

***THE DENIAL OF THE RIGHT TO  
FREEDOM OF ASSOCIATION IN THE  
UNITED ARAB EMIRATES:***

**COMPLAINT TO THE  
COMMITTEE ON FREEDOM OF ASSOCIATION  
OF THE INTERNATIONAL LABOUR ORGANISATION**

*Submitted by Human Rights for Change on behalf of Mafiwasta*

*February 2006*

**mafiwasta**

For the Protection of Worker's Rights in  
the United Arab Emirates

*Human Rights for Change*

Organisation for the Protection and  
Promotion of Human Rights

## **Mafiwasta**

For the protection of worker's rights in the United Arab Emirates.

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## **Human Rights for Change**

Human Rights for Change is a group of human rights activists and international legal scholars who seek to promote the protection of human rights through reporting and documenting human rights issues, increasing awareness through the dissemination of information, advocacy and lobbying, creative action, education, monitoring the media and by providing legal assistance, in particular to NGOs in the developing world. This group believes that global inequalities and imbalances can be redressed through the protection and promotion of universal human rights

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## Introduction

Since the first oil flowed from the Umm Shaif offshore field in 1962, the United Arab Emirates (UAE), comprising 7 semi-autonomous Emirates, has seen phenomenal economic growth. Kofi Annan recently described Dubai - the most high profile, although certainly not the richest of the Emirates - as “one of the world’s greatest economic miracles.”<sup>1</sup> By contrast, the sizeable south Asian workforce, whose labour has contributed enormously to the growth (and without whom the vast development could not have taken place) have not shared in the wealth.

Exact figures are not available, but with a census report due out on 15 February 2006 expected to show that the population of the UAE has reached 5 million for the first time, it is estimated that at least 2 million south Asians (principally Indians, Pakistanis, Bangladeshis, Nepalese and Sri Lankans) currently reside in the country.<sup>2</sup> The official text *Doing Business with the UAE* states that: “the expatriate population of the UAE is close to 80%. Most are from the sub-continent”.<sup>3</sup>

According to two recent Country Reports of the Economist Intelligence Unit on the UAE:

“Expatriate workers, and particularly low-skilled employees from Asia, have few rights...”<sup>4</sup>

“Traditionally, low-paid expatriate workers have enjoyed few, if any, rights in the UAE.”<sup>5</sup>

Exploitation of these workers, ranging from non-payment of wages to physical abuse, is not simply commonplace or widespread; as this document will show, it is systematic. The UAE’s labour laws are wholly biased in employers’ favour, and the mechanisms used to enforce the laws are completely ineffective. The government agency in charge, the Ministry of Labour and Social Affairs, has neither the ability nor the willingness to execute its brief. Furthermore, there is evidence to suggest that the government as a whole, far from acting to protect workers, is an active participant in the abuse, profiting directly from a system which keeps a large migrant workforce in conditions of bondage.<sup>6</sup>

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<sup>1</sup> *Gulf News* 7 February 2006.

<sup>2</sup> The number is possibly much higher. In 2000, an official UK source quoted the total population of the UAE at 2.9 million, only 23% of whom were nationals, while “the majority of the population is made up of Indians and Asians”; Martin Mankowski, ‘Human Resource Related Issues’ in *Doing Business with the UAE*, Philip Dew and Anthony Shoult (eds.), (Kogan Page, London, 2000), p.203.

<sup>3</sup> Jeremy Williams, ‘General Aspects of the Business Culture’ in *Doing Business with the UAE*, Philip Dew and Anthony Shoult (eds.), (Kogan Page, London, 2000), p.243 n.2.

<sup>4</sup> Economist Intelligence Unit [www.eiu.com], Country Report: UAE, Main Report, 1 February 2005.

<sup>5</sup> Economist Intelligence Unit, Country Report: UAE, Main Report, 8 November 2004.

<sup>6</sup> The Economist Intelligence Unit, commenting on the case of the Al Hamad workers who protested over non-payment of salaries in September 2005, notes: “Employers routinely refuse to issue letters allowing

This system of exploitation is underpinned by the denial of the most basic of human rights - the right to freely associate and to bargain collectively. Described as being “among the founding principles of the ILO”,<sup>7</sup> the UAE has not signed core ILO Conventions No. 87 and 98 on Freedom of Association. According to the ILO, Conventions No. 87 and 98 form part of the most fundamental international labour law requirements.<sup>8</sup>

Considering that the UAE had an OPEC quota of 2.51 million barrels per day in January 2006,<sup>9</sup> it is difficult to envision any economic justification for the denial of these rights. Given the high mortality and suicide rates of the migrant workforce, the appalling living conditions, and the absence of individual or collective rights, *Mafiwasta* and *Human Rights for Change* hold that there is an urgent need for pressure to be applied to the government of the UAE. *Mafiwasta* and *Human Rights for Change* do not believe that reform of the system can be achieved through existing domestic pressures.

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***Mafiwasta and Human Rights for Change request that the Committee on Freedom of Association of the International Labour Organisation receives its complaint on the denial of the right to freedom of association in the UAE, and requires the government of the UAE to immediately ratify and effectively implement core ILO Conventions No. 87 and 98 on freedom of association.***

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workers to transfer to a rival, in effect bonding them to a particular company in the UAE”. The Report states that following the Al Hamad incident, the Ministry declared that in instances of non-payment, it would no longer be necessary for workers to have a ‘letter of no objection’ from their employer before they could change firms. No such decree has yet been issued; Economist Intelligence Unit, Country Report: UAE, Main Report, 1 November 2005.

<sup>7</sup> International Labour Organisation, ‘Rules of the Game: A Brief Introduction to International Labour Standards’, (ILO, 2005), p.84. Available at:

<http://www.ilo.org/public/english/standards/norm/download/resources/rulesofthegame.pdf>

<sup>8</sup> Conventions No. 87 and 98 form part of the core eight ILO documents: “Eight ILO Conventions have been identified by the ILO’s Governing Body as being fundamental to the rights of human beings at work, irrespective of levels of development of individual member States. These rights are a precondition for all the others in that they provide for the necessary implements to strive freely for the improvement of individual and collective conditions of work.” Available at:

<http://www.ilo.org/public/english/standards/norm/whatare/fundam/>

<sup>9</sup> [www.opec.org](http://www.opec.org)

## I. United Arab Emirates Labour Law

The recruitment of migrant workers can be carried out either by a recruitment agent (who must be a UAE national) or by a UAE company (whose partners must all be UAE nationals).<sup>10</sup> A bank guarantee of 100,000 Emirati Dirhams (dhs) must be supplied to the Ministry of Labour to secure a license to supply expatriate manpower. Under the terms of the license, which must be renewed yearly, it is illegal for agents or companies to charge commission to migrant workers in exchange for employment.<sup>11</sup> Employers must also submit bank guarantees to the Ministry of Labour.<sup>12</sup> Written contracts between employers and employees are not a legal requirement; however, in the absence of a written contract, adequate proof of terms of employment must be established if required.<sup>13</sup>

Workers must have a work permit, supplied by the employer (often referred to as a sponsor when discussing work permits), to work in the UAE.<sup>14</sup> The rules relating to the transfer of sponsorship have been tightened recently and it is becoming increasingly difficult to obtain permission from the Ministry of Labour and the Ministry of the Interior for the transfer of sponsorship, regardless of whether or not the existing employer agrees to the transfer. Employees cannot change sponsor without the express approval of their employer,<sup>15</sup> and it appears that sponsorship may not be transferred unless the employee falls into one of the applicable categories for transfer and meets certain requirements laid down by the Ministries.<sup>16</sup> It should be noted that it is difficult to say with any certainty what these categories and requirements are, as they are continually being revised - there were three ministerial resolutions alone in 2005<sup>17</sup> - and their interpretation and application is subject to the discretion of the Ministries.<sup>18</sup>

Laws exist to regulate maximum working hours,<sup>19</sup> breaks,<sup>20</sup> annual leave<sup>21</sup> and overtime.<sup>22</sup> Laws have also been introduced to ensure workers are not required to work in extreme summertime temperatures.<sup>23</sup> Employers must meet the costs of treatment for work-related injuries,<sup>24</sup> and in the event of a work-related death, the members of a deceased worker's family are entitled to compensation.<sup>25</sup> Workers are entitled to

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<sup>10</sup> Article 2, Ministerial Resolution No. 233.

<sup>11</sup> Article 3, Ministerial Resolution No. 233.

<sup>12</sup> Article 131 Chapter 7 (repeated), Federal Law No. 8 for 1980 on Regulation of Labour Relations.

<sup>13</sup> Article 35 Chapter 3, Federal Law No. 8 for 1980 on Regulation of Labour Relations.

<sup>14</sup> Article 11 Chapter 2, Federal Law No. 8 for 1980 on Regulation of Labour Relations.

<sup>15</sup> Article 2, Ministerial Decision No. 826.

<sup>16</sup> Article 2, Ministerial Decision No. 826.

<sup>17</sup> [www.mol.gov.ae](http://www.mol.gov.ae)

<sup>18</sup> [www.clarendonparker.com](http://www.clarendonparker.com) (UAE employment specialists).

<sup>19</sup> Article 65 Chapter 4, Federal Law No. 8 for 1980 on Regulation of Labour Relations.

<sup>20</sup> Article 66 Chapter 4, Federal Law No. 8 for 1980 on Regulation of Labour Relations.

<sup>21</sup> Article 75 Chapter 4, Federal Law No. 8 for 1980 on Regulation of Labour Relations.

<sup>22</sup> Articles 67-68 Chapter 4, Federal Law No. 8 for 1980 on Regulation of Labour Relations.

<sup>23</sup> Ministerial Resolution No. 467 (2005).

<sup>24</sup> Article 144 Chapter 8, Federal Law No. 8 for 1980 on Regulation of Labour Relations.

<sup>25</sup> Article 149 Chapter 8, Federal Law No. 8 for 1980 on Regulation of Labour Relations.

severance pay,<sup>26</sup> and repatriation costs on completion of a contract.<sup>27</sup> A worker may abandon his work if the employer fails to honour either his contractual or legal obligations to the worker.<sup>28</sup>

The UAE has not signed ILO core conventions No. 87 (Freedom of Association and Protection of the Right to Organise 1958) or No. 98 (Right to Organise and Collective Bargaining Convention 1949).<sup>29</sup> Therefore trade unions do not exist and strikes and lock-outs are expressly banned.<sup>30</sup>

In the case of a collective dispute between the employer and all or a group of the employees, a complaint in writing must be submitted to the Ministry of Labour & Social Affairs by the employees.<sup>31</sup> The Ministry adjudicates the matter through a Conciliation Board,<sup>32</sup> or in some cases, a Supreme Arbitration Board.<sup>33</sup>

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<sup>26</sup> Article 132 Chapter 7 (section 2), Federal Law No. 8 for 1980 on Regulation of Labour Relations.

<sup>27</sup> Article 131 Chapter 7 (section 1), Federal Law No. 8 for 1980 on Regulation of Labour Relations.

<sup>28</sup> Article 12 Chapter 7, Federal Law No. 8 for 1980 on Regulation of Labour Relations.

<sup>29</sup> Table of Ratifications for ILO Convention No. 87 available at:

<http://www.ilo.org/ilolex/cgi-lex/ratifce.pl?C087>

Table of Ratifications for ILO Convention No. 98 available at:

<http://www.ilo.org/ilolex/cgi-lex/ratifce.pl?C098>

<sup>30</sup> Article 14, Ministerial Resolution No. 307 (2003).

<sup>31</sup> Article 155 Chapter 9, Federal Law No. 8 for 1980 on Regulation of Labour Relations.

<sup>32</sup> Article 158 Chapter 9, Federal Law No. 8 for 1980 on Regulation of Labour Relations.

<sup>33</sup> Article 158 Chapter 9, Federal Law No. 8 for 1980 on Regulation of Labour Relations.

## II. Enforcement of Labour Law

Laws are only as strong as the mechanisms that enforce them, and there is overwhelming evidence that UAE labour law does not, in its workings, protect migrant workers from exploitative labour practices. The law is heavily biased in the favour of employers and the government department responsible, the Ministry of Labour, is either unwilling or incapable of dealing with the problem.

Workers wishing to file a complaint frequently encounter difficulties. Aggrieved employees (who are invariably of South Asian origin and often uneducated) must submit a written complaint in either Arabic or English, the two official languages of the UAE, to the Ministry of Labour and to their employer.<sup>34</sup> There is evidence that officials at the Ministry of Labour are obstructive, even when complaints are brought in person to one of the two main Ministry offices in Abu Dhabi or Dubai.

For example, the *Gulf News* reports how on 23 September 2005, thirty-eight South Asians were prevented from making a complaint because they could not afford to pay a 20dhs typing charge.<sup>35</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>36</sup> The officials involved either did not know the law or deliberately broke the law in order to obstruct a complaint. The men, whose complaint was that they had not been paid for 5 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 describes 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>37</sup>

Workers who actually manage to overcome the considerable difficulties involved in simply registering a complaint often find that this is not the end of their troubles. Legal representation is not permitted during the first stage of the official arbitration process,<sup>38</sup> however there is nothing to stop a company's legal advisors attending a preliminary

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<sup>34</sup> Article 155 Chapter 9, Federal Law No. 8 for 1980 on Regulation of Labour Relations.

<sup>35</sup> *Gulf News* 23 September 2005.

<sup>36</sup> Article 155 Chapter 9 Federal Law No. 8 for 1980 on Regulation of Labour Relations.

<sup>37</sup> Economist Intelligence Unit, Country Report: UAE, Main Report, 1 August 2004.

<sup>38</sup> Article 16, Council of Ministers Order No. 11 (1982).

arbitration meeting which is set up after a complaint is made in order to limit the number of cases which actually reach court. There are reports of workers, who in most cases cannot afford a lawyer, being intimidated by company lawyers at such meetings.<sup>39</sup> Companies can use the appeals process to their advantage by demanding that cases be referred to court. In a case in December 2005, a migrant worker employed as a baker in Dubai was taunted by a company representative who had just refused to take part in the preliminary arbitration process: “Now you’ll be here for months and let’s see how you live.”<sup>40</sup> Once a case gets to court the plaintiff has no choice but to represent himself, where proceedings take place in Arabic. Legal representation is only allowed at the second stage of the arbitration process, but low-paid labourers often cannot find representation due to the small sums of money involved in their claims.<sup>41</sup>

Even if a complaint is successful, employers may simply ignore the ruling. In December 2005, 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. “They call the sponsor, he promises to pay, but he doesn’t”, said one worker. A Ministry official claimed to have no idea how much the men had been paid (the employer was ordered to pay five months’ salary but only paid three), while the employer himself felt suitably unafraid of retributive Ministry action that 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>42</sup>

In addition to the inadequacies of the complaints procedure, there is evidence to show that the Ministry of Labour is incapable of enforcing its own directives. On 29 June 2005, a Ministerial Directive (No.467) banned employers from forcing employees to work from the hours of 12pm to 4.30pm during the months of July, August and September.<sup>43</sup> One week later, a senior Ministry official was reported to be instructing labour inspectors *not* to fine companies breaking the directive.<sup>44</sup> The same official said: “With all due respect to the minister, the decision is great, but where’s the staff to implement it?” and 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 Labour Ministry, who stated: “We restart their transactions after they sign a letter agreeing not to break the rule again.”<sup>45</sup>

A full month after the directive was announced the Labour Ministry stated it would finally start fining companies who were breaking the law.<sup>46</sup> Labour inspectors made 164 visits to companies in July and August - 61.5% were found to be breaking the

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<sup>39</sup> *Gulf News* 1 December 2005.

<sup>40</sup> *Gulf News* 10 December 2005.

<sup>41</sup> *Gulf News* 10 December 2005.

<sup>42</sup> *Gulf News* 24 December 2005.

<sup>43</sup> Ministerial Resolution No. 467 (2005).

<sup>44</sup> *Gulf News* 7 July 2005.

<sup>45</sup> *Gulf News* 20 July 2005.

<sup>46</sup> *Gulf News* 1 August 2005.

law.<sup>47</sup> The law was not continued into September (although the directive indicated it should), with the Labour Minister Dr Ali Al Ka'abi saying: "the weather is cooling now, there's no need for it."<sup>48</sup> The daily maximum temperature in September is 38.7 degrees as opposed to 40.4 degrees in August.<sup>49</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>50</sup> Some companies claimed they would rather pay the fines - up to 600,000dhs - than adhere to the new directive.<sup>51</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: "We don't have a mechanism, no receipt book, no way of entering information into the computer's system to fine the violating companies."<sup>52</sup>

The dangers and hardship endured by migrants working outdoors in temperatures exceeding 100 degrees are appalling. Yet there are far more serious examples of migrant worker abuse in the UAE. The example of the near-complete lack of enforcement of Ministerial Directive No.467 serves to illustrate the broader pattern of labour law rendered impotent by poor enforcement mechanisms, and an absence of willingness on the part of the Labour Ministry to prosecute companies or vindicate the basic rights of migrant workers.

The conclusion is that the Ministry of Labour is not capable of dealing with the severe pattern of worker abuse in the UAE. Up until 25 January 2005, there were only 80 labour inspectors employed to look after the interests of approximately 2,738,000 expatriate workers. On that date, an extra 50 labour inspectors were employed meaning there are now 130 inspectors – one UAE national inspector for every 21,062 expatriate employees.<sup>53</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 hadn't undertaken a factory or company inspection for years and was ignored by senior officials.<sup>54</sup>

Labour Minister Dr Ali AL Ka'Abi recently claimed his Ministry were "about to complete" a study recommending a new inspection authority to replace the current system.<sup>55</sup> There has been no indication whether such a move will make the radical changes required to cause some redress for migrant workers.

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<sup>47</sup> *Gulf News* 31 August 2005.

<sup>48</sup> *Gulf News* 29 August 2005.

<sup>49</sup> [www.worldweather.org](http://www.worldweather.org) (World Meteorological Organization).

<sup>50</sup> *Gulf News* 4 July 2005.

<sup>51</sup> *Gulf News* 4 July 2005.

<sup>52</sup> *Gulf News* 31 August 2005.

<sup>53</sup> All these figures are quoted in *Gulf News* 26 January 2005.

<sup>54</sup> *Gulf News* 2 August 2005.

<sup>55</sup> *Gulf News* 28 January 2006.

### III. Labour Disputes

The only reliable way of keeping track of labour disputes is through the national press since the Ministry of Labour has never released any figures on the matter. According to one official, they did not even keep records until September 2005.<sup>56</sup> It is important to point out that the following information on worker protests 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 as saying: “we only recognize it [abuses] when there’s a complaint, but there’s rarely a complaint. Workers are too scared or they’ve paid money for their visa and they have to pay that back”.<sup>57</sup>

As indicated in Section II, there are considerable difficulties involved in making a complaint. In addition, it should be highlighted that all of the English language broadsheets from where these reports were taken are based in the emirate of Dubai, which accounts for only 37% of the national workforce<sup>58</sup> - disputes in Abu Dhabi, Umm Al Qwain, Ajman, Fujairah and Ras Al Khaima are rarely covered.

Between 11 November 2005 and 3 January 2006, the Gulf News reported twenty-three separate labour disputes that led to workers stopping work and approaching the Ministry of Labour for help.<sup>59</sup> Some complaints covered more than one issue, for example unpaid wages and unsanitary living conditions. A breakdown of the complaints is as follows:

- 18 complaints of unpaid wages
- 4 complaints of unpaid overtime
- 7 complaints pertaining to accommodation (electricity cut off, no running water, overcrowding)
- 2 complaints pertaining to the withholding of passports
- 2 complaints of actual physical violence
- 3 complaints of unfair salary deductions
- 2 complaints of unpaid medical costs
- 1 complaint of contractual irregularities.

An example of a case in point is that of the Egyptian national Jamal Abdul Hamid. In December 2005, Abdul Hamid and his colleagues filed a complaint with the Ministry of Labour and Social Affairs for 4 months’ unpaid wages. The wife of the men’s sponsor attended the arbitration meeting and refused to pay the men, thus necessitating a 7-month delay. Despite the delay, during which time the men were unable to work, Abdul Hamid won his appeal and was awarded 1970dhs and a flight home. However, when he attempted to retrieve his passport from his sponsor’s wife, he was told his passport was with the Ministry of Labour. Officials there refused to return the passport as the sponsor,

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<sup>56</sup> *Gulf News* 29 September 2006

<sup>57</sup> *Gulf News* 4 July 2005.

<sup>58</sup> Ministry of Planning National Abstract 2001–2004. Available at: [www.uae.gov.ae/mop](http://www.uae.gov.ae/mop)

<sup>59</sup> [www.gulfnews.com](http://www.gulfnews.com)

prior to his disappearance, had filed an absconding case against him. In addition, the Ministry of Labour in Sharjah started prosecution proceedings against Abdul Hamid for working for a company whose labour licence had expired.<sup>60</sup>

Employers can, and do, claim workers have absconded in order to deny them end-of-service benefits.<sup>61</sup> Workers forfeit all rights to these monies if they abscond yet the burden of proof is on the worker to show that he did not abscond.<sup>62</sup> This is indicative of a pattern whereby the Ministry of Labour consistently aligns itself with employers rather than employees. For example, if a worker has been issued a bogus visa, there are procedures for prosecution of the worker involved. The requirement is on the worker to file an immediate complaint, despite the fact that only a UAE national may be involved in the trade of visas. An assistant undersecretary at the Ministry of Labour and Social Affairs said the following in regard to bogus visas: “people who immediately come to the ministry to file a complaint [into bogus visas] will have their case looked into.” He went on to say that people who “delayed” would have “necessary action taken against them”.<sup>63</sup> It is uncertain what, if any, action may be taken against the issuer of the bogus visa.

In January 2006 a worker’s representative outside the Ministry of Labour said the following when asked about the nature of their complaint: “We are only asking for our three months’ outstanding salaries and we want our living conditions to improve to be fit for humans. We are cramped in small rooms and are not given drinking water. We are beaten regularly for no reason.”<sup>64</sup> It is difficult to substantiate claims of physical violence but unsanitary living conditions are frequently mentioned in official complaints. These claims were lent credence by the Chief Minister of Kerala who, on a visit to labour camps in May 2005, described the workers’ living conditions as “appalling”.<sup>65</sup> The response of the Ministry official was to accuse some of the complaining workers of brandishing knives (one has to presume the claim was made by the men’s employer). “About 25 men threatened their colleagues. They will have their visas cancelled and will be deported after they receive their full benefits.” This claim is doubtful, given that workers forfeit all end-of-service benefits if they cannot disprove claims they threatened colleagues.<sup>66</sup>

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<sup>60</sup> *Gulf News* 13 December 2005.

<sup>61</sup> *Gulf News* 17 January 2005.

<sup>62</sup> Article 120 Chapter 7 (section 1), Federal Law No. 8 for 1980 on Regulation of Labour Relations.

<sup>63</sup> *Gulf News* 10 October 2005.

<sup>64</sup> *Gulf News* 17 January 2006.

<sup>65</sup> *Gulf News* 2 May 2005.

<sup>66</sup> Article 120 Chapter 7 (section 1), Federal Law No. 8 for 1980 on Regulation of Labour Relations.

#### IV. Health and Safety Issues

There is evidence that the figures for deaths and suicides amongst migrant workers are being manipulated, both by private companies and by the government. Since employers are legally required to report certain work-related incidents to the Ministry of Labour,<sup>67</sup> and to meet the costs of medical treatment and sick leave,<sup>68</sup> it is clearly in a company's interests to not report such cases. It has already been shown in Section III that companies disregard the laws on this issue, a fact of which the Ministry itself is aware.

In September 2005, 75 construction workers complained to the Ministry about unsanitary living conditions, unpaid wages, poor safety procedures and unpaid medical bills. Workers suffering cuts from metal grinders had spent weeks unable to work. In addition to having to pay their own medical bills they did not receive any sickness benefit, despite their injuries being work-related. During this time they went unpaid. Such practices are illegal,<sup>69</sup> but no action was taken against the company. The Economist Intelligence Unit has drawn attention to the link between suicides and work and accommodation conditions in its 2005 Main Report on the UAE:

“An Indian worker killed himself after his employer refused to give him Dh50 to visit a doctor... The case highlighted the plight of many unskilled foreign labourers in Dubai and the UAE, many of whom go unpaid for months and are forced to live in cramped, poor-quality accommodation.”<sup>70</sup>

By November 2005, the Ministry of Labour had received reports of work-related injuries from just six companies.<sup>71</sup> An official admitted that there were no reliable figures for worker injuries or deaths because companies were holding back information. The Ministry appears to have no power to force companies to inform them of worker injuries or deaths, despite this being a legal requirement. The undersecretary at the Ministry of Labour, Dr Khalid Khazraji, complained: “we have tried to get these reports, but they don't cooperate.” Dubai police, using ambulance reports, claimed there had been 40 deaths. A Dubai municipality official claimed there had been 31 construction deaths. A representative of the Department of Health and Medical services said his department did not keep complete statistics.<sup>72</sup>

The validity of these confused records has been thrown into doubt by a French documentary team from the French terrestrial channel, France 2. In an interview with the Indian Consul in Dubai for the documentary *Dans les soutes de l'Eldorado*, journalists Philippe Levasseur, Philippe Jasselin and Alexandre Berne claim to have been shown confidential reports showing that two Asians per day die on the construction sites of

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<sup>67</sup> Article 142 Chapter 8, Federal Law No. 8 for 1980 on Regulation of Labour Relations

<sup>68</sup> Article 144 Chapter 8, Federal Law No. 8 for 1980 on Regulation of Labour Relations.

<sup>69</sup> Article 144 Chapter 8, Federal Law No. 8 for 1980 on Regulation of Labour Relations.

<sup>70</sup> Economist Intelligence Unit, Country Report: UAE, Main Report, 1 February 2005.

<sup>71</sup> *Gulf News* 21 November 2005.

<sup>72</sup> *Gulf News* 21 November 2005.

Dubai and that there is a suicide every four days.<sup>73</sup> Companies are legally obliged to pay 2 years' salary to the family of any worker who dies in a work-related incident.<sup>74</sup>

Suicides amongst migrant workers are acknowledged to be inordinately high. The Indian consulate did release figures on suicides showing that 67 Indians killed themselves in Dubai and the Northern Emirates in 2004. This tallies with the figures reportedly shown to the French journalists.<sup>75</sup> Relevant officials in the UAE have held that suicides are not related to work conditions. According to Brigadier Khamis Mattar Al Mazeina, Director of the Criminal Investigations Department in Dubai, most suicides are related to problems in the deceased's home country and he added: "Most of these people are non-Muslims." Professor Adnan Fadil of the Al Rashad Psychiatric Clinic in Dubai named a number of contributory factors including schizophrenia, alcoholism, homosexuality and AIDS.<sup>76</sup> Of a total of 30 Nepalese deaths in 2005, only one was reported to have been due to a labour accident. There were, according to the *Chargé d'Affaires* at Nepal's embassy, thirteen deaths from cardiac arrests, seven suicides, seven road accidents, two from unknown reasons, as well as the reported solitary work-related death.<sup>77</sup>

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<sup>73</sup> English translation transcript of the *Envoye Speciale* programme 'Dans les soutes de L'Eldorado' (France 2).

<sup>74</sup> Article 149 Chapter 8, Federal Law No. 8 for 1980 on Regulation of Labour Relations.

<sup>75</sup> *Gulf News* 22 October 2005.

<sup>76</sup> *Gulf News* 22 November 2005.

<sup>77</sup> *Gulf News* 19 December 2005.

## V. The Need for an ILO/CFA Investigation

The ILO and the United Arab Emirates have held discussions on the issue of trade unions. 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.<sup>78</sup> Dr Khalid Al Khazraji, undersecretary at the Ministry of Labour and Social Affairs, agreed, saying that the UAE could expect to have labour unions "very soon".<sup>79</sup>

While Dr Al Rifa'i's intentions to introduce unions to the UAE are admirable, we believe there are serious reasons to doubt whether the UAE Government's apparent willingness to cooperate is genuine. It has been shown in Section II that the Ministry of Labour, which has been described by the Labour Minister Dr Ali Al Ka'abi as suffering from "poor administration",<sup>80</sup> is incapable of following through on its promises. In June 2004, the International Confederation of Free Trade Unions (ICFTU) reported that the UAE had drafted a bill for the creation of a national labour federation. The ICFTU reported the development as a positive step forward,<sup>81</sup> yet no such federation has been formed. It is submitted that the Ministry of Labour primarily is not equipped to introduce unions, and secondarily, even if it were, it does not exhibit the requisite willingness to do so.

Industry groups estimate the total value of continuing construction projects in the UAE to be \$223.79 billion.<sup>82</sup> The bulk of these projects are centred in Dubai, where the aggressive promotion of the city as a tourist location and trade hub has resulted in extraordinary economic growth (in 2005 the economy grew by 16%, outstripping even that of China) and a phenomenal GNI per capita (\$33,688).<sup>83</sup>

The bulk of these contracts do not belong to private firms, but to government entities such as Emaar Properties, Nakheel, Dubai Holding, Dubai Properties, the Department of Civil Aviation and the Dubai Electricity and Water Authority. Nakheel alone has \$30 billion in contracts.<sup>84</sup> This public/private dichotomy has been signalled in some of the official literature. According to Philip Marsh:

"In the private sector it has been estimated that national employees may be as little as 1% of the total workforce... Within the labour market, real and sinecure jobs in government and the public sector have had the triple effect of (a) providing regular and virtually guaranteed income; (b) ensuring nationals are in control of an economy where they are in the minority; (c) concentrating UAE employees into the government sector

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<sup>78</sup> *Gulf News* 4 April 2005.

<sup>79</sup> *Gulf News* 4 April 2005.

<sup>80</sup> *Gulf News* 2 January 2006.

<sup>81</sup> [www.ictfu.org/displaydocument.asp](http://www.ictfu.org/displaydocument.asp)

<sup>82</sup> [www.meedprojects.com](http://www.meedprojects.com) as reported in *Gulf News* 24 November 2005.

<sup>83</sup> *Gulf News* 1 January 2006.

<sup>84</sup> *Gulf News* 24 November 2005.

almost exclusively, thus skewing any normal distribution across industries and occupations.”<sup>85</sup>

In other words, the government responsible for enforcing its own labour laws owns the very same companies it is supposed to be regulating. At best this is an example of a government profiting from its own incompetence. A more serious charge would be that this system - ostensibly rigorous labour laws rendered futile by poor enforcement mechanisms and the denial of basic rights of freedom of association – was no mistake, and was in fact designed to guarantee the compliance of an inexpensive, instantly replaceable workforce. Given the extent of debt bondage in the country (no official records exist, but it is widely acknowledged that most migrant workers pay substantial agents’ fees to secure employment and visas),<sup>86</sup> it would be reasonable to accuse the government of presiding over a labour system which amounts to *de facto* slavery.<sup>87</sup>

The government is aware of the problem, but its response seems to be limited to short-term solutions, such as the setting up of a workers’ hotline for unpaid wages in Dubai. Given the scale of the problem, such a move can only be considered cosmetic. In addition, no such hotline exists for workers in the other six Emirates. Claims from the police, which can be neither proved nor disproved, that they have helped recover 201 million dirhams since the hotline’s inception, only give the impression of a virtually unregulated labour market where the withholding of salaries is widespread.<sup>88</sup>

From unscrupulous employment agencies to incompetent Ministry officials, the entire system of exploitation and abuse is underpinned by the denial of the workers’ inalienable rights to freely associate and to bargain collectively. Given the interests of the government in maintaining the status quo, Ministry of Labour protestations that they are doing all they can and are not responsible for the problem should be dismissed as an attempt to delay the introduction of unions until such time as the labour-intensive contracts have been completed, and the bulk of the unskilled south Asian workforce have returned to their native lands. Official business literature supports this assertion. In *Doing Business with the UAE*, Marsh notes:

“The UAE is embarking on an upgrading of its entire labour force, with major emphasis being on the English and computer literacy of the whole

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<sup>85</sup> Philip Marsh, ‘Nationals and Expatriates – The Labour Force in the Emirates’, in *Doing Business with the UAE*, Philip Dew and Anthony Shoult (eds.), (Kogan Page, London, 2000), p.210.

<sup>86</sup> According to Bryan Cave LLP, “There requirements that tie an expatriate’s immigration/residency status to his/her employment status are fundamental to the control of the expatriate-dominated labour force in the UAE”; Bryan Cave, ‘UAE Labour Law and Employment Law’, in *Doing Business with the UAE*, Philip Dew and Anthony Shoult (eds.), (Kogan Page, London, 2000), p.201.

<sup>87</sup> Hickox, writing in the US *Comparative Labor Law Journal*, agrees: “In the U.A.E., for example, a foreign worker must be sponsored by a licensed entity... *This system, as applied to lower level positions, has been analogized to slavery.* The system is so characterized because the employee is tied to one employer...” S. Hickox, ‘Labor Market Needs and Social Policy: Guestworkers in West Germany and the Arab Gulf States’, 8 *Comparative Labor Law Journal* (1987), p.369-370 (emphasis added).

<sup>88</sup> *Gulf News* 4 February 2006.

education sector for nationals, plus a controlled phasing out of lesser-skilled expatriates...”<sup>89</sup>

The Economist Intelligence Unit has described the conditions of “low-paid expatriate workers”:

“workers’ rights for expatriates remain limited in the UAE; labourers earn around \$10 a day (most of which is remitted to families in Asia), work long shifts and live in cramped labour camps on city outskirts. They have little or no job security; employers can dismiss them at will, and ban them from working for a rival employer”.<sup>90</sup>

Remarkably, the Report notes that the UAE government, wishing “to be seen as progressive in the eyes of international community”, has called for the implementation of ILO standards:

“The labour and social affairs ministry has said it wants UAE companies to follow the minimum standards laid down by the UN’s International Labour Organization in dealing with employees.”<sup>91</sup>

According to the ILO literature:

“The principle of freedom of association is at the core of the ILO’s values: it is enshrined in the ILO Constitution (1919), the ILO Declaration of Philadelphia (1944), and the ILO Declaration on Fundamental Principles and Rights at Work (1998). It is also a right proclaimed in the Universal Declaration of Human Rights (1948). The right to organize and form employers’ and workers’ organizations is the prerequisite for sound collective bargaining and social dialogue.”<sup>92</sup>

It is important to stress once more that worker abuse is not confined to the construction workers of Dubai. There are hundreds of thousands of workers - cleaners in Fujeirah, cooks in the vast oilfields of Habshan, Bu-Hasa and Asab, waiters in Umm Al Qwain, taxi drivers in Sharjah, chambermaids in Ajman – who suffer abuse daily and whose stories go unreported. For their sake we urge the ILO to launch an official investigation into the denial of freedom of association rights in the UAE and the effects this has on its migrant workforce. The UAE is a country of fantastic wealth. There is no reason, economic or otherwise, why it should not immediately afford its migrant workers, without whose hard work it could not have prospered in such spectacular fashion, the rights they fully deserve.

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<sup>89</sup> Philip Marsh, ‘Nationals and Expatriates – The Labour Force in the Emirates’, in *Doing Business with the UAE*, Philip Dew and Anthony Shoult (eds.), (Kogan Page, London, 2000), p.213.

<sup>90</sup> Economist Intelligence Unit, Country Report: UAE, Main Report, 8 November 2004.

<sup>91</sup> Economist Intelligence Unit, Country Report: UAE, Main Report, 8 November 2004.

<sup>92</sup> International Labour Organisation, ‘Rules of the Game: A Brief Introduction to International Labour Standards’, (ILO, 2005), p.24. Available at:

<http://www.ilo.org/public/english/standards/norm/download/resources/rulesofthegame.pdf>

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*Mafiwasta and Human Rights for Change request that the Committee on Freedom of Association oversees the implementation of freedom of association rights of migrant workers in the United Arab Emirates as the first step in the process of bringing UAE labour law into line with international standards.*

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## Annex

### *The Need to Enforce Migrant Workers' Rights in the United Arab Emirates*

#### Human Rights for Change

#### Position Paper No. 3

#### I. The Situation of Migrant Workers in the United Arab Emirates

The demand for migrant workers in the United Arab Emirates has grown significantly in response to growth; according to the International Labour Organization, the United Arab Emirates issues 300 visas per day for migrant domestic workers alone.<sup>93</sup> The predicament of migrant workers in the United Arab Emirates needs to be addressed immediately by its government. There is a clearly documented history of exploitation and discrimination.<sup>94</sup> There is no minimum wage; no right to strike; no freedom of association; employees are expected to work eighty hours a week; and employers rather than employees hold work permits, or often passports. The operation of the system of agencies ensures that workers must spend around one year repaying their loans.<sup>95</sup> Hickox, writing in the US *Comparative Labor Law Journal*, explains the system:

“In the U.A.E., for example, a foreign worker must be sponsored by a licensed entity, or an individual sponsored by such an entity, which is registered with the Ministry of Labour... Sponsorship requirements also play a role in the control of foreign workers within the country. The transfer of sponsorship is restricted by labor-importing states, so as to ensure that foreign labor remains where it fulfills the economic needs, as determined at the time a work permit was issued. In the U.A.E., the guestworker may work for no one other than his sponsor unless he leaves the country and returns under a new sponsorship.... *This system, as applied to lower level positions, has been analogized to slavery.* The system is so characterized because the employee is tied to one employer...”<sup>96</sup>

In order to protect peoples who are engaged as migrant workers, it is imperative that the United Arab Emirates sign and ratify the International Convention on the

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<sup>93</sup> Cited in UN Doc. E/CN.4/2004/76, Report of the United Nations Special Rapporteur on the Human Rights of Migrants (2004), footnote 3. See further ILO Gender Promotion Programme – Women and Migration Series (No.10), Rima Sabban, ‘Migrant Women in the United Arab Emirates – The Case of Female Domestic Workers’ (2002).

<sup>94</sup> See generally [www.mafiwasta.com](http://www.mafiwasta.com) for an account of the abuses of migrant workers taking place in the United Arab Emirates.

<sup>95</sup> *Ibid.*

<sup>96</sup> Stacy Hickox, ‘Labor Market Needs and Social Policy: Guestworkers in West Germany and the Arab Gulf States’, 8 *Comparative Labor Law Journal* (1987), p.369-370 (emphasis added).

Protection of the Rights of All Migrant Workers and Members of their Families, which entered into force in 1993. The Convention provides a set of binding international standards to address the treatment, welfare and human rights of both documented and undocumented migrants as well as the obligations and responsibilities on the part of the sending and receiving states.

Until sufficient levels of international condemnation require the United Arab Emirates to ratify the Migrant Workers' Convention, the state is under an obligation to respect international human rights as stipulated in three treaties which it has ratified. It should be stressed, however, that the United Arab Emirates has not signed or ratified the core human rights treaties, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.<sup>97</sup> It has acceded to the Convention on the Rights of the Child 1989, under which it has submitted one report; the International Convention on the Elimination of Discrimination Against Women 1979 under which it has not submitted a report; and the International Convention on the Elimination of Racial Discrimination 1965. Before discussing how the relevant United Nations treaty-monitoring bodies have addressed migrant workers' rights in the United Arab Emirates through the state reporting procedure, the work of the Special Rapporteur on the Human Rights of Migrants will be examined. Special Rapporteurs form part of the 'special procedures' mechanism under the Commission on Human Rights, as established by the UN Charter, and are mandated to address specific thematic issues. The first Special Rapporteur on the Human Rights of Migrants was appointed in 1999.<sup>98</sup>

## **II. The UN Special Rapporteur on the Human Rights of Migrants**

The UN Special Rapporteur on the Human Rights of Migrants has raised a number of serious individual cases in the United Arab Emirates with regard to the treatment of migrant workers. These cases are necessarily of grave concern, and it is only the most exceptional situations that will come to the Rapporteur's attention. It is submitted that systematic discrimination against migrant workers underlies the more extreme examples that are found in several of the Special Rapporteur's annual reports. It is essential that the United Arab Emirates invites the Special Rapporteur to assess the situation. The following are three brief examples of cases that have come to the Special Rapporteur's attention.

On 9 March 2000, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on Violence against Women and the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions regarding the case of Kartini bint Karim, an Indonesian immigrant in the United Arab Emirates. According to the information received, the woman was employed as a domestic servant in Fujairah and became

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<sup>97</sup> See <http://www.unhchr.ch/tbs/doc.nsf> for a table of ratifications. In addition, the United Arab Emirates has not signed the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

<sup>98</sup> Commission on Human Rights, Resolution 1999/44. In August 2005 Mr J.A. Bustamante (Mexico) succeeded Ms. Gabriela Pizarro as Special Rapporteur on the Human Rights of Migrants.

pregnant in 1999, as a result of which her employers accused her of adultery. She was brought before the local authorities and gave birth during her detention. Appearing without legal representation, she was tried by the city court of Syriah Fujairah, which sentenced her to death by stoning. According to the information received, Kartini bint Karim did not receive information or consular assistance. The Special Rapporteur requested the Government of the United Arab Emirates to commute Kartini bint Karim's sentence and release her. In a letter dated 14 April 2000, the Government of the United Arab Emirates reported to the Special Rapporteur on the case. The letter specified that the Indonesian authorities in the country had been informed and that Kartini bint Karim had received legal assistance. The Special Rapporteur received information from the source that Kartini bint Karim had been released and had returned to Indonesia.<sup>99</sup>

The death of Alishir Muradov of Tajikistan is raised in the Special Rapporteur's 2004 Report. Reportedly, the mother of Mr. Muradov requested the City Attorney of Dushanbe to issue an order to exhume the body and conduct medical expertise. The Report continues:

“Since her son was in general good health conditions *and he had complained about discrimination at the work-place*, she was concerned that he might have been killed.”<sup>100</sup>

The government of the United Arab Emirates has strongly refuted the claims, stating Mr Murodov died of natural causes.<sup>101</sup> The Special Rapporteur offered no comment on the veracity of the case.<sup>102</sup> It is interesting to note that the government of Tajikistan was sufficiently concerned so that “based on the medical expertise, the Attorney General of the Republic of Tajikistan initiated a criminal case on the killing of Alisher Murodov.”<sup>103</sup> Despite two *note verbales* from the government of Tajikistan requesting a joint medical expertise on the body by experts of the two countries, no response has been received.<sup>104</sup>

In her 2005 annual report, Ms Pizarro questioned the United Arab Emirates about the specific case of Halil Yilmaz, a Turkish migrant, to which no reply was received.<sup>105</sup>

In its Resolution 2000/48, the Commission on Human Rights requested the United Nations Special Rapporteur on the Human Rights of Migrants to include in her work schedule a programme of visits with a view to improving the protection afforded to the

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<sup>99</sup> UN Doc. E/CN.4/2001/83

<sup>100</sup> UN Doc. E/CN.4/2004/76/Add.1, paragraph 269 (emphasis added).

<sup>101</sup> *Ibid.*, paragraphs 272-273.

<sup>102</sup> *Ibid.*, paragraphs 274 – the Special Rapporteur thanked the United Arab Emirates for the response received, and sought further information on a second case highlighted in the Report, that of Jovilyn Calonse, a 28 year old woman from the Philippines, regularly working in the United Arab Emirates, who was allegedly raped in May 2003; see *Ibid.*, paragraph 270.

<sup>103</sup> *Ibid.*, paragraph 269.

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

<sup>105</sup> UN Doc. E/CN.4/2004/85/Add.1, paragraphs 322-325, available at: <http://daccessdds.un.org/doc/UNDOC/GEN/G05/106/37/PDF/G0510637.pdf?OpenElement>

human rights of migrants, thus implementing as broadly and fully as possible all aspects of her mandate. Article 8 of the resolution:

“Encourages Governments to give serious consideration to inviting the Special Rapporteur to visit their countries so as to enable her to fulfil her mandate effectively”.<sup>106</sup>

*Human Rights for Change* and *Mafiwasta* call on the United Arab Emirates to invite Mr. Bustamante, the current Special Rapporteur on the Human Rights of Migrants, to assess the situation of migrant workers on its territory.

### **III. The International Convention on the Elimination of All Forms of Racial Discrimination 1965**

According to Hickox:

“Beyond any disparity attributable to the guestworkers’ qualifications and frequent employment in lower level positions, treatment of migrant workers in the...Gulf states evidences underlying discriminatory attitudes and practices towards guestworkers.”<sup>107</sup>

The United Arab Emirates ratified the Convention on 20 June 1974. Some theoretical aspects of the Convention’s scope ought to be clarified before stressing its requirements in relation to migrants. Article 1(2) provides that the Convention shall not apply to distinctions, exclusions, restrictions or preferences made between citizens and non-citizens. This means that while the Convention applies to aliens or foreigners, states parties are allowed to make certain distinctions on the fact that a person is or is not a citizen of that state. Such distinctions cannot, however, be made on the ground of race, colour, descent, or national or ethnic origin, as borne out in the text of articles 5 and 6 - under article 5, states must guarantee “the right of everyone” to equality before the law; this includes non-citizens as well as citizens. This is supported in article 6 by reference to the requirement that states assure “to everyone within their jurisdiction” effective protection and remedies against any acts of racial discrimination.

In addition to reviewing state reports on how effectively the Convention is being implemented, the Committee on the Elimination of Racial Discrimination (the body charged with monitoring the treaty) issues General Recommendations that interpret the meaning of its provisions. General Recommendation XI, which represented the Committee’s views on the issue of non-citizens,<sup>108</sup> was replaced in 2005 by General

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<sup>106</sup> UN Doc. A/55/275, 8 August 2000.

<sup>107</sup> Stacy Hickox, ‘Labor Market Needs and Social Policy: Guestworkers in West Germany and the Arab Gulf States’, 8 *Comparative Labor Law Journal* (1987), p.386. She cites Roukis, who draws attention to “the generally contemptuous attitude of the citizens towards the migrants”; Roukis and Montana, ‘Development and Human Resources Management in the Arab Oil Rich Gulf States’ in *Workforce Management in the Arabian Peninsula* (1986) p.173.

<sup>108</sup> UN Doc. A/46/18, ‘Non-citizens’ (1993).

Recommendation XXX, on ‘Discrimination against Non-Citizens’, which states in its paragraph 3:

“Article 5 of the Convention incorporates the obligation of states parties to prohibit and eliminate racial discrimination in the enjoyment of civil, political, economic, social and cultural rights. Although some of these rights, such as the right to participate in elections, to vote and to stand for election, may be confined to citizens, human rights are, in principle, to be enjoyed by all persons. States parties are under an obligation to guarantee equality between citizens and non-citizens in the enjoyment of these rights to the extent recognized under international law.”<sup>109</sup>

In 1995, the Committee on the Elimination of Racial Discrimination examined the eleventh periodic report of the United Arab Emirates. That Report confirmed in its paragraph 30 that the Convention’s provisions extend to migrant workers.<sup>110</sup> The Committee drew particular attention to the plight of foreign workers in the United Arab Emirates:

“With regard to the application of article 5 of the Convention, members of the Committee asked to what extent foreign workers - who, according to some sources, made up 80 per cent of the total labour force - were entitled to have their children join them and to have them educated in their own language, and whether those children were free to practise their religion. They also asked which countries had bilateral agreements with the United Arab Emirates regarding the status of foreign workers and what was the content of those agreements. 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. They also asked whether aliens living in the United Arab Emirates had the right to assemble freely and practise their culture.”<sup>111</sup>

In the Committee’s Concluding Observations:

“Keen concern was expressed as to the allegations of ill-treatment of foreign workers, including women domestic servants of foreign origin.”<sup>112</sup>

It seems clear that the United Arab Emirates is in violation of its obligations under the International Convention on the Elimination of Racial Discrimination 1965 through its treatment of migrant workers, in particular the prohibition of racial

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<sup>109</sup> General Recommendation XXX, ‘Discrimination against Non-Citizens’, paragraph 3.

<sup>110</sup> CERD/C/279/Add.1, Periodic Report – United Arab Emirates, 8 May 1995, paragraph 30: “The Constitution affirms that foreigners residing in the United Arab Emirates are entitled to enjoy the rights and freedoms provided for in the international instruments in force or in conventions and agreements to which the Union is a party”.

<sup>111</sup> UN Doc. A/50/18, Concluding Observations – United Arab Emirates

<sup>112</sup> *Ibid.*, Section (c) ‘Principal Subjects of Concern’.

discrimination in the provision of the economic, social and cultural rights of article 5(e), which includes:

“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.”<sup>113</sup>

#### **IV. The Convention on the Rights of the Child**

In June 2002, the Committee on the Rights of the Child, the body charged with monitoring the implementation of the Convention on the Rights of the Child 1989, issued its concluding observations in relation to the initial report<sup>114</sup> submitted by the United Arab Emirates. Paragraph 24(b) of those observations reads:

“The Committee recommends that the State Party... consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Their Families.”<sup>115</sup>

The United Arab Emirates stated in reply to a question from a Committee member that: “the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families was proving difficult to implement”.<sup>116</sup>

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**This is unacceptable. There is a reality of racial discrimination and abuse of migrant workers taking place in the United Arab Emirates. *Human Rights for Change* and *Mafiwasta* call on the United Arab Emirates to:**

- (i) Invite the Special Rapporteur on the Human Rights of Migrants to visit the state;**
- (ii) Sign and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Their Families, as recommended by the Committee on the Rights of the Child;**
- (iii) Address the concerns shown by the Committee on the Elimination of Racial Discrimination and eradicate the violations of basic economic and social rights that are taking place in contravention of article 5 of the International Convention on the Elimination of Racial Discrimination 1965.**

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<sup>113</sup> Article 5(e)(i).

<sup>114</sup> CRC/C/78/Add.2, Initial Report of United Arab Emirates under article 44 of the Convention on the Rights of the Child, 24 October 2001.

<sup>115</sup> CRC/C/15/Add.183, Concluding Observations – United Arab Emirates, 7 June 2002.

<sup>116</sup> Summary Records, CRC/C/SR.795, Geneva, 10 June 2002, agenda item 4.