

Country: The United Arab Emirates

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NGO: Mafiwasta

Priority Issues: Domestic workers, Equality before the law, Domestic violence and absence of support services.

[Nicholas McGeehan] Thank you Madam Chair.

My name is Nicholas McGeehan and I represent Mafiwasta. We are a rights-based organisation whose work focuses on the United Arab Emirates. Today, we would like to draw the Committee's attention to three main areas: firstly, the condition of domestic workers in the UAE; secondly, the issue of equality before the law; and thirdly, domestic violence and the absence of support services.

We would first like to commend the UAE for its progress with regard to education, employment and the increased participation of women in public life. However, the UAE is responsible for all women within its territorial jurisdiction. In its response to the Committee's questions, the UAE stated that "generally speaking, there are no minority or migrant populations in the United Emirates, because all workers in the state have temporary employment contracts". This is manifestly not the case. The UAE has the highest net rate of migration in the world and approximately 80% of the population are non-citizens.

We would contend that racial discrimination is endemic against unskilled and semi-skilled migrant workers, predominantly but not exclusively from south Asia. The gender bias of migration exacerbates this discrimination, and it is most keenly felt by female migrants, particularly domestic workers in the informal sector. Domestic workers, an exclusively female subset of the migrant population, are excluded from the existing Labour Law of 1980 and the provisions of the Draft Labour Law of 2007. This is an unacceptable omission and one which must be remedied. However, the protection of domestic workers will not be significantly enhanced by their inclusion in domestic labour law unless that legislative protection is accompanied by radical improvement in existing enforcement mechanisms.

Domestic work, by its very nature, places women in situations of extreme vulnerability to abuse and exploitation. Isolation and seclusion facilitate physical, psychological and sexual abuse. Instances of food deprivation, arbitrary deduction from wages, and working hours of up to 18 hours per day are commonplace. We would refer the Committee's attention to an account documented in our shadow report, where returning Sri Lankan domestic workers recounted being beaten by their employers with hands, slippers, rubber hoses, wires, chairs, wooden planks, broomsticks, knives, and iron bars. These women exhibited residual physical injuries such as burns, scars and broken bones.

The plight of these workers is compounded by the customary confiscation of passports and the complete absence of sanctions for offenders. In the more severe cases, the situation of domestic workers amounts to forced labour, and their treatment at the hands of both employers and recruiters would meet the threshold for cruel, inhuman and degrading treatment or punishment.

I will now hand over to my colleague Niamh Hayes, who will discuss the issues of equality before the law and access to support services for victims of domestic violence.

[Niamh Hayes] Thank you Madam Chair.

Both citizens and non-citizens alike face discrimination in their treatment by law enforcement and the judiciary in the UAE. Under Sharia law evidentiary standards, a woman's evidence in criminal proceedings is worth only half that of a man. An Emirati man has the power to confiscate the passports of his wife, children and unmarried adult daughters to prevent them from leaving the country. On a social as well as a legal level, women may be discouraged or intimidated from accessing the legal system or approaching the police – both overwhelmingly male-dominated fields. Gender-based discrimination within the legal system is rife, particularly in relation to the investigation and categorisation of sexual violence complaints by women.

Spousal rape is not recognised as a crime under UAE law. A woman who has been raped by her husband cannot make a criminal complaint within the UAE legal system. Women who report sexual assault by men to whom they are not married are routinely prosecuted for adultery or illicit sexual relations. In 2006, a woman made a complaint to police that she had been gang-raped by five men. She was subsequently convicted of adultery and sentenced to five years in prison and 150 lashes, on the assumption by the authorities that she was a sex worker. The punishment meted out to the victim stands in marked contrast to the lenience afforded to the perpetrators. The judge in the case issued strongly worded warnings to the men not to repeat their behaviour. Only three were convicted of a crime. In 2003, a Thai domestic worker was raped so brutally she had to be hospitalised for ten days. She was later jailed for illicit sexual relations and consumption of alcohol. Her trial was conducted in a language she did not understand and she received no consular assistance.

These cases, which most likely constitute the tip of the iceberg, are emblematic of the gender discrimination inherent in the treatment of female victims of sexual violence in the UAE. Men who commit rape are very unlikely to be the subject of effective investigation or prosecution, while women who are raped often face criminal charges for being victims of sexual violence to which they did not consent. Emirati nationals cannot pursue prosecution of spousal rape, domestic workers risk deportation in the pursuance of a complaint of sexual assault, and a woman's status as a sex worker apparently precludes a charge of sexual assault upon her. The treatment of both Emirati and migrant women before the UAE legal system is inexcusably unequal.

The third issue to which we would like to draw the Committee's attention is the absence of support services for victims of domestic violence and trafficking. The UAE Penal Code grants men the legal right to use physical violence to 'discipline' their female family members. The Director of Family and Child Care at the Ministry of Labour and Social Affairs has stated that some men "are nervous by nature... this reduces their ability to control themselves when they get angry or feel irritated". In July 2005, a man was put on trial for beating his wife to death. He was convicted only of involuntary manslaughter, since the court recognised his right to beat his wife up to a certain point as an act of discipline.

In its response to the Committee's questions in this regard, the UAE stated that "there are not sufficient cases of violence against women in the United Arab Emirates to constitute a significant

social phenomenon; there are only a few moderate cases and problems, as is confirmed by the fact that there are no clear statistics in that regard". We would contend that the 'lack of clear statistics' is self-evidently due to a failure on the part of the UAE authorities to collate accurate information on the extent of the phenomenon of domestic violence. A senior police official has acknowledged that the number of women who do report incidents to the authorities is well below the actual figure. A UAE university study from 2005 reported that 66% of women who were permanently resident in the country had been victims of domestic abuse.

Domestic abuse is a reality in the UAE, as it is in all states. Where the UAE fails in its substantive obligations is its refusal to acknowledge the existence of domestic violence, to grant any legal redress to women who suffer abuse within the home, or to provide effective support services.

In its response to the Committee, the UAE claims that it has established support centres for women victims of domestic violence and trafficking. Mafiwasta would like to be unequivocal on this point. The UAE has not provided effective support services to these women; quite the opposite. Figures in authority have actively conspired to deny female victims of violence and trafficking their right to support services by effectively shutting down the one independent organisation providing women's refuge shelters in the UAE. Between 2001 and 2008, City of Hope shelters provided support and refuge to hundreds of abused women. Its doors were open to both nationals and non-nationals. The Dubai authorities initially proposed that City of Hope would be co-opted into a government-run structure which would maintain the same standards. However, when women residents of the City of Hope shelters were transferred to the government-run facility, they were met by guards, barbed-wire fencing and bars on the windows and some were threatened with deportation to their home countries. Simultaneously, a campaign of lurid and baseless claims aimed at discrediting the founder and director of City of Hope began to appear in the national press. The founder was warned to leave the country and is currently forcibly separated from her Emirati husband and children. We refer the Committee to Appendix 1 of our Shadow Report for a more comprehensive account of this situation. Her case is being referred to the Special Rapporteur on the Situation of Human Rights Defenders.

This case alone provides clear and recent evidence of the UAE's disregard for the rights of vulnerable and victimised women. The issue of support services is of particularly pressing concern, and we would direct the Committee to our specific recommendations on this matter. We would also draw the Committee's attention to our other recommendations relating to the condition of domestic workers and equality before the law.

Thank you Madam Chair.

Recommendations

- **Domestic workers**
 - **Ensure domestic workers are covered in the provisions of the proposed new labour law.**
 - **Introduce a comprehensive overhaul of existing enforcement mechanisms including provision for independent oversight.**

- Introduce sanctions for offenders, both employers and recruiters. These sanctions must be well publicized and properly enforced so as to have the requisite deterrent effect.
- Launch a series of public awareness and education campaigns to stress the importance of domestic workers' rights.
- Introduce an initiative to ensure that all domestic workers are granted at least one day off per week.
- **Equality Before the Law**
 - Criminalize spousal rape.
 - Provide for explicit legislative recognition that a women's status as a sex worker does not preclude an assessment that she has been the victim of a sexual assault.
 - Amend the penal code to ensure that women are not held criminally culpable for sexual acts to which they did not consent.
 - Immediate judicial review of all cases involving charges of sexual assault which resulted in the complainant receiving a custodial sentence for adultery. This should be subject to independent review.
 - Introduce special temporary measures to expedite greater representation of women in law enforcement.
 - Introduce training for law enforcement and judicial authorities in the need for increased sensitivity towards victims of sexual violence.
- **Domestic violence and absence of support services**
 - Remove impunity for domestic violence by extending criminal sanctions to assault which occurs within the home.
 - Launch a nationwide awareness and education campaign to highlight the issue of domestic violence and its incompatibility with national values. Complement this with appropriate training for law enforcement to increase sensitivity and receptiveness towards women who wish to pursue a complaint.
 - Introduce a network of nationwide residential support services. These should be wholly independent of the government, and their operation subject to regular independent review. Technical assistance and advice on best practices should be sought from intergovernmental experts.