

# TREATY BODY MONITOR

International Service for Human Rights



Human Rights Monitor Series

## COMMITTEE ON MIGRANT WORKERS 8<sup>TH</sup> SESSION SYRIAN ARAB REPUBLIC, 1<sup>ST</sup> REPORT 15-16 APRIL 2008

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Information submitted to the Committee

### State report

On 11 July 2006, the Syrian Arab Republic (Syria) submitted its first periodic report regarding the implementation of the *International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families* (the Convention) to the Committee on Migrant Workers (the Committee).<sup>1</sup> The initial report includes geopolitical, economic and legislative information on Syria, followed by a systematic consideration of the substantive articles of the Convention. Documents related to the national legislative framework, such as the Criminal Code and the Code on Criminal Proceedings, are annexed to the report. The report was prepared exclusively by governmental institutions, and during the session, several Committee members expressed their concern about the lack of civil society participation in this regard.

<sup>1</sup> CMW/C/SYR/1, 11 July 2007, available at [www2.ohchr.org/english/bodies/cmw/cmws08.htm](http://www2.ohchr.org/english/bodies/cmw/cmws08.htm).

On 18 December 2007, the Committee submitted a list of issues related to the initial State report.<sup>2</sup> The main issues on which the Committee asked for additional information were the lack of a database on migration flows, actions taken for the implementation of the Convention, the role of non-governmental organisations (NGOs) in drafting the national report, the Government's assistance to Syrian expatriates as well as their right to vote abroad, measures undertaken to ensure equal treatment for migrant workers and their children, migrants' access to medical services, freedom of association for non-Arab foreign workers, provisions adopted to prevent illegal migration, and trafficking in human beings. Syria submitted its written replies to the list of issues on 3 April 2008.<sup>3</sup>

No NGOs submitted alternative reports to the Committee.

## Themes and issues

The delegation of Syria was headed by Mr Essa Maldaon, Deputy Minister of Social Affairs and Labour, and included Mr Ismael Ismael, Director of Immigration and Passports at the Ministry of Interior, Mr Mohamed Farouq Al-Basha, Legal Adviser at the Syrian Commission for Family Affairs, and Mr Abdulmonem Annan Second Secretary at the Permanent Mission in Geneva.

Head of delegation Mr Maldaon opened the meeting by underscoring that the aim of the review is the improvement of the conditions of migrant workers and their families. He admitted that the Government has not yet been able to fully safeguard the rights of migrant workers in Syria, but reiterated its willingness to undertake all necessary efforts to reach these objectives. While expressing his gratitude to the Committee for its constructive analysis of the State report, Mr Maldaon pointed out that both the Committee and the delegation 'were speaking the same language', in terms of diagnosing the problems affecting migrant workers and developing common strategies to overcome them. As already stated in the State report, the delegation reminded the Committee that Syria is not a country that attracts foreign workers, and that those who came to Syria only settle for a short period of time. It noted that most of the migrants are domestic workers from Asian countries, and their recruitment is clearly regulated by law. Regarding Syrians working abroad, the delegation affirmed that Syria is mainly 'exporting' teachers, doctors, and engineers, and that the Government is signing bilateral agreements with hosting countries in order to counter violations of Syrian migrant workers' rights.

Committee Chairman Mr El Jamri stressed that the main purpose of the review is the promotion and protection of both migrant workers' rights in Syria and Syrian workers' rights abroad. After a brief overview of the Committee's procedures, Mr El Jamri gave the floor in turn to the two country rapporteurs, Mr El-Borai and Mr Taghizadet. Mr El-Borai welcomed the Syrian delegation and thanked it for the visible efforts undertaken in drafting the report and in providing the Committee with replies to its list of issues. He expressed his concern regarding the lack of statistical data, which impeded the Committee's work in assessing the implementation of the Convention in Syria. Moreover, Mr El-Borai regretted the ambiguity of the replies to the list of issues and the absence of specific reference to legislative texts. He also listed a number of replies submitted by Syria which did not provide any substantive information or clarification.<sup>4</sup> Mr Taghizadet aligned himself with Mr El-Borai's statement, and expressed his concern about the lack of information regarding the rights of migrant workers, and strongly recommended Syria to provide statistical data in order allow the Committee to assess and improve the conditions of migrant workers.

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<sup>2</sup> CMW/C/SYR/Q/1, 18 December 2007, available at [www2.ohchr.org/english/bodies/cmw/cmws08.htm](http://www2.ohchr.org/english/bodies/cmw/cmws08.htm).

<sup>3</sup> CMW/C/SYR/Q/1/Add.1, 3 April 2008, available at [www2.ohchr.org/english/bodies/cmw/cmws08.htm](http://www2.ohchr.org/english/bodies/cmw/cmws08.htm).

<sup>4</sup> These included the role of civil society in implementing the Convention, assistance offered to Syrians abroad, effects of the emergency status envisaged by the Convention, rights of migrant children, and right of association of foreign workers.

After the two rapporteurs' statements, the floor was given to other Committee experts. The main issues raised during the session were related to two categories of migrant workers, namely foreigners working in Syria and Syrians working abroad. This includes domestic workers, migrant workers' children, the judicial system in place and access to justice for migrant workers, bilateral agreements with hosting and sending countries, trafficking in human beings, assistance provided to Syrians living abroad, and the status of refugees in Syria.

### **Status of the Convention in national law**

Syria ratified the Convention on 2 June 2005. Although no reservations were made to the Convention, Syria declared that its accession to this Convention did not, in any way, imply recognition of Israel, nor dealing with it on issues governed by the provisions of the Convention.<sup>5</sup>

In order to demonstrate the general transition in the country, delegation member Annan emphasised the progress that Syria is making in terms of legislation. He proudly highlighted that since 2006, when Syria embarked on a transition process,<sup>6</sup> a vast amount of laws have been enacted, corresponding in number to those adopted in the last 50 years.

Several Committee experts raised questions on the measures that have been adopted to integrate the Convention in the national legislative system. They also asked the delegation to explain the difficulties and obstacles that Syria has faced since ratifying the Convention, with a view to providing Syria with assistance and support. Committee Rapporteur Mr El-Borai stressed the importance of adapting the national legal framework to international provisions, and of ensuring that the Convention has precedence over domestic legislation.

Head of delegation Mr Maldaon expressed Syria's commitment to adjusting national legislation to international standards, and asserted that wherever there is a conflict between the two, a judge must consider the international convention as having precedence. He admitted that there have been a few cases instances where the judge was unaware of the Convention, but insisted that the judiciary has been informed and trained on the supremacy of international norms over national ones.

Furthermore other Committee experts inquired about the measures that have been taken to promote and publicise the Convention among migrant workers and their families, as well as State authorities.

Delegation member Mr Annan acknowledged that Syria had ratified the Convention with the awareness and intention of fully implementing its provisions. However, he pointed out, the Committee should bear in mind the challenging phase of reforms and transition that the country is facing, and that changes require time.

In its concluding observations, the Committee encouraged the State to consider measures aimed at ensuring that Arab and non-Arab migrants are provided with equal access to information concerning their rights under the Convention.<sup>7</sup>

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<sup>5</sup> Declaration available at [www2.ohchr.org/english/bodies/ratification/13.htm](http://www2.ohchr.org/english/bodies/ratification/13.htm).

<sup>6</sup> Upon being elected as President in 2000, Bashar Al-Assad officially launched Syria's 'coming out' from 30 years of centrally planned economy and transition towards a social market economy. The President is calling for new ideas and reforms from his citizens on improving the economic situation of the country and save Syria from the economic collapse. Developing a competitive business profile is one of the major challenges of the Syrian Government, and an industrial modernisation programme is the principal instrument to achieve this aim.

<sup>7</sup> Concluding observations available at [www2.ohchr.org/english/bodies/cmw/cmws08.htm](http://www2.ohchr.org/english/bodies/cmw/cmws08.htm).

## **Migrant workers in Syria**

### ***Domestic legislation on migrant workers***

The State informed the Committee in the State report, and reiterated throughout session, that Syria is not a country that attracts foreign workers. It was noted that most foreign workers in Syria come from Gulf States, since Syria does not require an entry visa for nationals of Arab States. These individuals, however, are not considered as ‘migrant workers’ as such. Although the delegation informed the Committee that the Syrian Labour Code does not discriminate between Syrian and migrant workers, the Committee members insisted on hearing about concrete plans in this respect. Additional clarifications were sought on measures in place to protect migrants from abuse with regard to their remuneration, hours of work, safety, health, and other conditions of work.

Committee expert Ms Poussi Konsimbo asked if migrant workers have the right to representation in the Popular Assembly. Committee expert Mr Sevim inquired about the right of migrant workers to join trade unions. Committee expert Ms Medina referred to illegal immigration, and requested clarification on the application of the Convention vis-à-vis illegal migrants.

The delegation admitted that previously, the law allowed only Arab citizens to join trade unions, but assured that following a legislative amendment, trade unions are now accessible to everyone. Regarding the representation of workers in the Popular Assembly, the delegation stated that there is a quota for workers’ representatives therein.<sup>8</sup> The only condition for election to the Assembly is the possession of Syrian nationality; therefore, no representatives of foreign workers can be elected. The delegation acknowledged the presence of illegal foreign workers in Syria, but given the low rate of migrant workers in general, the delegation did not seem to consider this phenomenon to be a pressing problem. Delegation members recalled that Syria is a country that mainly exports rather than imports manpower, due to its high rate of unemployment and uncompetitive salaries.

Committee expert Mr Alba and Committee Rapporteur Mr Taghizadet referred to the written reply to the Committee’s question on the remittance of salaries, and sought clarification on the provision that entitled foreign workers to remit no more than 60% of their total remuneration in foreign currency. They noted that this financial regulation violates the Convention, which allows migrant workers to transfer all their wages abroad. In this vein, Committee expert Ms Dieguez Arevalo asked if a black market for money transfer exists.

The delegation explained that the transition from a planned to a market economy that Syria is undertaking requires financial policies that preserve monetary reserves. It added that this temporary restriction on money transfers applies to both Syrians and foreigners. In response to the question on the existence of a monetary black market, the delegation admitted the occurrence of illegal transfers of money out of the country, but was confident that this phenomenon will end once the Syrian economy and monetary system are completely liberalised.

Committee expert Mr Alba expressed his concern regarding the State’s written reply to the Committee’s question on the judicial mechanisms competent to examine complaints by migrant workers. He commented that the system in place is not in line with the Convention.

The Syrian delegation explained that if a migrant worker does not have a work permit, he does not have access to the labour court, but only to the ordinary court. Delegation member Mr Al-Basha clarified that Labour Decree 49 established constraints on employers to prevent the arbitrary dismissals of workers. This same decree entitles workers to appeal to the labour court in the case of an arbitrary firing, with the only requisite of holding a work permit. Workers who entered the country illegally can resort to ordinary courts to

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<sup>8</sup> Furthermore, the seats are distributed among two categories, farmers/workers and professionals/employees.

have their rights upheld and to seek redress. Mr Al-Basha indicated that the only difference between the labour court and the ordinary court is that the former is free. This violates the Convention, which states that an individual without a work permit has the same right to access to court as a legal migrant worker.

In its concluding observations, the Committee encouraged the State to intensify its efforts to ensure that all migrant workers and members of their families enjoy the rights provided for in the Convention without any discrimination. It recommended that the State party ensure that 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 to obtain effective redress mechanisms before the courts as well as the labour commissions. The Committee also recommended that the State party reconsider its current policy of limiting the amount of remittances allowed to be made by migrant workers in Syria.

### ***Domestic workers***

Delegation member Mr Maldaon acknowledged that 95% of migrant workers in Syria come from Southeast Asian countries, and that the rest come from Arab countries. Among these migrant workers from Southeast Asia, the majority is composed of female domestic workers.

Committee expert Ms Dieguez Arevalo insisted on the importance of developing bilateral agreements with sending countries, and requested more details regarding the agreement under discussion with Indonesia. She expressed concern about the alleged confiscation of domestic workers' passports, and asked for clarification on this issue. Furthermore, she requested more information on actions taken by the State to combat trafficking in human beings.

In response to Committee's questions, head of delegation Mr Maldaon informed the Committee that Syria has enacted legislation granting insurance coverage for domestic workers, and stressed that there are no cases of withholding of passports. It was pointed out that the law prohibits the confiscation of passports, and employers or householders only withhold passports to guarantee the presence of the worker and avoid theft. Mr Maldaon supplemented his statement by pointing out that for over 20 years, when he was a professor in other Gulf countries, his passport had always been kept by the local authorities, and was returned to him only when he was returning home. Delegation member Mr Annan confirmed that a new law against trafficking of human beings had been presented on 14 April 2008 to the Council of Ministers, and has already entered into force. He stressed the uniqueness of this law and presented some of its aspects, such as the fact that a victim of trafficking cannot be subject to any sanctions before the judiciary.

In its concluding observations, the Committee recommended that the State ensure that private employers comply with the rule that passports of migrant workers may not be withheld for any reason. The Committee urged the State to adopt the draft law on trafficking in persons, and step up its efforts to counter migrant-smuggling and trafficking in persons, especially women and children.

### ***Children of migrant workers***

Several Committee experts sought clarifications on how the rights of migrant workers' children to be registered at birth and have a nationality are ensured. They also asked whether children of migrants are admitted to schools regardless of the residence status of their parents, and how their admission is regulated.

Regarding the identity of children, the delegation assured that foreign children are registered at birth, but pointed out that registration alone does not imply the acquisition of Syrian nationality. For the registration of the birth, it is the responsibility of the parents to bring their child to their own Embassy. On the question on access to education, the delegation asserted that the law does not prohibit migrants' children from attending Syrian schools. The only prerequisite is the knowledge of Arabic language, since all public schools teach in Arabic. The Committee was also informed of the existence of private French and English schools. The

delegation reported that 40,000 Iraqi children are attending Syrian schools; there is also a large number of students from Somalia, Sudan, and Lebanon.

### **Refugees**

Throughout the session, the delegation stressed the challenging situation that Syria is facing with regard to Iraqi refugees entering the country. Delegation members affirmed that Iraqi refugees have the same rights as Syrians, and are subject to the same labour provisions. It was also added that the majority of refugees working in Syria is doing so without a work permit. In response to the several questions raised by Committee experts on the application of the Convention to Iraqi refugees, the delegation remarked that the status of these refugees is regulated by the *Convention Relating to the Status of Refugees* of 1951,<sup>9</sup> and that bringing up the issue of Iraqis is in any case out of the mandate of this Convention.

Committee member Mr Kariyawasam asked for more information on the status of Palestinian refugees and the treatment that they receive in Syria. The delegation emphasised the distinction between migrant workers and refugees, the former which is within the mandate of the Committee, but nevertheless affirmed that Palestinian refugees are considered as Syrian citizens except in two matters, the acquisition of the Syrian nationality and political rights.

In its concluding observations, the Committee asked the State to consider according to all Iraqi workers in an irregular situation to the largest extent possible the rights provided in the Convention.

### **Syrian migrant workers abroad**

The Committee strongly criticised the lack of statistical information on Syrians working abroad. Several Committee experts asked about the reasons for imposing restrictions on certain Syrian expatriates who wish to visit Syria, such as the requirement of a visit permit limited to three months per year. They also sought more clarification on the alleged practice of arresting some expatriates when they re-enter Syria.

The delegation replied that in general, no restrictions are imposed on Syrians wishing to visit their country. The only exception is individuals in conflict with the law, such as those evading military service. This category of expatriates have to apply for a 180-day visitors' permit, and after obtaining the authorisation, they can enter the country without being subject to administrative or judicial proceedings. Delegation member Mr Ismael noted that Syrian expatriates for whom arrest warrants for offences against State security have been issued would be arrested upon crossing the Syrian border.

Committee Rapporteur Mr Taghizadet inquired if Syrians working abroad, especially in the Gulf countries, are aware of the Convention and of their rights. The delegation admitted that Syrian expatriates are not fully aware of the Convention provisions, but commended the work carried out by the Syrian Embassies, in terms of protecting and promoting Syrian citizens' rights and raising awareness of the Convention. It was announced that a Ministry for Expatriates was created in 2000, and that there are periodical meetings among Syrian expatriates. Delegation member Mr Al-Basha pointed out that three bilateral agreements have already been signed with host Gulf countries, and one with Qatar is under discussion. The delegation informed the Committee that in those countries which do not intend to sign an agreement with Syria, but which host Syrian workers, the embassy plays the main role in defending Syrian workers' rights.

The Committee asked about Syrian expatriates' rights to vote and to be elected. The delegation assured that during political elections election pools are set up in most of the foreign countries where Syrians live, and the participation is usually very high. Delegation member Mr Annan gave the example of Switzerland during the last presidential elections, where the Permanent Mission of the Syrian Arab Republic in Geneva took the

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<sup>9</sup> Available at [www2.ohchr.org/english/law/refugees.htm](http://www2.ohchr.org/english/law/refugees.htm).

responsibility of establishing polling places all around the country and phoning the Syrian community living in Switzerland to inform them of the time and place where they could go and vote.

In its concluding observations, the Committee encouraged the State 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. The Committee called upon the State to further pursue and strengthen efforts in order to ensure the best possible protection for Syrian migrant workers abroad.

### **Statistics**

Several Committee members strongly lamented the lack of reliable and detailed statistics in the national report. They inferred from this that Syria does not have sufficient knowledge about the flows of people, the size of the migrant population, and their specificities. They thus asked the Government to develop a database on migrant workers, and to allow the Committee to assess the situation and provide Syria with assistance if required. The delegation admitted the lack of statistic data, justifying this as a common character of developing countries. This answer raised dissent from the Committee, which pointed out that Syria's argument of being a developing country has no foundations, as Syria is a middle income country with 'a great history and enough energy to produce statistics'. The Syrian delegation expressed its willingness to undertake all necessary efforts to provide more specific data in the next report.

In its concluding observations, the Committee encouraged the State to compile information and create a database as a tool for the effective monitoring of migration policies and for the effective application of the various provisions of the Convention.

### **NGO participation**

The Committee noted with concern that the report was prepared without the participation of NGOs and that civil society did not submit any alternative reports to the Committee. The Committee Chairman recommended that the State promote the participation of civil society, as well as to encourage discussion among civil society on this issue. In reply to these concerns, the delegation pointed out that there are several NGOs working in scientific, economic, and cultural fields, but that none is specifically engaged in the promotion and protection of migrant workers' rights. The reason why civil society is not active with regard to this issue, the delegation explained, is that migrants are not so numerous in Syria. In any case, the delegation stated, there is no provision that prohibits migrant workers from creating an association. On the role of civil society in drafting the report, the delegation admitted that the State report had been exclusively drafted by governmental departments. The head of the delegation expressed his commitment to involving civil society and trade unions in the drafting of the next report.

In its concluding observations, the Committee called upon the State to make every effort to work with civil society organisations to promote the Convention and its implementation.

### **Conclusions and next steps**

The Chairman concluded the session by expressing his appreciation for the constructive work carried out over the two days of meetings with the delegation. He expressed his satisfaction in having received new information on different issues, but also reiterated his concern about the lack of statistical data. He noted Syria's efforts in moving forward in this area, and reminded it of the need of fully implement the Convention.

On behalf of the Syrian Government, the head of the delegation, Mr Maldaon, thanked the Committee for the open dialogue and its constructive observations and comments, which will help Syria improve the conditions

for migrant workers. He reiterated Syria's commitment to signing bilateral agreements with those countries which have not ratified the Convention but are hosting Syrian workers, and on providing more detail and data in the next session. Mr Maldaon applauded the great opportunity of working with the Committee in order to learn and bridge the gap that Syria still has in the protection and promotion of migrant workers' rights. He wished the Committee great success in its work, stressing that the Committee's success is also Syria's success.

A number of other UN treaty bodies have made recommendations on the issues addressed by the Committee. In 2001, the Committee on Economic, Social and Cultural Rights urged Syria to ensure that right to establish free and independent trade unions is respected.<sup>10</sup> In 2007, the Committee on the Elimination of Discrimination against Women called upon the Syria to increase efforts at international, regional and bilateral cooperation with countries of origin, transit and destination to prevent trafficking through information exchange.<sup>11</sup> It also recommended that Syria regulate the informal sector to ensure that women working in this sector are not exploited and are provided social security and other benefits.<sup>12</sup> The Committee on the Right of the Child urged the Syria to continue to take effective measures to ensure all the rights of refugee and asylum-seeking children.<sup>13</sup> The Human Rights Committee asked Syria to take all necessary measures to guarantee exercise in practice of the right to peaceful assembly.<sup>14</sup>

The Committee requested the Syria submit its second periodic report by 1 July 2011.

*Last revised and updated: 20 May 2008.*

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<sup>10</sup> Paragraph 38, E/C.12/1/ADD.63 (CESCR, 2001) → follow format of footnotes on page 2. (para. ...., document code, date, available at...)

<sup>11</sup> Paragraph 24, CEDAW/C/SYR/CO/1 (CEDAW, 2007)

<sup>12</sup> Paragraph 32, CEDAW/C/SYR/CO/1 (CEDAW, 2007)

<sup>13</sup> Paragraph 49, CRC/C/15/ADD.212 (CRC, 2003)

<sup>14</sup> Paragraph 15, CCPR/CO/84/SYR (HRC, 2005)

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