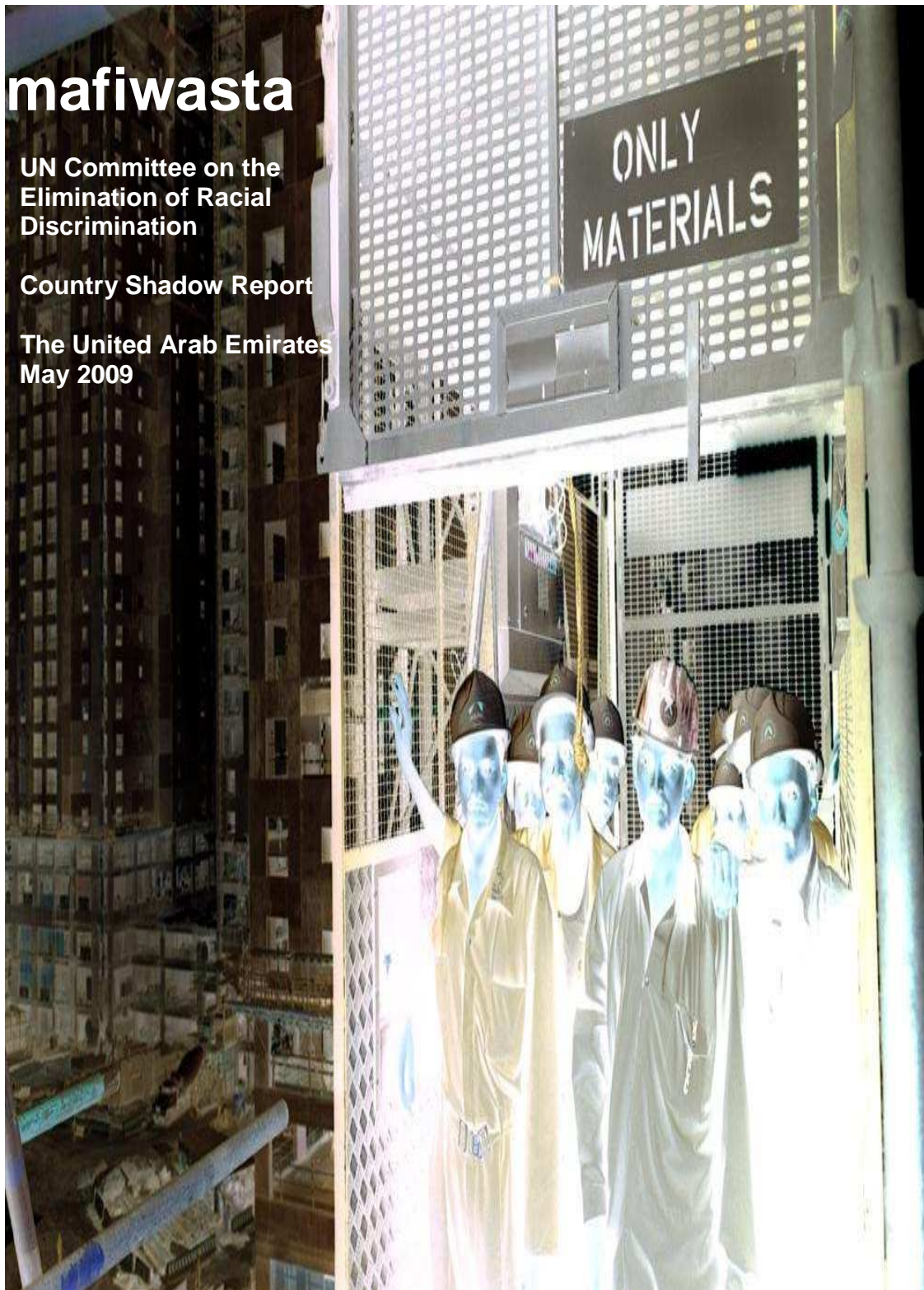


# mafiwasta

UN Committee on the  
Elimination of Racial  
Discrimination

Country Shadow Report

The United Arab Emirates  
May 2009



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## **A. Mafiwasta**

Mafiwasta is an organization dedicated to the advancement of migrant workers' rights in the United Arab Emirates. It was founded in 2005 by Nick McGeehan, who worked for two state-owned oil and gas companies in Abu Dhabi between 2003 and 2006. The experience brought him into direct contact with south Asian migrant workers, whose abuse and exploitation he witnessed first-hand.

Mafiwasta works on two fronts. We liaise with media and other NGOs to try and raise awareness of the abuses suffered by migrant labour in the UAE. We provide advice, comment and contacts to journalists and academics, and our views are now widely sought and reported. Our work with NGOs and journalists also affords us access to information not in the public domain.

We also seek wherever possible to apply pressure via relevant instruments and mechanisms of international law. In 2006, Mafiwasta submitted a complaint to the ILO's Committee on Freedom of Expression. In 2008 we submitted a document for the UAE's first Universal Periodic Review session, and actively engaged in the subsequent lobbying process. We are currently in the process of researching and writing a shadow report for the Committee on the Elimination of Discrimination Against Women, before whom the UAE is scheduled to appear in early 2010.

In 2008, Nick McGeehan and Dr David Keane published 'Enforcing Migrant Workers' Rights in the United Arab Emirates' in the *International Journal on Minority and Group Rights*,<sup>1</sup> the first and only human rights law paper to address the issue. Nick McGeehan is currently a doctoral researcher at the European University Institute in Florence, studying legal issues associated with migrant labour in the Gulf Cooperation Council (GCC) states. Dr David Keane is a lecturer in international law at Middlesex University, London. Niamh Hayes and Alexis Bushnell are doctoral researchers at the Irish Center for Human Rights.

Mafiwasta is unable to maintain a permanent presence in the UAE. We are a voluntary organization, we receive no funding, and furthermore our criticism of the state would preclude our operating effectively in the UAE.

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<sup>1</sup> D Keane and N McGeehan 'Enforcing Migrant Workers' Rights in the United Arab Emirates' (2008) 15(1) *International Journal on Minority and Group Rights*, 81 – 115.

## **B. The United Arab Emirates: Background and Human Rights**

The United Arab Emirates comprises seven semi-autonomous sheikhdoms, the most populous of which are Abu Dhabi and Dubai. Since the first oil flowed from the Umm Shaif off shore field in 1962, the UAE has seen phenomenal economic growth. It is the third largest producer of oil and gas in the world, after Saudi Arabia and Iran respectively.<sup>2</sup> The UAE's population is estimated to be between 4.3 million and 5.3 million.<sup>3</sup> In 2007 it had a budget surplus of \$59.6 billion. Its 2007 GNI per capita was \$29,000,<sup>4</sup> making its nationals, who constitute approximately 20% of the population, among the richest in the world.<sup>5</sup> The UAE is almost entirely dependent on migrant labour. 60% of the population is south Asian (Indian, Pakistani, Bangladeshi, Nepalese, Sri Lankan, Filipino) and the remaining 20% is made up of Iranians, Arabs and westerners.<sup>6</sup>

The UAE is ranked 147 out of 167 in the Economist Intelligence Unit's Index of Democracy, and classified as an 'authoritarian regime'.<sup>7</sup> It is ruled by powerful families, headed by the Al-Nahyan dynasty of Abu Dhabi. These families accrue phenomenal wealth,<sup>8</sup> small fractions of which are allocated to UAE nationals who are guaranteed well-paid jobs for life. The judiciary is not independent.<sup>9</sup>

Human rights groups do not operate in the UAE and critics of the regime are subject to harassment and detention.<sup>10</sup> Members of the ruling Al-Nahyan family are currently under investigation for allegations of human trafficking in Belgium.<sup>11</sup> In 2006, a case was filed in a US district court, which accused two senior figures of the Al-Maktum family of involvement in child

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<sup>2</sup> [www.opec.org](http://www.opec.org)

<sup>3</sup> The UAE Government 2006 figure is 4.3 million supra note The US estimates its 2007 population to be 5.3 million supra note

<sup>4</sup> United States Library of Congress Federal Research Division 'Country Report: The United Arab Emirates' Available online at <http://lcweb2.loc.gov/frd/cs/profiles/UAE.pdf>

<sup>5</sup> CERD Periodic Report – United Arab Emirates, CERD/C/ARE/12-17, 13 March 2009.

<sup>6</sup> *Supra* note 4.

<sup>7</sup> Economist Intelligence Unit's Index of Democracy 2008

<sup>8</sup> Sheikh Kalifa Al-Nahyan of Abu Dhabi and Sheikh Mohammed Al-Maktum of Dubai are ranked as the second and fifth richest royals in the world, with personal fortunes estimated to be \$23 billion and \$18 billion respectively. See [www.forbes.com](http://www.forbes.com)

<sup>9</sup> US State Department '2008 Human Rights Report: United Arab Emirates', 25 February 2009.

<sup>10</sup> Human Rights Watch Letter to UAE President Sheikh Khalifa bin Zayed Al-Nahyan, 'Stop Harassment of Human Rights Defenders' 4 October 2006.

<sup>11</sup> *The Telegraph*, 2 July 2008.

slavery.<sup>12</sup> Sheikh Issa bin Zayed al-Nahyan of Abu Dhabi is currently under investigation for torture after a series of video tapes were made public in the US.<sup>13</sup>

The UAE is a State Party to the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination Against Women, and the Convention on the Rights of the Child. It has also ratified a number of International Labour Organisation conventions, although not core conventions on freedom of association and collective bargaining.

### **C. Report Methodology**

There are no international NGOs resident in the UAE. The only authoritative study conducted in the UAE remains a 2006 *Human Rights Watch* report, which limited its focus to one emirate (Dubai) and one sector (construction).<sup>14</sup>

Until recently the only source of information on the living and working conditions of migrant workers was the local press, whose reporting is subject to restriction. According to Human Rights Watch, the current media law ‘has instilled fear of punishment for speaking against the government’s position on political, moral and economic concerns, and has pushed UAE journalists and other media organizations into a protracted period of self-censorship and anxiety.’<sup>15</sup> However, 2008 and 2009 have witnessed a surge in foreign media stories, as the UAE’s attempts to promote itself as a hub for tourism and industry have led to increased levels of scrutiny. In the last six months, articles by award-winning journalists, such as Ghaith Abdul-Ahad and Johann Hari, have appeared in *The Guardian* and *The Independent*, for example. In April 2009, after a four-month investigation, the BBC’s flagship current affairs show, *Panorama*, aired a documentary showing footage of conditions in labour camps. These recent investigations provide evidence that little has changed since *Human Rights Watch* first exposed the extent of the abuses perpetrated against migrant workers.

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<sup>12</sup> *BBC News Online* 16 October 2006, available at [http://news.bbc.co.uk/2/hi/middle\\_east/6053232.stm](http://news.bbc.co.uk/2/hi/middle_east/6053232.stm)

<sup>13</sup> *The Observer* 3 May 2009.

<sup>14</sup> *Human Rights Watch* ‘Building Towers, Cheating Workers’ November 2006.

<sup>15</sup> *Human Rights Watch* ‘Just the Good News, Please: New UAE Media Law Continues to Stifle Press’ April 2009.

Unfortunately, the media reporting and NGO work which exists has focused on the emirate of Dubai, which is home to less than a third of the population of the country.<sup>16</sup> It has also tended to focus on the most visible workers – those working on the dazzling feats of architectural largesse which are now synonymous with Dubai. Migrant workers in all unskilled and semi-skilled sectors - cleaners, taxi drivers, hotel staff, oil workers, gardeners, clerks - face the same problems in all seven of the UAE's constituent sheikhdoms, although their plight tends to go unreported.

This shadow report first analyses the UAE's CERD reporting history, and its combined seventeenth periodic report. It then outlines the nature of the racial discrimination in the UAE. The substantive core of the report is a legal analysis of the UAE's non-adherence to its CERD obligations. This is done with reference to NGO reports and local and international media reports spanning from 2005 to 2009. Links have been provided to key international articles or web-based sources. Despite a relative dearth of empirical data, there is strong evidence of systematic racial discrimination against migrant workers.

## **D. The UAE and CERD**

The UAE acceded to the International Convention on the Elimination of Racial Discrimination on 20 June 1974. In 1995, CERD examined the eleventh periodic report of the UAE. The UAE has not submitted a report since, despite the requirement under Article 9(1)(b) that a report be submitted periodically every two years. Prior to 1995, the UAE had not submitted a Report to CERD since 1986.<sup>17</sup> Therefore, the UAE takes at least ten years to report, in clear violation of its obligations under the Convention.

The UAE has recognised in its 1995 report that the reach of the Convention extends to non-citizens as well as citizens. It notes in paragraph 30 of that report:

The Constitution affirms that foreigners residing in the United Arab Emirates are entitled to enjoy the rights and freedoms provided for in the international

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<sup>16</sup> *Supra* note 5. Dubai is home to 32.44% of the UAE population.

<sup>17</sup> UN Doc. A49/18, Report of the Committee on the Elimination of Racial Discrimination to the General Assembly, 6 January 1995, para. 292.

instruments in force or in conventions and agreements to which the Union is a party.<sup>18</sup>

In 1995, the Committee drew particular attention to the plight of foreign workers in the United Arab Emirates:

The members of the Committee expressed their deep concern at information from various sources that foreign workers, particularly women from Asian countries, were subjected to inhuman treatment, and asked for clarification in that regard.<sup>19</sup>

Due to the unsatisfactory nature of the replies received, the Committee's Concluding Observations expressed 'keen concern ... as to the allegations of ill-treatment of foreign workers, including women domestic servants of foreign origin.'

The UAE's seventeenth CERD report of March 2009 runs to 53 pages. Despite the fact that approximately 80% of the population are non-citizens, the report makes only two references to "migrants". The vast majority of the report is devoted to outlining the country's constitution, its laws and myriad non-binding initiatives. There is no mention of how the UAE is meeting its CERD obligations with regard to its migrant workforce. The UAE states that:

the people and residents of the United Arab Emirates condemn all manifestations of discrimination and live lives that demonstrate a constant awareness of the full implications of human compassion. As a result, daily life is untroubled by behaviours that are incompatible with noble values, and the State does not need to enact legislation to deal with any violations of the Convention.<sup>20</sup>

In reality, principles of equality and non-discrimination are largely absent in the UAE, and the state is in clear violation of many of its CERD obligations. UAE labour law explicitly

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<sup>18</sup> CERD Periodic Report – United Arab Emirates, CERD/C/279/Add.1, 8 May 1995, para. 30.

<sup>19</sup> Concluding Observations. United Arab Emirates, UN doc A/50/18.

<sup>20</sup> *Supra* note 5 at 28.

discriminates against non-Arabs,<sup>21</sup> but it is the grave, widespread and systematic *de facto* discrimination suffered by certain groups of non-citizens which is of most serious concern. The UAE is *de facto* segregated, with a clear hierarchy; Emiratis at the top, wealthy expatriates – typically but not exclusively Western – in a second tier, and the largely south Asian migrant worker underclass. As journalist Johann Hari describes in relation to Dubai: ‘There are three very different Dubais, all swirling around each other. There are the expats (...); there are the Emiratis, headed by Sheikh Mohammed; and then there is the foreign underclass who built the city, and they are trapped here. They are hidden in plain view.’<sup>22</sup>

The Committee has outlined the importance of reporting on the ethnic characteristics of a country:

The ethnic characteristics of the country are of particular importance in connection with the International Convention on the Elimination of All Forms of Racial Discrimination. Many States consider that, when conducting a census, they should not draw attention to factors like race lest this reinforce divisions they wish to overcome. If progress in eliminating discrimination based on race, colour, descent, national and ethnic origin is to be monitored, some indication is needed of the number of persons who could be treated less favourably on the basis of these characteristics. States which do not collect information on these characteristics in their censuses are therefore requested to provide information on mother tongues (as requested in para. 1 of HRI/CORE/1) as indicative of ethnic differences, together with any information about race, colour, descent, national and ethnic origins derived from social surveys.<sup>23</sup>

The UAE has not provided the Committee with this information. It has differentiated only between citizens and non-citizens in its seventeenth CERD report.<sup>24</sup> Due to the enormous

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<sup>21</sup> ‘Where National workers are not available, preference in employment shall be given to:1. Workers of other Arab nationalities.2. Workers of other nationalities.’ UAE Federal Labour Law No 8, For 1980, On Regulation for Labour Relations Article 10.

<sup>22</sup> Johann Hari ‘The Dark Side of Dubai’ *The Independent*, 7 April 2009, available at <http://www.independent.co.uk/opinion/commentators/johann-hari/the-dark-side-of-dubai-1664368.html>

<sup>23</sup> ICERD ‘General Guidelines Regarding the Form and Contents of Reports to be Submitted by States parties under Article 9, Paragraph 1, of the Convention’ CERD/C/70/Rev.5, 5 December 2000

<sup>24</sup> *Supra* note 5.



difference in salaries paid to UAE nationals and skilled expatriates on the one hand, and unskilled and semi-skilled migrant workers on the other, the UAE is economically stratified. However this stratification operates along clear ethnic lines. While economic differences between groups are not in themselves racially discriminatory, the economic differentiation is backed up by a system of exploitation and segregation that impacts particular ethnic and national groups. Mafiwasta submits that if the data were available, there would be a clear pattern of discriminatory practices against certain economically disadvantaged ethnic groups. As this report will show, the most serious worker exploitation, in terms of both gravity and extent, is suffered by south Asian workers. Reference to discrimination against migrant workers in this report is, unless otherwise stated, referring to unskilled and semi-skilled workers, hailing largely, but not exclusively, from India (Kerala, Andhra Pradesh and Tamil Nadu), Pakistan (Peshawar), Bangladesh, and Nepal. The UAE is also home to Filipinos, Iranians, Egyptians, Sudanese, Chinese, Somalians and many other citizens of relatively poor countries. These individuals also face racial discrimination, the extent of which varies according to their job and associated social status.

Article 5 of ICERD enumerates the civil, political, economic, social and cultural rights which states must guarantee to everyone ‘without distinction as to race, colour, or national or ethnic origin’. General Comment XXX affirms the application of Article 5 rights to non-citizens.<sup>25</sup> It furthermore supplements these with additional rights necessary for the protection of non-citizens. Mafiwasta interprets General Recommendation XXX as the Committee’s articulation of the national minimum standard of treatment for non-nationals, and this shadow report examines the failure of the UAE to adhere to these standards in the following areas: working conditions; housing; health; and access to justice. It addresses issues which the Committee has identified as common problems, such as debt bondage, passport retention, deportation and collective expulsion. It also addresses the indirect discrimination created by the prohibition on trade unions and submits that this is one of the factors which have contributed to conditions which, in the worst cases, constitute control-based enslavement.

## **E. Racial Discrimination Against UAE Migrant Workers**

### **1. Working conditions**

ICERD Article 5(e)(i) provides for:

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<sup>25</sup> CERD General Recommendation XXX on Non-Citizens, 1 October 2004.

The rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration

General Recommendation XXX encourages states to:

Take measures to eliminate discrimination against non-citizens in relation to working conditions and work requirements, including employment rules and practices with discriminatory purposes or effects.<sup>26</sup>

Migrant workers constitute 98% of the private sector workforce. UAE nationals tend to work in the public sector where they receive high salaries.<sup>27</sup> Any dirty, degrading or dangerous work is performed by migrant workers.

The abuses suffered by foreign labourers in the construction sector in Dubai were documented by *Human Rights Watch* in 2006.<sup>28</sup> A *Johann Hari* article from April 2009 indicates that little has changed in the intervening two and a half years. According to one worker:

The work is 'the worst in the world,' he says. 'You have to carry 50kg bricks and blocks of cement in the worst heat imaginable ... This heat – it is like nothing else. You sweat so much you can't pee, not for days or weeks. It's like all the liquid comes out through your skin and you stink. You become dizzy and sick but you aren't allowed to stop, except for an hour in the afternoon. You know if you drop anything or slip, you could die. If you take time off sick, your wages are docked, and you are trapped here even longer.'<sup>29</sup>

Employers frequently withhold or dock wages, and fail to pay overtime. In 2009, a team of investigative BBC journalists spoke to workers whose employer was threatening to cut their

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<sup>26</sup> *Ibid.* para. 33.

<sup>27</sup> *Supra* note 4.

<sup>28</sup> *Supra* note 14..

<sup>29</sup> *Supra* note 22.

wages by AED200 per month.<sup>30</sup> The company in question, *Arabtec*, posted a 3-month profit of \$74.5 million in July 2008. Appendix 2 details the findings of the BBC team.

Companies operate with impunity, safe in the knowledge that the Ministry of Labour is institutionally unwilling to effectively sanction offenders, all of whom are UAE nationals - the *kafil* system requires that all registered companies are at least 51% owned by a UAE national.<sup>31</sup> Their position is strengthened further by the fact that a sponsorship-based employment system, known as the *kafala* system, operates in the UAE, denying migrant workers the right of free choice of employment. Employees either accept the conditions, file a complaint with the Ministry of Labour - whose deficiencies are detailed in this report - or abscond, thus rendering themselves undocumented, and subject to arrest and imprisonment.

Salaries are manifestly unjust, reflecting not the wealth of the UAE, but rather the relative poverty of countries such as India and Pakistan. There is no minimum wage for non-citizens and in the construction sector in Dubai, Human Rights Watch found workers earning as little as \$106/month,<sup>32</sup> in an emirate where one expert has estimated the GNI per capita per UAE national to be 'over \$120,000'.<sup>33</sup> The comparison is crude, but valid in the absence of data on average national salaries.<sup>34</sup>

There is evidence that figures on deaths and injuries are being manipulated, both by private companies and by the government. Employers are legally required to report certain work-related incidents to the Ministry of Labour,<sup>35</sup> and to meet the costs of medical treatment and sick leave,<sup>36</sup> and therefore it is not in a company's interests to report such cases. In 2005 the Indian consul showed two French journalists a confidential document indicating that two Asians per day were dying on construction sites in Dubai and that there was a suicide every four days.<sup>37</sup> Dubai Municipality's figure for 2004 was 34 deaths in total. An investigation by *Construction Week*

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<sup>30</sup> See Appendix 2. BBC Panorama findings. Letter to Arabtec, 17 March 2009.

<sup>31</sup> C Davidson *Dubai: The Vulnerability of Success* (Hurst and Company, 2008) at 114. Only free trade zones are exempt from this rule and these zones only exist in Dubai, they are not labour-intensive and workers tend to be skilled expatriates.

<sup>32</sup> *Supra* note 14.

<sup>33</sup> *Supra* note 31 at 151.

<sup>34</sup> From the author's experience an unskilled, unqualified Emirati national trainee could expect to earn a minimum of \$2000 / month including benefits.

<sup>35</sup> *Supra* note 21 Article 142.

<sup>36</sup> *Ibid.* Article 144.

<sup>37</sup> *Envoye Special programme Dans les Soutes de L'Eldorado* (France 2).

revealed a figure of 880 deaths for the same year.<sup>38</sup> The Ministry appears to have no power to force companies to inform them of worker injuries or deaths. The undersecretary at the Ministry of Labour, Dr. Khalid Khazraji, complained: '[W]e have tried to get these reports, but they don't cooperate.'<sup>39</sup> *Construction Week* had simply collected data from the embassies of India, Pakistan and Bangladesh.

In relation to its treatment of unskilled and semi-skilled migrant labour, the UAE is in clear violation of ICERD Article 5(e)(i).

## **2. Housing and segregation**

The right to housing outlined in ICERD Article 5(e)(iii) is elaborated upon in General Recommendation XXX;

Guarantee the equal enjoyment of the right to adequate housing for citizens and non-citizens, especially by avoiding segregation in housing and ensuring that housing agencies refrain from engaging in discriminatory practices.<sup>40</sup>

In contrast to the luxurious housing enjoyed by UAE nationals and wealthy expatriates, migrant workers often live in sub-standard housing in isolated labour camps. A local journalist, writing in *Gulf News* in 2006, described typical conditions:

The rotten stench fills the back of your throat. Open mouthed your head is thrust forward in an involuntary retch. As you turn from the open door you glimpse a man squatting on the floor. He's searching for his shoes from a pile next to a rubbish bin in which a cat rummages. You can't go inside, the smell is too much. Next door, 10 men lie on their backs in bunks. Some cover their eyes with heavy bent arms to block out the light that filters through cracks in the wall around the air conditioner. Outside, a corridor lined by dozens of sandals leads to a kitchen, the wet walls of which are encrusted with fat

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<sup>38</sup> 'Site worker death toll exceeds 800' *Construction Week*, No. 83, August 6-19, 2005.

<sup>39</sup> *Gulf News*, 21 November 2005

<sup>40</sup> *Supra* note 25 para. 32.

accumulated through years of cooking on the four filthy gas rings. Forty men use this space to prepare their meals.<sup>41</sup>

In November 2007 a construction worker was quoted as saying '[W]e do not live like human beings. Even the water that we drink is the same as that used for concrete'.<sup>42</sup> In March 2009 there was further evidence that employers save money by providing workers with water which is not properly desalinated – 'it makes us sick, but we have nothing else to drink.'<sup>43</sup>

In 2008 authorities were forced to warn companies that they would be fined up to AED25,000 (US\$6,800) if workers were housed in factories or at worksites without permission. The warning followed the discovery of 200 labourers living in cardboard boxes in the basement of a building site.<sup>44</sup> In 2009 Dubai police arrested 83 men whose employer had them sleeping in the transformer room, telephone rooms and water pumping stations inside a market. The employer responsible was not arrested.<sup>45</sup>

BBC footage from the documentary, which aired on BBC1 in April 2009, is further evidence that migrant workers are housed inhumanely in unsanitary conditions which endanger their physical and mental health. The CEO of the company involved, Arabtec, who had not seen the documentary, said in response;

You state that the toilets were disgusting. Who makes them disgusting?? Unfortunately it is the men themselves as their standards of cleanliness and hygiene are not up to your or our Standards. We try from the very outset to train the men in all aspects of cleanliness and hygiene but it is very difficult change the habits that they unfortunately bring with them from their countries of origin.<sup>46</sup>

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<sup>41</sup> Charles Stratford, *Gulf News*, 26 August 2006.

<sup>42</sup> *Libcom.org*, 31 October 2006, available at <http://libcom.org/news/300-workers-protest-in-abu-dhabi-over-expired-labour-cards-30102006>

<sup>43</sup> *Supra* note 22.

<sup>44</sup> *The National*, 14 January 2009.

<sup>45</sup> *Ibid.* Dubai municipality director of properties said the employer would either be prosecuted or face fines.

<sup>46</sup> Email from Tom Barry, CEO Arabtec Construction to Andrew Bell, Producer, BBC Northern Ireland. No date specified, in response to original email from Andrew Bell to Tom Bell sent 17 March 2009.

The Minister of Labour, Saqr Gobash, said he was looking into the ‘veracity’ of the claims of overcrowding and filthy conditions.<sup>47</sup> The BBC’s video footage, filmed by highly-experienced journalists of unquestionable repute, in contrast to the claims of Arabtec, cannot be disputed. The Ministry of Labour must have been aware of the problem – they themselves had fined Arabtec AED10,000 (\$4,630) in January 2009 for overflowing sewage, overcrowding and insufficient ventilation.<sup>48</sup> Moreover they have been aware of the general problem for years. In 2006, for example, the UAE’s own head of the Health Education Section at the Ministry of Health stated he was ‘shocked at the conditions the men in workers accommodation ...live in.’<sup>49</sup>

The UAE government has insisted that accommodation is the responsibility of companies. The *Gulf News* quotes ‘Assistant Undersecretary for Labour Hatim al Junaibi [who] recognises that there are health problems that must be attributed to the living conditions of migrant workers and insists it is the responsibility of the labour companies’.<sup>50</sup> The UAE has been aware for many years that migrant workers are housed in appalling conditions but it has taken no measures to ensure the adequacy of migrants housing and has not prosecuted offenders. This is in violation of the government’s obligations under Article 5 of the Convention, which holds the state responsible for ensuring the right to housing is granted without racial discrimination.

The ICERD Committee clarified its position on segregation in General Recommendation XIX, which interprets Article 3 ICERD and states:

The Committee observes that while conditions of complete or partial racial segregation may in some countries have been created by governmental policies, a condition of partial segregation may also arise as an unintended by-product of the actions of private persons. In many cities residential patterns are influenced by group differences in income, which are sometimes combined with differences of race, colour, descent and national or ethnic origin, so that inhabitants can be stigmatized and individuals suffer a form of discrimination in which racial grounds are mixed with other grounds.<sup>51</sup>

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<sup>47</sup> *Arabianbusiness.com* 9 April 2009, available at <http://www.arabianbusiness.com/552075-ministry-set-to-probe-bbcs-labour-camp-claims>

<sup>48</sup> See Appendix 2.

<sup>49</sup> Keane *supra* note 1 at 99.

<sup>50</sup> *Gulf New*, 9 April 2006.

<sup>51</sup> CERD General Recommendation XIX on Prevention, Prohibition and Eradication of Racial Segregation and Apartheid UN Doc HRI/GEN/1/Rev. 6, 2003.

General Recommendation XIX explains that while Article 3 may have been directed exclusively at South Africa, ‘the article as adopted prohibits all forms of racial segregation in all countries’.<sup>52</sup> Thus Article 3 is of relevance to the UAE and while segregation is not geographical in the sense of apartheid-era South Africa, migrant workers are evidently kept apart from UAE nationals and wealthier expatriates. This represents a violation of Article 3 obligations. The practice is not confined to the construction sector. For example Das Island, an oil and gas processing plant off the coast of Abu Dhabi, is home to between five and ten thousand men at any one time. UAE nationals and skilled expatriate workers live in private accommodation with en suite facilities. The labourers’ accommodation is a considerable distance away, separated by an air-field. There, six to eight workers share a port-a-cabin and there are communal washing facilities. There are three separate mess halls serving different standards of food. The first mess hall is for UAE nationals (skilled and unskilled), and skilled expatriates (engineers, instructors, managers). The second is for semi-skilled staff, typically clerks from India. The third mess hall, which serves food that is markedly inferior to the food in the first mess hall, is for the labourers and service staff, who are exclusively south Asian. This system is in operation at all of the Abu Dhabi state-owned oil and gas installations, as visited by Nick McGeehan in a three year period.

There is no proof that segregation is official policy in the UAE, but segregation of migrant labour is evidently an intentional act of the authorities. *Mafiwasta* contends that it is unofficial government policy to segregate migrant labour, in clear violation of the object and purpose of Article 3 of the Convention.

The relationship between segregation and racial order has been the study of much scholarly attention in the South African context. Randall Packard describes how the segregation of black South Africans in the 1920s led to ‘a more generalized association of unsanitary behaviour with race’.<sup>53</sup> Paul Maylam is one of many historians who argue that it was segregation which strengthened racial discrimination, not vice versa.<sup>54</sup>

There are clear parallels in the UAE. The Irish CEO of Arabtec laid the blame for filthy conditions at the door of the workers themselves and ‘the habits that they unfortunately bring

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<sup>52</sup> See further Michael Banton, *International Action against Racial Discrimination*, (Oxford University Press, 1996), p.159-160 and 201-202

<sup>53</sup> RM Packard *White Plague, Black Labor* (University of California Press, 1989) p. 194.

<sup>54</sup> P Maylam *South Africa’s Racial Past* (Ashgate, 2001)

with them from their countries of origin.’<sup>55</sup> An Iraqi couple, interviewed by Ghaith Abdul-Ahad had similar views:

‘We will never use the new metro if it's not segregated,’ he tells me, referring to the state-of-the-art underground system being built in neighbouring Dubai. ‘We will never sit next to Indians and Pakistanis with their smell,’ his wife explains.<sup>56</sup>

Johann Hari spoke to a British woman and asked her what the best thing about Dubai was. Her response: ‘Oh, the servant class!’ she trilled. ‘You do nothing. They'll do anything!’<sup>57</sup>

*Mafiwasta* is concerned with securing the most basic rights of migrant workers. However Emirati society operates on a segregated basis, where the lowest group, the unskilled and semi-skilled migrant workers, are largely excluded from any form of participation in society. Through accommodation and employment practices, these workers are kept apart from tourists, Western expatriates and Emiratis. In Johann Hari’s memorable phrase, quoted above, ‘they are hidden in plain view’<sup>58</sup>. CERD played a key role in the fight against apartheid, and expanded its mandate through General Recommendation XIX, inspired by former CERD member Michael Banton. Article 3 is to be dynamically interpreted and in the case of the UAE, it is almost a common sense view that the society is deeply segregated along economic, and therefore ethnic and national, lines. There are no attempts made to offer any form of cultural or social recognition or integration to unskilled and semi-skilled migrant workers. Article 3 is violated as a matter of course. The only interpretation is that segregation and social stratification is unofficial government policy. *Mafiwasta* calls on CERD to recognise this, and unreservedly condemn the UAE government for its total disregard for the economic, social and cultural dignity of migrant workers.

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<sup>55</sup> *Supra* note 46.

<sup>56</sup> Ghaith Abdul-Ahad ‘We Need Slaves to Build Monuments’ *The Guardian*, 8 October 2008, available at <http://www.guardian.co.uk/world/2008/oct/08/middleeast.construction>

<sup>57</sup> *Supra* note 22.

<sup>58</sup> *Ibid.*



### 3. Debt Bondage

Debt bondage, identified as a common problem faced by non-citizen workers in General Recommendation XXX,<sup>59</sup> is widespread in the UAE. The government has made no attempt to eradicate the practice or address contributory factors. Unskilled and semi-skilled migrant workers invariably arrive in the UAE burdened with a considerable debt:

The plight of migrant construction workers begins in their home countries, where they pay local recruitment agencies exorbitant fees (in the range of \$2,000-\$3,000) to arrange for their employment contract, obtain an employment visa for the UAE, and purchase their air travel. Typically, they take loans, either directly from the recruitment agents or from a third party, to pay for these fees. Coming up with the monthly repayment becomes the prime focus of the workers, who devote most of their pay during their first two years of employment to servicing the loans. When construction firms immediately withhold a worker's first two months of wages—which is apparently so common that it is said to be a “custom”—the worker almost immediately falls into arrears on his debt, and additional charges start to accrue. Workers continue in their jobs even when faced with employers who fail to pay wages for much longer periods of time; the only practical alternative open to them is to quit their jobs and return home, debts unpaid.<sup>60</sup>

The unavailability of credit and relatively low literacy rates mean migrant workers are easy prey for unscrupulous recruitment agents in their home country and employers in the UAE. When they arrive in the UAE they are often forced to resign different contracts at a lower rate of pay. Unprecedented inflation and a falling US dollar (the UAE currency is tied to the dollar) have made it increasingly difficult for workers to service their debts.<sup>61</sup> The UAE blames recruitment agents in the workers' home states for the situation, but every company in the UAE is majority owned by a UAE national and it is inconceivable that only recruitment agents profit from the

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<sup>59</sup> *Supra* note 25 para. 34.

<sup>60</sup> *Human Rights Watch supra* note 14 at 13.

<sup>61</sup> *Supra* note 4. Economists estimate inflation rates of 12.5% in 2005, 13.5% in 2006 and 9% in 2007, which constitutes a three-year rise of 36%.

deception. Under international law, debt bondage is classed as a form of slavery,<sup>62</sup> the prohibition of which is a customary norm of *jus cogens*.<sup>63</sup> States therefore have obligations to tackle the problem, and failure to do so constitutes an internationally wrongful act.<sup>64</sup> The UAE is not meeting these obligations. The practice of charging migrant workers for their recruitment, rendering them in debt for several years, is widespread. Yet, as *Human Rights Watch* pointed out in 2006:

[the UAE government] has made little effort to punish recruiting agents who persist in making these charges, or the employers who are complicit, nor has it acted against the circumvention of the law by UAE employers and recruitment agents who ‘outsource’ charging workers fees to recruitment agents located in source countries. The federal government’s efforts to counter employers’ withholding of wages has been sporadic, at best.

Despite the seriousness of the crime and some well-publicised criticism, the practice continues. Ghaith Abdul-Ahad describes the dilemma of men he met in the Mousafah labour camp outside Dubai in October 2008:

[T]hey each paid more than £1,000 to employment agents in India and Pakistan. They were promised double the wages they are actually getting, plus plane tickets to visit their families once a year, but none of the men in the room had actually read their contract. Only two of them knew how to read.... ‘They lied to us,’ a worker with a long beard says. ‘They told us lies to bring us here. Some of us sold their land; others took big loans to come and work here.’<sup>65</sup>

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<sup>62</sup> Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 226 *UNTS* 3, entered into force 30 April 1957.

<sup>63</sup> C. Bassiouni, ‘Enslavement as an International Crime’, 23(2) *New York University Journal of International Law and Politics* (1990) p. 460: ‘It is well established that prohibitions against slavery and slave-related practices have achieved the level of customary international law and have attained *jus cogens* status.’

<sup>64</sup> Article 2. International Law Commission’s Draft Articles on State Responsibility for Internationally Wrongful Acts of 2001

<sup>65</sup> *Supra* note 56.

## 4. Passport Retention

The confiscation of passports is identified as a common problem faced by migrant workers in General Recommendation XXX.<sup>66</sup> An article from April 2009 illustrates how the practice exerts unreasonable control over workers:

Sahinal Monir, a slim 24-year-old from the deltas of Bangladesh. As soon as he arrived at Dubai airport, his passport was taken from him by his construction company. He has not seen it since. He was told brusquely that from now on he would be working 14-hour days in the desert heat – where western tourists are advised not to stay outside for even five minutes in summer, when it hits 55 degrees – for 500 dirhams a month (£90), less than a quarter of the wage he was promised. If you don't like it, the company told him, go home. 'But how can I go home? You have my passport, and I have no money for the ticket,' he said. 'Well, then you'd better get to work,' they replied.<sup>67</sup>

In 2001 a Dubai Court ruled the confiscation of passports illegal,<sup>68</sup> but in its 2006 report on construction workers, Human Rights Watch revealed that the confiscation of migrant workers' passports is customary practice and is even defended by senior figures within law enforcement. Human Rights Watch asked the UAE for clarification: '[W]hat is the government doing to address this illegal yet widespread practice?' The UAE responded to other criticisms but made no comment on the issue of passport confiscation.<sup>69</sup>

The extent of the problem was exposed in 2007 when the UAE launched an amnesty for what they erroneously term 'illegal migrants'. Official sources claim that 350,000 'illegal migrants' took advantage of the amnesty to either return home or legitimize their status.<sup>70</sup> The workers were undocumented because of the government's tacit acceptance of the confiscation of passports and its refusal to prosecute locally owned firms who frequently fire workers on spurious grounds to save money on wages or to prevent workers from claiming end of service benefits. In the amnesty

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<sup>66</sup> *Supra* note 25 para. 34.

<sup>67</sup> J Harri *supra* note 22.

<sup>68</sup> Ruling by Dubai Court of Cassation, Case # 268 (2001), October 27, 2001.

<sup>69</sup> Letter from Permanent Mission of the UAE to the United Nations to Human Rights Watch, 28 September 2006. Annex 2 'Building Towers, Cheating Workers' *supra* note

<sup>70</sup> *Gulf News*, 14 November 2007.

process UAE government representatives handed over 40,000 passports to the Indian consulate.<sup>71</sup> There has been no suggestion that firms will face prosecution. Some firms were reportedly refusing to return employees' passports or demanding money – up to AED7000 (\$1905) in some cases - for their return.<sup>72</sup> The unwillingness of the authorities to sanction offenders has arguably created a culture of extortion in the private sector. In January 2009 local press reported that workers were complaining of having to bribe their sponsors to obtain the no-objection certificate which allows them to transfer their sponsorship.<sup>73</sup>

The government's response to accusations that employers were demanding money for the return of passports was as follows: '[A]mnesty seekers can file a complaint at the labour relations department if their previous sponsor demands money in exchange for the passport. The Ministry will summon and ask him to submit the passport. If he refuses strong measures will be taken.'<sup>74</sup> The penalty in question is AED10,000 (\$2723).<sup>75</sup> Thus, a company which illegally confiscates its employees' passports, ignores a directive to return the passports, and then ignores a subsequent direct request from the Ministry of Labour, receives an insignificant fine. The Ministry does not explain how a worker with no personal identification is supposed to file an official complaint.

Companies withhold passports to prevent workers absconding, to ensure they cannot change employers, and to obstruct them from filing complaints. The government has done nothing to stamp out the practice because to do so would be detrimental to their own extensive business interests, outlined below, which carry significantly more weight than domestic judicial decisions.

## **5. Domestic Workers**

General Recommendation XXX urges states to:

Take effective measures to prevent and redress the serious problems commonly faced by non-citizen workers, in particular by non-citizen domestic workers, including debt bondage, passport retention, illegal confinement, rape and physical assault.

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<sup>71</sup> *Arab News*, 31 July 2007.

<sup>72</sup> *Gulf News* 15 August 2007.

<sup>73</sup> *Khaleej Times*, 24 January 2009.

<sup>74</sup> *Gulf News*, 14 July 2007.

<sup>75</sup> *Supra* note 71.

Domestic workers in the UAE endure all of these abuses. They are overwhelmingly Indian, Indonesian, Pakistani, Sri Lankan, Filipino, Bangladeshi or Ethiopian.<sup>76</sup> They operate in a vacuum and are ‘at particularly high risk of labour exploitation’<sup>77</sup> according to *Human Rights Watch*:

[t]he exclusion of domestic workers from national labour laws, while neutral on paper in its focus on a form of employment, has a disparate impact on women and girls since the overwhelming majority of domestic workers are female. The lesser protection extended to domestic work reflects discrimination against a form of work usually performed by women and girls ... No legitimate reasons exist for these exclusions. Therefore the unequal protection of domestic workers under national laws constitutes impermissible disparate impact discrimination on the basis of sex.<sup>78</sup>

Social anthropologist, Ahmed Kanna, has described how domestic workers are treated as social inferiors by their employers.

Domestics are permitted into intimate parts of locals’ houses - bedrooms and kitchens - that are not open to other outsiders. The reason is that exposure of private areas within the household only matters when social equals or superiors are involved.<sup>79</sup>

A 2002 ILO Report identified mistreatment of domestic migrant workers by the employer, the family, and even the children of the household. This same report details a hierarchy of ethnicities.<sup>80</sup> For example, a domestic worker from the Philippines may be paid a higher wage than one from Ethiopia.

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<sup>76</sup> For a full breakdown see R Sabban *The United Arab Emirates: Migrant Women in the United Arab Emirates, The Case of Female Domestic Workers* Int’l Labor Office, Geneva, p15-16.

<sup>77</sup> *Human Rights Watch*, ‘The UAE’s Draft Labor Law: Comments and Recommendations’, 2007.

<sup>78</sup> *Ibid.*

<sup>79</sup> A Kanna ‘Dubai in a Jagged World’ Middle East Report, Summer 2007. Ahmed Kanna is a social anthropologist who focuses on urban life in Arabian Gulf countries.

<sup>80</sup> *Supra* note 76 at 10.

Domestic migrant workers are subject to numerous forms of work-related discrimination, including excessive work hours, work without pay and physical and mental abuse. Intake documents from one Dubai non-governmental organization demonstrate the various forms of abusive work-related conditions imposed on migrant workers. One domestic migrant worker stated that she was ‘serving 12 people with the amount of AED500 a month without a day off’<sup>81</sup>. She further stated that her employers ‘started abusing me physically, stopped giving me my salary and burnt my clothes’.<sup>82</sup> Another domestic worker who sought refuge at the same shelter stated she had been forced to work from the hours of 8 a.m. until 10 p.m., and again from 10 p.m. until 12 a.m. tutoring the employers’ children for a mere AED500 per month, excluding accommodation. She was denied food as well as bathing facilities.<sup>83</sup> These claims are lent significant credence by the ILO Report, which details similar conditions. All of the 51 women who they interviewed worked an average of 11-20 hours a day, and were paid between AED 500-700 (\$136 - \$190 ) per month.<sup>84</sup> The ILO report describes incidences of sexual abuse:

Before I did not tell any one. I allowed him what he wants. After a while, he stopped. The lady [of the house] was angry with me. Now that he has stopped, she is fine. I do not know if he will try again.<sup>85</sup>

Another domestic worker related an account of physical abuse.

Once I hit my employer’s car by accident. She started screaming at me. “Don’t you see? Is it the first time you see a car? Why are you so stupid?” She was wearing a ring. She smacked my face. My face was red for a long time. I cannot forget this moment.<sup>86</sup>

Intake forms from the *City of Hope* NGO in Dubai offered similar accounts from women who reported physical and mental abuse at the hands of their employers. The domestic workers at this shelter also reported that they were not allowed to leave their job. Most of the women had to escape the homes they worked in, rather than leave freely.<sup>87</sup> Many of these women had also had

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<sup>81</sup> United Hope intake form no.1 2007

<sup>82</sup> *Ibid.*

<sup>83</sup> United Hope intake form no. 2 2007

<sup>84</sup> *Ibid.*

<sup>85</sup> Supra note 76 at 30.

<sup>86</sup> *Ibid* at 29

<sup>87</sup> United Hope intake reports, 2007

their passports confiscated from them by their employers.<sup>88</sup>

No reason has ever been offered for the exclusion of domestic workers from national labour laws. Instead, the UAE proposes issuing a standard contract for domestic workers which would offer lower protection than that provided for in the labour laws.

According to CERD General Comment XXV on gender-related dimensions of racial discrimination:

Women may also be further hindered by a lack of access to remedies and complaint mechanisms for racial discrimination because of gender-related impediments, such as gender bias in the legal system and discrimination against women in private spheres of life.<sup>89</sup>

The complete blocking of any avenue of complaint for domestic workers in the UAE is an instance of the inter-sectionality of race and gender in the abuse of migrant women, in clear violation of Article 5 of the Convention. The UAE's Seventeenth Report offers no mention of migrant women as domestic workers, in violation of reporting requirements as set out in General Comment XXV: 'States parties are requested to describe, as far as possible in quantitative and qualitative terms, factors affecting and difficulties experienced in ensuring the equal enjoyment by women, free from racial discrimination, of rights under the Convention.'

Migrant women as domestic workers are essentially invisible in the UAE. They are routinely maltreated and are *de jure* excluded from the protection of labour laws. This is an unconscionable omission given the reported widespread abuse of domestic workers in the State, as supported by testimony of the organization *City of Hope*, which assists abused women and domestic workers.

## **6. Prohibition of Trade Unions**

ICERD Article 5(e)(ii) guarantees the right to join and form trade unions.

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<sup>88</sup> Interview with Sharla Masabih, founder of United Hope, 25 April, 2009.

<sup>89</sup> CERD, General Comment XXV, UN Doc. A/55/18, 20 March 2000.

The inability to form trade unions underpins the entire system of abuse of migrant workers in the UAE. In 2005, the UAE held talks with the ILO on the subject. Dr. Taleb Al Rifa'i, regional director of the International Labour Organisation, told a *Gulf News* reporter in April 2005 that trade unions will be established in the UAE even though they may pose challenges to residents. Dr. Khalid Al Khazraji, undersecretary at the Ministry of Labour and Social Affairs, agreed, also saying in 2005 that the UAE could expect to have labour unions 'very soon'. Two years later provisions on trade unions were absent from the 2007 draft labour law, an omission which drew public criticism from Human Rights Watch. In its Universal Periodic Review session in December 2008, the UAE expressly rejected a French recommendation on the formation of trade unions and a Canadian recommendation to uphold 'the rights of workers to freedom of association, to organise, and to collective bargaining by recognizing these rights in domestic law and by signing on to relevant ILO Conventions.'<sup>90</sup>

The right to join a trade union is not enjoyed by citizens or non-citizens in the UAE, a fact which arguably precludes discriminatory intent. In effect, however, the denial of this right discriminates against non-nationals. UAE nationals make up 80% of the public sector and cannot be dismissed from their jobs in all but the most exceptional circumstances.<sup>91</sup> The government is currently considering legislation to make it impossible to dismiss the very few UAE nationals who work in the private sector.<sup>92</sup> Non-nationals enjoy no such protection and the absence of this is felt most keenly by the most poorly paid and most poorly treated.

The UAE has held discussions with the ILO and it is fully aware of the importance of trade unions as the cornerstone of an equitable labor system. Trade unions would pose significant challenges to a country so heavily reliant on migrant labour, but the UAE cannot limit its actions to continued dialogue, a tactic which is obviously designed to stall reform and appease critics. It is regrettable that the strategy has proved so successful in view of the importance of trade unions in countering the abuse and exploitation of the millions of foreign workers without whom the UAE could not function.

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<sup>90</sup> Report of the Working Group on the Universal Periodic Review: United Arab Emirates. A/HRC/10/75 12 January 2009. Paras 50 and 71.

<sup>91</sup> *Supra* note 4.

<sup>92</sup> *Arabianbusiness.com*, 15 February 2009. Available at <http://www.arabianbusiness.com/546738-uae-considers-draft-law-to-ban-termination-of-emiratis#continueArticle>



## 7. Equality before the law and effective remedy

General Comment XXX affirms that the right to equal treatment in the administration of justice, outlined in article 5(a), applies to non-citizens. States are required to;

Ensure that non-citizens enjoy equal protection and recognition before the law and ...to ensure the access of victims to effective legal remedies and the right to seek just and adequate reparation...<sup>93</sup>

In its own words, the UAE Ministry of Labour is responsible for ‘the administration of the labour market and forming and implementing the labour policy in the country’.<sup>94</sup> Its aim is to achieve a ‘balance between the interests of the workers, employers and the society as a whole’.<sup>95</sup> In contrast to its stated aims, the Ministry of Labour has in the past guarded only the interests of public and private enterprises. It has obstructed the filing of complaints and appeals and has only enforced directives which favour employers. The UAE Seventeenth Periodic Report to CERD sets out the present dispute resolution mechanism in the UAE but presents no evidence of its efficacy.

### (i) Dispute Resolutions

Laws are only as strong as the mechanisms that enforce them, and there is overwhelming evidence that UAE labour law has not, in its realisation, protected migrant workers from exploitative labour practices. The only way of keeping track of labour disputes is through the national press, since the Ministry of Labour has never released comprehensive data, and the integrity of the information it does release is questionable. According to one official, they did not even keep records until September 2005.<sup>96</sup> The available information on worker protests, largely gleaned from local press, probably represents only a fraction of worker abuses. There is a general reluctance on behalf of workers to make a complaint. One Ministry official was quoted in the *Gulf News* as saying: “[W]e 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.”<sup>97</sup> In addition, all of the English language broadsheets from which reports were

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<sup>93</sup> *Supra* note 25 para. 18.

<sup>94</sup> UAE Ministry of Labour website, available at [www.mol.gov.ae](http://www.mol.gov.ae)

<sup>95</sup> *Ibid.* UAE Ministry of Labour Vision and Mission.

<sup>96</sup> *Gulf News*, 29 September 2006.

<sup>97</sup> *Gulf News*, 4 July 2005.

taken are based in the emirate of Dubai,<sup>98</sup> which accounts for only 37 per cent of the national workforce.<sup>99</sup> Disputes in Abu Dhabi, Umm Al Qwain, Ajman, Fujairah and Ras Al Khaima are rarely covered.

Workers wishing to file a complaint frequently encounter difficulties. In 2005, the *Gulf News* reported how 38 South Asians were prevented from making a complaint because they could not afford to pay an AED20 typing charge.<sup>100</sup> The men had instead brought a handwritten complaint, which was rejected. In addition, Ministry staff informed the men that they would each have to submit an individual complaint (and each incur an individual charge), when in fact labour law allows for the submission of joint complaints.<sup>101</sup> The men, whose complaint was that they had not been paid for five months (they were reported to be surviving on dates from a farm near their accommodation), were ultimately unable to lodge an official complaint. Four days earlier, Ministry officials refused to accept a complaint from the same workers on the grounds that they could not provide proof of identification. The reason for this was that the men's employer had confiscated their passports and labour cards, leaving them with no money and no means of even proving who they were. The employer admitted to not having paid his workers, citing his own financial difficulties as the reason. The Economist Intelligence Unit, in its country report on the UAE, similarly described how "[a] series of cases have emerged ... in which UAE contracting companies have failed to pay the wages of labourers for months at a time".<sup>102</sup>

The predicament of unpaid workers has underlined the grave difficulties facing migrant workers. In 2006, the *Gulf News* highlighted the case of 31 dismissed labourers sleeping in public parks for over 22 months, although a court had ordered their former employer to pay their dues amounting to AED465,000 (\$126,600).<sup>103</sup> The workers, left penniless, unemployed and without their passports, were from India and Bangladesh. According to the labourers' legal consultant, Karunagappaly Shamsudeen of Al Kabban Advocates and Legal Consultants: 'The sponsor did not pay any of the labourers' earnings, end-of-service benefits, return tickets, compensation for unlawful dismissals and many other dues... He left the claimants penniless, homeless and

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<sup>98</sup> *Gulf News* maintains a small office in Abu Dhabi, but the journalist who was primarily responsible for labour stories worked out of Dubai. Since this journalist, Daa Hadid, left *Gulf News* in the summer of 2006, there has been a marked reduction in labour stories.

<sup>99</sup> Ministry of Planning National Abstract 2001–2004, available at [www.uae.gov.ae/mop](http://www.uae.gov.ae/mop).

<sup>100</sup> *Gulf News*, 23 September 2005.

<sup>101</sup> *Supra* note 21, Article 155.

<sup>102</sup> Economist Intelligence Unit, Country Report: UAE, Main Report, 1 August 2004.

<sup>103</sup> *Gulf News*, 16 May 2006.

unemployed and [retained] their passports without any legal grounds'.<sup>104</sup> The labourers were working for a UAE national who runs a construction company and had been dismissed in 2004. Following their dismissal, the labourers complained against their sponsor at the Labour Relations' Department at the Ministry of Labour, claiming that he had not paid their end-of-service benefits and was retaining their passports. After failing to reach a settlement between the two parties, the case was referred to the Dubai Civil Court. The sponsor failed to show up at court even after being sent several official notifications. On January 8, 2005, the civil court ordered the sponsor to pay each of the claimants his dues which varied between AED14,000 (\$3,800) and AED16,000 (\$4,356) plus nine per cent legal interest to each one of them. Many of the workers had been living in public parks in Dubai and Sharjah, and had been arrested as they were sleeping in public parks, or had failed to show any identification because their passports were retained with their sponsor.<sup>105</sup>

As this previous case shows, even if a complaint is successful, employers may simply ignore the ruling. A group of workers whose complaint had been upheld by the Ministry of Labour made three separate complaints to the police asking them to enforce the Ministry's decision. The employer was ordered to pay five months salary and only paid three. He was quoted in the press as saying he 'would not pay one dirham' of the extra amount he owed his employees as they were 'liars'.<sup>106</sup>

The shortcomings of the complaints procedure are echoed in the appeals procedure. Far from enhancing rights, the Court of First Instance, which represents the first stage of any appeal, acts as a further obstacle to plaintiffs.<sup>107</sup> In order to register a complaint, the plaintiff must provide the following: a fee of AED500 (\$136); a deposit of AED1,000 (\$272); a letter from the Ministry of Labour stating that a friendly settlement is not possible; two further copies of the original submission to the Ministry of Labour; and a copy of the original Ministry of Labour judgment. In effect this means that aggrieved employees may only appeal to the Court with the express approval of the Ministry of Labour.

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<sup>104</sup> *Ibid.*

<sup>105</sup> *Ibid.*

<sup>106</sup> *Gulf News*, 24 December 2005.

<sup>107</sup> The Ministry of Labour often uses the local press as a means of disseminating information on changes to the law. Procedural directives on the workings of the Court of First Instance can be found in *Gulf News*, 12 May 2007.

The *Gulf News* notes that ‘workers cannot appeal to the Court of First Instance directly’,<sup>108</sup> and if the Ministry decides not to hear a case or feels that its decision was fair, workers are denied leave to appeal. In the event that a worker obtains the required documentation from the Ministry, they must then pay AED1,500 (\$408) to register their complaint. Given that the majority of cases relate to withheld monies, it is highly unlikely employees have access to such funds. While the AED500 registration fee is waived in instances of labourers filing complaints against their employers, the regulations also state that ‘if it was proved that the workers who filed the case have no rights, they will have to pay all the fees for the case’.<sup>109</sup> The effect, and most likely the intent of this vaguely worded directive, is to make workers who lose their appeal liable for *all* costs. Thus, a revised system, whose ostensible purpose is to provide workers with the right to appeal, further strengthens the hand of the Ministry of Labour in stopping cases from reaching appeal. Moreover, it sets financial penalties to discourage workers who are granted leave to appeal from exercising that right.

In the past two years, the Ministry of Labour has set up new systems such as “Natwasal” and a call centre, which is supposed to allow cases to be settled more quickly than in the past. The Dispute Department at the Ministry of Labour claims that in 2008, it received nearly 33,000 complaints in areas such as financial dues (unpaid wages), unpaid overtime, legal rights to air tickets and vacations, compensation for workplace accidents and false absconding reports. It claims to have resolved 80 percent of them.<sup>110</sup> However these figures cannot be verified, as there is no publicly available record of disputes.

Recent newspapers reports indicate persistent problems with unpaid wages and the complaints mechanism. On 9 February 2009, an amicable settlement was reported in the *Khaleej Times* in which 6 out of 37 Filipino workers, who had not been paid their salaries from October to January by the company Ben Belaila Arma Electropanc, received their dues.<sup>111</sup> The company workers were among 400 employees from Pakistan, the Philippines, Turkey, Bangladesh and India. The article notes that ‘only the Filipinos and some Turkish lodged complaints with the Ministry. The Turkish workers have already left Dubai’.<sup>112</sup> The case is indicative of the problems that arise in terms of access to justice; a very small minority received redress, while the majority of workers

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<sup>108</sup> *Ibid.*

<sup>109</sup> *Ibid.*

<sup>110</sup> *Khaleej Times*, 15 April 2009.

<sup>111</sup> *Khaleej Times*, 9 February 2009.

<sup>112</sup> *Ibid.*

either did not or could not complain, or had to leave the country. The workers who did not complain were Indian, Pakistani and Bangladeshi.

## **(ii) Failure to prosecute offenders**

In addition to managing the complaints procedure, the Ministry of Labour passes directives with the aim 'of providing stability, increasing productivity and creating jobs opportunities'.<sup>113</sup> Directives appear to be legally binding edicts which do not pass any formal parliamentary process. There is no mechanism to oversee their consistent implementation. As a result, the Ministry's application and supervision of its directives is erratic. The Ministry's response can be decisive when faced with labour protests, but halting and ineffective when required to protect migrant workers. The near complete lack of a directive on summer working hours illustrates the broader pattern of labour law rendered impotent by poor enforcement mechanisms, and an absence of willingness on the part of the Ministry of Labour to prosecute companies or vindicate the basic rights of migrant workers.

On 29 June 2005, Ministerial Directive No. 467 banned employers from forcing employees to work from the hours of 1200 to 1630 during the months of July, August and September.<sup>114</sup> One week later, a senior Ministry official was reported to be instructing labour inspectors *not* to fine companies breaking the Directive.<sup>115</sup> The same official stated: 'With all due respect to the minister, the decision is great, but where's the staff to implement it?' He claimed that punitive measures to halt company transactions were pointless: 'Most companies write a letter to the Ministry asking to reactivate their transactions and we do it after two days. Just two days.' This was supported by Sulaiman Abdullah, inspections head at the Ministry of Labour, who admitted: 'We restart their transactions after they sign a letter agreeing not to break the rule again.'<sup>116</sup> A full month after the Directive was announced the Ministry of Labour stated it would finally start fining companies who were breaking the law.<sup>117</sup> Labour inspectors made 164 visits to companies in July and August – 61.5 per cent were found to be breaking the law.<sup>118</sup> Overall, three of the seven emirates (Sharjah, Ajman and Umm Al Qwain) had no labour inspector to check on implementation of the Directive.<sup>119</sup> Some companies claimed they would rather pay the fines – up

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<sup>113</sup> Ministry of Labour website, available at [www.mol.gov.ae](http://www.mol.gov.ae) .

<sup>114</sup> Ministerial Resolution No. 467 (2005).

<sup>115</sup> *Gulf News*, 7 July 2005.

<sup>116</sup> *Gulf News*, 20 July 2005.

<sup>117</sup> *Gulf News*, 1 August 2005.

<sup>118</sup> *Gulf News*, 31 August 2005.

<sup>119</sup> *Gulf News*, 4 July 2005.

to AED 600,000 – than adhere to the new Directive.<sup>120</sup> In the end not one company was ever fined. A labour official noted the complete absence of sufficient enforcement mechanisms in relation to the Directive: '[W]e don't have a mechanism, no receipt book, no way of entering information into the computer's system to fine the violating companies.'<sup>121</sup> Until 25 January 2005, there were only 80 labour inspectors employed to look after the interests of what was then approximately 2,738,000 expatriate workers. On that date, an extra 50 labour inspectors were employed, equating to one UAE national inspector for every 21,062 expatriate employees.<sup>122</sup> The UAE's 2007 Labour Report refers to the recruitment of an extra 2000 inspectors.<sup>123</sup> In August 2005, the Ministry's industrial safety section had to close down due to holiday leave and resignations. A former employee said it had not undertaken a factory or company inspection for years and was ignored by senior officials.<sup>124</sup> In June 2006, the year following the initial debacle, the Ministry announced that companies flouting the rule would be 'named and shamed',<sup>125</sup> but not prosecuted. The success of this strategy can be gauged by an announcement, almost exactly a year later, from the same minister of labour – midday break violators will be 'named and shamed'.<sup>126</sup> This is redolent of the system of labour regulation in the UAE. A violation of a legal regulation with severe consequences for the health of migrant workers carries a derisory sanction, ensuring almost total non-compliance.

Wealthier expatriate workers and Emiratis do not encounter the closure of legal avenues that South Asian workers face. It is unquestionable that access to justice is denied the vast majority of mainly South Asian migrant workers, on the basis of nationality and ethnicity. It is submitted that Article 5 ICERD is routinely violated, in line with an overall pattern of sub-human status of South Asian migrant workers in the UAE.

## **8. Deportation and collective expulsion**

Procedural guarantees on deportation and the prohibition on collective expulsion are outlined in paragraphs 25 and 26 of General Recommendation XXX;

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<sup>120</sup> *Gulf News*, 4 July 2005.

<sup>121</sup> *Gulf News*, 31 August 2005.

<sup>122</sup> All these figures are quoted in *Gulf News*, 26 January 2005. The UAE's 2007 Labour Report refers to the recruitment of an extra 2000 inspectors.

<sup>123</sup> UAE Ministry of Labour 2007 Labour Report.

<sup>124</sup> *Gulf News*, 2 August 2005.

<sup>125</sup> *Gulf News*, 30 June 2006.

<sup>126</sup> *Gulf News*, 1 July 2007.

Ensure that laws concerning deportation or other forms of removal of non-citizens from the jurisdiction of the State party do not discriminate in purpose or effect among non-citizens on the basis of race, colour or ethnic or national origin, and that non-citizens have equal access to effective remedies, including the right to challenge expulsion orders, and are allowed effectively to pursue such remedies;

Ensure that non-citizens are not subject to collective expulsion, in particular in situations where there are insufficient guarantees that the personal circumstances of each of the persons concerned have been taken into account;

In May 2006, a committee of 14 officials met with representatives from local and federal departments, including the Ministry of Labour, Dubai Municipality and the Dubai Naturalisation and Residency Department, to discuss problems facing the labour market.<sup>127</sup> After the meeting then Labour Minister Dr. Ali Bin Abdullah Al Ka'abi stated that the panel had prepared a 29 clause memorandum to be submitted to the Cabinet to deal with labour protests. He indicated that the memorandum included a provision referring workers to court if they protested without a genuine, legal grievance – in his words, ‘with no right’ – or if they damaged property. The memorandum also included provisions to allow companies to bring in workers free of charge to replace those who cause problems or protest.<sup>128</sup> In contrast with the directive on summer working hours, the Ministry has had no problems implementing this directive.

On 11 March 2007, local press reported that 3,500 workers from ETA Ascon had stopped work, demanding pay rises and improved conditions. According to a company spokesman, it was a peaceful protest which ended with the employees returning to work. The following day, the same newspaper reported that 200 workers of the same company were to be deported, following riots in which a company bus was damaged and a manager was attacked. No reason was given for the sudden outbreak of violence but the report did contain details of the offer ETA Ascon made to its employees, which provides a clue as to why the protest turned violent: a pay increase of 2 dirhams (\$0.55) per day and a return air fare home every two years. The paper quoted Abdullah Saeed Bin Suloom, head of the labour inspection unit at the Labour Ministry and member of the

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<sup>127</sup> *Gulf News*, 5 August 2006.

<sup>128</sup> *Ibid.*

Permanent Committee of Labour Affairs in Dubai (PCLAD), who was in negotiations with the workers and the company: “Although the workers’ claims are illegal, we agreed with the company’s raising their salaries before the end of the contract period.” By 15 March 2007, a mere three days after the reported riot, 65 workers had already been deported. No reports were made of arrests or trials or convictions, or due process of any kind. The Minister of Labour ordered that 250 work permits be issued to the company free of charge to replace the deported workers. He stated: ‘[T]his is being done to compensate the company’, who claimed to have lost 4 million dirhams as a result of the protest. In October 2007, a larger strike involving thousands rather than hundreds of workers led to a senior ministry official announcing publicly that 4000 workers would be deported. ‘The appropriate bodies have been contacted to carry out the necessary measures [for their deportation],’ said Humaid bin Deemas. The status of these workers remains unclear.<sup>129</sup> In October 2007, the police employed batons and water canons against striking workers in the Jebel Ali industrial area. *The Telegraph* reported that hundreds of the workers had already been deported.<sup>130</sup>

There has never been any indication that workers arrested for exercising their legitimate right to strike have been afforded any rights of due process or any procedural rights on the expulsion process. Given the restrictions on press freedom and the extensive private business interests of senior government figures, it is reasonable to assume that only the most serious incidents are reported in the press (see Appendix 1). Collective expulsion is, in all likelihood, relatively commonplace, serving to punish workers who demand their fundamental rights and discourage others from doing likewise. As outlined previously, migrant workers are routinely denied access to justice and there is manifest inequality with nationals in their treatment before the law. Where deportation is concerned, decisions to deport workers appear to be taken extra-judicially. There is no opportunity to challenge either the legality of the arrest or the subsequent expulsion. The UAE’ deportation procedures are in violation of the developing international law on the expulsion of aliens.<sup>131</sup>

## **9. Access to health**

General Recommendation XXX is unequivocal on the right of non-citizens to healthcare:

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<sup>129</sup> *Gulf News*, 15 March 2007.

<sup>130</sup> *Daily Telegraph*, 31 October 2007.

<sup>131</sup> See OHCHR Discussion Paper ‘Expulsion of Aliens in International Human Rights Law’ Geneva, September 2006.



Ensure that States parties respect the right of non-citizens to an adequate standard of physical and mental health by, *inter alia*, refraining from denying or limiting their access to preventive, curative and palliative health services.<sup>132</sup>

In reality, the poor enforcement of labour laws represents a serious obstacle to the realization of this right, and the UAE's plans to privatize its health sector will exacerbate the problem.

Employers frequently deny workers access to healthcare. The Economist Intelligence Unit has reported how an Indian worker killed himself after his employer refused to give him AED50 (\$13.6) to visit a doctor.<sup>133</sup> In 2006, two Filipino cleaners resigned in protest at their conditions – they were being paid AED2 (\$0.55) per hour and working 14 hour shifts – and the fact that they had been working without medical cover since 2002.<sup>134</sup> One of the complainants, Erlinda Sy, claimed that hundreds of women were in a similar situation but were too frightened to complain. Her complaint, against one of the country's leading contracting companies, ultimately led to her deportation.<sup>135</sup>

The imminent privatisation of the healthcare industry will burden private companies with the responsibility to pay insurance premiums for its workers. It is claimed that the move will benefit the country:

Led by Dubai and Abu Dhabi, governments of which are increasingly realizing that to run operations efficiently and ensure high-quality healthcare to the satisfaction of patients, the private management of public hospitals/clinics and encouragement of private sector health facilities is the way forward.... While governments see a gradual change in their role, taking up regulatory and public policy roles, the private sector looks at the changing landscape in terms of both challenges and opportunities.<sup>136</sup>

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<sup>132</sup> *Supra* note 25 para 36.

<sup>133</sup> Economist Intelligence Unit, *Country Report: UAE, Main Report*, 1 February 2005.

<sup>134</sup> *Gulf News*, 26 July 2006.

<sup>135</sup> *Mafiwasta* was involved in this case, meeting with Ms. Sy, involving the local press and drafting a complaint letter for submission to the Ministry of Labour.

<sup>136</sup> *Gulf News*, 11 June 2008.

Mafiwasta rejects this assertion. Private healthcare will have disastrous consequences with regard to the ability of migrant workers to access their right to adequate healthcare.

## **F. Enslavement**

The *kafala* system in isolation can be analogized to a mild form of slavery. Taken in conjunction with the confiscation of passports, the high incidence of illegally imposed debt, the criminalization of protest, the prohibition on trade unions, and the denial of access to justice, the system closely resembles one of systematic enslavement. The jurisprudence of the International Criminal Tribunal for the former Yugoslavia recently expressed the view that the definition of slavery should not hinge solely on ownership:

Indications of enslavement include elements of control and ownership; the restriction or control of an individual's autonomy, freedom of choice or freedom of movement; and, often, the accruing of some gain to the perpetrator. The consent or free will of the victim is absent. It is often rendered impossible or irrelevant, for example, the threat or use of force or other forms of coercion; the fear of violence, deception or false promises; the abuse of power; the victim's position of vulnerability; detention or captivity, psychological oppression or socio-economic conditions.<sup>137</sup>

Several of these elements of control are prevalent in the UAE – restriction of freedom of choice and movement, deception and false promises, victim's position of vulnerability, and socio-economic conditions. Current definitions of slavery in international law do not include the element of control,<sup>138</sup> but progressive development of the law will surely reflect the fact that enslavement, whether contemporary or classical, is essentially the exercising of effective control over an individual, and a correlative exploitation of labour from that individual for financial gain. Mafiwasta contends that the UAE, by its actions and omissions, is responsible for the *de facto* enslavement of a portion of its unskilled and semi-skilled migrant workforce. This is an evolving

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<sup>137</sup> International Criminal Tribunal for the former Yugoslavia *Kumarac Case* The Hague, 22 February 2001 JL/P.I.S./566-e

<sup>138</sup> Convention to Suppress the Slave Trade and Slavery, 46 *Stat.* 2183, 60 *LNTS* 253, 255, entered into force 25 September 1926 and Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 226 *UNTS* 3, entered into force 30 April 1957.

area of international jurisprudence, and it is submitted that the UAE will come to be recognized as a crucible for the practice of modern-day slavery against unskilled and semi-skilled migrant workers as defined in terms of control.

## **G. Recent Developments**

The Ministry of Labour claims it is to introduce new rules for labour accommodation standards and a fresh mechanism to ensure payment of salaries, protect workers' rights and improve their conditions, according to an April 2009 *Gulf News* report.<sup>139</sup> Speaking to the press at the sidelines of a labour and human rights symposium, Saqr Gobash Saeed Gobash, the present Minister of Labour, emphasised that payment of workers' salaries and dignified living conditions are fundamental principles for the Ministry of Labour. During one of the sessions at the symposium, Renaud Detalle, from the UN Office of the High Commissioner for Human Rights, called on the UAE to take advantage of the OHCHR's special rapporteurs. However, Gobash refused to take up this offer of independent oversight, stating that the new criteria are comprehensive and in accordance with international best practice.

Any independent oversight would surely reveal that conditions for migrant workers in the UAE are third-world rather than best practice and, unfortunately, the global economic crisis will probably lead to further hardship. Sophia Furber, writing on Nepali migrants in the UAE, states: 'a fall in remittances is not the only cause for concern for the tens of thousands of Nepali labourers working in the region. Tougher economic times mean a real risk that construction companies will start to cut corners, scrimping on wages and accommodation for labourers, and failing to implement safety regulations.'<sup>140</sup> There are still 'many incidences of wages being withheld', with 'corporations increasingly us[ing] the financial crisis as an excuse for failing to implement new laws to protect workers' safety'.<sup>141</sup>

The effects of the global financial crisis are already being keenly felt in labour-intensive sectors of the UAE's economy, notably construction. In January it was reported that 1,500 visas were being cancelled every day,<sup>142</sup> and a report suggested that the population of Dubai could shrink by

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<sup>139</sup> *Gulf News*, 27 April 2009.

<sup>140</sup> Sophia Furber, 'Fears for Rights', *Kantipur*, available at <http://www.kantipuronline.com/kolnews.php?&nid=177737>

<sup>141</sup> *Ibid.*

<sup>142</sup> *7Days*, 15 January 2009.

8% in 2009.<sup>143</sup> An article in February 2009 in *The Guardian* highlighted the problems workers are facing:

‘I sold our land and took loans in the village to come here,’ said Imran Hassan, a 20-year-old Bangladeshi farmer. ‘I paid the agent £2,000 to bring me. He said I would earn 1,500 dirham [£287] a month, but we are paid 572 dirham. When I return people in the village will want their money but I have none.’ A Welsh construction site manager said he had protested to his boss about the treatment of labourers. ‘We tell them to bring their clothes to work one day and then we send them home. It makes me feel sick. I asked why it had to be done so quickly and I was told a lot of them commit suicide and we don't want that on our hands.’<sup>144</sup>

Media reports from India in 2007 indicate that suicides among workers returning from the Gulf were on the increase before the downturn in the UAE's construction sector, as the falling dollar and rising inflation made it difficult for workers to repay their debts.<sup>145</sup> One can assume the predicted mass reverse migration of 2009 will result in a similarly high proportion of suicides. The UAE bears significant responsibility for these deaths. It was complicit in the debt bondage which it used to control its migrant workforce, and took no action to protect those workers when they were no longer required. Instead it allowed its employers to cancel work visas *en masse*, according to the fluctuations of an unstable market. This is, in effect, a mass deportation, which manifestly fails to take into account the personal circumstances of the persons concerned.

## H. Government Involvement

In the United Arab Emirates the line between state and non-state actors is blurred. In Dubai, this is the situation, to such an extent that the federal government of Dubai is regularly credited with making takeover bids for private enterprises, and openly exhorts its prominent role in the booming construction business. In October 2005, the *Gulf News* reported that the value of construction contracts in the Gulf was USD 221.4 billion. It outlined the role of government agencies in the business:

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<sup>143</sup> *The National*, 15 January 2009.

<sup>144</sup> *The Guardian*, 13 February 2009.

<sup>145</sup> See for example [http://www.khabrein.info/index2.php?option=com\\_content&do\\_pdf=1&id=9211](http://www.khabrein.info/index2.php?option=com_content&do_pdf=1&id=9211) and <http://www.hindu.com/2007/11/02/stories/20071259160300.htm>

Government entities such as Dubai Municipality, Dubai Properties, Nakheel, Department of Civil Aviation, Ports, Customs and Free Zone Corporation, Dubai Electricity and Water Authority (Dewa) and Emaar Properties are leading all the development activities with the private sector involved to a much lesser extent. Among the leading government organisations, Nakheel has the largest project portfolio with Dh110 billion (\$30 billion) currently under development.<sup>146</sup>

Appendix 1 contains details of the most serious recent worker protests. Contrary to the government's oft-repeated line that it is making concerted efforts to regulate the labour market and prosecute offenders, it shows that the principal offenders are senior figures from the patrimonial elite. The protests, driven by the mistreatment detailed in this shadow report, involve companies owned by: the Dubai Government; the Al-Ghurair family, which has appointments in the Dubai Municipality, the Dubai Chamber of Commerce and Industry, and the Dubai Water and Electricity Authority;<sup>147</sup> Sheikh Rashid Al-Qasimi of the ruling family of Sharjah; Sheikh Saud bin Saqr Al-Qassimi of the ruling family of Ras Al-Khaima; and Khalaf Al-Habtoor, an Emirati businessman whose family has held positions in the Dubai Chamber of Commerce and various other federal institutions.<sup>148</sup>

Thus, the same individuals who oversee the laws and institutions which fail to protect migrant workers are profiting directly from the unreasonable powers of control which their actions facilitate. Mafiwasta submits that the government of the UAE is not simply in violation of its negative obligations to tackle the existence of manifestations of slavery within its territorial jurisdiction, it is in fact an active participant in widespread and systematic abuses which constitute *de facto* enslavement.

## **I. The UAE's Response to Criticism**

The UAE consistently responds to criticism with pledges and initiatives. The summer working directive on working hours was just one example of how the UAE seeks to deflect criticism by reference to the existence of laws. There are further more worrying examples.

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<sup>146</sup> 'Construction Grows \$4b a Week', *Gulf News*, 20 October 2005. Figures used in the report are taken from the *Middle East Economic Digest*.

<sup>147</sup> *Supra* note 31 at 154.

<sup>148</sup> *Ibid.* At 154.

In November 2006, *Human Rights Watch* published its damning report, 'Building Towers, Cheating Workers'. Two months later, the UAE published a new draft labour law. That law, deficient as it was, has never been implemented. On 6<sup>th</sup> April 2009, the BBC documentary 'Slumdogs and Millionaires' aired on BBC1. Four days later, the Ministry of Labour announced a 'three-pronged strategy' to improve living and working conditions of labourers.<sup>149</sup> The UAE did not make it clear if the new strategy would be part of its 'tailored programme to make decent work available to everybody in the country', which was announced on 11 January 2009.<sup>150</sup>

The case of the camel jockeys, alluded to in the UAE's seventeenth periodic CERD report is evidence that the UAE pays significantly more regard to negative publicity than criticism from United Nations bodies.

The issue of trafficked child jockeys made it onto the agenda of the UN Working Group on Contemporary Forms of Slavery in 1998 after pressure from Anti-Slavery International.<sup>151</sup> In 2001 Anti-Slavery International informed the Working Group that children were still being 'kidnapped, sold by their parents or taken on false pretences from their homes'.<sup>152</sup> The response of the working group was to 'encourage' the UAE and other Gulf states to enforce their laws and ratify ILO Convention No. 182.<sup>153</sup> The UAE duly ratified ILO Convention 182 in 2001.<sup>154</sup> The ILO monitoring bodies were far more forthright in their criticism than the slavery Working Group. In 2002 they noted;

...these substantial violations of Convention No. 138 were discussed by the Committee last year [2001], and... as per the year before, the Government's response was once again confusing, dubious and provided little concrete information...the Government representative had failed to respond to the alleged cases of children dying in connection with their work as camel jockeys. ...and evidence of children continuing to be kidnapped continued to

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<sup>149</sup> *The National* 10 April 2009.

<sup>150</sup> *Gulf News*, 11 January 2009.

<sup>151</sup> Reference to this is made in para 77 of the 2000 report of the Report of the Working Group on Contemporary Forms of Slavery E/CN.4/Sub.2/2000/23.

<sup>152</sup> Report of the Working Group on Contemporary Forms of Slavery 26<sup>th</sup> Session 16 July 2001. E/CN.4/Sub.2/2001/30 para 45.

<sup>153</sup> *Ibid.*

<sup>154</sup> ILO Convention No. 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, entered into force 19 November 2000.

mount.<sup>155</sup>

Despite the strong criticism no proactive action was taken until 2005, and when that action did arrive it was arguably the result of negative media publicity and the possibility of US sanctions.

In 2004 Anti-Slavery International released photographs of child jockeys in Dubai, some so small they had to be tied to the camels.<sup>156</sup> The same year a British photo-journalist Christopher Higgs shot footage which provided further incontrovertible evidence that the use of child camel jockeys was continuing. The Anti-Slavery International photographs and Higgs's footage were both taken from the Nad Al Sheba racetrack outside Dubai, which is owned and operated by the ruling Al-Maktum family of Dubai. The footage was subsequently shown to John R. Miller, the head of the U.S. State Department's Trafficking Division, in an HBO documentary. Miller confessed on camera to feeling 'duped'<sup>157</sup> by previous UAE promises and initiatives. The U.S.'s 2005 Trafficking In Persons Report on the UAE is damning. It outlines in detail the abuses suffered by jockeys and states that '[T]he Government of the UAE does not fully comply with the minimum standards for the elimination of trafficking and is not making significant efforts to do so.'<sup>158</sup> The UAE was reclassified as Tier 3 in the State Department's Trafficking In Persons report, a status which can invoke trade restrictions or sanctions.

Presumably aware of their imminent reclassification, and the outrage likely to be inspired by the US documentary, the UAE finally signed an agreement with UNICEF entitled the 'Contribution Arrangement Between the Government of the United Arab Emirates and the United Nations Children's Fund (UNICEF) Concerning Children Involved in Camel Racing In the United Arab Emirates'.<sup>159</sup> This did not happen until April 2005, a full seven years after the issue was first raised at UN level.

UNICEF recently praised the UAE for its 'visionary leadership' with regard to the rehabilitation of child camel jockeys. A *Mafiwasta* investigation has revealed that this praise was only

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<sup>155</sup> ILCCR: Examination of individual case concerning Convention No. 138. ILOLEX document no. 132002ARE published 2002.

<sup>156</sup> Anti-Slavery International images are available online at <http://www.antislavery.org/homepage/resources/cameljockeysgallery/gallery.htm>

<sup>157</sup> HBO for Real Sports with Bryant Gumbel 'Sport of Sheikhs'.

<sup>158</sup> United States State Department Trafficking In Persons Report 2005 at 219.

<sup>159</sup> Contribution Arrangement Between the Government of the United Arab Emirates and the United Nations Children's Fund (UNICEF) Concerning Children Involved in Camel Racing In the United Arab Emirates.

forthcoming as a result of a lawsuit filed in Miami in September 2006, which accused Sheikh Mohammed Al-Maktum of Dubai enslavement. *Mafiwasta* has contacted UNICEF to express concern over their actions in this regard and the matter is currently under internal investigation. *Mafiwasta* will submit the outcome of the affair to the Committee in the coming months.

## **J. Conclusion and Recommendations**

Mafiwasta believes that the plight of unskilled and semi-skilled migrant workers in the United Arab Emirates urgently requires support from the UN treaty-bodies. The UAE's seventeenth periodic report to CERD offers an opportunity for enhanced investigation of the appalling treatment of migrant workers. The situation is fundamentally one of racial discrimination, given that these groups are predominantly South Asian and are readily identifiable on the basis of nationality and ethnicity.

The UAE reports to CERD on average every ten years. Its seventeenth periodic report makes no acknowledgement of the growing international criticism of its treatment of migrant workers since its last report in 1995. The report fails *prima facie* to offer a coherent and comprehensive assessment of the ethnic character of its migrant population. Therefore it is impossible from the beginning to understand the egregious human rights violations taking place in the UAE, on the basis of the state report alone.

There is little or no active civil society in the State. This in itself is of grave concern. The present Shadow Report aims to provide an indication of the range of human rights abuses taking place in the UAE, which are impacting on specific national and ethnic groups. At the extreme, debt bondage, a form of slavery, is being routinely practiced. At the lower end of the scale, daily life is made intolerable through repeated refusal to provide workers with adequate working and accommodation conditions. The system is being increasingly recognized as one of gross exploitation, where the most basic workers' rights, such as being paid a monthly salary on time, are a source of great struggle.

Mafiwasta's campaign has focused on the basic right to adequate working conditions, health and safety, and accommodation. Beyond this no effort is made to provide unskilled and semi-skilled migrant workers with economic, cultural or social rights. The spirit of the Convention, which is one of inclusion and celebration of diverse groups, is cynically ignored in the UAE. While not



renouncing the notion that a future Emirati society might view migrant workers as more than industrial resources, the present situation is so grave that certain demands must be highlighted. As such, Mafiwasta calls on the Committee to concentrate its recommendations on the core, basic areas.

Firstly, the UAE's state report offers no realistic assessment of the migrant worker population in its country.

**Mafiwasta calls on the Committee to question the adequacy of its seventeenth periodic report, which completely fails to offer proper indications of the national and ethnic backgrounds of its migrant workers, or meaningful statistics on the relation between race or ethnicity and social and economic status.**

Secondly, the practice of withholding passports, and the subsequent bonding of employees, must cease. It is an evident violation of Article 5 of the Convention, as well as related instruments on slavery. It is essential that the Committee recognizes that this practice is endemic, despite official rhetoric.

**Mafiwasta calls on the Committee to condemn the practice of routinely withholding passports and to require the State to prosecute and effectively sanction criminal legislation for employers who persist with the practice.**

Thirdly, the draft labour law promulgated in 2007 must be reviewed, including accepting valid criticism from *inter alia* Human Rights Watch, and implemented. The Committee must recommend the immediate engagement of the UAE with core ILO Conventions 87 and 98 on freedom of association. Without freedom to associate, reform is consistently obstructed. This is the most basic labour right in the international labour canon; it cannot be routinely denied in the UAE.

**Mafiwasta calls on the Committee to require the UAE to implement a timetable towards the introduction of its new labour law, including the realization of the right to freedom of association. Furthermore significant criticism of the present proposed legislation must be addressed.**

Fourthly, workers' accommodation in overcrowded and squalid labour camps is an horrific and cruel violation of workers' right to adequate housing. It engages Article 5 of the Convention, in that those affected are exclusively unskilled and low-skilled workers, identifiable on the basis of nationality and ethnicity. Growing documentary evidence is placing pressure on the UAE, and it is imperative the Committee reflects the condemnation that exposés, including BBC's Panorama documentary, are generating.

**Mafiwasta calls on the Committee to highlight the appalling accommodation conditions for migrant workers, as repeatedly documented in the international media. Some form of objective oversight is required. The Committee should point out that this situation is so urgent that the international standing of the UAE is at stake.**

Fifthly, complaints procedures for violations of labour law have always been inadequate. The UAE has promised reform in this area, but there is little evidence that this is effective. It has refused independent, international oversight of its labour complaints mechanisms. There has been an ILO offer of assistance in this regard. It is submitted that, given the history of obstruction of unskilled and semi-skilled migrant worker complaints in violation of Article 5 ICERD, independent oversight is essential if faith is to be restored in the system.

**Mafiwasta calls on the Committee to highlight legitimate and well-founded concern that its complaints mechanisms can assist migrant workers. Available international expertise, notably from the ILO, must be used to overhaul the present system, which has failed to stop systematic abuse.**

Sixthly, domestic migrant workers, largely female, are excluded from UAE labour law and exist in a legal black hole. This means that they are largely invisible, with no access to justice or redress of any kind. Given their already vulnerable position, this is a situation of grave concern. CERD has accepted the link between gender and race, and in this regard, domestic migrant workers trigger the Convention requirements. There is no information offered in the UAE's report. There are indications that abuse is so prevalent, with a concomitant absence of any means of redress, that urgent action is required.

**Mafiwasta calls on the Committee to use its urgent action procedures to compel the UAE to bring in emergency legislation, offering legal protection, including adequate avenues for complaint, to domestic workers.**

Finally, Mafiwasta would like the Committee to consider whether the UAE has ever acted in good faith towards unskilled and semi-skilled migrant workers. There is no evidence offered in the Report, and no evidence from those on the ground, that the State sees any benefit beyond an economic one in having migrants within its borders. As a result, a grim reality has set in, in which migrant workers live invisible, shadow lives, as described by a growing number of visiting journalists in recent years. There has never been any attempt to offer these groups any social space beyond that of work. Their accommodation reflects their status, which is dehumanized at every level. The UAE has never implemented ICERD, in the sense in which that document was drafted and enacted as the first international human rights instrument. The treaty is supposed to facilitate the celebration of diversity and inclusion; the exploitation of migrant workers in the UAE is the antithesis of this spirit.

**Mafiwasta asks the Committee whether it can persuade the UAE to reflect on what its practices are achieving. As international condemnation mounts, a critical point is being reached. Perhaps the state has never realized that its persistent maltreatment of migrant workers will ultimately have a detrimental effect on all members of Emirati society.**

## Appendix 1: Worker Protests

**March 2006. Dubai.** 2500 workers at the Burj Dubai site riot, citing mistreatment by company officials. The Permanent Committee of Labour Affairs in Dubai announce that they will investigate the problem and take the workers who started the protest to court.<sup>160</sup> The Burj Dubai project which involves a large number of subcontractors is run by Emaar, in which the government of Dubai has a majority stake.<sup>161</sup>

**March 2007. Dubai.** Initial strike involving 3500 related to low wages. Subsequent offer – an increase of \$15/month and a return flight home every two year – sparked riots in which 200 workers were arrested. Within three days of the riot 65 workers had already been deported, in contravention of international law on collective expulsion. The fate of the remaining workers threatened with deportation remains unknown. The Ministry of Labour compensated ETA-ASCAN – owned by the Al Ghurair family - with 250 free work permits.<sup>162</sup> The Al Ghurair family has appointments in the Dubai Municipality, the Dubai Chamber of Commerce and Industry, and the Dubai Water and Electricity Authority.<sup>163</sup>

**November 2007. Abu Dhabi.** 300 General Construction Engineering Company workers protest, demanding the renewal of visas and labour cards, without which they cannot leave the country, seek legal assistance or medical treatment. Protestors also described living conditions as inhumane. ‘We do not live like human beings. Even the water that we drink is the same as that used for concrete.’<sup>164</sup>

**November 2007. Dubai.** Labourers employed by Dubai’s third largest construction company Arabtec on the Burj Dubai site refuse to work due to poor wages reportedly as low as

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<sup>160</sup> *Gulf News*, 15 March 2007.

<sup>161</sup> *Reuters*, 18 March 2007.

<sup>162</sup> Libcom.org, 31 October 2006, available at <http://libcom.org/news/300-workers-protest-in-abu-dhabi-over-expired-labour-cards-30102006>

<sup>163</sup> C Davidson supra note 31 at 154

<sup>164</sup> Libcom.org, 31 October 2006, available at <http://libcom.org/news/300-workers-protest-in-abu-dhabi-over-expired-labour-cards-30102006>

\$109/month.<sup>165</sup> Arabtec recently reported a 3-month profit of \$74.51 million and a profit increase of 141% on the previous year.<sup>166</sup>

**March 2008. Sharjah.** Reports on the unrest are inconsistent however what but it appears that that approximately 1500 workers burned offices and vehicles in a pay-related dispute.<sup>167</sup>

**April 2008. Sharjah.** 800 contract workers for Tiger Contracting down tools after they are denied housing and forced to sleep at the construction site. 625 arrests were made when workers blockaded streets and rioted with police. Head of Sharjah police force Brig. Gen. Humaid al-Hudaidi claims that the rioting 'had nothing to do with labour disputes.'<sup>168</sup> Tiger Contracting was set up by Shaikh Rashid Al Qasimi of the ruling family of the emirate of Sharjah.

**July 2008. Ras Al Khaimah.** 3100 employees of RAK ceramics in Ras Al Khaimah are sent to different detention centers, some reportedly as far away as Abu Dhabi, after a riot begins over the poor quality of food being served. The protest becomes so serious that the army is called in. The status of the workers remains unknown.<sup>169</sup> RAK Ceramics is a public shareholding company and its chairman is Sheikh Saud Bin Saqr Al Qassimi, the Crown Prince and Deputy Ruler of Ras Al Khaimah.<sup>170</sup>

**November 2007. Dubai.** 4000 Al Habtoor Engineering workers taken into custody for protests related to wages and working conditions. Working hours had been increased to up to 14 hours per day, breaks had been reduced to one hour a day and salaries were reportedly as low as \$100/month. The UAE authorities agree not to deport the workers but make this contingent upon an immediate end to the strike.<sup>171</sup> Al Habtoor is part of the Al Habtoor Group run by Khalaf Al

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<sup>165</sup> *Arabian Business.com*, 9 November 2007, available at <http://www.arabianbusiness.com/503759-burj-dubai-strike-enters-ninth-day>

<sup>166</sup> *Arabian Business.com*, 26 July 2008, available at <http://www.arabianbusiness.com/property/article/525867-arabtec-profit-more-than-doubles>

<sup>167</sup> *World Tribune*, 20 March 2008, available at [http://www.worldtribune.com/worldtribune/WTARC/2008/me\\_gulf\\_03\\_20.asp](http://www.worldtribune.com/worldtribune/WTARC/2008/me_gulf_03_20.asp)

<sup>168</sup> This story did appear at [http://www.wsws.org/articles/2008/apr2008/uae-a04\\_prn.shtml](http://www.wsws.org/articles/2008/apr2008/uae-a04_prn.shtml) but is now only available at a local blog site <http://private-property-investment.blogspot.com/2008/04/before-investing-in-dubai-read-this.html>, 3 April 2008.

<sup>169</sup> *Arabian Business.com*, 9 July 2008, available at <http://www.arabianbusiness.com/524263-thousands-of-indian-strikers-march-off-to-jail?ln=en>

<sup>170</sup> <http://www.rakceram.com/pdfs/Corporate%20profile.pdf>

<sup>171</sup> MeriNews, 2 November 2007, available at <http://www.merineews.com/catFull.jsp?articleID=127434>

Habtoor, whose family has held positions in the Dubai Chamber of Commerce and various other federal institutions.<sup>172</sup>

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<sup>172</sup> C Davidson supra note 31 at p.154

## **Appendix 2: Findings of 2009 BBC Panorama Investigation**

The following letter was sent by BBC Producers to Tom Barry, CEO of Arabtec Construction on 17 March 2009 as part of the BBC's right to reply process. Mafiwasta assisted the Panorama team in their investigations and they were happy to share this information with us.

Dear Mr Barry,

The BBC's current affairs programme, Panorama, has been investigating the working and living conditions of migrant construction workers in Dubai. At this stage it is intended the programme will be transmitted on BBC1 on March 30 2009, although this may be subject to change. It will not be transmitted before this date.

During the course of this investigation, Panorama has gathered compelling first hand evidence of unacceptable living conditions at the Nad Al Sheba – also known as Nadd Al-Shiba Meydan - camp endured by Arabtec workers employed in the construction of the Earth development known as Sanctuary Falls, a Shaikh Holdings sub-development of Leisurecorp's Jumeirah Golf Estates.

As the employer of these men, it is Arabtec's responsibility to ensure your company adheres to current legislation and ethical practices in the treatment of your workforce. It is also your responsibility to ensure those supplying Arabtec with labour, adhere to current legislation and ethical practice.

BBC Panorama has filmed interviews with men employed by Arabtec at Sanctuary Falls. These men say they earn approximately £160 a month for working up to 12 hours a day, six days week.

They make a number of allegations about what they see as the inadequacies of their working lives. Others would call it exploitation. At the men's request we will not be revealing their identities either to you or in the transmitted version of the programme.

The men have informed us of the following:

That insanitary conditions exist in the Nad Al Sheba camp, that these have been reported to the relevant local authorities, that Arabtec was fined as a result but at the time of their interview with Panorama in January 2009, Arabtec had failed to act.

This is confirmed by a report by the Dubai Municipality Health Control and Epidemiology Unit, dated December 22 2008, which describes how Arabtec was fined 10,000 Dirhams because of "overflowing of sewage inside accommodation". It describes the severity of this offence as "critical". A subsequent inspection by the Dubai Municipality on January 17 2009 also noted there was insufficient cleaning inside the toilets. Panorama filmed inside the camp subsequent to this date and discovered that despite the inspections the conditions were still grim, with sewage still present alongside accommodation blocks and the kitchens. The toilets were disgusting.

The Dubai Municipality report of January 17 2009 also details other "violations". Deemed of "minor severity" the report reveals, among other Arabtec failings, that the camp is overcrowded with 7,500 labourers living in 1248 rooms and that there is insufficient ventilation inside rooms.

Your employees also allege the following:

1. That they took out large loans or sold land and livestock to pay the recruitment agent in their home country in order to work for Arabtec. It is not clear to us why this amount of money was charged to workers.
2. That they have not received the wages which were promised to them by the recruiting agent in their home country and that because of this it makes repayment of the loans they took out to work in Dubai for Arabtec extremely difficult to pay off.
3. That they work 12 hours a day but are only paid for eight.
4. That a number of them have collectively complained about wage levels but that Arabtec representatives have dismissed their demands citing the current economic climate. Indeed, Arabtec, say the workers, is also proposing to cut the basic wage by 200 Dirhams. The men say they have been told that if they don't like the company's position in relation to pay levels they can return home. This is not an option for them as they are so indebted.
5. That they are unable to afford to send money home to their dependants.
6. Their freedom of movement within Dubai is restricted. No identity cards have been issued by Arabtec and their passports were taken away from them by Arabtec representatives soon after they arrived in Dubai.
7. That wages are disproportionately deducted if they fall ill (something they fear because of the filthy conditions) and are unable to work. It is claimed two days pay is deducted for one day of absence.
8. That they are unable to enjoy a proper diet because of the poor levels of pay.

BBC Panorama would like a response in the form of a statement from Arabtec to the allegations made by your employees and our findings in relation to the conditions in the Nad Al Sheba camp.

I would be grateful if you could respond to this request by Friday March 20.

This letter is the formal start of the BBC's right of reply process.

We would be grateful if you could acknowledge receipt of this email and look forward to hearing from you.

Yours sincerely,



### **Appendix 3: Mafiwasta Response to the UAE Ministry of Labour's 2007 Labour Report**

*Mafiwasta* welcomes the Labour Report 2007 issued by the United Arab Emirates, outlining its commitment to improving labour standards for migrant workers. It notes that many of the issues that have been consistently raised as being of extreme concern are flagged in the Report, including the large numbers of migrant workers compared with UAE nationals, non-payment of wages, withholding passports, poor accommodation, health and safety concerns, lack of inspections and oversight, summertime working hours and the failure to legislate for domestic workers. The Report outlines the constitutional,<sup>173</sup>48 statutory, regional and international provisions that point towards improved labour rights for migrant workers. Furthermore many 'soft law' initiatives are flagged, such as consultative sessions that look to the future potential development of labour law. Finally the Report recognizes that labour protections are a matter of 'fundamental morality and economic self-interest', tying improved treatment of migrant workers with international responsibility in a climate of rapid economic growth. Yet the *bona fides* of the Report must be questioned. Firstly, it is contested that the legal basis for improved labour standards is extant in the state. While domestic and international norms apply, there is an urgent need for reforming statutory regulation. There is a single reference to the Draft Labour Law of 2007, in which it is said that the Ministry of Labour has posted the draft on its website in order to encourage debate. This can be seen as a positive step, contingent on the Ministry accepting criticism of the draft labour law, which has significant flaws, as outlined by *Human Rights Watch*. There is no indication in the present Report whether these criticisms have been accepted; whether amendments will be made to the Draft Labour Law; and crucially, when the provision will become binding legislation. As the Report outlines, present labour legislation dates from 1980, an extraordinary legal anachronism given the enormous volume of migrant workers that

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<sup>173</sup> Although it is not clear which constitutional rights belong only to citizens. For example, Article 41, cited in the Report, affords a right of complaint to 'persons' on the basis of failure to respect rights guaranteed in Part 3 of the Constitution. Many of these rights apply only to citizens, therefore non-citizens could not complain if they were not guaranteed; for example, Article 34 guaranteeing freedom to choose an occupation applies only to citizens. Other restrictions apply; the provision on freedom of association, Article 33, is a qualified right that applies 'within the limits of law' and can presumably be constrained so as to not apply at all to non-citizens, as is presently the case.

have arrived in the intervening period, which the Report documents. Legislative reform is urgent, yet there is no timetable offered. There is no indication that collective organization or trade unions will be allowed. *Mafiwasta* strongly believes that fundamental improvements will not result from unilateral government action, but rather will evolve from negotiations between workers, employers and government. Indeed this is the international standard for labour regulation, as evident in the triadic structure of the ILO. Currently migrant workers have no collective voice, and as such, are reliant on beneficence from government and employers' representatives. The denial of the fundamental right to freedom of association is in violation of the UAE's constitution, as well as regional and international law.

Labour inspections are crucial, and the Report sets out improvements in this sphere which are welcome and necessary. Again, the figures must be carefully scrutinized; the recruitment of 2,000 new inspectors is very positive, but can this number of inspectors, in addition to existing numbers (which are low), effectively oversee 3.5 million migrant workers? Again, *Mafiwasta* points out that freedom of association would ensure regulation of abuses at the coalface across the industry spectrum in the UAE, ensuring that inspectors are free to uphold national standards and coordinate policy development.

Domestic workers form part of the Report's analysis, and it seems some inroads are being made into what was previously a legal vacuum. The introduction of contracts is an important first step. However it is only a first step. Contracts between workers and employers are the beginning of a professional regulated relationship, and greater improvements must be made to accept domestic workers as agents of labour rights. The most effective means of ensuring this is to extend the reach of the Draft Labour Law 2007 to include domestic workers. In its present form, this is not the case. The Report offers no indication of whether the UAE will accept that domestic workers, mainly women, are migrant workers that need overarching legal protection beyond the negotiation of individual contracts.

Greater transparency is needed at all levels. The Report states, for example, that in 2007, the Ministry of Labour conducted over 122,000 inspection visits, with non-compliant

establishments duly sanctioned. Thus just under half of all places of employment (approx. 260,000) were inspected in 2007. This means that over half of all places of employment were never inspected. Furthermore there is no indication of the level of sanctions imposed, how many companies received them, whether follow-up inspections were conducted and whether the target was a single issue (for example summertime hours directive) or designed to oversee a range of workers' rights. Without any data at all on how the inspection process works, it is difficult to conclude that it is effective. Complaints mechanisms are also improving, as the Report outlines, but the nascent labour courts must ensure fair access for migrant workers, including free legal aid. The proposal is important, and further development in this regard should be transparently detailed, with a view to establishing a robust labour dispute mechanism. The Report contains welcome information and development of labour law protection. However it remains highly individualized, giving examples of *ad hoc* achievements without specifying how the overall system of labour law in the UAE is improving. There has been no legislative developments since 1980, and the proposed Draft Labour Law 2007 is inadequate (and as yet still a proposal) as *Human Rights Watch* have comprehensively assessed. There is no movement towards freedom of association, which would guarantee migrant workers' protections across a range of identified issues. The Report stresses that the UAE government welcomes constructive domestic and international criticism; this has been forthcoming for several years. It is up to the UAE government to secure labour rights for migrant workers by allowing them freedom of association, and by continually investigating and addressing the serious allegations of abuse and human rights violations against migrant workers.

