



women migrant workers in the UAE: not quite in the portrait

*NGO Submission to the 45th Session of the Committee on
the Elimination of Discrimination against Women*

Submitted by:

Migrant Forum in Asia

Center for Migrant Advocacy (Philippines)

Center for Education and Communication (India)

Refugee and Migratory Movements Research Unit (Bangladesh)

TABLE OF CONTENTS

Introduction	3
<i>Women Migrants in the UAE</i>	3
<i>The particular vulnerability of women migrant domestic workers</i>	4
<i>Acknowledging positive developments</i>	4
Issues of Women Migrant Workers	5
<i>Exclusion from Labor Law is Discrimination</i>	5
<i>Temporary labor migration is in itself discriminatory</i>	6
<i>Human Trafficking and Illegal Recruitment</i>	10
<i>Regulation and Monitoring of Visit Visa Visitors to the UAE</i>	11
<i>Violence against women</i>	12
Recommendations to the UAE Government	14
Conclusion	15

Introduction

The United Arab Emirates (UAE) acceded to the International Convention on the Elimination of Discrimination against Women on 6 October 2004. In 2008, the Ministry of State and Federal National Council Affairs of the UAE published “Women in the United Arab Emirates: A Portrait of Progress” which outlines both the developments and challenges associated with the status of women in the Emirates. The report notes that “The UAE intends to establish a new benchmark for gender empowerment in the region.”¹ Indeed, there has been remarkable advances in the role of women in the Emirates; this is duly recognized when it ranked 29th among 177 countries in the Gender Empowerment Measures, the best rating received in the Arab World.²

However, from the perspective and experiences of migrants in the UAE and non-government organizations supporting them, women migrant workers are not quite in the “portrait of progress” that the UAE presents. For this reason, Migrant Forum in Asia, along with its member-organizations from sending countries supplying labor to the UAE, makes a case for women migrant workers in the UAE in this 45th Session of the CEDAW.

Women Migrants in the UAE

According to the Migration Policy Institute, 71.4% of the total population of the UAE are immigrants³. There is no data available on what percentage of this total migrant population is female but reports from sending countries are as follows:

70-80% of migrants from the Philippines going to the Arab States are female. RRMURU in Bangladesh reports a steady increase of female workers leaving for the UAE. Out of the 15 million Indians in the UAE as reported by the Ministry of Overseas Indian Affairs, as of April

¹ As cited in <http://www.uae-embassy.org/uae/women-in-the-uae> .

² UNDP Report 2007/2008.

³ United Nations, *Trends in Total Migrant Stock: The 2005 Revision*, data in digital form, 2006. Accessed 15 December at <http://www.migrationinformation.org/DataHub/charts/6.2.shtml>

2009, unconfirmed sources indicate at least one million are women; every year more than 30,000 (including undocumented) female workers migrate to UAE.

The particular vulnerability of women migrant domestic workers

Due to the nature of domestic work, which is private and often “invisible”, women migrant domestic workers are thus especially vulnerable to abuse and exploitation. There are cases of physical violence, sexual abuse, withholding of passports, restrictions on mobility and communications, and even death while trying to escape. Those who do manage to escape had no access to legal services and redress; many become irregular and face deportation when they refuse to go back to their employers, as per the sponsorship system. UAE has yet to follow the example of the government of Bahrain and reform this system which prohibits a migrant worker to transfer employment until the contract is finished, or if the employer allows.

Acknowledging positive developments

There have been positive developments in the UAE in recent years with regard to enhancing protection for migrant workers in general, and women migrant domestic workers in particular.

Notable among these is the introduction of a written unified contract for domestic workers which took effect in April 2007. Its provisions include the following: duration of contract, salary and other benefits, accommodation, healthcare, working hours, paid leave, repatriation ticket, dispute settlement, recruitment fees, and coordination with concerned embassies. Taking it a step further, ongoing is the process of crafting a policy for domestic workers.

Other policy reforms instituted in the last few years include: a 24-hour hotline and website for lodging complaints in the Dubai police force; an electronic system for wage payments; imposition of stiff penalties for sponsors who facilitate hiring of domestic workers illegally which is construed as a trafficking crime with a corresponding jail sentence of 10 years and a fine of Dh50,000. Labor inspections have been conducted more rigorously to ensure that the

work places are at par with the national and international labor standards. Withholding by employers of the worker's passport which has been declared a personal document in the UAE is now prohibited and illegal.

Notwithstanding all of these efforts however, women migrants particularly women domestic workers continue to experience gender-based violations and discrimination.

Issues of Women Migrant Workers

Exclusion from Labor Law is Discrimination

The UAE Labor Law under Federal Law 8 excludes migrant domestic workers in its coverage. Instead, it is the Immigration Department of the Ministry of Interior that has jurisdiction over them.

The exclusion of migrant domestic workers from the protection of the UAE Labor Law clearly violates CEDAW Article 2, especially with regard to its delay in crafting a policy on domestic work:

“States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women”.

This exclusion also violates CEDAW GR 26 Par 26 (b).

”Legal protection for the rights of women migrant workers: States parties should ensure that constitutional and civil law and labor codes provide to women migrant workers the same rights and protection that are extended to all workers in the country, including the right to organize and freely associate. They should ensure that contracts for women migrant workers are legally valid. In particular, they should ensure that occupations dominated by women migrant workers, such as domestic work and some forms of entertainment, are protected by labor laws, including wage and hour regulations, health and safety

codes and holiday and vacation leave regulations. The laws should include mechanisms for monitoring workplace conditions of migrant women, especially in the kinds of jobs where they dominate (articles 2 (a), (f) and 11).”

Why are domestic workers excluded in the labor law? Why is there a separate policy in the case of domestic workers? Why is it that the hiring of domestic workers falls under the Immigration Department of the Ministry of Interior instead of the Labor Ministry?

Discrimination is also highlighted in the case of regulation and labor inspection of work sites and housing accommodations which are conducted to ensure that these are compliant with national and international standards. Private households that employ domestic workers are excluded from this. It is imperative that some form of regulation, monitoring and inspection are conducted in the private households to ensure that the working and living conditions of migrant domestic workers are within acceptable standards. The absence of such mechanism is clearly in violation of CEDAW Article 2 and GR 26 Par 26h.

(h) Monitoring systems: States parties should adopt regulations and design monitoring systems to ensure that recruiting agents and employers respect the rights of all women migrant workers. States parties should closely monitor recruiting agencies and prosecute them for acts of violence, coercion, deception or exploitation (article 2 (e))

Temporary labor migration is in itself discriminatory

General recommendation No. 26 on women migrant workers states in Article 26 (ii) that countries of destination

“should introduce flexibility into the process of changing employers or sponsors without deportation in cases where workers complain of abuse.”

The UAE’s banning policy places women migrant workers in vulnerable employment situations. The policy was established through Ministerial Decree No. 360 of 1997: To Issue

the Executive Bylaw of the Federal Law No. (6) of 1973 Concerning the Entry and Residence of Expatriates. This law stipulates that a six month ban is incurred by expatriate workers who wish to terminate their contract. A person who wishes to be reemployed must wait until the period of six months has passed. A one-year ban will be imposed by the Immigration Department upon termination of employment if the employee violates the employment contract, the Law, or the state's labor regulations. Some skilled workers are exempt from the six month ban including, engineers, doctors, teachers, and accountants.

This law is discriminatory towards women because it (1) deters women from filing complaints and (2) stops complainants in pursuing a case.

The law does not acknowledge the economic needs of unskilled migrant women, the feminization of the unskilled labor field of domestic work and the high incidence of abuse within this field or the compromised access to justice migrant women experience. Cases of sexual and physical abuse are difficult to prove in UAE courts and not all women may wish to pursue legal action against their abusers. Many migrants are unaware of their rights, do not have access to legal aid, or are unwilling to undergo the emotional trauma associated with court proceedings. Manipulation and threats from the employer may also be factors in choosing not to pursue legal action.

The ban policy binds migrant workers to abusive employers because many women migrants are unwilling or unable to face months of unemployment. Economic factors, including migration related debt and family members who are dependent on remittances, place migrant women under pressure to continue earning. If women decide to pursue legal action and their trial is unsuccessful, migrant women face a ban of six months to one year for terminating their contract. In the rare case that an abusive employer is brought to justice, the legal process will leave them without an income for months. Workers who do press charges against employers often settle out of court for reduced compensation to evade the time commitment needed to access justice through the court system. In addition, migrant workers in the UAE who terminate their contracts have the added responsibility of financing their own repatriation. The fear of banning and the time intensive nature of trials encourage women who have been the

victims of abuse to lobby for a change of employer instead of pursuing justice for the abuse they have suffered. Recent changes to the “kafala” sponsorship program in 2007 permit workers to change jobs with the permission of their employer, although the employer may refuse to issue permission for any reason.⁴

The experience of many women who have received assistance from the Centre for Migrant Advocacy Philippines (CMA), a civil society group based in Manila, is shaped by the discriminatory practice of banning. One 2009 case, involving a domestic worker in Dubai, exposes the abusive nature of the UAE’s banning policy. The domestic worker was molested and harassed by her employer, but was unable to leave her house of employment to file a complaint because she had no day off. Her employer threatened to charge her for incurred expenses if she terminated her contract and returned to the Philippines, in addition to the six month to one year employment ban that would be imposed by the UAE government. The employer was exploiting the fear experienced by his domestic worker to coerce her into withstanding his abusive practices. Many women are forced to continue to face abuse by their employers because of their obstructed access to justice and their pressing economic situations.

“There is a general reluctance on behalf of workers to make a complaint.⁵ One Ministry official was quoted as saying: “we only recognize it [abuses] when there’s a complaint, but there’s rarely a complaint. Workers are too scared or they’ve paid money for their visa and they have to pay that back.”⁶

In addition to the policy of banning, other labour policies that increase the temporary status of unskilled migrants results in discriminatory practices towards women migrant workers. The General Recommendation 26 states that it is the responsibility of countries of destination to “[lift] discriminatory bans or restrictions on immigration.” The proposed residency cap currently being considered by GCC members would actively violate this recommendation and further compromise migrant workers in the UAE.

⁴ *HIV Vulnerabilities Faced by Women Migrants: From Asia to the Arab States*, UNDP, 2008, p.39

⁵ See generally *Mafiwasta and Human Rights for Change*, ‘The Need to Enforce Migrant Workers’ Rights in the United Arab Emirates’, Section III, available at www.mafiwasta.com

⁶ *Gulf News* 4 July 2005.

The gulf-wide residency cap will impose further obstacles in accessing justice for unskilled women migrant workers. Instead of creating a sustainable and secure place for migrants within the society of the UAE, a revolving door strategy can be employed which ensures that the rights of migrants will continually be exploited because they have limited experience working within the UAE. The act is discriminatory towards women of Asian origin because the majority of domestic workers in the UAE are from Sri Lanka, Indonesia, and the Philippines.⁷ The policy will restrict unskilled migrants to a period of three years, once renewable, for their employment in the UAE. The Labor Minister of Bahrain suggested that the cap was necessary to “stop the erosion of local culture and to stem soaring unemployment among nationals.”⁸ In an attempt to privilege UAE nationals, the policy denies workers the right to stay in the country of their choice and overlooks the knowledge and skills women may acquire during their time in the UAE, which may be specific to the region or job placement. The policy undermines migrants’ ability to foster an intimate knowledge of their destination country’s society, job market and legislation, knowledge that may result in an improvement of their status in the labor market. Through providing no legal channels for permanent migration and imposing a six year time limit for unskilled workers, employers in the UAE are attempting to benefit from the skills and services of women migrants without providing long term services or compensation to the communities which they are reliant on for their labor.

Will the UAE assist in providing reintegration services for workers returning to their countries of origin after the six year period? By shifting the status of laborers from immigrants to temporary contractual workers, the UAE is ensuring the temporary nature of the migrant labor pool and decreasing migrants’ access to employment opportunities and other benefits associated with labor migration.

A residency cap policy of six years may also encourage women migrants to seek employment through irregular means. Women will be vulnerable to traffickers and others who are willing

⁷ *HIV Vulnerabilities Faced by Women Migrants: From Asia to the Arab States*, UNDP, 2008, p. 38.

⁸ *Arabian Business.com* 22 October 2007, <http://www.arabianbusiness.com/502351-six-year-expat-cap-gets-uae-backing>

to exploit their economic need to engage in labor migration. The criminalization of migration is another strategy to further separate women migrant workers from their rights.

Human Trafficking and Illegal Recruitment

In its Universal Periodic Review⁹, the UAE has been commended for its focus on the human trafficking of persons. Several states took note of UAE's initiatives to prevent human trafficking and protect its victims. From its UPR State Address, it accepted France's recommendation to ratify the Convention against Transnational Organized Crime which, through the Palermo Protocol, explicitly lays out recommendations for human trafficking, specifically for women and children. The UAE also has in place the National Committee to Combat Human Trafficking, although it stands more as a penal law that does not solidify prevention. The federal government has instigated the dissemination of information, prevention, and protection of human trafficking through workshops done for youth and adults alike.

However, women migrant workers are still victimized thru the clandestine recruitment by unscrupulous employment agencies in both the home country and the UAE and where the vulnerability and passivity of women are targeted. Women migrant workers do not have protection and the assurance that their sponsor has been screened for safety. They are also forced to give their passports to their sponsors, immediately detaching them from their own personal agency. The presence of intermediary placement agencies does not guarantee protection for migrant workers, especially women who can be sexually exploited and prostituted.

A 2008 study of emigration from Kerala to the UAE¹⁰ revealed that many Kerala women do not go through emigration clearance that is mandatory to cross Indian borders to take up work abroad as domestic workers. *Pushing* is a term widely in use to refer to operations of illegal border crossing, without the required employment clearance. This method of border crossing is usually used by migrants who do not have any employment contracts and who travel with

⁹ December 2008.

¹⁰ K.C.Zachariah, S.Irudaya Rajan, A DECADE OF KERALA'S GULF CONNECTION, Migration Monitoring Study, 2008.

the help of illegal agents. It enables easy mobility for women for whom crossing the borders is difficult due to various reasons.

Legal recruitment is also deemed expensive¹¹. An employer has to undergo labyrinthine procedures to get domestic workers. But for an Emirate national getting a domestic worker is relatively easy if he chooses to bypass the official procedures. The practice is known as the issuance of free visa. In order to get a domestic worker the sponsor is supposed to make a security deposit of 5000AED (which is refundable). The visa is valid for a period of two years. There is no minimum prescribed income limit in the case of an Emirati to sponsor a domestic worker. An Emirati is eligible to sponsor up to three domestic workers. This system has given rise to large visa trading in the UAE. In the case of non-nationals, the procedure is a bit more complicated. He or she cannot sponsor a domestic unless he has a minimum salary of 6000AED. In addition to the security deposit of 5000AED common both to a UAE national and a UAE non-national, an annual fee of 4800AED should be paid at the ministry of interior. Such regulations make it expensive for many non-Nationals to sponsor domestic workers. There are legal recruitment agencies working for recruiting domestic workers and there is a fee to be paid to the recruitment agencies also. Many non-nationals try to avoid payment of these annual fees and try to get women for employment as domestic workers through 'illegal' means. Mostly recruiting agencies work illegally. Sometimes Arab sponsors sell their visas to local agents and local agents act as middle persons in getting women for the job.

Regulation and Monitoring of Visit Visa Visitors to the UAE

The UAE's visit visa is also being used to enter the UAE for a maximum period of 90 days within which they hope to land a job and convert their visas to working visas, Center for Migrant Advocacy Philippines reports. This is also how women become victims of trafficking and illegal recruitment. They also incur huge debts at home because of the enormous costs they have to pay to unscrupulous individuals and recruiters. Many women migrants become undocumented and/or find themselves in debt or sexual bondage in the UAE when their visit

¹¹ Ibid.

visa expires. The UAE as a state party to CEDAW is under obligation to extend assistance to these women migrants in distress, regardless of their immigration status. CEDAW GR 26 par 26 l specifically states:

“Protection of undocumented women migrant workers: the situation of undocumented women needs specific attention. Regardless of the lack of immigration status of undocumented women migrant workers, States parties have an obligation to protect their basic human rights...xxxx”

The UAE is also under obligation to ensure that the visit visa is not abused and misused for purposes of trafficking and illegal recruitment coupled with collection of exorbitant fees.

Violence against women

Section 26 of General Recommendation 26 outlines several responsibilities for countries of destination concerning migrant women, violence and abuse. These recommendations include the provision of independent residency status for employees whose residency is premised on the sponsorship of an employer, the creation of regulations which allow for the legal stay of a woman who flees her abusive employer, and the development of programmes specifically designed for isolated women migrant workers. Section 26 (i) also states that victims of abuse

“must be provided with relevant emergency and social services, regardless of their immigration status.”

The Centre for Migrant Advocacy Phils, has received several cases of abuse which clearly indicate that Filipino migrant women are not being provided the rights and assistance recommended above. Instead, the UAE’s policies governing migrant labour, specifically for unskilled laborers, systematically exposes migrant women to exploitation and abuse. Securing unskilled migrant workers’ employment status to one employer places women in situations that encourage the toleration of physical and sexual violence. The following two cases are briefly highlighted to depict the vulnerable situation faced by Filipino women migrant workers.

One case of abuse, which highlights the failure of the UAE government to protect Filipino women migrant workers, occurred in 2009. A Filipino domestic worker arrived in Dubai and was immediately met by the Dubai counterpart to her recruitment agency and taken to their office where she was stripped and searched. After this initial violation, she was then brought to an extremely isolated residence, where over the duration of her employment her employer raped her repeatedly. Following every unsuccessful attempt to escape her employer beat her. Eventually she succeeded in fleeing and temporarily resided in the Philippine Overseas Labour Office in Dubai, where she filed charges against her employer. During this time, as a result of the previous sexual abuse, she suffered an ectopic pregnancy, which posed a serious threat to her health and permanently compromised her reproductive abilities. While she was in the hospital, a stalker was able to receive information on her case without providing any documentation or proof of his relationship to her. This woman's right to safety, security, and privacy have been violated and her case demonstrates the failure of the UAE government to implement the above-mentioned recommendations. No preventative measures were taken to ensure a separate residency, no assessing measures specific to isolated women migrant workers detected her abuse, and no emergency measures provided medical assistance and treatment specific to her needs as a sexually abused migrant worker.

A case from 2007 demonstrates the historical consistency of the pattern of violence and abuse faced by migrant women. The son of her employer raped a Filipino domestic worker in Dubai. She went directly to the Filipino embassy for assistance, and officials from the embassy brought her to the hospital to file a police report. During the trial her statements were inconsistent and she was placed in jail for three days. The Filipino Embassy was able to release her from jail, and she was given shelter by the embassy. Because of her pressing economic responsibility to provide for her son, she asked to return to work in hopes that the abuse had ceased. Upon return to her employer, she was raped again.

These cases of abuse reveal the vulnerabilities experienced by women migrant workers in the UAE. The two years that had passed between the two incidents brought no new effective

initiatives to prevent such abuse. Furthermore, General Recommendation 26, article 26 (b) states “The laws should include mechanisms for monitoring workplace conditions of migrant women, especially in the kinds of jobs where they dominate (articles 2 (a), (f) and 11).” The lack of effective monitoring for domestic workers, contributes directly to the human rights violations committed against this vulnerable group of women.

Other manifestations of discrimination against women domestic workers include the confiscation of passports and other personal documents, the passing on of premium fees for the mandatory health and medical insurance which should have been borne by the employers.

Recommendations to the UAE Government:

As the UAE government continues to improve their labor laws to ensure comprehensive protection for all migrant workers, regardless of job categories, it is imperative at the outset that these policies are gender-sensitive and inclusive.

It is also imperative that policy pronouncements and policies enacted are provided support in terms of logistics and resources to ensure their effective implementation.

Migrant Forum in Asia, CMA, CEC and RRMRU make the following specific recommendations to the government of UAE:

- Enact a comprehensive protection policy for women migrant workers.
- Ensure that the policy on domestic workers being crafted is one that recognizes domestic work as work. It should also amend the Labour Law to include migrant domestic workers.
- Scrap the sponsorship / “kafala” system.
- Establish regulatory and monitoring mechanisms particular to working and living conditions in households where migrant domestic workers are employed, and to ensure compliance with the unified contract.

- Ratify the UN Migrant Workers Convention and ILO Conventions 97 and 143. Support the ILO Convention on Domestic Workers.
- Ratify the CEDAW Optional Protocol.
- Forge bilateral labor and social security agreements with sending governments.

Conclusion

The UAE has acceded to CEDAW in 2004 and by submitting its State Report has indicated willingness to undergo the reporting procedure and respect the provisions of the Convention. However, the exclusion of women migrant domestic workers from UAE labor laws, the continued violations brought on by the sponsorship or “kafala” system, and other vulnerabilities they experience from the lack of a comprehensive protection policy, belie its adherence to the Convention. It is noted that UAE also rejected recommendations made by the UPR Working Group pertinent to the treatment of migrant workers and respect of their human rights¹².

These present the challenge for migrants and migrants’ rights advocates as we continue to engage the UAE towards due and equal respect for the rights of women migrant workers.

Migrant Forum in Asia, together with *Center for Migrants’ Advocacy* (Philippines), the *Center for Education and Communication* (India) and the *Refugee and Migratory Movements Research Unit* (Bangladesh) call on the Government of the United Arab Emirates to respect its obligations under the CEDAW, in particular General Recommendation 26, in its treatment of women migrant workers.

¹² Sweden advocated for UAE to exert greater efforts in ensuring that economic, social and cultural rights of migrant workers are fully respected. Mexico suggested taking necessary measures to guarantee access to civil, penal and labor justice, as well as assistance and consular protection for all migrants, regardless of their migratory status, to ascertain their rights in cases of abuse. Both requests were rejected by the UAE