



The Situation of Women Migrant Domestic Workers in Bahrain

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I. Introduction

1. Overview of the major violations of women's rights in Bahrain

The most pressing problems faced by women in Bahrain include the following:

- **Discrimination in the workplace** and denial of senior posts in both the private and public sectors;
- **Family law** is uncodified and governed by all-male religious Sharia courts. Influential sections of the religious establishment oppose a codified family law, while the government has recently demonstrated a lack of interest in pursuing the matter. Meanwhile, Sharia courts and Public Prosecution have resorted to threatening activists who dare to criticize its discriminatory positions and practices;
- **Nationality:** Children and spouses of Bahraini women married to non-Bahraini men are not entitled to citizenship;
- **Violence against women:** Sexual harassment and domestic abuse against women is commonplace, with very little institutional support for victims, and marital rape is not considered a crime under Bahraini law.

2. The particular vulnerability of women migrant domestic workers

The Bahrain Centre for Human Rights (BCHR), Caram Asia and the Bahrain Youth Society for Human Rights (BYSHR) consider that the CEDAW Committee should also give special attention to the plight of women migrant domestic workers, since they have been by and large ignored and excluded from the discourse on women's rights in Bahrain. Whilst across the world, women and

children are the most vulnerable section of society to the effects of economic, political and social ills, for migrant women, the conditions are even worse.

According to the ILO, domestic work is the "single most important category of employment among women migrants to the Gulf as well as to Lebanon and Jordan". Foreign embassies and NGOs estimate that there are 70,000 foreign domestic workers in Bahrain of predominantly Sri Lankan, Indonesian, Indian, and Filipino origin.

Gender discrimination in public life and employment is generally visible. However, migrant workers working behind closed doors, especially female domestic workers, are often "invisible" and are therefore particularly vulnerable to abuse and exploitation. They are not protected by labour laws and are effectively subjected to conditions of involuntary servitude. Many are faced with exorbitant recruitment and migration fees. In the workplace, problems include long (or undefined) working hours, low salaries and late payment of salaries and poor and repressive living conditions. They suffer restrictions on movement, including the withholding of passports and are particularly vulnerable to psychological, physical and sexual abuse. It is extremely difficult for such victims of abuse to seek legal redress.

II. The situation of women migrant domestic workers

1. Lack of legal protection and the kafala system

Women migrant domestic workers face long (or undefined) working hours, low salaries and late payment of salaries and poor or repressive living conditions. According to a 2005 ILO study, in Bahrain the average number of work hours for female domestic workers was 108 per week, in Kuwait 101, and in the UAE 105. These women had an average of 1 day off per month. All those interviewed for the study spoke of control on their freedom of movement. Every woman interviewed reported that her passport was held by their employer. None of them were given remuneration for working overtime. This information was confirmed to the UN Special Rapporteur on the human rights of migrants and three other special procedure mandate holders: many women domestic migrant workers have to work 15 to 17 hours a day, seven days a week.

Upon arriving in Bahrain, women migrant workers are subjected to mandatory health testing related to sexual and reproductive health without consent or counselling. There is as yet no data on the issue of pregnancy and how it is handled by employers.

In the contract of employment, conditions are set according to the employer's discretion and in many (possibly the majority) cases there is no contract at all. The Ministry of Labour has created a model contract - but how much it is used, and how useful it is, is not clear. In addition, employers are required to pay for the flight costs of their employees - but from cases we seen in Bahrain, many employers do not do this. Lack of contractual clarity means female migrant domestic workers often end up carrying out multiple forms of work: women are often babysitters, kitchen helpers, cleaners, they work inside the family home and in their relatives homes too.

The Kafala sponsorship system means that expatriate workers can only enter, work, and leave certain countries with the assistance or explicit permission of their sponsor or employer, who is a local in the country. The Kafala system was drawn from a concept of "guardianship" by which domestic workers are given residence in their employers' abode. This is the basis upon which visas are issued to domestic workers. Domestic workers are legally required to live with their sponsor (employer). Since their legal status in Bahrain depends on the continued visa sponsorship of their employers, those who attempt to escape from exploitative situations risk arrest, prolonged administrative detention and deportation. The dependence created by the sponsorship system has the consequence that many domestic workers who suffer abuse do not make complaints against their employers. There have even been cases of imprisonment of victims of abuse who had left their sponsor's home in order to file a complaint (See further below, 3. Lack of access to justice).

Because of the domain in which they work - households – domestic workers also do not fall under national labour laws, their work is not legally recognized and they are not legally classified as workers. Because of their 'unrecognised' status, they are unable to exercise the rights and freedoms afforded to workers and it is difficult to scrutinise and regulate their working and living conditions.

Concerns regarding discrimination and violence against women migrant domestic workers, their working conditions, and their lack of protection under the Labour Code have also been raised by the CERD Committee and highlighted by the UNHCR.

The UN Special Rapporteur on the human rights of migrants also requested Bahrain to take effective measures to prevent and redress the serious problems faced by female domestic workers, including debt bondage, passport retention, illegal confinement, rape and physical assault.

2. Violence against women migrant domestic workers

In 2008, there were numerous credible reports that domestic workers in Bahrain, especially women, were subjected to verbal and physical abuse, including beating, sexual molestation and rape by employers and recruiting agents. Between 30 to 40 percent of the attempted suicide cases handled by the government's psychiatric hospitals were foreign domestic workers.

Although sexual harassment is prohibited in Bahrain it remains a widespread problem for women, especially women migrant domestic workers and those working in other low-level service jobs.

Many of these cases were reported to local embassies, the press, and the police; however, most victims were too intimidated to sue their employers, although they had the right to do so.

3. Lack of access to justice

Few women migrant domestic workers are able or willing to seek legal redress - many because they are unaware of their rights, but also because they do not have access to the institutions where they could seek help. Because of their dependence on the employers (sponsors) for their legal status, many do not report abuse for fear of arrest, detention or deportation. Furthermore, there is evidence to suggest that public authorities often privilege employers in disputes involving migrant workers.

The government has published pamphlets on expatriate workers' rights in several languages, provided manuals on these rights to local diplomatic missions, and operates a telephone hotline for victims. However the government does not provide direct assistance to victims.

Courts reportedly allow victims who do register complaints to sue for damages or

return home. If the victim brings a suit against the employer, the plaintiff cannot leave the country for the duration of the case. Under the sponsorship system, an expatriate worker cannot seek alternative employment while a case is in court.

Since its inception in 2002, the Migrant Worker Protection Society (MWPS) has supported several victims who have taken their cases to court, but compensation to victims was reportedly very low. In the course of 2008 MWPS withdrew several court cases, including three rape cases, citing a complete lack of success in the courts.

Because in past years MWPS has been unsuccessful at resolving cases against sponsors in the courts, MWPS recommends that individuals instead attempt to resolve cases through mediation between their embassies and the sponsors. Most of these mediations have resulted in the payment of back payments followed by repatriation.

The Pakistani embassy reported that it successfully resolved 200 cases through mediation between the sponsor and the worker, referred 135 to the Ministry of Labour, and 40 to lawyers. The Pakistani embassy repatriated over 750 workers.

In September the MWPS assisted an Indian housemaid who was severely beaten with a cricket bat by her sponsor and suffered a broken leg. She was in the hospital and out of work for more than two months. The Indian embassy filed a complaint against her sponsor for the beating. At year's end the investigation was ongoing, and the housemaid was out of work.

Domestic workers who have no embassy representation in the country are often subjected to the worst types of abuse, including physical and sexual abuse. With no diplomatic mission to represent them, runaway domestic workers have few places to turn for support.

On 13 June 2008, a Sri Lankan housemaid sought assistance from the MWPS after running away from her Bahraini sponsor's allegedly abusive family. The housemaid claimed her sponsor's wife and two elder children abused her on daily basis. She was allegedly made to work seven days a week and paid a salary of approximately \$132 (50 dinars) a month. The maid's sponsor denied the allegations but after police questioning agreed to end his legal sponsorship, and the housemaid was repatriated with the assistance of MWPS.

In July 2008, the Ministry of Labor began investigating a complaint lodged by the MWPS on behalf of a number of housemaids based on reports that a leading labor recruitment agency was complicit in the abuse of individuals it had recruited. The investigation is ongoing.

In 2008 there were approximately 500 labor cases involving a total of over 650 expatriate workers sent from the Ministry of Labour to the Public Prosecution for investigation and prosecution.

4. Trafficking

Under Article 6 of CEDAW, “States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women”.

Bahraini law does not specifically prohibit trafficking in persons. Workers in Bahrain originating from Southeast Asia, South Asia, the Horn of Africa, and the former Soviet Union report conditions that indicate trafficking, such as withholding of passports, restrictions on movement, and physical or psychological intimidation to work. Some victims reported being forced into commercial sexual exploitation; however, the most common forms of trafficking in persons involves unskilled construction laborers and domestic workers.

It is estimated that up to half of low and unskilled expatriate workers are subjected to illegal contract substitution, whereby workers agree to a contract in their home country but are required to agree to and sign a different contract upon arrival, nearly always for less pay and often for different work. Victims of trafficking experience non-payment of salaries; inadequate meals; physical, sexual, and psychological abuse; absence of rest days; and/or extremely long working hours.

The primary traffickers are employment agencies operating in countries of origin. These agencies approach workers in their home countries and offer visas at prices in the range of \$3,975 (1,500 dinars), payable after arrival. Upon arrival at the airport, workers' passports are taken from them, ostensibly to facilitate customs; however, the passports frequently are not returned. Frequently, traffickers, including some from influential families, trick new workers into paying for fraudulent visas and nonexistent jobs, leaving stranded workers further vulnerable to trafficking due to their illegal immigration status in the country and high debt in their home country.

Prostitution is illegal in Bahrain, but in 2008 there was evidence that a number of foreign women, particularly Thai women, were forced into commercial sexual exploitation through deception or intimidation. Although many Thai women traveled to the country voluntarily, traffickers reportedly used false job offers and physical force to traffic some of them into commercial sexual exploitation.

In cases of forced prostitution, it has been reported that there have been prosecutions of victims and often the victim's sponsor or employer. However, the government has not provided any specific details on these cases.

The fear of deportation or employer retaliation prevents many victims of trafficking from making complaints to the authorities.

Under Bahraini law, the government can fine employers guilty of forced labor up to \$2,650 (1,000 dinars) and/or sentence them to terms of imprisonment not exceeding two years. Sponsors are required to put up a deposit of \$265 (100 dinars) for each runaway worker.

Between July 16 and July 21, working in concert with an international NGO, a government shelter focusing on female victims of domestic abuse and trafficking assisted the return of two trafficking victims to their home countries.

Between January 7 and 18, the government partnered with a foreign organization to train a special, multidisciplinary anti-trafficking unit.

Several NGOs provided assistance in the form of housing, basic health care, education, and transportation to trafficking victims with the government's approval, including the MWPS, the Art of Living Foundation, the Indian Community Relief Fund, and the BHRWS.

III. Recommendations

BCHR, Caram Asia and BYSHR make the following recommendations to the government of Bahrain:

- To consult civil society organizations on the provisions of the bill related to domestic violence and to adopt the bill as soon as possible thereafter.
- Take immediate steps to amend the Labour Law to cover domestic workers and to put in place all necessary measures to ensure its implementation.
- To adopt anti-trafficking legislation, in conformity with the Palermo Protocol and other international conventions, including by ensuring that all elements of trafficking in persons are defined as crimes. The drafting process should take place in consultation with civil society.
- To implement all recommendations issued by the UN Special Rapporteur on Trafficking in Persons following her visit to Bahrain in October-November 2006, including:
 - To abolish the sponsorship system.
 - To establish mechanisms to monitor the working conditions and compliance of employment contracts of domestic workers in the households of their employers.
 - To inspect, in the presence of employers and workers, all migrant workers' contracts.
 - To prohibit mandatory HIV/AIDS-testing of targeted groups.
 - To guarantee foreign workers the right to an accessible and fair system of justice.
 - To automatically inform embassies when their nationals are being

detained, and facilitate visits by the relevant consular officials.

- To ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. To ratify relevant International Labour Organization (ILO) Conventions, including Convention No. 97 (1949) on Migration for Employment, and No. 143 (1975) concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers.

IV. Annex

1. Relevant provisions of CEDAW

The following CEDAW articles are particularly relevant to female domestic workers in Bahrain.

Article 6

States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

Article 11

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- a. The right to work as an inalienable right of all human beings;
- b. The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;
- c. The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;
- d. The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;
- e. The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;
- f. The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

a. To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;

b. To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;

c. To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities;

d. To provide special protection to women during pregnancy in types of work proved to be harmful to them.

3. Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

2. Sources

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