



Генеральная Ассамблея

Distr.: General
31 March 2010
Russian
Original: English

Совет по правам человека

Четырнадцатая сессия

Пункт 9 повестки дня

**Расизм, расовая дискриминация, ксенофобия
и связанные с ними формы нетерпимости,
последующие меры и осуществление Дурбанской
декларации и Программы действий**

Доклад Специального докладчика по вопросу о современных формах расизма, расовой дискриминации, ксенофобии и связанной с ними нетерпимости Гиту Муйгаи

Добавление

Миссия в Объединенные Арабские Эмираты*

* Резюме к настоящему документу распространяется на всех официальных языках.
Доклад, содержащийся в приложении к резюме, распространяется только на арабском
и английском языках.

Резюме

По приглашению правительства Специальный докладчик по вопросу о современных формах расизма, расовой дискриминации, ксенофобии и связанной с ними нетерпимости посетил Объединенные Арабские Эмираты (Абу-Даби, Дубай, Рас-эль-Хайма) 4–8 октября 2009 года.

По завершении своего визита Специальный докладчик сделал вывод о том, что Объединенные Арабские Эмираты – это уникальная страна, где значительное большинство населения составляют лица, не являющиеся гражданами, и где граждане являются меньшинством в своей собственной стране. В последние десятилетия приток иностранных трудящихся, который в значительной степени содействовал строительству страны, также создал огромные проблемы для общества Эмиратов в плане национальной идентификации, социальной интеграции и возможностей ассоциации. Хотя правительство приняло в последние годы заслуживающие высокой оценки инициативы по решению некоторых из многочисленных проблем, Специальный докладчик полагает, что многое еще предстоит сделать с точки зрения законодательства, политики и ее эффективно-го осуществления, а также в плане образования в области прав человека.

В настоящем докладе Специальный докладчик рассматривает вопросы, касающиеся определения национальной идентичности Эмиратов и предоставления гражданства; условий жизни и работы неквалифицированных иностранных трудящихся, в особенности строительных работников и домашней прислуги; уязвимого положения апатридов; торговли людьми; политики в сфере образования; а также правовых и институциональных правозащитных основ борьбы с расизмом, расовой дискриминацией, ксенофобией и связанной с ними нетерпимостью.

Специальный докладчик высказывает несколько рекомендаций, включая следующие:

- Он рекомендует провести общественные дебаты по вопросу об определении национальной идентичности. Эти дебаты могли бы быть проведены Федеральным национальным советом и могли бы быть дополнены созданием более открытых условий, которые позволили бы гражданам Эмиратов и членам иностранных общин конструктивно поделиться тем, что их беспокоит.
- Он рекомендует, чтобы власти на недискриминационной основе пересмотрели и обработали действительные заявления о предоставлении гражданства, поданные лицами, которые на законных основаниях жили в стране в течение определенного периода времени.
- В контексте глобального экономического кризиса он настоятельно призывает правительство предпринять необходимые шаги, в том числе законодательные, с целью решения проблем, связанных, в частности, с серьезным риском эксплуатации неквалифицированных иностранных трудящихся в рамках системы спонсорства, по причине конфискации их паспортов, запрещения образовывать профсоюзы и наличия у них договорных долгов перед агентствами по трудоустройству.

- Он рекомендует уделить первоочередное внимание нахождению окончательного и справедливого решения в отношении положения апатридов с целью обеспечения того, чтобы они имели надлежащий доступ к здравоохранению, образованию, социальным услугам и трудоустройству и чтобы они пользовались недискриминационным обращением в том, что касается административных процедур и отправления правосудия.
- Он рекомендует правительству пересмотреть его действующую политику в области образования с целью обеспечения того, чтобы государственные учебные заведения были фактически открытыми для всех детей, включая неграждан.
- Он рекомендует пересмотреть конституционные положения, ограничивающие определенные права человека гражданами Эмиратов, с тем чтобы предоставить защиту прав человека всем проживающим в стране лицам, включая неграждан.

Annex

**Report submitted by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Githu Muigai, on his mission to the United Arab Emirates
(4-8 october 2009)**

Contents

	<i>Paragraphs</i>	<i>Page.</i>
I. Introduction	1 - 3	5
II. General background	4 - 13	5
A. Political structure	4	5
B. Demographic and ethnic composition	5 - 7	5
C. International human rights instruments	8 - 10	6
D. Methodology	11 - 13	7
III. Legal and institutional human rights framework	14 - 24	7
A. Constitutional provisions.....	14 - 17	7
B. Specific legislation on prohibiting racism, racial discrimination, xenophobia and related intolerance	18 - 21	8
C. Institutional human rights framework.....	22 - 24	9
IV. Main challenges in the fight against racism, racial discrimination, xenophobia and related intolerance	25 - 62	10
A. National identity and the granting of citizenship	25 - 30	10
B. Construction and domestic workers.....	31 - 43	11
C. Stateless persons.....	44 - 54	14
D. Human trafficking	55 - 57	17
E. Education	58 - 62	18
V. Conclusions and recommendations	63 - 79	19
Appendix		
List of official meetings.....		23

I. Introduction

1. At the invitation of the Government, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance visited the United Arab Emirates (Abu Dhabi, Dubai and Ras Al Khaimah) from 4 to 8 October 2009. He held meetings with authorities from the executive, legislative and judicial branches. Given the federal structure of the United Arab Emirates and the scope of competences of the Emirates, the Special Rapporteur conducted meetings both at the federal and Emirates' level. A list of official meetings held during the visit is contained in the annex.

2. Apart from the agenda with the Government and State institutions, the Special Rapporteur also had meetings with representatives of civil society, including community members, academics and other organizations and individuals.

3. The Special Rapporteur wishes to express his sincere gratitude to the Government of the United Arab Emirates for its cooperation and openness throughout the visit. He also wishes to convey his deep appreciation to all representatives of civil society that cooperated with him throughout the visit. The Special Rapporteur was particularly honoured to be the first special procedures mandate-holder invited to visit the country. He hopes that many more special procedures will follow after his visit and the one undertaken by the Special Rapporteur on the sale of children, child prostitution and child pornography in October 2009.

II. General background

A. Political structure

4. The United Arab Emirates was established in 1971 as a federal State consisting of seven Emirates: Abu Dhabi (capital), Dubai, Sharjah, Ras al-Khaimah, Ajman, Umm al-Qiwayn and Fujairah. The Constitution of the United Arab Emirates stipulates that the Federation exercises its sovereignty inside the international borders of the member Emirates, while the member Emirates exercise their sovereignty over all matters for which the Federation does not have competence under the Constitution. Islam is the official religion and Arabic is the official language.

B. Demographic and ethnic composition

5. Based on information from the Federal National Council Committee of Foreign Workers and the Ministry of Labour, the total population residing in the United Arab Emirates, including nationals and non-nationals, is currently estimated around 6 million. Among foreign nationals, Indians would constitute the largest group (29.2 per cent), followed by Pakistanis (20.8 per cent) and Bangladeshis (8.3 per cent). Members of other Asian communities, including China, the Philippines, Thailand, Korea, Afghanistan and Iran would make up approximately 16.6 per cent of the total population. Expatriates from Europe, Australia, North Africa, Africa and Latin America would make up 8.3 per cent of the overall population. More detailed and precise figures should be available following the general census due to be held in April 2010.

6. According to the official figures provided in 2006 by the United Arab Emirates¹, more than 65 per cent of the population live in the Emirates of Abu Dhabi and Dubai and the Emirati nationals account for approximately 21 per cent of the population. The Special Rapporteur notes however that, according to the aforementioned figures and some of his interlocutor's views, the Emirati nationals may in reality account for less than 17 per cent of the total population residing in the country.

7. The Special Rapporteur would like to emphasize that the United Arab Emirates is therefore a unique country where non-nationals constitute the vast majority of the population and where nationals represent a minority in their own country. The influx of foreign workers, which has been supported by the Government to satisfy the demands of a fast-growing economy in the last three decades, has deeply modified the demographic balance within society. With more than 180 nationalities represented on its soil, the United Arab Emirates has undoubtedly become one of the most culturally diverse countries on earth.

C. International human rights instruments

8. At the international level, the United Arab Emirates is a State party to the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child. The United Arab Emirates is however neither a party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, nor to the International Covenant on Economic, Social and Cultural Rights and to the International Covenant on Civil and Political Rights.

9. The United Arab Emirates has ratified a number of fundamental International Labour Organization Conventions, including Conventions No. 29 (1930) concerning Forced or Compulsory Labour; No. 100 (1951) concerning Equal Remuneration for Men and Women; No. 105 (1957) concerning the Abolition of Forced Labour; No. 111 (1958) concerning Discrimination in Respect of Employment and Occupation; No. 138 (1973) concerning Minimum Age for Admission to Employment and No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. However, the United Arab Emirates has not ratified the fundamental International Labour Organization Conventions No. 87 (1948) concerning the Freedom of Association and Protection of the Right to Organise and No. 98 (1949) concerning the Right to Organise and to Bargain Collectively.

10. According to the recent report submitted by the United Arab Emirates to the Committee on the Elimination of Racial Discrimination,² the Constitution makes it clear that a treaty which has been ratified pursuant to a federal decree and published in the Official Gazette carries the force of law and has the status of a State law, if the decree on accession, or ratification, provides that the treaty shall enter into force on the date of publication in the Official Gazette. In this way, the treaty becomes a State law which the Cabinet and relevant minister are bound to enforce.

D.

Methodology

11. The Special Rapporteur held meetings with authorities from the executive, legislative and judiciary branches, both at the federal and Emirates' level, in order to obtain their views concerning racism, racial discrimination, xenophobia and related

¹ See CERD/C/ARE/17, para. 13.

² See CERD/C/ARE/12-17, para. 50.

intolerance in the United Arab Emirates, the adequacy of the existing legal and institutional human rights framework and the programmes and policies adopted by the authorities to fight these problems. Additionally, meetings with representatives of civil society were organized.

12. In order to assess the main challenges that lie ahead in the fight against racism and xenophobia in the United Arab Emirates, the Special Rapporteur brought to the attention of the authorities some key concerns expressed by representatives of civil society. He also relied on concluding observations and recommendations made by the Committee on the Elimination of Racial Discrimination and the Universal Periodic Review of the Human Rights Council. In this regard, he aimed to better understand the Government's responses to those challenges and, in addition, how it identified existing problems and devised solutions thereto. The conclusions and recommendations in this report are based on these rich exchanges with United Arab Emirates-based interlocutors and the Special Rapporteur's own analysis. He hopes that they will contribute to finding concrete ways and means of addressing the challenges raised in this report in an effective and human rights-compliant manner.

13. Chapter III of this report examines the legal and institutional human rights framework of the United Arab Emirates to combat racism. Chapter IV addresses a number of key issues in the fight against racism, presenting the views shared with the Special Rapporteur both by Government officials and civil society. Finally, the conclusions and recommendations of the Special Rapporteur are presented in chapter V.

III. Legal and institutional human rights framework

A. Constitutional provisions

14. Parts two and three of the Constitution of the United Arab Emirates contain provisions of particular relevance to the mandate of the Special Rapporteur. These include article 14 which states that "Equality, social justice, ensuring safety and security and equality of opportunity for all citizens shall be the pillars of the society"; article 25 which prescribes that "All persons are equal before the law, and there shall be no discrimination among citizens of the Federation on grounds of origin, ethnicity, religious belief or social status"; and article 40 which affirms that "Foreigners in the Federation enjoy the rights and freedoms recognized in the applicable international covenants, treaties and conventions to which the Federation is a party and incur the corresponding obligations". In addition, other human rights relating to, inter alia, education, medical care, employment, freedom of movement, freedom of opinion and expression, freedom of assembly, prohibition of forced labour, are also guaranteed by the Constitution.

15. While expressing his appreciation that a range of human rights are protected by the Constitution, the Special Rapporteur is concerned by the fact that some fundamental human rights are granted to Emirati citizens, but not to non-citizens residing on the United Arab Emirates' territory. For instance, the above-mentioned articles 14 and 25 specifically refer to rights granted to Emirati citizens. In addition, article 19 stipulates that "Medical care and means of prevention and treatment of diseases and epidemics shall be ensured by the community for all citizens"; article 26 prescribes that "Personal freedom is guaranteed to all citizens"; article 29 states that "Freedom of movement and residence is guaranteed to citizens, subject to the limits laid down by law"; and according to article 34, "Every citizen is free to choose his

own occupation, profession or trade, subject to the limits laid down by law and having due regard for the legislation regulating certain professions and trades”.

16. International human rights law makes it clear that only a limited number of rights may be made dependent on citizenship, including the right to enter and reside permanently within the territory of a State and the right to be protected by the State when one is outside its territory. Moreover, in its general recommendation No. XXX (2004) on discrimination against non-citizens, the Committee on the Elimination of Racial Discrimination recalled that although some rights, such as the rights to participate in elections, to vote and to stand for election, may be confined to citizens, human rights are, in principle, to be enjoyed by all persons. Differential treatment based on citizenship or immigration status will therefore constitute discrimination if the criteria for such differentiation are not applied pursuant to a legitimate aim, and are not proportional to the achievement of this aim.

17. Consequently and in line with the recent concluding observations of the Committee on the Elimination of Racial Discrimination,³ the Special Rapporteur would like to strongly recommend that the aforementioned constitutional provisions relating to, *inter alia*, safety, security, equality of opportunity, medical care, non-discrimination before the law, personal freedom, freedom of movement as well as the right to choose one's occupation, trade or profession, be equally guaranteed to non-citizens. It is indeed of crucial importance in a country like the United Arab Emirates where non-citizens represent the vast majority of the population, that all individuals enjoy the same human rights without discrimination.

B. Specific legislation prohibiting racism, racial discrimination, xenophobia and related intolerance

18. While the Constitution contains provisions referring to the human rights principles of equality and non-discrimination,⁴ the Special Rapporteur was informed during his mission that there is no specific legislation prohibiting racism, racial discrimination, xenophobia and related intolerance in the United Arab Emirates. The Government conveyed its views that existing legislation, including the Federal Act No. 2 of 2008 concerning public welfare associations and institutions and the Federal Printing and Publications Act No. 15 of 1980, were sufficient to prevent and combat racism. In response to questions raised by the Special Rapporteur, the Government nonetheless alluded to the possibility to compile in the future all relevant provisions and to enact one consolidated legislative act relating to racism. There are however no concrete proposals being currently discussed by the authorities.

19. In this context, the Special Rapporteur would like to refer to paragraph 68 of the Durban Programme of Action which urges States “to adopt and implement, or strengthen, national legislation and administrative measures that expressly and specifically counter racism and prohibit racial discrimination, xenophobia and related intolerance, whether direct or indirect, in all spheres of public life, in accordance with their obligations under the International Convention on the Elimination of All Forms of Discrimination”.

20. In addition, the Special Rapporteur would like to recall that in accordance with article 4 of the International Convention on the Elimination of All Forms of Ra-

³ See CERD/C/UAE/CO/17, para. 11.

⁴ These principles, which are embodied in articles 14 and 25 of the Constitution, seem nonetheless to apply only to citizens of the United Arab Emirates.

cial Discrimination, States parties “[s]hall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof”. States parties shall also “declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law”.

21. In conformity with the above-mentioned human rights standards, the Special Rapporteur is of the view that the Government should consider adopting a specific legislative act on racism, racial discrimination, xenophobia and related intolerance. The specific law on human trafficking⁵ adopted by the Government in 2006 constitutes a good example in that regard. The benefits of a single legislative act include specific reporting, reviewing and enforcement mechanisms, as well as specific funding, which usually allows for more effective policies against racism. The enactment of a single legislative act also clearly demonstrates the State’s political commitment in the fight against racism. Moreover, it allows enhanced visibility and accessibility of the law for civil society, thereby enabling individuals to resort to the law in an easier and more effective manner.

C. Institutional human rights framework

22. While there exists at present no National Human Rights Institution in the United Arab Emirates, the Special Rapporteur was encouraged to learn that since December 2008 the Government had taken steps to implement voluntary commitments and recommendations made in the framework of the Universal Periodic Review. These include the initiation of a study on human rights institutions in various countries to help the United Arab Emirates establish its own national institution, in line with the Paris Principles.

23. During his mission, the Special Rapporteur was particularly impressed by the human rights strategy designed by the Dubai Community Authority Development, which is responsible for setting up and developing frameworks for social development in Dubai. This governmental institution, which aims at reaching out to all individuals within the society, including non-nationals residing in Dubai, will most probably help raise awareness about human rights and instil a human rights culture in Dubai. Therefore, the Special Rapporteur very much hopes that such a local institution could be turned in the near future into a full-fledged and Paris Principles-compatible National Human Rights Institution covering all seven Emirates with an oversight mandate, including the monitoring of racism, racial discrimination, xenophobia and related intolerance.

24. In the aftermath of his mission, the Special Rapporteur was informed about the plans in Dubai to build a Human Rights village consisting of five domes addressing different human rights issues and which should be accessible to all. He very much welcomes this initiative which will help raise awareness and educate people about human rights.

⁵ See Federal Law No. 51 of 2006 on combating human trafficking crimes.

IV. Main challenges in the fight against racism, racial discrimination, xenophobia and related intolerance

A. National identity and the granting of citizenship

25. The United Arab Emirates is today one of the largest recipient countries of foreign workers and has as such become one of the most multicultural countries on earth. It is therefore a unique country where nationals are a numerical minority in their own country. The influx of foreign workers, which has been encouraged by the Government to satisfy the demands of a fast-growing economy, has significantly contributed to the building of a prosperous country. Yet, it has also created tremendous challenges for the Emirati society in terms of national identity, social integration and capacity for absorption.

26. Throughout the mission of the Special Rapporteur, the question of the definition and preservation of Emirati national identity was often put forward. There are indeed serious concerns among Emirati citizens that this significant influx of foreign workers, both skilled and unskilled, has somehow altered the national identity of the country. Emirati citizens are of the view that the immigration policy ought to be controlled more firmly in order to allow for a better selection of people entering the country and above all to preserve the main features of the Emirati society, which were sometimes referred to as Arab and Islamic. Fears were expressed that the country may one day be taken over by foreign workers, in particular by Indians and Pakistanis, who constitute approximately 50 per cent of the total population. In addition, there was also resentment expressed against Western expatriates who are granted most managerial posts and are therefore better remunerated than Emirati citizens.

27. The Special Rapporteur believes that these concerns, if unaddressed in a timely and open manner by the Government, could alter the peaceful coexistence of the great variety of ethnic and national groups residing in the country. This could indeed lead to generalised resentment against foreigners in the United Arab Emirates and thus to overt xenophobic attitudes.

28. This question has links to, *inter alia*, the granting of citizenship and related rights. While the granting of citizenship and the privileges attached thereto remain within the domestic jurisdiction of each State, it is always desirable that a clear, consistent and transparent policy be put in place. In addition, bearing in mind that human rights are, in principle, to be enjoyed by all persons, a fair and just balance should be reached between rights conferred to nationals and those conferred to non-nationals. At present, given the fact that non-citizens are allowed to reside in the United Arab Emirates only if they are in possession of a valid contract of employment, some individuals have found themselves in a vulnerable situation upon loss of employment, in spite of the fact that they were born and raised in the United Arab Emirates. In addition, it would appear that persons who have lawfully lived in the country for fairly long periods of time have nonetheless been unable to qualify for Emirati citizenship. Among some of them, it was felt that not belonging to the ethnic group of the majority of nationals of the United Arab Emirates or not adhering to the official religion was a distinct disadvantage preventing them from obtaining citizenship.

29. Given the unique nature of the United Arab Emirates, the Special Rapporteur is of the view that the current policy on the granting of citizenship and related rights ought to be reconsidered in line with relevant international law, so as to ensure non-discrimination on the grounds of race, colour, descent, or national or ethnic origin.

As reaffirmed by the Committee on the Elimination of Racial Discrimination in its general recommendation No. XXX (2004), States parties should “ensure that particular groups of non-citizens are not discriminated against with regard to citizenship or naturalization, and to pay due attention to possible barriers to naturalization that may exist for long-term or permanent residents”.

30. Moreover, upon reception of reports indicating that the policy on the granting of citizenship differs significantly according to the Emirate in which the individuals reside, the Special Rapporteur would like to call for a full harmonization of the policy in this area in the seven Emirates. While there is of course no easy solution to these delicate issues, it is more than ever urgent and necessary to hold an open debate on the definition of the national identity, as well as on the granting of citizenship and related rights.

B. Construction and domestic workers

31. The rationale of the free market economy in the United Arab Emirates has to a large extent determined the employment areas in which certain foreign communities work and has therefore determined their social status. The Special Rapporteur was for instance informed that a large majority of construction workers come from South Asia. He was also told that most domestic workers usually come from South Asia, South-East Asia, and also from certain African countries. Managerial positions are however most often held by Western expatriates. This has led to a situation where wages and other benefits of employment mirror the national or ethnic origin of each individual. It was for instance alleged that a maid from the Philippines would earn more than a maid from Ethiopia or Sri Lanka, who would in turn earn more than a Bangladeshi maid.

32. While these economic differences between national or ethnic groups do not stem from a deliberate governmental policy, some representatives of civil society are nonetheless of the view that this economic differentiation is backed up by a range of practices affecting particular groups among unskilled foreign workers and therefore affecting particular ethnic or national groups. Thus, during the preparatory stages of his mission, the Special Rapporteur received numerous allegations of human rights abuses and violations suffered by unskilled foreign workers, in particular by construction and domestic workers who constitute the large majority within this category.

33. While the mandate of the Special Rapporteur does not specifically relate to foreign workers, it is nonetheless concerned with discrimination on the grounds of colour, descent, national or ethnic origin preventing individuals to enjoy, inter alia, the right to equal treatment before the tribunals and all other organs administering justice; the right to leave any country, including one's own, and to return to one's country; the rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration; the right to form and join trade unions; the right to housing; as well as the right to public health, medical care, social security and social services. As a consequence, the living and working conditions of construction and domestic workers, which constituted major issues of concern during the Universal Periodic Review and the examination of the seventeenth periodic report submitted by the United Arab Emirates to the Committee on the Elimination of Racial Discrimination, were also raised in nearly all meetings held by the Special Rapporteur during his mission.

34. Virtually all the Special Rapporteur's interlocutors, including governmental officials and representatives of civil society, suggested that the situation had much improved in recent years. The Special Rapporteur was indeed provided with numerous examples of commendable initiatives taken by the Government in order to address the manifold and long-standing human rights violations suffered by construction and domestic workers in their daily life. These include the setting up of accessible channels for foreign workers to submit complaints to the Ministry of Labour; language and financial assistance to file lawsuits in court; the setting up of the "Wages Protection System" enabling private sector institutions to pay workers' wages via banks and allowing the Ministry of Labour to verify the timely and full payment of wages; the increasing number of inspections and follow-up visits carried out at labour and accommodation sites; the enhancement of transportation means for workers between their accommodation and working sites; as well as the introduction in April 2007 of a standard employment contract for domestic workers.

35. The Special Rapporteur also would like to welcome the enactment of Ministerial Resolution No. 335 of 2008 which states that labourers should not stay under the sun during the hottest hours in July and August; working hours for labourers should not exceed eight working hours daily; working sites should provide cold drinking water and juices, cooling devices, shades protecting from the sun, as well as first aid kits; and that companies breaking Ministerial Resolution No. 335 shall be penalized.⁶

36. In addition, the Special Rapporteur would like to highlight the adoption of a "Manual of the General Criteria for the Workers' Accommodations" by the Federal Council of Ministers in its Decision No. 13 of 2009. The manual includes a set of standards to be applied in the next five years by employers in accommodation complexes and should therefore support the ongoing enhancement of housing conditions for construction workers. In this context, the Special Rapporteur very much welcomes the near completion of the sewage system in Sonapur (Dubai), as well as the plans to build a sewage system to ease the growing sewage problems in the industrial area of Al Qoz (Dubai) which have caused health hazards to some of the 150'000 workers living there.

37. Yet the Special Rapporteur would like to recall that construction and domestic workers still face a number of significant difficulties. These include the sponsorship or "kafala" system which places foreign workers, in particular those who are unskilled, in a highly dependent relationship vis-à-vis their employer and at severe risk of exploitation. Indeed, at present, foreign workers' legal ability to enter, live and work in the United Arab Emirates depends on a single employer. This system makes it extremely difficult for foreign workers to escape from this dependency after entering the country or beginning employment. Although foreign workers are entitled to transfer their contracts to another company if they file a lawsuit against their employer or if their wages are not paid on time, in practice, it seems complicated to do so.

38. The withholding of passports is another issue of concern since it prevents the enjoyment of one's right to leave any country, including one's own, and to return to one's country. Despite the fact that it was officially acknowledged as an illegal practice,⁷ the confiscation of passports of unskilled foreign workers continues to be widely resorted to by employers in order to prevent workers from absconding, to ensure that they cannot change employers and to obstruct them from filing a complaint.

⁶ It must be noted that some of the provisions of Ministerial Resolution No. 335 were already included in the Federal Law No. 8 of 1980 on regulation of labour relations.

⁷ Ruling by Dubai Court of Cassation, Case # 268 (2001), 27 October 2001.

The Special Rapporteur was informed that in fact the system of sponsorship described above gives employers incentives to confiscate passports since the employers may be fined if their workers are discovered working for other employers.

39. The Special Rapporteur also received reports indicating that unskilled foreign workers were afraid to form trade unions or to go on strike due to the risk of being fired or deported.⁸ There are indeed no specific domestic laws protecting the right of workers to organise and to bargain collectively or to freedom of association. There are therefore no trade unions or other independent entities defending workers' rights and as a result, the Government and the private sector are the sole entities deciding on labour-related issues.

40. Another issue raised by representatives of civil society related to the contracted debts with labour recruitment agencies in the countries of origin, which often compel unskilled foreign workers to work for months or years simply to pay off their loans. In this regard, the Special Rapporteur was pleased to learn about the conclusion of several Memoranda of Understanding with countries of origin of foreign workers. These include pilot projects where workers are followed-up in the various stages of their moves between the country of origin and the United Arab Emirates.

41. The questions of physical assaults and verbal abuse against domestic workers, as well as excessive hours of work, lack of pay and days of rest, were also often put forward. In addition, the Special Rapporteur's attention was drawn to the fact that domestic workers cannot benefit from legal protection, since they are explicitly excluded from the Federal Law No. 8 of 1980 on regulation of labour relations.⁹ He was also told that policies regarding domestic workers differ in each Emirate; while in some Emirates, it is compulsory to have domestic workers insured and provided with a contract of employment,¹⁰ other Emirates are allegedly more lenient in this regard.

42. While the Special Rapporteur received assurances from several Ministries that the aforementioned issues are under serious consideration and review by the relevant authorities, he would strongly urge the Government, particularly in the context of global economic crisis which puts construction and domestic workers in a situation of enhanced vulnerability, to act swiftly to ensure that their rights are protected. In this regard, he particularly welcomes the efforts being made to draft and debate new labour legislation and hopes that a new legislation offering enhanced protection will enter into force as soon as possible. Similarly, the Special Rapporteur was encouraged to learn that the Ministry of Interior was working on a draft legislation concerning domestic workers. He recommends that the Government continue to enhance the

⁸ According to article 120 of the Federal Law No. 8 of 1980 on regulation of labour relations, "an employer may dismiss a worker without notice if the worker absents himself from work without a valid reason for more than 7 consecutive days or more than 20 non-consecutive days in one year"

⁹ According to article 3 of the Federal Law No. 8 of 1980 on regulation of labour relations, "The provisions of this Law shall not apply to [...] Domestic servants employed in private households, and the like".

¹⁰ In its seventeenth periodic report to the Committee on the Elimination of Racial Discrimination, the United Arab Emirates announced the introduction of a standard employment contract for domestic workers and persons of similar status, which entered into effect on 1 April 2007. Accordingly, this contract "regulates the work of persons in these categories based on the nature of the work and tasks undertaken, granting these workers the right to adequate rest breaks and medical treatment and care in accordance with the health regulations in force in the State. Wages are set by agreement between the two parties". See CERD/C/ARE/12-17, paragraph. 132-134.

effective implementation of existing laws related to the treatment of unskilled foreign workers.

43. In addition to the above, the Special Rapporteur would like to encourage the Government to take into account the fact that foreign workers, including construction and domestic workers, referred to as “temporary contractual workers” – and not as “migrant workers” – by all Government officials, often remain in the country for many years, if not decades. Thus, in order to foster a stable and inclusive society where everyone can contribute to the building of the United Arab Emirates, the Special Rapporteur believes that a more secure and durable relationship ought to be cultivated between foreign workers and their host country.

C. Stateless persons

44. The situation of stateless persons or “Bidoons”, as they are commonly called in the United Arab Emirates, was raised in previous interactions between the Government and the United Nations bodies and mechanisms. It was also often raised by the Special Rapporteur’s interlocutors throughout his visit, thereby indicating that this issue continues to raise significant human rights concerns.

45. During his visit, the Special Rapporteur noted that the definition of the term “Bidoons” seemed to vary according to his interlocutors. Indeed, while “Bidoons” was sometimes referred to as a generic term including all persons without identification documents, it was also used in a narrower sense to only refer to persons who had been residing on the territory of the United Arab Emirates before independence in 1971 but had never obtained proper identification documents since then. Some interlocutors also used the term “Bidoons” to refer to people who had arrived after 1971 from neighbouring countries without identification documents during the Islamic revolution in Iran or the Iran-Iraq war. Following meetings held with “Bidoons” living in the United Arab Emirates, the Special Rapporteur understood that the term “Bidoons” actually includes Arabic-speaking individuals without recognized identification documents who have a genuine feeling of belonging to the United Arab Emirates, either because they were born on its territory before or after 1971, or because they had been raised on its soil and had no feeling of belonging to any other country.

46. Although his official interlocutors seemed to suggest that “Bidoons” do not carry any proper identification documents with them, the Special Rapporteur would like to emphasize that the “Bidoons” he met during his mission are actually in possession of passports. These passports, which clearly indicate that the concerned individuals were born on the territory of the United Arab Emirates, were issued by one of the seven Emirates, before the Federation was formed in 1971. These passports had been renewed by local authorities – each Emirate could reportedly still issue national passports until 2003 – a number of times following the independence in 1971. However, at some point, the authorities ceased doing so, thereby leaving these individuals in a vulnerable status of statelessness.

47. In the first years following independence in 1971, the situation of “Bidoons” seemed relatively unproblematic. It has however become a matter of great concern since the Emirati nationals have found themselves to be minority in their own country and that the granting of citizenship has become a sensitive issue due to the privi-

leges attached thereto¹¹. Indeed, the Special Rapporteur was informed that due to their statelessness, “Bidoons” suffer significant discrimination with regard to, inter alia, access to health, education and social services, employment, administrative procedures, as well as the administration of justice. The level of socio-economic discrimination seems however to vary significantly according to the Emirate in which the “Bidoons” reside.

48. The Special Rapporteur was for instance informed of a case where a stateless pregnant woman was refused entry into a public hospital, due to the fact that she did not possess a valid health card. Whereas health cards delivered to “Bidoons” used to be valid for four years and could be renewed without too much difficulty, their validity has now been reduced to one year only and the authorities sometimes allegedly refuse to renew them. Another case which was reported relates to the refusal by a public school to accept a “Bidoon” child, although all his siblings had been previously allowed access to the same school. The school administration allegedly argued that they could not accept “Bidoon” children anymore. The Special Rapporteur also received reports indicating that “Bidoons” are prohibited from working in the federal administration. They can indeed only obtain low-level positions in local administrations, where they earn as much as ten times less than their Emirati colleagues holding similar positions. Moreover, “Bidoons” cannot receive social aid by the Ministry of Social Affairs, since only Emirati citizens and foreign workers residing in the country with their families¹² can benefit from it. “Bidoons” would at present also appear to be refused issuance of civil registration documents, such as birth, marriage and death certificates, as well as driving licences. The Special Rapporteur was also informed about the fact that “Bidoons” often get harsher sentences than other offenders for the same kind of crimes.

49. Some “Bidoons” have tried to obtain citizenship for many years, if not decades. In spite of the fact that they were born on the territory of the United Arab Emirates and that they have never lived in any other country, they still have not been granted citizenship. Instead, the authorities have allegedly suggested that they go to the Comoros, obtain the Comorian nationality and then return to live legally in the United Arab Emirates with their newly acquired Comorian nationality. Among the “Bidoons” who have not been granted citizenship, it was felt that the naturalization of stateless individuals who are perceived as Persians, for instance, was more difficult than for those individuals perceived as belonging to the ethnic group of the majority of nationals of the United Arab Emirates (see the discussion above on the granting of citizenship, paragraphs. 28-30).

50. The Special Rapporteur was nonetheless encouraged to learn about initiatives taken by the Government to deal with the situation of “Bidoons” living in the United Arab Emirates. As such, he welcomes the adoption of Ministerial Decision No. 167 of October 2006 which requested the conduct of a census of persons entitled to nationality and thereby triggered the start of a registration process resulting in the naturalisation of 1,294 stateless individuals.¹³ The setting up in September 2008 of a special committee on the status of stateless persons which is to assess the case of every

¹¹ Emirati citizens are entitled to free land, free education, free health care, subsidized food and gasoline, no-interest home loans for married Emirati male citizens, as well as up to US\$19,000 for their wedding costs.

¹² Unskilled foreign workers (see discussion above, paragraphs. 31-43) do not belong to the category of “foreign workers residing in the country with their families”; they indeed come to the United Arab Emirates unaccompanied by their families, due to their inability to provide means of subsistence to their families.

¹³ See CERD/C/ARE/12-17, paragraph 98.

“Bidoon” and provide citizenship for those who are eligible also resulted in the naturalisation of 51 stateless individuals. According to information received until May 2009, 1,500 “Bidoons” have now had their situation regularized.

51. While the efforts made by the Government to regularise the situation of “Bidoons” should be commended, much remains to be done, in particular when reports indicate that discrimination against “Bidoons” has increased in the last years. According to figures used by the Government, 8,500 cases are still pending. However, the Special Rapporteur noted a significant discrepancy between official figures and those quoted by representatives of civil society, concerning the total number of “Bidoons” residing in the United Arab Emirates. While Government officials estimate that there are approximately 10’000 “Bidoons”, representatives of civil society are of the view that there are at least 100’000 “Bidoons”, if not more, thereby implying that more than 85’000 individuals still remain in a vulnerable status of statelessness. According to Government officials, the reasons for this discrepancy stems from the fact that many people try to obtain the privileges and benefits attached to the Emirati citizenship and therefore abuse the authorities by pretending that they are “Bidoons”, although they may be citizens of a neighbouring country.

52. While recognizing that there may be cases of abuses which impede the process of identification of “Bidoons” who are entitled to citizenship, the Special Rapporteur takes the view that more efforts are needed from the Government to ensure that due process of law is accorded to stateless individuals. He would like to recall that the right to a nationality is a fundamental human right which is proclaimed in unequivocal terms by the Universal Declaration of Human Rights and which should be guaranteed without discrimination on the grounds of race, colour, descent or national or ethnic origin, in accordance with the International Convention on the Elimination of Racial Discrimination. Moreover, as stated by the Committee on the Elimination of Racial Discrimination in its general comment No. XXX (2004), States parties should “take into consideration that in some cases denial of citizenship for long-term permanent residents could result in creating disadvantages for them in access to employment and social benefits, in violation of the Convention’s anti-discrimination principles”. It is as such necessary to examine and swiftly process the applications for citizenship which have been pending for years and sometimes decades, in order to protect these individuals from further discrimination.

53. In addition to the above, the Special Rapporteur was informed about the impossibility for Emirati women married to foreign nationals to pass their nationality to their children¹⁴ and about the reservations made by the United Arab Emirates to article 9 of the Convention on the Elimination of Discrimination against Women¹⁵ and to article 7 of the Convention on the Rights of the Child.¹⁶ As a result, children born to Emirati women and foreign nationals may become stateless when the father cannot

¹⁴ In accordance with article 2 (c) of the Federal Law No. 17 of 1972 concerning nationality and passports, “Shall be deemed a citizen by law [...] (c) a child born in the State or abroad to a national mother by law and whose affiliation to the father is not legally established”. This implies that a child born in the State or abroad to a national mother by law and whose affiliation to the father is legally established cannot be deemed a citizen by law.

¹⁵ Article 9 of the Convention on the Elimination of Discrimination against Women grants women equal rights with men with respect to nationality of their children. Considering the acquisition of nationality an internal matter which is governed by national legislation, the United Arab Emirates made a reservation and does not consider itself bound by this article.

¹⁶ The United Arab Emirates is of the view that the acquisition of nationality is an internal matter, and one that is regulated and whose terms and conditions are established by national legislation.

pass it to his children under the legislation of his country or when the father is unwilling or unable to register children with his national authorities because there is no accessible diplomatic representation or because he has died or separated from the rest of the family before doing so. Furthermore, despite article 2 (d) of Federal Law No. 17 of 1972 concerning nationality and passports which prescribes that “A child born in the State or abroad to a national mother by law and of unknown father or stateless” is deemed a citizen by law, some of the Special Rapporteur’s interlocutors indicated that in reality when Emirati women marry stateless individuals, their children become stateless and may thus be subject to discriminatory acts.

54. The Special Rapporteur would like to refer to article 7 of the Convention on the Rights of the Child which prescribes that “The child shall be registered immediately after birth and shall have [...] the right to acquire a nationality” and that States parties “shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless”. Article 8 of the same Convention also states that “States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference”. Consequently and in line with the Committee on the Elimination of Racial Discrimination’s assertion that States parties should “reduce statelessness, in particular statelessness among children, by, for example, encouraging their parents to apply for citizenship on their behalf and allowing both parents to transmit their citizenship to their children”,¹⁷ the Special Rapporteur would like to recommend that the Government consider amending the legislation, so that Emirati women are able to pass their nationality to their children. He also recommends that the Government review its practice with regard to the implementation of the Federal Law No. 17 of 1972 concerning nationality and passports, so as to prevent that children born to Emirati women and stateless men become stateless and thereby subject to discrimination. Moreover, he calls upon the United Arab Emirates to withdraw its reservations to the Convention on the Elimination of Discrimination against Women and to the Convention on the Rights of the Child.

D. Human trafficking

55. Another issue of concern raised during the Special Rapporteur’s mission relates to human trafficking. The victims of human trafficking into the United Arab Emirates come from foreign countries, mainly from Asia, Eastern Europe and Africa. This problem therefore presents an international challenge and the Special Rapporteur would like to highlight the complex nexus between gender and ethnic origin. All the Special Rapporteur’s interlocutors were in agreement that the victims of human trafficking, who are women and girls in virtually all cases, suffer grave human rights violations and are among the most vulnerable individuals in this society.

56. In this respect, the Special Rapporteur was impressed by the initiatives taken by the Government to address this issue and to rehabilitate women and girls who have been trafficked into the country. The Federal Law No. 51 of 2006 on combating human trafficking crimes, which provides the legal basis to the National Committee on Human Trafficking, is a welcomed step to combat this phenomenon. Likewise, the setting up of shelters both by the Government and other individuals or organizations

¹⁷ See Committee on the Elimination of Racial Discrimination’s general recommendation No. XXX (2004) on discrimination against non-citizens.

for women and children victims of human trafficking and sexual exploitation is extremely helpful to provide them with suitable accommodation, social, legal, psychological, medical, educational and vocational support.

57. While significant efforts have been undertaken since 2006 to counter human trafficking, the Special Rapporteur is of the view that much remains to be done in order to bring to justice those responsible for such criminal activities. Moreover, he would like to emphasize that a clear distinction ought to be made between women who engage voluntarily in prostitution – which is prohibited by law in the United Arab Emirates – and those who are trafficked into the country, so that the latter may not be treated as criminals, but rather as victims, when caught by law enforcement officials. Consequently, the Special Rapporteur would like to encourage the Government to continue treating human trafficking as a matter of priority and keep in constant review the legal and administrative measures necessary to eradicate this scourge.

E. Education

58. Education is undoubtedly one of the most efficient tools to create a cohesive and tolerant society, where all children may be taught, and experience for themselves, how diverse ethnic, national or religious groups can coexist in a peaceful manner. As such, the public school system should reflect and promote the social and cultural diversity existing in the country. The Special Rapporteur strongly believes that the future of all societies will be determined in schools. It is therefore of utmost importance that policies concerning access to public school are designed in a way to instil a long-lasting and genuine mentality of understanding and respect towards cultural diversity and equal opportunities for all in any society.

59. Although most foreign workers who live in the United Arab Emirates are unaccompanied by their families, there remains a significant number of them residing in the country with their families. This has created tremendous challenges to the Emirati public education system, both in terms of capacity of absorption and social integration. In view of the inability of the public education system to absorb the large number of foreigners and the language barrier, the Special Rapporteur was informed by Government officials that foreign communities have the right to establish their schools with their own curriculum. The Government officials explained that given the temporary nature of foreigners' stay in the United Arab Emirates, these private schools allow foreign children to quickly readapt to their national education system when they return to their respective countries of origin.

60. In most cases, these private schools are established with the support of the Government providing foreign communities with land and other subsidies allowing for their construction and maintenance. The Special Rapporteur welcomes the generous support provided to foreign communities' schools and acknowledges that these private schools enable foreign communities to maintain a strong link with their countries of origin. He also understands the fact that a large majority of parents prefer sending their children to their communities' schools, so that the children can speak and study in their native language.

61. As a result of the educational policy described above, Emirati children, and other Arabic-speaking children whose parents work in the public sector, are enrolled in the public school system, whereas all other foreign children are enrolled in their respective communities' schools, without much permeability between these two parallel school systems. While the Special Rapporteur was informed that there exists no legislation specifically prohibiting the access to public schools for foreign children

who do not speak Arabic, he received reports indicating that it is de facto impossible for them to join the public education system. The Special Rapporteur believes that such educational policies are hampering effective social integration of foreigners into the Emirati society. These policies also reflect the authorities' views that foreigners do not come to the United Arab Emirates to have a new home and start a new life, but that they rather come to work for a few years, before returning to their respective countries of origin.

62. Although the Special Rapporteur recognizes that at present there may not be numerous requests from non-Arabic speaking parents to send their children to Emirati public schools, he nonetheless would like to recommend the authorities to open up the public education system to non-Arabic speaking foreigners, as done by the Emirati Universities about a decade ago. Indeed, whereas the Universities used to be reserved to Emirati citizens, they now accept foreign students, thereby facilitating close interaction between Emirati and foreign students. In a similar manner and in line with general recommendation No. XXX (2004) of the Committee on the Elimination of Racial Discrimination which states that States parties should "ensure that educational institutions are open to non-citizens", the Special Rapporteur would like to recommend that the authorities reconsider the current educational policies, so as to offer the choice to foreign children who do not speak Arabic to integrate the public school system.

V. Conclusions and recommendations

63. **The United Arab Emirates is a unique country where non-nationals represent the vast majority of the population. The influx of foreign workers which has significantly contributed to the building of the country has also created tremendous challenges for the Emirati society, in terms of national identity, social integration and capacity for absorption. While the Government has taken commendable initiatives in recent years to address some of these numerous challenges, much remains to be done in terms of legislation, policies and their effective implementation, as well as in terms of human rights education and awareness-raising. In this regard, the Special Rapporteur would like to make the following recommendations.**

On national identity and the granting of citizenship

64. **The Special Rapporteur is of the view that a public debate on the question of the definition of national identity might help defuse tensions and ensure the peaceful coexistence of the great variety of ethnic and national groups residing in the country. This debate could be held by the Federal National Council and could be complemented by a more open setting (public conference or seminar) allowing Emirati citizens to convey their concerns and find equitable solutions to this important issue. Members of foreign communities who constitute the great majority of the population in the country should also be invited to contribute constructively in such a public debate.**

65. **While the granting of citizenship and the rights and privileges attached thereto remain within the domestic jurisdiction of each State, the Special Rapporteur recommends that the Government reconsider its current policy on the granting of citizenship in line with international law. In addition, bearing in mind that human rights are, in principle, to be enjoyed by all persons, a fair and just balance should be reached between rights conferred to nationals and those**

conferred to non-nationals. It is also necessary to ensure that valid applications for citizenship by individuals who have lawfully lived in the United Arab Emirates for a certain period of time be reviewed and processed in a non-discriminatory manner. The policy in this area ought to be fully harmonized in all seven Emirates, so that individuals are guaranteed equal treatment in the whole country when applying for citizenship.

On construction and domestic workers

66. The Special Rapporteur was told by virtually all his interlocutors that the living and working conditions of unskilled foreign workers had much improved in recent years thanks to commendable initiatives taken by the Government. Nonetheless, the Special Rapporteur believes that significant efforts are still needed to remedy the manifold and long-standing human rights violations suffered by unskilled foreign workers, including construction and domestic workers. In the context of global economic crisis, he urges the Government to take necessary steps, including legislative ones, to address issues relating to, inter alia, the severe risk of exploitation of unskilled foreign workers under the sponsorship system, the confiscation of their passports, the prohibition to constitute trade unions and their contracted debts with labour recruitment agencies.

67. The Special Rapporteur was pleased to learn about steps undertaken to review the Federal Law No. 8 of 1980 on regulation of labour relations. He recommends that the proposed draft amendments be publicly circulated – as it was done in February 2007 – so that relevant stakeholders, including civil society representatives, may convey their suggestions to the authorities about the draft law. Once adopted, the Special Rapporteur hopes that the effective implementation of the revised law will offer enhanced protection to all workers. In particular, he recommends that the revised law include provisions aiming at protecting the right to establish trade unions, in accordance with international human rights standards.

68. While the Special Rapporteur was encouraged to learn about initiatives aiming to protect domestic workers, such as the introduction of a model contract, he strongly recommends the Government to regulate the work of domestic workers with a new specific legislation that provides no less protection than that provided in Federal Law No. 8 of 1980 on regulation of labour relations and which is in conformity with human rights standards or to extend protection of the existing Federal Law No. 8 of 1980.

69. In line with general recommendation No. XXX (2004) of the Committee on the Elimination of Racial Discrimination, the Special Rapporteur recommends that the Government take necessary steps to address xenophobic attitudes and behaviour towards non-citizens and to promote a better understanding of the principle of non-discrimination in respect of the situation of non-citizens. Such steps could include awareness-raising campaigns underlining the positive contribution to the building of the United Arab Emirates by foreign workers, in particular by unskilled ones. This could also help foster a more secure and durable relationship between foreign workers, who often remain in the United Arab Emirates for decades, and their host country.

On stateless individuals

70. The situation of stateless individuals or “Bidoons”, as they are commonly called in the United Arab Emirates, was a matter of great concern throughout the Special Rapporteur’s mission. While recognizing that recent initiatives have been launched by the Government in order to regularize the status of approximately 1,500 “Bidoons”, the Special Rapporteur expresses his grave concerns at the high number of “Bidoons” who still remain in a vulnerable status of statelessness. He therefore recommends that priority be given to finding a definitive, humane and equitable solution to the situation of “Bidoons” in order to ensure that their human rights are protected and that they have adequate access to health, education, social services and to employment, and that they receive non-discriminatory treatment with regard to administrative procedures and the administration of justice.

71. The Special Rapporteur also emphasizes that the right to a nationality is a fundamental human right which should be guaranteed without discrimination on the grounds of race, colour, descent or national or ethnic origin. Consequently, he recommends that the Government examine and swiftly process the applications for citizenship by stateless individuals which have in some cases been pending for years, if not decades.

72. Concerning the impossibility for Emirati women married to foreign nationals to pass their nationality to their children, the Special Rapporteur recommends that the Government consider reviewing its legislation in order to prevent that these children become stateless in some cases. He also recommends the Government to review its practice with regard to implementation of article 2 (d) of Federal Law No. 17 of 1972 concerning nationality and passports so as to prevent the perpetuation of statelessness from generation to generation. In addition, he recommends that the reservations to the Convention on the Elimination of Discrimination against Women and to the Convention on the Rights of the Child be withdrawn.

On human trafficking

73. The Special Rapporteur recommends that the Government continue its efforts in the fight against human trafficking, in particular by bringing to justice those involved in such criminal activities. He also recommends that all necessary measures be taken by the Government in order to ensure that victims of human trafficking are identified as such and therefore not treated as criminals, when caught by law enforcement officials.

On education

74. Taking into account the fact that education is one of the most efficient tools to create a cohesive, inclusive and tolerant society, where the positive contribution of diversity can be taught, the Special Rapporteur recommends that the Government reconsider its current educational policy, so as to ensure that public educational institutions are de facto open to all children, including to non-nationals.

On the legal and institutional framework to fight racism, racial discrimination, xenophobia and related intolerance

75. Due to the United Arab Emirates' federal structure and the large measure of independence left to each Emirate, the Special Rapporteur believes that one of the key challenges for the implementation of anti-racism commitments in the United Arab Emirates is to successfully involve the Emirates, where the locus of political power often lies. Despite the commitments on human rights at the federal level, it is at the level of the Emirates that the fight against racism and xenophobia, as well as the effective implementation of anti-discrimination provisions takes place. The Special Rapporteur therefore believes that it is necessary to ensure that local authorities are aware of federal human rights commitments. He also recommends that all related laws and policies be harmonized in the country, so as to ensure that all individuals are treated in a non-discriminatory manner and offered equal human rights protection in the seven Emirates.

76. In light of general recommendation No. XXX (2004) of the Committee on the Elimination of Racial Discrimination and of its recent concluding observations (CERD/C/UAE/CO/17, para. 11), the Special Rapporteur recommends that the constitutional provisions restricting certain human rights to Emirati nationals be revised so as to extend human rights protection to all individuals residing in the United Arab Emirates, including non-nationals.

77. As stated by the Committee on the Elimination of Racial Discrimination in its recent concluding observations (CERD/C/UAE/CO/17, para. 12), "racial discrimination or the potential for racial discrimination exists in all societies". Thus, while taking into account that provisions relating to the principles of equality and non-discrimination do exist in various domestic legislative acts, the Special Rapporteur recommends the Government to adopt a specific legislation on racism, racial discrimination, xenophobia and related intolerance, which would clearly demonstrate the State's political commitment in the fight against racism and allow for enhanced visibility and accessibility of the law for civil society, thereby enabling individuals to resort to the relevant provisions in an easier and more effective manner.

78. In order to strengthen the existing institutional human rights framework, the Special Rapporteur recommends that the Government establish a national human rights institution with a robust oversight mandate, including the monitoring of racism, racial discrimination, xenophobia and related intolerance. Such a national human rights institution may help to contribute to awareness-raising on human rights challenges in the United Arab Emirates.

79. The Special Rapporteur also recommends that the United Arab Emirates accede to core international human rights instruments that contain provisions reaffirming the fundamental human rights principles of non-discrimination and equality. These include the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, as well as the International Convention on the Protection of the Rights of All Migrant Workers and Members of their families.

Appendix

List of official meetings

Federal Level

Ministry of Foreign Affairs

Federal National Council:

Ministry of Labour

Ministry of Education

Ministry of Justice

Ministry of Interior, including Human Rights Department

Ministry of State for Federal National Council Affairs, including the National Committee to combat human trafficking

Ministry of Social Affairs

Emirate Human Rights Association

General Women Union

Emirate Level

Abu Dhabi Fund for Development

Abu Dhabi Judicial Department

Dubai Police General Headquarters, including Human Rights Department

Dubai Courts

Dubai Community Development Authority

Dubai Foundation for Women and Children

Ras Al Khaimah Courts
