's reservations to article 4 and article 18, paragraph 6, of the Convention.

11. The Committee encourages the State party to review its reservations to article 4 and article 18, paragraph 6, of the Convention, with a view to withdrawing them. In this context, the Committee recalls that the State party has not made a reservation to article 14, paragraph 6, of the International Covenant on Civil and Political Rights which provides all individuals, including migrant workers, with the right to claim compensation for wrongful conviction.

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

13. The Committee encourages the State party to consider making the declarations provided for in articles 76 and 77 of the Convention.

14. The Committee notes that Egypt has still not acceded to ILO Convention No. 97, concerning Migration for Employment, of 1949 or to Convention No. 143, concerning Migrant Workers (Supplementary Provisions), of 1975.

15. The Committee invites the State party to consider acceding to ILO Conventions No. 97 and No. 143, which concern migrant workers, as soon as possible.

Data collection

16. The Committee regrets the lack of precise statistics on migration flows concerning Egypt and on other migration-related issues. The Committee recalls that such information is indispensable to an understanding of the situation of migrant workers in the State party and to an assessment of the implementation of the Convention.

17. The Committee encourages the State party to pursue its efforts to create a sound database in line with all aspects of the Convention as a tool for effective migration policy and for the application of the various provisions of the Convention.

Training in and dissemination of the Convention

18. The Committee notes that the State party has not organized trainings on the Convention, nor adopted enough measures to disseminate the Convention among all the relevant stakeholders.

19. The Committee encourages the State party to initiate trainings for all officials working in the area of migration, in particular police and border personnel as well as officials at the local level dealing with migrant workers. It also encourages the State party to take the necessary steps to ensure access by migrant workers to information about their rights under the Convention.

2. General principles (arts. 7 and 83)

Non-discrimination

20. The Committee notes that the principle of non-discrimination as defined in article 40 of the Constitution refers only to Egyptian citizens. The Committee is concerned about reports that some migrant workers and members of their families suffer from various forms of discrimination in the area of employment, housing, limited access to health and education and from social stigmatization.

21. The Committee encourages the State party to intensify its efforts:

(a) To ensure that all migrant workers and members of their families within its territory or subject to its jurisdiction enjoy the rights provided for in the Convention without any discrimination, in conformity with article 7;

(b) To promote information campaigns for public officials working in the area of migration, especially at the local level, and for the general public on the elimination of discrimination against migrants, and to combat their social marginalization and stigmatization.

Right to an effective remedy

22. The Committee takes note of the information received by the State party that, according to constitutional case No.8 of Constitutional year 8, every individual, whether citizen or alien, has access to the courts of law and enjoy protection of the rights laid down in the legislation. The Committee remains nevertheless concerned that migrant workers, irrespective of their legal status, have in practice limited access to justice because they are unaware of the administrative and judicial remedies that are available to them.

23. The Committee encourages the State party to pursue its efforts to inform migrant workers about administrative and judicial remedies and to address their complaints in the most effective manner. It recommends that the State party ensure that:

(a) In legislation and in practice, migrant workers and members of their families, including those in an irregular situation, have the same rights as nationals of the State party to file complaints and have access to redress mechanisms before the courts;

(b) Any person whose rights or freedoms, as recognized in this Convention, have been violated may obtain effective redress.

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

24. The Committee notes with concern that the inquiry into the events of 30 December 2005 has been closed without clarifying the circumstances leading to the deaths of 27 Sudanese

migrants. It also expresses its concern at reports that eyewitnesses were not heard in the course of the investigation.

25. The Committee recommends that the investigation into the events of 30 December 2005 be reopened in order to clarify the circumstances leading to the deaths of the Sudanese migrants. Whatever those circumstances, it also recommends that measures be adopted to prevent the occurrence of similar events in the future.

26. The Committee takes note of the information received from the State party according to which, in accordance with Supreme Constitutional Court ruling No. 243/21 issued on 4 November 2000, the Passports Act No. 97 of 1959 was amended in order to allow women to obtain a passport without the permission of any third party. Nonetheless, the Committee is concerned that in practice, some police officials reportedly still require that women obtain permission from their husbands or relatives in order to obtain a passport.

27. The Committee recommends that the State party ensure that, in practice, passports are issued to women who request a passport without the permission of any third party.

28. While noting the State party's assertion that there are no migrant workers in administrative detention, the Committee remains concerned about information according to which some migrant workers are arrested without warrant and if they are unable to show valid identity documents, are detained by law enforcement officials and allegedly sometimes subjected to torture or ill-treatment.

29. The Committee recommends that adequate training be provided to all judicial personnel and law enforcement officials on respect for human rights and non-discrimination on ethnic or racial grounds. The Committee also recommends that the State party take measures to investigate promptly all complaints of torture or ill-treatment of migrant workers while in detention, and to prosecute and punish the perpetrators.

30. The Committee notes with concern that under article 27 of the Labour Code, the protection afforded to migrant workers by the Code is subject to a reciprocal agreement. The Committee recalls that article 25 of the Convention does not make any reference to a principle of reciprocity and provides that there should be equal treatment between migrant workers and nationals in respect of remuneration and other conditions of work and employment.

31. The Committee recommends that the State party amend article 27 of the Labour Code in order to remove this condition and ensure that all migrant workers benefit from equal treatment in respect of remuneration and other conditions of work and employment.

32. The Committee expresses its concern that foreign migrant workers seeking permission to work in Egypt must provide a certificate proving that they do not carry HIV/AIDS. It recalls that, according to the ILO Code of practice on HIV/AIDS and the world of work, HIV testing should not be required at the time of recruitment.

33. The Committee recommends that medical tests of migrant workers be in conformity with the ILO Code of practice on HIV/AIDS and the world of work and the International Guidelines on HIV/AIDS and human rights.

34. The Committee regrets that children born in Egypt of migrant workers, whether in regular or irregular situation, are not given a birth certificate by the Egyptian civil registry, in violation of article 29 of the Convention which provides that each child of a migrant worker shall have the right to a name, to registration at birth and to a nationality.

35. The Committee recommends that each child born in Egypt of a migrant worker be ensured the right to a name, to registration at birth and to a nationality in accordance with article 29 of the Convention and to the delivery of a birth certificate by the Egyptian civil registry.

36. The Committee notes with concern that most children of documented migrant workers do not have access to public schools and that the children of undocumented migrant workers do not have any access to the schooling system, whether public or private.

37. The Committee recommends that the State party grant all children of migrant workers, whether documented or undocumented, access to schools on the basis of equality of treatment with Egyptian children in accordance with article 30 of the Convention.

38. The Committee notes that article 4(b) of the Labour Code stipulates that the provisions of that law shall not apply to domestic service workers, including foreign domestic workers. It also notes with concern the rising number of migrant domestic workers and the absence of legal protection afforded to them.

39. The Committee recommends that the Labour Code be amended in order to apply to domestic workers, including migrant domestic workers, or that new legislation be adopted to provide protection to them. It also recommends that the State party should take appropriate measures to protect migrant domestic workers, particularly women domestic workers. It also recommends that migrant workers in domestic service should have access to mechanisms for bringing complaints against employers and that all abuses, including ill-treatment, should be promptly investigated and punished.

40. While welcoming the State party's ongoing efforts to disseminate information about the Convention among Egyptian migrant workers seeking to work abroad, the Committee notes that the public information made available to migrant workers rarely refers to their rights arising out of the Convention.

41. The Committee encourages the State party to pursue its efforts to raise awareness of the rights arising out of the Convention among migrant workers and those seeking to migrate abroad to work.

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

42. The Committee expresses its concern at the fact that Egyptian migrant workers abroad are not able to exercise their right to vote.

43. The Committee encourages the State party to continue its efforts to facilitate the exercise of voting rights by Egyptian migrant workers residing abroad.

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

44. The Committee notes that the information before it is unclear as to whether the High-Level Committee for Emigration has actually been established and what it has achieved so far.

45. The Committee recommends that the State party provide adequate financial and human resources to the High-Level Committee for Emigration in order that the latter may properly implement all migration activities provided for in its mandate, as defined in Law No. 111 of 1983.

46. The Committee notes that a number of complaints have been received by the Egyptian National Council for Human Rights concerning the rights of Egyptian migrant workers abroad and is concerned about the alleged lack of necessary assistance from consular services. In particular, it notes with concern information according to which some Egyptian migrant workers were not given travel documents to return to Egypt after being issued with expulsion decisions in the host country and recalls that migrant workers and members of their families shall have the right at any time to enter and remain in their State of origin (article 8 of the Convention).

47. The Committee recommends that consular services respond more effectively to the need for protection of Egyptian migrant workers and members of their families, and, in particular, provide the necessary assistance to those in detention and promptly issue travel documents to all Egyptian migrant workers and members of their families who wish or have to return to Egypt. It also recommends that the mechanisms for receiving complaints from migrant workers be improved and generalized in all embassies and consulates.

48. The Committee is concerned at the situation of Egyptian migrant workers who are the victims of a “sponsorship” or kafalah system designed to give the sponsor control over them for the duration of their stay in the State of employment, most notably in the Gulf countries, and sometimes even to prevent them from returning to Egypt.

49. The Committee recommends that the State party encourage its embassies and consulates to provide assistance to migrant workers who are subject to such a ‘sponsorship’ or kafalah system and that it endeavour to negotiate with the relevant countries of destination that such a system be abolished.

50. While noting that the State party is mainly a transit country for victims of trafficking, the Committee takes note of the State party’s willingness to address the emerging problem of trafficking in persons. It regrets the fact that there is no specific anti-trafficking legislation in force.

51. The Committee urges the State party to:

(a) Adopt specific anti-trafficking legislation;

(b) Step up its efforts to counter migrant-smuggling and trafficking in persons, especially women and children, inter alia by taking appropriate steps to detect the illegal or clandestine movements of migrant workers and their families and punish the criminals and/or groups who orchestrate or assist such movements.

7. Follow-up and dissemination

Follow-up

52. While the Committee welcomes the initial report's detailed description of the laws and regulations related to the provisions of the Convention, the Committee requests the State party to provide detailed information in its second report on how these laws and regulations are implemented in practice

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

Dissemination

54. The Committee likewise requests the State party to disseminate these concluding observations widely, including to public agencies and the judiciary, non-governmental organizations and other members of civil society, and to inform Egyptian migrants abroad and foreign migrant workers in transit or residing in Egypt of the rights they and members of their families enjoy under the Convention.

8. Next periodic report

55. The Committee requests the State party to submit its second periodic report by 1 July 2009.
