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Fédération Internationale des Ligues des Droits de l'Homme

ORGANISATION INTERNATIONALE NON GOUVERNEMENTALE AYANT STATUT CONSULTATIF AUPRES DES NATIONS UNIES, DE L'UNESCO,
ET DU CONSEIL DE L'EUROPE ET D'OBSERVATEUR AUPRES DE LA COMMISSION AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES

INTERNATIONAL FEDERATION
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FEDERACION INTERNACIONAL
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الفدرالية الدولية لحقوق الانسان

Migrant workers in SAUDI ARABIA

Report presented by the **FIDH** and the
Egyptian Organisation for Human Rights

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INTRODUCTION

The FIDH and the Egyptian Organisation for Human Rights wish to bring to the attention of the members of the Committee on the Elimination of Racial Discrimination the situation of migrants workers in Saudi Arabia, victims of discriminatory treatment and appalling working conditions.

The present report documents the various violations of the ICERD regarding those workers. It is illustrated with summaries of testimonies collected by the Egyptian Organization for human Rights, an independent human rights NGO affiliated to the FIDH.

In Saudi Arabia, migrant workers represent more than 50% of the workforce (approximately 6 millions foreign workers in Saudi Arabia, even if the exact number is unknown, given the number of undocumented persons).

For this foreign workforce, working in Saudi Arabia represents a chance to escape from poverty, and offer a better future to their relatives.

In Saudi Arabia, as in other Gulf countries, foreign workers are employed under the sponsorship system. Workers come to Saudi Arabia through an invitation of their employers, their residency is subject to the signature of a working contract with an employer. This employer can be an enterprise, an individual or even the State, when it concerns a post in the public sector (e.g. a doctor or a nurse).

Highly criticized by international Human Rights NGO (see Amnesty international campaign on Saudi Arabia, Human Rights Watch annual reports, etc), this system creates a series of grave human rights violations, including violations of the ICERD.

Migrant workers are totally at the mercy of their employers who behold their passports, limit their freedom of movement. They are prevented from changing job and cannot leave the place of their work. Some do not receive their salary and are mistreated.

- **VIOLATION OF THE RIGHT TO JUST AND FAVOURABLE CONDITIONS OF WORK WITHOUT DISCRIMINATION (ARTICLE 5.e.i)**

The sponsorship system, in submitting the employee to the employer's total control, makes it possible for unscrupulous employers to pressure their employees to renounce to their legitimate claims for a salary, or to submit to labor conditions other than those specified in their contracts.

Workers may be compelled to do jobs other than the one for which they were hired, or to accept less money than agreed upon. In many circumstances, employers have refused to pay several months, or even years of accumulated salary or other promised benefits.

They sometimes stop the transferring of the workers' money to his or her relatives in the home country, which lead to the loss of his' or her's savings.

The Egyptian Organisation of Human Rights documented cases illustrating migrant workers treatment in Saudi Arabia.

Ahmed Maher Hafez, an Egyptian national, traveled to Saudi Arabia and worked as a teacher of electric networks. One day, there was an electric fire, which led to his blindness. After his treatment at Ibn-ElMaghraby hospital for 6 months, he had to go back to Egypt without obtaining his financial dues, which reach 543.400 Rial.

Since 1988, Abdel-Samad Muhamed Al-Saeed Shehabel-Deen, an Egyptian national, traveled to Saudi Arabia and worked for the prince, Torky Abdel-Aziz, till 1992. While he was doing his work, the prince stopped giving him his salary, which reached nearly 232.000 Rial, from January 1990 till January 1992. When he requested his financial dues he has been forced to sign a compromise document for allowing him to return to Egypt with a sum of money ten times inferior to his dues (20.000 Rial).

Another case is reported by the St Petersburg Times¹.

Mohammed Sakoor, a Sri Lankan national was promised a monthly salary of 800 Saudi Rials (about \$213) plus free food, housing, medical care and a roundtrip air fare. Upon arrival, it was three months before he got paid. Despite what his contract says, he gets no overtime even if he works 14 or 15 hours a day, seven days a week, as he often does. If he is 5 minutes late, his sponsor will dock him half a day's wages. The promise of medical care is eluded, all anyone gets is a bottle of aspirin. He has to buy his own food, furniture and clothes. The roundtrip air fare was never offered to him.

- **VIOLATION OF THE RIGHT TO FREEDOM OF MOVEMENT WITHOUT DISCRIMINATION (ARTICLE 5.d.i)**

Foreign sponsored employees are subject to significant restrictions on their freedom of movement. They cannot legally leave the country, travel outside the city of their employment, or change jobs without obtaining the written permission of their sponsors. This system goes as far as for the obtention of an exit visa.

Employers often confiscate workers' passports, leaving them subject to arrest as undocumented aliens. Passportless workers are required to pay \$166 to \$220 a year for an Iquama ID, a booklet which costs most workers the equivalent of a month's salary.

¹ St Petersburg Times, July 23rd 2002

- **VIOLATION OF THE RIGHT TO FORM AND JOIN UNIONS
WITHOUT DISCRIMINATION (ARTICLE 5.e.ii)**

Saudi Arabia is one of the countries with the poorest record of respect of the right to form a trade union. Until recently, trade unions were prohibited, thus preventing workers from the possibility to improve their working conditions.

A step forward was taken by Saudi Arabia, which approved regulations on Workers' Councils (which took effect in 2002). However this small improvement is not yet sufficient to meet international labour standards. Workers in Saudi Arabia are now able to defend their rights through committees at the workplace.

Yet, foreign workers are expressly excluded: only Saudi citizens can join labor unions (the condition is to be a Saudi of a minimum of 25 years old, and to have worked for not less than 2 years in a given company).

- **VIOLATION OF THE RIGHT TO SECURITY OF PERSON
WITHOUT DISCRIMINATION (ARTICLE 5.b)**

In Saudi Arabia, many foreign workers have been detained for prolonged periods and ill-treated simply for visa irregularities.

They are often deprived of the right to defence and of the access to their consulate. Moreover, they often remain in detention without knowing the charges laid against them. When arrested, foreign workers may be tricked into signing confessions in Arabic, a language they may not understand.

Such situation confer to their detention an arbitrary character, thus breaching their right to security. Such breach is discriminatory as it is the result of the vulnerability of migrant workers, because of a forced undocumented situation, or of an illiteracy in Arabic.

The following testimony collected by EOHR highlights the vulnerability of foreign workers to arbitrary detention.

Aesha Abdel-Halem Muhamed, an Egyptian national, was a guard over a medical center. Due to her marriage to a Saudi Arabian one, she was nationalized in Saudi Arabia, and lived at El-Kaseem region, El-Baday El-Moutala; El-Mokhattat; El-Gadid. While she was working as guard over the medical center of El-Baday region, her husband divorced her and because she was suspect in a case. She was then condemned to 8 months imprisonment. Although there were many amnesties, as she mentioned, she was detained for 16 months. She was deported to Egypt without taking her financial dues from the medical center and her husband.

- **VIOLATION OF THE RIGHT TO EQUAL TREATMENT
BEFORE THE TRIBUNALS WITHOUT DISCRIMINATION
(ARTICLE 5.a)**

In General Recommendation XX (article 3), the Committee notes that “many of rights and freedoms mentioned in article 5, such as the right to equal treatment before tribunals, are to be enjoyed by all persons living in a given state”.

In Saudi Arabia, foreign people can not enjoy this right to equal treatment before tribunals without discrimination. Indeed, if engineers and other professionals can seek redress in Saudi labor courts, which are generally considered fair, the proceedings are conducted entirely in Arabic.

For unskilled workers, there is no legal recourse. They are forced to rely on their embassies to try to contact the sponsor and resolve the problem.

Attempt to obtain redress through official channels can drag on for months, during which time the sponsor can prevent the employee from leaving the country and the worker will not be paid.

Not very many foreign workers in Saudi Arabia have the courage to use the system to defy their employers. They fear losing their jobs, since if they are on restricted visa, they can not work for anyone else in the country if fired by the current sponsor. Their only solution seems to be to run away.

Some embassies of countries with large domestic servants population maintain “safehouses” to which their citizens may flee to escape work situations. Despite these safe houses, it is common knowledge that runaways are almost always returned to their sponsors.

In December 1998, an Agence France Presse (AFP) report quoted the Saudi Newspaper *Okaḏ* as noting that “*some 200 domestic workers flee their employers and are arrested every months in the Western Saudi city of Jeddah*”. Providing ample evidence of the prevailing attitude, *Okaḏ* observed that this was worrying employers “*who have to pay large commissions to the employment agencies who bring in the expatriate workers*”. An employment agency head quoted in *Okaḏ* than suggested that employers should “*confiscate their workers’ address book to limit their chances of outside contacts*”.

On February 27 2001, the UN Special Rapporteur on the rights of migrants, jointly with the UN Special Rapporteur on Extrajudicial and arbitrary executions, sent an urgent appeal to the Saudi Authorities, on the case of Siti Zaenal binti Duhri Rupa, an Indonesian migrant women, condemned to death penalty for the alleged killing of her employer. Siti Zaenal binti Duhri Rupa would have been judged without legal assistance, nor without the embassy or

her family's lawyer being able to visit her in detention.²

² E/CN.4/2002/94

- **PARTICULAR VULNERABILITY OF MIGRANT WOMEN**

Under the General Recommendation XXV on gender related dimensions of racial discrimination (2000), the Committee notes that certain forms of racial discrimination may be directed toward women specifically because of their gender, such as abuse of women workers in the informal sector or domestic workers.

In Saudi Arabia, migrant women are often subject to forced confinement, in violation of the right to freedom of movement (article 5.d.i). Female domestic workers are often forbidden to ever leave the house in which they work for the entire duration of their stay in Saudi Arabia, thus living in near total isolation.

An article from Time Magazine reported the situation of a Nepalese woman named Kamala Rai³, quoting her diary :

“If I were a bird, I would fly away. But I have no wings. They never let me leave the house”.

The two-year employment contract Kamala signed did not allow her to leave. It says the employee must obey the master without objection and bad feeling and has no right to terminate the contract. On the other hand, the employer could end the agreement if the servant was found “neglecting her duty”.

In addition to being overworked, underpaid, and often held in complete isolation inside the household, female domestic workers are sometimes physically abused and raped by their employers.

Furthermore, it remains extraordinarily rare for a Saudi Sponsor to be criminally prosecuted. In the past few years, the Sri Lankan embassy has referred 10 alleged cases of rape to the police, but nothing came of them⁴. In fact, there are no prosecutions for rape, which represents a violation of women’ right to equal treatment before the tribunals and all other organs administering justice (article 5 a).

- **ON THE JURISDICTION OF THE COMMITTEE**

Although the situation of migrant workers is not new to the members of the Committee, the FIDH wanted to offer a point of clarification on its interpretation of the jurisdiction of the CERD over their situation, such as detailed in this report.

To the FIDH, the jurisdiction of the CERD is to be found in the interpretation given to Article 1.2 within General Recommendation 11. Indeed, in paragraph 2, it affirms that “ *States parties are under the obligation to report fully upon legislation on foreigners and its implementation*”. The Committee therefore recognizes itself jurisdiction over the situation of foreigners in a given country, such as migrant workers.

³ TIME MAGAZINE, Asia Edition, July 20th, 1998

⁴ St PETERSBURG TIMES, article published on July 23rd 2002

Furthermore, in paragraph 3 of recommendation 11, the Committee expressly mentions that “*State must not be detracted from their obligations under other covenants regarding the situation of the rights and freedoms enunciated in other instruments*”.

General Recommendation XX confirms the interpretation given by General Recommendation 11. Indeed, in interpreting the principle of the non-discriminatory application of rights and freedom, contained in Article 5 of ICERD, Paragraph 3 of the GR XX expressly mentions that “*many rights and freedoms*” “*are to be enjoyed by all persons living in a given State*” (we underline).

- **CONCLUSION**

In recent years, the watchword has been “saudization”, the goal of replacing foreign workers with Saudi nationals. Saudi Arabia maintains a population growth rate of over 3.6% and more than half of the population is under the age of 17. A high number of young Saudis enter the job market every day and unemployment is high.

So far, the saudization project has concentrated primarily on expelling several hundred thousands illegal foreign workers. Yet, replacing these workers with Saudi nationals has proven difficult, as employers are unwilling to pay higher wages and the Saudis are not willing to take lower paying jobs in domestic services or construction.

But as long as foreign workers are cheap and unable or unwilling to complain, there will be a demand for them. Their flagrant marginalization remains to be tackled with.

The FIDH and the EOHR therefore recommend the Committee on the Elimination of Racial Discrimination to urge the Saudi Authorities to

- **Condemn the sponsorship practices, and develop programmes to prevent physical abuses, unfair conditions of work, restrictions to the freedom of movement,**
- **Reinforce the information and statistics on foreign workers,**
- **Recognize the right to proper representation for foreign workers and the right to equal treatment at work,**
- **Provide legal assistance to foreign workers, prosecute and condemn all acts of negligence, in respect of international standards governing the right to a fair trial,**
- **Reinforce measures to fight illegal recruitment, without having recourse to deportation,**
- **Develop regular inspections of agencies of foreign recruitment and of workplaces,**
- **Promote the integration of the migrant populations into the Saudi society.**