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Discrimination against foreigners and expatriates living in the UAE versus Emirati citizens



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List of Acronyms

| | |
|-----|-----------------------------------|
| UAE | United Arab Emirates |
| GCC | Gulf Cooperation Council |
| RAK | Ras Al Khaimah Emirates |
| UN | United Nations |
| NGO | Non-governmental organizations |
| HRW | Human Rights Watch |
| ILO | International Labour Organization |

Keywords: Sponsorship of Kafala, social isolation, migration, migrants, migrant workers, work Procurement Agencies, United Arab Emirates, Exploitation, Women

INTRODUCTION AND RESEARCH METHOD

The aim of this research project is to explore, examine and critically evaluate the human rights and treatment of workers and process of racialization in the United Arab Emirates (UAE).

The UAE is a despotic police state that is known to routinely violates human rights and oppresses its people. The UAE often prosecutes political opponents and activists and violates basic human rights and fundamental freedoms. The country has also tortured, arbitrarily detained,

structurally discriminated and exploited women and migrant domestic workers.

In this study we will explore the most important ongoing Human Rights violations in the UAE.

The following research analysis draws on human rights theories as well as migrant worker social exclusion theories. The study was exploratory as well as descriptive and participation was entirely voluntary.

The research commences by looking into the existing literature on the UAE's migrant worker population. Scholarly work, advocacy materials on migrants' rights by independent academics and research groups such as Human Rights Watch (HRW) and labour policies and laws related to labour and migration systems were all included in this research. This literature study has been useful for informing and guiding the researcher's interview questions, as well as providing insight into the notorious Kafala Sponsorship System. The researcher of this study travelled to each of the Emirates to conduct in-depth interviews with participants. Therefore, qualitative interviews also played an important role in the study. They detailed a number of serious violations that migrant domestic workers face as a result of the UAE's kafala visa sponsorship system and the lack of protection afforded to them under UAE labour law. These interviews were sensitive and focused on people, allowing interviewees to share their stories



in their own words. The researcher followed the principle of informed consent and voluntary participation from all participants to ensure that the data was collected ethically. Participants were told that they would remain anonymous and that their personal information would be kept private by the researcher. While interviews were the primary source of information, the researcher also used reflection and observation of non-verbal cues to determine the authenticity of the information shared by participants.

THE UAE AND HUMAN RIGHTS

First, to draw a general picture of the current situation in the UAE, we give an overview of the UAE's legal system in place and its relationship with international human rights, more precisely their position regarding the ratification of human rights instruments and secondly their worrying behavior towards human rights activists.

Basic laws and regulations in UAE

Before you book a trip to any destination, keep in mind that if you violate the country's laws, your embassy will not be able to help you. As a result, it is prudent to be familiar with the specific laws and regulations of the destination you want to visit. If you are planning a trip to Dubai, you should be aware that all UAE laws and regulations will apply there as well.



The operative word in the UAE is "Arab," and while Dubai is now a popular and glamorous destination, it is still a Muslim country with conservative rules. The UAE's legal and ethical code is stringent in all emirates, including Dubai.

The Emirates' legal structure is more of a dual-acting system, incorporating both Islamic Shariah and traditional legal principles. The UAE's rules, however, are more liberal than those of Saudi Arabia and other Arab countries. The UAE's regulations are continuously being developed and adapted to keep up with the rapid pace of change. The legal system in Dubai is a blend of Sharia (Islamic Law), Civil and Criminal Laws which are enforced by the Federal Judiciary, that consists of courts of first instance and Supreme Courts, just like in any other Gulf State. The UAE's highest governing body is the Supreme Council of Rulers. It appoints the five judges of the Federal Supreme Court which oversee issues such as constitutional law and rule of law. Within each emirate, the local government is also active and plays an important role in legislation.

Human Rights Instruments

The United Arab Emirates has ratified many international human rights instruments, such as the Convention against Torture and different Cruel Inhuman or Degrading Treatment or Penalization (CAT), the Convention on the Elimination of all Varieties of Discrimination against Women (CEDAW), the Convention on the Rights of the Child (CRC) and the International Convention on the Elimination of All varieties of Racism (ICERD). On top of that it has ratified the Arab Charter on Human Rights (ACHR). However, notably the UAE is one of the very few states worldwide that still has not ratified the two most key international human rights treaties; the International Covenant on Civil and Political Rights (ICCPR)¹ and the International Covenant on Economic, Social and Cultural Rights (ICESCR) nor has it become party to the International Convention for the Protection of all Persons from enforced Disappearance (ICPPED). Notwithstanding, several of the provisions of the two main human rights covenants are drawn from the Universal Declaration on Human Rights (UDHR) of 1948, that have over time become a part of customary law of nations and are therefore binding on all states. The Constitution of the UAE and its civil law contain some necessary safeguards of rights and freedoms that are laid down in the international instruments to which the UAE could be a state party, namely those concerning freedom of expression and association, fair trials and protection from torture and different varieties of ill-treatment. These safeguards strive to confirm that all people need to receive equal rights and the human dignity that follows from this. However, the UAE has to this date not managed to bring several of its laws and practices into conformity with the international legal standards on human rights. As Amnesty International clearly documents in this report, the Constitution of the UAE, its Penal Code, its Criminal Procedure Law and other national laws still undermine full exercise of several fundamental rights, like the right to freedom of expression and association, the right to be free from torture and the right to have a fair trial, and this due to its restrictiveness, its contradictions and its overly broad and mistily worded provisions.

¹ The International Covenant on Civil and Political Rights is a multilateral treaty adopted by United Nations General Assembly Resolution 2200A (XXI) on 16 December 1966, and in force from 23 March 1976 in accordance with Article 49 of the covenant.

Human Rights Activists

The UAE amended its Cybercrime Law in 2012, broadening the scope and giving authorities more power by allowing them to prosecute anyone who “casts doubt on the country’s political system through social networks such as Twitter, Facebook, and email”. Authorities could easily use a counterterrorism narrative to justify their atrocities and persecute any political dissidents through the legal system if this law passes. Many UAE human rights activists have been accused of violating the Cybercrime Law in different circumstances since the amendments were passed, with at least 17 of them being prominent social activists.

The UAE also has a long history of torturing detainees in its prisons and has tortured prisoners who oppose the government on several occasions. Despite the fact that the UAE is a state party of the Convention against Torture and Other Cruel, Inhuman, or



Degrading Treatment or Punishment (CAT), systematic torture is still being practiced in many UAE prisons. Over 75% of the 124 UAE prisoners interviewed by Reprieve in 2013 said they were physically assaulted after their arrest, and 95% of them were interrogated without the presence of a lawyer. During his detention, Osama al-Najjar, a blogger and human rights activist, said he was “punched and beaten repeatedly and threatened with electric shocks.” The Special Rapporteur on the Situation of Human Rights Defenders expressed grave concern about the circumstances of Human Rights Defenders in the UAE in her February 2013 report, saying that information she had received indicated “a pattern of harassment, arbitrary detention, enforced disappearances, and prison sentences handed down to human rights defenders legitimately exercising their right to freedom of expression.” “The allegations are very serious,” she states, “because they refer to undue restrictions on a number of rights and freedoms that are fundamental to the activities of human rights defenders,” and she continues by expressing disappointment in the government for not having responded to any of the complaints.

The Special Rapporteur highlighted the case of Dr. Mohammed al-Roken, a University Professor, renowned human rights lawyer and former chairman of the Association of Jurists of the UAE who had been sentenced to 10 years of imprisonment in July 2013 followed by three years of probation in a UAE Mass trial of ninety-four dissidents. The Special Rapporteur referred the government to the provisions made public within the Declaration on Human Rights Defenders, that oblige the state to keep its people safe from any kind violence, threats, retaliation, or alternative arbitrary action as a consequence of their legitimate exercise of their rights.² Dr. Mohammed al-Roken got stopped and arrested by State Security officials, while driving to a police station in Dubai to an inquiry of his son, Rashid Mohammed el-Roken and his son in law, Abdulla al-Hajri, who were arrested a few hours earlier, in the early morning of 17 July 2012. The next day Dr. Mohammed al-Roken was taken to his home by 17 state security agents, who searched and removed laptops, printers, books and other magazines, family videos and photo albums. For the next 3 months, his family had no information of his whereabouts whatsoever. He was forced to disappear and was held in solitary confinement in an open place. His lawyer demanded access to him several times, but each time his requests were denied. Eventually after more than three months since his arrest, for the first time Dr. Mohammed al-Roken was allowed to get in touch with his family members. He was taken to the State Security Prosecution Office in Abu Dhabi for the first and all subsequent visits, where the State Security officials remained present throughout each of these family visits. Dr. Mohammed al-Roken was not allowed to consult the documents concerning his case until the second hearing of the UAE ninety-four trial on eleven March 2013.

FOREIGN WORKERS AND WORKERS' RIGHTS

The growth of the UAE, as well as significant changes in the region, has resulted in changes in the country's population, industry, and economy. These improvements are important because "prior to 1950, the Middle Eastern countries exhibited some of the world's lowest levels of socioeconomic growth" (Yousef, 2004: 91). The discovery of oil has enabled the country to make incredible strides, bypassing the lengthy economic development process

² The Special Rapporteur referred the UAE government to Article 6 (b) and (c), and Article 12 (2) and (3) <http://www.ohchr.org/Documents/Issues/Defenders/Declaration/declaration.pdf>

that other developing countries have had to go through (Shihab, 2001: 249).³ The country's vast oil reserves have propelled it from a collection of tribal villages to a modern and industrialized nation, but the UAE's labour force has not been as adaptable.⁴ A large inward migration was needed to sustain and feed the UAE's growth with the intention of allowing more foreign workers to fill jobs in the oil fields and domestic work that Emiratis could not (or did not want) to do because of their higher status and recent prosperity (Yasin, 2015). Soon the population was 180, 226 in the first census in 1968, but it soared to 557, 887 in 1975, and this upward trend continued into the late 1900s.

Today, the UAE's economy is heavily reliant on this massive influx of foreign workers, with foreign nationals accounting for roughly 90% of the country's population of over 9 million people, the majority of whom are low-wage and semi-skilled workers from Africa, Asia, and other parts of the Middle East. A private sponsorship system known as the 'kafala system', which has existed in the Gulf Cooperation Council states and other Middle Eastern countries for decades, regulates labour migration to the UAE. The kafala system's rules and procedures differ from state to state. This principle of "private sponsorship" where the workers need to have a 'sponsor' usually the employer before they come work in the country, is the only legal way to enter and stay in the UAE. According to Yasin (2015), Kafala controls foreign labour through citizen sponsorship, which any citizen may do. Foreign employees, on the other hand, are unable to select their sponsor because it is assigned to them by their agency. 'Each non-citizen worker enters the country already bound to a specific job and is supported by a national citizen or corporation,' according to this procedure (Yasin, 2015). Importantly, the Kafala scheme emphasizes racial hierarchy, as the 'Kafala often does not put the worker and his/her employer on equal terms with respect to wages or benefits allowed to take home', and the worker cannot quit the contract or find another sponsor once it is made, regardless of how bad or dishonest it is (Yasin, 2015). The Kafala scheme reflects the idea that Emiratis

³ The total **labour force** in the **UAE** in 2018 was 7.384 million. The total number of people employed was 7.219 million. People **working** in wholesale and retail trade sector were paid the highest compensation of AED 62,857 million followed by those in the construction and building sector who drew AED 52,959 million as wages.

are superior, and it reaffirms the UAE's effort to preserve nationalism by rejecting citizenship equality.

Forced Labour and Bad Treatment

The UAE's treatment of domestic and migrant workers is deeply



concerning, as there appears to be a direct link between the UAE's desire for economic dominance and the exploitation of hundreds of thousands of workers.

In the UAE, the kafala system often leads to migrant worker abuse. Among the six Gulf Cooperation Council (GCC) countries, the United Arab Emirates has the second highest proportion of foreign employees (89%), right after Qatar taking the first place with over 90% of its workforce made up of foreign nationals. Individuals are contractually bound to sponsors as soon as they obtain a work contract and are allowed to enter and work in the UAE. Because their visa status is contingent on job performance, the kafala system successfully ties migrants to their employers. The contractual agreements are highly vague and provide migrant workers with few protections, while also lowering their job security. Workers must hand over their passports to their employers under the kafala system, effectively relinquishing complete control over their livelihood. Their employer determines things like wages, ability to work elsewhere and the likelihood of returning to their home country. This control extends to every aspect of migrant workers' lives, from their finances and nutrition to their living conditions and overall mental and physical health. Those who leave their employers without their permission before the end of a contract may face fines, prison sentences and even deportation. This makes it extremely difficult for employees to escape abusive circumstances like long work hours, unpaid wages, stalking, or sexual abuse. The UAE's future economic development plans would be hampered if this type of modern-day slavery was subjected to adequate government oversight and regulation.

Domestic workers, who are often migrant workers, are more likely to be mistreated and abused. An estimated 70% of the UAE's 9.4 million residents are low-wage migrant workers. Among Emiratis, the hiring of domestic staff has become a symbol of the wealth and prosperity enjoyed by many at the expense of migrant workers and their cheap labour. The industry has evolved into the commodification of the transnational maid trade, which provides an inexpensive and versatile working class that is willing to perform for low wages. They are no longer seen as people, but rather as trade goods to be purchased and sold on the global market.

Domestic workers are expected to work weekends and are required to work 16-21 hours a day without rest or breaks. The average monthly wage ranges from \$150 to \$200, which comes down wages between 15 and 30 cents an hour.



Furthermore, more than a quarter of domestic workers interviewed by Human Rights Watch said they were forced to sleep under stairwells, in hallways, on living-room floors, or in communal living quarters, with some even sleeping on the bare floor.

Any attempt to evade or escape from your employer in the UAE is illegal. Runaway workers have been imprisoned, deported, and are facing substantial financial penalties, including reimbursing their employers for sponsorship fees despite not receiving wages. These high costs will drive workers deeper into debt, trapping them in a cycle of debt with their abusive bosses and preventing them from fleeing.

Many domestic worker abuse cases have come to light, exposing the violent experiences of domestic workers. Ninety-nine migrant women working as maids in the UAE were interviewed for a Human Rights Watch report, which details the harrowing experiences they had at the hands of their employers. The majority of them stated that their passports were taken from them when they arrived. Others confessed to being physically abused and

confined to their homes. Even when these women were forced to work overly long hours seven days a week. Failure to pay them their full wages also was a recurring problem.

Within the UAE's expanding construction sector, there are similar parallels of control and mistreatment. Migrant workers have been hired to build a £17 billion cultural/heritage/tourism hub on Saadiyat Island in Abu Dhabi. According to reports, several thousand workers in the official labour camp on Saadiyat Island in Abu Dhabi were reportedly subjected to segregation, a 10 p.m. curfew, security guard surveillance and could only enter or leave on approved buses. Migrant construction workers often go into debt to fund their first trip to the Gulf, paying exorbitant recruitment fees to agencies that can help them find work in the UAE. Upon arrival, their passports are confiscated, marking the symbolic transfer of personal autonomy to the employer. Contracts written and signed in Arabic or English, which are usually foreign languages for arriving employees, add to the difficulty. If you refuse to sign the contract, you will be deported to your home country.

The UAE Labour Law of 1980 spells out the expected working conditions for migrant construction workers, including recruitment terms, maximum working hours, annual leave, and overtime. The law also includes other regulatory, health, and work safety standards, as well as compensation guarantees in the event of a work-related injury or death. In addition, the law mandates that a minimum wage of \$2,029 per month is guaranteed in the UAE. When it comes to migrant construction workers, the majority of these requirements are ignored, and these workers in the UAE only earn around \$175 per month on average. The UAE has been complicit in the exploitation of migrant workers who come to the UAE in search of a fresh start and a better life, but instead find themselves imprisoned by their new employers due to the UAE's controlling and restrictive laws and policies. This inhumane treatment of migrant workers must end, and mechanisms must be put in place to help protect these workers' human rights.

The UAE government, which is about to take on a powerful new role in the International Labour Organization (ILO), has failed to adequately protect female domestic workers from abuse by employers and recruiters. “I Already Bought You’:



Abuse and Exploitation of Female Migrant Domestic Workers in the United Arab Emirates,” documents how the UAE's kafala visa sponsorship system and lack of labour law protections expose migrant domestic workers to abuse. Without the consent of their employers, domestic workers, the majority of whom are from Asia and Africa, are unable to change jobs until their contracts expire, trapping many in abusive situations. Workers are not fully protected against misleading recruitment practices in labour-sending countries, and they are not given adequate assistance to abused foreigners overseas. “The UAE's sponsorship system binds domestic workers to their employers, then isolates and exposes them to abuse behind closed doors of private homes,” said Rothna Begum, a Middle East women's rights researcher at Human Rights Watch. “Because domestic workers are not covered by labour laws, employers can and do oblige them to overwork, underpay, and abuse them.”

Domestic employees who leave their employers without permission are considered to have "absconded," and thus have committed an administrative offence that can lead to deportation and a ban on future jobs in the UAE. Domestic employees who leave their jobs to avoid abuse or for other reasons run the risk of criminal charges being filed against them by their employers. When some workers told Human Rights Watch that they had escaped and wanted to report their employers to the police or immigration authorities for violations, they discovered that their employers had already filed fabricated theft charges against them. Most of the time, such charges were brought to intimidate workers into foregoing wages or dropping charges against employers for a variety of violations, and they were dropped once that goal was met. Domestic workers, on the other hand, have been tried in some cases.

Because the system allows employers to cancel sponsorship at any time, it gives them a lot of power over their employees. This automatically terminates a worker's right to stay in the UAE and initiates repatriation processes.

Human trafficking

Another big risk that the use of the Kafala system entails is the extra vulnerability to end up in human trafficking situations. Citing ISC community welfare minister P. M. Jabir and some of the victims, three Malayali's women who were beauticians by trade, were given jobs in this trade in Dubai. "However, several,

also including housemaids from other Indian states, were stranded in distant Oman locations after being trafficked across the UAE-Oman border." In early August, The Times of India (TOI, the largest newspaper in the country) reported on the plight of the



women, who were fallen victim of a cross-border human trafficking ring. Three women from Alappuzha were brought to Muscat from Buraimi near the UAE border, where they were sold as slaves to various Arab sponsors in Oman. Fortunately, last week these women were rescued by the Indian embassy in Oman with the help of the Indian Social Club after being trapped for several months in a remote border town in Oman (ISC Oman) and were able to return home after the ISC had delivered them to the Indian Embassy. The ISC office-bearers also stated that two other women who also fell victim of agents in Kerala and ended up in Buraimi have safely returned home. According to Jabir, The ISC's efforts to get media attention was the reason why the governments and the Indian embassy were able to act swiftly and bring most of the women to safety. This is not just a *unicum*, but for a long time, Jabir had been receiving calls from victims of cross-border recruitment, he stated that "It was one of the big issues he raised three months ago at the Indian external affairs ministry's panel discussion in New Delhi.

NATIONAL/RACIAL/ETHNIC MINORTIES

Racialization is another major issue that arises from this form of labour migration. This section will cover four topics: the current anti-racism legislation, modern slavery and racism, ethnic hierarchy in the 'professional' field, and educational segregation. To define and comprehend the process of racialization, it is crucial to comprehend the concepts of "race" and "racism." Dikotta (2008) refers to a useful definition of racism as an 'organized belief system that is a narrow historical, ideological, and political phenomenon' which can be misused as a weapon among many others invented by humans to

demean, oppress or exterminate each other'. In the UAE racism, ethnic inequality, and xenophobia are all related to the notion of a racial hierarchy. Importantly, Dikotta (2008) is able to distinguish the word racism from the Eurocentric approach that many people take and argues that racial hierarchies have existed throughout history. "A more precise way of approaching the problem is to stress how opposition to the notion of equality often triggers the formulation of racial discourse," says Dikotta. This interpretation of racial debate applies to all four facets of the study.

Background

When evaluating racism, it is important to acknowledge and remember the past of the United Arab Emirates. A large inward migration was needed to sustain and feed the UAE's growth. The country's growth was reliant on a massive influx of foreign workers. Immigrants from all over the world have flocked to the UAE in such large numbers that non-nationals now outnumber Emiratis. Different minority groups have been formed as the workers come from different countries. Indians (26.8% of the total population), Pakistanis (14.6%), Bangladeshis (4.6%), Sri Lankans (2.2%),



Filipinos (2.1%), English (.8%), and all other countries nationals (4.6%) make up the Non-Arab Non-Nationals (Ministry of Planning UAE, 1995).

The UAE's racialization is characterized and influenced by the country's distinct social and cultural demographics, which create a barrier to equality. Emiratis are greatly outnumbered, but they rule over non-nationals in social status, while a generally agreed hierarchy is established, with some nationalities at the bottom. The underlying social attitudes toward migrants in the UAE are negative, according to this commentary, due to xenophobic and racist beliefs in Arab dominance, as well as an anti-black notion rooted in slavery. This supports Dikotta's claim that prejudice or racial discourses are the product of anti-racist sentiment and a desire to assert dominance.

When constructing a critical review of the UAE's new anti-racism legislation, education and job policies shall be scrutinized. Furthermore, the inadequacy of anti-racism legislation, modern slavery, ethnic hierarchy, and segregation in education are all examples of the recurring notion of racism as an opposition to equality.

Anti-racism law: An attempt to appease the outraged West

The United Arab Emirates has experienced considerable social change as a result of the need for modernization. As a country that relies on the West for business, tourism, and stability (not to mention a degree of



interdependence), the UAE has no qualms about adapting its customs to meet Western 'standards'. The UAE's major cities, such as Dubai, have expansive skylines and a multitude of tourist attractions that surpass those found in other major cities. Celebrities and tourists have flocked to the gleaming hotels and resorts along the coast, with Dubai even allowing celebrities to own their own land. Modernization and rapid social change in the UAE, on the other hand, have necessitated comprehensive cultural adaptation. Throughout the UAE,

'glocalization,' or the adaptation of local culture and traditions by integrating the national, has been observed (Khondker, 2008). The introduction and adaptation of anti-racist legislation, as well as efforts to equalize human rights between nationals and non-nationals, have all played a key role in this political transformation. Discrimination based on race, skin color, gender, religion, political opinion, nationality or social origin is now prohibited under the domestic worker rule. However, this segment of commentary would claim that these reforms were mostly made to satisfy the West rather than to reform Emiratis' structural racial belief system and political system.

It is no wonder that as the world media became more aware of the UAE's human rights abuses in domestic and construction work, as well as the discriminatory policies in education and jobs, pressure on the West to act grew. The United Nations Special Rapporteur on Contemporary Forms of Racism visited the UAE in 2009 and published a study on contemporary forms of racism, which discussed topics such as citizenship, living and working conditions, and education policy. According to the recommendations, the UAE should strengthen its anti-racism laws and evaluate many of its existing policies, including its education policy and immigration framework (United Nations). The remaining exclusionary citizenship law contradicts the anti-racist stance conveyed by the implementation of this new legislation. The United Arab Emirates is known for its unique and hierarchical immigration process. Citizenship is automatically given to children born to an Emirati father and an Emirati mother, but citizenship for non-nationals is more complicated. Since non-migrants who come to work in the UAE are not given citizenship, the UAE follows a separate immigration protocol.⁵

It is necessary to applaud the anti-racism legislation, as it entails a distinct effort to reduce hate speech and bigotry to some extent. However, it is clear that their activities are still anti-equality, and the government is doing little to fix this. As a result, it's unclear if the government chooses to pass laws to please Western human rights groups rather than making a concerted effort to change or adapt the existing regime. As a result, research is being requested to look into the necessity of reconstructing Gordon's (1989) logic for use here.

⁵ A **racial hierarchy** is a system of stratification that is based on the belief that some **racial** groups are superior to other **racial** groups

Step in line: How non-nationals fit into racial hierarchy

It is appropriate to look at other aspects of the workplace, such as racial hierarchy in other workplaces, to expand the idea of racialization in the UAE beyond the suggestion of contemporary slavery. Since the UAE has confirmed that it is addressing the issue of modern slavery and human rights abuses, another relevant area to consider is exclusionary labour practices and the hierarchical structure within the "skilled" sector. The racial hierarchy among expatriate workers and Emiratis defines racial discrimination in the "technical" workplace. In the "professional" market, race is used as a criterion for performance, which is based on racial hierarchy. The upper stratum, which is divided into strata, is made up of Western professionals such as engineers and physicians (Winckler, 2012). Professional workers from Arab countries, such as teachers, are below Western professionals, with unskilled workers from different non-Arab countries, such as domestic workers, dominating the bottom

of the hierarchy (Winckler, 2012). According to sources, if you work as an Asian in a technical job in the GCC⁶ (the Gulf Cooperation Council, which includes Saudi Arabia, the United Arab Emirates, and Oman, as well as Kuwait, Bahrain, and Qatar), you can expect to earn 26% less than a Westerner in the same job (Gulf Business, 2013). The study claims that "the average monthly compensation for a Western expatriate in the UAE is \$11,936, which is 34.8 percent higher than the pay of an Asian expat in the UAE of \$8,853." (Gulf Business, 2013). The study claims that skin color is valued, but HR managers claim that this is in line with "home country wages," which seem to be a fallacious excuse. Shamsi (2013) goes on to say that "the pay structure in the UAE-GCC is absolutely dependent on the color of the employee's passport." There is a pay disparity in nursing, with Asian passport holders earning the lowest pay and Americans and Canadians earning the highest (Shamsi, 2013). Pay equity in the

⁶ The Cooperation Council for the Arab States of the Gulf, originally known as the Gulf Cooperation Council, is a regional intergovernmental political and economic union consisting of all Arab states of the Persian Gulf - Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates - except for Iraq.

UAE is flawed; salaries are dependent on ethnicity, which represents the UAE's weak attempt to fix systemic issues.

Because racial discrimination in the workplace is difficult to prove and victims are often afraid of losing their jobs, the Ministry of Labour receives few complaints, according to a labour official: "We receive very few complaints about racism in particular. The employee's ability to find evidence for such cases is extremely difficult. They complain about their salaries, but they rarely mention racism as a reason why their employer would pay

them less than other nationalities. According to Umar Khouri, a legal researcher for the ministry, At the Ministry of Labour, that is the reason why there is no clear data of racial discrimination cases. Employers of the Dubai International Financial Center, for example, are forbidden to discriminating against employees based on their gender, marital status, race, nationality, religion, or disability. Nonetheless, work postings requesting only applications from certain nationalities were widespread and unregulated.

GENDER BASED DISCRIMINATION

Women's Rights

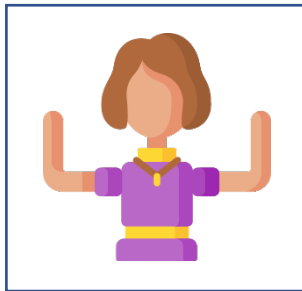
The definition of discrimination in the UAE's 2015 anti-discrimination law excludes discrimination based on sex or gender. Some provisions of Federal Law No. 28 of 2005, which governs personal status issues, are discriminatory toward women. Therefore, women face legal and economic discrimination in general, with

non-citizen women being particularly vulnerable. In cases of personal status and family law, the government's interpretation of sharia applies. To marry, Muslim women must have their guardians' permission. Muslim women are prohibited from marrying non-Muslims, according to local interpretations of sharia. Furthermore, the law allows a man to have up to four wives, women usually inherit less than men, and a son's inheritance may be the double of the



inheritance of daughters. A woman's right to maintenance can be revoked, for example, if she refuses to have sexual relations with her husband without a legal reason. To get a divorce with a financial settlement, a woman must show that her husband harmed her physically or emotionally, deserted her for at least three months or failed to care for her. Medical records and two male witnesses are needed for physical abuse allegations. It is up to the judge to determine if women should be classified as full or half witnesses. Women may also divorce by paying a dowry or surrendering their dowry to their husbands.

Thankfully, in 2019, the authorities amended the personal status law of 2005, repealing a clause that laid down that "a husband's rights over his wife" requires the wife's "courteous obedience to him" and therefore imposed limits on a married woman's freedom to work or leave the home.



Women in the private sector, especially non-nationals, often do not receive equal benefits and were allegedly subjected to discrimination in promotions and pay. Women are prohibited by law from engaging in dangerous, strenuous, or physically or morally unsafe occupations. Sharjah Civil Defense employed 15 female firefighters in February, forming the country's first "Women's Firefighting Unit." Although foreign men employed in the country and receiving a salary above a certain amount could obtain three-year residency permits for their families, a foreign woman could only obtain a one-year, renewable permit for her family if she worked in a rare or specialized job.

Although **education** is open to all, co-education in public universities is prohibited by federal law. However, a substantial number of private schools, colleges, and institutions is co-educational. According to officials, local women account for more than 60% of all national higher education students. Since tribal family law often designates men as the heads of households, the government excluded women from some social and economic benefits, including land grants for building houses. The government has a Gender Balance Council to encourage a more prominent position for female residents, but not for noncitizens who work outside the home.

According to the Gender Inequality Index (2011), the most recent survey conducted on UAE women, women accounted for 43.5 percent of the workforce in 2011 and that number has gradually risen. Since the establishment of the federation in 1971, the government has also stepped in to empower local women by providing them with equal opportunities and an increased status (Al Youha, 2013). Ibrahim Al Abed and Peter Hellyer (2001) emphasized that modern women are capable of making important contributions to the country's economy and government. Frauke Bey (1996) adds that women's education is essential in these professional advancements because women are becoming more educated and well-informed.

Discrimination based on sexual orientation and gender identity

Article 356 of the federal penal code criminalizes (but does not define) "indecent assault" and imposes a one-year mandatory minimum sentence. This article is used by UAE courts to convict and sentence people for same-sex relationships and consensual heterosexual relationships outside of marriage. The UAE penal code punishes "any male dressed as a woman entering a place reserved for women or where entry is prohibited, at that time, for anyone other than women" with a year in prison, a fine up to 10,000 dirhams (US\$2,723) or both. Even in mixed-gender spaces, transgender women have been arrested under this law. The UAE has laws prohibiting same-sex sexual relations in its emirates. In Abu Dhabi "unnatural sex with another person" is punishable in by up to 14 years in prison. Under article 177 of Dubai's penal code consensual sodomy is punishable by up to ten years of detention.



SOCIAL ABUSES

This part of the report is based on interviews conducted by Human Rights Watch in November and December 2013 with a total of 99 female domestic workers in the UAE.

Rape and domestic violence: Rape is a crime that is punishable by death under the penal code. Domestic violence is no longer specifically permitted in the UAE's penal code, following amendments in 2016. The penal code makes no mention of spousal rape which seems to suggest that men are allowed to use physical means, including abuse against female and minor family members at their discretion. In domestic violence cases, the punishments imposed by the courts were often limited. In certain cases, police shared a victim's contact details with her or his relatives, which was often passed on to the perpetrator. Domestic violence against women including spousal abuse remained an issue because the government did not properly implement domestic abuse laws. A case of domestic violence of a woman in Ajman, for example, was published in local media in July. Her husband allegedly abused her, was starving her, and forced her to work for his company for free. Furthermore, female victims of rape or other sexual offences face punishment for consensual sex outside their marriage rather than seeking help from authorities. Since pregnancy can be used as proof of extramarital sex, women who report rape may be charged with consensual sex instead. For example, the Dubai Court of Cassation still convicted a Gulf woman of consensual sex outside their marriage and sentenced her for detention of one year even after accusing a Gulf man of raping her to a six-month prison sentence. A Swedish-run hospital in the Emirate of Ajman was forced to report pregnant, unmarried women to the police as a result of this rule. These referrals have resulted in conviction and expulsion in some cases. The government did not do enough to protect women from domestic and sexual harassment. The “husband's punishment of his wife” is considered “an exercise of rights” under Article 53 of the Penal Code, which can be interpreted as official approval of spousal violence.



However, there have been some positive developments as domestic abuse victims are able to report their abuse to police units stationed in major public hospitals. In addition, social workers and psychologists, most of whom were women, have offices in public hospitals and police stations. Domestic violence centers were based in Abu Dhabi, Dubai, Ras al-Khaimah, and Sharjah. The government, in collaboration with social groups held workshops, training programs, symposiums, and conferences to raise awareness of domestic abuse. The Dubai Foundation for Women and Children used social media, television, radio, and advertisement to raise awareness about domestic abuse, organized seminars and sponsored a hotline. The authorities passed a law on domestic violence protections on December 31, which took effect in 2020.



Sexual Harassment: Harassment is prosecuted under the criminal code by the government. Convictions against a public person's "disgrace or dishonor" shall be punished by at least a year in prison and up to fifteen years if the victim is less than 14 years of age. The belief that "the dishonor of a woman" is punishable by a six-month prison term for "infamous" acts against decency laws frequently requires a punishable offence "by word or deed on a public road." This rule was usually implemented by the government.

According to records, employers allegedly abused or sexually harassed foreign domestic employees. These cases were seldomly brought to court, and those that were, almost never resulted in convictions. One of these rare convictions took place in January, where a man was sentenced to ten years in jail for repeatedly raping his maid. The sharia courts, which are primarily responsible for civil disputes between Muslims are governed by the Islamic law.



Coercion in Population Control: There are no accounts of forced abortion, compulsory sterilization or other types of coercive population control.

INTERNATIONAL HUMAN RIGHTS LAW ON HUMAN TRAFFICKING

Having analyzed a number of the essential problems that require to be addressed by the UAE government, it is equally important to require a better cross-check of international human rights law and also the community that surrounds it. This could shed light on aspects that prove that even International



Human Rights law is not completely effective as an operating mechanism for fighting human trafficking. On this matter, theorists have noted the way that global and national discourses on human trafficking are gendered, racialized and are too preoccupied with the sex trade that it results in disregarding the protection of men's fundamental rights. For instance, it has been argued that women and children dominate the discourse that categorizes them into one class of „vulnerable innocents“ and excludes men from the frame. This can be inaccurate, unethical and dangerous. Focusing on women and children within the sex trade overshadows the perilous situation of all migrant staff subjected to the kafala system, including men, that are subjected to forced labour and consequently even a form of domestic slavery. Within the global migratory landscape not only all women but also all men must be seen as vulnerable as they are not in their country of citizenship and subsequently face bodily and psychological violence as migrant workers, who are not afforded the same rights and protections of citizens.⁷ Moreover, it detracts from the protection of male migrants with the rhetoric that they're stronger and may be more capable of handling the abuse, which is not always true. It is feasible to envision how this discourse has penetrated international legal instruments. The Trafficking in Persons report (TIP) has been criticized for not giving equal ground to the labour violations faced by men who are operating as taxi drivers, cooks, gardeners, security guards, in cordial reception venues and different service industries, or to the sex employees. These people chose to move to a metropolis for economic „pull“ reasons and subsequently

⁷ Mahdavi and Sargent (n 12).

suffer serious human rights violations. The TIP report, issued by the USA State Department Office, has additionally been criticized for racializing the discourse on human trafficking by implying that it is a phenomenon that solely happens outside of Euro-America.

CONCLUSION AND PROSPECTS

How much is a UAE failure to comply?

Derived from the literature, it seems to be true that international human rights law and its implementation mechanisms need modifications and amendments to achieve providing comprehensive help to the most vulnerable within the world. However, the UAE's continuing failure to accommodate legislation may lead to the legitimate abuse of a big part of its inhabitants. Furthermore, it may bring some serious and perpetual consequences to the region. Given the high estimate of individuals trafficked in the world and also the grand variety of migrant employees in the UAE, it would be unwise to assume that this criminal activity is not occurring despite the fact that no clear data can be found for some issues. This would stimulate the state officers or individuals, who have connections with domestic and/or international unionized criminal networks, for operating outside the legal sphere. As a result, the consequences of this criminal activity on a big scale are strengthening other kinds of organized crime. The big profits from human trafficking can, and are, the fuel for organizing alternative criminal activities like drug trafficking, cash laundering, arms trade and forgery. Moreover, organized crime has been famous to weaken governments, undermine the rule of law and have a deteriorative effect on the social order of countries. These considerations should be taken extremely serious as the consequences are likely to put the entire of UAE society - and not simply its migrant employees - at risk.

Prospects for Reforms

Labour right advocates have long been calling for a reform or abolishment of the system. Recently, in the light of the worldwide 2020 anti-racism protests and the fact that the 2022 FIFA World Cup is taking place in Qatar, the demands for reforms and a better enforcement system have been receiving greater attention. In 2007, the UAE set up a National Committee to Combat Human Trafficking to oversee implementation of its 2006 antitrafficking law and

to coordinate government efforts to combat trafficking. In 2014 the UN special rapporteur on the human rights of migrant workers called to abolish the system and replace it with a system where the workers are free to change jobs and leave the country. Given the international pressure the kafala countries have, over the past five years, begun to implement reforms, such as standardizing contracts, letting workers change jobs after a certain period and easing contract restrictions so they can more easily leave the country. The UAE has 'flexi-visas' now for workers who are no longer in possession of their documents. These legal reforms have indeed led to improvement in labour right protection but despite these efforts, some significant gaps in their implementation and a lack of enforcement remain. Sequentially, the system continues to give employers a high degree of control over almost every aspect of the workers' lives, and thereby increasing their vulnerability to trafficking, forced labour and other exploitation. Therefore, full and actual abolishment of the Kafala System still seems far away.

Recommendations

- As the UAE is so reliant on foreign workers to keep up with the development boom and therefore fulfils an important international role, the state's regulations and proper implementation and enforcement systems to protect the migrant workers' rights, need to be adapted in order to comply with the universal human rights principles.
- They should modify their labour system by easing the contract restrictions or even fully abolishing the Kafala system. Their position as a major host country for migrant workers requires a national strategy to reduce the existing racial hierarchy and discrimination towards these people.
- Expectations of the state in terms of strengthening national capacities and expanding efforts to educate people about human rights and basic freedoms through a national strategy. The state is working to keep up with the side effects of the development boom, which necessitates the extensive use of temporary foreign labour. This is putting the state in a constant state of

partnership with international labour organizations in order to arrive at the best possible methods and practices for the country's workers' situation.

-Starting to regulate the relationship between employers and employees in a way that protects workers' dignity and fundamental rights while still adhering to international standards, especially in the case of domestic help.

-Regardless of what has already been accomplished for women, the greater challenge is to increase women's empowerment in society by expanding opportunities for involvement in a variety of fields based on their skills and abilities, supporting their participation in economic activity and developing policies that will increase and support their abilities and encourage them to fulfil their responsibilities.

-The State is working on tackling human trafficking crimes by reviewing the best practices in the area, updating and upgrading the State's legislature to international standards, developing institutions and agencies to combat human trafficking crimes and promoting the pillars of international cooperation with international organizations.

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