

# THE HAGUE STATEMENT ON MIGRANT WORKERS' HUMAN RIGHTS

## The Fourth High-Level Meeting of the Arab-European NHRIs' Dialogue on Migrant Workers' Human Rights The Peace Palace, The Hague-The Netherlands 11<sup>th</sup> -13<sup>th</sup> March 2009

### **Preamble**

The Fourth Arab-European NHRIs' Dialogue on Migrant Workers' Human Rights held at the Peace Palace in The Hague, The Netherlands on 11<sup>th</sup> -13<sup>th</sup> March 2009, was organised by the Danish Institute for Human Rights (DIHR) together with its partners the Moroccan Advisory Council on Human Rights (CCDH), and the Jordanian National Centre for Human Rights (NCHR) [the Troika] in coordination with The Hague Process on Refugees and Migration, with effective participation from NHRIs' representatives from Europe and the Arab World including Saudi Arabia, Egypt, Qatar, Tunisia, Algeria, Mauritania, Palestine, Sweden, France, Germany, Norway, Ireland and Greece. Also, representatives from ILO Arab Regional Office in Beirut and ILO European Regional Office in Geneva, the European Union Agency for Fundamental Rights, The Raoul Wallenberg Institute in Sweden, The Euro-Mediterranean Human Rights Network, The General Secretariat of the Arab League, the Erste Group Bank AG of Switzerland, The Bahraini Human Rights Centre, Novo Nordisk and the Human Rights Ambassador of The Netherlands attended the meeting.

During the meeting, participants were actively engaged in discussions about challenges and gaps between the human rights standards aiming at protecting migrant workers' human rights, and the international and national implementation in practice. Fruitful and constructive discussions took place at the meeting in The Hague considering the realities on the ground in terms of respect for migrant workers' human rights as well as the lack of ratification and consequent implementation of international human rights' standards.

**Recalling and following-up on** the recommendations of the Arab-European NHRIs' Third High-Level Meeting on Migration and Human Rights, in Rabat-Morocco, May 2008,

**Reaffirming** that NHRIs in the European Continent and Arab World, in conformity with the Paris Principles, should continuously strengthen their roles as independent bodies and encourage the promotion and protection of human rights, including the rights of migrant workers,

**Owing to** increasing mobility, dialogue and cooperation among NHRIs at the bilateral, regional and international levels have become increasingly important to effectively address the opportunities and challenges of migration within and between all countries, including those of origin, transit and destination,

**Confirming** that NHRIs from the two regions agree to develop and strengthen regional, cross-regional and bilateral collaboration aimed at exchanging experiences as well as good practices while exploring opportunities and challenges that support NHRIs in their endeavours to promote and protect migrant workers' human rights at all levels and across all sectors,

**Considering** the Arab-European NHRIs' Rabat Declaration of the Third High-Level Meeting on Migration and Human Rights, in Morocco, May 2008, an integral part of this statement,

The participants in the Fourth High-Level Meeting on Migrant Workers' Human Rights, agreed to commit themselves to work towards ensuring the promotion and protection of migrant workers' human rights at the national, regional and international level, and across all sectors. In order to achieve this, the following recommendations were adopted:

1. NHRIs should actively encourage the development of a right-based approach to migrant workers human rights – especially to the most vulnerable of migrants, including women, children, unregistered and domestic workers. Human rights should become an integral part of any migration-related policy or procedure including the observance of international human rights norms with focus on equality and non discrimination, standard setting and accountability.
2. NHRIs should actively encourage the use of bilateral agreements, cooperation and action plans between sending and receiving countries to promote and protect migrant workers rights.
3. NHRIs should encourage the enforcement of legal protection for all migrant workers including effective remedies and access to justice.
4. NHRIs should review labour laws and labour contracts in their respective countries with a view to promoting their conformity with international human rights standards which should be incorporated into their national laws.
5. NHRIs should strive to establish monitoring and reporting mechanisms as well as observatory bodies to ensure the gathering of information, statistics, research, and studies. Furthermore, NHRI's should establish communication channels and easy access to advice on complaints and legal aid (for instance anonymous gender-balanced hotlines, web or mobile-phone services).
6. NHRIs should foster the freedom of movement of migrant workers, in particular freedom of movement of Palestinian migrant workers under occupation and Palestinian migrant worker's residing in the Arab and European countries
7. NHRIs should promote and encourage governments for the enforcement of legislation vis-a-vis freedom of association of migrant workers and secure access to trade unions as well as the effective rights of trade unions.
8. NHRIs should urge states and the private sector to respect the fundamental rights of migrants particularly in times of economic recession and the ongoing global financial

economic crisis ensuring that any cut-down in the workforce occurs in a non-discriminatory way.

9. NHRIs are encouraged to work with the private and public sectors to promote and develop tools to help implement non-discriminatory practices and tools of diversity in their recruitment of staff.
10. NHRIs urge states to critically review the existing *Kafala*-system and other employee sponsored contracts, including an abolishment of the retention of passports and find alternative systems that guarantee the rights of the employee.
11. NHRIs should actively develop and foster cooperation with the ombudsmen offices in their respective countries, as well as civil society organizations, trade unions, private sector, media and academia. The aim of this cooperation is to specifically promote migrant workers' human rights, raise awareness and to develop a human rights' culture.
12. NHRIs affirmed that a concrete definition of labour exploitation is needed and that they should work with concerned agencies and research institutions to have this definition instituted.
13. NHRIs should establish or promote the establishment of databases and collect information on migration and migrant workers to be disaggregated by e.g. sex, geographic origin, age, and ethnicity; with a view to identifying discrimination on those basis.
14. NHRIs should promote the development of joint migration policies that go together with trade and investment policies as needed.
15. NHRIs should advocate for adoption and implementation of adequate protection of human and labour rights of migrant workers under law through ratification of the relevant international conventions, namely the 1990 International Convention on Rights of Migrant Workers and ILO Conventions 97 and 143 on migration employment.
16. NHRIs should ensure that their countries have an independent national human rights monitoring body explicitly mandated to address protection and enforcement of human rights of non-nationals, including powers to receive complaints and to pursue resolution of individual cases.
17. NHRIs should support the strengthening of and cooperation with national labour inspection covering sectors and workplaces where migrant workers may be concentrated, and secure provisions for proper training to address particular vulnerabilities and situations of non-citizen workers.
18. NHRIs should canvass for reforms of labour law towards international harmonisation and in line with the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the International

Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

19. NHRIs should pursue the issue of migrant workers representation in society. Providing 'voice' to migrant workers is necessary to enhance their social and economic position as well as their protection.
20. NHRIs should make the institutional protection of migrant workers a priority. They should pursue advocacy to revise labour regulations to include all workers and to institute universal labour contracts which make explicit reference to all minimum standards related to their work.
21. NHRIs agreed to foster increased cooperation among themselves and with civil society organizations and academia at all levels and through different means like (e.g.) research and exchange programmes, twining programmes, comparative studies, exchange of databases, joint newsletters and virtually-online.
22. Participants affirmed the importance of mainstreaming the work of the Arab-European Human Rights Dialogue and agreed to:
  - Institutionalize the Arab-European Dialogue and develop a three-year strategic framework and an annual plan to be proposed by the Secretariat of the Dialogue (the Troika) and to be presented and discussed in the next dialogue meeting.
  - Establish a new working group on migration in addition to the formerly established ones on Access to information and Counterterrorism.
  - NHRIs prepare a written report on how they follow-up on this statement and recommendations are to be submitted ahead of the next dialogue meeting.
  - NHRIs agreed to have a permanent agenda item in all future dialogue meetings, which relates to NHRIs' follow-up on how they mainstreamed the dialogue meetings' recommendations into national action plans and work.
23. Participants welcomed the invitation from the Qatari Human Rights Commission to host and co-organize the Fifth High-Level Meeting on Women's Rights on 8<sup>th</sup> -10<sup>th</sup> March 2010.