



Building Towers, Cheating Workers

Exploitation of Migrant Construction Workers in the United Arab Emirates

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Summary and Recommendations

BUILDING TOWERS, CHEATING WORKERS

Dubai, with its glittering new skyline of high-rise buildings and its profusion of luxury resorts and real estate, is the most globally emblematic evidence of the economic rise of the United Arab Emirates (UAE). As the UAE undergoes one of the largest construction booms in the world, at least half a million migrant construction workers are employed there. Behind the glitter and luxury, the experiences of these migrant workers present a much less attractive picture—of wage exploitation, indebtedness to unscrupulous recruiters, and working conditions that are hazardous to the point of being deadly. UAE federal labor law offers a number of protections, but for migrant construction workers these are largely unenforced.

This Human Rights Watch report addresses the abusive conditions faced by migrant construction workers in the UAE, specifically their exploitation by employers, and the UAE federal government's failure adequately to address these abuses. Through interviews with workers, government officials, and foreign embassy representatives, as well as a survey of media reports in news and trade journal publications, we highlight what appears to be the most common concern of the construction workers: extremely low wages, typically withheld by employers for a minimum of two months along with their passports, as "security" to keep the worker from quitting. Having incurred large debts to recruitment agencies in their home countries, paid to finance visa and travel costs, notwithstanding the legal prohibition against charging workers such fees, the workers feel compelled to remain in these jobs, despite the low—and in some cases, more protractedly unpaid—wages.

(continues on page 6)





Workers renovate the Arab quarter of Bastakia.

استثمر في
نفسك

A foreign worker waits for the company's bus service to take him home after his day at work. Behind him is an advertisement for the Jumeirah Beach apartment complex he is helping to build.



استثمر في

السعادة





(above) A hand-painted sign instructs the workers to line-up for the company's bus service which brings them to construction sites.

(opposite) Foreign workers stand in line for the bus that takes them home after a day at work.

Moreover, while engaged in the hazardous work of constructing high-rises, workers face apparently high rates of injury and death with little assurance that their employers will cover their health care needs. A lack of reliable and comprehensive statistics, including the failure to enforce company reporting requirements about deaths and injuries, is indicative of the entirely deficient capacities of the agencies tasked with investigating labor practices. Human Rights Watch learned that 140 government inspectors were responsible for overseeing the labor practices of more than 240,000 businesses employing migrant workers. Of greater concern is that the same deficiency of oversight may mean an absence of appropriate enforcement of health and safety standards, which may directly account for worker deaths and injuries.

Foreigners constitute 95 percent of the workforce in the UAE, and as of 2005, there were 2,738,000 migrant workers in the country. The roughly 20 percent of migrant workers who are employed in construction are



overwhelmingly men from South Asia, many of them illiterate and from impoverished rural communities.

UAE federal labor law provisions apply to both UAE nationals and migrant workers. But the federal government of the UAE has abdicated almost entirely from its responsibility to protect workers' rights by investigating, prosecuting and remedying abusive and unlawful conduct by employers towards the construction workers. It has failed to enforce UAE law that since 1980 has required the government to implement a minimum wage, evidently choosing to uphold the interests of generally powerful and extremely profitable construction companies over the most basic rights of the migrant worker, who on average receives the equivalent of US\$175 a month for his labor on a construction site. This stands in stark contrast to the average per capita income in the UAE of \$2,106 a month.

Moreover, the government has refused to allow workers to organize trade unions and to bargain collectively with their employers (a deficit compounded by official obstruc-

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tiveness toward development of a civil society sector that could monitor and bring to light human rights abuses, including abuses against workers). In March 2006, the Ministry of Labor announced that it will institute a law allowing trade unions and collective bargaining by the end of 2006, but as of early October the government has not published any details of this law or of proposed



mechanisms for its implementation. Instead, in September the Ministry of Labor issued a resolution banning striking migrant workers from further employment in the country for at least one year (the government had deported workers suspected of organizing strikes on several occasions prior to this resolution).

The plight of migrant construction workers begins in their home countries, where they pay local recruitment agencies exorbitant fees (in the range of \$2,000-\$3,000) to arrange for their employment contract, obtain an employment visa for the UAE, and purchase their air travel. Typically, they take loans, either directly from the recruitment agents or from a third party, to pay for these fees. Coming up with the monthly repayment becomes the prime focus of the workers, who devote most of their pay during their first two years of employment to servicing the loans. When construction firms immediately withhold a worker's first two months of wages—which is apparently so common that it is said to be a “custom”—the worker almost

(above) Foreign workers share a meal in their dormitory. These men are out of work, having been abandoned by their employer who left the country.

(opposite) Housing is provided to foreign workers in an area known as Labor Camp.





(above) Foreign tourists relax on the beach of a five-star hotel in Jumeirah Beach. Behind them skyscraper apartment towers are being built.

(opposite) Prefabricated housing is provided to foreign workers in an area known as Labor Camp.

immediately falls into arrears on his debt, and additional charges start to accrue. Workers continue in their jobs even when faced with employers who fail to pay wages for much longer periods of time; the only practical alternative open to them is to quit their jobs and return home, debts unpaid.

All of the construction workers interviewed for this report said that their employers confiscated their passports upon their arrival in the UAE, also commonly known to be a “custom” of employers in the UAE to protect against their migrant workers’ absconding. Although UAE courts have ruled that employer confiscation of passports is illegal, employers continue the practice totally unfettered by any concern that the government will enforce the law.

At the same time, construction workers face some of the most hazardous working conditions in the country. The extent of death and injury of migrant construction workers is one of the most troubling, if poorly documented,



aspects of the construction sector in the UAE, with government and private sources diverging as to the numbers involved. According to government figures available for Dubai, 34 construction workers died at their work sites in 2004, and 39 in 2005, but based on figures from an independent investigation by a local trade publication, it appears that in 2004 the number of work-site deaths of Indian workers alone was certainly higher than the 34 recorded for all nationalities in Dubai. The low number of construction companies complying with the legal requirement to report cases of workplace death and injury to the government is strongly suggestive of a cover up of their true extent by the construction sector, an allegation made in a number of media reports.

In most other places, a worker faced with hazardous working conditions and unpaid wages, in a free market economy that has an extreme shortage of labor, would move to a different job. But this is not an option for the

migrant construction workers of the UAE, who like all other migrant workers in the country are contracted to work only for a specific employer. A worker seeking to move to a different employer is eligible to do so only after working for two years for the present employer and obtaining his or her consent to the move.

In each aspect of the troubled working conditions faced by construction workers in the UAE, the federal government has done little or nothing. It has failed to create adequate mechanisms to investigate, prosecute, penalize, or remedy breaches of its own laws. For example, having made a point of passing a law that bans both local recruitment agencies and local employers from charging workers any fee in connection with the recruitment or employment process, it has made little effort to punish recruiting agents who persist in making these charges, or the employers who are complicit, nor has it acted against the circumvention of the law by UAE employers and



While aggrieved workers are entitled to seek a hearing before the Ministry of Labor, which arbitrates disputes and refers unresolved cases to the judiciary, the availability of arbitration remains a limited option.

recruitment agents who “outsource” charging workers fees to recruitment agents located in source countries. The federal government’s efforts to counter employers’ withholding of wages has been sporadic, at best.

While aggrieved workers are entitled to seek a hearing before the Ministry of Labor, which arbitrates disputes and refers unresolved cases to the judiciary, the availability of arbitration remains a limited option. Government officials,

including the minister of labor, have themselves criticized the arbitration process as inadequate and in need of urgent reform. Some of the ministry’s arbitrators have been accused of protecting the interests of construction businesses instead of implementing the provisions of the labor law in a just and fair manner. The ministry apparently keeps no comprehensive information (including statistics) about the cases it arbitrates.

Recourse to the judiciary has also proved to be of limited use to workers. In theory, UAE labor law provides penalties for any violation of its provisions, including non-payment of wages, but Human Rights Watch has not been able to document a single instance where an employer was sanctioned, either by prison time or financial penalties, for failing to pay its workers. Even workers who have succeeded in obtaining judgments against their employers have been unable to enforce them to recover their wages, much less succeed in seeing the employer punished with fines or imprisonment.



Individual emirate governments have made some attempts to address the problems faced by migrant workers on their territory. Following a spike in labor unrest in the previous two years, in 2005 the Dubai government established two agencies, the Permanent Committee for Labor Affairs (PCLA) and a human rights department in the Dubai Police, to arbitrate disputes between workers and their employers. Since their inception, they have handled tens of thousands of cases of labor disputes and have played an important role in collecting unpaid wages. More recently, the government of Abu Dhabi passed a law requiring all companies to provide private medical health insurance for their employees. But such ad hoc remedies are not the proper substitute for remedies applied by federal agencies, with countrywide application.

The federal government needs to take the lead in tackling problems faced by migrant construction workers. It should immediately initiate an independent inquiry into the

(above) A foreign worker uses a public telephone to call his family.

(opposite) One man sleeps on the floor in a dormitory where workers share a small room.

abuses they experience. It should prohibit UAE companies from doing business with recruitment agencies that flout the ban on charging fees to workers. It should vigorously prosecute violations of UAE labor law, imposing meaningful penalties, and should enforce the labor law's minimum wage provision. It should improve data collection about migrant workers, and substantially increase labor inspection capacity. The UAE government should also ratify international instruments protecting workers' and migrant workers' rights.

Foreign governments have a role to play in ensuring respect for the rights of migrant construction workers in the UAE. The economies of source countries benefit tremendously from the remittances of expatriate workers in the UAE; their governments have a great interest in ensuring that the workers are compensated and treated fairly. They need to clamp down on local recruitment agents who charge workers fees in connection with their employment in the UAE, and they should prohibit the charging of such fees entirely. Their embassies in the UAE should also make proactive efforts to address the needs of their expatriate citizens, providing them with advice and assistance should they encounter difficulties with employers.

The United States, the European Union and Australia also have an important opportunity to urge the UAE to address its failure to protect workers' rights, as they negotiate free trade agreements (FTAs) with the UAE. At a minimum, they should condition any agreement on labor law reform in the UAE that explicitly allows workers to form trade unions and to bargain collectively with their employers, and establishes sufficient protections to adequately safeguard these rights. They should also establish as a precondition for any FTA that the UAE adopt the measures necessary to effectively enforce UAE labor law, including by substantially increasing the number of labor inspectors, and demonstrate the efficacy of these measures with specific data on government labor law enforcement activity.

¹ The UAE is a federation of seven emirates: Abu Dhabi, Ajman, Al Fujayrah, Dubai, Ra's al Khaymah, Sharjah, and Umm al Qaywayn.





In front of the beach apartment complex they are helping to build, foreign workers wait for the bus that will take them home.

Recommendations

To the Government of the United Arab Emirates

1 Establish an independent commission to investigate and publicly report on the situation of migrant workers in the country.

The government of the UAE should directly confront and seek to address the abuse of migrant construction workers in the country. As there is limited official information available on their extent, the government should immediately initiate an independent inquiry into these abuses by establishing an independent commission.

The commission should investigate the federal government's failure to enforce the protective provisions of the current legal framework. As part of its mandate, the commission should be empowered to have unfettered access to government records on worker disputes; to hold public hearings; and to collect testimonies from migrant workers and their advocates as well as from regional and international nongovernmental organizations with expertise on migrant workers' issues and rights.

The commission should be required by law to complete its inquiry within a defined period of time, and make its findings and recommendations public.

2 Prohibit companies from doing business with recruitment agencies, in the UAE and abroad, that charge workers fees for travel, visas, employment contracts, or anything else. Prosecute and implement significant penalties for employers and recruiting agencies that violate the law.

UAE law prohibits local construction companies and recruitment agencies from charging migrant workers any fees in connection with their employment in the UAE. However, the government appears to be doing little to prosecute the commonplace violation of this law by recruiting agencies and employers whereby recruiting agencies (or proxy agencies in source countries) charge workers the fees, from which employers are reimbursed whatever fees they have paid for the record. The government must take affirmative steps to prosecute the widescale violation of this law, impose substantial fines on employers and recruiting agencies found guilty, and should require construction companies to reimburse employees who are found to have paid fees to the recruiting agent arranging their employment. Furthermore, UAE law should be amended to ban construction companies from recruiting through agencies in source countries that require workers to pay fees. Finally, the UAE government should work with the governments of the source countries to prosecute and prohibit local recruiting agencies who engage in this practice.

3 Aggressively investigate and prosecute employers who violate other provisions of the UAE labor law. Impose meaningful and consequential penalties on companies that violate workers' rights, to put an end to the present atmosphere of impunity.

As documented in this report, construction companies routinely withhold wages from employees, and confiscate their passports. Construction companies continue to violate the law because they have not been held responsible in any meaningful way by the government. The government should ensure that government investigators and prosecutors are adequately staffed and trained to prosecute these violations of the law. It should impose substantial penalties on companies found to violate the law; this should have the important effect of deterring other companies from further violations.

In cases in which employers flee or refuse to pay penalties imposed for violating workers' rights, the government should liquidate the employers' bank guarantees (posted as part of the application to sponsor migrant workers) to enforce the judgments on behalf of the affected workers. UAE labor law should be amended to explicitly require the liquidation of employers' bank guarantees in such cases.

4 Provide quantitative and qualitative data on labor disputes, deaths and injuries at construction sites, and government actions to address these issues.

The extent of violations against migrant construction workers is difficult to quantify because data and government transparency are lacking. The government should publicly report the number of labor disputes and how they are resolved, and collect and publicly disclose comprehensive data, information, and statistics on numbers and causes of deaths and injuries in the construction sector. This data should include information on what happens to injured workers, how many are sent home, and how they are compensated by their employers. UAE labor law should be amended to mandate such data collection and public reporting.

- 5 Increase substantially the number of inspectors responsible for overseeing the private sector's treatment of migrant construction workers. Ensure that they carry out their duties to inspect construction sites to verify that they are safe and meet the requirements of law.**

The current number of government inspectors overseeing the construction sector is inadequate. The government should increase the number of inspectors substantially in order to strengthen its ability to oversee construction companies and to compel them to abide by UAE law. The government recently announced that it plans to increase the number of inspectors to 1,000 within the next 18 months. It should make sure that this plan is instituted and that it will result in efficient implementation of the labor law. The government should also ensure that the inspectors are able to communicate with workers in the language of their home countries.

- 6 Take immediate action to inform and educate migrant construction workers arriving for employment in the UAE of their rights under UAE law.**

The majority of migrant construction workers are illiterate and unaware of their rights in the UAE. Upon arrival in the UAE, the government should provide them with information about their rights, both verbally and in writing and in a language they can understand, and how to seek redress in cases where their rights are violated.

- 7 Abide by the obligation under the UAE labor law of 1980 to implement a minimum wage.**

The government should immediately institute a reasonable minimum wage.

- 8 Allow for the establishment of genuine and independent human rights and workers' rights organizations.**

The lack of a broad civil society sector in the UAE is a major impediment to bringing to light the true extent of abuses. The official climate is obstructive toward civil society organizations (for example, without explanation the government has withheld permits from two out of three human rights organizations that have requested them, and the government has repeatedly threatened with prosecution a women's rights group that is operating a shelter for abused women in Dubai). The government should permit the establishment of nongovernmental organizations that can routinely monitor the human rights conditions in the country, report and document abuses, and provide advocacy on behalf of migrant workers.

- 9 Ratify the International Labour Organization's Conventions No. 87 and No. 98 on freedom of association and collective bargaining, and amend UAE labor law to incorporate the conventions' protections.**

UAE law does not contain any provisions on trade unions and collective bargaining. It explicitly prohibits labor strikes. As long as workers are deprived of their rights to have trade union representation and collective bargaining, and their derivative right to strike, their ability to counter the violations committed by their employers is significantly limited. UAE labor law should be amended to comply with international standards and explicitly protect workers' right to organize and bargain collectively; the ban on labor strikes should be repealed. The law should provide for the formation of independent unions free from employer and government interference. The unions should be empowered to represent workers effectively and efficiently and allowed to draw up their rules, elect their representatives, and operate in full freedom. All workers, regardless of their citizenship, should have the right to join trade unions and be allowed to participate fully and have active representation and voting rights.

- 10 Ratify the International Labour Organization's Convention No. 155 on occupational safety and health.**

In light of serious concerns for workers health and safety and the government's lack of comprehensive data, the government should ratify this convention and ensure that international standards with regard to workers health and safety are in place.

- 11 Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.**

The UAE is a country where migrant workers constitute the majority of residents. The UAE should ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and amend UAE labor law to incorporate the convention's provisions, to ensure that the migrant workers rights are protected according to international standards.

To the Governments of India, Pakistan, Bangladesh, and Sri Lanka

- 1 Enhance labor departments of your embassies and consulates in the UAE to assist migrant construction workers from your country whose rights are violated by their employers.**

Lack of civil society organizations, unions, and labor advocacy groups in the UAE means that migrant construction workers do not have access to any institutional resources when their rights are violated and are unable to self-organize to address the abuses. The embassies and consulates of the workers' home countries should step in to fill this void. They should provide their nationals with guidance, translators, and legal assistance to pursue their complaints with UAE authorities.

- 2 Raise formally with your counterparts in the UAE the importance of the UAE government's establishing an independent commission to investigate and report on labor-related abuses of migrant construction workers.**

The UAE economy in general, and the construction sector in particular, is highly dependent on migrant workers. The economies of sending countries are also benefiting greatly from the migrant workers' remittances home. The UAE and sending country governments should work cooperatively to ensure that mutual economic benefits are accompanied by improvements in workers' rights.

- 3 Urge the UAE's Ministry of Labor to fully implement its labor laws and to hold violators fully accountable under its laws.**
- 4 Request immediate and full disclosure of causes of death when your country's citizens suffer fatal injuries, and regular reports of all workplace injuries suffered by your citizens.**

To the Governments of the United States, the European Union, and Australia

- 1 Condition the ratification of free trade agreements with the government of the UAE on improved protection for workers' rights. In particular, insist that prior to adoption of the accords, the UAE reform its labor laws to bring them into compliance with international workers' rights standards, including by explicitly and fully protecting workers' right to organize, bargain collectively, and strike. Further require that, before ratification of the agreements, the UAE also take the steps necessary to effectively enforce its labor laws, including by adopting a minimum wage provision and following the other recommendations for improved enforcement set forth above.**
- 2 Include in free trade agreements with the government of the UAE strong, binding, and enforceable workers' rights provisions that require that parties' labor laws conform with international standards and that the parties effectively enforce those labor laws.**

III. Methodology

Human Rights Watch conducted research for this report in the UAE in February 2006, interviewing at length 60 construction workers in the emirates of Dubai, Sharjah, and 'Ajman. These workers detailed experiences ranging from how they were recruited in their home countries to their working and living conditions in the UAE.

Human Rights Watch also interviewed government officials, lawyers, journalists, health professionals, and foreign diplomats knowledgeable about the situation of migrant workers. Our researchers also met with employers, and visited the Labor Ministry (to see where workers lodge their official complaints), various construction sites, hospital wards, and labor camps where construction workers are housed.

Because of the general lack of institutions of civil society and nongovernmental organizations in the UAE, no comprehensive reports based on field work are available on the situation of migrant workers in the UAE, except for a few academic dissertations on the topic.² As a result, Human Rights Watch researchers did not have any access to local organizations that have systematically researched and documented the conditions of migrant workers or advocated on their behalf. To gain a more rounded picture of labor issues, Human Rights Watch interviewed 47 unskilled migrant workers working outside of the construction sector. Although their testimonies are not included in this report, their accounts confirmed that the exploitation of migrant workers is not limited to construction workers, and indicate that further research into the conditions of all migrant workers in the UAE is required. Given the finite period and the limited scope of this research by Human Rights Watch, we believe our findings cover only a small portion of the exploitation of migrant workers in the UAE.

During our research in the UAE, we encountered a general atmosphere of fear among all migrant workers whom we interviewed. All of them asked that their full name not

² See, for example, Zina Al-Askari, "Labour Relations and Reform in the UAE: The Case of Migrant Construction Workers," MSc dissertation, University of London, September 2005.

be used because the government could easily deport them. They also expressed fear that their employers might punish them because of their testimonies. Where last names of interviewees do not appear, they have been withheld upon interviewees' request.

Note on Terminology: The term “migrant worker,” according to international law, refers to a person who is engaged “in remunerated activity in a State of which he or she is not a national.”³ Accordingly, Human Rights Watch considers foreign nationals who live and work in the UAE under term-limited contracts, for a specific employer, as migrant workers.

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families explicitly states that “seasonal worker,” “project-tied worker,” and “specified-employment worker,” who earn remuneration as a result of their activity in a State where they are not a national, are all considered migrant workers.⁴ Although the UAE is not a party to the Convention, this is an authoritative source of international law on the definition of “migrant worker.”

In a letter to Human Rights Watch of September 28, 2006, the government of the UAE argued that “workers hosted by the UAE and other [Gulf Cooperation Council] countries cannot be considered migrant workers, as they work on a temporary basis and according to fix-term employment contracts... Therefore, the immigration laws applicable in the western countries cannot be applied to these workers.”⁵

This report documents abuses against migrant construction workers in the UAE based on violations of international law as well as UAE law. Immigration laws of Western countries have no bearings on the findings and recommendations of this report.

³ International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Migrant Workers Convention), adopted December 18, 1990, G.A. Res. 45/158, annex, 45 U.N. GAOR Supp. (No. 49A) at 262, U.N. Doc. A/45/49 (1990), entered into force July 1, 2003, art. 2.1.

⁴ Ibid., art. 2.2.

⁵ Letter from Ambassador Abdulaziz Nasser Al-Shamsi, permanent representative of the UAE to the United Nations, to Human Rights Watch, September 28, 2006.

IV. Migrant Construction Workers in the United Arab Emirates

Within the UAE's resident population of 4,100,000, only 20 percent are citizens.⁶ The vast majority of the rest are migrant workers and their families: as of 2005, there were 2,738,000 migrant workers in the UAE, who make up 95 percent of the UAE workforce in the private sector.⁷ The UAE's economy is entirely dependent on foreign workers.

Migrant workers employed in the private sector in the UAE are sponsored by UAE citizens under employment contracts for one to three years, subject to renewal. Once a migrant worker's work permit expires, if not renewed, the worker (and any accompanying family members) must leave the country, regardless of how many years he or she has resided in the UAE.

The UAE economy, traditionally fueled by the oil sector, has developed more broadly during the past five years. In 2005, crude oil production accounted for 35.4 percent of Gross Domestic Product (GDP), growing 2.1 percent as compared to the previous year,⁸ while other sectors grew in the same period at a remarkable rate of 11 percent. The growth of the economy is closely tied to labor-intensive sectors: in 2005 wholesale and retail trade and the restaurant and hotel businesses grew by 15 percent; the manufacturing sector by 13.9 percent; and finance, insurance, and the real estate sectors each by 12 percent.⁹ Economic success has generated much interest in the UAE, leading to increasing levels of international investment, and the country has emerged as a major Middle East trading and investment hub. Former U.S. president Bill Clinton recently said, "Dubai is a role model of what could be achieved

⁶ "Four Million People Live in the UAE," *Emirates Today* (Dubai), July 31, 2006.

⁷ Diaa Hadid, "Figures Rise in expats," *Gulf News*, May 1, 2006. Also see Background Note: United Arab Emirates, U.S. Department of State, <http://www.state.gov/r/pa/ei/bgn/5444.htm> (accessed May 25, 2006).

⁸ United Arab Emirates: Statistical Appendix, IMF Country Report No. 06/256, July 2006.

⁹ *Ibid.*

despite the other negative developments in the region. Look at Dubai, which has achieved enormous growth in such a short period of time.”¹⁰

The construction boom in the UAE, particularly in the emirate of Dubai, is one of the leading sectors of economic growth in the country (growing 10 percent in 2005), and is among the biggest and fastest growing construction markets in the world. The growth in construction has fueled the growth of the UAE economy, contributing 8 percent to the country’s overall GDP and 11 percent of the non-oil-related GDP in 2005.¹¹ According to a study by the Dubai government, “Dubai construction sector[s] absolute contribution to the GDP is on an upswing, achieving an increase of 23 percent during the period 2000-2004, and an annual growth rate of 5 percent.”¹² The types of construction projects completed in 2004 included 1,436 villas, 393 commercial buildings, and 290 industrial, entertainment, and service buildings.¹³ A prominent feature of the construction activity in Dubai is the construction of large-scale projects, such as the Emaar Marina Complex, which comprises 190 new residential high-rises and the world’s tallest tower, Burj Dubai.¹⁴

As of 2004, there were over 500,000 migrant construction workers in the country, and Human Rights Watch estimates that in 2005 the number of migrant construction workers reached at least 600,000.¹⁵ With much of the construction activity concentrated in Dubai, in 2005 there were 304,983 workers employed in that emirate’s construction sector alone.¹⁶ Of the total 5,938 construction companies operating in Dubai in 2005,¹⁷ the vast majority (76 percent) were small companies

¹⁰ Anil Bhoyrul, “Clinton Leads Dubai Praise,” *Arabian Business* (Dubai), December 4, 2005. <http://www.itp.net/business/news/details.php?id=18919&category=arabianbusiness> (accessed May 20, 2006).

¹¹ United Arab Emirates: Statistical Appendix, IMF Country Report No. 06/256, July 2006.

¹² Belaid Rettab and Bader Aldeen Ali Bakheet, “Dubai Construction Sector,” Data Management and Research department, Dubai Chamber of Commerce and Industry, 2005, <http://www.dcci.ae/content/doc/ResearchAndReports/Sectoral/Dubai-Construction-Sector-eng.pdf> (accessed June 15, 2006).

¹³ Ibid.

¹⁴ Ibid.

¹⁵ According to the Ministry of Economy, Planning Sector, there were 512,495 construction workers employed in the UAE, see http://www.uae.gov.ae/mop/UAE_figures/UAE_%2004_files/sheet010.htm (accessed May 31, 2006). According to the Ministry of Labor, as quoted in Gulf News, May 1, 2006, the number of migrant workers increased by 17 per cent in 2005, compared to 2004.

¹⁶ Rettab and Bakheet, “Dubai Construction Sector.”

¹⁷ Ibid.

employing fewer than 20 workers.¹⁸ Although no statistics are available on the breakdown of the workers by their countries of origin, according to available information the majority of migrant construction workers in the UAE come from India, Pakistan, Bangladesh, and Sri Lanka.¹⁹

Source country embassies confirmed that migrant workers employed in the construction sector are all male, that most of them are recruited from rural areas in their home countries, and are typically illiterate. The construction workers interviewed for this report were all male, illiterate, and their ages ranged between 18 and 60 years old. They had paid fees in a range of \$2,000-\$3,000 to local recruitment agencies in their home countries to obtain employment sponsorship in the UAE. Typically, migrant construction workers enter into employment contracts for a period of one to three years, subject to renewal, at a monthly wage ranging from \$106 to \$250; on average a migrant construction worker earns \$175 a month (the average per capita income in the UAE is \$2,106 a month).²⁰

Upon arrival in the UAE, many aspects of the migrant construction workers' lives are closely tied to their employer. Employers house construction workers in dormitory-style dwellings on the outskirts of urban areas (commonly known as labor camps), and employers usually provide their workers with food or food subsidies (of the men interviewed by Human Rights Watch, some reported that their employer provided them with access to food canteens, while others said they had a food allowance and purchased and prepared their own meals). Construction companies also are obliged under the law to provide emergency health care for their workers, either by providing direct medical care by having doctors on staff, or giving the workers a health card that permits them to use government-owned hospitals.

During visits to the two largest labor camps in Dubai, Al Quoz and Sonapar, Human Rights Watch researchers visited six establishments housing construction workers. A typical dwelling was a small room (12 feet by 9 feet) in which as many as eight workers

¹⁸ Ibid.

¹⁹ All of the 60 migrant construction workers whom Human Rights Watch interviewed for this report came from these four countries.

²⁰ "Oil boom lifts UAE per capita income above Dh91,000," *Gulf News* (Dubai), May 13, 2005, <http://archive.gulfnews.com/articles/05/05/13/164713.html> (accessed October 3, 2006).

lived together. Three or four double bunk beds represented the only furniture in each room. The workers used communal bathrooms and showers outside their rooms.

Visibility of Migrant Worker Grievances

Over the past two years, the UAE media has focused significant attention on the grievances of construction workers. Hardly a day passes when a tale of abuse and exploitation of migrant workers in general and construction workers in particular does not surface in the UAE. A sampling of news items produces headlines such as “Captive workers escape from housing compound,” “Construction worker dies – third in fortnight,” “Workers protest to get dues of over nine years,” or “Abandoned workers fear their plight will be ignored.”²¹

Beyond the press, however, a general lack of civil society actors (particularly nongovernmental organizations) in the UAE mean that there are no private actors to fill the void of absent government protection and union championing of migrant workers’ rights in the country (the ban on workers’ organizing is discussed below in the section “Absence of trade unions and collective bargaining”). There are no independent organizations to monitor the construction sector—or any other labor sector—to report and document abuses systematically, and to advocate for migrant workers’ rights. This has produced a situation where the government and the business sector are the sole entities deciding on labor-related issues.

Worker grievances have spilled into public protests, otherwise almost entirely unheard of in the country. Charges of exploitation of construction workers have led to a number of demonstrations, strikes, and most recently rioting by thousands of construction workers. According to government statistics, between May and December 2005 at least eight major strikes took place.²² In September 2005, nearly a thousand construction workers blocked a major highway in Dubai demanding their

²¹ Sunita Menon, “Captive workers escape from housing compound,” *Gulf News*, March 27, 2006; “Construction worker dies – third in fortnight,” *7Days* (Dubai), February 14, 2006; Wael Yousef, “Workers protest to get dues of over nine years,” *Khaleej Times* (Dubai), February 8, 2006; Diaa Hadid, “Abandoned workers fear their plight will be ignored,” *Gulf News*, March 27, 2006.

²² Human Rights Watch interview with Lt. Col. Rashid Bakhit Al Jumairi, February 21, 2006.

unpaid wages (see below).²³ On March 21, 2006, thousands of construction workers rioted in Dubai, asking for better working conditions and better wages.²⁴ In one of the biggest demonstrations in the country this year, on May 16, 2006, thousands of construction workers working for Besix, a Brussels-based company, went on strike for better wages (their wage was \$4 a day) and better working conditions.²⁵

²³ “Workers block Sheikh Zayed Road; Firm told to pay in 24 hours,” *Gulf News*, September 20, 2005.

²⁴ Hassan M. Fattah, “In Dubai, an outcry from Asians for workplace rights,” *The New York Times*, March 26, 2006.

²⁵ Angela Giuffrida and Conrad Egbert, “Was the Besix strike the tipping point for UAE labor?” *Construction Week* (Dubai), May 27, 2006.

V. Exploitation of Migrant Construction Workers

The Recruitment Process

The recruitment of migrant construction workers begins in their home countries. Various, local recruitment companies in the source countries, working on behalf of UAE-based companies, advertise for and enlist workers for jobs in the UAE;²⁶ construction companies dispatch recruitment scouts directly to source countries to work with local recruitment companies;²⁷ or construction companies rely on UAE-based recruitment companies that act as intermediaries between UAE employers and recruitment agencies in the source countries.²⁸

There are also companies in the UAE that import migrant workers for the sole purpose of subcontracting them to other employers, including construction companies, for long- or short-term jobs.²⁹ They are known as “manpower supply agencies.”

The UAE’s Labor Law No. 8 of 1980 (the federal law regulating labor relations throughout the country—see the section “UAE Labor Law,” above) permits only UAE nationals who are licensed by the Ministry of Labor to sponsor migrant workers. This applies to employers who directly recruit migrant workers as well as to those companies who act as intermediaries in the recruitment process.³⁰

Under the UAE Labor Law, employers must pay certain fees to the government for each foreign worker they recruit into the country. These fees include an employment visa request fee of 200 dirhams (AED)(\$55) and an employment visa issuance fee of

²⁶ Interview with manager of a construction company in Dubai who wished to remain anonymous, May 8, 2006.

²⁷ Ibid.

²⁸ Interview with recruitment agents, Dubai, September 5, 2006.

²⁹ Human Rights Watch interview with Abdulla Saeed Saif Bin Suloom Alfalasi, head of the Work Permit Department in the Ministry of Labor, Dubai, February 22, 2006.

³⁰ Federal Law No. 8 for 1980, On Regulation of Labor Relations, <http://www.mol.gov.ae/Pages-EN/documents-en/rule-labour.HTML> (accessed August 11, 2006), art. 17. Ministerial order No. 57 (an addendum to Law No. 8) states, in article 2, “In order to be granted permission for mediation in the recruitment and supply of labor from abroad, the following pre-conditions must be met: 1. The applicant must be a U.A.E. National...”

1,000 AED (\$273).³¹ In addition, employers must provide an airline ticket to migrant workers to travel from their home countries to the UAE.

UAE law explicitly forbids UAE recruiters from collecting any fees from prospective migrant workers.³² However, UAE recruitment agents appear to openly flout this law, charging workers these fees instead of requiring the prospective employer to bear the cost. Our researchers talked to five recruitment agencies in the UAE regarding the recruitment of construction workers. Four of these five agencies confirmed that they expect workers to pay for the visa and travel fees that UAE law requires only employers to pay. One recruiter told our researcher that prospective “candidates [migrant workers] will bear the visa and travel costs. We will collect these fees from candidates and pay it to construction companies who apply for their visa. It is of course illegal and I can’t put it on a written contract; it is done in cash. We do it all the time.”³³ According to another recruitment agency in Dubai, “We [the agency] will take care of transportation, advertisement, and other costs. We can charge the candidates. People who are candidates will cover all the costs including visa fees and air tickets.”³⁴ A third agent said, “I can provide a company with ten, hundred, or even a thousand workers. We will interview and select them in India and Pakistan. For unskilled workers, we don’t charge the employers anything. The candidates will pay for visa and transportation costs.”³⁵

³¹ Council of Ministers Resolution No. 7 for 2002, Regarding Consolidation of Fees and Penalties Administered by the Ministry of Labor and Social Affairs, <http://www.mol.gov.ae/Pages-EN/documents-en/FeesAndFines.htm#A> (accessed August 8, 2006), art. 1.

³² Ministerial order No. (57) states, in art. 2, “In order to be granted permission for mediation in the recruitment and supply of labor from abroad, the following pre-conditions must be met:... 2. The applicant shall submit an undertaking to the ministry to the effect that it shall not get any commission or remuneration from the labor in consideration of their recruitment whether before or after the acceptance of such labor to work.”

Federal Law No. 8 For 1980, On Regulation of Labor Relations, <http://www.mol.gov.ae/Pages-EN/documents-en/rule-labour.HTML> (accessed August 30, 2006) art. 18 states: “No licensed employment agent or labour supplier shall demand or accept from any worker, whether before or after the latter’s admission to employment, any commission or material reward in return for employment, or charge him for any expenses thereby incurred, except as may be prescribed or approved by the Ministry of Labour and Social Affairs.”

³³ Telephone Interview with recruitment agency official, identity withheld, Dubai, September 5, 2006.

³⁴ Telephone Interview with recruitment agency official, identity withheld, Dubai, September 6, 2006.

³⁵ Telephone interview with head of a labor supply company, identity withheld, Dubai, September 6, 2006.

Workers Human Rights Watch interviewed confirmed the same facts: every single construction worker interviewed said he had been required to pay up-front travel and visa fees to his recruiting agent.

Nataranjan works for a construction and landscaping company in Dubai. He is from the state of Kerala in India. Human Rights Watch interviewed him and 19 other Indian workers who are employed by the same company. Nataranjan said,

I paid 100,000 Indian rupees (\$2,200) to an agency in India to get a visa to come here and work. Each of us owes a lot of money to recruiting agents back home.³⁶

Sattar is a construction worker from India who also described the same recruitment process:

I am 42 years [old] and come from Rajasthan in India. I am married with three children. In 2003, I saw a posting by an agency advertising jobs in Dubai. I paid a recruitment agency in India 80,000 Indian rupees (\$1,788). This money covered my visa fee, airline ticket, and medical fees. I borrowed the money from friends and family.³⁷

Construction workers recruited from Pakistan also told Human Rights Watch of paying up-front “visa fees.” Ali, who works for Al Hamed Development and Construction Company, said that he had been working in the UAE for the past five years: “I paid an agency in Pakistan 150,000 Pakistani rupees (\$2,500) to get the visa to come here. I borrowed the money from friends and family. It took me two years to pay it back.”³⁸

Some workers who cannot raise money for the visa fees by borrowing from friends and family or selling land resort to taking loans from recruiting agencies with exorbitant

³⁶ Human Rights Watch interview with Nataranjan, Dubai, February 19, 2006.

³⁷ Human Rights Watch interview with Sattar, Dubai, February 24, 2006.

³⁸ Human Rights Watch telephone interview with Ali, Abu Dhabi, April 3, 2006.

monthly interest rates. Three construction workers from Bangladesh recounted to us how they each took a loan in the amount of 150,000 Bangladeshi taka (\$2,210) from a local agency to obtain their visas. They said they paid 11 percent monthly interest on their loans.³⁹ Nandi, an Indian construction worker living in Al Quoz labor camp on the outskirts of Dubai city, said that he had taken a loan from an agent in India for 85,000 rupees (\$1,880) and is paying 10 percent monthly interest.⁴⁰

The wrongful levying of fees from workers does not necessarily stop once recruitment has been accomplished. A Pakistani worker in Dubai, Ali, told Human Rights Watch, “The company [his employer] deducts fees from my salary for expenses that the company is supposed to cover under the law. I have to pay 900 AED (\$245) to renew my visa. The company takes this out of my salary in increments. Also, every three years, 500 AED (\$136) is deducted for renewal of my work permit card. The health card costs 300 AED (\$82) and the company takes this from my salary every year.”⁴¹

Unpaid Wages

The most common complaint from construction workers in the UAE, which also appears to form the basis of the vast majority of labor disputes reviewed by the Ministry of Labor and the Dubai labor agencies (see below, “Government Mechanisms Addressing Labor Disputes”), is the withholding of wages by employers. All 60 of the workers interviewed by Human Rights Watch said that their employers routinely withheld their wages, and many of the workers we spoke to were owed back wages at the time of the interview. The impact on workers whose wages are withheld for even one month is very serious: they immediately fall into arrears on the debt they owe recruiting agencies in their home countries; they incur additional interest; and they are unable to send money home to their families, who depend on the income earned in the UAE. In some cases, the non-payment of wages means that workers do not have money to buy food or basic goods and end up borrowing money just to survive.

³⁹ Human Rights Watch interview with workers of Al Biladi Construction Company, Dubai, February 20, 2006.

⁴⁰ Human Rights Watch interview with Nandi, Al Quoz labor camp, February 22, 2006.

⁴¹ Human Rights Watch telephone interview with Ali, Abu Dhabi, April 3, 2006.

Withholding one-and-a-half or two months' wages as "security" to prevent workers from "running away" to a better job appears to be accepted as a "custom" among construction companies in the UAE.⁴² When workers protest or complain about withheld wages, their complaint is not based on this "customary" withholding, but about wages withheld beyond that period. Of course, there is no basis in law for either practice; indeed, to withhold wages violates UAE law requiring employers to pay workers in a timely fashion and keep verifiable records.⁴³ Construction business officials and workers have explained that construction companies withhold wages beyond the two-month "security withholding" when they run into cash flow problems, although that explanation may not be uniformly credible, particularly in the context of Dubai's booming construction sector.⁴⁴

The non-payment of wages has been the subject of a number of public protests by construction workers. On September 19, 2005, workers of Al Hamed Development and Construction staged one of the largest public protests in the UAE. Al Hamed Development and Construction is "one of the leading local construction companies in the United Arab Emirates," which, according to the company's website, "has achieved throughout the past seven and a half years a growth that has never been achieved in the construction business industry locally[,] regionally[,] or even

⁴² Following a recent protest by hundreds of unpaid workers for a Sharjah-based company, a company official was quoted in the local media as saying "We only hold back salary for 45 days as surety in case of runaways." See Mahmoud Saberi, "Hundreds Protest Over Non-payment of Wages," *Gulf News*, August 29, 2006.

⁴³ Federal Law No. 8 for 1980, On Regulation of Labor Relations, article 56 states, "Workers employed on yearly or monthly wage basis shall be paid at least once a month; all other workers shall be paid at least once every two weeks." Article 58 of the same law states, "Evidence of payment to workers of their due wages, irrespective of their amount or nature, shall not be admissible unless it is in the form of documentary proof, admission or oath." See Ministry of Labor website, <http://www.mol.gov.ae/Pages-EN/documents-en/rule-labour.HTML> (accessed August 30, 2006).

⁴⁴ The managing director of a construction company in the UAE told our researcher that "depending on the type and size of the companies, some contractors find themselves facing cash flow problems due to a variety of reasons. During the nineties, contractors worked on very low margins (2-3 % of revenue) and thus maintaining cash flow was essential for their survival. It has often been that contractors working for the government sector found themselves waiting for 120 to 180 days to get paid which meant a major cash squeeze. To add insult to injury, contractors were not regulated properly in terms of financial ability and there are still no credit ratings for companies in this part of the world. All this has since changed in the UAE as of 2004 when the construction boom started in Dubai creating perhaps an unprecedented oasis for contractors. Demand has outstripped supply to such a large extent that every contractor I am aware of is working on very high margins. Long gone are the days that contractors wait for payments." Email correspondence with managing director of a construction company, identity withheld, August 25, 2006.

internationally.”⁴⁵ As of May 2006, the company had 23 projects under construction with a total value of 1,236,822,793 AED (\$336,738,270).⁴⁶

As part of the strike, 800 workers blocked Dubai’s main thoroughfare to protest the company’s non-payment of their wages for four months, from May to August 2005. They were part of a group of 7,000 workers for Al Hamed whom the company had not paid.⁴⁷

The minister of labor, Ali bin Abdullah Al Kaabi, immediately stepped in and required the company to pay the delayed wages “within the next 24 hours.”⁴⁸ The local media hailed the minister’s swift response as a sign of the government’s determination to send a forceful signal to the construction companies that their practice of not paying wages will no longer be tolerated.⁴⁹

However, a Pakistani worker for Al Hamed, Ali, told Human Rights Watch that as of April 2006, the company had paid only two of the four months of delayed wages, and had missed a further month since the September protest and government intervention, meaning that Al Hamed still owed its workers three months’ wages. The government had not fined or otherwise punished the company. Moreover, the company dismissed the strike leaders and they were deported. Ali (whose complaint against his employer’s levying of visa and other fees on an ongoing basis is quoted in the section above) described the workers’ impetus to publicly protest in September 2005:

Prior to the September strike, the company hadn’t paid us for four months. We purchased food from a canteen at our labor camp. In September, the canteen stopped giving us credit, and we were completely out of money. That was the final straw that compelled us to take decisive action.

⁴⁵ Al Hamed Enterprises website, <http://www.alhamed.com/ahdcinfo.htm> (accessed October 3, 2006).

⁴⁶ Ibid.

⁴⁷ “Workers block Sheikh Zayed Road; Firm told to pay in 24 hours,” *Gulf News*.

⁴⁸ Sunita Menon and Daa Hadid, “Ministry cracks the whip,” *Gulf News*, September 20, 2005.

⁴⁹ “Workers block Sheikh Zayed Road; Firm told to pay in 24 hours,” *Gulf News*.

Amongst ourselves, we argued that either we will get deported because of our strike action or it will result in recovering our unpaid wages. We didn't have a choice; we were willing to risk it.

In September the workers went on strike, and those of us in Dubai took our protest public by blocking the main road in Dubai, the Sheikh Zayed Road. Government officials from an arbitration council came and promised the workers that they would redress their complaints. Immediately, we were paid two months of unpaid wages....

But as of today, not only haven't we received payment for the other two months, we are owed another month of wages since the strike. The company deported the strike leaders. Since the strike things have worsened.

I earn a fixed salary of 750 AED [\$204] monthly for six days of work. The management compels us to work for 11 hours a day with no overtime. I leave the camp at six in the morning and return at seven in the evening.

I haven't got any vacation days for the past three years. I was promised one month vacation every two years. When I ask the company managers, they don't give any reason. Different people haven't got their vacation for different periods of time.⁵⁰

On July 14, 2006, in a letter to the minister of labor, Human Rights Watch inquired about any actions taken to resolve the outstanding wage arrears for Al Hamed's workers, and to hold the company accountable for persistent violation of workers' rights (see Appendix). A reply from the UAE government, dated September 28, did not address these questions.⁵¹

⁵⁰ Human Rights Watch telephone interview with Ali, Abu Dhabi, April 3, 2006.

⁵¹ Letter from Ambassador Abdulaziz Nasser Al-Shamsi to Human Rights Watch.

The non-payment of wages in the construction sector appears to be particularly widespread in small companies that employ fewer than 100 workers, as illustrated in the following cases.

Mahmoud A. works for of a small “manpower supply” company (a company that provides labor to other companies), and said that he and his co-workers had not been paid for five months. He recounted their ordeal:

We have not been paid for the past five months, from September 2005 to February 2006. There are 23 of us in this situation. We have filed a complaint with the Permanent Committee for Labor Affairs in Dubai.

We are asking our employer to give us release papers so we can work for another employer. The company has offered to pay us one month of salary to release us and will keep the remaining wages owed us... in exchange for releasing us.

Since December 15, 2005, the company says they don't have any work for us. The company offered to transfer us to another employer. I went and talked to the workers for this new company, and they told me why do I want to work there? They said they themselves haven't been paid for four to six months.

Our camp is a farmhouse with five rooms. There are 23 of us living there.... There was a period we didn't have food to eat and some charitable people brought us food after our story was reported in the newspapers. Before that, we survived on dates from a nearby farm.⁵²

In some cases, the owners of small construction businesses simply abscond without paying their workers at all, leaving the workers stranded without any means of collecting their wages. Sattar, the Rajasthani mentioned above, worked for a small

⁵² Human Rights Watch interview with Mahmoud , Dubai, February 20, 2006.

company that employed only 10 workers. Human Rights Watch interviewed Sattar and four of his co-workers who detailed how their employer absconded in this way:

I arrived in Dubai in November 2003. We worked for a small company who sponsored us and brought us here. We built one warehouse and two villas. Since getting here we have lived at the construction sites. We were paid 600 AED (\$163) per month.

Starting December 2004, the employer stopped paying our wages. We worked for him until August 2005 without being paid. Then in August 2005, the boss vanished. We have filed complaints with the courts. I just want to get my unpaid wages and go back home.⁵³

In addition to being denied their wages, workers who are abandoned by their employers face perilous conditions. Human Rights Watch interviewed 23 construction workers living in a labor camp belonging to East Coast & Hamriah Company in Sharjah. The camp was comprised of several trailers in decrepit conditions: the toilets were overflowing, and electricity to the camp had been cut off because the company had not paid its bills. The workers feared that the government would deport them as their employment visas were directly tied to their employer.

One of the workers in the camp, Banwari, a 30-year-old Indian, chronicled their troubles with their employer:

The company never paid us on a regular basis. We haven't been paid for seven months. The company is now bankrupt. In January 2005, we filed complaints with the Ministry of Labor and the Sharjah Federal Court. On April 13, 2005, the Sharjah Federal Court of First Instance issued a verdict on our side against the company. But we haven't been able to collect any of the money owed to us because the owner, who is a Lebanese man, fled to Canada.⁵⁴

⁵³ Human Rights Watch interview with Sattar, Dubai, February 19, 2006.

⁵⁴ Human Rights Watch interview with Banwari, Sharjah, February 25, 2006.

The workers for the East Coast & Hamriah Company provided Human Rights Watch with copies of court papers showing verdicts against the company. The Sharjah Court had ruled that the company owes its workers sums ranging from 10,037 AED (\$2,733) to 21,402 AED (\$5,827).⁵⁵ But none of the workers have been able to collect any of their dues.

“For the past year, we have trekked many times to the Sharjah Court asking the authorities to implement the verdict. But they say there is nothing more they can do,” Banwari said. “We will wait here for the company to pay us until we die or we will commit suicide,” he added, summing up their frustrations and desperation.⁵⁶ The court rulings in the case did not impose any financial or custodial penalty on the employer, as required by UAE law (see below).

Under UAE law, the East Coast & Hamriah Company could not have registered its business without listing a UAE national as a partner. Although a former project manager for the company confirmed to Human Rights Watch that the company is bankrupt and that its Lebanese owner has fled to Canada,⁵⁷ it remains unclear why the company’s co-owner, who is a UAE national, is not being held responsible. In our July letter to the minister of labor, Human Rights Watch queried this. The UAE government’s letter in reply contained no specific response on this matter.⁵⁸

Workers whose wages have been withheld are virtually stuck in their situation, with little or no recourse. They can’t just quit their jobs and return home, because they remain indebted to recruiting agents, and their only hope to repay the debts is to remain in their jobs and hope for eventual payment. As one worker described to Human Rights Watch, “We can’t just go back. Each of us owes a lot of money to

⁵⁵ According to court documents obtained by Human Rights Watch regarding Lawsuit # 63/2005, Maneer Singh v. East Coast & Hamriah Co., Sharjah Federal Court of First Instance required the defendant to pay the sum of AED 10,037 to the plaintiff and to pay for the plaintiff’s plane ticket to his home country.

According to Lawsuit #335/2005, Shanan Ram Beiru Ram v. East Coast & Hamriah Co., Sharjah Federal Court of First Instance required the defendant to pay AED 21,402 to the plaintiff and to pay for the plaintiff’s plane ticket to his home country.

⁵⁶ Human Rights Watch interview with Banwari, February 25, 2006.

⁵⁷ Human Rights Watch interview with a former project manager for East Coast & Hamriah Company, identity withheld, Dubai, February 25, 2005.

⁵⁸ Letter from Ambassador Abdulaziz Nasser Al-Shamsi to Human Rights Watch.

recruiting agents back home. How can we go back when we have taken such huge loans?”⁵⁹

In a variant of the practice of withholding wages, in numerous cases reported in the press, employers “switch contracts” on migrant workers, recruiting them by promising higher wages and then paying them a lower rate. The group of 20 Indian construction workers Human Rights Watch interviewed said that their employer was paying them half of the salary they were promised at the time of hiring. One of them, Nataranjan, told Human Rights Watch,

There are about 60 of us working for a construction and landscaping company. I paid an agency in India \$2,300 to get a visa to come here and work. For the first six months, we were getting paid \$250 per month. Then the company shut down a month ago. The company’s owner owns another business, and he wants us to work for that company for \$5 a day. That is half of what we were making before.⁶⁰

While employers may “switch contracts,” the workers have no freedom to initiate a change of job and go to a different employer. For a migrant worker, changing jobs within the UAE is a cumbersome, bureaucratic process and requires the consent of the original employer. To begin with, labor regulations require a worker to have completed two years of service with his current employer before being entitled to switch employers.⁶¹ He may seek only the same kind of job, and there must be no UAE national available for the job.⁶² Most significantly, in order to move to a new employer, a worker must obtain a “letter of no objection” from his current employer and request the Ministry of Labor to reregister his visa and work permit in the name of the new employer.⁶³ The fact that employers usually hold on to workers’ passports (see below) makes it even more difficult for the worker to switch jobs. Nataranjan

⁵⁹ Human Rights Watch interview with Nataranjan, February 19, 2006.

⁶⁰ Ibid.

⁶¹ The UAE Ministry of Labor sets forth its “Conditions for sponsorship transfer approval” on its website, <http://www.mol.gov.ae/Pages-en/ForeignLabourerInstructions.aspx>, (accessed August 30, 2006).

⁶² Ibid.

⁶³ Ibid.

explained, “We want our employer to give us a ‘letter of no objection,’ so we can look for another employer and get a decent wage. But he says, ‘Either work for \$5 a day or I’ll revoke your visa and you have to go back to India.’”⁶⁴

Low Wages

Low wages are another of the main grievances of construction workers. The government has been unwilling to put in place a minimum wage, despite a mandate in law dating from 1980 (this is discussed further in the section “UAE Labor Law,” below).

On March 21, 2006, nearly 2,500 workers at the Old Town commercial section of the Burj Dubai complex, where the world’s tallest tower is under construction, protested their working conditions and low wages.⁶⁵ The protest turned violent after the workers rioted at the end of their daily shift. The workers had been waiting for hours to be transported back to their labor camp.⁶⁶ S. Kumar, an Indian worker who was present at the protest but did not participate in the rioting, told Human Rights Watch,

I work at the Burj Dubai site. I earn 38 AED [\$10.50] for eight hours of work daily. My pay is higher than workers who arrived recently because I have been with the company for 11 years. New workers are paid 28 AED [\$7.60] daily and they are unhappy about it.

On March 21, it was mostly the new workers who rioted. They were stressed because after we finish our shift, it takes over an hour to punch out. On that day, the buses were delayed for hours. The workers started to complain. The company’s security forces started to harass them and abuse them verbally. This provoked the rioting. The new workers were demanding pay raises.⁶⁷

⁶⁴ Human Rights Watch interview with Nataranjan, February 19, 2006.

⁶⁵ Fattah, “In Dubai, an outcry from Asians for workplace rights,” *New York Times*.

⁶⁶ Human Rights Watch telephone interview with S. Kumar, Dubai, April 3, 2006.

⁶⁷ Ibid.

In another recent protest, thousands of workers for the Besix Company, a Brussels based construction conglomerate, staged a strike demanding better wages. On May 16, 2006, more than 8,000 Besix workers laid down their tools and refused to work until their employers met their demands.⁶⁸ A striking worker told reporters,

We will not go back to work until our demands are met. We are being paid \$106 per month and all we demand is that we are paid at least \$163 per month. The company has offered a raise to those who have been employed [by Besix] for more than 10 years, but that is the minority of people here. We do not accept that.⁶⁹

The government deported 50 Besix workers who refused to end their strike. Philippe Desso, deputy general manager of Besix's subsidiary, Six Construct, told *Construction Week* that “[a]round 50 were taken by police; they were not forced, they went willingly. They did not want to go back to work.”⁷⁰

Confiscation of Passports

While employers in the UAE are prohibited from confiscating the passports of their employees, employers routinely do this, retaining the passports for the duration of their workers' employment, typically to ensure that the employees do not abscond. All of the 107 migrant workers interviewed by Human Rights Watch (construction workers and others—see “Methodology,” above), said that their employers had confiscated their passports upon their arrival in the UAE.⁷¹

Lt. Col. Rashid Bakhit Al Jumairi, assistant director of follow up and investigation at the Dubai Naturalization and Residency Administration, told Human Rights Watch that according to the law, “they [the employers] should not hold passports.” But he justified the practice by saying, “...sometimes workers lose their passports so the

⁶⁸ Giuffrida and Egbert, “Was the Besix strike the tipping point for UAE labor,” *Construction Week*.

⁶⁹ Ibid.

⁷⁰ Angela Giuffrida, “Besix workers are sent home”, *Construction Week*, May 27, 2006.

⁷¹ Human Rights Watch interviewed 107 migrant workers including 60 construction workers.

safest place to keep it is at the company offices.”⁷² Maj. Aref Mohammad Baqer, deputy director of the Human Rights Department at Dubai Police, told Human Rights Watch that companies justify this as customary and also to protect their own interests:

The companies say that holding of passports is part of the business culture. They justify it by saying it would prevent the workers from stealing money or trade secrets and information from the company. Also employers say that by holding on to their workers’ passports, they can guarantee they will get a return on the money they invest on each worker in visa fees and other expenses.⁷³

UAE courts have specifically held this practice to be unlawful. In 2001, the Dubai Court of Cassation issued the following ruling:

[I]t is not permitted for an employer to confiscate the passport of an employee and prevent him from his natural right to travel and move whatever the nature of the relationship that ties them together. Confiscating a passport from his owner is nothing but a method of the many methods that prohibit an employee from travel and this is ruled by the text of Article 329 of the civil procedure law that raises the cases in which preventing travel is permitted, and the condition that the order must be issued by a judge in accordance with the formal and practical procedures as defined by law.⁷⁴

By withholding workers’ passports, employers exercise an unreasonable degree of control over their workers. Despite the fact that both government officials and UAE courts have reiterated the unlawfulness of this practice, the government has not taken any steps to put an end to it.

⁷² Human Rights Watch interview with Lt. Col. Rashid Bakhit Al Jumairi, February 21, 2006.

⁷³ Human Rights Watch interview with Maj. Aref Mohammad Baqer, Dubai, February 25, 2006.

⁷⁴ Ruling by Dubai Court of Cassation, Case # 268 (2001), October 27, 2001.

Safety and Health Hazards

Death and injury in site accidents

The extent of death and injury of migrant workers is one of the most troubling, if poorly documented, aspects of the construction sector in the UAE. As described below, there appear to be no official countrywide government figures on cases of death and injury of construction workers. The few figures available from government sources cover only Dubai, and even these figures appear to be well below the figures compiled by private sources. This discrepancy in numbers can be attributed in part to the extremely low incidence of companies reporting deaths and injuries to the government.

Dubai Municipality recorded 34 deaths of construction workers at their workplaces in 2004 and 39 deaths in 2005.⁷⁵ Independent research by a construction trade publication, *Construction Week*, found that a total of 880 migrant construction workers died in the UAE in 2004: 460 from India, 375 from Pakistan and approximately forty-five from Bangladesh.⁷⁶ While the *Construction Week* report did not provide information regarding the cause of death so it is unclear how many were work-related accidents, an official with the Indian Community Welfare Committee, K. Kumar, told *Construction Week* that he believed up to 30 percent of the deaths of the Indians in the report were related to site accidents.⁷⁷ The *Construction Week* investigation provided some breakdown of the information by emirate, citing Indian embassy and consular records of 292 Indian construction worker deaths in Dubai and the northern emirates and 168 in Abu Dhabi, so extrapolating from Kumar's 30 percent estimate would mean that of 138 Indians who died in site accidents in 2004, 88 were in Dubai and the northern emirates. Given that Dubai's construction boom far outpaces the rest of the northern emirates, it is difficult to reconcile the likelihood that a high proportion of these estimated 88 Indian deaths were in Dubai with the 34 worksite deaths officially reported there, for all nationalities.

⁷⁵ Dīaa Hadīd, "Construction deaths and accidents leap," *Gulf News*, January 17, 2006.

⁷⁶ "Site worker death toll exceeds 800," *Construction Week*, No. 83, August 6-19, 2005. Their investigation calculated fatality figures for migrant workers by compiling data recorded by the embassies of India, Pakistan and Bangladesh, countries that have the largest number of workers in the construction sector.

⁷⁷ *Ibid.*

An official at the Indian consulate in Dubai told Human Rights Watch that it has registered 971 death cases in 2005, of which 61 are registered as site accidents. Again, this contrasts sharply with the 39 deaths recorded that year by the Dubai government for all nationalities.

Heat-related illnesses

A serious health hazard faced by construction workers is the extreme climatic conditions. The mean maximum temperatures in the UAE during the months of April to September are well above 90°F (32°C), with humidity in excess of 80 percent.⁷⁸ For the construction workers who spend the vast majority of their time working under such conditions, heat-related illnesses are a manifestation of dangerous working conditions. The heat and humidity are considered a health hazard especially during the months of July and August, when temperatures regularly peak above 100°F (38°C).

According to the Dubai chapter of the World Safety Organization, heat-related illness is the most important health issue facing construction workers.⁷⁹ This includes heat-stroke as well as dehydration. As many as 5,000 construction workers per month were brought into the accident and emergency department of Rashid Hospital in Dubai during July and August 2004: Dr. G.Y. Naroo, acting head of the accident and emergency department, told *Construction Week*, “[O]ur initial assessment of how many heat related [cases] that came into the hospital was 2,500 per month. But once the secondary assessment was done inside the hospital, we realized it came out to be double.”⁸⁰

Media reports claim that the UAE underreports construction worker heat-related deaths in hospitals.⁸¹

⁷⁸ *National Atlas of the United Arab Emirates* (University of the United Arab Emirates, 1993) and “Temperature and Humidity in Dubai,” <http://www.godubai.com/explore/whatshot.asp> (accessed May 25, 2006).

⁷⁹ Dubai chapter of World Safety Organization meeting attended by Human Rights Watch, Dubai, February 23, 2006.

⁸⁰ “Many Victims of heatstroke are not being accurately diagnosed by A&E hospital staff,” *Construction Week*, No. 83, August 6-19, 2005.

⁸¹ “Facts about UAE Hospital Fatality Figures Revealed,” *Construction Week*, No. 83, August 6-19, 2005.

In June 2005, several health professionals called for a law banning construction work during the afternoons in July and August. Dr. Rajeev Gupta told *Khaleej Times*,

During the months of July and August, when the mercury soars to unbearable limits, UAE records a spate of cases where laborers are hospitalized due to heat strokes and cramps. Heat exhaustion or heat stroke is preventable if one takes precautionary measures. The most important of which is not to expose oneself to the sun from eleven in the morning to five in the evening.⁸²

In response, the Ministry of Labor issued a decree in June 2005 banning outdoor work between the hours of 12:30 p.m. to 4:30 p.m. during July and August.⁸³ It resulted in reducing heat-related admissions to hospitals, with Dr. Naroo of the Rashid Hospital, Dubai, telling reporters on July 29 that “only 1,200 to 1,500 [cases] are anticipated this month.”⁸⁴ That the decree did not go even further in reducing heat-related admissions is probably because many companies openly ignored it—government inspectors reported that during July and August 2005, more than 60 percent of the companies inspected did not follow the afternoon break law.⁸⁵ The authorities did not fine a single company for breaking the law.⁸⁶

Moreover, the afternoon break rules have not been adopted on a permanent basis. In May 2006, the UAE Contractors’ Association (UAECA) lobbied the government to repeal the 2005 decree because “the re-introduction of the ban this year would create major problems for the sector.”⁸⁷ In July 2006, the Ministry of Labor announced that it had curtailed the midday break to between 12:30 p.m. and 3 p.m.⁸⁸ At a press conference to announce the change, when asked about the

⁸² Anjana Sankar, “Law banning construction work in afternoons urged,” *Khaleej Times*, June 10, 2005.

⁸³ Ministerial Resolution No. 467 for 2005, <http://www.mol.gov.ae/Pages-EN/documents-en/WorkHoursPlaces-EN.htm#page6> (accessed August 11, 2006).

⁸⁴ Daa Hadid, “Companies devise ways to flout midday break rule,” *Gulf News*, July 29, 2005.

⁸⁵ Daa Hadid, “60% of companies ignored noon break,” *Gulf News*, August 31, 2005.

⁸⁶ *Ibid.*

⁸⁷ Conrad Egbert, “Contractors lobby against noon ban,” *Construction Week*, May 13, 2006.

⁸⁸ Conrad Egbert, “Contractors allowed to choose hours of the ban,” *Construction Week*, July 15, 2006.

reduction in hours, Minister of Labor Ali bin Abdullah Al Kaabi said, “The contractors should be asked about the reduction in the hours, as they are the ones who have decided the timings.”⁸⁹ The minister’s reply is a clear indication of the construction industry’s ability to influence labor laws and regulations without regard for the health and safety of workers.

Health and safety reporting and oversight deficiencies

The federal government’s failure to monitor the conduct of construction companies is highlighted by the significant discrepancies between government and private sources regarding the annual numbers of dead and injured construction workers. The government has no comprehensive data about numbers, causes of death or injury, or about the identity of those dead or injured, as Dr. Khalid Khazraji, labor undersecretary at the Ministry of Labor, admitted to the media in November 2005.⁹⁰ The government is clearly not enforcing the mechanism that would assist it to do so: although under UAE law companies must immediately notify the Ministry of Labor and Social Affairs and the police of cases of death and injury of employees at work sites,⁹¹ according to government officials quoted in the local media, companies are ignoring their legal obligation in this regard, so true fatality and injury figures remain unknown.⁹² For example, in 2005, only six construction companies in Dubai (out of nearly six thousand) filed reports with the Ministry of Labor of death or injury among their workers.⁹³ With nearly six thousand construction companies operating in Dubai, however, injuries at only six companies is hard to fathom. Based on the diverging figures of government and private sources, a number of media reports allege that the construction sector has sought to cover up the extent of death and injury among workers.⁹⁴

⁸⁹ Ibid.

⁹⁰ Daa Hadid, “Work-related accidents and deaths ‘going unreported,’” *Gulf News*, November 21, 2005.

⁹¹ Federal Law No. 8 for 1980, On Regulation of Labor Relations, <http://www.mol.gov.ae/Pages-EN/documents-en/rule-labour.HTML> (accessed August 30, 2006), art. 142; and Ministerial Order No.(32) Year 1982 RE The Determination of retentive Methods and Measures For the Protection of Workers From the Risks Work.

⁹² Hadid, “Work-related accidents and deaths ‘going unreported,’” *Gulf News*.

⁹³ Ibid. The source also noted Dubai municipality figures of 39 deaths and 175 injuries for 2005.

⁹⁴ See, for example, “Facts about UAE Hospital Fatality Figures Revealed,” *Construction Week*, No. 83, August 19, 2005.

On July 14, 2006, in a letter to the minister of labor, Human Rights Watch asked for information regarding the death and injury rates of construction workers throughout the country and the discrepancy between government figures for death and injury in Dubai (the only official figures publicly available) and the ones reported by *Construction Week*. The reply received from the UAE government at the end of September did not address this.

UAE law provides that Ministry of Labor inspectors ensure that employers properly comply with safety and health regulations.⁹⁵ However, since the Ministry employs only 140 inspectors to oversee the practices of over 240,000 businesses, it is doubtful that provisions of the labor law with regard to safety and health of workers are being properly implemented. On September 8, 2006, the government announced plans to increase the number of inspectors to 1,000 within the next 18 months.⁹⁶

Illegal workers particularly vulnerable

Some migrant construction workers are in the UAE illegally, and are particularly vulnerable because their employers do not want to take responsibility for them when they are injured at the workplace. According to a local Indian social activist who tracks injured workers:

Private foremen, working on behalf of manpower supply companies, hire a van and drive around hiring illegal construction workers. Because there is a high demand for labor in the construction sector, contractors turn to manpower supply companies to address labor shortages. Local government officials are very helpful in fining companies who hire illegal workers but it is a problem. Manpower supply companies are mostly run by expats [expatriates] who employ illegal workers. They are a big part of the problem. Accidents should be reported to the police, but these employers avoid doing so because they don't want to pay for proper compensation.⁹⁷

⁹⁵ Federal Law No. 8 for 1980, On Regulation of Labor Relations, <http://www.mol.gov.ae/Pages-EN/documents-en/rule-labour.HTML> (accessed August 30, 2006), art. 167.

⁹⁶ Ivan Gale, "Ministry to intensify labour inspections," *Gulf News*, September 8, 2006.

⁹⁷ Human Rights Watch interview with Indian social activist, identity withheld, February 21, 2006.

In a visit to the government-run Kuwaiti Hospital in Sharjah on February 21, 2006, Human Rights Watch found two men, one an illegal worker and the status of the other worker unknown, hospitalized due to accidents at construction sites. Both had been “dumped” at the hospital by their employers who did not identify themselves to the hospital authorities.

One, an Indian construction worker named Chekelli, was hospitalized for back injuries. According to an Indian businessman who was helping Chekelli to return to India:

Chekelli was working for a manpower supply company who employed him illegally. Chekelli is from Nizamuddin in Andhra Pradesh in India. He arrived in the UAE on a tourist visa and was subsequently employed by a manpower supply company. He worked at a construction site in Dubai. A large cement bucket fell on his back from a crane, pinning him to the ground. He was admitted to the Kuwaiti Hospital on January 22, 2006. His employer disappeared after dumping the injured man at the hospital. The employer claimed that he had fallen from a staircase.⁹⁸

The seriousness of Chekalli’s injuries meant that he was paralyzed. He would be returning to India without receiving any compensation for his work-related injuries.

The other patient we met had been transferred from Al Kasima Hospital that same day. He was identifiably also Indian, but no one knew his name or what had happened to him. According to his doctor, he appeared to have suffered a serious head injury. When our researcher tried to interview the patient, the man was confused and incoherent. He could not recall what had happened to him and when asked about his employer or any associates, he kept turning to his pillow, looking for a piece of paper that was not there. His doctor said that he is probably suffering from memory loss. It was not clear who would take care of his return to India, since no information about him was known.

⁹⁸ Human Rights Watch interview with Indian businessman who wished to remain anonymous, Kuwaiti Hospital, Sharjah, February 21, 2006.

Suicides on the rise

In the past few years, the media has reported several cases of suicide of construction workers distressed about their working conditions. Accurate and reliable data on the number of suicides is, of course, hard to come by. According to Syed Mubarak, labor attaché at the Indian consulate in Dubai, 84 Indian nationals committed suicide in 2005 alone, although it is not clear how many of these cases involved construction workers.⁹⁹

Human Rights Watch documented one case involving a construction worker who committed suicide at his labor camp after his employer allegedly failed to pay him his wages.¹⁰⁰ A labor camp manager in Sonapar, Dubai, told us how on January 9, 2006, Julfikar Korani, a worker from India, committed suicide by hanging himself from the ceiling of a bathroom inside the camp. According to the camp manager, Julfikar had arrived from Calcutta in June 2005 to work as a carpenter. The camp manager said Julfikar's monthly wage was 700 AED (\$190), and if he worked overtime he could earn up to 1,100 AED (\$300), but the manager presented Julfikar's wage records showing that the employer had paid him only for one month in the more than six months since he had started working.¹⁰¹

Julfikar's cousin, Jakir, who lives at the same camp, said Julfikar took a loan of 90,000 Indian rupees (\$2,000) to obtain a visa to work in the UAE. Jakir said Julfikar had to repay 6,300 rupees (\$140) monthly, and that Julfikar was under financial stress because he was falling behind on his loan repayments.¹⁰² The camp manager said that after Julfikar's suicide, no one cared to investigate; even the police did not ask any questions.¹⁰³

Construction Week reported on another case of a worker who committed suicide after allegedly suffering wage exploitation at the hands of his employer. Arumugam Venketesan, a 24-year-old Indian national, worked for a manpower supply company.

⁹⁹ Human Rights Watch interview with Syed Mubarak, Dubai, February 21, 2006.

¹⁰⁰ Human Rights Watch interview with labor camp manager, identity withheld, Sonapar, Dubai, February 24, 2006.

¹⁰¹ Ibid.

¹⁰² Human Rights watch interview with Jakir, Sonapar, Dubai, February 24, 2006.

¹⁰³ Human Rights watch interview with labor camp manager, Sonapar, Dubai.

Construction Week reported that “the company that brought him [Venketesan] to Dubai was being paid between 15 AED [\$4.10] and 20 AED [\$5.50] per hour for the labor they supplied to contractors. But this company passed on a mere 3 AED [\$0.80] per hour to its workers.”¹⁰⁴ Venketesan’s suicide note is a heart-wrenching and eye-opening account of his daily struggles in the face of exploitation:

I have been made to work without any money for months. Now, for a month I’ve been suffering from a constant headache and wanted to visit a doctor to examine my condition. I asked my camp boss for 50 [\$14] but he refused and told me to get back to work... After my death I want the company to pay all my salary dues to my family and repay the financial debt my family has incurred because of them.¹⁰⁵

Commenting on the general phenomenon and the circumstances leading to such suicides, Dr. Shiv Prakash, a psychiatrist at the New Medical Center and Hospital in Dubai, was quoted in *Construction Week* as saying,

When these workers reach here and they realize what they have gotten themselves into and see that they’ve lost everything, they react to it. They feel trapped as they now know that they can’t go back either. There’s no escape. They know that they are in a bonded labor type of situation and are reacting to what they think is the biggest mistake in their life, an irreparable loss. It is the reaction to this loss which can lead to suicidal contemplation.¹⁰⁶

¹⁰⁴ “Worker borrowed to buy stamp for suicide letter,” *Construction Week*, No. 83, August 6-19, 2005.

¹⁰⁵ Ibid.

¹⁰⁶ Ibid.

VI. UAE Labor Law

The UAE's Labor Law No. 8 of 1980 is a federal law regulating labor relations throughout the country.¹⁰⁷ It is regularly amended by ministerial resolutions, as issued by the Ministry of Labor and approved by the Council of Ministers. Its provisions apply to both UAE nationals and migrant workers. The Ministry of Labor is responsible for implementing the federal labor law, but each emirate can also set up its own agencies to enforce the federal labor law, as is done in the emirate of Dubai.

The labor law sets out the terms of recruitment of workers by UAE employers, regulates maximum working hours, and provides for annual leave and overtime. Employment of persons below the age of 15 years old is forbidden.¹⁰⁸ The law also forbids the employment of "young persons" at night in industrial jobs and bans employment of "young persons" in "any job that is dangerous, arduous or detrimental to health," as defined by the ministry of labor.¹⁰⁹

The labor law includes articles on industrial safety and health care for workers. It requires employers to protect workers against the hazards of occupational injuries and diseases by "providing appropriate safety measures."¹¹⁰ The law requires employers to provide medical professionals "to carry out general medical examinations, at regular intervals of not more than six months."¹¹¹ Employers are also required to provide workers with medical care facilities.¹¹²

The law sets the terms for workers' compensation in cases of work-related accident, disease or death. As already noted, it requires employers to report instances of work-

¹⁰⁷ Federal Law No. 8 for 1980, On Regulation of Labor Relations. The Council of Ministers, whose members are appointed by the president of the UAE, issues federal laws by decree. The president and vice president are elected by the Federal Supreme Council, which is composed of the rulers of each emirate.

¹⁰⁸ Federal Law No. 8 for 1980, On Regulation of Labor Relations, art. 20.

¹⁰⁹ The law does not explicitly define "young persons." Since the law bans employment of persons under the age of 15, "young persons" presumably refers to persons above the age of 15 and under the age of 18.

¹¹⁰ Federal Law No. 8 for 1980, On Regulation of Labor Relations, art. 91.

¹¹¹ *Ibid.*, art. 95.

¹¹² *Ibid.*, art. 96.

related injuries and occupational diseases to the police and to the Ministry of Labor. It requires the police to carry out a prompt investigation and issue a report to determine “whether the accident was work-related, deliberate, or the result of gross misconduct of the worker.”¹¹³

Employers are required to pay for the medical treatment of workers injured at the workplace.¹¹⁴ In cases where the injured worker is unable to return to work, the law requires the employer to pay the worker his full pay for a period of his treatment up to six months. If the worker requires treatment beyond six months, the employer is required to pay one-half of his wages until the worker fully recovers, is declared disabled, or dies.¹¹⁵ If the worker dies due to a work-related injury or occupational disease, his family shall be entitled to compensation equal to two years of his basic wage.¹¹⁶ A worker who suffers permanent total disability is entitled to a similar compensation by his employer as in the case of death.¹¹⁷

The law does not, however, require employers to maintain insurance for compensation or medical care. Most recently, in a positive move, the government of Abu Dhabi passed a law requiring all companies that have more than 1,000 employees to provide private medical health insurance for their employees, starting July 2006. Companies with fewer than 1,000 employees will be required to implement this law as of January 2007.

The law stipulates penalties for any violation. Article 181 requires “a penalty of imprisonment for a period not exceeding six months and/or a fine not less than three thousand Dirhams [\$833] but not exceeding ten thousand Dirhams [\$2,778]” on anyone who violates any of the labor law’s provisions, executive regulations or orders.¹¹⁸

UAE law also establishes a mechanism for the resolution of disputes between workers and employers, namely the Ministry of Labor’s arbitration board. It requires

¹¹³ *Ibid.*, art. 142.

¹¹⁴ *Ibid.*, art. 144.

¹¹⁵ *Ibid.*, art. 145.

¹¹⁶ *Ibid.*, art. 149.

¹¹⁷ *Ibid.*, art. 151.

¹¹⁸ *Ibid.*

the government to set a minimum wage, but this provision has never been implemented. The shortcomings of the dispute resolution mechanisms and the failure to implement a minimum wage, as well as the law's failure to recognize the right of workers to organize and bargain collectively and the explicit ban on labor strikes, are discussed in detail below.

Government Mechanisms Addressing Labor Disputes

While UAE law governing issues such as workplace health and safety, workers' compensation, child labor, hours of work and leave time are admirable when taken at face value, there is little evidence of its enforcement in favor of workers' rights. What is also apparent in the cases examined by Human Rights Watch, as well as those documented in news reports, is that recourse to the government or the judiciary is of limited use to workers. Aggrieved workers are entitled to seek a hearing before the Ministry of Labor, which arbitrates disputes and refers unresolved cases to the judiciary, but the availability of arbitration remains a limited option.

The labor law grants the officials and inspectors of the Ministry of Labor “the status of judicial officers for the purposes of the application of this Law and its executive regulations and orders,”¹¹⁹ and the law requires the Ministry of Labor to set up an arbitration board to resolve conflicts between workers and their employers.¹²⁰ When a labor dispute arises, a worker must notify the Ministry of Labor in writing. A ministry official will ask the employer and workers to resolve their dispute through direct negotiations.¹²¹ If direct negotiations fail, then an official at the Ministry of Labor will arbitrate the case.¹²² The arbitrator has 30 days to resolve the conflict. If he does not succeed, the case is then referred to an “arbitration committee” within the Ministry.¹²³ If the committee fails to resolve the dispute, the case is referred to the judiciary. Workers cannot directly file cases with the judiciary.

¹¹⁹ *Ibid.*, art. 188.

¹²⁰ *Ibid.*

¹²¹ Ministerial Resolution 307 (2003), <http://www.mol.gov.ae/PAGes-EN/documents-en/CollectiveLabourDisputes.htm#b> (accessed August 14, 2006), art. 2.

¹²² *Ibid.*, art. 4.

¹²³ *Ibid.*, art. 13.

UAE government officials have criticized the existing arbitration procedure as inadequate and unfair. The criticism encompasses both bureaucratic lapses and deliberate bias and wrongdoing.

Mohammad Saleh Al Madani, acting head of the Civil Cases Unit of Dubai Court, has criticized the Ministry of Labor's lack of strategy towards labor rights protections and lack of proper record keeping about employers. He was quoted in a Dubai newspaper in January 2006 as saying:

The Ministry of Labor has no coordination with the Dubai courts or an action plan to protect laborers' rights. It also lacks information about the companies' status. In most of the cases the court finds that the companies involved in the dispute have shut down or have no properties or assets. Even the Ministry itself does not have important documents... If the Ministry has all relevant documents, this will facilitate the court's work and help expedite the proceedings more effectively. Even when the ministry submits the laborer's files, we find many important documents missing, such as labor contracts.¹²⁴

An unnamed Ministry of Labor official was quoted by the same newspaper a month earlier as saying:

The lack of transparency in the department was apparent with the legal researchers—officials who help find solutions to labor dispute— withholding information about employees' rights, and instead suggesting measures that force laborers to succumb to the employers' will.¹²⁵

The Ministry of Labor's own website suggests the strong pressure workers come under to settle their cases with their employers: "Should you have any grievance, try to solve it amicably with the concerned parties at your Company. Should you fail to

¹²⁴ Amira Agarib, "Labor Ministry under fire over labor disputes," *Khaleej Times*, January 12, 2006.

¹²⁵ Wael Yousef, "Al Kaabi's expose 'disappoints' Labor Ministry officials," *Khaleej Times*, December 12, 2005.

solve any grievance at your Company, you have to put the issue up to the Concerned Labour Department & you should follow their advice to settle same.”¹²⁶

The minister of labor, Ali bin Abdullah Al Kaabi, has acknowledged the ministry’s shortcomings in resolving labor disputes, telling a newspaper in late 2005:

I have proof of prejudice in settling disputes that were reported to me personally by workers who had filed complaints to the department and received biased treatment. I had to handle these complaints and grant justice to those complainants. I am aware of the problems at the department. I know there is harassment and prejudice against some complainants. I will announce this with evidence at the right time.¹²⁷

Issues such as wages and working conditions might not rise to the level of disputes needing formal arbitration if there were greater labor inspection capacities. As already noted, recognizing that the existing 140 government labor inspectors were insufficient, the Ministry of Labor in September 2006 announced that it would hire 260 more by the end of the year, and planned to have 1,000 inspectors within 18 months. It remains to be seen whether this plan will be fully implemented in a timely fashion, and whether it will result in a meaningful and efficient application of the labor law.

Overall, there is a sense that the government considers labor problems a private affair. In an interview with Human Rights Watch, the head of the Work Permit Department in the Ministry of Labor, Abdulla Saeed Saif Bin Suloom Alfalasi, placed the blame for labor abuses on foreign private businesses, saying, “In many cases it is expat employers who are violating the workers rights... We have set up a hotline for workers to report complaints. What more can we do? We are not angels.”¹²⁸ Furthermore, both public officials and media reports have noted with concern the appearance of a conflict of interest among government officials who are responsible

¹²⁶ Instructions to Foreign Laborers, General Directives, <http://www.mol.gov.ae/Pages-en/documents-en/guide2-en.htm> (accessed September 6, 2006).

¹²⁷ “Bias in many cases in settling disputes, says labor minister,” *Khaleej Times*, December 11, 2005.

¹²⁸ Human Rights Watch interview with Abdulla Saeed Saif Bin Suloom Alfalasi, February 22, 2006.

for implementing the labor law.¹²⁹ Some government officials who work in the Ministry of Labor and the Immigration Administration are themselves sponsors and employers of migrant workers. In April 2005 Minister Al Kaabi issued a decision limiting the business interests of the ministry's employees in sponsoring and employing migrant workers to 10 businesses.¹³⁰

The federal government maintains no comprehensive data (including statistics) on labor dispute cases lodged with government agencies.¹³¹ Therefore, it remains unknown what percentage of cases the government successfully resolves, whether through arbitration or judicial decision, the extent to which decisions favor workers or employers, or the extent to which employers are punished and decisions against them enforced. Writing to the minister of labor in July 2006, Human Rights Watch reiterated the requests we made for this information during a meeting with ministry officials in Dubai in February. The reply received in late September did not concretely address our request.

Mohammad Saleh Al Madani, of the Civil Cases Unit of Dubai Court, criticized the Ministry of Labor's lack of statistics:

Though there are a huge number of labor disputes, there is neither any statistical record nor any data on the nature of those disputes. On an average, the cases filed annually with each of the five labor departments are in the average of 200 to 300. The labor cases ruled upon by the courts pertained to refusal to pay salaries, end of service benefits, tickets and suspensions without notification among others.¹³²

In Dubai, the local government has introduced two additional mechanisms to address the rising tide of labor disputes. The Dubai Police has established a Human Rights Department that attempts to address labor disputes through mediation, but it

¹²⁹ Daa Hadid, "Ministry employees to face business limits," *Gulf News*, April 14, 2005.

¹³⁰ *Ibid.*

¹³¹ Abdulla Saeed Saif Bin Suloom Alfalasi, manager of the Work Permit Department at the Ministry of Labor, told Human Rights Watch that he did not have any statistics available on labor disputes. Human Rights Watch interview with Abdulla Saeed Saif Bin Suloom Alfalasi, Dubai, February 22, 2006.

¹³² Agarib, "Labor Ministry under fire over labor disputes," *Khaleej Times*.

has no binding legal powers to enforce its decisions. Aref Mohammed Baqer, deputy director of the department, told Human Rights Watch, “We first note the workers’ grievances and then contact the employer. We call them to a joint meeting and inform the workers of their rights. If our arbitration fails, then we refer the case to the Ministry of Labor.”¹³³ Between November and December 2005, the Dubai Police Human Rights Department reportedly collected the equivalent of more than \$55 million in unpaid wages from 61 companies. Mohammed Saeed Al Mur, head of the department, reported to the media,

Since the launch of the workers complaint service, the department has succeeded in solving the problems of 25,312 workers between November 2005 and January 2006. Only in three months’ time, the department has managed to persuade 61 companies in Dubai to make the payment of delayed salaries amounting to 201,149,753 AED [\$55,874,931].¹³⁴

The government of Dubai also established the Permanent Committee on Labor Affairs (PCLA) in March 2005 to mediate labor disputes. The committee is composed of representatives from the Immigration Administration, the Ministry of Labor, the Dubai Municipality, the Economic Department, and the Dubai Police. Authorities at the PCLA told Human Rights Watch that they resolved nearly 20,000 cases involving unpaid wages between March and December of 2005. According to Lt. Col. Rashid Bakhit Al Jumairi, an official with the PCLA, 19,249 workers registered complaints with the committee between March and December 2005. During this period, committee inspectors also visited 36 labor camps and found 75 percent of them to be well below government standards.¹³⁵

Because of the somewhat haphazard nature of these agencies and their unclear authority under the law, there is no clear distinction among the respective roles of the Ministry of Labor and these two Dubai agencies. Whichever agency a worker first approaches to launch a complaint will arbitrate the case. And while the Dubai

¹³³ Human Rights Watch interview with Maj. Aref Mohammad Baqer, February 25, 2006.

¹³⁴ “Over 25,000 workers get pending salaries,” *Khaleej Times*, February 4, 2006.

¹³⁵ Human Rights Watch interview with Lt. Col. Rashid Bakhit Al Jumairi, February 21, 2006.

initiatives are laudable, they should not substitute for appropriate and more assertive responses at the federal level. All told, there is no comprehensive data available on the total number of cases brought in front of these three bodies. Thus, the extent of labor problems in the UAE, the extent to which laborers can and do resort to these bodies for help with their problems, and the extent of federal government enforcement of labor laws and punishment of employers remains shrouded in uncertainty.

Notably, Human Rights Watch has not been able to document a single instance where an employer was sanctioned, either by prison time or financial penalties, for failing to pay wages to its workers. As detailed in some of the cases above, even workers who succeed in obtaining judgments against their employers are unable to enforce those judgments to recover their wages, much less succeed in seeing them punished with fines or imprisonment. Even when the Ministry of Labor gets involved directly in a dispute, there is no assurance that an employer will actually fulfill its obligation to pay the back wages, or will not merely resume withholding wages all over again, as in the case of Al Hamed Company, discussed above.

Presumably to protect workers from the non-payment of wages, the government requires employers to post bank guarantees as part of their application to obtain a permit to sponsor migrant workers.¹³⁶ The amount of the guarantees depends on the number of migrant workers sponsored by the company. UAE law authorizes, but does not require, the Ministry of Labor to liquidate a company's bank guarantee in favor of its employees "if the employer fails to honor the rights of any of his employees."¹³⁷ Although there is much evidence of construction companies withholding employee wages, Human Rights Watch could not verify any public record of companies whose bank guarantees were liquidated by the authorities in favor of unpaid workers. If the only penalty for non-payment of wages is an order to pay wages without any finance charge or interest or fee, sometimes enforced, sometimes not, then there is little deterrent, and no penalty, for companies that choose to routinely withhold wages.

¹³⁶ Ministerial Resolution 218 for 2001, On The Executive Regulations to The Council of Ministers; and Resolution 14 for 2001, Regarding the Bank Guarantee Referred to Under Council of Ministers Resolution 14 for 1999, <http://www.mol.gov.ae/PAGes-EN/documents-en/BankGuarantee-EN.htm#page17> (accessed September 6, 2006).

¹³⁷ Ministerial Resolution 218, <http://www.mol.gov.ae/PAGes-EN/documents-en/BankGuarantee-EN.htm#C> (accessed September 25, 2006), article 13.

Deficiencies in the Law

Lack of a minimum wage

Construction workers in the UAE earn abysmal sums ranging from monthly wages of 390 AED (\$106) to 900 AED (\$250). Although the 1980 UAE Labor Law explicitly requires the Ministry of Labor to institute a minimum wage, it has never been put into practice. According to Article 63 of the Labor Law:

The minimum wage and the cost-of-living index payable to workers in general or in a particular area or occupation shall be fixed by a federal decree based on a proposal to be made by the Minister of Labor and Social Affairs and approved by the Council of Ministers.

The Minister shall put forward his proposal for determining, or reviewing, the minimum wage, after consulting the competent authorities and the labor organizations of workers and employers, if any, and after having reference to studies and tables of fluctuations in the cost of living indices drawn up by the competent authorities in the State, to ensure that the said minima are sufficient to meet the worker's basic needs and guarantee his livelihood.¹³⁸

In its July 2006 letter Human Rights Watch asked the minister of labor why this law has never been implemented. The September reply from the UAE government not address this question.

The lack of a minimum wage has been highly relevant to the episodes of strikes and worker riots mentioned above (see section "Law Wages"). The Belgian Company Besix, responding to the May 2006 strike by more than 8,000 of its workers, posted notes in its labor camps saying "salaries would be increased according to government instructions."¹³⁹ A Besix official was quoted in the local media as saying:

¹³⁸ Federal Law No. 8 for 1980, art. 63.

¹³⁹ Giuffrida and Egbert, "Was the Besix strike the tipping point for UAE labor," *Construction Week*.

“We’re considering raising their salaries but it’s more of a government problem than a contractor problem. The government should fix a minimum wage.”¹⁴⁰

Absence of trade unions and collective bargaining

UAE law does not recognize the right of workers to organize and form trade unions. The labor law also forbids strikes. The 1980 labor law allows for the employers to suspend workers temporarily without pay in case of a strike.¹⁴¹ In a recent ministerial resolution directed only at migrant workers, the federal government banned migrant workers from employment in the country for at least one year in case of “an illegal strike or its instigation.”¹⁴²

Because workers are not allowed to organize and form unions, there are no institutions representing their interests. As is widely recognized, unions are the most important vehicle for workers to communicate grievances with relevant government bodies, to negotiate with employers, and to seek structural reforms.

The minister of labor has indicated that the government will enact a law permitting trade union activities by the end of this year.¹⁴³ Human Rights Watch in its letter to the minister of July 14, 2006, asked for details of the proposed legislation. The reply received from the UAE government at the end of September did not address this.

International human rights law guarantees workers’ right to freedom of association and collective bargaining, including the right to organize unions for the protection of their interests.

As a member of the International Labour Organization (ILO), the UAE is obligated to permit workers to organize for the purpose of collective bargaining. The ILO has declared that all member states must promote and protect freedom of association and the right to bargain collectively as a “fundamental” labor principle, specifically

¹⁴⁰ Conrad Egbert, “10,000 Besix workers down tools,” *Construction Week*, May 20, 2006.

¹⁴¹ Federal Law No. 8 for 1980, art. 112.

¹⁴² Ministerial Resolution 707 of 2006 Regarding Rules and Regulations of Employment in the Country (UAE) for Non-Citizens, September 6, 2006, art. 13.,

¹⁴³ Jim Krane, “UAE to give workers right to form unions,” *Associated Press*, March 30, 2006.

stating that all members are obligated to allow freedom of association and the right to collective bargaining, even if, like the UAE, they have not ratified the key ILO conventions governing those rights (see below).

There exists an urgent need for labor unions in the UAE to engage the government and the private sector on behalf of workers. In the course of our research, it became evident that lack of organized representation is a major obstacle to addressing the exploitation of construction workers documented in this report. To improve the situation of migrant workers in the UAE, it is essential that the government recognize their right to form trade unions, bargain collectively, and strike.

VII. Workers' Human Rights and Government Obligations under International Law

A comprehensive body of international law protecting workers' rights has been developed over the past 50 years. Where a state has accepted to be bound by these standards, they apply to all workers in the country, both foreign and citizens. In most cases, a government's obligation is to ensure that employers respect the rights of workers by law, regulation, investigation, and prosecution, as appropriate.

UAE Membership in the ILO

As already noted, the UAE is a member of the ILO. It has ratified six of the eight core ILO conventions, namely the conventions relating to elimination of forced and compulsory labor, elimination of discrimination in respect of employment and occupation, and abolition of child labor. The UAE has also ratified ILO Convention No. 1 on hours of work, Convention No. 81 on labor inspection, and Convention No. 89 on night work (women).¹⁴⁴

The UAE has not ratified core ILO Conventions No. 87 on Freedom of Association and Protection of the Right to Organize and No. 98 on the Right to Organise and Collective Bargaining.¹⁴⁵ This notwithstanding, in its 1998 Declaration of Fundamental Principles and Rights at Work, the ILO has emphasized that all member states must implement and respect fundamental workers' rights within the ILO framework.¹⁴⁶ The Declaration specifically states that all members are obligated to allow freedom of association and the right to collective bargaining:

¹⁴⁴ See <http://webfusion.ilo.org/public/db/standards/normes/appl/index.cfm?lang=EN> (accessed October 5, 2006). Conventions No. 1, 29, 81, and 89 ratified on May 27, 1982. Conventions 100 and 105 ratified on February 24, 1997, Convention 138 ratified on October 2, 1998, Conventions 111 and 182 ratified on June 28, 2001.

¹⁴⁵ ILO Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise, 68 U.N.T.S. 17, entered into force July 4, 1950. ILO Convention No. 98 concerning the Right to Organise and Collective Bargaining Convention, 96 U.N.T.S. 257, entered into force July 18, 1951.

¹⁴⁶ International Labour Organization, Declaration of Fundamental Principles and Rights at Work, http://www.ilo.org/dyn/declaris/DECLARATIONWEB.static_jump?var_language=EN&var_pagename=DECLARATIONTEXT (accessed August 10, 2006).

[A]ll members, *even if they have not ratified the Conventions in question*, have an obligation arising from the very fact of membership in the Organization, to respect, to promote, and to realize, in good faith and in accordance with the [ILO] Constitution, the principles concerning the fundamental rights which are the subject of those Conventions, namely: (a) freedom of association and the effective recognition of the right to collective bargaining;...¹⁴⁷

The ILO interprets “freedom of association and effective recognition of the right to collective bargaining” under the Declaration to mean that “all workers and all employers have the right freely to form and join groups for the promotion and defence of their occupational interests.”¹⁴⁸ The ILO also requires that workers’ organizations be allowed to establish their own rules, operate freely, and elect their representatives in full freedom and that the organizations be truly independent and free of external interference: “Workers and employers can set up, join and run their own organisations without interference from the State or one another.”¹⁴⁹ In addition, the ILO requires that the right to freedom of association and collective bargaining be incorporated into the member states’ legal frameworks:

To realise the principle of freedom of association and the right to collective bargaining in practice requires, among other things, a legal basis which guarantees that these rights are enforced; an enabling institutional framework, which can be tripartite, between the employers’ and workers’ organisations, or combinations of both...¹⁵⁰

¹⁴⁷ Ibid. (emphasis added).

¹⁴⁸ International Labour Organization, dedicated webpage about the Declaration of Fundamental Principles and Rights at Work, section on “Freedom of Association and Effective Recognition of the Right to Collective Bargaining,” http://www.ilo.org/dyn/declaris/DECLARATIONWEB.static_jump?var_language=EN&var_pagename=ISSUESFREEDOM (accessed September 12, 2006).

¹⁴⁹ Ibid. This is also articulated in ILO Convention No. 87, art. 3.

¹⁵⁰ International Labour Organization, dedicated webpage about the Declaration of Fundamental Principles and Rights at Work, section on “Freedom of Association and Effective Recognition of the Right to Collective Bargaining,” http://www.ilo.org/dyn/declaris/DECLARATIONWEB.static_jump?var_language=EN&var_pagename=ISSUESFREEDOM (accessed October 11, 2006).

Furthermore, in 1975, the ILO Committee on Freedom of Association, stated that ILO members, by virtue of their membership, are “bound to respect a certain number of general rules which have been established for the common good.... Among these principles, freedom of association has become a customary rule above the Conventions.”¹⁵¹

The ILO has also recognized workers’ right to strike. The ILO’s Committee of Experts on the Application of Conventions and Recommendations in 1994 stated that the “right to strike is an intrinsic corollary of the right to organize protected by Convention No. 87.”¹⁵²

ILO Convention No. 155 addresses occupational health and safety of workers.¹⁵³ Although the UAE has not ratified this convention, it should consider doing so and amending UAE labor law to incorporate its provisions as a step towards addressing serious concerns regarding the health and safety of workers in the country, particularly construction workers. The convention calls for national policies “to prevent accidents and injuries to health... by minimizing... the causes of hazards inherent in the working environment.” It urges states parties to “formulate, implement and periodically review a coherent national policy on occupational safety, occupational health and the working environment.” In addition, the convention calls for “the enforcement of laws and regulations concerning occupational safety and health” and urges “the holding of inquiries, where cases of occupational accidents... or any other injuries to health which arise in the course of or in connection with work appear to reflect situations which are serious.” It requires that government authorities ensure that “the publication, annually, of information on... occupational accidents, occupational diseases and other injuries to health which arise in the course of or in connection with work.”

¹⁵¹ ILO Committee on Freedom of Association, “Fact-Finding and Conciliation Commission Report: Chile,” 1975, para. 10.

¹⁵² International Labour Conference, 1994, “Freedom of association and collective bargaining: The right to strike, Report of the Committee of Experts on the Application of Conventions and Recommendations,” 81st Session, Geneva, 1994, Report III (Part 4B), para. 151.

¹⁵³ ILO Convention No. 155 concerning Occupational Safety and Health, adopted June 22, 1981, 1331 U.N.T.S. 279, entered into force August 11, 1983.

Other International Standards

While the UAE is not a party to the instruments cited below, they constitute authoritative sources and guidelines that reflect international best practice.

Key international instruments protect workers' rights to freedom of association and to bargain collectively, as well as the right to strike. The International Covenant on Economic, Social and Cultural Rights (ICESCR) recognizes “the right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests” and “the right to strike.”¹⁵⁴ The International Covenant on Civil and Political Rights guarantees the right to freedom of association by stating, “Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.”¹⁵⁵

The ICESCR specifies “the right of everyone to the enjoyment of just and favourable conditions of work which ensures, in particular... safe and healthy working conditions.”¹⁵⁶

The confiscation of passports by the employers of migrant workers is explicitly forbidden under the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Article 21 of the convention states:

It shall be unlawful for anyone, other than a public official duly authorized by law, to confiscate, destroy or attempt to destroy identity documents, documents authorizing entry to or stay, residence or establishment in the national territory or work permits. No authorized confiscation of such documents shall take place without delivery of a detailed receipt. In no case shall it be permitted to destroy the

¹⁵⁴ International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force January 3, 1976, art. 8(1)(a), (d).

¹⁵⁵ International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, art. 22.

¹⁵⁶ ICESCR, art. 7.

passport or equivalent document of a migrant worker or a member of his or her family.

The UAE should consider signing and ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and incorporating the convention's provisions into domestic labor law to provide migrant workers the protections they are due under international law.

Acknowledgments

This report was researched and written by Hadi Ghaemi, researcher in the Middle East and North Africa Division of Human Rights Watch. It was edited by Sarah Leah Whitson, executive director of Human Rights Watch's Middle East and North Africa Division, Ian Gorvin, programs consultant, and Carol J. Pier, Human Rights Watch's Business and Human Rights senior researcher. Wilder Tayler, legal and policy director to Human Rights Watch, provided a legal review. Tarek Radwan and Assef Ashraf, associates for the Middle East and North Africa Division, provided research assistance and, with Andrea Holley, manager of outreach and publications, prepared this report for production. Additional production assistance was provided by Fitzroy Hepkins, mail manager, and Jagdish Parikh, online communications content coordinator. Zina Al-Askari provided invaluable help with research. Human Rights Watch interns Howayda Barakat, Mahmoud Ibrahim, Rupert Cowper-Coles, and Marie-Agnes Suquet helped with research and translations. Human Rights Watch thanks the many individuals in the United Arab Emirates whose assistance was essential in conducting this research.

Appendix 1: Human Rights Watch Letter to UAE Minister of Labor

July 14, 2006

His Excellency Dr. Ali Abdulla Al Kaabi
Minister of Labor
Ministry of Labor, P.O. Box 4409
Dubai, United Arab Emirates

Your Excellency,

Human Rights Watch is preparing a report regarding the conditions of migrant workers in the United Arab Emirates (UAE). We recently conducted a fact-finding mission in the UAE. Our goal is to include the views and testimonies of the people who work in the UAE, their employers, and the UAE government, with respect to the policies and conditions governing migrant work there. Prior to our mission, Human Rights Watch contacted your office on February 9, 2006, through your secretary Mr. Mohammad Salem, requesting an interview during our visit. Unfortunately, we did not receive any reply to this request. A copy of the letter is attached. During our visit to the UAE, we also made several attempts to reach your office by phone, but were not able to secure an appointment with you.

As we emphasized in our earlier communication, we would like to ensure our report properly reflects your government's views, policies and practices regarding the conditions of migrant workers.

We would appreciate your comments on the following issues by July 31st, 2006; if we receive your comments by then, we will certainly reflect them in our upcoming publication.

- On March 30, 2006, Your Excellency announced that the UAE will enact a law by the end of this year that will allow workers to form unions and to legalize

collective bargaining. We would be grateful if you could provide us a copy of this law, so that we may reflect the proposed legislative changes in our report.

- According to media reports quoting the Labor Ministry, as of 2005, there were 2,738,000 expatriate workers in the UAE, and 246,420 companies registered in the UAE that employ migrant workers. Please could you verify and update these statistics?
- According to our research, the Ministry of Labor currently employs eighty inspectors to oversee the labor practices of the 246,420 companies that employ migrant workers. Is this figure correct? How many companies have these inspectors inspected in the past two years? Are the findings of their inspections made public, and if so, can we obtain copies of their findings for the past three years? Does the Ministry of Labor have any plans to increase the number of inspectors?
- What are the mechanisms for inspection and enforcement of the UAE's employment laws?
- We understand that the Ministry of Labor arbitrates labor disputes and, if necessary, refers them to the judiciary. How many labor disputes did the Ministry receive in 2004 and 2005? How many cases did it resolve through arbitration, and how many did it refer to the courts? What were the nature of the complaints filed? Whether by arbitration or court order, what percentage of the cases resulted in awards or reinstatement or restitution to employees?
- How many cases have led to the imposition of fines and/or prison sentences against construction companies for violating the labor law? Please provide us any information regarding the amounts of fines, or other penalties imposed, and the names of companies involved.
- In August 2005, local media in the UAE published reports that the number of migrant workers working in the construction sector who died in 2004 exceeded 800. The official government figure for the number of workplace

deaths in 2004 is thirty-four. How do you explain the discrepancy between the government's statistics and the reported figures? In particular, are the companies operating in "Free Zones" required to report to the government incidents of death and injury at their work-sites? How do you gather statistics on the number of laborers injured or killed on construction sites? What kind of provisions for medical care, social security benefits, and transfer of remains are made available, if any?

- According to the UAE labor law, all companies are obligated to report death and injuries at workplace to the Ministry of Labor. According to the Ministry of Labor officials, quoted in the media, only six companies filed reports of death and injury in 2005. What is the government doing to make sure that companies report instances of death and injury?
- On September 23, 2005, hundreds of workers for the Al Hamed Development and Construction of Abu Dhabi publicly protested that their employer had not paid them their salary for the past four months. Your office immediately ordered Al Hamed Development and Construction to pay the workers their full unpaid wages. As of April 3, 2006, when we interviewed workers at Al Hamed Development and Construction, they told us that they were paid only two months of back-wages. The Al Hamed workers said that as of April 3, 2006, they are owed three months of wages. Please provide us any information regarding any actions your government has taken to resolve this matter. How is the government holding Al Hamed Company accountable for its persistent violation of workers rights?
- In the course of our research, we have come across many cases of workers who have been abandoned by their employers. In these cases, the employers held back paying wages to their workers for many months and then fled the country. Under UAE law, all companies must have a business partner who is a UAE national. However, our research indicates that the UAE nationals are not being held accountable in these cases. Can you provide us with information regarding the identity and number of UAE nationals found guilty of violating UAE labor laws, particularly in cases of bankrupt construction companies?

- We would like to ask your response to the particular case of East Coast & Hamriah Company. On April 13, 2005, the Sharjah Federal Court of the First Instance has issued verdicts that the company owes 23 of its workers various dues. However, because the Lebanese owner of the company has fled, the authorities have told the workers there is no way they can recover their lost wages and that the company's UAE partner is not liable. Could you please respond why in this case the UAE partner is not being held liable? Please see copies of court rulings in the case of three out of the 23 workers attached to this letter.
- According to the UAE law, it is illegal for employers to withhold their employees' passports. Human Rights Watch found that employers routinely ignore this law and confiscate employee passports. What is the government doing to address this illegal yet widespread practice?
- According to Article 63 of the UAE labor law, the Ministry of Labor is required to put in place a minimum wage. Why has the Ministry never fulfilled its legal obligation? What is the government currently doing to fulfill this legal requirement?

Please do not hesitate to include any other materials, statistics, and government actions regarding the conditions of migrant workers in the UAE that you think might be relevant. Thank you in advance for your time in addressing this urgent matter.

Sincerely,



Hadi Ghaemi
Researcher
Middle East and North Africa Division
Human Rights Watch

cc: His Excellency Ambassador Saqr Ghobash, UAE Ambassador to the United States

His Excellency Ambassador Abdulaziz Nasser R. El-Shamsi, UAE Permanent Representative to the United Nations

Appendix 2: UAE Government Response to Human Rights Watch's Letter

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Permanent Mission of the
UNITED ARAB EMIRATES
to the United Nations
New York



البعثة الدائمة
لدولة الامارات العربية المتحدة
لدى الأمم المتحدة
نيويورك

Ref. 408 /2006

28 September, 2006

Mr. Hadi Ghaemi
Researcher
Middle East and North Africa Division
Human Rights Watch
1630 Connecticut Ave.N.W- Suite 500
Washington, D.C. 20009

Dear Mr. Ghaemi,

I have the honor to refer to your letter dated 14 July 2006, addressed to H.E. Dr. Ali Al Kaabi, the UAE Minister of Labor, regarding the report to be prepared by the Human Rights Watch on the conditions of migrant workers in the United Arab Emirates.

In this connection, I am pleased to enclose hereunder the clarifications and views received from the UAE Ministry of Labor regarding the policies and conditions governing migrant workers in the UAE:

- First of all, workers hosted by the UAE and other GCC countries cannot be considered migrant workers, as they work on a temporary basis and according to fixed-term employment contracts. Upon expiration of these contracts, they return to their home countries. Therefore, the immigration laws applicable in the western countries cannot be applied to these workers.
- Due to differences in the nature, cultures and nationalities of expatriate workers, systems and regulations applied in the GCC countries for the recruitment of these workers are not uniform.
- The GCC countries and the Asian exporting labor countries have agreed, during the Third Asian Ministerial Consultation Conference, which was organized by the International Migration Organization in Bali, Indonesia in September 2005, that expatriate workers coming from Asian countries to the GCC states will be temporary and not migrant workers, and must work according to fixed-term employment contracts. This concept, which has been approved in the Bali Conference by the GCC countries and presented at the 95th Session of the International Labor Conference held in Geneva in June 2006, has become one of the agreed upon concepts of International Migration Organization concerning foreign labor working in the GCC.

3 Dag Hammarskjold Plaza ♦ 305 East 47th Street, 7th Floor ♦ New York, NY 10017 ♦ Tel (212) 371-0480 ♦ Fax (212) 371-4923

- Expatriate workers who come to the UAE are aware of their legal status and work according to temporary employment contracts, after which they return to their home countries. Therefore, the internationally accepted concept of migration does not apply to them.
- The UAE Ministry of Labor supervises the implementation of the Labor Law and its executive regulations. Inspection visits are made to all private companies and establishments registered in the UAE in order to oversee their work practices and ensure their compliance to the provisions of the labor law. Periodic and regular inspections were made to 218,468 companies with 2,389,693 workers as of 31/12/2005.
- The Ministry has also developed a grievance and judiciary system that ensures transparency and objectivity. The Directorates of Labor in the various regions of the UAE receive, examine and arbitrate complaints and disputes reported by workers and employers according to the provisions of the law and, if necessary, refer them to the concerned courts for taking the necessary legal action if no amicable settlement could be reached.
- In the area of occupational health and safety, the labor law contains strict and conclusive provisions to ensure protection of workers, improvement of their health and social care, and compensation for work injuries and occupational diseases.
- Annual and periodic reports on labor inspection in industrial and commercial sectors are submitted by the UAE Ministry of Labor in accordance with the requirements of the International Labor Organization and the International Labor Organization Convention of 1947, which was ratified by the UAE in 1982.
- The UAE Ministry of Labor devotes the necessary time and effort to examine and arbitrate all labor complaints and disputes, and wishes to confirm that the Ministry is open to all worker and employers in the UAE. It further stresses that opinions published in the media on labor disputes are merely representing the views of workers and employers, and they should not be used as a basis for issuing judgments. The Ministry cannot take the views of workers or employers into consideration before ascertaining their validity and ensure that the applicable rules and procedures were taken into account.



Abdulaziz Nasser Al-Shamsi
Ambassador
Permanent Representative

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