

# Living *as* Commodities

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HUMAN AND  
SEX TRAFFICKING  
IN THE GCC



Americans for Democracy  
& Human Rights in Bahrain

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HUMAN AND SEX TRAFFICKING IN THE GCC

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Americans for Democracy and Human Rights in Bahrain (ADHRB) fosters awareness of, and support for, democracy and human rights in Bahrain and the Middle East.

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## Introduction

All of the six members of the Gulf Cooperation Council (GCC) are highly dependent upon foreign labor, and thus have high proportions of migrant residents. Kuwait has a population of about 2.9 million, about two million of whom are migrant workers.<sup>1</sup> Over 1.8 of 3.6 million people living in Oman are foreign nationals, the majority of whom are migrant workers.<sup>2</sup> Migrant workers comprise over 90 percent of Qatar's workforce.<sup>3</sup> There are almost eight million low-paid migrant workers in the UAE, comprising more than 90 percent of the private workforce.<sup>4</sup> Migrants make up over 77 percent of Bahrain's workforce.<sup>5</sup> In Saudi Arabia, foreigners account for over 10.1 million of the total population of about 30 million.<sup>6</sup>

The need for migrant labor begets the possibility for human trafficking and forced labor in order to keep up with the high demand for workers. The definition of human trafficking as expressed in the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children equates forced labor with human trafficking. It states:

“Trafficking in persons’ shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs...”<sup>7</sup>

The Protocol also states that a victim of any of these situations cannot be considered to have consented.<sup>8</sup> This means that even workers who voluntarily travel to the Gulf can still be trafficked.

Many of these migrants come from South Asia, Africa, and East Asia with hopes of earning enough money to support their families back home. Male migrant workers in the GCC work in a variety of sectors including construction and manufacturing, while women often work as domestic help in personal homes. These men and women often face abuse and exploitation upon their arrivals in the Gulf. Recruitment agencies, which most migrant workers use to find positions abroad, often promise them jobs with attractive terms that do not exist in exchange for large sums of money.

Migrant workers often face physical and mental abuse at the hands of their employers. Many employers subject their workers to debt bondage and contract substitution. The workers realize

- 1 Human Rights Watch, “Concerns and Recommendations on Kuwait Submitted to the UN Human Rights Committee in advance of its Pre-Sessional Review,” (August 7, 2015). [http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/KWT/INT\\_CCPR\\_ICO\\_KWT\\_21314\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/KWT/INT_CCPR_ICO_KWT_21314_E.pdf)
- 2 Gulf Labor Markets and Migration, “Demography, Migration, and the Labour Market in Oman,” 9 (2015). [http://cadmus.eui.eu/bitstream/handle/1814/37398/GLMM\\_ExpNote\\_09\\_2015.pdf?sequence=1](http://cadmus.eui.eu/bitstream/handle/1814/37398/GLMM_ExpNote_09_2015.pdf?sequence=1)
- 3 U.S. Department of State, “Trafficking in Persons Report: Qatar,” (2016).
- 4 Friolan T. Malit, Jr. and Ali Al Youha, “Labor Migration in the United Arab Emirates: Challenges and Responses,” Migration Policy Institute, September 18, 2013. <http://www.migrationpolicy.org/article/labor-migration-united-arab-emirates-challenges-and-responses>
- 5 Human Rights Watch, *For a Better Life: Migrant Worker Abuse in Bahrain and the Government Reform Agenda* (United States: Human Rights Watch, 2012), 2.
- 6 Marwa Rashad and Reem Shamseddine, “In era of cheap oil, Saudi loses shine for foreign workers,” *Reuters*, March 23, 2016, <http://www.reuters.com/article/us-saudi-workers-foreign-idUSKCN0WP15U>
- 7 United Nations, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime* (November 15, 2000).
- 8 United Nations, *Protocol to Prevent, Suppress and Punish Trafficking in Persons*

too late, after they have already travelled to the GCC, that their employers have changed contracts and lowered their wages, ensuring that they cannot escape the cycle of debt. As their employers often confiscate their passports, most workers are unable to escape their harsh work and squalid living conditions. Many employers reduce their workers' access to food, physically beat them, and force them to work long hours without breaks. Some also sexually abuse and rape their domestic workers.

There are few advantages to leaving one's employer, deterring many workers from filing complaints or seeking help. Most workers do not have access to phones, money, or in-country contacts, making it difficult for them to flee. Some female domestic workers attempt to run away, but are instead further sex trafficked and forced into prostitution.

Even when workers successfully escape their abusive environments, there are very few effective legal options open to them. Conviction rates under anti-trafficking or forced labor laws are extremely low in all GCC countries, and speaking against one's employer could prove to have negative consequences. Authorities will usually return runaway migrant workers to their employers, even if they had accused them of being abusive; in retaliation, many employers will treat their workers worse than before.

Many of these abuses are the results of the *kafala* system. The *kafala* system requires that employers sponsor their migrant workers in order to live and work in the region, enabling employers to exert significant control over their employees' lives. While it manifests in different ways throughout the individual Gulf countries, it is present and abusive in all six. As the system ties migrant workers to their employers, it often increases their vulnerability to exploitation and abuse.

In addition to the continued use of the *kafala* system, the governments of the GCC members act to entrap and negatively impact migrant workers. While most Gulf countries have agreements with source countries in order to foster cooperation against migrant abuse and human trafficking, they are not legally binding. Domestic legislation regarding labor practices and anti-trafficking measures is comprehensive throughout the region, however, authorities rarely enforce any of these laws.

This report will examine the abuses migrant workers face on a daily basis as well as the complicity of the GCC governments in human trafficking. In order to successfully combat human trafficking, officials in the GCC need to better enforce the laws it has in place, reform current legislation to better allow victims to take action against their employers, and repeal the abusive and exploitative *kafala* system.

## Methodology

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This report is based on an extensive desk review, and draws from a range of sources including, but not limited to, official reporting by governmental bodies, information collected from international and domestic NGO reports including those in migrant source countries, and news sources. It should be noted that, due to the general difficulties encountered by civil societies operating in the treated countries, the ability to obtain primary sourcing was extremely limited, and thus the report is extensively based on secondary sources. Recognizing the limitations that such reporting entails but still believing that continued analysis is necessary, we hope to inform the conversation concerning migrant rights in the United Arab Emirate, Kuwait, Oman, Bahrain, Qatar, and Saudi Arabia, and ultimately update the international community on the migrant rights and human trafficking endemic in the Gulf.

## Explanation of Terms

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**Human Trafficking** - This report will use the Palermo Protocol and ILO definitions of human trafficking. The Palermo Protocol states that “‘Trafficking in persons’ shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception ... for the purpose of exploitation. Exploitation shall include ... forced labour or services, slavery or practices similar to slavery.”<sup>9</sup> The ILO Committee of Experts further asserts that, “A crucial element of the definition of trafficking is its purpose, namely, exploitation, which is specifically defined to include **forced labour**...”<sup>10</sup>

**Sex Trafficking** - In this report, sex trafficking will be used separately from human trafficking, in that it will be defined as human trafficking with the intent to sexually exploit the victim. Forcing a victim into prostitution is a clear example of sex trafficking.

**Absconding** - Absconding occurs when a migrant worker leaves his or her place of work without explicit employer permission. It is illegal in all GCC countries, as it is prohibited by the *kafala* system.

**Contract Substitution** - Contract substitution is the formal term for when an employer forces an employee to sign or alter a contract after the original contract had already been signed. This usually occurs after a migrant worker travels to the Gulf, so that they cannot change their minds and return home. Usually the terms of the second contract are worse than those in the original contract, stipulating lower wages and different duties.

**Debt bondage** - Debt bondage occurs when employers force their employees to repay their own recruitment fees, while simultaneously reducing or withholding their wages (most often due to contract substitution). This practice ensures workers cannot easily get out of debt and return to their home countries. Debt bondage forces workers to remain at their positions, as they are too poor and indebted to leave them.

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9 United Nations, *Protocol to Prevent, Suppress and Punish Trafficking in Persons*, Article 3.

10 International Labor Organization, General Survey concerning the Forced Labour Convention, 1930 (No. 29), and the Abolition of Forced Labour Convention, 1957 (No. 105), 2007, Report III (1B), International Labour Conference, 96th Session, Geneva, 2007, p. 41.

# Saudi Arabia

## Introduction

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Out of a total population of around 29 million, Saudi Arabia has more than 9 million foreign nationals in the country, most of whom are migrant workers.<sup>11</sup> Thus, migrant workers in Saudi Arabia constitute almost one third of the kingdom's population. However, despite their ubiquity, migrant workers in Saudi Arabia are consistently exploited by their employers and subjected to forced labor, human trafficking, and prostitution. The Government of Saudi Arabia has done little to combat the human rights abuses of millions of migrant workers.

Saudi Arabia has failed to enact meaningful legislation to reform the exploitative *kafala* sponsorship system that acts to tether migrant workers to their employers, entrapping and immobilizing them. The *kafala* system is the root cause of most human rights abuses against migrant workers in Saudi Arabia, as migrant workers cannot leave their work or change positions without the permission of their employer.

Furthermore, Saudi Arabia's 2006 labor law and 2009 anti-trafficking law are vague, and they fail to adequately protect migrant workers from passport revocation, wage withholding, physical abuse, and excessive work hours. The anti-trafficking law criminalizes some offenses, such as prostitution, that are not categorized as human trafficking crimes as defined under international law. While both laws nominally criminalize some of the practices of human rights abuses against migrant workers, they are not adequately enforced. For example, in 2014, Saudi Arabia only prosecuted 52 cases of human trafficking violations, an incredibly low number considering the millions of migrant workers living in the country.<sup>12</sup>

In sum, the *kafala* sponsorship system and lack of enforcement of labor and anti-trafficking laws enables the exploitation of the millions of migrant workers in Saudi Arabia. As a result, migrant workers often face long work days, often in unbearably hot conditions, low wages, forced labor, and are sometimes forced prostitution.

## Domestic Human and Sex Trafficking

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### MIGRANT WORKERS

Migrant workers make up the largest bloc of trafficked persons in Saudi Arabia. Most migrant workers use recruitment agencies in their home countries to secure positions in and visas to Saudi Arabia. Hundreds of thousands of South Asian, Southeast Asian, African, and Asian workers voluntarily leave their home countries for better opportunities and the promise of higher wages in Saudi Arabia. Upon arrival in Saudi Arabia, many migrant workers find themselves victims of human trafficking. Laborers enter the country both legally and illegally. Their legal status in the country usually has little relevance for the likelihood of them being trafficked, as both legal and illegal migrants can be victims, and entering the country legally offers few extra protections against trafficking.

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11 "Statistics on Labor Migration within the Asia-Pacific Region," (Manila: Red Cross Red Crescent Manila Conference on Labor Migration 2015, 2015). [http://www.ifrc.org/Global/Documents/Asia-pacific/201505/Map\\_Infographic.pdf](http://www.ifrc.org/Global/Documents/Asia-pacific/201505/Map_Infographic.pdf)

12 U.S. Department of State, "Trafficking in Persons Report: Saudi Arabia," (2015).



Recruitment agencies work in both Saudi Arabia and in the home countries of the migrant workers. These agencies are used to match foreign workers with companies in Saudi Arabia. Recruitment practices are often exploitative to the workers. Recruitment agencies regularly promise workers better positions and higher wages than the workers ultimately receive. Recruitment offices also charge fees for their services.

While Saudi law dictates that employers must pay for any recruitment fees, in practice this is rarely the case.<sup>13</sup> Migrant workers and their families are often the ones paying the recruiters. Lured by the promises of better wages and the ability to send remittances back home, migrant laborers often go into debt or take large financial risks just for an opportunity to procure a job abroad. Some recruitment agencies exploit this system by collecting fees from both recruiters and recruits. As a result, migrant workers frequently begin their jobs heavily indebted to their employers. This recruitment system promotes a sense that the employer has bought an employee and that person is now property. Employers are not quick to forget this debt; repayment plans and withheld wages to cover the cost of recruitment fees are common. These practices render most migrant workers vulnerable to financial exploitation and forced labor.

Before starting their new positions in Saudi Arabia, workers frequently sign contracts outlining their duties, wages, and term dates. Employers hardly ever uphold the stipulations laid out in the contracts. In fact, some employers force their employees to sign new contracts upon their arrival in Saudi Arabia. As per Saudi law, all official job contracts have to have an Arabic version, although other copies can be in a language the employees understand; oftentimes, the version in Arabic is the only version.<sup>14</sup> Migrant workers are therefore often forced to sign contracts they cannot read and do not understand. These new contracts change the original terms to be more advantageous to the employer, with changes regularly including lower pay, longer work hours, and different duties.

Passport revocation is widespread within Saudi Arabia, as most employers take their workers' passports immediately upon arrival. Without their passports, workers are unable to freely leave the country. They are also unable to leave without their employers' permission due to the *kafala* system. The *kafala* system and sponsorship-based employment practices force an employee to be dependent upon his or her employer, as an employee cannot leave the country or change positions without permission from his or her employer. Tying an employee's visa status and mobility to his or her employer strips workers of their autonomy and personal rights. The *kafala* system in Saudi Arabia goes against the stipulations of the Universal Declaration of Human Rights (UDHR). In Article 13, the right of movement is enshrined. The Article states that, "everyone has the right to freedom of movement and residence within the borders of each State," and, "everyone has the right to leave any country, including his own, and to return to his country."<sup>15</sup> These rights are also found in the International Covenant on Civil and Political Rights (ICCPR), of which Saudi Arabia is not a signatory.<sup>16</sup>

In addition to restricting the movement of their workers, employers also force their laborers to work long days in extreme weather conditions. The average spring and fall temperatures are

13 "Ugandans risk more than exorbitant recruitment fees in seeking employment in the GCC," migrant-rights.org, October 17, 2015, <https://www.migrant-rights.org/2015/10/ugandans-risk-more-than-exorbitant-recruitment-fees-in-seeking-employment-in-the-gcc/>

14 "Saudi Arabia makes Arabic language mandatory in all business dealings," *Al Arabiya*, September 17, 2012, <http://www.alarabiya.net/articles/2012/09/17/238539.html>

15 United Nations, *Universal Declaration of Human Rights* (1948), [http://www.ohchr.org/EN/UDHR/Documents/UDHR\\_Translations/eng.pdf](http://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf)

16 "Saudi Arabia," Human Rights Watch, 1992, <https://www.hrw.org/reports/1992/WR92/MEW2-02.htm>

around 29°C and around 45°C in the summer; summer temperatures reaching as high as 54°C are not unusual.<sup>17</sup>

The lives of migrant laborers are highly regimented, and employers exercise much oversight. Employers generally provide accommodations for their workers, and companies arrange for transportation to and from the worksites and migrant worker accommodations. This regimentation coupled with the confiscation of their passports leaves migrant workers susceptible to forced labor conditions. Despite migrant workers' voluntary travel to Saudi Arabia, employers' confiscation of their passports and creating forced labor conditions renders them victims of human trafficking.

## DOMESTIC WORKERS

Migrant domestic workers make up a large section of Saudi society. In 2013, the ILO estimated that Saudi Arabia is one of the largest employers of migrant domestic workers in the world.<sup>18</sup> As of 2014, the Saudi Labor Ministry estimates there are 1.2 million domestic workers in Saudi Arabia.<sup>19</sup> 99.6% of all domestic workers and personal assistants in Saudi Arabia are migrant workers.<sup>20</sup> The majority of domestic workers are recruited by agencies in their home countries and voluntarily travel to Saudi Arabia for work. It is only once they arrive in Saudi Arabia that they realize they have been trafficked into domestic service. Most domestic workers are women, and as such are at greater risk for sexual exploitation and abuse than their male migrant laborer counterparts. As they typically work within personal homes, domestic workers are isolated from society, making it difficult for them to reach out or report abuses that may occur. Domestic workers in Saudi Arabia are also left unprotected under domestic labor laws, which aim to create stricter employer standards. Those who run away from their abusers are increasingly vulnerable to further sexual exploitation; many find themselves forced into prostitution.

Many agencies lie to domestic workers about the nature of the work they would be doing in Saudi Arabia as well as their wages. Most also routinely promise women positions as teachers, childcare providers, or secretaries. When they enter the country, many of these women are forced into domestic work.

Abuse of migrant domestic workers remains rife in Saudi Arabia. Many female migrant workers work as domestic help in private homes, where they are vulnerable to abuses and exploitation due to their isolation. Women face physical and sexual abuse, and there have been multiple accounts of employers raping their domestic workers. Even if sexual abuse does not explicitly occur, their employers threaten many women with the possibility of rape. In late 2015, reports of human trafficking reached Mauritanian unions. Women who were trafficked to Saudi Arabia spoke out against the abuse they endured there. Many suffered from sexual harassment and others were threatened with rape when they complained to their employers about their working conditions.<sup>21</sup>

Employers subject their domestic workers to many abuses, both physical and legal. Domestic laborers are expected to work long hours, and many are never allowed time off. It is common for

17 "Saudi-Arabia," Weather Online, <http://www.weatheronline.co.uk/reports/climate/Saudi-Arabia.htm>

18 U.S. Department of State, "Trafficking in Persons Report: Saudi Arabia," (2015).

19 Froilan T. Malit, Jr. and Safa Ghafoor, "Domestic Work Legislation in the Gulf Cooperation Council (GCC): A Comparative Policy Review," International Association International Gulf Organization, No. 1 (June 2014).

20 "Migrant Rights Statistics: Domestic Workers in the Gulf," Migrant-Rights.org, <http://www.migrant-rights.org/statistic/domesticworkers/>

21 "Mauritanian Women Kept as Slaves in Saudi Arabia," International Trade Union Confederation, September 24, 2015, <http://www.ituc-csi.org/mauritanian-women-kept-as-slaves?lang=en>

employers to delay payment of salaries for weeks or months at a time. Most employers confiscate their workers' passports upon their arrivals. In October 2015 a migrant domestic worker from India was hospitalized after her employer in Saudi Arabia allegedly chopped her arm off after she tried to run away from harassment that she endured at her employer's home.<sup>22</sup>

Saudi Arabia adopted legislation in 2013 that offers some protections to domestic workers. The law stipulates that domestic workers are entitled to one day off each week and will accrue one month's annual leave every two years.<sup>23</sup> However, having formal laws in place does not ensure that Saudi employers will adhere to them. The reality remains that many employers do not allow their domestic workers to take time off. While the law does provide some protections to domestic workers, it also allows employers to require domestic workers to work up to 15 hours a day, as it sets the minimum rest period per day at nine hours. The amended law forbids domestic workers from refusing work without a "legitimate" reason as well as forces workers to follow their employers' orders.<sup>24</sup>

The Kingdom made amendments to its labor law in October 2015, prohibiting employers from retaining worker identity documents as well as requiring employers to remunerate employees on time and provide copies of employment contracts to workers.<sup>25</sup> While migrant domestic workers face all of the problems these amendments aim to alleviate, the amended labor law does not apply to them. Migrant workers, even after the October 2015 amendments, remain excluded from the general labor law under Article 7(2).<sup>26</sup>

Some domestic laborers choose to flee their abusive work environments. Shura Council member Awadh Al-Asmary has said that in Saudi Arabia over 530,000 domestic workers ran away from their employers in 2015.<sup>27</sup> Those domestic workers who successfully escape their abusive employers are vulnerable to further human and sex trafficking exploitation. They are often left without their passports, money, or in-country contacts. Due to the confines of the *kafala* system, those workers who flee are thus illegally in the country. Many domestic workers do not know Arabic or English, leaving them unable to read street signs or even know their addresses. Many workers have their phones confiscated with their passports upon arrival at their employers' homes making it extremely difficult for them to contact diplomatic or legal aid. Their isolation and lack of knowledge leaves them vulnerable to exploitation and sex trafficking.

Unable to live without work, some women are lured into new positions that are illegal and unregulated. As they do not obtain permission from their previous employers to leave their positions, these migrant workers are unable to legally update their employment status or work for another employer; they are also trapped with Saudi Arabia's borders, as they are unable to legally leave the country without their employers' permission. Once they escape, traffickers will promise many workers new domestic jobs with better employers. Some continue in the cycle of abuse and get passed between domestic jobs. In May 2016, Saudi authorities arrested 15 maids who had run

22 Anuradha Nagaraj, "Indian maid who lost arm as fled Saudi Arabia becomes face of human trafficking," *Daily Mail*, May 3, 2016, <http://www.dailymail.co.uk/wires/reuters/article-3571186/Indian-maid-lost-arm-fled-Saudi-Arabia-face-human-trafficking.html>

23 Kingdom of Saudi Arabia, *Res. No. 310 of 2013 on the Household Regulation on Service Workers and Similar Categories*, July 15, 2013.

24 Ibid.

25 U.S. Department of State, "Trafficking in Persons Report: Saudi Arabia," (2016).

26 Malit and Ghafoor, "Domestic Work Legislation in the Gulf Cooperation Council"

27 "Over 60% domestic workers run away from sponsors," *Saudi Gazette*, January 31, 2016. <http://saudigazette.com.sa/saudi-arabia/over-60-domestic-workers-run-away-from-sponsors/>

from their employers during a raid on a trafficking ring. The traffickers were operating a black market scheme and selling the domestic services of the women to buyers illegally.<sup>28</sup>

## PROSTITUTION

There are two main ways in which women find themselves trafficked into the sex trade in Saudi Arabia. They can be lured into the country by promises of domestic, secretarial, or care-giving positions. Once they arrive in the country, they are then forced directly into prostitution. Alternatively, domestic workers, who are facing abuse, flee their work environments, and are subsequently trafficked into the sex trade.

Women who escape their employers then endure similar abuses to those who immediately find themselves sex trafficked upon arrival in the GCC. Their new employers will confiscate their passports, if they had one, bring them to a crowded apartment filled with other trafficked women, and explain their new job. Often, upon finding out they will have to sexually service clients, many women refuse to perform this job. Their traffickers will employ many tactics to force these women into submission. They will often lock the victim alone in a small room without food or water for hours or days, verbally harass, and physically beat the woman until she breaks down, submits, and agrees to meet with clients.<sup>29</sup>

## CHILD TRAFFICKING

Although less prevalent than adult human trafficking for labor purposes, child trafficking is a problem in Saudi Arabia. Some children and minors, especially girls, are among those trafficked for labor purposes. Young girls are often sent by their parents to Saudi Arabia to work as domestic helpers; others are directly trafficked into the sex trade. Gangs also traffic children, especially those from Yemen, into Saudi Arabia to work as street vendors and beggars.

If attempting to enter Saudi Arabia legally, young girls and teenagers sometimes have their identity documents forged to make them appear older than they are.<sup>30</sup> This allows them to be recruited and take positions as domestic workers. Their parents, if the girls are not orphans, send them abroad in order for them to send remittances back home. If passports and other documents cannot be sufficiently forged or altered, mainly due to monetary constraints, parents will voluntarily, albeit under financial duress, illegally traffic their own children.

Some young girls are directly sex trafficked and forced into prostitution. They are forced into many of the same conditions as adults who find themselves in similar situations.

Saudi Arabian street gangs play a large role in trafficking young, usually Yemeni, children. The gangs force the children, usually young and teenage boys, to beg for money in the streets. Over SR700 million is made yearly from begging in Saudi Arabia, making this a lucrative practice.<sup>31</sup> Children, and those with either real or fake disabilities, tend to amass more money.<sup>32</sup> Some traffickers in

28 "15 runaway maids, agents arrested after tip-off from citizen," *Saudi Gazette*, May 10, 2016, <http://saudigazette.com.sa/saudi-arabia/15-runaway-maids-agents-arrested-tip-off-citizen/>

29 "City woman escapes from Saudi prostitution ring," *Sakshipost*, <http://www.sakshipost.com/index.php/news/state/82886-city-woman-escapes-from-saudi-prostitution-ring.html>

30 Issaka Ikporr, "Burundi girls sold into slavery in Arab Gulf," IOL, June 12, 2016, <http://www.iol.co.za/news/africa/burundi-girls-sold-into-slavery-in-arab-gulf-2033687>

31 "Anti-begging drive launched," *Saudi Gazette*, June 15, 2016, <http://saudigazette.com.sa/saudi-arabia/anti-begging-drive-launched/>

32 Ibid.

Saudi Arabia bring children to doctors who will purposefully and permanently disfigure them so that they will earn more sympathy and money.<sup>33</sup>

These trafficked children are also used to distribute drugs and porn for the gangs.<sup>34</sup> Badr Bajabir, the Secretary General of the Permanent Committee to Combat Human Trafficking has stated that these trafficked children are “being used for begging and also for the distribution of drugs and porno films by coercion, seduction, temptation, threats and other means.”<sup>35</sup>

## International Human and Sex Trafficking

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### SEX TOURISM ABROAD

While Saudi Arabia is a locus for human trafficking, some Saudi nationals also contribute to human trafficking operations and sex tourism in other parts of the Middle East.<sup>36</sup> The effects of their trafficking are most prominent with regard to Syrian refugee young women and girls in Lebanon and Jordan. Conditions in the refugee camps and threats of sexual predation there leave few choices for many Syrian families; some choose to sell their young daughters into marriage with foreign men in exchange for money.

Some older, wealthy Saudi men go to refugee areas looking for young Syrian girls with whom to engage in *mut'ah* or temporary marriage.<sup>37</sup> These marriages are performed by religious leaders, and are neither legal in nor recognized by Saudi Arabia; they can be easily dissolved.<sup>38</sup> Syrian refugee families, unable to feed their children, can be forced to give their daughters to foreign strangers in exchange for a bride price, which can range from anywhere between one hundred to a few thousand dollars; men pay more for younger girls, around 13 or 14 years old, and virgins.<sup>39</sup> These men either directly pay the very low bride prices to the girls' fathers or they go through an intermediary marriage broker.<sup>40</sup>

These temporary marriages, usually lasting a few days or weeks, are exploitative to young girls.<sup>41</sup> They are taken out of the refugee camps, leaving them isolated from their families and frequently unable to contact them.<sup>42</sup> The girls are also forced to consummate their marriages. When the Saudi men divorce the girls, they leave behind a wake of teenage divorcees. Their divorces leave the young girls even more vulnerable to further trafficking and more temporary marriages; many Syrian refugee girls have been married and divorced multiple times by the age of 18.

Some marriage brokers are aware of their complacency in the face of sex trafficking. They are not unaware of the consequences their pairings have on the lives of the young refugee girls. However,

33 “An organized crime? Begging in Saudi Arabia,” *Al-Arabiya*, August 19, 2013, <http://english.alarabiya.net/en/perspective/features/2013/08/19/Organized-crime-Begging-in-Saudi-Arabia.html>

34 Ibid.

35 Ibid.

36 U.S. Department of State, “Trafficking in Persons Report: Saudi Arabia,” (2015).

37 Claire Healy, *Targeting Vulnerabilities: The Impact of the Syrian War and Refugee Situation on Trafficking in Persons*, (Vienna: International Centre for Migration Policy Development, 2015).

38 Ibid.

39 Clarissa Ward, “Syrian refugees sell daughters in bid to survive,” *CBS News*, May 15, 2013, <http://www.cbsnews.com/news/syrian-refugees-sell-daughters-in-bid-to-survive/>

40 Healy, *Targeting Vulnerabilities*

41 Jackie Long, “Rape and sham marriages: the fears of Syria’s women refugees,” *Channel 4*, March 28, 2013, <http://www.channel4.com/news/syria-women-rape-marriage-refugee-camp-jordan>

42 Long, “Rape and sham marriages” AND Ward, “Syrian refugees sell daughters”

these matchmakers are often refugees themselves. Displaced refugees in Jordan have no clear legal right to work in the country.<sup>43</sup> Um Majed, a woman who worked as a marriage broker, was interviewed by CBS, and expressed desperation while justifying her line of work; “Syrians can’t work in Jordan. What are we supposed to do? Steal? Kill?”<sup>44</sup> The commission they make off of successful marriage pairings can be used to save their own daughters from having to engage in temporary marriages. One matchmaker interviewed said she would never sell her daughter off as a young girl, stating “I would sell my eyes before I sold my kids.”<sup>45</sup>

Syrian refugee women and girls are not the only victims of Saudi sex tourism. Recently, instances of trafficking Mauritanian child brides to Saudi Arabia is on the rise.<sup>46</sup> Poor Mauritanian families are lured into selling their young, often prepubescent, daughters to wealthy Saudi men for hefty bride prices of five to six million ouguiya, or about \$20,000 USD. Once the girls arrive in Saudi Arabia, they become sex slaves to their husbands. Once the girls reach puberty or become pregnant, many are no longer wanted by their husbands and then thrown into the streets.<sup>47</sup>

According to the U.S. Department of State’s 2015 Trafficking in Persons Report, Saudi Arabia has not made “efforts to address child sex tourism by Saudi nationals abroad through any law enforcement efforts.”<sup>48</sup>

## **GOVERNMENT OFFICIALS AND MEMBERS OF THE ROYAL FAMILY COMPLICIT IN HUMAN TRAFFICKING**

Saudi government officials and members of the royal family have been implicated in human trafficking crimes abroad. These official violations send the message that Saudi authorities are not concerned with curbing human trafficking, as they benefit from and are complicit in the practice themselves.

In September 2013, American authorities charged one of the wives of Saudi Prince Abdulrahman bin Nasser bin Abdulaziz al Saud, Meshael Alayban, with human trafficking crimes.<sup>49</sup> While in California, Alayban’s maid escaped to a police station and filed a report. She accused her employer of paying her only \$220 per month despite being promised \$1,600, restricting her movements, and confiscating her passport.<sup>50</sup> Despite these allegations against Alayban, Californian authorities dismissed her case, and she faced no consequences.

In July 2016, a statement from the UK Foreign Secretary Boris Johnson revealed that a member of the Saudi embassy in the UK was accused of “Human Trafficking into the UK for purposes of exploitation, specifically domestic servitude.”<sup>51</sup> The statement also implicated someone at the

43 International Labour Organization, *Access to work for Syrian refugees in Jordan: A discussion paper on labour and refugee laws and policies*, (Geneva: International Labour Organization, 2015).

44 Ward, “Syrian refugees sell daughters”

45 Ward, “Syrian refugees sell daughters”

46 “Cable: 09NOUAKCHOTT255\_a,” Wikileaks, April 8, 2009, [https://wikileaks.org/plusd/cables/09NOUAKCHOTT255\\_a.html](https://wikileaks.org/plusd/cables/09NOUAKCHOTT255_a.html)

47 Ibid.

48 U.S. Department of State, “Trafficking in Persons Report: Saudi Arabia” (2015).

49 Jason Hanna, “Human trafficking case against Saudi princess dropped,” CNN, September 23, 2013, <http://www.cnn.com/2013/09/20/justice/california-saudi-princess-charged/>

50 Hanna, “Human trafficking case against Saudi princess dropped”

51 Mikey Smith, “Saudi official with diplomatic immunity ‘brought personal slave to Britain’, MPs told,” *Mirror*, July 21, 2016, <http://www.mirror.co.uk/news/uk-news/saudi-official-diplomatic-immunity-brought-8464493>

same embassy in the crime of human trafficking for forced labor.<sup>52</sup> It remains unclear whether the statement describes two individuals or one who committed both offenses. Because the alleged offender is an employee of the Saudi embassy, he or she is protected by diplomatic immunity and, therefore, unlikely to face legal repercussions for his or her actions.

These instances of international human trafficking by high ranking government officials aid in cultivating a culture of acceptance around the practice. In both of these cases the offenders face did not face criminal charges or are not likely to face charges. This conveys to Saudi society, and the international community at large, that the Saudi government is not serious about eradicating human trafficking, as they are complicit in the violations themselves. Saudi officials need to hold themselves accountable for their illegal actions in order to make concrete progress in eliminating the abusive practice of human trafficking.

## **How the Saudi Government is Complicit in Trafficking**

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The Government of Saudi Arabia is complicit in the human and sex trafficking situations within the country. The *kafala* sponsorship system acts to tether migrant workers to their employers, entrapping and immobilizing them. The Saudi government has signed many agreements with the governments of source countries, however many of these are symbolic and not legally binding. The legislation in place that is legally binding is ineffective and exclusionary. Also, these laws are rarely applied to those who break them. Even in instances when Saudi's anti-human trafficking legislation is used to charge a trafficker, prosecution and conviction rates remain deficient and disproportionate.

### **DOMESTIC SAUDI LAW**

Royal Decree No. M/51, colloquially known as the Labor Law of 2006, does not adequately protect migrant workers, leaving them open to abuse and exploitation. Passport revocation, wage withholding, physical abuse, and excessive work hours are illegal under this labor law, and stipulations are put in place to ensure that employers adhere to these rules. However, examples of these illegal practices are rampant throughout Saudi Arabia. Due to lack of protection, many migrant workers flee their work environments in fear for their lives and well-beings, opening themselves up to being further trafficked.

The 2009 Suppression of Trafficking in Persons Act is Saudi Arabia's anti-trafficking law. It aims to thwart both human and sex trafficking in the country, and defines and prohibits all forms of human trafficking as well as prescribes punishments for breaking the law. It is also overly broad, and criminalizes some offenses that are not categorized as human trafficking crimes as defined under international law, such as prostitution.<sup>53</sup> The broad nature of the Act should allow for greater opportunities to enact this law in convicting human traffickers. However, it makes it more difficult to adequately identify instances of trafficking through legal language. According to the US Department of State's Trafficking in Persons 2015 country report, Saudi Arabia investigated trafficking reports by 725 victims from April to December 2014. Within this time, the Saudi government prosecuted 52 cases and convicted 68 offenders under the 2009 Suppression of Trafficking in Persons Act. Of the 68 people convicted, 23 were convicted of forced labor crimes,

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52 "Foreign embassy staff accused of human trafficking and child sex offences," *BBC*, July 21, 2016, <http://www.bbc.com/news/uk-politics-36856918>

53 U.S. Department of State, "Trafficking in Persons Report: Saudi Arabia," (2015).

1 for begging, and 44 for sexual exploitation.<sup>54</sup> These numbers are incredibly low, especially when taking into consideration the millions of migrant workers in Saudi Arabia.

## INTERNATIONAL AGREEMENTS

Saudi Arabia has failed to ratify a number of international agreements related to human trafficking or labor abuses that can then lead to human trafficking. Saudi Arabia has not ratified the International Labor Organization's Convention No. 189: Domestic Workers Convention, 2011, Convention No. 143: Migrant Workers (Supplementary Provisions), 1975, or the Protocol of 2014 to the Forced Labor Convention, 1930.<sup>55</sup> All of these conventions aim to protect the rights of migrant and domestic workers around the world, especially those forced into work. The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families as well as the International Covenant on Economic, Social, and Cultural Rights are two other international treaties the Saudi government have not ratified.<sup>56</sup> Two other international agreements that specifically pertain to migrants rights and human trafficking that Saudi Arabia has not agreed to are ILO Convention No. 97: Migration for Employment, 1949 and The Slavery Convention of 1926.<sup>57</sup> Saudi Arabia also has not signed treaties designed to protect against employer abuse and labor exploitation, such as the ILO Convention No. 98: Right to Organise and Collective Bargaining, 1949.<sup>58</sup> By not ratifying these international agreements, Saudi Arabia is demonstrating that it does not take its responsibility to protect the rights of migrants and human trafficking victims seriously.

When Saudi Arabia does ratify international treaties, there is no guarantee they will be implemented. For example, the Government of Saudi Arabia ratified the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children in 2007. Presently, Saudi Arabia has not implemented any of the treaty's minimum standards, nor has it made significant effort to do so.<sup>59</sup>

## AGREEMENTS WITH SOURCE COUNTRIES

Unlike many of its neighbors and fellow Gulf Cooperation Council states, Saudi Arabia has not recently signed agreements with countries from which many laborers migrate. Many other GCC member states, such as Bahrain and the United Arab Emirates, have expressed interest in combatting human trafficking through international cooperation with source countries. In early 2016, both Bahrain and the UAE signed Memorandums of Understanding with India.<sup>60</sup> These non-legally binding agreements act to solidify and publicize the cooperation between the nations on curbing trafficking and ensuring the rights of migrant workers are respected. Instead of signing similar agreements with its own source countries, the Saudi Arabian government has recently made several deals to cooperate with new source countries in order to facilitate even more migrant workers travelling to the country.

54 U.S. Department of State, "Trafficking in Persons Report: Saudi Arabia," (2015).

55 *The Other Migrant Crisis: Protecting Migrant Workers against Exploitation in the Middle East and North Africa*, International Organization for Migration, 2011, 33.

56 Ibid.

57 Ibid.

58 Ibid.

59 *Slaving Away: Migrant Labor Exploitation and Human Trafficking in the Gulf*, Americans for Democracy & Human Rights in Bahrain (Washington, D.C.: ADHRB, 2014), 43.

60 Press Information Bureau, Government of India "Memorandum of Understanding between India and Bahrain on Cooperation for Prevention of Human Trafficking especially trafficking in Women and Children," March 10, 2016, <http://pib.nic.in/newsite/PrintRelease.aspx?relid=137615>



Saudi Arabia has recently signed Memorandums of Understanding with Asian and African countries that have not been historic source countries of migrant labor. In February 2016, Saudi Arabia and Cambodia signed a Cooperation Agreement on the Recruitment of Domestic Workers and General Workers.<sup>61</sup> Early in 2016, Saudi Arabia also proposed a deal with Somalia, through which approximately 50,000 Somali domestic workers would travel to the Gulf state.<sup>62</sup>

Much of this cooperation with new source countries comes at the heels of many historic source countries seeking to ensure protections for their citizens or banning their workers from obtaining visas to Saudi Arabia due to widespread abuse. In mid-2015, Indonesia placed a ban on domestic workers from migrating to the Gulf country, among twenty others, due to the country's ill treatment of Indonesian workers.<sup>63</sup> In early 2016, Uganda imposed a domestic labor ban on Saudi Arabia, forbidding workers from going to the Gulf state for work.<sup>64</sup> It is also not unprecedented for Saudi Arabia to impose bans on countries lobbying for better working conditions for its citizens; following pressure from the Philippines regarding the treatment of its citizens abroad, Saudi Arabia temporarily banned domestic workers from the Southeast Asian country instead of addressing those issues.<sup>65</sup>

## Conclusion

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The Government of Saudi Arabia does little to actively protect the rights of migrant workers, identify them when victimized, or help them to secure proper recourse for their abuse. Instead, it actively: enforces an abusive visa system; cuts ties with source countries aiming to ensure rights for their citizens; punishes workers for activity that is the result of them having been trafficked; and, fails to ratify and comply with international agreements and treaties regarding forced labor and the rights of migrant and domestic workers. Even when the Saudi government does investigate into migrant labor abuses, conviction rates remain abysmal and workers' rights are not adequately protected.

The Saudi government needs to address these issues in order to eradicate human trafficking within the country. While the country has taken steps, mostly legislatively, to protect the rights of some migrant workers and criminalize human trafficking, Saudi authorities need to better enforce these laws to make them practical.

Specifically, Saudi Arabia must abolish the repressive *kafala* system and allow migrant workers freedom of movement, as promised to them by the Universal Declaration of Human Rights. Abolishing the *kafala* system of sponsorship will allow migrant workers exit options if they are faced with brutal work conditions and minimal pay, as millions of them are. The government must also begin enforcing the 2006 labor law and 2009 anti-trafficking law, which already criminalize many of the human rights abuses so rampant across the kingdom. If the Government of Saudi Arabia fails to implement these changes, human trafficking will continue to plague the country.

61 Chhay Channyda and Shaun Turton, "Saudis sign MoU on maids," The Phnom Penh Post, February 13, 2016, <http://www.phnompenhpost.com/national/saudis-sign-mou-maids>

62 "Saudi Arabia seeks 50,000 Somali domestic workers," *CCTV.com English*, March 2, 2016, <http://english.cntv.cn/2016/02/03/VIDE5pxlFiEmZm8yRbkyLV2Z160203.shtml>

63 Hilary Whiteman, "Indonesia maid ban won't work in Mideast, migrant groups say," CNN, May 6, 2015, <http://www.cnn.com/2015/05/06/asia/indonesia-migrant-worker-ban/>

64 "Uganda bans housemaids from working in Saudi Arabia," *Al-Jazeera*, January 23, 2016, <http://www.aljazeera.com/news/2016/01/uganda-bans-housemaids-working-saudi-arabia-160123051600447.html>

65 Agence France-Presse, "Saudi Arabia bans Filipino and Indonesian Maids," *The National*, June 30, 2011, <http://www.thenational.ae/news/world/asia-pacific/saudi-arabia-bans-filipino-and-indonesian-maids>

# Bahrain

## Introduction

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Bahrain is home to over 580,000 foreign workers, who altogether make up more than 75 percent of the total workforce.<sup>66</sup> Most of these foreign laborers work in low-paying fields, such as construction and domestic work. Many of them are the victims of human trafficking and forced labor. Their employers often revoke their passports, withhold their wages, and subject them to mental, physical, and sexual abuse. This has led the US Department of State (US DoS) to categorize Bahrain as a Tier 2 country in 2015 and 2016, meaning that it not met minimum standards for eradicating human trafficking, but is making efforts to do so.<sup>67</sup> These efforts led the US DoS to take Bahrain off of its Tier 2 Watch List, which it had been on from 2012 to 2014.<sup>68</sup>

The efforts that Bahrain has been implementing take the form of: agreements with source countries regarding the protection of migrant workers and the reduction of human trafficking; the restructuring of its governmental anti-human trafficking bodies; and, opening a new shelter for victims of human trafficking. However, the steps that Bahrain is currently taking are not enough to eradicate human trafficking and forced labor within the country. Conviction rates under both the anti-trafficking law, Law No. 1 of 2008, and the labor law, Law No. 36 of 2012, remain low. Bahraini authorities also regularly fail to identify potential victims of human trafficking by not enforcing passport revocation laws and not resolving worker complaints to the Ministry of Labor and Social Development (MoL).

Bahrain has acceded to international treaties that aim to protect civil and human rights of migrants. Specifically, officials ratified the International Covenant on Civil and Political Rights. However, the Government of Bahrain has not ratified the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children or the UN International Convention on the Protection and the Rights of All Migrant Workers and Members of their Families. Without acceding to these agreements, Bahrain is not successfully curbing instances of human trafficking within its borders.

## Domestic Human Trafficking

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### MIGRANT WORKERS

Bahrain is a destination country for migrant workers, many of whom are trafficked from Africa and Southeast Asia. These migrants, who make up over 75 percent of the country's total workforce, leave their home countries for the prospect of good work and high wages, which they then can use to support their families back home.<sup>69</sup> Upon arrival to their unsanitary and cramped living accommodations in Bahrain, their employers often revoke their passports, change the terms of their contracts, and subject them to physical abuse.

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66 "Dashboard: Issue 2016Q1," Labour Market Regulatory Authority, 2016, [http://blmi.lmra.bh/2016/03/mi\\_dashboard.xml](http://blmi.lmra.bh/2016/03/mi_dashboard.xml) AND Human Rights Watch, *For a Better Life*

67 U.S. Department of State, "Trafficking in Persons Report: Bahrain," (2015) AND U.S. Department of State, "Trafficking in Persons Report: Bahrain," (2016).

68 U.S. Department of State, "Trafficking in Persons Report: Bahrain," (2012) AND U.S. Department of State, "Trafficking in Persons Report: Bahrain," (2013) AND U.S. Department of State, "Trafficking in Persons Report: Bahrain," (2014)

69 Human Rights Watch, *For a Better Life*

Migrants commonly gain entry into the country through third party recruitment agencies that specialize in bringing migrant workers to Bahrain. Recruitment agencies help potential migrants find positions in Bahrain and fill out initial contracts. These contracts usually stipulate the migrant worker's duties, wages, and hours, as well as the beginning and end dates. Most migrant workers are victims of contract substitution. Upon their arrival in Bahrain, workers often find that their employers change the terms of their contracts. In many cases, however, migrant workers did not have access to their contracts, and most were not aware of the new terms of their employment.<sup>70</sup>

Recruitment agencies charge high fees for their services. Although Bahraini law prohibits workers from paying their own recruitment fees, most do.<sup>71</sup> Some fees total as much as 20 months' worth of wage in Bahrain, and many clients and their families go into debt in order to pay them.<sup>72</sup> Some workers sell their property or borrow money in order to pay off recruitment agencies.<sup>73</sup> The fees that are associated with transporting the migrants to Bahrain are often converted into a debt bond. Wages for laborers are typically much lower than initially promised, and Bahrain's lack of a minimum wage law means that many migrants are not paid a living wage.<sup>74</sup> Additionally, employers often withhold wages from their employees, sometimes for months or years at a time. One man, Raja H., claimed that his employer had not paid him and 19 others for over four months.<sup>75</sup>

Employers often place migrant workers into forced labor until they reimburse their often illegitimate debts. This means that most laborers are indebted before starting work in Bahrain; due to this, they are vulnerable to debt bondage

Upon migrant workers' arrivals in Bahrain, their employers will often confiscate their passports and their mobile phones, if they have one. This practice helps to ensure employers exert full control over their employees. By taking their employees' passports, employers are rendering their workers immobile and dependent. Migrant workers cannot leave the country without their passports, making it almost impossible for them to flee from their employer and go back home.

Along with labour abuses, migrant workers also face physical abuses at the hands of their employers.<sup>76</sup> Employers sometimes use violence as a motivating tool. Physical violence also comes in the employer's passivity during an accident or critical health situation. Accidents at construction sites are common, however only the most severe are usually treated. Workers are unable to seek help, and their employers force them to continue working. This, combined with their unsanitary living conditions, makes for unhealthy and abusive work environments. Physical and mental abuse is so constant and widespread that suicide rates among migrant workers in Bahrain are high.<sup>77</sup>

Bahrain's labor law stipulates that employers must provide their employees with accommodations or a housing allowance.<sup>78</sup> In April 2015, Labour Ministry Under-Secretary Sabah Al Dossary said 90 percent of over 3,000 buildings registered as labour accommodations passed national safety standards, leaving

70 U.S. Department of State, "Trafficking in Persons Report: Bahrain," (2016)

71 Human Rights Watch, *For a Better Life*

72 Ibid.

73 U.S. Department of State, "Trafficking in Persons Report: Bahrain," (2016)

74 U.S. Department of State, "Country Reports on Human Rights Practices for 2015: Bahrain," (2015), <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dlid=252919>

75 "Bahrain: Abuse of Migrant Workers Despite Reforms," Human Rights Watch, September 20, 2012, <https://www.hrw.org/news/2012/09/30/bahrain-abuse-migrant-workers-despite-reforms>

76 Human Rights Watch, *For a Better Life*

77 "Bahrain: Abuse of Migrant Workers Despite Reforms," Human Rights Watch

78 "One in 10 labour camps in Bahrain 'unsafe,'" *TradeArabia*, April 11, 2015, [http://www.tradearabia.com/news/MISC\\_279490.html](http://www.tradearabia.com/news/MISC_279490.html)

10 percent unfit.<sup>79</sup> However, a lot of labor accommodations in Bahrain are illegal and unregistered, meaning most migrant workers live in overcrowded, unsafe, and unsanitary labor camps.

Government officials in 2015 conceded that there were over 600 unregistered buildings being used to house workers in Manama alone.<sup>80</sup> Media reports suggest that the number of illegal accommodations in the country is on the rise.<sup>81</sup> These illegal accommodations are dangerous as they are unregulated; fires have been known to break out due to faulty wiring and lack of upkeep.<sup>82</sup>

## DOMESTIC WORKERS

Domestic workers face exploitation and abuses due to their lack of protection under the Bahraini labor law and their isolated work environments in private homes. Migrant domestic laborers are predominantly women, and they make up 42.2 percent of the entire female workforce in Bahrain.<sup>83</sup> Like other migrant workers, domestic workers are often tricked into moving to Bahrain under false pretenses, subjected to passport revocation and contract substitution, and abused by their employers.

Recruitment agencies often lie to potential migrant workers in order to lure them to Bahrain. The agencies promise women positions as child care assistants, secretaries, or teachers. Once they arrive in Bahrain, they realize that they have been placed as domestic workers in private households. Domestic laborers may be subjected to heightened abuse, as there is little authoritative oversight in homes.

Upon arrival at their new workplaces, their employers will usually confiscate their passports. As the Bahraini government attempts to hand out cell phones with SIM cards to each migrant worker entering the country, most employers will revoke the phone, leaving the workers unable to contact their families or the authorities. By not having access to their passports, domestic workers are unable to exercise their right to mobility. Bahrain has acceded to the ICCPR, which among other rights guarantees free mobility within the country and freedom to return to one's home country.<sup>84</sup> One 63-year old Indian domestic worker was unable to return to India to visit her family for over 21 years as her employer refused to allow her to leave; her employer also withheld her wages for two years between 2012 and 2014.<sup>85</sup>

Some employers feel a sense of entitlement over their domestic workers, as they often pay fees to obtain them. This often leads to employers treating the domestic workers as commodities. In order to ensure their wishes are carried out, many employers use violence and threats of violence to motivate their workers. Some employers and members of an employer's family sexually abuse and rape domestic workers.<sup>86</sup> Their isolation in the home makes it difficult for domestic workers

79 "One in 10 labour camps in Bahrain 'unsafe,'" *TradeArabia*, April 11, 2015, [http://www.tradearabia.com/news/MISC\\_279490.html](http://www.tradearabia.com/news/MISC_279490.html)

80 Ibid.

81 Sandeep Singh Grewal, "Illegal labour camps on the rise," *Gulf Digital News*, July 3, 2016, <http://www.gdnonline.com/Details/97980/Illegal-labour-camps--on-the-rise>

82 "Bahrain Labor Camp Fire Kills 13 Migrant Workers," *Migrant-Rights.org*, January 12, 2013, <http://www.migrant-rights.org/2013/01/bahrain-labor-camp-fire-kills-13-migrant-workers/>

83 International Trade Union Confederation, *Facilitating Exploitation: A review of Labour Laws for Migrant Domestic Workers in Gulf Cooperation Council Countries*, (Brussels: ITUC, November 2014), 32.

84 UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171

85 "Bahrain: Abuse of Migrant Workers Despite Reforms," Human Rights Watch

86 "Filipino maid 'beaten and raped' is rescued from Bahrain employer after Facebook appeal goes viral," *South China Morning Post*, April 16, 2015, <http://www.scmp.com/news/asia/article/1763443/filipina-maid-beaten-and-raped-rescued-bahrain-employer-after-facebook>

to report these crimes.

Most employers force their workers to work long hours with few, if any, breaks. A past International Labor Organization (ILO) study concluded the average workweek for a domestic worker in Bahrain consisted of 108 hours, averaging fifteen to seventeen hours per day.<sup>87</sup> Most of these hours are spent within the household, and domestic workers rarely leave their homes without employer supervision. One worker, Ayesha K., stated “We worked from 5:30 a.m. to 11 p.m... No break time. No rest. No time to eat even.”<sup>88</sup>

Domestic workers’ legal immigration statuses are tied to their employers. Therefore, many are criminally prosecuted if they attempt to flee from their abusive conditions. Domestic workers who run from their employers often do so without their passports, without money, and without the knowledge about who to call. This makes them more vulnerable to further trafficking. Often, they will be trafficked illegally into another domestic work situation, or they will be trafficked into the sex trade and forced into prostitution.

## PROSTITUTION

Prostitution remains a problem for many migrant workers that are trafficked to Bahrain. Some are directly trafficked as prostitutes from their home countries, while others are lured into the sex trade after arriving in Bahrain for other work. Sometimes, women are directly kidnapped from their home countries, later finding themselves forced into prostitution in Bahrain.<sup>89</sup> Regardless of how women become victims of sex-trafficking, their experiences are similar. Their traffickers strictly regiment their lives and force the women to accept clients. Traffickers use physical violence, verbal abuse, and threats of sexual violence, which are often realized, in order to maintain control over the women. If the women escape from their traffickers or ask for help, many are arrested for prostitution instead of being seen as victims of sex trafficking.

The women that are directly trafficked into the sex trade are often victims of recruitment agency lies. Agencies will promise them jobs as domestic workers, teachers, child-care assistants, or secretaries. It is only upon their arrival in Bahrain that the women realize they have been tricked and sold into prostitution.

Some women are lured to Bahrain through recruitment agencies promising them artists visas. These visas are meant to be short-term, lasting only three months, and given to visiting artists. Hotels in Bahrain will use these visas to entice Arab and Asian women to Bahrain, promising them jobs as dancers.<sup>90</sup> When they arrive at the hotel, the women quickly realize they are meant to work as prostitutes. As the visa is limited to only three months, the women need to be trafficked across an international border and back again to continue monopolizing the visa and work as prostitutes.<sup>91</sup> This scheme allows women to legally work in Bahrain in an illegal position.

Similarly, some women are lured into the sex trade after their compatriots lie to them, promising

87 Bahrain Centre for Human Rights, Bahrain Youth Society for Human Rights, and CARAM-Asia, “The Situation of Women Migrant Domestic Workers in Bahrain: Report submitted to the 42nd session of the CEDAW Committee October 2008,” [https://www.fidh.org/IMG/pdf/bchr\\_bahrain42.pdf](https://www.fidh.org/IMG/pdf/bchr_bahrain42.pdf)

88 “Bahrain: Abuse of Migrant Workers Despite Reforms,” Human Rights Watch

89 Kornkamol Aksondaj “Two women arrested over Bahrain ‘sex trafficking’ scam,” *The Nation*, June 6, 2016, <http://www.nationmultimedia.com/national/Two-women-arrested-over-Bahrain-sex-trafficking-sc-30287460.html>

90 “Bahraini NGOs shadow Report to CEDAW: 2014,” Bahrain Women Union, 37, [http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/BHR/INT\\_CEDAW\\_NGO\\_BHR\\_16120\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/BHR/INT_CEDAW_NGO_BHR_16120_E.pdf)

91 Ibid.

better lives in Bahrain. Some of these women were trafficking victims themselves. They then become pimps, luring other women from their home country to move to Bahrain.<sup>92</sup> The women lie to potential migrant workers and tell them stories of their great jobs with nice employers back in Bahrain, as well as entice them with the large sums of money they have made and are able to send back home.

Many domestic workers often find themselves trafficked into the sex trade after fleeing their abusive employers. Most of these women flee without their passports or a cell phone, without any money, and without contacts in the country to help them. Absconding from their employers is a criminal offense, and leaving without their sponsors' permissions means their immigration status becomes illegal. Fearful of facing prosecution for breaking their labor contracts, workers are often exploited by men who offer them new positions. Some workers find new domestic jobs through these traffickers on the black market. Many have no other options than to submit themselves to those traffickers who sell them into prostitution after promising them new jobs.

Trafficked women are subjected to tight control. Their traffickers often set up their clients for them and transport them accordingly. Traffickers keep a close eye on the women who work as prostitutes in hotels, forcing them to meet a certain quota of men per night. When they are not working, they are usually unable to leave their apartment, which often contains a high number of other trafficked prostitutes. Especially when they first arrive, many women are reticent to being forced into prostitution.

If the women are able to escape their traffickers, there is no guarantee Bahraini authorities will give them the help they need. As both absconding and prostitution are illegal, officials treat these women as criminals instead of victims. Instead of investigating their cases for signs of human trafficking, documenting their data, or providing support, police often deport these women to their home countries, sometimes after they have served time in jail for these crimes.<sup>93</sup>

## **How the Bahraini Government is Complicit in Trafficking**

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### **LABOR LAW FOR THE PRIVATE SECTOR NO. 36 OF 2012**

The Labor Law for the Private Sector No. 36 of 2012 is Bahrain's comprehensive legislation on the rights and protections of its workforce, and it makes no distinctions between Bahraini and foreign workers. Legally, migrant workers are afforded the same rights as citizen workers. In practice, this is not the case. The Government of Bahrain has not reported any efforts to issue guidance on how to properly implement the law.<sup>94</sup> As the legislation itself provides no guidelines for its implementation, this results in government officials unevenly applying the law.

Domestic workers are also partially excluded under Article 2 of the law, leaving them without proper legal protection. Employers are required to pay their workers at least once a month and to provide labor contracts specifying working hours, annual leave, and bonuses.<sup>95</sup> However, many domestic workers never see their contracts or are aware of their terms. A 2014 UN Women report found that 65 percent of migrant women had never seen their labor contracts, and almost 90

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92 Kornkamol Aksondaj "Two women arrested over Bahrain"

93 "Bahraini NGOs shadow Report to CEDAW: 2014," Bahrain Women Union, 38.

94 U.S. Department of State, "Trafficking in Persons Report: Bahrain," (2016)

95 Kingdom of Bahrain, *Law No. 36 of 2012 Promulgating the Labour Law in the Private Sector*, [http://www.ilo.org/dyn/natlex/natlex4.detail?p\\_lang=en&p\\_isn=91026](http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=91026)

percent were not aware of the specific terms of their employment.<sup>96</sup>

This law is challenging for authorities to enforce, especially regarding the few protections for domestic workers. Inspection agencies have difficulties investigating domestic worker claims of violations due to “cultural norms surrounding privacy in homes.”<sup>97</sup> Failure to investigate these claims of abuse leave domestic workers vulnerable to further exploitation.

In the wake of Kuwait implementing a labor law specifically applying to domestic workers, in July 2015, Bahrain’s Labour Ministry Under-Secretary Sabah Al Dossary said that the government could introduce similar legislation.<sup>98</sup> Although he indicated the law could be implemented in the near future, the Government of Bahrain has not released an update on the progress of the law since mid-2015.<sup>99</sup> Until they have their own labor law to protect them or until the Bahraini government amends Law No. 36 of 2012 to include them, domestic workers will remain abused and exploited in Bahrain.

### AGREEMENTS WITH SOURCE COUNTRIES

Bahrain has signed several agreements with migrant source countries in order to emphasize cooperation and bolster future interactions. Many of these agreements have taken the form of Memorandums of Understanding (MoUs). They acknowledge the existence of problems that arise in both countries from the practice of migrant labor; however, very few of these agreements lay out concrete steps in order to eradicate these problems. Often, MoUs have very little impact on the lives of migrant workers, as the Government of Bahrain does not transfer the ethos of these agreements into enforceable domestic laws.

On 10 March 2016, the Governments of India and Bahrain approved a Memorandum of Understanding on Cooperation for Prevention of Human Trafficking, especially Trafficking in Women and Children. The “salient features” of the MoU included strengthening cooperation between the two countries, taking preventative measures to eliminate human trafficking, and encouraging informational exchanges between Indian and Bahraini police and security forces.<sup>100</sup> On 29 May 2016, the Bahrain News Agency, the state news agency, ran a statement in which Bahraini authorities denied the existence of trafficked Indian nationals inside of Bahrain.<sup>101</sup> This incident exemplifies the lack of authority and gravitas these MoUs have. Without domestic legislation to reinforce the promises made in the agreements, MoUs remain empty aspirations.

### INTERNATIONAL AGREEMENTS

The Government of Bahrain acceded to the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children on 7 June 2004. Article 2 of the Protocol outlines its purpose, which is: “to prevent and combat trafficking in persons, paying particular attention to women and children;” “to protect and assist the victims of such trafficking, with full

96 “Receiving Countries: Kingdom of Bahrain,” UN Women, [http://www.unwomen.org/~media/field%20office%20eseasia/docs/migration\\_hub/bahrain\\_laws\\_policies\\_regulations\\_governing\\_asian\\_arabstates%20pdf.pdf?v=1&d=20141202T120059](http://www.unwomen.org/~media/field%20office%20eseasia/docs/migration_hub/bahrain_laws_policies_regulations_governing_asian_arabstates%20pdf.pdf?v=1&d=20141202T120059)

97 U.S. Department of State, “Trafficking in Persons Report: Bahrain,” (2016)

98 “Bahrain Mulls Rights for Domestic Staff,” *Trade Arabia*, July 12, 2015, [http://www.tradearabia.com/news/EDU\\_286101.html](http://www.tradearabia.com/news/EDU_286101.html)

99 Ibid.

100 Government of India “Memorandum of Understanding between India and Bahrain”

101 “Human Trafficking Allegations Denied,” *Bahrain News Agency*, May 29, 2016, <http://www.bna.bh/portal/en/news/729521>

respect for their human rights;” and, “to promote cooperation among States Parties in order to meet those objectives.”<sup>102</sup> However, since its accession to the treaty, the Bahraini government has not followed through on its commitment to these principles; officials rarely frame their actions by the agreement’s stipulations.

The Bahraini government has not acceded to the UN International Convention on the Protection and the Rights of All Migrant Workers and Members of their Families. The Convention asks the international community “to respect and to ensure to all migrant workers and members of their families within their territory or subject to their jurisdiction the rights provided for in the present Convention without distinction of any kind.”<sup>103</sup> These rights include the right to leave their host countries to return to their home countries, protection under law, freedom from forced labor, and the right to recourse.<sup>104</sup> As the government has not acceded to this Convention, migrant workers do not enjoy these rights in Bahrain.

On 18 June 2002, Bahraini officials acceded to the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Article 11 stipulates that states, “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.”<sup>105</sup> By partially excluding domestic workers who are predominately women from the labor law, the Bahraini government does not treat them equally to male migrant workers. As long as domestic workers are unprotected under the labor law, Bahrain is not fulfilling its obligations under CEDAW.

The *kafala* system restricts migrant workers’ movements by tying them to their employers. The right to mobility is protected in the Universal Declaration of Human Rights’ Article 13, which states, “everyone has the right to freedom of movement and residence within the borders of each State,” and, “everyone has the right to leave any country, including his or her own, and to return to his country.” These rights are also enshrined in the UN International Covenant on Civil and Political Rights (ICCPR), which Bahrain has ratified.<sup>106</sup>

## LAW NO. 1 OF 2008

Law No. 1 of 2008 is Bahrain’s anti-trafficking law. It defines acts of human and sex trafficking as well as prescribes stringent punishments. Article 8 also stipulates the establishment of the National Committee for Combating Trafficking in Persons (NCCTP).<sup>107</sup> The NCCTP was subsequently absorbed under the umbrella of the Labor Migration Regulatory Authority (LMRA) in March 2015.

In 2015, the government investigated 18 trafficking cases, eight of which were forced labor cases and ten of which were sex trafficking cases.<sup>108</sup> Of those 18 cases, involving 28 suspects, only 17

102 UN General Assembly, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime*, 15 November 2000, <http://www.osce.org/odihr/19223?download=true>

103 UN General Assembly, *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*, December 18, 2000, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CMW.aspx>

104 Ibid.

105 UN Committee on the Elimination of Discrimination Against Women (CEDAW), *CEDAW General Recommendations Nos. 19 and 20, adopted at the Eleventh Session, 1992 (contained in Document A/47/38)*, 1992, A/47/38

106 “Status of Ratification Interactive Dashboard: Bahrain,” United Nations Office of the High Commissioner, <http://indicators.ohchr.org/>

107 Kingdom of Bahrain, *Law No. 1 of 2008 Issuing the Anti-Trafficking Law*, January 9, 2008, <http://gulfmigration.eu/bahrain-law-no-1-of-2008-issuing-the-anti-trafficking-law/>

108 U.S. Department of State, “Trafficking in Persons Report: Bahrain,” (2016)



individuals were convicted; the average sentence consisted of 10 years' imprisonment, a fine of BD 2000 (\$5300 USD), and deportation following jail if the trafficker was not Bahraini.<sup>109</sup> The number of investigated cases decreased from 21 the previous year. The Government of Bahrain only convicted its first criminal prosecutions of forced labor offenses in 2014.<sup>110</sup>

Conviction rates under the anti-trafficking law remain low despite hundreds of violations indicating forced labor and trafficking. Many indications of human trafficking, such as employers withholding passports and wages from their employees, are not treated as such. Authorities classify many of these abuses as labor violations resolvable through arbitration. Workers can file complaints against their employers in labor court if they are unsatisfied with the outcome, and the LMRA can refuse to issue new work visas for employers who have open cases. However, in practice, only some "particularly egregious" cases were referred to a public prosecutor under the anti-trafficking law.<sup>111</sup>

Bahraini officials also fail to properly identify most victims of human trafficking. In 2015, the government identified 90 victims of human trafficking out of hundreds of thousands of migrant workers.<sup>112</sup> In 2015, the Ministry of Labor and Social Development received 746 complaints of withheld wages, a common indicator of human trafficking and forced labor; only 255 cases were successfully arbitrated, and four cases were referred to public prosecution.<sup>113</sup>

With only about 34 percent of these cases successfully resolved last year, many abused workers do not see the benefits of voicing their complaints. Migrant workers in Bahrain are dependent upon their employers, and taking a legal stance against them can be risky. Due to distrust of the legal system coupled with fear of retribution, workers rarely filed formal complaints against their employers. When victims do seek help from the authorities, they respond unevenly. Some police stations immediately initiated an investigation and contacted the employer in question, while others waited days or weeks before following up.<sup>114</sup>

In August 2015, a video went viral of a Bahraini man slapping a South Asian migrant worker in the face.<sup>115</sup> The video was so widely watched that the Minister of Foreign Affairs, Sheikh Khalid Bin Ahmed al-Khalifa, tweeted his condemnation of the attack.<sup>116</sup> After his tweet, four men were immediately arrested and charged with the incident.<sup>117</sup> This shows the inconsistency with dealing with victims in Bahrain. Many migrant workers are subjected to harsher abuses than a slap in the face, yet most go unnoticed by the media and society at large. Bahraini officials need to temper the discrepancies and inconsistencies in dealing with migrant worker abuse in the country.

The Government of Bahrain continues to prosecute victims of human trafficking for crimes that are directly related to them having been trafficked. For example, absconding and prostitution are

109 U.S. Department of State, "Trafficking in Persons Report: Bahrain," (2016)

110 Ibid.

111 Ibid.

112 U.S. Department of State, "Trafficking in Persons Report: Bahrain," (2016)

113 Ibid.

114 Ibid.

115 Nick Visser, "Shocking Video Appears To Show Bahraini Man Slapping Migrant Worker," *The Huffington Post*, August 6, 2015, [http://www.huffingtonpost.com/entry/video-bahrain-slap-migrant-worker\\_us\\_55c39579e4b0d9b743db340a](http://www.huffingtonpost.com/entry/video-bahrain-slap-migrant-worker_us_55c39579e4b0d9b743db340a)

116 Khalid Al Khalifa, Twitter post, August 1, 2015, 1:45pm, [https://twitter.com/khalidalkhalifa/status/627520484469399552?ref\\_src=twsrc%5Etfw](https://twitter.com/khalidalkhalifa/status/627520484469399552?ref_src=twsrc%5Etfw)

117 Adam Taylor, "Video of Bahraini slapping South Asian migrant worker sparks backlash," *The Washington Post*, August 6, 2015, <https://www.washingtonpost.com/news/worldviews/wp/2015/08/06/video-of-bahraini-slapping-south-asian-migrant-worker-sparks-backlash/>

both illegal in Bahrain, but are also two common indications that a person has been exploited. Bahraini government officials have admitted that many working-level police officers in the country lack awareness of trafficking crimes.<sup>118</sup>

## INEFFECTIVE TOOLS OF COMBAT

In 2006, the Government of Bahrain mandated and established the Labour Market Regulatory Authority (LMRA) in order to regulate and control work permits for expatriate workers, issue visas for foreign workers, and issue licenses to recruitment agencies.<sup>119</sup> A board of directors oversees the LMRA, the chair of which is the Ministry of Labor (MoL). In 2009, the Bahraini government attempted to reform and repeal the *kafala* system, transferring migrant workers' sponsorship from private citizens to the LMRA. This change never fully took place, and the employer-based sponsorship system remains.

In 2015, the LMRA announced plans to open a national center to counter human trafficking, a shelter for female and child victims.<sup>120</sup> The shelter would be part of a joint initiative with the International Organization for Migration (IOM) and the United Nations Office on Drugs and Crime (UNODC). By January 2016, the LMRA issued a statement describing the launch of the Expat Protection Centre and shelter.<sup>121</sup> The shelter can accommodate up to 200 people, and is considered among the first of its kind by IOM Director General William Lacy Swing.<sup>122</sup>

The Expat Protection Centre operates a 24/7 hotline call center in languages commonly spoken by migrant workers.<sup>123</sup> The LMRA has also instituted a National Referral System (NRS) hotline that victims or witnesses of human trafficking can call to report their situations. While the existence of these government-sponsored hotlines indicates government acknowledgement of their need, they are not practical ways of identifying victims. Although the Bahraini government hands out cell phones with SIM cards to migrant workers upon their arrivals at the airport, employers usually confiscate them soon after.<sup>124</sup> With their cell phones taken away, most migrant workers do not have access to other means of calling the hotlines, rendering them ineffective.

Under a ministerial order, an employer withholding a migrant worker's passport is illegal, and disregarding this order carries a financial penalty. However, police and LMRA officials are unable to enforce it; a worker can only file a complaint with either agency, which in turn can only refer the complaint to the court if the employer refuses to return the passport.<sup>125</sup> According to NGOs, many employers claim that their workers' passports were lost upon being accused of passport retention.<sup>126</sup>

In addition to its relative inefficacy as an institution, the LMRA has also been implicated in corruption. In 2014, Bahraini officials investigated LMRA's leadership for accepting bribes in

118 U.S. Department of State, "Trafficking in Persons Report: Bahrain," (2015)

119 "Our Mandate," Labour Market Regulatory Authority, April 14, 2015, <http://lmra.bh/portal/en/page/show/56#.V4OzxpMrKHo>

120 "Anti-Trafficking Centre in Bahrain to Provide Shelter to Victims," *Trade Arabia*, June 23, 2015, [http://www.tradearabia.com/news/MISC\\_284787.html](http://www.tradearabia.com/news/MISC_284787.html)

121 "IOM: Bahrain A Global Model for Best Practice for Foreign Workers," Labor Market Regulatory Authority, January 26, 2016, <http://blog.lmra.bh/en/2016/01/06/iom-bahrain-a-global-model-for-best-practice-for-foreign-workers/>

122 Ibid.

123 "IOM: Bahrain A Global Model for Best Practice for Foreign Workers." Labor Market Regulatory Authority." January 26, 2016, <http://blog.lmra.bh/en/2016/01/06/iom-bahrain-a-global-model-for-best-practice-for-foreign-workers/>

124 U.S. Department of State, "Trafficking in Persons Report: Bahrain," (2015)

125 U.S. Department of State, "Trafficking in Persons Report: Bahrain," (2016)

126 Ibid.

exchange for their silence regarding trafficking allegations against a restaurateur.<sup>127</sup> Corruption within the LMRA and other government institutions involved in migrant labor can also be seen in the prevalence of “free visa” workers. Free visa workers effectively rent their visas from their sponsor, as their sponsor is not their employer. Free visa workers are often hired for lower wages, as their employer did not have to put up money in order to bring them into the country. These workers are not contracted, and are vulnerable to abuse and exploitation due to their illegal status. Some NGOs claim that free visa worker exploitation is prevalent because Bahraini officials allow citizens to sponsor more workers than they could reasonably employ.<sup>128</sup> The US Department of State has remained concerned about the Bahraini officials’ complicity in facilitating this scheme.<sup>129</sup>

## Conclusion

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The Government of Bahrain has not done enough in order to successfully eradicate the widespread practices of human trafficking and forced labor within the country. Both reform to current laws and practices as well as increased enforcement of those already in place must occur in order for migrants to have adequate protections in Bahrain. The Labor Law for the Private Sector, Law No. 36 of 2012, should be rewritten in order for its protections to apply to domestic workers. Bahraini authorities need to better enforce this law as well as the anti-trafficking law, Law No. 1 of 2008. The government also needs to adopt domestic legislation in line with stipulations from agreements with source countries in order for those agreements to enact meaningful change.

Bahraini officials also need to better utilize the tools they have for identifying and aiding victims. The government needs to better address the corruption occurring within the LMRA, which acts to reduce its efficacy. Abused workers need to feel confident that the LMRA will address their complaints, otherwise they will continue to avoid complaining and remain in their abusive work environments. Authorities also need to better recognize signs of trafficking, such as absconding and prostitution, as such and not solely as illegal crimes. By not properly identifying victims, many officials convict and imprison victims of trafficking and forced labor.

Additionally, the Government of Bahrain should take immediate steps to dismantle and repeal the abusive, exploitative *kafala* system. Although it has previously attempted to reform and repeal the employer-based sponsorship system, the government of has not successfully gotten rid of any of the abusive stipulations of the practice.

The Bahraini government needs to enact these changes in order to better combat human trafficking and ensure the safety and human rights of its migrant worker population. Until these reforms occur, employers will continue to take advantage of their workers, victims will be abused, prosecuted and jailed, and the international community will continue to see Bahrain as being static on human rights.

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127 U.S. Department of State, “Trafficking in Persons Report: Bahrain,” (2015)

128 “Receiving Countries: Kingdom of Bahrain” in *Review of Laws, Policies and Regulations Governing Labour Migration in Asian and Arab States*, UN Women, [http://www.unwomen.org/~media/field%20office%20eseasia/docs/migration\\_hub/bahrain\\_laws\\_policies\\_regulations\\_governing\\_asian\\_arabstates%20pdf.pdf?v=1&d=20141202T120059](http://www.unwomen.org/~media/field%20office%20eseasia/docs/migration_hub/bahrain_laws_policies_regulations_governing_asian_arabstates%20pdf.pdf?v=1&d=20141202T120059)

129 U.S. Department of State, “Trafficking in Persons Report: Bahrain,” (2016)

# The United Arab Emirates

## Introduction

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The United Arab Emirates (UAE) has over eight million low-paid migrant workers within its borders, comprising over 95 percent of the country's private workforce.<sup>130</sup> The majority of these low-paid laborers work in construction or domestic help positions. Most of these workers are victims of human trafficking or forced labor. They often pay large fees to enter the country where their employers will revoke their passports, change their contracts, subject them to physical and sexual abuse, and withhold their wages. Some women are also trafficked into the growing sex trade. These widespread abuses have led the US Department of State to rank the UAE consecutively as a Tier 2 country for the last few years, meaning the country has not met minimum standards for combatting human trafficking.<sup>131</sup>

The Government of the UAE has been making efforts to curb human trafficking, but has yet to be successful in implementing these efforts. While the UAE affords protections to the members of its workforce in the form of Law No. 8 of 1980, and its amendments in the form of Law No. 8 of 2007, the law excludes domestic workers who are therefore afforded no legal protections. The country's anti-trafficking law, Federal Law 51 of 2006, which was amended in 2015, still does not fully protect migrants from being trafficked, as Emirati authorities do not adequately enforce it. The UAE also fails to identify victims of human trafficking or convict traffickers in courts. Instead, authorities regularly arrest and imprison victims for crimes that are the direct results of them being trafficked, such as prostitution or absconding.

The UAE has ratified some international treaties which act to protect the human rights of migrants and workers. The government has acceded to the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). However, it has not implemented many of the stipulations of the treaties by creating or enforcing domestic legislation pertaining to them. It has further not acceded to some other treaties, such as International Covenant on Civil and Political Rights (ICCPR), which would aim to protect the rights of all Emirati residents. The UAE has signed some agreements with the governments of migrant source countries, like India and Pakistan. However, it has also not translated these agreements into enforceable domestic legislation. Without proper accession to and enforcement of these agreements, the UAE will continue to be a hub for human trafficking, forced labor, and forced prostitution.

## Domestic Human Trafficking

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### MIGRANT WORKERS

There are over eight million low-paid migrant workers in the UAE, comprising more than 95 percent of the private workforce.<sup>132</sup> They are the most frequently trafficked persons in the country, and as such they are particularly vulnerable to forced labor and exploitation.

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130 Friolan T. Malit, Jr. and Ali Al Youha, "Labor Migration in the United Arab Emirates AND U.S. Department of State, "Trafficking in Persons Report: United Arab Emirates," (2016)

131 U.S. Department of State, "Trafficking in Persons Report: United Arab Emirates," (2015) AND U.S. Department of State, "Trafficking in Persons Report: United Arab Emirates," (2016)

132 Friolan T. Malit, Jr. and Ali Al Youha, "Labor Migration in the United Arab Emirates AND U.S. Department of State, "Trafficking in Persons Report: United Arab Emirates," (2016)

Migrant workers often enter the country voluntarily with the hope of earning higher wages and sending money back home to their families. Many utilize recruitment firms in their home countries, which secure positions for them in the UAE. Recruitment agencies charge high fees for their services, and prospective workers will often go into debt to pay them. This leaves them vulnerable to forced labor, as they are dependent upon their jobs in order to pay back their debts. Some employers often take advantage of this situation by threatening to fire workers who push back against wage cuts.

Employers often withhold wages from their employees. Data from the UAE Ministry of Labor suggests that the number of complaints for unpaid labor continues to rise.<sup>133</sup> Workers are often too afraid to file a complaint about their employer because they are dependent upon them for their job and their immigration status.

Due to their debts, migrant workers cannot afford to lose their positions or initiate the lengthy process of switching employers, forcing them to accept lower wages. Debt bondage renders migrant workers dependent upon their employers in all aspects of their lives, not solely for sponsorship reasons. The UAE has signed bilateral agreements with some source countries, such as India, Bangladesh, China, and Pakistan, with the aims of better regulating recruitment agencies and reducing debt bondage.<sup>134</sup> However, many of these agreements focus on the source countries' responsibilities, as recruitment agencies are more likely to operate abroad, and the UAE has done little to implement changes within its own borders.<sup>135</sup>

Once migrant workers arrive in the UAE, they discover that their employers often pay less than what the recruitment agencies promised in their initial contract. The UAE recently implemented reforms to its labor law necessitating the use of a standard employment contract. The contract must include, among other stipulations, the promised wages, the duration of the contract, and the nature of the work.<sup>136</sup> Although a contract becomes valid after both the employee and employer have signed the document, employers often change the terms of the contract after the worker has entered the country. This process is known as contract substitution, and it is usually done to lower wages and make the terms of the contract more agreeable to the employer. Many workers are also forced to sign contracts in languages that they cannot read.

Employers regularly confiscate their employees' passports. This practice demonstrates the employer's physical control over the employee. Without their passports, laborers are unable to travel freely throughout the country. They also cannot leave the country without it, nor can they prove their identity. The right to mobility is enshrined in Article 13 of the United Declaration of Human Rights, which states, "everyone has the right to freedom of movement and residence within the borders of each State," and, "everyone has the right to leave any country, including his own, and to return to his country."<sup>137</sup>

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133 "Migrant Workers' Rights on Saadiyat Island in the United Arab Emirates: 2015 Progress Report," Human Rights Watch, February 10, 2015, <https://www.hrw.org/report/2015/02/10/migrant-workers-rights-saadiyat-island-united-arab-emirates/2015-progress-report>

134 Friolan T. Malit, Jr. and Ali Al Youha, "Labor Migration in the United Arab Emirates"

135 Ibid.

136 Shuchita Kapur, "New UAE Labour Law: 7 points your employment contract must include," *Emirates 24/7 News*, February 16, 2016, <http://www.emirates247.com/news/emirates/new-uae-labour-law-7-points-your-employment-contract-must-include-2016-02-16-1.621106>

137 United Nations, *Universal Declaration of Human Rights* (1948)

Migrant workers in the UAE often perform manual labor in harsh environmental conditions. Most migrant laborers work on construction projects, meaning they are outside for the majority of the day in extreme heat. While the government mandates that employers stop outdoor work in the middle of the day during the summer due to the heat, many do not adhere to this and continue construction projects anyway.<sup>138</sup>

When they are not working, most migrant workers stay in accommodations provided for them by their employers. Many of the living environments are inadequate, being unsanitary and cramped. Many large construction sites have living accommodations associated with them. There have been reports of as many as 27 men being forced to share a two-room apartment in Abu Dhabi that was infested with insects, had exposed wires, and did not have enough beds for each person.<sup>139</sup>

## DOMESTIC WORKERS

Domestic workers are often isolated and vulnerable to physical and sexual abuse. There are over 750,000 domestic workers in the UAE, comprising over twenty percent of the total expatriate workforce.<sup>140</sup> It is estimated that 96% of Emirati families employ domestic laborers, and 94.8% of all domestic workers and personal assistants in the UAE are migrant workers.<sup>141</sup> The term domestic worker applies to most laborers working in personal homes, such as drivers, gardeners, chefs, and maids. However, maids, who are almost exclusively female, account for most domestic workers and are subjected to the majority of abuse.

Domestic workers are often recruited in their home countries. Recruitment agencies promise them positions as secretaries, childcare providers, teachers, and personal assistants. Before the workers leave their home countries, these agencies usually have them sign contracts detailing the type of work they will be doing, the wages they will make, and the hours they will be expected to work. Satisfied with their contracts, these workers voluntarily travel to the UAE for their assignments. It is only upon arriving in the country that many domestic workers realize that they are victims of trafficking. Instead of their promised positions, many women are then forced into domestic work.

Domestic workers soon find that their employers do not adhere to their initial contracts, and some domestic workers are forced to sign new contracts with their employers upon arrival in the UAE. However, the terms of these contracts, like the terms of the previous ones, are not usually enforced. These women are left at a distinct disadvantage. Long hours and few – if any – days off are common for domestic workers. Living with their employers makes it difficult for domestic workers to get time off, especially since employers need to approve their employees' movements.

Wage discrepancies and wage withholding are common in the UAE. Employers also rarely pay their workers for any overtime hours. There are many documented instances of employers withholding their domestic workers' salaries for months, and even years.<sup>142</sup> Employers sometimes use wage withholding as a threat against their workers to ensure they continue working long hours doing strenuous tasks. Withholding wages from the workers also ensures employers that their employees cannot desert their assignments, as they will have little money to support themselves.

138 "Midday break for UAE labourers set to begin on June 15," *The National*, May 31, 2015, <http://www.thenational.ae/uae/midday-break-for-uae-labourers-set-to-begin-on-june-15>

139 "Migrant Workers' Rights on Saadiyat Island," Human Rights Watch.

140 "Migrant Rights Statistics," Migrant-Rights.org

141 Ibid.

142 Human Rights Watch, *'I Already Bought You': Abuse and Exploitation of Female Migrant Domestic Workers in the United Arab Emirates*, (United States: Human Rights Watch, 2014).

Domestic workers are highly vulnerable to forced labor, physical abuse, and sexual exploitation due to their isolated environments. By working in personal homes, they are under constant surveillance by their employers and they have little contact with society. Employers will usually confiscate domestic workers' passports and mobile phones shortly after their arrivals, ensuring that they cannot leave or create contacts within the country. These practices prevent workers from obtaining any sense of community or accessing external support systems.

Employers often use threats of physical or sexual violence to motivate their domestic workers. There are many instances of female employers hitting domestic workers or throwing objects at them in retribution for a task done incorrectly or too slowly. One domestic worker, Shelly A., had an employer who would beat her and then say, "if you had done work [correctly] then we won't [sic] hit you."<sup>143</sup> There are also many accounts of employers raping their domestic help. Female domestic workers are also vulnerable to sexual abuse by male domestic help.<sup>144</sup> In May 2016, a Bangladeshi domestic worker accused her employer's gardener of raping her while the family was not at home.<sup>145</sup> Women are often unable to properly seek justice for such sexual abuse given their fragile immigration status. They may also face reprisal for their claims of abuse, usually resulting in further abuse or unemployment. Since the *kafala* system is dependent upon an employer sponsoring an employee, unemployment is usually one and the same as deportation.

Some domestic workers attempt to flee their abusive employers. Absconding is illegal in the UAE, and it is a punishable offense. Many workers caught absconding can face years in Emirati prisons followed by deportation. Some domestic workers are able to escape to their embassies and start the process of repatriation to their home countries. Each day, the Ethiopian consulate in Dubai receives approximately five to ten complaints from domestic workers.<sup>146</sup> The complaints are primarily from domestic workers regarding unpaid salaries and physical abuse.<sup>147</sup> However, most domestic workers are unable to contact their embassies or relevant authorities due to their isolation. When domestic workers flee from their positions, they are often left without access to their passports, mobile phones, or in-country contacts. Many are even unable to read street signs and do not know their surroundings. This leaves them especially vulnerable to further exploitation, such as sex trafficking.

Upon escaping, some domestic workers are illegally trafficked into other domestic positions as they their new employers will not be the same employers sponsoring their visas. This creates a perpetual cycle of abuse and trafficking. Traffickers take some women into Oman to be domestic workers through the porous border between al-Ain, UAE and Buraimi, Oman.<sup>148</sup> Other workers who flee are trafficked into the sex trade. Traffickers will usually promise women new positions as domestic workers. However, they will often be sex trafficked, and subsequently forced into prostitution.

## PROSTITUTION

The majority of women working as prostitutes in the UAE are victims of human or sex trafficking. Prostitution is an established and growing industry in the UAE. The *Guardian* estimated in 2010

143 Human Rights Watch, *'I Already Bought You: Abuse and Exploitation of Female Migrant Domestic Workers in the United Arab Emirates*, (United States: Human Rights Watch, 2014).

144 Ibid.

145 Ali Al Shouk, "Gardener on trial for raping maid in Dubai," *7 Days UAE*, May 24, 2016, <http://7days.ae/gardener-trial-raping-maid-dubai/86219>

146 "Migrant Rights Statistics," Migrant-Rights.org

147 Ibid.

148 U.S. Department of State, "Trafficking in Persons Report: Oman," (2015)

that there were 30,000 prostitutes working in the emirate of Dubai alone.<sup>149</sup>

Women who find themselves directly trafficked into prostitution are usually lured to the UAE on false pretenses. Only upon arrival are they then forced into prostitution. In 2014, a position at a beauty salon in Dubai lured one Moroccan woman to the UAE, who then found herself trafficked into the sex trade.<sup>150</sup> Traffickers commonly use individuals from the same country as the victims to recruit these women, as they may appear to be trustworthy sources about life and job opportunities in the UAE. For example, one of the women who lured the Moroccan woman to Dubai was her compatriot, and police found seven other Moroccan women in the same brothel lured by similar means.<sup>151</sup> Some traffickers will promise good jobs and tell positive stories to potential migrant workers, ultimately luring them into prostitution rings.<sup>152</sup> Some will use blackmail to force the women into prostitution. In February 2016, police caught one Nigerian trafficker luring fellow Nigerian women to Dubai by paying for their travel before taking photographs of them naked. According to Emirati authorities, “she would use the images and recordings to blackmail the women and force them into having sex for money, or if the women failed to repay her the travel costs.”<sup>153</sup>

Recruitment agencies in the UAE and many source countries will promise women positions as domestic workers, secretaries, or masseurs.<sup>154</sup> As employers exert such extensive control over the lives of migrant women, some exploit their position to force women into prostitution. These employers meet the women right as they enter the UAE in order to immediately confiscate their passports. Then, they will bring them to a crowded apartment filled with other trafficked women and explain their new jobs.<sup>155</sup> Many women refuse when they find out they are required to provide sexual services to clients.<sup>156</sup> Their traffickers will employ many tactics to force these women to work, often locking the victims in small rooms without food or water, verbally harassing, and physically beating the women until they break down and agree to meet with clients.<sup>157</sup>

Traffickers continue to exert similar levels of control over the trafficked women from when they first arrive throughout time in the UAE. Some employers manage the clients the women service, setting up appointments and locations, and transporting the women to their appointments.<sup>158</sup> Some women are forced to work in hotel bars under their employer’s supervision. Traffickers often threaten these women with further physical abuse if they do not meet their expectations.<sup>159</sup>

149 William Butler, “Why Dubai’s Islamic austerity is a sham – sex is for sale in every bar,” *The Guardian*, May 15, 2010, <https://www.theguardian.com/world/2010/may/16/dubai-sex-tourism-prostitution>

150 Salam Al Amir, “Woman forced into prostitution in Dubai has flight home bought by her first customer,” *The National*, October 20, 2014, <http://www.thenational.ae/uae/courts/woman-forced-into-prostitution-in-dubai-has-flight-home-bought-by-her-first-customer>

151 Ibid.

152 Soonest Nathaniel, “Nigerian prostitutes arrested, jailed in UAE,” *NAIJ.com*, April 2016, <https://www.naij.com/744574-read-what-happened-to-nigerian-prostitutes-in-dubai.html>

153 Salam Al Amir, “Secretary jailed for forcing women into prostitution and running a brothel in Dubai,” *The National*, February 21, 2016, <http://www.thenational.ae/uae/courts/secretary-jailed-for-forcing-women-into-prostitution-and-running-a-brothel-in-dubai>

154 Human Rights Watch, *I Already Bought You*

155 Salam Al Amir, “Woman forced into prostitution in Dubai”

156 Amira Agarib, “Two held for ‘forcing woman into prostitution,” *Khaleej Times*, May 16, 2016, <http://www.khaleejtimes.com/two-held-for-forcing-woman-into-prostitution>

157 Amira Agarib, “20-year-old rescues woman from sex racket in Sharjah,” *Khaleej Times*, April 26, 2016, <http://www.khaleejtimes.com/nation/crime/good-samaritan-rescues-prostitution-racket-victim>

158 Marie Nammour, “3 get 10 yrs in jail for forcing girls into prostitution,” *Khaleej Times*, April 1, 2016, [http://www.khaleejtimes.com/nation/crime/10-years-in-jail-for-3-for-forcing-young-girls-into-prostitution?utm\\_campaign=magnet&utm\\_source=article\\_page&utm\\_medium=related\\_articles](http://www.khaleejtimes.com/nation/crime/10-years-in-jail-for-3-for-forcing-young-girls-into-prostitution?utm_campaign=magnet&utm_source=article_page&utm_medium=related_articles)

159 Thessa Lageman, “Dubai in United Arab Emirates a centre of human trafficking and prostitution,” *The Sydney Morning Herald*, January 20, 2016, <http://www.smh.com.au/world/dubai-in-united-arab-emirates-an-epicentre-of-human-trafficking-and-prostitution-20160115-gm6mdl.html>



Some hotels welcome the added business and financial gain that comes along with prostitution. Many of these hotels actively work to maintain and accrue prostitution in their establishments. Some offer drink vouchers to the women while they wait for men to take interest in them, while others provide free continental breakfasts to the women after their long nights of work.<sup>160</sup>

Hotels in the UAE can benefit monetarily from permitting prostitution on their premises. Higher-end prostitutes act as lures for wealthy businessmen. Hotels welcome these clients as they usually spend large amounts of money at the hotel bars. They also usually rent rooms in the hotels to use with the prostitutes. Even if they do not primarily stay at the hotel for the duration of their trip to the UAE, the hotel profits from their visits.

Prostitutes operate quite openly in hotels and bars in the UAE. There are many reviews of hotels in the UAE discussing high levels of prostitution on TripAdvisor, a website where travelers can post reviews on hotels, landmarks, and various local attractions.<sup>161</sup> The Internet is also rife with personal blogs detailing which places to go to find prostitutes, especially in Dubai; some blogs also compile these lists in order to warn tourists where not to visit.<sup>162</sup> Many of these blogs take note of which nationalities of women can be predominantly found in each location.<sup>163</sup>

Hotels are not the only prostitution hubs in the UAE; prostitution is also prevalent in massage parlors. Recruiters lure many women, especially East Asian women, to the UAE by promising them jobs as masseurs. Initially, employers may only require these women to perform actual massage services, however their employers will then force the women to engage in sexual acts with clients.<sup>164</sup> Like prostitutes operating out of hotels, women working in massage parlors usually operate under the supervision of their traffickers.<sup>165</sup> Most trafficked women who refuse to meet the expectations of their traffickers face physical and sexual abuse.

Prostitution, whether in hotels or massage parlors, is the primary manifestation of sex trafficking in the UAE. Victims of sex trafficking come to be trafficked in varying ways, but there is often little variation in their daily lives. Traffickers subject their victims to tight physical control, rigid regimentation, and high levels of abuse. If trafficked women try to escape, they are likely to re-trafficked, perpetuating the cycle of abuse.

## CHILD TRAFFICKING

Reports suggest that child trafficking is rare in the UAE, but cases do occur. Most child trafficking in the country is related to the mistreatment and abuse of migrant domestic workers. Women who are raped and subsequently become pregnant while working as domestic laborers often have few options available to them. Some attempt to sell their infants. Other women choose to sell their children due to financial and situational constraints related to fleeing from their employers.

160 "Dubai's dirty secret," *The Sun*, January 27, 2015, <https://www.thesun.co.uk/archives/news/19128/dubais-dirty-secret/>

161 Comment on York International Hotel TripAdvisor page, May 26, 2011, [https://www.tripadvisor.com/ShowUserReviews-g295424-d571104-r109985950-York\\_International\\_Hotel-Dubai\\_Emirate\\_of\\_Dubai.html](https://www.tripadvisor.com/ShowUserReviews-g295424-d571104-r109985950-York_International_Hotel-Dubai_Emirate_of_Dubai.html)

162 "Prostitution in Dubai: Places to avoid in Dubai," Dubai Expat Blog, September 11, 2014, <http://www.dubaiepatblog.com/prostitution-in-dubai.html>

163 "Prostitution in Dubai," Dubai Expat Blog

164 Marie Nammour, "Three get jail for sexually exploiting teenagers in Dubai," *Khaleej Times*, March 30, 2016, [http://www.khaleejtimes.com/nation/crime/three-get-jail-for-sexually-exploiting-teenagers?utm\\_campaign=magnet&utm\\_source=article\\_page&utm\\_medium=related\\_articles](http://www.khaleejtimes.com/nation/crime/three-get-jail-for-sexually-exploiting-teenagers?utm_campaign=magnet&utm_source=article_page&utm_medium=related_articles)

165 Ibid.

In March 2016, Emirati authorities charged an Indonesian woman who was a former maid in the UAE with human trafficking after she attempted to sell her 50-day old child to an undercover policewoman for 10,000 dirham.<sup>166</sup> The woman had previously run away from her employer and moved to Dubai. The woman acknowledged that her need for cash was a major motivating factor for selling her child, as she was unable to care for the infant herself.<sup>167</sup> The woman also revealed that she gave birth to the child in a public restroom of a park, further demonstrating her desperate situation.<sup>168</sup>

Infants are not the only children trafficked to and within the UAE. Traffickers often bring young girls and teenagers into the country to work as prostitutes. Also in March 2016, authorities caught a Pakistani mother who had forced her two teenage daughters into prostitution after bringing them to the UAE.<sup>169</sup>

## **How the Emirati Government is Complicit in Trafficking**

Although the Government of the UAE is initiating practices aimed at combatting human trafficking within all seven emirates, it still enables the prevalence of human and sex trafficking as well as forced labor.

### **LABOR LAWS AND AMENDMENTS**

The UAE's labor law, Labor Law No.8 of 1980, has been amended several times, and contains a comprehensive outline of labor rights. It limits working hours to eight hours per day and forty hours per week for regular workers; it also specifies special provisions for labor sectors that constitute exceptions to this rule, such as those who work in commercial establishments.<sup>170</sup> It aims to ensure workers get proper breaks, contracts are adhered to, wages are paid, and labor inspections follow protocol.<sup>171</sup> The law also stipulates penalties in cases where employers do not adhere to the law.<sup>172</sup>

Domestic workers are excluded from the UAE's labor law under Article 3(c) of Labor Law No. 8 of 2007, amending Labor Law No.8 of 1980.<sup>173</sup> A draft law pertaining specifically to domestic workers was created, and the cabinet approved it in January 2012; the draft law is still awaiting presidential approval before it can become law and be subsequently applied.<sup>174</sup> By drafting a law specifically pertaining to domestic workers, the Government of the UAE recognizes that the current legislative gap is detrimental to their wellbeing. As there is no current law protecting domestic workers, they are vulnerable to being overworked and physically abused.

166 Marie Nammour, "Maid on trial for 'trying to sell baby for Dh10,000,'" *Khaleej Times*, March 14, 2016, [http://www.khaleejtimes.com/nation/crime/maid-on-trial-for-trying-to-sell-baby-for-dh10000?utm\\_campaign=magnet&utm\\_source=article\\_page&utm\\_medium=related\\_articles](http://www.khaleejtimes.com/nation/crime/maid-on-trial-for-trying-to-sell-baby-for-dh10000?utm_campaign=magnet&utm_source=article_page&utm_medium=related_articles)

167 Ibid.

168 Ibid.

169 Eman Al Baik, "Mum forces 2 girls into prostitution," *Emirates 24/7 News*, March 17, 2016, <http://www.emirates247.com/crime/local/mum-forces-2-girls-into-prostitution-2016-03-17-1.624448>

170 The United Arab Emirates, *UAE Labour Law Federal Law No. 8 of 1980: Labour Law and its Amendments*, Article 65, <http://www.mol.gov.ae/newcontrolpanel2010/Attachments/21062012/labour%20law%20no.8%20year%201980.pdf>

171 Ibid.

172 Ibid.

173 U.S. Department of State, "Trafficking in Persons Report: United Arab Emirates," (2016)

174 U.S. Department of State, "Trafficking in Persons Report: United Arab Emirates," (2015)

The UAE initiated the drafting of a law pertaining to domestic workers after discussions around ILO Domestic Workers Convention 189. At a conference in Geneva during June 2011, the Emirati government voted in favor of the Convention and Recommendation 201 on Decent Work for Domestic Workers.<sup>175</sup> It subsequently initiated the process of ratification. The domestic worker law was drafted as part of that process. However, with the law pertaining to domestic workers still pending presidential approval, the Government of the UAE cannot actually enforce the ILO Domestic Workers Convention 189. The UAE must enshrine the Convention in domestic law, something that the government has not yet done.<sup>176</sup> In order to follow through on its previous commitment to ratify the treaty, the draft law needs to receive presidential approval and be adopted into law.

In order to combat the practice of contract substitution, the government issued Ministerial Decree 764 of 2015 on Ministry of Labor-Approved Standard Employment Contracts. Article 1 of the Decree states that, “approval to admit a foreign worker for the purpose of employment in the UAE cannot be granted until an employment offer that conforms with the Standard Employment Contract is presented to and duly signed by the worker.” Article 5 stipulates that, “no new clauses may be added to the Standard Contract referenced in Article ( 1 ) unless they are consistent and compliant with the Ministry’s legal requirements...” The creation of the law is a step forward in recognizing contract fraud as a form of forced labor and human trafficking. However, the law is not universally applicable as domestic workers are not covered under this law. The Decree also lacks details regarding implementation, and it does not specify or create bodies for enforcement.<sup>177</sup>

## PROTECTIVE SERVICES

The UAE has created some national institutions to aid in the fight against human trafficking. Cabinet Decree No. 15 of 2007 established the National Committee to Combat Human Trafficking. The Committee is made up of “18 representatives from various federal and local institutions.”<sup>178</sup> Among the bodies represented are: the Ministry of Foreign Affairs and International Cooperation; Ministry of Justice; Ministry of Health; Public Prosecution (Federal, Abu Dhabi, and Dubai), Dubai Foundation for Women and Children; the Ewaa Shelter; and, the Emirates Human Rights Association, among others.

The government limits the availability of protective services, such as shelters and support centers, solely to victims of sex trafficking or sexual abuse. Emirati officials do not afford victims of human trafficking or labor abuse these same services. This stems directly from the UAE not viewing labor abuse as a form of human trafficking. The government treats these abuses as labor issues for the Ministry of Labor (MoL) to oversee.<sup>179</sup> The government operates shelters in Dubai, Sharjah, and Ras al-Khaimah through the National Committee to Combat Human Trafficking. As of late January 2016, fewer than 250 women and children have stayed in the shelters.<sup>180</sup> These shelters are only available to women and children the UAE government deems victims. Emirati authorities

175 Ramona Ruiz and Anwar Ahmad, “Treaty protecting maids’ rights hailed in the UAE,” *The National*, September 12, 2013, <http://www.thenational.ae/uae/government/treaty-protecting-maids-rights-hailed-in-the-uae>

176 Ramona Ruiz, “Treaty protecting maids’ rights hailed in the UAE”

177 “UAE: A Move to Protect Migrant Workers,” Human Rights Watch, November 1, 2015, <https://www.hrw.org/news/2015/11/01/uae-move-protect-migrant-workers>

178 National Committee to Combat Human Trafficking, *Combating Human Trafficking in the UAE: Annual Report 2015*, (Abu Dhabi: National Committee to Combat Human Trafficking, April 2016), 10.

179 U.S. Department of State, “Trafficking in Persons Report: United Arab Emirates,” (2016)

180 Thessa Lageman, “Dubai in United Arab Emirates a centre of human trafficking and prostitution”

routinely fail to identify victims, instead arresting and prosecuting them for crimes related to their status as victims, such as prostitution or absconding.

## ANTI-TRAFFICKING LEGISLATION

Federal Law 51 of 2006 is the UAE's primary anti-human trafficking legislation, formally prohibiting all forms of trafficking and prescribing penalties to those who break the law. It was amended in 2015 to "emphasize the protection and repatriation of victims."<sup>181</sup> Among these "victim-friendly amendments" are provisions to ensure that: authorities explain identified victims their rights in a language they understand; victims have access to medical care; and victims can stay in the country while their investigations and trials go on, should they require victim cooperation.<sup>182</sup> While these amendments do add new legal protections for victims, the UAE has not created a comprehensive system to properly identify victims. This is demonstrated by the low number of human trafficking cases that Emirati authorities investigate and prosecute.

In 2015, the UAE registered 17 human trafficking cases; they involved 24 victims and led to the arrests of 54 traffickers.<sup>183</sup> Of these cases, three resulted in convictions; their sentences ranged from one to five years in prison, followed by deportation.<sup>184</sup> During 2014, the Emirati authorities prosecuted 15 sex trafficking cases involving 46 dependents; six cases resulted in the conviction of the traffickers.<sup>185</sup> This number decreased for the second consecutive year, as 19 were prosecuted in 2013 and 47 in 2012.<sup>186</sup> The government attributes these decreases to a decline in the prevalence of sex trafficking and its prevention and awareness efforts.<sup>187</sup> Nevertheless, there is no evidence that the number of men and women being sex trafficked to and within the UAE has abated. Thousands of workers continue to enter the UAE each year, a high percentage of whom will become victims of forced labor and human trafficking.

According to the US Department of State, the Government of the UAE did not take any measures to reduce the demand for commercial sex within the country.<sup>188</sup> Sex tourism is a large industry in the UAE. Many businessmen from around the world, as well as from the surrounding GCC countries, go to the UAE to engage in prostitution.

## LACK OF BORDER CONTROL

Emirati authorities have not successfully addressed or closed the porous border with Oman, which is often used to traffic workers between the two countries.<sup>189</sup> The border is especially porous between al-Ain, UAE and Buraimi, Oman. The Emirati government has not exerted effort to stop the influx of trafficking victims from this location. The Government of the UAE also contributes to the human trafficking situation in Oman by failing to take action on this porous border. Some domestic workers who flee their abusive situations within the UAE find themselves further trafficked. Those who offer to help them then become their traffickers, taking the women to Oman

181 National Committee to Combat Human Trafficking, *Combating Human Trafficking in the UAE*, 7.

182 Ibid.

183 "UAE's anti-trafficking report documents progress," United Arab Emirates National Committee to Combat Human Trafficking, May 22, 2016, <http://nccht.gov.ae/default.aspx?PageId=60&NewsID=5>

184 Ibid.

185 U.S. Department of State, "Trafficking in Persons Report: United Arab Emirates," (2015)

186 Ibid.

187 Ibid.

188 Ibid.

189 Ibid.

to new domestic positions.<sup>190</sup> The international nature of this situation, and the subsequent crimes associated with it, necessitates government attention.

## INTERNATIONAL AGREEMENTS

The UAE has signed agreements with source countries in the hopes of addressing the problems of human trafficking and forced labor. The Government of the UAE has signed Memorandums of Understanding (MoU) with many countries, including India, Sri Lanka, and Nepal.<sup>191</sup> The MoU between the UAE and India stipulates that the “repatriation of victims [to India] would be done as expeditiously as possible” and that both countries should be “taking preventative measures... in protecting the rights of victims of trafficking.”<sup>192</sup> MoUs are not legally binding, and the Emirati government has neither drafted nor passed any legislation that would reinforce the agreements it has signed.

The Government of the UAE has acceded and made commitments to many international treaties and bodies aimed at eradicating human trafficking. The UAE formalized its accession to the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children on 21 January 2009. The Protocol stipulates a commitment to work with international partners to eradicate the practice of human trafficking.<sup>193</sup> While the UAE has demonstrated its willingness to make agreements with source countries, the lack of both concrete laws and practical implementation demonstrate that the UAE has not honored its international commitments.

On 6 October 2004, Emirati officials acceded to the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Article 11 stipulates that states, “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.”<sup>194</sup> By partially excluding domestic workers who are predominately women from the labor law, the Government of the UAE does not treat them equally to male migrant workers. As long as domestic workers are unprotected under the labor law, the UAE is not fulfilling its obligations under CEDAW.

The UAE’s government has not acceded to the UN International Convention on the Protection and the Rights of All Migrant Workers and Members of their Families nor to the International Covenant on Civil and Political Rights (ICCPR). The Convention asks the international community “to respect and to ensure to all migrant workers and members of their families within their territory or subject to their jurisdiction the rights provided for in the present Convention without distinction of any kind.”<sup>195</sup> These rights include, the right to leave their host countries to return to their home countries, protection under law, freedom from forced labor, and the right to recourse.<sup>196</sup> As the government has not acceded to this Convention, mobility rights similar to those protected under the ICCPR are not protected.<sup>197</sup> As a lack of mobility is a prime condition

190 U.S. Department of State, “Trafficking in Persons Report: Oman,” (2015)

191 Labour Migration Branch, *Bilateral Agreements and Memoranda of Understanding on Migration of Low Skilled Workers: A Review*, (Geneva: International Labor Organization, 2015).

192 Press Information Bureau, Government of India, “Memorandum of Understanding between India and the United Arab Emirates on cooperation in preventing and combating of Human Trafficking,” April 13, 2016, <http://pib.nic.in/newsite/PrintRelease.aspx?relid=138836>

193 UN General Assembly, *UN Protocol to Prevent, Suppress and Punish Trafficking in Persons*

194 UN Committee on the Elimination of Discrimination Against Women (CEDAW), *CEDAW General Recommendations*

195 UN General Assembly, *International Convention on the Protection of the Rights of All Migrant Workers*

196 UN General Assembly, *International Convention on the Protection of the Rights of All Migrant Workers*

197 UN General Assembly, *International Covenant on Civil and Political Rights*

of forced labor, government officials could fight a major cause of forced labor by acceding to the Covenant.

In 2007, the UAE made a multi-year commitment to the UN Global Initiative to Fight Human Trafficking (UN.GIFT) that has since lapsed. The Global Initiative was conceived to promote international action against human trafficking, building off of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children and the Palermo Convention against transnational organized crime. As per its mission statement, UN.GIFT “aims to mobilize state and non-state actors to eradicate human trafficking by reducing both the vulnerability of potential victims and the demand for exploitation in all its forms; ensuring adequate protection and support to those who fall victim; and supporting the efficient prosecution of the criminals involved, while respecting the fundamental human rights of all persons.”<sup>198</sup> UN.GIFT was made possible through a grant from the UAE government.<sup>199</sup> Once its original membership period lapsed, the UAE did not make any efforts to renew its commitment to the body.

## Conclusion

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The Government of the UAE has many steps to take before human trafficking, forced labor, and forced prostitution can be eliminated from the country. Officials need to reform many existing laws in order to include all migrant workers, and they need to implement legislation that reinforces the stipulations of the international agreements and treaties to which the country has acceded. Specifically, the Labor Law No. 8 of 2007 needs to be further amended to include protections for domestic workers. Further, authorities need to enforce the laws it has implemented. For example, police must better enforce Federal Law 51 of 2006 and work to properly identify trafficking victims and cases.

The Emirati government must also utilize its anti-trafficking and labor institutions to better combat widespread abuse. The NCCHT fails to properly identify most victims of trafficking. As officials register very few human trafficking cases and victims, most shelters and protective services go underutilized, rendering them ineffective.

Additionally, the Emirati government needs to take immediate steps to dismantle and repeal the abusive and exploitative *kafala* system. The employer-based sponsorship system currently in place is exploitative to workers, and allows employers to heavily control their workers’ lives.

The rampant human trafficking, forced labor, and forced prostitution in the UAE will not ebb until the Government of the UAE takes concerted steps to eradicate them. Officials need to enact these changes in order to ensure the safety and wellbeing of migrant workers in the country. If these issues are not properly addressed, employers will continue to exploit their workers, women will continue to be forced into prostitution, and officials will continue to jail victims for crimes directly resulting from them having been trafficked.

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198 “UN.GIFT: About,” UN Global Initiative to Fight Human Trafficking, 2016, <http://www.ungift.org/knowledgehub/en/about/index.html>

199 Ibid.

# Qatar

## Introduction

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Foreign migrant workers comprise over 90 percent of Qatar's total workforce and a majority of the total population.<sup>200</sup> Most of these migrant workers occupy low-paying positions, such as construction workers and domestic help. Many migrant workers are victims of human trafficking or forced labor, and some are subjected to sex trafficking. In December 2010, the nation was named the 2022 Fédération Internationale de Football Association (FIFA) World Cup host, and the construction industry has grown in an effort to complete the many infrastructure projects that the tournament requires. However, the majority of those working on these developments, as well as those in other sectors, are migrant workers. Many migrant workers currently in Qatar were promised higher wages, better living conditions, and even different jobs, especially in the cases of domestic workers, than those they were given upon arrival.

Due to these abuses, the US Department of State (US DoS) in its 2016 Trafficking in Persons Report placed Qatar on the Tier 2 Watch List for the third consecutive year.<sup>201</sup> This ranking indicates that the US DoS does not believe the Qatari government meets minimum standards for curbing human trafficking, nor does it believe officials are taking adequate steps to do so.<sup>202</sup>

One reason for this low ranking is the nation's use of the *kafala* system, which is abusive and exploitative to workers, and an inability to enforce existing laws. Many employers force their workers to surrender their passports, and, therefore, much of their freedom. This, along with debt bondage and withheld wages, creates an uneven power dynamic that leaves the migrant worker vulnerable to abuse. Foreign laborers in Qatar also have limited to no protection under Qatari law. Qatar's labor law, Law No. 14 of 2004, excludes domestic workers, and authorities rarely enforce it or investigate violations. The same is true of officials' enforcement of the anti-trafficking law, Law No. 15 of 2011.

The Government of Qatar also has no designated lead institution to curb human trafficking, making it difficult for it to uphold its relevant legislation, identify and aid victims, or enact its responsibilities under international agreements. The government must address these gaps in enforcement and legislation in order to curb human trafficking.

## Domestic Human Trafficking

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### MIGRANT WORKERS

Migrant workers comprise over 90 percent of Qatar's workforce, and many of them work doing physical labor, such as construction.<sup>203</sup> The upcoming World Cup requires new infrastructure capable of housing the games themselves as well as accommodating the influx of fans and tourists travelling to Qatar for the event. Major construction projects such as Khalifa stadium, the Qatar Rail project, as well as smaller projects such as hotels and shopping malls, force Qatar and FIFA to outsource this work to migrants in order to meet their 2022 deadlines. While migrant worker abuse was a deeply ingrained problem in Qatar well before the country was awarded the 2022

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200 U.S. Department of State, "Trafficking in Persons Report: Qatar," (2016)

201 Ibid.

202 Ibid.

203 Ibid.

World Cup, the government's preparation for the event coupled with FIFA's willingness to exploit the labor climate has exacerbated an already abusive system.

Migrant workers in Qatar are subject to debt bondage and a recruitment system that exploits their financial vulnerability. Almost all migrant workers use recruitment agencies to help them secure positions in the country, and most of these agencies have been using the World Cup construction boom to lure workers into Qatar. The agencies' fees are not uniform, but most are high; some charge \$500-\$4,300 per placement depending on the country in which they are located.<sup>204</sup> Article 33 of Law No. 14 of 2004, Qatar's labor law, prohibits migrant workers from paying their own recruitment fees; their employers must pay all fees associated with recruitment.<sup>205</sup> However, in order to gain more money, recruitment agencies often charge both the employer and the employee; therefore, almost all migrant workers pay the recruitment agencies themselves and go into debt to do so by taking out loans with large interest rates.<sup>206</sup> The UN Special Rapporteur on the human rights of migrants has cited reports of recruitment agencies in Qatar receiving kickbacks from agencies in source countries in order to circumvent the Qatari Labor Law.<sup>207</sup>

Migrant workers often take out large loans and go into substantial debt because the agencies promise them high wages, and many of these workers sign contracts before they leave their home country detailing such wages. It is only upon arriving in Qatar that they realize the recruitment agencies have deceived them. Contract substitution is common in the country. One Indian migrant worker described his experience with contract substitution, "the agency that recruited me in India got me to sign an electrician's contract. But when I got here [to Qatar], they told me: 'You're going to work as a plumber' for 900 riyals [\$250], half of what I signed up for."<sup>208</sup>

Some workers are told to sign new contracts that they cannot read because they are written in languages that they do not understand. One worker, who was recruited to work on World Cup construction, recounts his experience: "[My recruiter] showed me a basic contract in Nepali, it showed the salary amount, that it would be paid monthly, and that the contract was for two years... when I first arrived in Doha the company manager took my contract and asked me to sign a paper. I could not understand it but he explained that my salary would be [lower than the first contract]."<sup>209</sup> By lowering wages, employers keep their workers in a constant state of debt. Debt bondage ensures laborers continue working as they do not have the means to escape nor survive without their jobs.

Workers' passports are often confiscated by their employers, usually upon arrival.<sup>210</sup> This leaves laborers physically tied to their employers. They cannot leave the country to return home without their passports, and, therefore, their employers' permission. Although the Qatari government has recently expressed it will reform the exit visa system, these changes would not help workers who

204 Amnesty International, *The Ugly Side of the Beautiful Game* (London: Amnesty International, 2016), 19.

205 State of Qatar, "Law No (14) of the Year 2004: The Labour Law," May 1, 2004, Article 33, [http://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---ilo\\_aids/documents/legaldocument/wcms\\_125871.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_125871.pdf)

206 Amnesty International, *The Ugly Side of the Beautiful Game*, 19

207 "BWI Files OECD-Complaint against FIFA," Building and Wood Worker's International, May 28, 2015, <http://www.bwint.org/default.asp?index=6382>

208 David Garcia and George Miller (trans.), "Qatar's abused workforce," *Middle East Online*, July 12, 2016, <http://www.middle-east-online.com/english/?id=77702>

209 Amnesty International, *The Ugly Side of the Beautiful Game*, 22

210 "Complaint concerning the non-observance by Qatar of the Forced Labour Convention, 1930 (No. 29), and the Labour Inspection Convention, 1947 (No. 81), made by delegates to the 103rd Session (2014) of the International Labour Conference under article 26 of the ILO Constitution," International Labour Office, March 17, 2016, [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_459148.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_459148.pdf)



do not have access to their passports in the first place.<sup>211</sup> In addition to not being able to leave the country, some migrant workers are fearful of even leaving their living complexes.<sup>212</sup> Employers sometimes do not obtain work permits for their employees, meaning their workers do not have the ability to secure residence identification (ID) cards as well.<sup>213</sup> Without ID cards, workers cannot prove they have valid work permits, they cannot send money home through transfer agencies, nor can they freely leave their accommodation complexes without fear of arrest.<sup>214</sup>

Employers also subject their workers to harsh working conditions. Some workers also reported their employers denied them free drinking water while working outside in the desert during the summer.<sup>215</sup> Summer temperatures in Qatar average between 35-45°C.<sup>216</sup> As a result of such migrant abuse, the Walk Free Foundation has ranked Qatar the 5th worst state in the world for modern day slavery.<sup>217</sup>

Their work at the construction sites is dangerous, and can be fatal. While Qatari law mandates employers provide health insurance to their workers, Builders and Wood Workers' International found that many migrants did not have insurance.<sup>218</sup> This lack of coverage prevents injured workers from seeking treatment for workplace accidents. A Sri Lankan worker shared that a colleague "had his arm cut off on the building site behind the Mercure hotel," in 2016.<sup>219</sup> In the summer of 2013, documents from the Nepalese embassy in Doha suggested that Nepali workers died at a rate of almost one per day; the majority of them were young men who died from sudden heart attacks.<sup>220</sup> In September 2013, the International Trade Union Confederation estimated that over 4,000 workers could lose their lives in the remaining of the construction project, as the then-current rate of 400 deaths per year could rise to 600 unless the government made significant reforms.<sup>221</sup>

Even when they are not at their worksites, migrant workers still face abuse at their living accommodations. According to the Qatari Ministry of Development Planning and Statistics, about 1.4 million people - nearly 60 percent of Qatar's population - live in labor camps.<sup>222</sup> Such migrants are subject to living in cramp, unsanitary, and dangerous conditions. In 2016, Sharan Burrow, General Secretary of the International Trade Union Confederation, detailed many of the abuses in labor camps, stating, "open cooking plates, faulty electrical wiring, gas bottles where they shouldn't be - these are hazards that those who are forced to live in labor camps have to

211 Peter Kovessyriham Sheble and Heba Fahmy, "Qatar's Emir signs into law kafala changes (updated)," *Doha News*, October 27, 2015, <http://dohanews.co/qatars-emir-approves-kafala-reforms-changes-more-than-one-year-away/>

212 Human Rights Watch, *Building a Better World Cup: Protecting Migrant Workers in Qatar Ahead of FIFA 2022*, (United States: Human Rights Watch, 2012), 74.

213 Ibid.

214 Ibid.

215 Pattison, "Revealed: Qatar's World Cup 'slaves'"

216 "FIFA rules out summer World Cup for Qatar," *Al Jazeera*, January 8, 2014, <http://www.aljazeera.com/sport/2014/01/fifa-rules-out-summer-world-cup-qatar-201418114833263941.html>

217 "Qatar ranks 5th globally for modern day slavery," *Gulf Business*, May 31, 2016, <http://gulfbusiness.com/qatar-ranks-5th-globally-modern-day-slavery/#.V4jr3bgrLb3>

218 "BWI Files OECD-Complaint against FIFA," Building and Wood Worker's International

219 Garcia and Miller, "Qatar's abused workforce"

220 Pete Pattison, "Revealed: Qatar's World Cup 'slaves,'" *The Guardian*, September 25, 2013, <https://www.theguardian.com/world/2013/sep/25/revealed-qatars-world-cup-slaves>

221 "Qatar 2022 World Cup risks 4000 lives, warns International Trade Union Confederation," International Trade Union Confederation, September 27, 2013, <http://www.ituc-csi.org/qatar-2022-world-cup-risks-4000>

222 "Nearly 60 percent of Qatar's population live in 'labor camps,'" *Al Arabiya English*, June 6, 2016, <http://english.alarabiya.net/en/News/middle-east/2016/06/06/Nearly-60-percent-of-Qatar-s-population-live-in-labour-camps-.html>

face each day, on top of their often dangerous and unhealthy working environment.”<sup>223</sup> Amnesty International describes the labor camps as “dusty industrial areas where the workers live [and where there are] rudimentary concrete buildings stinking of sewage with dirty, appalling kitchens, and bathrooms which sometimes don’t even have toilet doors or sinks.”<sup>224</sup>

These living conditions are detrimental to the health of the workers, and can prove dangerous. In May 2016, a fire at a labor camp in Abu Samra injured at least 10 people and killed 13 others.<sup>225</sup> That same month, another fire killed two workers at a labor camp in the Al Areeq region.<sup>226</sup>

## DOMESTIC WORKERS

The vast majority of migrant domestic workers in Qatar are women, and many endure abuse and assault at the hands of their employers.

Like their male counterparts, most female domestic workers use recruitment agencies to find jobs in Qatar. During the recruitment process, agencies often deceive domestic workers by promising positions as secretaries, teachers, and receptionists. Before they leave their home countries, many workers sign contracts detailing their hours, wages, accommodations, and duties. Instead of these arrangements, they arrive in Qatar to find that they will be employed as domestic workers. Sometimes, they will be told to sign new contracts, usually in a language they do not understand. Some domestic workers never see a contract at all.

Regardless of what their contracts stipulate, many employers pay their employees less than they had originally promised. Domestic workers earn less than 30 percent of the average Qatari worker’s wage.<sup>227</sup> Because recruitment agencies charge high fees, many workers are indebted before they move to Qatar. Some are forced to take out large loans, which they believe are worthwhile for the high salaries they are promised. Due to contract substitution, many domestic workers find that their wages in Qatar are lower than those their recruiters had assured them of before they left their home countries. This means they are forced to accept lower wages as they are unable to leave their positions due to the loans they need to repay. As it is a difficult, lengthy process to switch employers, during which domestic workers would be unable to repay their loans, many have to accept the lower wages their employers pay them.

Employers also often subject their domestic workers to abuse. Upon arrival, employers routinely confiscate passports and cell phones, leaving domestic workers isolated from their families and Qatari society. In 2012, the UN Committee on Torture stated that it had received, “numerous allegations by domestic [migrant] workers of physical abuse, sexual violence, rape and attempted rape” in Qatar<sup>228</sup> In November 2013, the Special Rapporteur on the Human Rights of Migrants, Françoise Crepeau, visited Qatar, where he met with domestic workers who had fled from their abusive environments. Some reported their employers did not give them food and forced them to

223 Lesley Walker, “Two more men die of injuries from Qatar labor camp fire,” *Doha News*, June 7, 2016, <http://dohanews.co/two-more-men-die-of-injuries-from-qatar-labor-camp-fire/>

224 Miriam Wells, “Conditions Are Not Improving for Qatar’s Desperate World Cup Workers,” *Vice News*, May 21, 2015, <https://news.vice.com/article/conditions-are-not-improving-for-qatars-desperate-world-cup-workers>

225 Walker, “Two more men die of injuries from Qatar labor camp fire”

226 Ibid.

227 “Migrant Rights Statistics,” *Migrant-Rights.org*

228 Committee on the Elimination of Discrimination against Women: Concluding observations on the initial report of Qatar, 28 February 2014, CEDAW/C/QAT/CO/1, para 23, page 5 [http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/QAT/CEDAW\\_C\\_QAT\\_CO\\_1\\_16014\\_E.doc](http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/QAT/CEDAW_C_QAT_CO_1_16014_E.doc)

work up to 21 hours per day, all in addition to beating and sexually abusing them.<sup>229</sup>

The conditions the Special Rapporteur documented are not uncommon. Many women interviewed by Amnesty International recounted stories of physical abuse, including their employers slapping them, pinching them, and pulling their hair; many of these injuries left bruising or scarring.<sup>230</sup> One woman reported only being able to eat scraps off of the plates of her employer's children.<sup>231</sup> Human Rights Watch researcher Rothna Begum has said food deprivation in Qatar is a "huge issue" and "a form of abuse."<sup>232</sup>

Employers also force their domestic staff to work long hours. Domestic workers in Qatar work an average of 60 hours a week.<sup>233</sup> Some women report working up to 100 hours a week with no days off.<sup>234</sup> Women frequently work seven days a week; much longer than they were initially told during recruitment.

It is not uncommon for domestic workers to flee their abusive employers' homes. However, those who do run away are particularly vulnerable, as they are usually without passports, money, or cell phones. If authorities intercept them, they commonly detain and subsequently deport escapees for absconding, as there are few laws to protect them. Up to 95% of women held at Doha's deportation center in March 2013 were escaped domestic workers.<sup>235</sup> Runaway domestic workers may also be subject to further exploitation and sex trafficking if they do not reach an embassy or shelter. Sex traffickers force some former domestic workers into prostitution.

## PROSTITUTION

Prostitution is more common within the capital of Qatar, Doha, than other parts of the country. Some women forced into prostitution are runaway domestic workers, and some women are directly sex trafficked into Qatar due to deception. As in the case of domestic workers, recruiting agencies often lie to women about the jobs they will acquire upon arrival in Qatar. Women are also misled by people they may know who take advantage of their relationship. Additionally, domestic workers who have fled abusive employers may be sex trafficked. Most traffickers force their prostitutes to solicit services at hotels and clubs.

Online hotel reviews of well-known chains such as Sheraton and Radisson Blu comment on the illicit activities occurring at their Doha locations and at nightclubs near them. One reviewer from May 2014 states that while at a nightclub he, "was approached more than 10 times in one night

229 UN General Assembly, A/HRC/26/35/Add.1, 11 [http://www.ohchr.org/Documents/Issues/SRMigrants/A-HRC-26-35-Add1\\_en.pdf](http://www.ohchr.org/Documents/Issues/SRMigrants/A-HRC-26-35-Add1_en.pdf)

230 Amnesty International, *'My Sleep is My Break: Exploitation of Migrant Domestic Workers in Qatar*, (London: Amnesty International, 2014) 16 and 39.

231 Rebecca Falconer, "My employer hit me in the face and pushed me down the stairs," *The Guardian*, March 17, 2015, <https://www.theguardian.com/global-development/2015/mar/17/my-employer-hit-face-pushed-down-stairs-philippine-migrant-maids>

232 Rebecca Falconer, "Broken promises: Qatar's migrant workers caught in the kafala system," *The Guardian*, February 26, 2014, <https://www.theguardian.com/world/2014/feb/26/broken-promises-qatar-migrant-workers>

233 "Migrant Rights Statistics," Migrant-Rights.org

234 Peter Kovessy, "Qatar house helpers work longest hours, earn lowest wages in country," *Doha News*, January 18, 2016, <http://dohanews.co/qatar-house-helpers-work-longest-hours-earn-lowest-wages-in-country/>

235 "Foreign domestic workers in Qatar: Shocking cases of deception, forced labour, violence," *Amnesty International*, April 23, 2014, <https://www.amnesty.org/en/latest/news/2014/04/foreign-domestic-workers-qatar-shocking-cases-deception-forced-labour-violence/>

by [prostitutes] and harrassed [sic] by them when the bar closed.”<sup>236</sup> Another reviewer, speaking about a hotel in June 2013, wrote that the prostitutes were “unavoidable” while walking around the premises.<sup>237</sup> Another reviewer says of his Doha hotel’s basement bar, “I’ve never ever seen so many prostitutes in one place.”<sup>238</sup> Prostitutes are frequently seen around hotels in Doha as their traffickers force them to solicit their services to the wealthy businessmen and tourists who stay there. Some of these men seek out these services, as there are many blogs and websites mapping out and rating places around the city of Doha to find prostitutes.<sup>239</sup>

## How the Qatari Government is Complicit in Trafficking

### DOMESTIC LEGISLATION

The Law No. 14 of 2004 is Qatar’s labor law. Article 3(4) excludes domestic workers from the labor law, leaving them unprotected and vulnerable to exploitation. Although other migrant workers do fall under the protection of the labor law, they rarely enjoy these rights, as enforcement is minimal. The law needs to be amended to extend to domestic workers. The Government of Qatar must address the discriminatory labor law, as well as the apathy of Qatari officials toward enforcing its adequate provisions, or human trafficking and forced labor will continue to occur in the country.

In response to widespread human trafficking stemming from the *kafala* system, Qatar enacted Law No. 15 of 2011. This anti-trafficking legislation is comprehensive, defining the terms of trafficking and prescribing punishments. Article 3 of the law stipulates that, “the consent of the victim of the crime of trafficking in human beings shall be considered as irrelevant where any of the means set forth in the above article have been used.”<sup>240</sup> Article 2 defines a trafficker as anyone who “recruits, transports, submits, harbors, receives a natural person in any form, whether inside a state territory or across its national borders” by means of force, violence, abduction, fraud, abuse of power, or exploitation.<sup>241</sup>

Despite Law No. 15 of 2011, however, Qatari officials rarely recognize severe labor abuses as human trafficking crimes.<sup>242</sup> The Qatari judicial system also rarely uses the Law to convict perpetrators. During 2015, Qatar prosecuted 11 traffickers under the anti-trafficking law. This was the first time the law had successfully been used to convict a perpetrator since its introduction in 2011.<sup>243</sup> In 2014, the Qatari government investigated 11 trafficking cases, but officials prosecuted zero of them under the 2011 anti-trafficking law; ultimately, Qatar did not prosecute a single trafficking offender in 2014.<sup>244</sup> Until Qatar makes stronger efforts to enforce Law No. 15 of 2011, human traffickers will continue to abuse and take advantage of migrant workers.

236 Comment on Raddison Blu Hotel, Doha, Qatar TripAdvisor page, May 20, 2014, [https://www.tripadvisor.com/ShowUserReviews-g294009-d306474-r208137665-Radisson\\_Blu\\_Hotel\\_Doha-Doha.html](https://www.tripadvisor.com/ShowUserReviews-g294009-d306474-r208137665-Radisson_Blu_Hotel_Doha-Doha.html)

237 Ibid.

238 Comment on Sheraton Grand Doha Resort & Convention Hotel TripAdvisor page, February 19, 2009, [https://www.tripadvisor.com/ShowUserReviews-g294009-d301863-r24780100-Sheraton\\_Grand\\_Doha\\_Resort\\_Convention\\_Hotel-Doha.html](https://www.tripadvisor.com/ShowUserReviews-g294009-d301863-r24780100-Sheraton_Grand_Doha_Resort_Convention_Hotel-Doha.html)

239 “Qatar Nightlife,” Nightlife Diary, February 22, 2016, <http://nightlifediary.com/qatar-nightlife/>

240 State of Qatar, “Law No. 15 of 2011 Combating Trafficking in Human Beings 15 / 2011,” [http://gulfmigration.eu/database/legal\\_module/Qatar/National%20Legal%20Framework/Anti-trafficking/1.2%20Combating%20Trafficking%20in%20Human%20Beings%2015%202011\\_EN.pdf](http://gulfmigration.eu/database/legal_module/Qatar/National%20Legal%20Framework/Anti-trafficking/1.2%20Combating%20Trafficking%20in%20Human%20Beings%2015%202011_EN.pdf)

241 Ibid.

242 U.S. Department of State, “Trafficking in Persons Report: Qatar,” (2016)

243 Ibid.

244 U.S. Department of State, “Trafficking in Persons Report: Qatar,” (2015)

## KAFALA SYSTEM

In 2015, Qatari officials pledged to reform or abolish the *kafala* system of employer-based sponsorship. The government plans to overhaul much of the extant sponsorship system and introduce the reforms on 14 December 2016.<sup>245</sup> Proposed changes include having migrant workers apply directly to the government in order to obtain an exit visa; presently, workers need their employer's permission in order to leave Qatar.<sup>246</sup> Additionally, workers who complete their contracts will need the government's permission to take other jobs and switch employers, something that is currently at the discretion of the employer.<sup>247</sup> The new laws will also eliminate the use of contracts with indefinite end-dates.<sup>248</sup>

Part of these proposed reforms will come with Law No. 21 of 2015, which will regulate the entry, exit, and residency of expatriates. This law will also become effective on 14 December 2016.<sup>249</sup> Another part will come from amendments to Law No. 4 of 2009 Regarding Regulation of the Expatriates' Entry, Departure, Residence and Sponsorship.<sup>250</sup> Law No. 21 of 2015 was first proposed over one year before the Emir approved it in October 2015, and is set to take effect over one year after its approval.<sup>251</sup>

As the law has not yet taken effect, it is difficult to ascertain how effective it will be in practice. In anticipation of the law's implementation, some employers could force their current employees to sign new five-year contracts, the longest now legally allowed, in order to redefine the terms in their favor. While the law does demonstrate a step forward in recognizing the government's complicity in labor abuse, Qatar currently maintains a number of laws that it does not enforce. Without dedicated enforcement, it is unlikely the reforms will make much of a difference in the daily lives of migrant workers.

## LAW NO. 4 OF 2009 AND PASSPORT REVOCATION

Passport revocation is one of the most common practices associated with forced labor. Without their passports, workers are unable to leave the country or prove their identities. A 2014 study conducted by Qatar University's Social and Economic Survey Research Institute found that 76 percent of expatriate workers' passports were in their employers' possessions.<sup>252</sup> According to the Qatar's sponsorship law, Law No. 4 of 2009 Regarding Regulation of the Expatriates' Entry, Departure, Residence and Sponsorship, employers are forbidden from seizing or confiscating their employees' passports.<sup>253</sup> If they do, they are subject to a fine of up to 10,000 Qatari Riyals.<sup>254</sup> However, the government did not impose any fines on sponsors in 2014, indicating an unwillingness

245 Shabina S. Khatri, "Report: Changes to Qatar's kafala law to take effect Dec. 14, 2016," *Doha News*, December 25, 2015, <http://dohanews.co/report-changes-qatars-kafala-law-take-effect-dec-14-2016/>

246 Peter Kovessy, "Kafala reforms in Qatar still expected to take effect in December," *Doha News*, May 22, 2016, <http://dohanews.co/kafala-reforms-in-qatar-still-expected-to-take-effect-in-december/>

247 Kovessy, "Kafala reforms in Qatar"

248 U.S. Department of State, "Trafficking in Persons Report: Qatar," (2016)

249 Khatri, "Report: Changes to Qatar's kafala law"

250 Ibid.

251 Sheble and Fahmy, "Qatar's Emir signs into law kafala changes"

252 U.S. Department of State, "Trafficking in Persons Report: Qatar," (2016)

253 State of Qatar, "Law no. 4 of 2009 Regarding Regulation of the Expatriates' Entry, Departure, Residence, and Sponsorship 4/2009," [http://gulfmigration.eu/database/legal\\_module/Qatar/National%20Legal%20Framework/Residence/1.2%20Law%20on%20Entry%20Exit%20Residence%20Sponsorship%204\\_2009\\_EN.pdf](http://gulfmigration.eu/database/legal_module/Qatar/National%20Legal%20Framework/Residence/1.2%20Law%20on%20Entry%20Exit%20Residence%20Sponsorship%204_2009_EN.pdf)

254 U.S. Department of State, "Trafficking in Persons Report: Qatar," (2015)

or inability to sufficiently enforce this law.<sup>255</sup> By not enforcing this law, the Qatari government is not actively combating forced labor or human trafficking.

## PASSIVITY REGARDING FIFA ABUSES

Due to the increased human trafficking and forced labor abuses resulting from the increased FIFA construction projects, many different unions, advocacy groups, and international entities have made recommendations to the Government of Qatar as well as FIFA. Qatar has recently shifted from outright denial of the gravity of the situation to reluctant passivity.

In April 2014, the law firm of DLA Piper released its report detailing labor abuses in Qatar and made a number of its own recommendations for the government. Qatari officials had hired DLA Piper to investigate the reports of human rights abuses happening in the country after international media had latched onto the story. Among the firm's recommendations was that Qatar should review the *kafala* system and "address whether certain aspects of the system should be abolished or phased out over time," specifically calling for the exit visa system to be abolished.<sup>256</sup> It also recommended that deaths at worksites, especially those from cardiac arrest, should be regularly investigated and reported in order to ascertain whether the deaths could be "attributable to breaches of health and safety rules."<sup>257</sup> While the government commissioned the report, there is little that is groundbreaking about its findings and it closely references earlier publications by Amnesty International and Human Rights Watch.<sup>258</sup> Since its release in April 2014, Qatar has not implemented many of its recommendations, especially those requiring substantial review and change.

Reacting to Qatar's failures, on 28 May 2015, Building and Wood Workers' International (BWI) filed a complaint to the Swiss National Contact Point for the Organization for Economic Co-operation and Development (OECD) against FIFA.<sup>259</sup> The complaint highlights that FIFA violated Chapter II, Paragraph 2 of the OECD Guidelines for Multinational Enterprises, which calls for enterprises to "Respect the internationally-recognised human rights of those affected by their activities."<sup>260</sup> The Qatari government fails to protect the workers within its borders, and FIFA is also culpable in the abuses by exploiting the government practices that were already in place. The complaint finds FIFA and the state of Qatar responsible for many of the human rights violations occurring as a result of the construction for the event. It claims that FIFA failed to address Qatar's negative human rights record in the 2010 bidding process, and it continues to fail "to conduct ongoing due diligence with regard to the violations of rights of migrant workers in Qatar."<sup>261</sup> BWI also points to the existence of the *kafala* and exit visa system as a particularly abusive practice, equating it, as the UN Special Rapporteur also has, to forced labor.<sup>262</sup> In their demands, BWI

255 U.S. Department of State, "Trafficking in Persons Report: Qatar," (2015)

256 DLA Piper, *Migrant labour in the construction sector in the state of Qatar*, (Qatar: DLA Piper, 2014), <http://www.engineersagainstopoverty.org/documentdownload.axd?documentresourceid=58>

257 Ibid.

258 "DLA Piper's Qatar Report: Little new, but calls to end Kafala and investigate cardiac deaths," Migrant-rights.org, May 25, 2014, <https://www.migrant-rights.org/2014/05/dla-piper-report-calls-on-an-end-to-kafala-system-and-study-into-migrant-cardiac-deaths/>

259 "BWI Files OECD-Complaint against FIFA," Building and Wood Worker's International

260 "Building and Wood Workers' International (BWI) Specific Instance against the "Fédération Internationale de Football Association (FIFA) to the Swiss National Contact Point (NCP) for the OECD Guidelines for Multinational Enterprises," Building and Wood Workers' International, May 28, 2015, <http://www.bwint.org/pdfs/BWI%20Complaint%20to%20Swiss%20NCP%20on%20FIFA%20May%2028%202015.pdf>

261 Ibid.

262 Ibid.

calls for the Government of Qatar to abolish *kafala*, implement a minimum living wage, and create and maintain an effective labor dispute system.<sup>263</sup> Additionally, BWI urged Qatar to ratify and implement ILO Occupational Health and Safety Convention 155 and Safety and Health in Construction Convention 16 in order to “ensure that all projects sites have adequate occupational health and safety systems in place, including...committees with worker representation and regular occupational health and safety training.”<sup>264</sup> On 14 October 2015, the Swiss National Contact Point accepted the complaint, agreeing to offer mediation between BWI and FIFA.<sup>265</sup> Since October 2015, there has been no publicly available update on whether FIFA has willingly entered into mediation with BWI. The Government of Qatar has also not implemented any of the demands BWI voiced in the complaint.

In April 2016, John G. Ruggie, the Bertold Beitz Professor in Human Rights and International Affairs at Harvard’s Kennedy School of Government and former top UN official on business and human rights, released a report detailing his recommendations for FIFA to mitigate human rights risks associated with activities.<sup>266</sup> FIFA asked Ruggie to develop recommendations on how the Association could embed respect for human rights into its global operations in December 2015, in reaction to negative media coverage surrounding the 2022 World Cup.<sup>267</sup> Ruggie released 25 recommendations, basing many of them upon the UN Guiding Principles in Business and Human Rights (UNGP), which were endorsed by the UN in June 2011 and of which Ruggie is also the author.<sup>268</sup> While many of the recommendations apply directly to FIFA, such as calling for the Association to adopt a clear and coherent human rights policy and appoint designated members to oversee the policy, many would also have direct relevance to the state of Qatar if FIFA implemented them. The report calls on FIFA to ensure access to remedy human rights abuses occurring as a result of its practices. FIFA’s role in this regard is to compliment the remedy systems already in place at a governmental level. “It is the duty of states to ensure that judicial remedy exists and is accessible...In the event that FIFA causes or contributes to negative human rights impacts, it should take an active role in providing remedy, by itself or in cooperation with others.”<sup>269</sup> Additionally, the report states that, “governments have the primary obligation to respect, protect, and fulfill human rights. This includes the governments hosting international sports events as well as national sports bodies.”<sup>270</sup> The Government of Qatar has a responsibility to work with FIFA in order to ensure the human rights of workers and those involved in the planning and construction of the 2022 World Cup are respected and protected. Unlike the Qatari government, FIFA does not have the jurisdictional authority to carry out remedies to some of the larger scale abuses in Qatar. The recommendations Ruggie laid out for FIFA cannot be effective without cooperating with Qatari officials.

263 “Building and Wood Workers’ International (BWI) Specific Instance against the “Fédération Internationale de Football Association (FIFA) to the Swiss National Contact Point (NCP) for the OECD Guidelines for Multinational Enterprises,” Building and Wood Workers’ International, May 28, 2015, <http://www.bwint.org/pdfs/BWI%20Complaint%20to%20Swiss%20NCP%20on%20FIFA%20May%2028%202015.pdf>

264 Ibid.

265 “Swiss National Contact Point Accepts BWI Complaint against FIFA,” Building and Wood Worker’s International, October 14, 2015, <http://www.bwint.org/default.asp?Index=6719&Language=EN>

266 “Independent Report Recommends how FIFA Needs to Manage the Far-Reaching Human Rights Risks of its Global Enterprise,” Harvard Kennedy School, April 14, 2016, <https://www.hks.harvard.edu/news-events/news/press-releases/ruggie-fifa-report>

267 John G. Ruggie, “FOR THE GAME. FOR THE WORLD.” *FIFA and Human Rights*. Corporate Responsibility Initiative Reports No. 68 (Cambridge: Harvard Kennedy School, 2016), 4.

268 Ibid., 4.

269 Ibid., 35.

270 Ibid., 36.

In March 2016, the International Labor Organization (ILO) announced its decision regarding a 2014 complaint it received regarding Qatar's non-observance of the Forced Labor Convention, 1930 and the Labour Inspection Convention, 1947, specifically in reference to its handling of the FIFA construction projects. The complaint, put forth by 12 multinational delegates to the 103<sup>rd</sup> International Labour Conference, detailed the harsh labor conditions migrant workers in Qatar face in building infrastructure for the 2022 World Cup, as well as the Qatari government's inability to properly inspect sites and enforce labor laws. The complaint concluded with a recommendation that the ILO immediately establish a Commission of Inquiry (CoI) in Qatar to investigate the reports of abuse.<sup>271</sup> In March 2016, the ILO Governing Body decided that Qatar would have one more year to prove its willingness to take concrete measure to alleviate its abuses, and requested that Qatar report back to the ILO upon the implementation of Law No. 21 of 2015 in March 2017.<sup>272</sup> If Qatar's report in March 2017 does not satisfy the ILO, the organization could initiate a CoI. CoIs consist of three independent members responsible for carrying out a full investigation of the complaint in order to make recommendations to the responsible party.<sup>273</sup> CoIs, only utilized 11 times since their establishment, are the ILO's highest-level investigative procedures, and if Qatar refuses to fulfill the CoIs recommendations, the ILO could subject the country to international sanctions.<sup>274</sup>

## **QATAR FOUNDATION FOR PROTECTION AND SOCIAL REHABILITATION**

The Qatar Foundation for Protection and Social Rehabilitation (QFPSR) used to lead Qatar's anti-trafficking efforts, but, in 2015, the government removed it from this capacity; it now focuses exclusively on aiding female and child abuse victims.<sup>275</sup> The absence of a governmental lead on human trafficking issues means that Qatar's institutions are not centralized, and their approaches are no longer synchronized. This could lead to the Government of Qatar being less effective at combatting and eliminating human trafficking and forced labor practices within the country.

Despite officials removing the QFPSR as the governmental lead, the Foundation still acts to identify and assist human trafficking victims. It also operates the Qatar House for Lodging and Care, a shelter that helps female and child victims. While the QFPSR identified 422 trafficking victims in 2014, 228 of which were forced labor victims, it only sheltered 20 female and child victims.<sup>276</sup> The QFPSR cannot shelter male human trafficking victims as there is no designated shelter for them in Qatar. Without a shelter, the Qatari government is largely unable to sufficiently aid male victims of trafficking. Given the number of identified victims, only housing 20 of them demonstrates the government's unwillingness to provide them help and services.

## **PROSECUTION AS A RESULT OF TRAFFICKING**

Many victims of human trafficking are never properly identified. Instead of providing them with shelter services, the government prosecutes many victims of human trafficking for crimes directly related to having been trafficked, such as absconding and prostitution. The Qatari government does not properly treat prostitution or absconding as indicators for human trafficking. Authorities

271 International Labour Office, "Complaint concerning non-observance by Qatar of the Forced Labour Convention, 1930 (No. 29), and the Labour Inspection Convention, 1947 (No. 81)"

272 Ibid.

273 "Complaints," International Labour Organization, <http://www.ilo.org/global/standards/applying-and-promoting-international-labour-standards/complaints/lang--en/index.htm>

274 Ibid.

275 U.S. Department of State, "Trafficking in Persons Report: Qatar," (2016)

276 U.S. Department of State, "Trafficking in Persons Report: Qatar," (2015)



regularly arrested, detained, and deported potential victims of trafficking for these crimes.<sup>277</sup> In his 2014 report on Qatar, the UN Special Rapporteur on the human rights of migrants found that during his visit over 300 female and 1,050 male migrants were detained.<sup>278</sup> Many of these workers lacked one or more of the requirements to leave the country, which consist of their passport, an exit visa, and a plane ticket, which their employer must buy.<sup>279</sup> Officials kept some victims in detention centers for up to six months because they were in debt to their employer or because their employers falsely accused them of theft as reprisal for absconding.<sup>280</sup> The Special Rapporteur also noted that the majority of women in detention, including several pregnant women, had been abused by their employers before they absconded.<sup>281</sup> Authorities regularly detain so many workers that during the Special Rapporteur's visit, the government was constructing a new ward that could accommodate up to 500 additional women.<sup>282</sup> Qatari officials need to recognize these crimes as potential indicators of human trafficking and investigate them as such. Until that occurs, many victims will continue to face abuse and criminal charges for circumstances outside of their control.

### AGREEMENTS WITH SOURCE COUNTRIES AND WORKER BANS

Qatar does not currently have many agreements with source countries regarding migrant labor. In 1986, Qatar and India entered into an agreement encouraging Indian workers to seek jobs in Qatar; the outlined terms are still in effect.<sup>283</sup> Qatar and historic source countries such as Nepal, Pakistan, and Bangladesh do not have many binding or nonbinding agreements, especially ones that are recent. In July 2015, Pakistan committed to training over 200,000 workers to send to Qatar in order to aid in the construction ahead of the 2022 World Cup.<sup>284</sup> However, no formal agreement was signed or discussed. A similar deal was struck between Bangladesh and Qatar in March 2015. Qatar processed the visas of 50,000 Bangladeshi workers in exchange for ensuring only those who were registered with the Bangladeshi government would be hired.<sup>285</sup> While these agreements do help specific workers in the short term, they are not long term solutions to the problems of human trafficking or forced labor. Source countries need to impose more official – and ideally legally binding – agreements with Qatar in order to ensure the safety of their citizens.

According to the Special Rapporteur on the Human Rights of Migrants, when source countries try to set a minimum wage for their workers in Qatar, the Government of Qatar stops issuing visas for workers of that country.<sup>286</sup> The lack of bilateral agreements coupled with widespread forced labor and abuse have caused many countries to ban their citizens from obtaining visas to Qatar. Some countries have formally stopped all laborers from working in the Gulf state, however a ban prohibiting just domestic workers is more common. The Nepalese Ministry of Labor had previously imposed a domestic worker ban in May 2014 in order to curb their exploitation.<sup>287</sup>

277 U.S. Department of State, "Trafficking in Persons Report: Qatar," (2016)

278 UN General Assembly, A/HRC/26/35/Add.1, 11

279 Ibid.

280 U.S. Department of State, "Trafficking in Persons Report: Qatar," (2016)

281 UN General Assembly, A/HRC/26/35/Add.1, 11

282 Ibid.

283 "India-Qatar Agreement on the Employment of Indian Workers in the State of Qatar," January 18, 1986, <http://gulfmigration.eu/india-qatar-agreement-on-the-employment-of-indian-workers-in-the-state-of-qatar/>

284 Victoria Scott, "Pakistan to train 200,000 workers for jobs in Qatar before 2022," *Doha News*, July 22, 2015, <http://dohanews.co/pakistan-to-train-200000-workers-for-jobs-in-qatar-before-2022/>

285 Peter Kovessy, "50,000 more Bangladeshis to take on Qatar jobs in next three months," *Doha News*, March 5, 2015, <http://dohanews.co/50000-more-bangladeshis-to-take-on-qatar-jobs-in-next-three-months/>

286 UN General Assembly, A/HRC/26/35/Add.1, 11.

287 Fazeena Saleem, "Temporary ban on hiring Nepal maids," *The Peninsula Qatar*, May 29, 2014, <http://thepeninsulaqatar.com/news/qatar/285633/temporary-ban-on-hiring-nepal-maids>

African countries such as Kenya, Uganda, and Ethiopia have also enforced bans on women travelling to the country for work.<sup>288</sup> Additionally, the Indonesian government currently does not allow their citizens from working as domestic help in Qatar.<sup>289</sup> Instead of addressing the issues that caused these countries to ban their workers, the Qatari officials instead search for workers from other countries.

## INTERNATIONAL AGREEMENTS

On 29 April 2009, the Qatari government acceded to the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). As the Labor Law No. 14 of 2004 does not apply to domestic workers, the vast majority of whom are female, the Government of Qatar discriminates against women in the workplace. This goes directly against Article 11 of CEDAW, which states that signatories “shall take all appropriate measures to eliminate the discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights.”<sup>290</sup> When Qatari labor law excludes domestic workers, Qatar cannot be considered fulfilling its obligations as a member of CEDAW.

The Government of Qatar also ratified the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children on 29 May 2009. The aims of the Protocol are described in Article 2. It states that the goals are: “to prevent and combat trafficking in persons, paying particular attention to women and children;” “to protect and assist the victims of such trafficking with full respect for their human rights;” and, “to promote cooperation among State Parties in order to meet those objectives.”<sup>291</sup> As the QFPSR is ineffective at identifying victims and fails to provide assistance to most of those it does identify, Qatar does not fully meet its obligations under the Protocol. It also fails to prevent trafficking of women by excluding much of the migrant female workforce from the labor law. While the Government of Qatar has demonstrated willingness to cooperate with international partners by creating bilateral agreements, it has not signed onto one with a major source country recently. Also, it has not implemented any domestic legislation to reinforce these agreements.

Qatari officials have yet to ratify the UN International Convention on the Protection and the Rights of All Migrant Workers and the Members of their Families. The Convention calls on its signatories and the international community “to respect and to ensure to all migrant workers and members of their families within their territory or subject to their jurisdiction the rights provided for in the present Convention without distinction of any kind.”<sup>292</sup> These rights include, among others, the right to leave their host countries to return to their home countries, protection under law, freedom from forced labor, and the right to recourse.<sup>293</sup> As the Government of Qatar has not acceded to this Convention, migrant workers do not enjoy these rights in Qatar. In order to better protect its migrant workforce, Qatar should ratify the Convention and implement domestic legislation in order to solidify its commitment to it.

288 Katy Migiro, “Desperate Kenyan maids abused in Middle East despite ban,” *Reuters*, May 26, 2015, <http://www.reuters.com/article/us-rights-domesticworkers-kenya-idUSKBN0OC02K20150527>

289 Hilary Whiteman, “Indonesia maid ban won’t work in Mideast, migrant groups say,” *CNN*, May 6, 2015, <http://www.cnn.com/2015/05/06/asia/indonesia-migrant-worker-ban/>

290 UN Committee on the Elimination of Discrimination Against Women (CEDAW), *CEDAW General Recommendations*

291 United Nations, *Protocol to Prevent, Suppress and Punish Trafficking in Persons*

292 UN General Assembly, *International Convention on the Protection of the Rights of All Migrant Workers*

293 UN General Assembly, *International Convention on the Protection of the Rights of All Migrant Workers*

Qatar is also not a signatory of the UN International Covenant on Civil and Political Rights (ICCPR). As well as protecting other rights, the ICCPR guarantees mobility rights similar to those protected in the UN International Convention on the Protection and the Rights of All Migrant Workers and the Members of their Families.<sup>294</sup> In addition to ratifying the Convention, the Qatari government should begin its accession to the ICCPR. Lack of mobility is a prime condition of forced labor. By protecting this right, government officials could fight a major cause of forced labor.

### **WAGE PROTECTION SYSTEM (WPS)**

In November 2015, the Government of Qatar introduced a new wage protection system (WPS) that forces employers to pay their employees electronically.<sup>295</sup> Officials hope that this new payment system will ensure employers pay their employees the correct wages on time.<sup>296</sup> While the WPS is a manifestation of the Qatari government trying to take steps to reduce forced labor and migrant worker abuse, it is not without its faults. The number of workers who signed up for the WPS reached 1.3 million by the end of 2015; this figure includes Qatari citizen workers as well as migrants.<sup>297</sup> However, the new system was difficult for small and medium-sized companies and start-ups to implement.<sup>298</sup> Additionally, the WPS can only work for legal, registered workers and those with bank accounts. According to NGOs and unions, only about 20% of migrant workers have a bank account.<sup>299</sup> Illegal, trafficked workers, especially those who are free visa workers, would also not be able to sign up for the WPS. This means that the implementation of the WPS does not actually help a lot of trafficking victims nor is it clear whether the system could flag potential victims of trafficking.<sup>300</sup>

### **Conclusion**

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Although Qatar has passed legislation in an effort to combat migrant worker exploitation, it is largely a superficial initiative. Authorities rarely enforce most of the laws that have been passed, leaving many laborers in Qatar vulnerable and unprotected. Qatar has also rejected ratifying key international agreements, such as the UN International Convention on the Protection and the Rights of All Migrant Workers and the Members of their Families, which would protect the rights of migrant workers specifically. Domestic workers are especially defenseless, as they are excluded from the national labor law and have no parallel law themselves. Qatar must increase its efforts in creating comprehensive legislation for the migrant workers that make up 90% of its work force, as well as enforcing the laws it already has in place.

Additionally, Qatar must complete its promise to end the abusive *kafala* system and passport revocation. As more migrant workers flood into the nation to work on FIFA World Cup construction sites, the abolition of the *kafala* system becomes even more imperative. Foreign employees must maintain the ability to change employers, leave the country, and/or return home without first obtaining the permission of their employers.

Finally, Qatar must improve the process of foreign worker recruitment abroad. Nations must be

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294 UN General Assembly, *International Covenant on Civil and Political Rights*

295 James Dorsey, "US adds pressure on Qatar to move on labour reform," *The Huffington Post*, July 7, 2016, [http://www.huffingtonpost.com/james-dorsey/us-adds-to-pressure-on-qa\\_b\\_10854364.html](http://www.huffingtonpost.com/james-dorsey/us-adds-to-pressure-on-qa_b_10854364.html)

296 Ibid.

297 U.S. Department of State, "Trafficking in Persons Report: Qatar," (2016)

298 Ibid.

299 Garcia and Miller, "Qatar's abused workforce"

300 U.S. Department of State, "Trafficking in Persons Report: Qatar," (2016)

confident that when their citizens relocate to Qatar for work, they will be treated as promised. In other words, migrant workers should be paid what they were pledged, perform the job that was agreed upon, and live in quality housing compounds. The Government of Qatar needs to ensure that these rights are upheld, and it must work with international partners in order to do so.

If Qatar continues to not address these issues, migrant workers will continue to be exploited, and the negative effects of human trafficking, forced labor, and prostitution will continue to plague the country.

# Kuwait

## Introduction

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Kuwait has a long, documented history with human trafficking and forced labor. While the Government of Kuwait has recently attempted to combat these practices by implementing new legislation, it constantly under-enforces these laws. In its 2016 Trafficking in Persons Report, the US Department of State has placed Kuwait on the Tier 2 Watch List, after having ranked the country as Tier 3 for previous consecutive years.<sup>301</sup>

Kuwait ranks poorly on both these scales, due not only to the government's inability or unwillingness to not only properly address the root causes of human trafficking and forced labor, but also to the government's refusal to enforce the legislation it has put in place to curb these practices. While Kuwait recently adopted a labor law covering domestic workers, Law No. 68 of 2015, becoming the first state in the GCC to mandate a minimum wage for domestic workers, employer-initiated abuse still continues. Kuwait has a comprehensive labor law, Law No. 6 of 2010, under which all migrant workers except domestic and agricultural workers have protection, as well as thorough anti-trafficking legislation, Law No. 91 of 2013. However, while these protections theoretically exist for migrant workers in Kuwait, in practice the state rarely enforces them. Until enforcement occurs, the Kuwaiti government will remain complicit in the human trafficking and abuse of the migrant workers within its borders.

## Domestic Human Trafficking

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### MIGRANT WORKERS

Kuwait has a population of about 2.9 million, around two million of whom are migrant workers.<sup>302</sup> Of the two million, most have positions doing physical labor, where they are vulnerable to forced labor practices and employer-inflicted abuse.

The recruitment agencies migrant workers use often lie to them about their potential positions in Kuwait. While Kuwaiti law mandates employers pay recruitment fees, many agencies also demand this money from the workers themselves. Recruitment agencies also lie to the workers about the types of work they will be doing once they arrive in Kuwait. As the Kuwaiti government endorses a standard contract, many migrant workers sign them before they leave their home countries. Once they arrive in Kuwait, their employers do not often adhere to the terms of the workers' contracts. Adel alGharib, a construction worker in Kuwait, told the *Arab Times* that he paid KD 1600 in order to obtain a work visa only to spend his first 7 months in Kuwait without a job.<sup>303</sup> Most workers also get paid less than originally stated in their contracts. According to an Indian migrant worker, he is paid KD 10 per day, and gets his payment weekly; this wage is much lower than his recruiter promised him before he travelled to Kuwait.<sup>304</sup>

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301 U.S. Department of State, "Trafficking in Persons Report: Kuwait," (2016)

302 "Concerns and Recommendations on Kuwait, Submitted to the UN Human Rights Committee in advance of its Pre-Sessional Review," Human Rights Watch, August 7, 2015, [http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/KWT/INT\\_CCPR\\_ICO\\_KWT\\_21314\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/KWT/INT_CCPR_ICO_KWT_21314_E.pdf)

303 "Rampant Corruption puts Kuwait's 186,000 Construction Workers at Risk," Migrant-Rights.org, May 9, 2015, <http://www.migrant-rights.org/2015/05/rampant-corruption-puts-kuwait-186000-construction-workers-at-risk/>

304 Ben Garcia, "Construction work: The most dangerous job in Kuwait," *Kuwait Times*, March 3, 2016, <http://news.kuwaittimes.net/website/construction-work-dangerous-job-kuwait/>

Employer abuses continue throughout migrant workers' time in Kuwait. Many migrant workers in Kuwait live in unsanitary and cramped conditions. Some live in construction site accommodations or in the "slums of Hassawi, Farwaniya, and Khaitan, where they are closely surveilled and denied reasonable access to public services."<sup>305</sup> One worker, alGharib, shares a single room with five other workmates.<sup>306</sup>

Despite these abuses, many migrant workers work for employers who are not their sponsors. A Filipino engineer stated, "Some of the workers are hired from the streets, and there is extensive use of subcontractors too."<sup>307</sup> Therefore, some construction companies are using free visa workers on their job sites. Free visa holders work for employers who are not their legal sponsor, often paying their sponsors for the ability to work elsewhere. Although this practice is illegal under Kuwaiti law, it is commonplace among construction companies in the country.

Accidents and injuries are also commonplace at the many construction sites in Kuwait. Many of these incidents are due to employers not providing adequate protective gear. An Indian construction worker recounted about his site, "we don't receive any protective equipment or clothing. I work in the clothes I come to the site with. We don't have any safety measures here."<sup>308</sup> A report by Dr. Hanouf M. Alhumaidi and F Hadipriono Tan, based on data collected from the Ministry of Social Affairs and Labor (MSAL), details accidents and injuries on construction sites in Kuwait. The report states that, "the data provided by MSAL accident [sic] due to fall is at 33.2 percent, it is the most frequent occurrence in the construction sites. 25.2 percent is due to being crushed by heavy object and the accident [sic] due to misuse of tools and equipments are third with 18.1 percent."<sup>309</sup>

## DOMESTIC WORKERS AND PROSTITUTION

Over 90% of Kuwaiti households have at least one migrant domestic worker.<sup>310</sup> Due to countries such as Indonesia, Uganda, and Sierra Leone banning their citizens from taking jobs as domestic workers in Kuwait, many of these women travel from southern Africa and South Asia. Many countries have banned their workers due to exploitative recruitment practices, as well as the abuse their employers inflict upon them after their arrivals in Kuwait.

Domestic workers often use recruitment agencies to acquire jobs in Kuwait. The agents lie to the women, promising them jobs such as receptionists or translators; when the women arrive in the country, most are hired as domestic workers. Although Kuwaiti law prohibits migrant workers from paying their own recruitment fees, as their employers must pay them, most workers pay all of their own fees.<sup>311</sup> Some women pay their fees to the recruiters even after the potential employers also paid them, meaning the agencies trick both the employers and employees.<sup>312</sup> This leaves the workers vulnerable to having their employers exploit them due to debt bondage. As the employers have already put up money for their employees to enter the country, many feel as though they need to be paid back. One domestic worker recounted, "I was told that I would be paid \$600 monthly with \$150 being deducted monthly for 12 months to recover the airfares and other costs

305 "Rampant Corruption puts Kuwait's 186,000 Construction Workers at Risk," Migrant-Rights.org

306 Ibid.

307 Ben Garcia, "Construction work"

308 Ibid.

309 Ibid.

310 "Migrant Rights Statistics," Migrant-Rights.org

311 U.S. Department of State, "Trafficking in Persons Report: Kuwait," (2016)

312 Ibid.

incurred.”<sup>313</sup> The most common manifestation of this is a cut in the originally proposed salary. A Zimbabwean victim was lied to by the recruitment agencies about her salary; she recounted, “I was going to get a salary of about \$600. Contrary to what I was told... the salary was \$230.”<sup>314</sup>

In addition to paying domestic workers less than they were promised, employers often create abusive environments for their workers. A 24-year old Cameroonian woman, who worked as a domestic worker before she fled, detailed how her employers abused her: “I had no rest, working round [sic] the clock. I will finish work around 3 o’clock in the night. There is no food. Then the next morning, they come and wake me up at six o’clock....The only thing they give you as food is one of their bread [sic] and a small cup of tea. That is it for the whole day.”<sup>315</sup> A 22-year old Filipina woman, “Almira,” suffered burns and physical deformities as a result of the physical torture her employer inflicted upon her in Kuwait.<sup>316</sup>

Some employers also sexually abuse their domestic workers. In May 2016, media latched onto the stories of over 200 Zimbabwean women who were trafficked into Kuwait, forced to be domestic workers, and whose employers beat them, sexually harassed them, and treated them like sex slaves.<sup>317</sup> While many of these women have since escaped to the Zimbabwean embassy in Kuwait and travelled home, there is still a large percentage of the women who have not been rescued.<sup>318</sup>

Some women who attempt to escape their abusive employers are further trafficked into the sex trade. In April 2016, Kuwaiti police arrested six women for prostitution through social media; they found that five of those women were in the country on Article 20 visas, those regulating domestic workers.<sup>319</sup> In May 2016, two Malawian girls were stranded in Kuwait after their traffickers forced them into prostitution there.<sup>320</sup>

Many women forced into prostitution often live in brothels under the watchful eyes of their traffickers. A January 2016 brothel raid found 18 women living in two flats in the country; they had three pimps between them.<sup>321</sup> Much of the solicitation of prostitution is done via social media in Kuwait, and, as the women are not allowed cell phones, their traffickers handle many of the accounts and appointments.<sup>322</sup>

## CHILD TRAFFICKING

Instances of infant trafficking are on the rise in Kuwait. Haitham Al Othman, manager of the MOI’s public morals and anti-trafficking department, has described the increasing practice of

313 Xolisani Ncube “How Harare woman was turned into slavery, prostitution in Kuwait,” *The Standard*, May 16, 2016, <http://www.thestandard.co.zw/2016/05/16/harare-woman-turned-slavery-prostitution-kuwait/>

314 Pindai Dube, “Young Zimbabwean women sold into sexual slavery in Kuwait,” *Africa News*, April 25, 2016, <http://www.africanews.com/2016/04/25/young-zimbabwean-women-sold-into-sexual-slavery-in-kuwait/>

315 “Cameroon government steps in to block trafficking of women to Kuwait,” <http://cameroon-concord.com/headlines/item/5816-cameroon-government-steps-in-to-block-trafficking-of-women-to-kuwait>

316 <http://news.abs-cbn.com/global-filipino/07/11/15/govt-urged-invoke-agreement-stop-ofw-abuses-kuwait>

317 Dube, “Young Zimbabwean women sold into sexual slavery”

318 “Kuwait visas ban sought,” *Chronicle*, May 18, 2016, <http://www.chronicle.co.zw/kuwait-visas-ban-sought/>

319 Muna Al-Fuzai, “From Maid to Prostitute,” *Kuwait Times*, July 4, 2016, <http://news.kuwaittimes.net/website/22196-2/>

320 Archangel Nzangaya, “Malawian girls stranded in Kuwait,” *Malawi 24*, May 20, 2016, <http://malawi24.com/2016/05/20/malawian-girls-stranded-kuwait/>

321 Meshal Al-Sanousi Al-Seyassah, “3 pimps, 18 women held in Mahboula brothels bust,” *Arab Times Online*, January 16, 2016, <http://www.arabtimesonline.com/news/3-pimps-18-women-held-in-mahboula-brothels-bust/>

322 Habib Toumi, “Kuwait deports two women for prostitution,” *Gulf News*, April 12, 2016, <http://gulfnews.com/news/gulf/kuwait/kuwait-deports-two-women-for-prostitution-1.1709385>

midwives purchasing illegitimate children from vulnerable mothers.<sup>323</sup> The midwives then sell the children to buyers who register them at their own countries' embassies; one Filipina woman police arrested in 2016 was selling babies for \$830 each.<sup>324</sup> Othman continued, saying that several cases of infant trafficking take place at the maternity hospital on a daily basis.<sup>325</sup> Some cases of infant trafficking occur at brothels, where prostitutes give birth to unwanted children; these children are then sold by traffickers for around 250 Kuwaiti dinars.<sup>326</sup>

In these instances, child trafficking is intrinsically linked to the human trafficking of domestic workers and prostitutes. After these women face sexual abuse, their traffickers then force them to get to rid of the children who result from this abuse. As it is illegal to have a child out of wedlock in Kuwait, these women are also at risk of prosecution if they are found to have children. These stringent laws result in Kuwaiti officials persecuting victims of human trafficking instead of helping them or treating them as victims.

## International Human Trafficking

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### SEX TOURISM

Some Kuwaiti citizens are participants in sex tourism abroad, facilitating the human trafficking of victims in those countries. Many travel to other countries in the GCC with larger prostitution economies, such as the UAE or Bahrain. These countries have many hotels that cater to sex tourism by enticing prostitutes to work on their premises in order to make more money.<sup>327</sup> Recently, a Kuwaiti man was convicted in a Dubai, UAE court for soliciting the services of a prostitute there.<sup>328</sup>

## How the Kuwaiti Government is Complicit in Trafficking

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### THE KAFALA SYSTEM

The *kafala* system in Kuwait ties a migrant's employment and immigration status to a private Kuwaiti citizen or company. It acts as a mechanism through which the government and Kuwaiti employers can monitor the movements and actions of the migrant workers in the country. While Kuwait does not currently have an exit visa process mandating workers obtain their employers' permissions before leaving the country, officials announced plans to implement one in December 2015.<sup>329</sup> Limiting an individual's ability to leave a country or return to their home country is prohibited under the UN International Covenant on Civil and Political Rights (ICCPR), of which Kuwait is a signatory.<sup>330</sup>

In 2010, Kuwaiti officials announced plans to repeal and abolish the abusive *kafala* system,

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323 "Rise of infant trafficking in Kuwait a 'disaster,' says official," *Arabian Business*, May 12, 2016, <http://www.arabianbusiness.com/rise-of-infant-trafficking-in-kuwait--disaster-says-official-631476.html?tab=Article#V49yYrgrLb2>

324 Ibid.

325 Ibid.

326 "Infant trafficking thrives in Kuwait," *Kuwait Times*, May 11, 2016, <http://news.kuwaittimes.net/website/infant-trafficking-thrives-kuwait/>

327 "Dubai's dirty secret," *The Sun*

328 Salam Al Amir, "Prostitutes and customer jailed for a year by Dubai court," *The National*, January 30, 2013, <http://www.thenational.ae/news/uae-news/courts/prostitutes-and-customer-jailed-for-a-year-by-dubai-court>

329 "Kuwait plans visa exit system for migrant workers," Migrant-rights.org, December 16, 2015, <http://www.migrant-rights.org/2015/12/kuwait-plans-visa-exit-system-for-migrant-workers/>

330 UN General Assembly, *International Covenant on Civil and Political Rights*



however, the government has not followed through with any legislation to do so.<sup>331</sup> By speaking of abolishing the practice, the Government of Kuwait has acknowledged its exploitative tendencies. As the government has not implemented any changes to the law, it is explicitly complicit in the human trafficking and forced labor issues within its borders.

### **LABOR LAW NO. 6 OF 2010**

The Labor Law No. 6 of 2010 acts as Kuwait's main legislation regarding labor protections. Chapter three, section one of the law details the structure and contents of mandatory employment contracts.<sup>332</sup> The law also stipulates the rights to a maximum 48-hour work week, daily and annual breaks, healthy work environments, and collective bargaining rights.<sup>333</sup> The law's provisions apply to all workers in the private sector, except for domestic workers, who are excluded under Article 5.<sup>334</sup>

Excluding a large portion of the workforce under the main labor law has contributed to occurrences of forced labor in the country. While Kuwait recently implemented Law No. 68 of 2015, which acts as the domestic workers' labor law, their previous lack of protection led to instances of human trafficking.

Although Kuwait does have a comprehensive labor law in the form of Law No. 6 of 2010, government officials experience difficulties in enforcing it. Despite articles in the law stipulating otherwise, most migrant workers in Kuwait do not have legal contracts, work more than 48 hours in a week, are not allowed daily breaks, and work in unhealthy, hazardous work environments. In order to better protect its workforce, the Government of Kuwait needs to ensure employers adhere to the laws in place.

### **LAW NO. 68 OF 2015 AND MINIMUM WAGE LAW**

Kuwait recently adopted two laws to protect the wellbeing of domestic workers. Kuwait now has a set minimum wage for domestic workers, as well as a labor law specifically pertaining to their rights.

On 14 July 2016, the Kuwaiti government set a minimum wage of 60 Kuwaiti dinars for the over 660,000 domestic workers within the country.<sup>335</sup> Before the implementation of the minimum wage law, domestic workers in Kuwait earned less than 20 percent of the average national wage.<sup>336</sup>

The minimum wage decree came just over one year after Kuwaiti legislators adopted Law No. 68 of 2015 that extends labor rights to domestic workers on 24 June 2015.<sup>337</sup> Until then, domestic workers did not have any protections under Kuwaiti law.

331 Leah Hyslop, "Kuwait plans to scrap sponsor system for expats," *Telegraph*, September 29, 2010, <http://www.telegraph.co.uk/expat/expatnews/8029916/Kuwait-plans-to-scrap-sponsor-system-for-expats.html>

332 State of Kuwait, "Law No. 6 of the year 2010: Promulgating the Law of Labor in the Private Sector," February 21, 2010, <http://www.kuwaitlaborlaw.com/wp-content/uploads/2012/01/Kuwait-Labor-Law-2010-Detailed.pdf>

333 *Ibid.*

334 *Ibid.*

335 "أب نأل ايلز نمل لامل عل رجا ارانيد 60 ةيلز نمل لامل عل صرخارت دي دجت و رادص نلا 100 ن تاك رشلل نامض باطخ," July 14, 2016, <http://www.alanba.com.kw/ar/kuwait-news/incidents-issues/667598/14-07-2016-60-p-p.2-%D8%AF%D9%8A%D9%86%D8%A7%D8%B1%D8%A7-%D8%A3%D8%AF%D9%86%D9%89-%D8%A3%D8%AC%D8%B1-%D9%84%D9%84%D8%B9%D8%A7%D9%85%D9%84-%D8%A7%D9%84%D9%85%D9%86%D8%B2%D9%84%D9%8A/>; "Kuwait: New Law a Breakthrough for Domestic Workers," *Human Rights Watch*, June 30, 2015, <https://www.hrw.org/news/2015/06/30/kuwait-new-law-breakthrough-domestic-workers>

336 "Migrant Rights Statistics," *Migrant-Rights.org*

337 "Kuwait: New Law a Breakthrough for Domestic Workers," *Human Rights Watch*

The Law No. 68 of 2015 gives migrant workers enforceable rights, and contains provisions to protect them from forced labor. Among these new protections was the implementation of a maximum 12-hour workday.<sup>338</sup> Employers must also allow domestic workers to take one day off per week and have thirty days of paid vacation leave per year.<sup>339</sup> However, these protections still do not extend to match the ones Law No. 6 of 2010 gives to non-domestic workers, meaning Kuwaiti laws still do not treat domestic workers equally to other laborers.<sup>340</sup>

As the labor law was only implemented in 2015 and the minimum wage law has not had time to take effect, it is unclear whether these measures are impacting the lives of domestic workers. Kuwait currently has an anti-trafficking and a general labor law, both of which aim to provide protection to migrant workers who do not work as domestic help. However, these protected migrant workers still experience forced labor. Solely having protection under the law is not enough to eradicate the problems migrant workers face in Kuwait.

### **LAW NO. 91 OF 2013 COMBATTING TRAFFICKING IN PERSONS AND SMUGGLING OF MIGRANTS**

On 10 March 2013, the Kuwaiti government adopted Law No. 91 of 2013, the country's anti-human trafficking legislation. The law prohibits all forms of trafficking and prescribes penalties for breaking the law, ranging from 15 years' to life in prison.<sup>341</sup> However, the law does not provide protection for victims who fled abusive sponsors.<sup>342</sup>

The Government of Kuwait does not often utilize the law to charge offenders. In 2014, the Government of Kuwait did not report any investigations, prosecutions, or convictions of any human trafficking offenders.<sup>343</sup> In 2015, officials investigated six trafficking cases and prosecuted 20 traffickers.<sup>344</sup> During the same year, Kuwaiti courts convicted eight traffickers under the anti-trafficking law; this was the first time authorities convicted anyone using the law since its adoption.<sup>345</sup> November 2015 marked the first time that the MOI's anti-trafficking and public morals department investigated and referred a suspected forced labor case to the public prosecutor's office.<sup>346</sup>

### **INTERNATIONAL AGREEMENTS**

Kuwait acceded to the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children on 12 May 2006. Article 5 of the protocol stipulates each state shall implement legislative and other necessary measures to eliminate human trafficking.<sup>347</sup> The Government of Kuwait has legislation in place criminalizing human trafficking, such as Law No. 91 of 2013, however, authorities infrequently enforce it. Article 6 mandates that ratifying states implement "measures to provide for the physical, psychological and social recovery of victims

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338 Jeff C. Wheeler, "Rights for Kuwait Domestic Workers: A Good Start," Solidarity Center, July 6, 2015, <http://www.solidaritycenter.org/rights-for-kuwait-domestic-workers-cautiously-good-step/>

339 Ibid.

340 "Concerns and Recommendations on Kuwait, Submitted to the UN Human Rights Committee," Human Rights Watch

341 U.S. Department of State, "Trafficking in Persons Report: Kuwait," (2015)

342 Ibid.

343 Ibid.

344 U.S. Department of State, "Trafficking in Persons Report: Kuwait," (2016)

345 Ibid.

346 Ibid.

347 United Nations, Protocol to Prevent, Suppress and Punish Trafficking in Persons

of trafficking in persons.<sup>348</sup> While the government operates one shelter, there are too many barriers victims face to get there in order for Kuwait to successfully fulfill this requirement. The government needs to more effectively identify victims as well as enforce its existing anti-human trafficking legislation in order to fully comply with the stipulations of the Protocol.

The Kuwaiti government, on 21 May 1996, acceded to the UN International Covenant on Civil and Political Rights (ICCPR). Article 13 of the ICCPR protects the rights of migrant workers to return to their home countries.<sup>349</sup> Passport revocation and debt bondage are barriers many migrant workers face in Kuwait, making it difficult for them to exercise mobility. The UN Human Rights Committee (HRC) reviewed Kuwait's adherence to the ICCPR in June 2016. In its concluding remarks, the HRC noted that many trafficking victims are criminalized for actions they took that were the direct results of them having been trafficked. In response, the HRC recommended that the Kuwaiti government "elaborate procedures for the identification and referral of victims of trafficking in order to prevent their arrest, detention and arbitrary deportation."<sup>350</sup>

On 2 September 1994, Kuwaiti officials also acceded to the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). CEDAW stipulates, among other things, that governments and employers shall not discriminate against women, and that women should be afforded the same employment rights as men.<sup>351</sup> As the majority of domestic workers in Kuwait are women, having a separate labor law for them enshrines inequality and discrimination, especially since the domestic worker law does not provide for many of the same protections as the general private sector labor law. In order to fully comply with the Convention, the Kuwaiti government must give female domestic workers the same rights as male workers in the private sector.

The Government of Kuwait has not signed onto the UN International Convention on the Protection and the Rights of All Migrant Workers and Members of their Families. The Convention demands the international community "to respect and to ensure to all migrant workers and members of their families within their territory or subject to their jurisdiction the rights provided for in the present Convention without distinction of any kind."<sup>352</sup> Among these rights are: the right to leave their host countries to return to their home countries; protection under law; freedom from forced labor; and, the right to recourse.<sup>353</sup> Among other issues, most migrant workers in Kuwait are without their passports, and therefore unable to freely leave the country. In addition, in late 2015, Kuwaiti officials announced plans to implement an exit visa system, which would require workers to obtain their employers' permissions before they could leave the country.<sup>354</sup> While technically migrant workers have protections under Kuwaiti law, in practice authorities rarely enforce their rights. The Government of Kuwait needs to sign onto the Convention and make efforts to adhere to its stipulations in order to properly protect the rights of the millions of migrant workers within its borders.

## AGREEMENTS WITH SOURCE COUNTRIES

The Government of Kuwait has signed agreements with the governments of some source countries, solidifying formal cooperation between the countries regarding migrant labor. Within

348 United Nations, Protocol to Prevent, Suppress and Punish Trafficking in Persons

349 UN General Assembly, *International Covenant on Civil and Political Rights*

350 UN Human Rights Committee, "Concluding observations on the third periodic report of Kuwait," June 20, 2016.

351 UN Committee on the Elimination of Discrimination Against Women (CEDAW), *CEDAW General Recommendations*

352 UN General Assembly, *International Convention on the Protection of the Rights of All Migrant Workers*

353 Ibid.

354 "Kuwait plans visa exit system for migrant workers," Migrant-rights.org

the last few years, Kuwaiti officials have signed Memorandums of Understanding (MoUs) with their counterparts in India, Sri Lanka, Nepal, and the Philippines.

The MoU on Labor, Employment, and Manpower Development between the Government of the State of Kuwait and the Government of the Republic of India was signed into effect on 10 April 2007. As the agreement stipulates the MoU would be renewed automatically every four years unless terminated or amended, it is still in effect until at least April 2019.<sup>355</sup> The goals of the MoU are to: assure the “existing friendly relations between the governments and the people of both countries;” “foster the bilateral relations in mutual interest between them;” and, “to promote cooperation and co-ordination in the field of labor, employment and manpower development.”<sup>356</sup>

On 11 January 2012, the Kuwait Trade Union Federation (KTUF) signed an MoU with the General Federation of Nepalese Trade Unions (GEFONT) on bilateral cooperation to improve the protection of Nepalese migrant workers in Kuwait. The understanding exemplifies the “cooperation between the governments of Kuwait and Nepal to enhance governance of migration, in the fields of the establishment of legal avenues for labour migration, the strengthening of labour inspection, legal cooperation in cases of human trafficking and other abusive situations.”<sup>357</sup>

The Philippines and Kuwait signed an MoU in the field of labor cooperation on 23 March 2012. The document aims to: facilitate labor mobility; ensure that employment contracts stipulate the rights of the workers; and, that employers should give their employees a copy of their employment contracts within two months of their arrival in Kuwait.<sup>358</sup> While some Filipino workers sign contracts, most employers do not adhere to them.

Decree No. 42 of 2014 Ratifying the Memorandum of Understanding on the Field of Labour, Recruitment and Development of Manpower between the Government of the State of Kuwait and the Government of Democratic Socialist Republic of Sri Lanka was adopted on 16 February 2014.<sup>359</sup>

While these formal agreements exemplify the acknowledgement of Kuwait and the source countries that there are problems with the status quo of migrant labor, the MoUs are not legally binding. They are simply good faith measures. Additionally, Kuwait has not adopted many of the stipulations outlined in the agreements. In the cases where the government has promulgated domestic legislation adhering to some of the agreements, Kuwaiti officials fail to enforce these laws sufficiently. For example, Article 5 of the MoU with India states that the terms of employment shall be specified in a contract in line with the laws of the host country (Kuwait) and that they

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355 “Memorandum of Understanding On Labour, Employment and Manpower Development Between The Government of the State of Kuwait and The Government of the Republic of India,” [http://gulfmigration.eu/database/legal\\_module/Kuwait/Bilateral%20Agreements/4.1%20KW%20IN%20MOU\\_EN.pdf](http://gulfmigration.eu/database/legal_module/Kuwait/Bilateral%20Agreements/4.1%20KW%20IN%20MOU_EN.pdf)

356 “Memorandum of Understanding On Labour, Employment and Manpower Development Between The Government of the State of Kuwait and The Government of the Republic of India,”

357 “Memorandum of Understanding between Kuwait Trade Union Federation (KTUF) and General Federation of Nepalese Trade Unions (GEFONT) on Bilateral Co-operation to Improve Protection of Nepalese Migrant Workers in Kuwait,” January 11, 2012, [http://gefont.org/uploads/activities/821\\_MoU%20KTUF-GEFONT.pdf](http://gefont.org/uploads/activities/821_MoU%20KTUF-GEFONT.pdf)

358 Republic of the Philippines, “Philippines, Kuwait sign MOU strengthening bilateral labor cooperation, workers welfare,” *Official Gazette*, March 2, 2012, <http://www.gov.ph/2012/03/27/philippines-kuwait-sign-accord-strengthening-bilateral-labor-cooperation-workers-welfare/>

359 “Decree No. 42 of 2014 Ratifying the Memorandum of Understanding on the Field of Labour, Recruitment and Development of Manpower between the Government of the State of Kuwait and the Government of Democratic Socialist Republic of Sri Lanka,” February 16, 2014, [http://www.ilo.org/dyn/natlex/natlex4.detail?p\\_lang=en&p\\_isn=99806&p\\_country=LKA&p\\_count=279](http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=99806&p_country=LKA&p_count=279)

shall not be changed to the detriment of the worker.<sup>360</sup> While Kuwaiti law prohibits contract substitution and calls for a mandatory standardized contract, many employers often change or ignore the terms of their employees' contracts once the workers arrive in Kuwait.<sup>361</sup> Until MoUs foster domestic legislation that is enforceable in both the source country and Kuwait, they will continue to promote empty promises and be ineffective.

## WORKER BANS

Many countries, such as Indonesia, Sierra Leone, Ghana, Ethiopia, and Uganda, have banned their citizens from obtaining visas to work as domestic help in Kuwait.<sup>362</sup> Cameroon has also banned domestic workers from travelling to Kuwait.<sup>363</sup> Zimbabwe is currently considering implementing a similar ban.<sup>364</sup>

Instead of addressing the sources of these abuses and enforcing the laws in place to protect domestic workers, the Government of Kuwait turns to other countries to source its workforce. When South and East Asian countries restricted the flow of migrant domestic workers, Kuwait turned to East Africa. Now that many East African nations have banned their domestic workers from obtaining visas to Kuwait, Kuwait is turning to southern African countries.<sup>365</sup>

## AWARENESS CAMPAIGNS

The International Organization for Migration (IOM) partnered with the Government of Kuwait to launch awareness campaigns with the hopes of combatting and raising awareness about human trafficking. Under the auspices of Sheikh Salman Sabah Al-Salem Al-Sabah, Minister of Information and Minister of State for Youth Affairs, the IOM began its first awareness campaign in September 2015, and the second one in June 2016.<sup>366</sup>

The 2016 campaign was titled “Together Against Trafficking in Persons,” and it was accompanied by the hashtag #TogetherAgainstTrafficking.<sup>367</sup> The individual events were held under the auspices of Deputy Prime Minister and Minister of Interior Sheikh Mohammed Khaled Al-Hamad Al-

360 Memorandum of Understanding On Labour, Employment and Manpower Development Between The Government of the State of Kuwait and The Government of the Republic of India,” April 10, 2007, <https://www.me.gov.in/images/pdf/mou-kuwait.pdf>

361 International Trade Union Confederation, *Facilitating Exploitation: A review of Labour Laws for Migrant Domestic Workers in Gulf Cooperation Council Countries*, (Brussels:ITUC, November 2014), 28.

362 Habib Toumi, “Six Gulf countries informed of Indonesia domestic workers ban,” *Gulf News*, January 27, 2016, <http://gulfnews.com/news/asia/six-gulf-countries-informed-of-indonesia-domestic-workers-ban-1.1661460>  
AND Felex Share, “Zimbabwe: Govt Seeks Ban On Kuwait Visas,” *All Africa*, May 18, 2016, <http://allafrica.com/stories/201605180137.html>

363 Max Marcel, “Cameroon: Government Steps in to Block Trafficking of Women to Kuwait [sic],” *Cameroon Concord*, April 26, 2016, <http://cameroon-concord.com/headlines/item/5816-cameroon-government-steps-in-to-block-trafficking-of-women-to-kuwait>

364 Share, “Zimbabwe: Govt Seeks Ban On Kuwait Visas”

365 Elita Chikwati, “21 more Kuwait trafficking victims expected today,” *The Herald*, May 13, 2016, <http://www.herald.co.zw/21-more-kuwait-trafficking-victims-expected-today/>

366 Faten Omar, “The Avenues mall holds awareness campaign for human trafficking,” *Kuwait Times*, September 3, 2015, <http://news.kuwaittimes.net/website/the-avenues-mall-holds-awareness-campaign-for-human-trafficking/>

367 International Organization for Migration, “IOM Launches ‘Together Against Trafficking in Persons’ Campaign in Kuwait,” press release, June 6, 2016, <https://www.iom.int/news/iom-launches-together-against-trafficking-persons-campaign-kuwait>

Sabah and took place in four malls around the country.<sup>368</sup>

The entire 2016 campaign lasted less than one month; it was launched on 8 June and concluded 5 July.<sup>369</sup> During this time, IOM staff were available to answer public questions regarding human trafficking. The IOM and Kuwait's Ministry of Interior also created four pamphlets that they distributed throughout the month.<sup>370</sup>

Due to the campaigns' limited scopes and timespans, they are not an effective way of raising awareness over the plight of human trafficking victims and the definitions of forced labor. Their locations in malls coupled with the distribution of only four different pamphlets does not allow for widespread exposure that awareness campaigns need in order to be successful.

## GOVERNMENT OFFICIALS COMPLICIT IN HUMAN TRAFFICKING

Kuwaiti government officials have been exposed as complicit and directly involved in human trafficking. In 2015, the government investigated visa fraud rings allegedly involving officials working in the MOI, the Ministry of Social Affairs and Labor (MOSAL), the Ministry of Commerce and Industry, as well as members of the ruling family.<sup>371</sup> Kuwaiti officials have not released information regarding these investigations or possible prosecutions or convictions of those implicated.

In March 2016, a former Kuwaiti ambassador to Zimbabwe, Ahmed Al-Jeeran, and his secretary Brenda Avril May were charged with trafficking over 200 women into abusive situations in Kuwait.<sup>372</sup> A Zimbabwean court found that Al-Jeeran lured the women through advertisements for positions as nurse's aides in local media by promising airfare, high salaries, and education.<sup>373</sup> May processed visas for the women who were subsequently sold and forced into domestic labor and prostitution.<sup>374</sup> The scheme was revealed when over 40 female victims of the scheme took refuge at the Zimbabwean embassy in Kuwait.<sup>375</sup> Some of the women had been in abusive situations in Kuwait since 2014.<sup>376</sup>

## INEFFECTIVE VICTIM IDENTIFICATION AND PROTECTIVE SERVICES

The Government of Kuwait provides inadequate protective services for the victims of human trafficking or forced labor in the country; it also has a difficult time identifying individuals to use these services. The government, especially the anti-human trafficking division within the MOI, operates several different services for victims, however most fall short of providing sufficient protections.

368 "IOM Kuwait holds campaign on human trafficking," *Kuwait Times*, June 8, 2016, <http://news.kuwaittimes.net/website/iom-kuwait-holds-campaign-human-trafficking/> AND International Organization for Migration, "IOM Launches 'Together Against Trafficking in Persons' Campaign"

369 International Organization for Migration, "IOM Launches 'Together Against Trafficking in Persons' Campaign"

370 Ibid.

371 U.S. Department of State, "Trafficking in Persons Report: Kuwait," (2016)

372 Elsa Buchanan, "Zimbabwe: Former Kuwaiti diplomat trafficked 200 women," *International Business Times*, March 17, 2016, <http://www.ibtimes.co.uk/zimbabwe-former-kuwaiti-diplomat-trafficked-200-women-1550060>

373 Ibid.

374 Ibid.

375 "Zimbabwe: Women Escape Slavery in Kuwait," *All Africa*, May 9, 2016, <http://allafrica.com/stories/201605090779.html>

376 Ibid.

While the anti-human trafficking department in the MOI operates a hotline for trafficking-related concerns, these operators only speak English and Arabic.<sup>377</sup> The country also operates the Government Shelter for Foreign Workers, which can house up to 500 residents.<sup>378</sup> However, the shelter only provides services to female and child victims of human trafficking; there is no shelter for male victims of human trafficking or forced labor.<sup>379</sup>

In 2016, the US State Department reported that it was unclear whether the Government of Kuwait conducted any screenings to identify victims of human trafficking.<sup>380</sup> Instead, most victims found their way to the shelter via referrals from embassies, NGOs, churches, and private citizens.<sup>381</sup>

The US Department of State also noted that the Government of Kuwait did not have a system in place to identify victims of trafficking from the migrant workers authorities arrested.<sup>382</sup> This results in the government persecuting many victims of human trafficking for crimes they committed that were directly related to their having been trafficked, such as prostitution and absconding.

## Conclusion

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Government practices, legislation, and the non-enforcement of pertinent laws allow for human trafficking and forced labor to flourish in Kuwait. In order to successfully curb human trafficking in the country, the Government of Kuwait must work to: repeal the oppressive *kafala* system; reform its protective services and practices for identifying victims; adopt legislation implementing agreements with source countries; and, enforce the comprehensive labor and anti-trafficking laws it already has in place.

Kuwaiti officials need to better adhere to the international agreements to which they have acceded, such as the ICCPR and the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. The government also needs to ratify the UN International Convention on the Protection and the Rights of All Migrant Workers and Members of their Families in order to better ensure that its workers can exercise their internationally-sanctioned rights.

Authorities should also aim to better enforce the domestic legislation already in place. Employers need to adhere to Law No. 6 of 2010 and Law No. 68 of 2015, which stipulate workers' legal rights, and authorities need to make sure that they do so effectively. Law No. 91 of 2013 focusing on combatting human trafficking needs to have greater enforcement in order for it to be effective.

Passing legislation is insufficient for Kuwait to successfully protect its residents from becoming victims of human trafficking. Officials must strictly enforce these pieces of legislation in order for them to be effective.

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377 U.S. Department of State, "Trafficking in Persons Report: Kuwait," (2016)

378 "IOM Kuwait Facilitates Voluntary Return of Trafficking Victims to Nigeria, Sierra Leone," International Organization for Migration, February 23, 2016, <https://www.iom.int/news/iom-kuwait-facilitates-voluntary-return-trafficking-victims-nigeria-sierra-leone>

379 U.S. Department of State, "Trafficking in Persons Report: Kuwait," (2016)

380 Ibid.

381 Ibid.

382 Ibid.

# Oman

## Introduction

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Out of a total population of 3.6 million, Oman has almost two million foreign nationals residing in the country, most of whom are migrant workers. Whether working in construction or as domestic workers, many of these laborers face abusive and exploitative conditions that amount to forced labor and human trafficking. Some female migrants are forced into prostitution. Despite this abuse, the Government of Oman has done little to combat it.

In 2015, Omani officials secured zero convictions under Royal Decree No. 126/2008, the country's anti-trafficking law. Oman has also banned domestic workers from five African countries from obtaining work visas. These bans, coupled with the bans imposed by some source countries, such as Indonesia, can unintentionally generate higher rates of human trafficking.

Furthermore, Oman's labor law, Royal Decree No. 35/2003, does not protect domestic workers, who are overwhelmingly migrants. Even those workers falling under its protections rarely enjoy their rights, because officials do not adequately enforce the law. Oman also does not have a formal system for identifying victims of human trafficking or forced labor. Many victims are jailed for breaking laws directly resulting from them having been trafficked, or authorities return them to their abusive employers after they abscond and seek help.

Oman has not ratified a number of international treaties aimed to protect migrants, such as the UN International Convention on the Protection and the Rights of All Migrant Workers and Members of their Families or the International Covenant on Civil and Political Rights. The agreements it does have with source countries such as India, Sri Lanka, and Bangladesh do little to impact the lives of victims of human trafficking, as Oman has not enacted any domestic legislation to implement or enforce them.

## Domestic Human Trafficking

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### MIGRANT WORKERS

Over 1.8 million foreign nationals live in Oman, the majority of whom are migrant workers performing physical labor.<sup>383</sup> They often go into debt to pay recruitment agencies to get them visas and positions in Oman. Once migrants arrive in the country, many of their employers change their contracts, revoke their passports, withhold their wages, and physically abuse them.

Most migrant workers use recruitment agencies to secure positions in Oman. Omani officials have banned certain types of workers from obtaining visas, such as construction workers and other manual laborers.<sup>384</sup> These bans do not apply to high-ranking companies or those the government has contracted.<sup>385</sup> Despite the bans in place, migrant construction workers continue to enter Oman for jobs on building sites. Construction companies that are not legally allowed to hire migrant workers due to the bans have started relying on cheap foreign laborers.<sup>386</sup> Recruitment agencies help facilitate this process.

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383 *Gulf Labor Markets and Migration: Demography, Migration, and the Labour Market in Oman*, (European University Institute and Gulf Research Center, 2015), 3.

384 "Recruitment agencies can only hire 10 expats in one permit, says new law," *Gulf Digital News*, <http://www.gdnonline.com/Details/49279/Recruitment-agencies-can-only-hire-10-expats-on-one-permit,-says-new-law>

385 *Ibid.*

386 *Ibid.*



Recruitment agencies charge high fees for their services. Enticed by recruitment agencies' promises of high wages, many potential workers go into debt in order to pay the fees. Some sell their homes or take out large loans. Once they enter Oman, workers are already indebted. Many employers take advantage of this situation by lowering their wages and withholding their pay, ensuring that they cannot repay their debts and return to their home countries.<sup>387</sup> Most migrant workers are victims of this practice, which is known as debt bondage.

Recruitment agencies often have potential workers sign contracts before they leave their home countries. Oman has implemented a standardized contract, mandating that all contracts stipulate wages, hours to be worked, term dates, and duties associated with the position.<sup>388</sup> While these fields are filled in beforehand, when workers enter Oman, their employers often force them to sign new contracts with different terms. These new contracts usually include lower wages and longer hours. Sometimes, workers are unable to read their contracts as they are written in languages they cannot understand. This is known as contract substitution, and it is a common practice throughout Oman and the GCC.

In addition to forcing their workers to sign new contracts and withholding payment, most employers also confiscate their employees' passports upon arrival.<sup>389</sup> By revoking their passports, employers exert control over the mobility of their workers. Without their passports, workers are unable to leave the country and return to their home countries if they wish. This practice forces workers to remain in their abusive work environments.

During their time in Oman, most migrant workers live in cramped, unsanitary conditions. The labor camps in which they live are often unsafe and unhealthy.<sup>390</sup> Many workers usually share a single room; the conditions are so cramped that in some camps "at times, there is not even room enough to walk."<sup>391</sup> The conditions at the labor camps are bad enough that local residents have voiced complaints over having them nearby, as they "are leading to the degradation of the area."<sup>392</sup>

Most employers also abuse their workers. Some use physical violence against their workers, often as a motivating tool or as punishment. Employers also abuse their workers by denying them access to medical help and facilities. In 2015, the Muscat Municipality enacted guidelines detailing the adequate level of care to which migrant workers should have access.<sup>393</sup> Prior to this decision, many migrant workers did not have access to medical care for accidents that occurred on the job site, as there were no clear regulations.

## DOMESTIC WORKERS

Migrant domestic workers in Oman, who are predominately women from South Asia and Africa, often face excessively long hours, limited mobility, and physical abuse from their employers.

387 "The Plight of Migrant Workers in the Gulf States," *Fanack Chronicle*, September 23, 2015, <https://chronicle.fanack.com/specials/migrant-labour/the-plight-of-migrant-workers-in-the-gulf-states/>

388 Curtis, Mallet-Prevost, Colt Mosle LLP, "Construction Disputes in Oman- Here and Now," Oman Law Blog, November 12, 2013, <http://omanlawblog.curtis.com/2014/01/on-12-november-2013-curtis-mallet.html>

389 "Gulf Countries: Bid to Protect Migrant Workers," Human Rights Watch, December 22, 2015, <https://www.hrw.org/news/2015/12/22/gulf-countries-bid-protect-migrant-workers>

390 "Cable: 06MUSCAT1635\_a," WikiLeaks, November 27, 2006, [https://wikileaks.org/plusd/cables/06MUSCAT1635\\_a.html](https://wikileaks.org/plusd/cables/06MUSCAT1635_a.html)

391 "Oman labour camps should have medical facilities," *Times of Oman*, January 4, 2015, <http://timesofoman.com/article/45670/Oman/Oman-labour-camps-should-have-medical-facilities>

392 "Ghubra Residents Irked with Labour Camps in Locality," *Muscat Daily*, Febru 21, 2012, <http://www.muscatdaily.com/Archive/Oman/Ghubra-residents-irked-with-labour-camps-in-locality>

393 "Oman labour camps should have medical facilities," *Times of Oman*

Most domestic workers use recruitment agencies in order to obtain visas and positions in Oman. It is common for recruitment agencies to rely on forged documents and visas to traffic their recruits into the country.<sup>394</sup> In 2016, without her knowledge, a young Indian woman travelled to Oman with forged papers, as her recruiter kept her passport.<sup>395</sup> Embassy officials eventually intervened and repatriated her.<sup>396</sup> Sometimes, recruitment agencies will initially send their workers to the United Arab Emirates (UAE) before trafficking them across the porous border between al-Ain, UAE and Buraimi, Oman.<sup>397</sup> This practice appeals to recruitment agencies in countries from which the Omani government has banned domestic workers, such as Ethiopia, Kenya, Senegal, Guinea, and Cameroon.<sup>398</sup>

Recruitment agencies will usually have the women sign employment contracts before they leave their home country. These contracts will outline their positions, their expected wages, their hours and duties, as well as the dates of their employment. Sometimes women sign contracts detailing work that is not domestic help, such as receptionist or child care positions.<sup>399</sup> However, contract substitution is common in Oman. Upon arrival in the country, most of those women realize their agencies tricked them, and are forced to sign new contracts to work as domestic laborers.<sup>400</sup> An Indian woman recounts, “I was given an offer letter and I was told that I would be employed as a receptionist in a company...when I landed [in Oman], they took me to Salalah to work as maid [sic] in a house there.”<sup>401</sup> Once they enter Oman, almost all domestic workers realize that their salaries are much lower than those they were promised in their original contracts.<sup>402</sup>

In June 2016, due to the widespread practice of contract substitution and the abuse it facilitates, the Indian ambassador to Oman, Indra Mani Pandey, issued a warning to all those who wished to go to Oman for work. He emphasized that his department would gladly check, vet, and corroborate all offers of employment and living conditions to ensure they were legitimate and legal before workers travelled to Oman.<sup>403</sup>

Employers exert a great deal of control over the lives of their domestic workers. Employers often immediately confiscate their employees’ passports and mobile phones upon their arrival, and many employers do not allow their domestic workers to leave their homes unsupervised.<sup>404</sup> Some women work up to 22 hours per day, with few breaks, and most never get days off.<sup>405</sup>

Due to their isolation and lack of mobility, domestic workers are particularly vulnerable to abuse. In order to motivate their workers to do a better job or to punish them for sloppy work, many

394 Rejimon K, “Oman facing maid crunch as countries tighten screws,” *Times of Oman*, May 17, 2016, <http://timesofoman.com/article/84014>

395 Rejimon K, “Check job contract before visit to Oman, Indians told,” *Times of Oman*, June 10, 2016, <http://timesofoman.com/article/85734/Oman/Government/Check-job-contract-before-visit-to-Oman-Indians-told>

396 Ibid.

397 U.S. Department of State, “Trafficking in Persons Report: Oman,” (2016)

398 Madhuparna Bhattacharjee, “Oman bans domestic workers from five African countries,” *Muscat Daily*, February 1, 2016, <http://www.muscatdaily.com/Archive/Oman/Oman-bans-domestic-workers-from-five-African-countries-410b>

399 Rejimon K, “Check job contract before visit to Oman”

400 Rejimon K, “Check job contract before visit to Oman”

401 Ibid.

402 Press Trust of India, “Woman moves HC seeking help to save daughter working in Oman,” *Business Standard*, June 23, 2016, [http://www.business-standard.com/article/pti-stories/woman-moves-hc-seeking-help-to-save-daughter-working-in-oman-116062301193\\_1.html](http://www.business-standard.com/article/pti-stories/woman-moves-hc-seeking-help-to-save-daughter-working-in-oman-116062301193_1.html)

403 Rejimon K, “Check job contract before visit to Oman”

404 Ibid.

405 Press Trust of India, “Woman moves HC seeking help to save daughter working in Oman”

employers mentally and physically abuse them. Some employers also withhold food from their workers, starving them. Some also sexually abuse their workers, and there have been numerous reports of Omani employers raping their domestic workers.<sup>406</sup> One Bangladeshi domestic worker recounted to Human Rights Watch that her employer's son raped her.<sup>407</sup>

Some domestic workers decide to flee from their abusive households. If they are found absconding, policemen will usually return them to their employers against their will. Many who are returned face retribution for their actions. One Indonesian worker interviewed by Human Rights Watch stated that after the police brought her back, her employer beat her and broke her teeth.<sup>408</sup> Another woman recounted her experience after she was returned to her employer by the police: "My madam beat me up and locked me in the room for eight days with only dates to eat and water to drink."<sup>409</sup> Despite claims of abuse, police rarely follow up on or investigate these incidents once the domestic worker has been returned.<sup>410</sup>

As they are often without passports, money, mobile phones, or in-country contacts, absconding domestic workers are vulnerable to further exploitation and trafficking. Some workers find themselves trafficked into the sex trade and forced into prostitution.

## PROSTITUTION

Oman is both a transit and destination country for sex trafficking.<sup>411</sup> Some women are first trafficked to Oman on the way to other GCC countries, and subsequently smuggled through their porous borders.<sup>412</sup> Once in Oman, women are trafficked into prostitution in two main ways. Some women who are already in Oman flee their employers and are forced into prostitution, due to lack of resources. Other women are sex trafficked directly from their home countries. Once they are trafficked into the sex trade, however, they experience similar conditions.

Some recruitment agencies promise women jobs as singers, dancers, or performers, but instead force them into prostitution.<sup>413</sup> Employers do this by misusing Oman's three-month artist visas in order to bring women to the country. Hotels often use these visas to lure young women to Oman legally. The traffickers bring the women into the country in order to profit off of them; traffickers often seek out hotels promoting prostitution so that their victims can earn more money.<sup>414</sup> One resident, who lived near a hotel that was raided for prostitution, stated that many people used to visit the hotel for the explicit purpose of engaging in prostitution.<sup>415</sup> He also stated that, "the number [of people] was more during weekends" as "customers used to come from far off places."<sup>416</sup>

406 "Investigations underway into case of forced abortion in Oman," *News 1st*, August 5, 2014, <http://newsfirst.lk/english/2014/08/sri-lankan-maid-undergoes-alleged-rape-abortion-oman/47997>

407 Human Rights Watch, *I Was Sold: Abuse and Exploitation of Migrant Domestic Workers in Oman*, (United States: Human Rights Watch, 2016), 5.

408 "I Was Sold: Abuse and Exploitation of Migrant Domestic Workers," Human Rights Watch, July 13, 2016, <https://www.hrw.org/report/2016/07/13/i-was-sold/abuse-and-exploitation-migrant-domestic-workers-oman>

409 Human Rights Watch, *I Was Sold*, 6.

410 "I Was Sold: Abuse and Exploitation of Migrant Domestic Workers," Human Rights Watch

411 U.S. Department of State, "Trafficking in Persons Report: Oman," (2016)

412 Ibid.

413 Helene Harroff-Tavel and Alix Nasri, *Tricked and Trapped: Human Trafficking in the Middle East*, (Beirut: International Labour Organization, 2013).

414 Joseph Benny, "Prostitution Crackdown in Muscat's Ruwi Area Part of Nationwide Efforts: Royal Oman Police," *Muscat Daily*, February 18, 2013, <http://www.muscatdaily.com/Archive/Oman/Prostitution-crackdown-in-Muscat-s-Ruwi-area-part-of-nationwide-efforts-Royal-Oman-Police-21t8>

415 Ibid.

416 Ibid.

Upon finding out they have been tricked, some women refuse to engage in prostitution; their employers will usually physically beat them until they acquiesce. Moreover, as the artist visas only last for three months, women that are forced to stay in the country beyond this period are technically illegal residents. Employers use this as leverage to ensure the women are scared into remaining at the hotel and do not run away.<sup>417</sup>

Some women are also initially recruited as massage therapists. They believe they are coming to Oman in order to work in legitimate massage parlors, but instead their employers eventually force them into having sex with clients.<sup>418</sup> There have been cases of recruitment agencies sending women to work as massage therapists on tourist visas, promising that they would have the visas converted to work visas after arrival in Oman. However, once the women arrived, their employers refused to convert their visas, and subsequently blackmailed them into working as prostitutes due to their illegal status in the country.<sup>419</sup> Some of the women forced into massage prostitution reported being confined to the parlor and forced to work without time off or pay.<sup>420</sup>

Not all women who have been forced into prostitution were directly trafficked into the sex trade. Sex traffickers also target women – usually former domestic workers – who have absconded from their initial employer.<sup>421</sup> Some of these women are trafficked into hotel prostitution, and have experiences much like women who arrived on artist visas. Some traffickers run brothels out of their houses or apartments.<sup>422</sup> This is common enough that after a raid at a brothel, a Royal Omani Police spokesman urged property owners to ensure that “the houses they rent out are not used for any illegal activities.”<sup>423</sup> Upon the women’s arrivals at these brothels, their traffickers often beat and verbally abuse them until they comply with the traffickers’ demands. Most traffickers forbid the women from leaving the brothel; some traffickers may transport the women to appointments with clients at their homes or hotel rooms, so that the women are never alone.

## How the Omani Government is Complicit in Trafficking

### ROYAL DECREE NO. 126/2008

The Omani government issued its “Law Combating Trafficking in Persons” on 23 November 2008; it is officially known as Royal Decree No. 126/2008. Article 22 of the Decree established the National Committee for Anti-Trafficking in Persons.<sup>424</sup> Article 23 endowed the Committee with the abilities to create action plans, oversee rehabilitation services, organize training programs for those involved in enforcing the Law, and prepare reports.<sup>425</sup> The Law also defines actions that constitute human trafficking as well as prescribes punishments for convicted traffickers.

Despite the implementation of Royal Decree No. 126/2008, Omani authorities have prosecuted very few individuals under it. In 2015, government officials investigated five sex trafficking

417 “Cable: 06MUSCAT1635\_a,” WikiLeaks

418 “Cable: 06MUSCAT1635\_a,” WikiLeaks

419 Ibid.

420 Ibid.

421 Fahad Al Mukrashi, “Expatriate arrested for murdering prostitute in Oman,” *Gulf News*, December 18, 2015, <http://gulfnews.com/news/gulf/oman/expatriate-arrested-for-murdering-prostitute-in-oman-1.1646160>

422 “Prostitution ring discovered in Oman,” *Gulf News*, November 14, 2013, <http://gulfnews.com/news/gulf/oman/prostitution-ring-discovered-in-oman-1.1254992>

423 Ibid.

424 Sultanate of Oman, “Royal Decree No. 126/2008,” Article 22, <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/81766/92282/F1786958440/OMN81766%202.pdf>

425 Sultanate of Oman, “Royal Decree No. 126/2008”

cases and zero forced labor cases, initiating only three prosecutions involving nine suspects.<sup>426</sup> Further, Omani courts did not convict any traffickers in 2015.<sup>427</sup> In 2014, the government reported investigating five trafficking cases and initiated two prosecutions involving eleven suspects; of those prosecuted, only two were convicted.<sup>428</sup>

### **ROYAL DECREE NO. 35/2003**

Sultan Qaboos Bin Said issued Royal Decree No. 35/2003 on 26 April 2003. The Decree serves as Oman's labor law. The law legislates minimum standards for employment and protections to safeguard workers' rights, including an entire section pertaining to foreign workers' rights in Oman. It also includes protections pertaining to wages and work hours. There are also provisions requiring employers strictly adhere to workers' contracts. Nevertheless, while the law does codify some key protections for migrant workers, the government has been unable or unwilling to properly enforce many of these regulations. Domestic workers are excluded under Article 2(3) of the Decree, and the law does not protect their rights.<sup>429</sup>

Article 18 of the Decree details conditions that employers must meet before legally employing foreign workers; among these conditions is the need for the employer to prove to the government that there is an insufficient number of Omanis to fill the positions available and that the employer has already complied with the "prescribed percentages of Omanisation."<sup>430</sup> Article 19(3) specifies that the government can determine the types of jobs for which Omani employers are allowed to employ non-Omani workers.<sup>431</sup> As a result of these restrictions, the demand for cheap, foreign labor has increased, creating an illicit market for traffickers to supply and exploit.

Although domestic workers remain excluded from the labor law, the Omani government has implemented a standardized employment contract for domestic workers. It mandates that employers provide domestic workers with one day off per week and thirty days of paid leave every two years.<sup>432</sup> Although these provisions provide some protections for domestic workers, they are still insufficient when compared to the rights legally afforded to other workers under Royal Decree No. 35/2003.

### **MINISTRY OF MANPOWER CIRCULAR NO. 2/2006**

In 2006, the Ministry of Manpower (MOM) issued Circular No. 2 prohibiting employers from revoking migrant workers' passports, a practice which limits expatriates' freedom of movement and is closely linked with human trafficking. However, it does not prescribe specific penalties for noncompliance.<sup>433</sup> During 2015, MOM handled 432 passport retention violations; of these, 137 were referred to a lower court, 126 were settled in mediation, and seven were referred to labor inspection teams.<sup>434</sup> The MOM did not refer a single one of the 432 passport retention violations

<sup>426</sup> U.S. Department of State, "Trafficking in Persons Report: Oman," (2016)

<sup>427</sup> Ibid.

<sup>428</sup> U.S. Department of State, "Trafficking in Persons Report: Oman," (2015)

<sup>429</sup> Sultanate of Oman, "Royal Decree No. 35/2003," Article 2, <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/67540/84139/F1719028671/OMN67540.pdf>

<sup>430</sup> Ibid.

<sup>431</sup> Ibid.

<sup>432</sup> "I Was Sold: Abuse and Exploitation of Migrant Domestic Workers," Human Rights Watch

<sup>433</sup> U.S. Department of State, "Trafficking in Persons Report: Oman," (2016)

<sup>434</sup> Ibid.

for criminal prosecution of potential labor trafficking offenses.<sup>435</sup> The Omani government's reticence to refer passport retention cases to the criminal courts allows many potential victims of forced labor to go unidentified and their employers to continue their abuse.

## AGREEMENTS WITH SOURCE COUNTRIES

The Omani government has signed Memorandums of Understanding (MoUs) with several source countries from which many migrant workers emigrate. India, Pakistan, Bangladesh, Sri Lanka, and Vietnam are among the countries with which Oman has signed such agreements. These MoUs are used to demonstrate cooperation between the nations and create ideal conditions for working with each other. However, none of these MoUs are legally binding, making them only gestures of goodwill.

In November 2008, the Governments of India and Oman agreed to an MoU in the field of manpower; Article 12 of the MoU stipulates, that unless terminated by one of the parties after the initial five year term, it shall automatically be renewed for another period of similar length.<sup>436</sup> Ostensibly, this means the MoU remains in effect at time of writing. The document describes best practices for the creation of and adherence to employment contracts, outlines how employer complaints should be dealt with, and ensures the ability of remittances to be sent back to India.<sup>437</sup> None of the articles in the MoU have been legally enshrined in Omani law.

In June 2014, officials from Oman and Sri Lanka signed an MoU in the fields of employment and training with the aim of preventing human trafficking and illegal labor recruiting.<sup>438</sup> The Minister of Manpower, Shaikh Abdullah Al Bakar, signed the MoU on behalf of Oman, and he assured Sri Lankan officials that "[migrant workers] will be treated equally as citizens of Oman."<sup>439</sup> Nevertheless, Omani officials and employers continue to discriminate against Sri Lankan migrant workers, like all other migrant workers, and do not treat them equally as Omani citizens; they continue to face abuses citizens do not, such as passport revocation.

Other source countries have also signed MoUs with Oman attempting to protect their citizens. Both the Governments of Vietnam and Pakistan have entered into agreements with Oman regarding migrant workers in the past. In April 2015, Bangladeshi and Omani officials signed an MoU on foreign office consultations. While this agreement does not specifically pertain to migrant workers and manpower, the Government of Bangladesh hoped that these consultations would then lead to greater relations in all fields, especially the use and protection of workers in Oman.<sup>440</sup>

As noted, all of these agreements between Oman and the countries from which it sources much of its foreign workforce are not legally binding. They are merely goodwill gestures that acknowledge the ways in which the participating countries could or should cooperate on labor issues. In order

435 U.S. Department of State, "Trafficking in Persons Report: Oman," (2016)

436 "Memorandum of Understanding Between The Ministry of Overseas Indian Affairs in the Republic of India and The Ministry of Manpower in the Sultanate of Oman in the Field of Manpower," November 8, 2008, <https://www.mea.gov.in/images/pdf/mou-oman.pdf>

437 Ibid.

438 "Oman, Sri Lanka signs MoU on employment, training," *The Island*, June 29, 2014, [http://www.island.lk/index.php?page\\_cat=article-details&page=article-details&code\\_title=105941](http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=105941)

439 Constance Johnson, "Oman; Sri Lanka: MOU on Employment and Training Signed," Library of Congress, July 2, 2014, <http://www.loc.gov/law/foreign-news/article/oman-sri-lanka-mou-on-employment-and-training-signed/>

440 "Bangladesh, Oman sign MoU on foreign office consultations," *bdnews24.com*, April 5, 2015, <http://bdnews24.com/bangladesh/2015/04/05/bangladesh-oman-sign-mou-on-foreign-office-consultations>

for these MoUs to be successful and impactful, the governments of both countries need to enact domestic laws that codify the provisions of the agreements.

## INTERNATIONAL AGREEMENTS

The Government of Oman acceded to the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children on 13 May 2005. Article 5 of the protocol stipulates that each ratifying state shall institute legislative and other necessary measures to eliminate human trafficking.<sup>441</sup> Article 6 requires that states implement “measures to provide for the physical, psychological and social recovery of victims of trafficking in persons.”<sup>442</sup> While Oman does have an anti-trafficking law and the government operates shelter services for trafficking victims, it does not fully uphold its commitments under the Protocol. In 2015, the police did not convict any individual for violating the anti-trafficking law.<sup>443</sup> The government also fails to properly identify victims and makes it necessary for victims to be referred to its shelter services, creating a barrier to assistance.<sup>444</sup> These obstacles make it impossible for Oman to fully adhere to its commitments under the Protocol.

On 7 February 2006, the Government of Oman also acceded to the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). CEDAW stipulates, among other things, that both the state and employers should not discriminate against women and that women should be afforded the same employment rights as men.<sup>445</sup> Most migrant domestic workers in Oman are women, and they are completely unprotected because the labor law does not pertain to them. By discriminating against domestic workers in its legislation, the Government of Oman is also discriminating against women in the workplace. Until Oman adopts a labor law or amends their current labor law to protect the rights of female domestic workers, it cannot fulfill its obligations under CEDAW.

Oman has not ratified the UN International Covenant on Civil and Political Rights (ICCPR), which among other things, protects migrant workers’ rights to mobility. These rights are also protected in the Universal Declaration of Human Rights.<sup>446</sup> Article 13 of the ICCPR protects the rights of migrant workers to return to their home countries.<sup>447</sup> Migrant workers in Oman face many barriers to returning home and exercising their right to mobility, including passport revocation and debt bondage. Oman must ratify the ICCPR in order to protect the internationally sanctioned rights of its migrant workers.

The Omani government has also not ratified the UN International Convention on the Protection and the Rights of All Migrant Workers and Members of their Families. The Convention asks the international community “to respect and to ensure to all migrant workers and members of their families within their territory or subject to their jurisdiction the rights provided for in the present Convention without distinction of any kind.”<sup>448</sup> These rights include: the right to leave their host countries to return to their home countries, protection under law, freedom from forced

441 United Nations, *Protocol to Prevent, Suppress and Punish Trafficking in Persons*

442 Ibid.

443 U.S. Department of State, “Trafficking in Persons Report: Oman,” (2016)

444 Ibid.

445 UN Committee on the Elimination of Discrimination Against Women (CEDAW), *CEDAW General Recommendations*

446 United Nations, *Universal Declaration of Human Rights* (1948)

447 UN General Assembly, *International Covenant on Civil and Political Rights*

448 UN General Assembly, *International Convention on the Protection of the Rights of All Migrant Workers*

labor, and the right to legal recourse.<sup>449</sup> None of the rights promulgated by the Convention are ones that migrant workers in Oman enjoy. While there may be laws individually condemning the denial of these rights, they are not adequately enforced. The Government of Oman should ratify the Convention in order to augment its existing legal framework and to encourage greater enforcement.

## WORKER BANS

Due to widespread abuse of domestic workers in Oman, Indonesia and Malawi have banned their own citizens from obtaining domestic worker visas to the Gulf country. The Omani government has also placed its own bans on workers from some countries and specific work sectors.

In 2013, Oman placed a temporary worker ban on expatriate workers working as carpenters, metallurgists, blacksmiths, construction workers, and brick kiln workers; presently, this ban is still in place as the government has consistently reinstated it every six months.<sup>450</sup> A temporary visa ban affecting camel breeders, sales marketers, and cleaners, among others occupations, recently came into effect on 1 June 2016.<sup>451</sup> These bans do not apply to companies that the MOM rates “excellent,” international companies, or companies undertaking government projects.<sup>452</sup> The ban on construction workers may especially contribute to the high levels of human trafficking. An official from an Omani construction company has stated, “the [construction] companies are compelled to undertake desperate measures to overcome worker shortage and complete projects on time.”<sup>453</sup>

On 31 January 2016, the Government of Oman also banned domestic workers from Ethiopia, Kenya, Guinea, Cameroon, and Senegal from obtaining work visas.<sup>454</sup> A senior Royal Omani Police (ROP) official, Maj Rashid al Abri has said the reasoning behind the bans is twofold. “Firstly, it is to prevent the spread of diseases from these African countries to Oman,” and secondly, “domestic workers from these countries get involved in certain crimes. We need to stop this practice.”<sup>455</sup> The ROP does arrest and charge some domestic workers with crimes, such as absconding and prostitution. Instead of banning domestic workers from certain countries, the ROP and other officials should work to better identify victims of human trafficking. Like the bans on construction workers, the domestic worker bans can also contribute to higher levels of human trafficking, as the demand is higher. An Omani recruitment agency official in May 2016, has said that in comparison to 2015, “there is roughly a 20 per cent shortage in the availability of housemaids in Oman,” this year.<sup>456</sup> As a result, “many people find dubious ways to bring housemaids to Oman.”<sup>457</sup>

449 UN General Assembly, *International Convention on the Protection of the Rights of All Migrant Workers*

450 “Recruitment agencies can only hire 10 expats in one permit, says new law,” *Gulf Digital News*, <http://www.gdnonline.com/Details/49279/Recruitment-agencies-can-only-hire-10-expats-on-one-permit,-says-new-law> ; Hassan Shaban Al Lawati, “ROP stops visas for domestic workers from five countries,” *Times of Oman*, February 1, 2016, <http://timesofoman.com/article/76615/Oman/Government/ROP-stops-visas-for-domestic-workers-from-five-African-countries>

451 Fahad Al Ghadani, “Extending visa ban in Oman will affect market adversely,” *Times of Oman*, May 30, 2016, <http://timesofoman.com/article/84996/Oman/Government/Extending-visa-ban-in-Oman-will-affect-market-adversely>

452 “Recruitment agencies can only hire 10 expats in one permit, says new law,” *Gulf Digital News*

453 Al Ghadani, “Extending visa ban in Oman will affect market adversely”

454 Al Lawati, “ROP stops visas for domestic workers from five countries”

455 Bhattacharjee, “Oman bans domestic workers from five African countries”

456 Rejimon K, “Oman facing maid crunch as countries tighten screws”

457 Ibid.



## BORDER CONTROL

Oman shares a porous border with the United Arab Emirates that traffickers often use to transport workers between the two countries. The border remains especially porous between Buraimi, Oman and al-Ain, UAE.<sup>458</sup> Some workers, especially domestic workers, who are prohibited from entering either country legally due to worker bans arrive in the one where they are not banned; they will then be smuggled across international borders in order to get around the worker ban.<sup>459</sup> Other male workers from countries such as India, Bangladesh, Sri Lanka, and some East Asian countries, travel to Oman en route to the UAE as it is easier to move between Oman and the UAE than to travel directly to the UAE.<sup>460</sup> The Omani authorities have not taken any concrete steps to close or more closely monitor the country's border with the UAE. Until border travel is more effectively regulated, Oman will remain a transit country for human trafficking.

## LACK OF VICTIM IDENTIFICATION AND SERVICES

Oman does not have a formal system in place for identifying victims of human trafficking. Only public prosecutors can refer victims to government shelters and services. This stipulation ensures that many victims go unassisted, as there are no non-governmental shelters or other victim assistance programs in the country; only foreign nationals whose home countries have embassies in Oman are able to access other opportunities for shelter and assistance services.<sup>461</sup> Victims from countries without a diplomatic presence, such as Ethiopia or Vietnam, are even more vulnerable to abuse and forced labor.<sup>462</sup>

Those victims who are identified and subsequently housed by the government are very few in number. The Omani government only operates one shelter for female and child victims; this can hold up to 50 people and was largely underused during 2015.<sup>463</sup> There is no shelter for male victims of human trafficking in the country.<sup>464</sup>

Victims of human trafficking are largely forced to stay in their abusive environments if they wish to stay in the country. The government mandates that migrant workers need to adhere to the terms of their employment contract; if they do not, they must leave the country for at least two years before they can return to work for another employer.<sup>465</sup> A migrant worker cannot change employers without his or her current employer's permission, even if he or she completed his or her contract.<sup>466</sup> This policy traps victims in their abusive situations. Additionally, it discourages victims from reporting their employer's abuses, as they cannot easily change employers even in these circumstances and they might suffer reprisal for seeking legal recourse. It is extremely difficult for victims to prove that their rights were violated, a necessary step in order to receive government services, so it ultimately appears more practical for many migrant workers to endure the abuse.

458 U.S. Department of State, "Trafficking in Persons Report: Oman," (2015)

459 U.S. Department of State, "Trafficking in Persons Report: Oman," (2016)

460 Ibid.

461 U.S. Department of State, "Trafficking in Persons Report: Oman," (2016)

462 Ibid.

463 Ibid.

464 Ibid.

465 "I Was Sold: Abuse and Exploitation of Migrant Domestic Workers," Human Rights Watch

466 Ibid.

## Conclusion

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In order to successfully combat human trafficking and forced labor within its borders, the Government of Oman needs to reform parts of its legislation, repeal the repressive and abusive *kafala* system, enforce the laws it already has in place, and concretely implement the international agreements it has signed with source countries.

Omani officials need to concentrate on enforcing Royal Decree No. 35/2008 and the MOM's Circular No. 2/2006 in order to positively affect the lives of migrant workers, as well as add specific legislation to protect the rights of domestic workers. The Omani government should also ratify international agreements to demonstrate its willingness to improve the situation for migrant workers, such as the ICCPR and the UN International Convention on the Protection and the Rights of All Migrant Workers and Members of their Families. Lastly, the government should take its obligations under CEDAW and UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children more seriously by implementing more effective measures to protect female workers and combat traffickers.

Some of the framework necessary for the eradication of human trafficking is already present in Oman. However, officials need to add to this existing legislation and provide more effective enforcement if they are to see lower rates of human trafficking and improved migrant labor conditions in Oman.

## Conclusion

Despite having extremely high proportions of foreign migrant workers, all GCC countries have yet to adequately enforce national and international laws directed towards protecting their human rights. Strict enforcement of current legislation coupled with reforming the *kafala* system and anti-trafficking practices are needed in order to create a positive impact on eradicating the prevalence of human trafficking in the Gulf. GCC governments also need to address destructive and exploitative cultural norms, which contribute to human trafficking. These include: passport revocation; the withholding of wages; using physical abuse as a motivator; and, not allowing migrant workers to exercise freedom of mobility.

The protections migrant workers have under the labor laws of the different GCC countries varies drastically. In all Gulf countries, domestic workers are fully or partially excluded under the main labor laws. This means that the laws do not protect them, nor are they afforded the same rights as other migrant workers. In some countries, such as Kuwait and Oman, domestic workers do possess some additional protections in the forms of a domestic worker-specific labor law and mandated standardized employment contracts, respectively. Until all domestic workers obtain the same legal rights as their male counterparts, GCC countries will continue to contribute to their exploitation, as will the prevalence of sex trafficking that occurs when they attempt to escape their abusive employers.

All GCC countries have comprehensive anti-trafficking laws. However, conviction rates in all six countries remain low, especially when compared to the high numbers of migrant workers in each one. While these laws exist, they are rarely tied to the various international agreements each country has ratified or signed. For example, hardly any stipulations found in MoUs with source countries make their way into domestic anti-trafficking legislation. This widespread practice renders most of these goodwill agreements ineffective and solely superficial.

All of the Gulf countries have acceded to the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children as well as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). However, as detailed in this report, the governments of the GCC have yet to adequately uphold the stipulations and protections outlined within them.

No GCC country has ratified the International Convention on the Protection and the Rights of All Migrant Workers and Members of Their Families, and only Bahrain and Kuwait have acceded to the International Covenant on Civil and Political Rights (ICCPR). Without full accession to both of these treaties and domestic enforcement of their stipulations, no GCC country will be able to fully protect migrant workers' rights nor successfully curb human trafficking.

In addition to reforming domestic law in to bring it in line with international norms, the Governments of the GCC should also reform their domestic institutions in order to better help victims of human trafficking. Every Gulf country struggles to properly identify, and subsequently aid, victims of human trafficking, forced labor, or sex trafficking. Governments should train their police and security forces to better identify signs of human trafficking, such as prostitution and absconding, so that victims do not become arrested or jailed for them.

The governments of all six GCC countries have much to do in order to curb human trafficking. However, if they commit to reforming domestic legislation, enforcing their laws, and repealing the exploitative *kafala* system, they will be able to implement real, positive change in the lives of the millions of migrant workers within the region.

# Recommendations

In order for the situation of migrant workers to improve and human trafficking to be eradicated, ADHRB recommends the following for the United States, the European Union, the United Nations, source countries, and the six members of the GCC.

## To the Governments of the GCC:

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1. With the goal of ultimately abolishing the *kafala* system of sponsorship-based employment, and establishing a new, fair, and justiciable system for migrant workers:
  - a. Create and enforce a legal framework by which migrant workers have the ability to leave employers and seek alternative employment at will;
  - b. Coordinate with governments of source countries to abolish exploitative and predatory recruitment agencies and systems;
  - c. Develop and implement legislation that criminalizes employers' physical abuse of migrant workers and withholding of wages;
  - d. Establish expedient procedures for migrant complaints;
2. Introduce and enforce labor laws specifically for migrant workers, inclusive of domestic workers, that comply with international standards of fair labor practice and safe working conditions:
  - a. Ensure that workers have access to adequate food and drinking water;
  - b. Establish and enforce inspections of migrant's living accommodations to ensure decent and sanitary living environments, including domestic workers' accommodations in private homes;
  - c. Ensure that physical laborers have access to necessary safety equipment;
  - d. Generate and implement legislation providing maximum working hours and shifts, and ensure that employers will provide overtime pay for additional hours;
  - e. Coordinate with relevant police and security forces to ensure these labor laws are properly enforced;
3. Effectively eliminate all child labor, forced labor, forced prostitution, and human trafficking practices in the region:
  - a. Coordinate with source countries to better identify, target, and dismantle human trafficking organizations;
  - b. Create and implement legislation criminalizing human trafficking, and aggressively pursue and prosecute human and sex traffickers;
  - c. Develop and enforce systems to identify and protect victims of forced sex trafficking, and specifically decriminalize the act of forced prostitution; and,
  - d. Provide sexually abused persons/survivors of sexual abuse with dignity, and provide legal assistance to punish perpetrators.

## **To Migrant Labor Source Countries:**

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1. Work in partnership with the Governments of the UAE, Bahrain, Qatar, Oman, Kuwait, and Saudi Arabia to ensure that the rights of migrant workers are protected:
  - a. Coordinate with local governments and law enforcement to abolish exploitative and predatory recruitment agencies and systems;
  - b. Increase the scope of support provided by diplomatic missions in the GCC to migrant workers facing exploitation or abuse;
  - c. Negotiate and enforce bilateral agreements with all members of the GCC, establishing appropriate standards of treatment for migrant workers;
2. Ensure transparency and accountability by regularly and publicly reporting data concerning all migrant workers and trafficked persons; and
3. Empower citizens via training regarding their future employment, their rights, and how to seek help once in the Gulf.

## **To the United Nations:**

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1. Encourage the Governments of the GCC to allow the Special Rapporteurs on Trafficking in Persons and the Human Rights of Migrants to visit and evaluate according to their mandates.
2. Urge those GCC governments that have not yet done so to accede to the UN International Covenant on Civil and Political Rights and the UN International Convention in the Protection and the Rights of All Migrant Workers and Members of their Families;
3. Ensure that GCC countries adhere to the stipulations contained in the treaties to which they have adhered, including the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children and the UN Convention on the Elimination of All Forms of Discrimination Against Women; and,
4. Request that the UAE, Bahrain, Qatar, Oman, Kuwait, and Saudi Arabia ratify and implement the ILO Conventions for migrant workers, forced labor, etc.

## **To the Governments of the United States and the European Union:**

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1. Continue to pressure the Governments of the UAE, Bahrain, Qatar, Oman, Kuwait, and Saudi Arabia to adopt and implement international labor standards and human trafficking laws;
  - a. Through the context of the US free trade agreement with Bahrain, ensure Bahraini labor law complies with applicable legal protections regarding migrant workers;
  - b. Ensure and support free labor practices for all labor contracted through the U.S. and EU governments and assets in Gulf countries;
2. Ensure that the content of the US State Department's annual Trafficking in Persons reports is not influenced by the current political climate, and that the rankings are also unaffected; and,
3. Raise awareness of the current situation for migrant workers in Qatar, especially as it relates to the upcoming 2022 World Cup.



Americans for Democracy  
& Human Rights in Bahrain