

TREATY BODY MONITOR

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COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN 38TH SESSION (NEW YORK, 14 MAY- 1 JUNE 2007) SYRIA (INITIAL PERIODIC REPORT)

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Information Submitted to the Committee

On 24 May 2007, the Syrian Arab Republic submitted its initial report¹ under the *Convention on the Elimination of All Forms of Discrimination against Women* (the Convention), as well as written responses² to the list of issues and questions³ raised by the Committee on the Elimination of Discrimination against Women (the Committee). The Syrian delegation was led by Dr. Mouna Ghanem, head of the Syrian Commission for Family Affairs (CFA).⁴

¹ <http://daccessdds.un.org/doc/UNDOC/GEN/N05/517/77/PDF/N0551777.pdf?OpenElement>.

² <http://daccessdds.un.org/doc/UNDOC/GEN/N07/254/96/PDF/N0725496.pdf?OpenElement>.

³ <http://daccessdds.un.org/doc/UNDOC/GEN/N06/555/53/PDF/N0655553.pdf?OpenElement>.

⁴ The delegation also comprised Mr. Samir Hassan, Dean of Faculty of Literature at Damascus University, and Ms. Mona Asa'ad, legal advisor to the Syrian Commission for Family Affairs,

http://www.un.org/womenwatch/daw/cedaw/cedaw38/statements/delegations/Syria_intro_statement.pdf.

The Committee's reporting guidelines⁵ require that a country's initial report discuss its implementation of every article including any reservations. The Committee commended the structure of Syria's comprehensive and detailed report, and its use of objective criteria in areas that demonstrate major progress.

A shadow report was submitted to the Committee by the Syrian Women's League (SWL)⁶, in collaboration with other non-governmental organisations (NGOs). The shadow report discussed Syria's compliance with the Convention on an article-by-article basis, demonstrating that the government's portrayal of positive achievements under the Convention is somewhat exaggerated.

The Committee expressed their pleasure at the NGO participation in the drafting of the report. They were also pleased that the report had been presented to the Ministry of Foreign Affairs and other governmental units. The SWL noted that only certain organisations "approved" by the Government were invited to contribute to the report, and that the government was increasingly trying to control the NGOs' direct interaction with UN agencies, including through legislative steps.

Syria has a primarily Arab population and Islam is regarded as the principal source of its legal system. Syria is a party to a number of international instruments including the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (with reservations); the Convention on the Rights of the Child (with reservations); and the International Convention on the Protection of the Rights of All Migrant Workers and Their Families (Migrant Workers Convention).⁷

The Committee was encouraged by Syria's planned withdrawal of its Article 2 reservation,⁸ making it the first country to submit its initial report with a withdrawal. The Committee noted, however, that the withdrawal of only one reservation of the several listed in the State report as being under consideration in Syria's written responses is disappointing. Particularly troublesome is the lack of any consideration of removal of the reservation affecting women's rights to social security, and the right to custody of their children. This is especially surprising since Syria is removing similar reservations in other international agreements.⁹ The Committee worried that the Government is sending a message that women's issues are less urgent, and the Committee pressed hard for timetables and procedures for removing remaining reservations and ratifying the Optional Protocol. Acknowledging that Islamic culture as it exists in Syria is slowing down this process, the delegation stressed that Islam itself is not the obstacle because major religious authorities in Syria are supportive. The delegation portrayed its gradual approach as being the strategy that works best in the national context.

⁵ Overview of the working methods of the Committee, <http://daccessdds.un.org/doc/UNDOC/GEN/N06/594/40/PDF/N0659440.pdf?OpenElement>.

⁶ NGO's Report on the Initial Report of the Syrian Arab Republic on CEDAW, [http://www.iwraw-ap.org/resources/pdf/Syrian%20\(arabic\).pdf](http://www.iwraw-ap.org/resources/pdf/Syrian%20(arabic).pdf).

⁷ <http://www.ohchr.org/english/law/index.htm>.

⁸ Syria entered a number of reservations when it acceded to the Convention in 2003.

<http://www.un.org/womenwatch/daw/cedaw/states.htm>. The reservations are: Art. 2 in its entirety; Art. 9 (2) - nationality of children; Art.15 (4) - freedom of movement, residence and domicile; Art.16 (1) (c), (d), (f) and (g), - equal rights and responsibilities in marriage and at its dissolution; Art.16 (2) - legal effects of betrothal and child marriage if incompatible with Islamic Sharia law, and Art. 29 (1) - arbitration between States in the event of a dispute, <http://daccessdds.un.org/doc/UNDOC/GEN/N06/309/97/PDF/N0630997.pdf?OpenElement>.

⁹ Syria approved withdrawing several reservations to the Convention on the Rights of the Child, <http://www.ohchr.org/english/law/crc.htm>.

Themes and Issues¹⁰

Definition of Discrimination

Despite the fact that discrimination is not clearly defined under Syrian law, nor discrimination on the basis of sex prohibited, the delegation argued that the Syrian Constitution already guarantees equality. The Committee was not persuaded, insisting that explicit measures be adopted that adequately reflect the Convention.

Legal Framework

The delegation reported that the Convention prevails over any existing discriminatory Syrian laws and that the local laws are being examined by legal experts and will be modified in due course. The Committee forcefully insisted on the Government's obligation to actively and promptly reform all of its legislation, much of which is openly discriminatory, in addition to any other laws causing indirect discrimination. The Committee echoed the shadow report in identifying the urgent need for modified legislation on rape (including marital rape), honour crimes, minimum age for marriage, and property rights.

Committee members repeatedly sought to clarify whether the Convention takes precedence over the Constitution under Syrian law. The delegation's initial responses appeared evasive, and they were unable to point to any court decisions. The delegation eventually stated that although the Syrian Constitution ranks higher than the Convention, its guarantee of equality meet the Convention's requirements. The Committee again found this answer unpersuasive, and stressed the need to implement the Convention by actively creating domestic legislation.

National Institutional Machinery

The status and the authority of the CFA to advance the Convention were not entirely clear. Committee members sought repeatedly to elicit details as to the CFA's role, purpose, staffing, budget, and national presence. The name itself, "Commission on Family Affairs" seems to give priority to women's family roles in society rather than to their individual contributions and rights, and also glosses over the hurdles faced by unmarried women, or women in the workforce. The delegation portrayed the CFA as functionally equivalent to a ministry, reporting directly to the Prime Minister. The CFA, it was explained, ensures empowerment of women as well as protection of the family as a whole.

The Committee reluctantly accepted the short-term effectiveness of the multiple agendas of the CFA. The report lists many agencies and units that are involved in dealing with the advancement of women. The actual power of these agencies and units, and whether they overlap or cooperate, remains unclear. A human rights monitoring body still exists only on paper. The Committee vigorously probed the report's acknowledged 'failure to translate general plans and policies into practice.'¹¹ The Committee also pursued questions about the lack of effective means to educate women as to their rights and the absence of a central body to handle complaints.

Temporary Special Measures

The Committee was surprised that Syria has not applied any temporary special measures allowed by the Convention, which are outlined in greater detail in the Committee's General Recommendation No. 25.¹² The Committee also enquired as to whether temporary special measures would be included in Syria's draft law on gender equality. The delegation argued that there are already measures in place that, although not called by the same name, are equivalent. The delegation used the 30 per cent quota for women in the political structure

¹⁰ For a more detailed description of the dialogue between the Committee and the State, please see the press release of the proceedings, available at <http://www.un.org/News/Press/docs/2007/wom1630.doc.htm>.

¹¹ Syria Initial Report, at 33.

¹² [http://www.un.org/womenwatch/daw/cedaw/recommendations/General%20recommendation%2025%20\(English\).pdf](http://www.un.org/womenwatch/daw/cedaw/recommendations/General%20recommendation%2025%20(English).pdf).

as an illustration. The delegation explained that these measures are usually made possible by verbal agreement or verbal assent on the part of higher authorities. The Committee remained unpersuaded by this reliance on informal understandings, insisting that the firm legal bases of Recommendation No. 25 should be utilised.

Stereotyping and Awareness-Raising

Recognising the important progress that has been made against stereotyping in the form of workshops and targeted TV programming described by the delegation, the Committee pressed hard for an integrated and systematic strategy. The Committee urged ongoing efforts to use the schools and the media to raise awareness.

Violence against Women

The Committee welcomed the Government's ground-breaking study on violence against women in Syria, co-funded by UNIFEM, and suggested that it be submitted in connection with the Secretary General's ongoing initiative on violence against women¹³. The Committee requested additional information on the types of violence studied and whether they included psychological violence, sexual violence, and honour killings. The Committee also urged the translation and dissemination within Syria of the recent global study carried out by the UN Division for the Advancement of Women.¹⁴ The Committee also urged increasing prevention efforts and prosecution of perpetrators, along with related training of police and law enforcement staff. The delegation offered to share with the Committee the results of recent studies carried out on the refugee population, and submitted to the Chairperson various brochures that have been distributed in Syria on the Convention, and on the status of Iraqi refugees. The Government is also preparing a law for the protection of children, and expressed their hope that laws specifically protecting women will be adopted in the future. Turning again to the absolute necessity of promptly and systematically reforming Syrian laws, particularly in regards to marital rape, and exoneration of rapists who later marry their victims to insulate themselves from prosecution, the Committee pressed for evidence that changes are actually taking place and urged that Committee General Recommendation No. 19¹⁵ be given careful consideration in the process.

In addressing Syria's acknowledged need to build more shelters for victims of domestic violence, the Committee expressed concern regarding the financial vulnerability of women who leave home without permission from their husbands. The Committee suggested a holistic approach to protect women, who are from seeking shelter or outside assistance, from losing financial support or custody of their children.

Trafficking in Women and Prostitution

The Committee, reinforcing the message of the shadow report, sharply criticised a legal framework that outlaws prostitution but prosecutes only female prostitutes. With persuasive candour, the delegation explained that prostitution is still a largely taboo issue, only now beginning to be addressed in the HIV context. They also explained that a new draft law is likely to soon be approved and implemented. The delegation described a new film released in Syria showing interviews with women prostitutes, who are often victims of violence, and/or driven to become prostitutes in order support their families. The Committee expressed satisfaction with this type of initiative.

The Committee found unacceptable the incarceration of trafficked people, and strongly recommended that the government provide rehabilitation and reintegration. The Committee was also puzzled as to why the detentions are under the control of the Ministry of Foreign Affairs rather than a unit that deals with women's issues. The delegation explained that there are simply no other locations for housing trafficking victims and promised to address this problem in the future. They also noted that legal experts from the Ministry of

¹³ <http://daccessdds.un.org/doc/UNDOC/GEN/N06/419/74/PDF/N0641974.pdf?OpenElement>.

¹⁴ http://www.un.org/womenwatch/daw/egm/elim-disc-viol-girlchild/EGM%20Report_FINAL.pdf.

¹⁵ Committee Recommendation on violence against women, <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom19>.

Foreign Affairs are collaborating with the International Labour Organization (ILO) on many of these issues. Syria also recently ratified the Migrant Workers Convention which will facilitate addressing migrant workers involved in trafficking.

Participation in Political and Public Life

The Committee cautioned that while the target of 30 per cent female participation in political life has resulted in some women placed in the policy-making ranks, this percentage must not turn into a glass ceiling over time. The Committee then focused on the fact that the real target has not actually been met, given that presently only 10% of parliament is female. Further, the number of women representatives at the local levels is considerably lower, which carries particular significance for a State whose population is over 50 per cent rural. Similarly, in academia, the higher the level of studies or faculty positions, the lower the level of women represented. The Committee again underscored the need for temporary special measures to accelerate the integration process. This need is especially urgent in view of the report's information that women candidates for election, unlike their male counterparts, must produce a certificate of having completed primary education, described by the Committee as a flagrant violation of the Convention's principles that must be corrected. The delegation gave assurances that this has been corrected.

During constructive dialogue the Committee focused on a new draft law on Associations which would affect NGOs and women's organisations. The delegation assured the Committee that it would be enacted soon, and would remove any need for obtaining advance government approval. The Committee was receptive to the delegation's assurances that all key players in Syria have endorsed the draft law on Associations, but noted the absence of a satisfactory answer to its questions of whether the new law, which will require registration by NGOs, will in fact allow them to function independently. Committee Members requested copies of the draft legislation.

Citizenship

Syria's Citizenship Code limits the right of women to pass on citizenship to their children or foreign husbands. The Committee reminded the delegation that the Code continues to treat men more favourably and is openly discriminatory and violates the Convention. The Committee explored whether a proposed 2004 amendment to the Citizenship Code remains a viable option. The delegation explained that the situation results from a needlessly narrow interpretation of Islamic law, and the difficulty in changing it currently is primarily political, and requires a gradual approach.

Education

The Committee was disconcerted by the reported decrease in literacy rates in recent years among rural women, particularly in the context of the overall progress shown by Syria in making greater educational opportunities available to women on a national scale. The delegation explained that not only has the number of women living rurally increased, but that the government's statistical capabilities are able now to probably include data that was not available earlier.

Employment

Following up on its written questions, the Committee disagreed with the State report's conclusion that because there have been no lawsuits by women complaining of workplace discrimination this means that the Syrian Employment Act of 1954 has been a success and has created equal employment opportunities for women. The government also stated that there have not been any lawsuits by women complaining of sexual violence in the workplace. Committee members made it abundantly clear that the mere existence of a law on the books does not mean it is followed in practice, and it is practice that is central to the Convention. Further, the report did not adequately address equality of pay between men and women. The delegation gave assurances that the government is not only conducting studies of actual practices in the private sector, but is stepping up enforcement and mainstreaming mechanisms.

Health, Social and Economic Benefits, Rural Women

The Committee raised a number of questions concerning the status of refugee women, whose numbers continue to increase in rural areas. The Committee also pressed for concrete actions to provide more accessible and affordable health care services, and that women be able to leave their homes without their husband's permission to obtain medical services. The delegation presented a number of family planning efforts already underway, which target prevention of pregnancy, ensure availability of contraception, and are expected to reduce future maternal mortality rates. Although still in the discussion phase, these initiatives will be significantly expanded next year. Such initiatives will increase the number of home visits by health care practitioners and will raise public awareness of the serious physical risks to young women that often result from early marriage and pregnancy.

Personal and Family Status

The Committee expressed concern with the many current laws that operate to women's disadvantage, such as lesser inheritance rights, limited property rights, consequences of adultery, rights to and following divorce, rights to custody of children, and the unavailability of civil marriage to Muslims. As the Committee pointed out, most appear to be inconsistent with Syria's constitutional rule of law and equality, not to mention in flagrant violation of the Convention. While openly and repeatedly acknowledging these laws' discriminatory nature and impact, the delegation parried by promising that several laws currently in preparation included a draft Family Law and a Personal Status Law. Both, according to the delegation, will be soon enacted and remedy the deficiencies noted by the Committee. Committee members requested copies of the draft legislation. Further confusing the picture are the numerous stand-alone laws that apply to special segments of the population,¹⁶ such as the Druze and various Christian denominations. It was unclear from the report in what courts and by whom these laws are applied.

Conclusions and Next Steps

The Committee was well-informed about the development of Islamic traditions in Syria. When taken as a whole, Islamic traditions may provide a degree of protection to women that may not be apparent on their face, and at other times are clearly discriminatory. The delegation conveyed that Islamic law does provide a number of protective mechanisms. One example would be a woman's ability to contract, in advance of marriage, a variety of provisions that will allow her to leave the home and even the country without her husband's permission, to work outside the home, and in general assure that she will have significant freedom of movement. The drawback is that such things must be written into the marriage contract in advance, and as the Committee pointed out, illiterate and/or rural women are at an obvious disadvantage. Another example is that wife is under no obligation to contribute money to support the family. The delegation's position was that traditional laws provide greater societal balance than may be visible to an outsider.

The Committee in turn firmly conveyed that in the global 21st century context of the Convention, the Government is obligated to apply transnational rules under international law. Syria must progressively implement these rules, although the Committee understands this may involve a lengthy and challenging series of legal and cultural reforms. Further, the Committee's expectation is that all remaining treaty reservations will be withdrawn and that Syria will adopt the Optional Protocol. The Committee encouraged taking both small and large steps, as long as there is progress that is demonstrable, prompt and in good faith. The success of compliance with the Convention is objective and quantifiable. The Committee seemed disappointed that the specific tools it has elaborated for strengthening the status of the Convention based on experiences with other countries are being under utilised and referred the delegation to its General Recommendations. The Committee was optimistic that Syria would continue the successful collaboration with religious leaders and

¹⁶ The report states that although predominantly of Arab ethnicity, the Syrian population includes Kurds, Armenians, Christians, Circassians and others, at p. 5.

NGOs. The hoped for result is an understanding that the Convention and religion are not mutually exclusive. The Committee also sought to clarify the differences between “programmatic” initiatives (such as the Beijing Platform and Declaration) and legally binding international instruments such as the Convention. Major areas of focus for immediate attention are honour killings and marital rape laws. Lastly, the delegation was urged to hold a press conference upon returning to Syria to raise awareness of the Convention and the Government’s role in its implementation.

In its Concluding Comments,¹⁷ the Committee urged greater and more systematic dissemination of the Convention, its provisions, and availability of remedies throughout the judicial and legislative and law enforcement communities. The Committee urged adoption in national law of a definition of legal discrimination and equal rights, along with a user-friendly official mechanism for effectively resolving complaints of discrimination. The Committee pointed to the urgent need for prompt elimination of discriminatory provisions in national legislation, with particular emphasis on the Personal Status Act to ensure equal marital and inheritance status for women. It is also important to ensure registration of births, marriages, deaths and divorces. Further, the Committee urged amending national law to implement the measures made available under Committee Recommendations No. 19 and No. 25 for combating violence against women and temporary special measures to foster women’s participation in public life, respectively. The Committee stressed implementation of effective monitoring programs to gauge the effectiveness of awareness and sensitisation campaigns, and the expansion of such campaigns. The Committee cautioned against imposing restrictions on NGOs and civil society groups that could hinder performance of their vital role in promoting gender equality. Lastly, the Committee recalled the importance of implementing the Beijing Platform and Declaration and achieving the Millennium Development Goals.

¹⁷ <http://daccessdds.un.org/doc/UNDOC/GEN/N05/517/77/PDF/N0551777.pdf?OpenElement>.

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