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Stakeholder Submission for Universal Periodic Review – Kingdom of Saudi Arabia

Individual Submission by the Center for Migrant Advocacy Philippine. Oct-Nov 2018 Session

1. This submission calls attention to the plight of migrant domestic workers in the Kingdom of Saudi Arabia (KSA), as exemplified by the experiences of Filipino migrant domestic workers, who by the nature of their job inside the private households, are quite vulnerable to abuse and exploitation. Their situation is exacerbated by the Kafala system or sponsorship system where the employers are the sponsors and practically puts the migrant workers under their full control. This is further aggravated by existing social and cultural norms, as demonstrated by the male guardianship policy, which also substantially restrict women's mobility and freedoms especially in public spaces. This submission hopes to contribute to KSA government's efforts to strengthen and make effective its policies to protect the rights of migrant workers, particularly migrant domestic workers.

2. The Kingdom of Saudi Arabia (KSA) is the top country of destination for Overseas Filipino Workers (OFWs). As of 2016, 23.8 % of OFWs have been deployed to KSA.ⁱ As of the first semester of 2017, an estimated total of 604,906 Filipino migrants are in Saudi Arabia—98% of whom are documented migrant workers.ⁱⁱ Based on the Philippines' Department of Foreign Affairs (DFA) Report to Congress (RTC) for the 1st semester of 2017, OFWs in Saudi Arabia are hired as professionals, highly skilled workers, semi-skilled workers, laborers, and domestic workers or household service workers (HSWs). A significant number of female OFWs in Saudi Arabia work as domestic workers. By 2017, an estimated total of 163, 887 domestic workers were deployed to Saudi Arabia.ⁱⁱⁱ They are considered as one of the poorest in Saudi society.^{iv}

Positive Measures taken by the Saudi Government to Protect Migrant Workers

3. Recent efforts to improve protection for migrant workers include the initiation of the Wages Protection System (WPS) in June 2013. It requires all companies with over 3,000 employees to electronically submit wage information to the Ministry of Labor (MoL) website. This system aims to ensure that wages are paid according to contracts. To ensure compliance, the MoL fines companies that withhold or delay their employees' salaries. The WPS however does not cover migrant domestic workers.

4. In the same year, the Saudi government also enacted Resolution No. 310 of 2013 or the Household Regulation on Service Workers and Similar Categories.^v

5. Specific to Filipino migrant domestic workers, the Philippines and Saudi Arabia entered into a Bilateral Agreement on Migrant Domestic Worker Recruitment on August 19, 2013. This is considered as a significant step in the field of labor cooperation and in the protection and

promotion of the rights of domestic workers. It is the first of its kind in the region and is now considered as a model agreement in negotiation with other Gulf Cooperation Council (GCC) countries. KSA ratified this agreement on November 5, 2014. It entered into force on May 7, 2015.

6. Amnesty Programs. In 2013, King Abdullah issued a declaration requiring irregular migrants to regularize their residency or face detention and deportation by the end of the said year.^{vi} In 2017, the Saudi government launched another a 90-day amnesty program for migrant workers to return to their countries of origin.

7. Human Rights Issues and Challenges Faced by Filipino Migrant Workers—Despite these measures, migrant workers, particularly migrant domestic workers and other low skilled workers continue to experience violations of their labor and human rights.

8. An estimated 35% of the total number of OFWs under the jurisdiction of the Philippine embassy in Riyadh are reportedly experiencing problems with their employment.^{vii} For the first semester of 2017, it was reported that the Philippine Overseas Labor Office (POLO) in Riyadh handled 8,508 labor and welfare cases, while POLO-Jeddah attended to 1,825 cases.^{viii} These have been resolved either through conciliation, or litigation in courts with appropriate authorities. Settlements of cases reported and filed by domestic workers are mostly undertaken at the POLO with the participation of the foreign recruitment agencies. In instances where negotiations fail to reach a resolution at the POLO, cases are then referred to Saudi Arabia’s Ministry of Labor.^{ix}

9. Specifically for migrant domestic workers, they face non-payment of salaries, excessive working hours, and verbal, mental, physical and sexual abuse.^x Between 2013-2017, the Center for Migrant Advocacy’s (CMA) summary of direct assistance reports show that cases of distressed OFWs referred to the organization for assistance largely originate from Saudi Arabia with 324 out of 700 (46.3%) individual cases coming from the Kingdom. Instances of imprisonment, unpaid/delayed salaries, maltreatment, sexual abuse and contract substitution and contract violation are the most recurring themes among the cases.^{xi} Four percent (4%) of cases from Saudi Arabia that were referred to CMA involved forms of sexual harassment and abuse—all of which were experienced by female domestic workers. Moreover, despite the KSA government policy that prohibits the confiscation of passports and other personal documents, the contrary is widely practiced by employers of migrant domestic workers and other low-skilled workers.

10. The plight of migrant workers in Saudi Arabia are often characterized by working in conditions that severely constrain their liberty. The sufferings experienced by migrant workers is attributed to the glaring power imbalance between Saudi employers and migrant workers under the *kafala* system which ties migrant workers to their employers.^{xii} The *kafala* system requires a migrant worker to secure a No Objection Certificate (NOC) from their employer in order for them to transfer to another employer or to leave the Kingdom. Migrant workers’ residency permits (*iqama*) are also tied to their employers (sponsor or *kafeel*) for the contract period thus, handing the employer tremendous power over the migrant worker. This results into cases of work extension in the Kingdom without a new contract or overstaying. 4.9% of cases referred to CMA are instances wherein OFWs are stranded or held by their employers even as their contracts have been completed because employers won’t issue NOCs and/or release their travel documents. It is

also common for employers to hold on to their domestic workers even after the contract duration until a replacement is sent by the agency. In the years 2013, 2015, and 2016, at least one case in each year had been referred to CMA on overstaying female domestic workers due to the refusal of employers to issue No Objection Certificates. Employers insist for a replacement before doing so.^{xiii} Workers are deterred from leaving their employers and are forced to endure inhuman working conditions because of the power held by their employers over them.

11. Under the *kafala* system Filipino migrant workers—especially domestic workers—are subjected to these types of human rights violations by their employers. The problem is employers are rarely prosecuted while migrant workers are often detained due to accusations of theft, immoral charges, etc, often times fabricated, which are hurled against them by their employers. In the first half of 2015 alone, the Congress of the Philippines reported that 358 Filipinas were in prison, detention centers, under house arrest or with pending cases in criminal courts in Jeddah and Riyadh.^{xiv}

12. In clear violation of the terms of the employment contract, employers would “lend” their migrant domestic workers to other families to do domestic work. In other cases, they are “sold off” to other employers for extra fees. 6.1% of cases referred to CMA involved forcing OFWs to work for other employers. In 2017, CMA attended to cases of 4 female OFWs who were “sold off” to other employers and experienced grave maltreatment, overwork and non-payment of salaries.^{xv} This practice is a form of modern-day slavery wherein these domestic workers are treated as commodities and subjected to inhumane working conditions. Another case referred to CMA in 2017 involved an employer who tried to sell a Filipina domestic worker to prevent her from reporting her experience of sexual harassment while working for them.^{xvi} Migrant domestic workers in these situations ended up losing their legal status and become undocumented.

13. To stop the abuses, distressed migrant domestic workers find ways to run away from their abusive employers and seek refuge at the Philippine embassy shelters where they stay until their cases are resolved and/or when they can be repatriated. Some cases take a short time to resolve but other cases may take a longer time. In the meantime, they become miserable as they cannot go out of the shelter to look for another job while their cases are being resolved. To cut short their stay in the shelter, many domestic workers sign a waiver or quit claim clearing their employers of any and all financial obligations towards the worker. This is so they can be issued the NOC which is a prerequisite to the issuance of an exit visa from the Kingdom.

14. During the past amnesty programs in the Kingdom, 13,825 OFWs had availed of the Amnesty program.^{xvii} In spite of this, there are Filipino migrant workers who remain stranded in the Kingdom due to the slow processing of exit visas—usually because of the difficulty of acquiring NOCs from employers. It must be pointed out that generally, OFWs enter KSA as regular workers. However, they lose their status and become undocumented because they could not immediately access and/or avail of existing mechanisms for redress in the Kingdom.

15. As regards the implementation of the Wage Protection System, according to reports, the MoL had shut down 1,441 companies in 2015 for failing to comply with the WPS.^{xviii} While this is a good step forward, CMA continues to receive cases of non-payment of salaries/wages from OFWs in Saudi Arabia. In 2013-2017, 114 cases of contract violation in terms of salary/wage were forwarded to CMA.^{xix} It remains to be the top complaint reported by OFWs.

16. To this end, the Center for Migrant Advocacy recommends the following measures to be undertaken further by the government of Saudi Arabia to effectively protect the rights of migrant workers in the Kingdom, particularly migrant domestic workers:

17. Review and reform the present Kafala system to reflect the employer-employee relationship --The *Kafala* system, in the context of labor migration, proves to be a major factor in the issues faced by migrant workers in Saudi Arabia. It is a system where an imbalanced relationship between employer and employee puts the lives of migrant workers vulnerable to abuses and human rights violations. Thus, this submission recommends that the Kingdom of Saudi Arabia review and consider reforming the kafala system to reflect the context of labor migration.

18. Strengthen enforcement of laws protecting the rights of all migrant workers including migrant domestic workers; ensure presence of transparent and pro-active monitoring bodies and complaints/redress mechanisms that are friendly and easily accessible to migrant workers.

19. Strengthen regulation and monitoring of Saudi recruitment agencies including the Mega recruitment agencies; Erring recruitment agencies must be meted appropriate sanctions.

20. Conduct massive campaigns to inform and educate the Saudi public, the employers, the recruiters and migrant workers on relevant laws and policies of KSA that protect migrant workers; Cooperate with Embassies of countries of origin to conduct post-arrival orientation seminars for newly-arrived migrant workers especially migrant domestic workers.

21. Cooperate with countries of origin in addressing irregular migration and displacement of workers during crisis situations in terms of facilitation of exit visas and releases of unpaid salaries and other benefits and eventual repatriation.

22. Ratify ILO Convention 189 on Decent Work for Domestic Workers. It already enacted a national legislation on domestic workers. Ratification of the ILO Covention 189 should now become a matter of course for the KSA government.

23. Implement CEDAW General Recommendation 26 for low-skilled women migrant workers like the migrant domestic workers to further strengthen efforts towards gender equality and non-discrimination in law and in practice.

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Philippine Statistics Authority. *2016 Survey on Overseas Filipinos (SOF)*

ii Philippines Department of Foreign Affairs. "Estimated Number of Overseas Filipino Workers". January – June 2017.

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- iii Ibid.
- iv Report of the Special Rapporteur on Extreme Poverty and Human Rights on his Mission to Saudi Arabia. 2017.
- v Gulf Labour Markets and Migration. “Saudi Arabia: Decision No. 310 of 1434 on Domestic Workers.” 2013.
- vi ADHRB & BIRD. A Midterm Report on Saudi Arabia’s UPR Second Cycle. 2016. Page 118.
- vii Philippine Department of Foreign Affairs. “Report to Congress on the Implementation of RA 10022.” January – June 2017.
- viii Ibid.
- ix Ibid.
- x Report of the Special Rapporteur on Extreme Poverty and Human Rights on his Mission to Saudi Arabia. 2017.
- xi Center for Migrant Advocacy Case Reports 2013-2017.
- xii ADHRB & BIRD. A Midterm Report on Saudi Arabia’s UPR Second Cycle. 2016. Page 118.
- xiii Center for Migrant Advocacy. Case Files. 2013. 2015. 2016.
- xiv Report of the Special Rapporteur on Extreme Poverty and Human Rights on his Mission to Saudi Arabia. 2017.
- xv Center for Migrant Advocacy. Case Files. 2017.
- xvi Center for Migrant Advocacy. Case Files. 2017.
- xvii Philippine Department of Foreign Affairs. “Report to Congress on the Implementation of RA 10022”. January – June 2017.
- xviii ADHRB & BIRD. A Midterm Report on Saudi Arabia’s UPR Second Cycle. 2016. Page 118.
- xix Center for Migrant Advocacy. Case Files. 2013-2017.