



Americans for Democracy and Human Rights in Bahrain



Alsalam Foundation

Contribution to the 71st session of the Committee of the Economic, Social, and Cultural Rights

Bahrain: Consistent Pattern of Violations of ICESCR

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1. Introduction

Americans for Democracy & Human Rights in Bahrain (ADHRB) is a non-profit organization fostering awareness of and support for democracy and human rights in Bahrain and the Middle East. ADHRB holds ECOSOC consultative status with the United Nations (UN). Alsalam Foundation is a non-profit organization works toward tolerance and youth education creating programs and working on research to prevent extremism and human rights violations. Alsalam Foundation holds ECOSOC consultative status with the United Nation (UN) since 2013.

In this document, we review the Government of Bahrain's compliance with its international human rights obligations under the International Covenant on Economic, Social and Cultural Rights. This report attempts to address some of the topics as follows:

2. Labor and Trade Union

2.1. Labor rights

Although the Kingdom of Bahrain acceded to the International Covenant on Economic, Social and Cultural Rights in 2007, it has failed to fulfill its international obligations under the Covenant.

Article 1(2) – Right of all peoples to freely dispose of their natural wealth and resources

Article 1(2) of the ICESCR provides that “[a]ll peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence”¹. Article 1(2) calls upon states to allow all peoples, regardless of their nationality or race to enjoy their wealth and resources. The “all peoples” of this article should be interpreted with article 2(2) of the ICESCR, which states that “the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”².

¹ UN International Covenant on Economic, Social and Cultural Rights, December 1966. Article 1 (2)

² UN International Covenant on Economic, Social and Cultural Rights, December 1966. Article 2 (2)

Although Bahrain has officially adopted several laws³ that prohibit wage withholding and this has been recognized as a crime under the Bahraini penal code⁴, the reality is that this practice still persists. Employers are required to provide workers with receipts showing they have been paid in full, but workers have reported that employers often beat and threaten them into signing these receipts when they haven't been paid⁵. As a result, workers often lack the necessary proof to show they have not been paid in accordance with the stipulated terms of their contract⁶.

The *kafala system*, which requires workers to be sponsored by employers in order to live and work in Bahrain, compounds this vulnerability, as the employee's visa is completely dependent on the sponsoring employer⁷. This position of complete dependency is often exploited by employers, who use wage withholding as a threat to ensure that the workers continue working long hours undertaking strenuous tasks⁸.

Article 7 – Recognizes the right of everyone to enjoy just and favorable working conditions

Article 7 of the ICESCR provides that “States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favorable conditions of work which ensure, in particular:

a) Remuneration which provides all workers, as a minimum, with:

- i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;
- ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;

³ Labor Law for the Private Sector: Law No. 36 of 2012 (Arts. 11(2) 40(b), 40(b)(4), 40(c)). Available at: <http://lmra.bh/portal/files/cms/shared/file/labour%20law%202012.pdf>

⁴ Bahrain Penal Code and its Amendments, No. 15 of 1976, art. 302, as amended by Legislative decree No. 6 of 1993, art. 2.

⁵ Human Rights Watch. (2012). *Bahrain: Abuse of Migrant Workers Despite Reforms*. [online] Available at: <https://www.hrw.org/news/2012/09/30/bahrain-abuse-migrant-workers-despite-reforms>[Accessed 11 Oct. 2021].

⁶ Ibid. Note 5.

⁷ European Centre for Democracy and Human Rights. “Bahrain – Migrant workers rights”. June 2019

⁸ Americans for Democracy and Human Rights in Bahrain (ADHRB)(2016) “Living as Commodities. Human and Sex Trafficking in the GCC

- (b) Safe and healthy working conditions;
- (c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;
- (d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays”⁹

Although the Kingdom of Bahrain has adopted several laws, such as the Labor Law for the Private Sector Law No. 36 (2012) and the Ministry of Labor Decree No.8 of 2005 with Respect to a Model Form of Employment Contract for Domestic Help and Similar Persons. Both are pieces of legislation to ensure that everyone enjoys just and favorable working conditions, however, in practice, these laws are not fully implemented and their provisions seldom respected.

Article 7(a)(ii) states that all workers should be granted a remuneration sufficient to allow them to have “a decent living for themselves and their families”¹⁰. However, since there is no national private-sector minimum wage¹¹ and the wages migrant laborers are paid typically are much lower than those paid to Bahraini citizens¹², migrant workers (and migrant domestic workers) are often not paid a realistic and sustainable living wage¹³.

Furthermore, for migrant workers whose salaries are withheld, the impact can be vast. Many migrant workers are in extreme debt and as a result, they can fall behind on arrears that they owe and cannot continue sending money back home, which, in turn, greatly endangers their families’ livelihoods and living standards in their home nation¹⁴.

Article 7(b) recognizes the right of everyone to enjoy “[s]afe and healthy working conditions”¹⁵. Even though this right is formally recognized under Title XV of Law No. 36 of

⁹ UN International Covenant on Economic, Social and Cultural Rights, December 1966. Article 7

¹⁰ UN International Covenant on Economic, Social and Cultural Rights, December 1966. Article 7 (a)(ii)

¹¹ US Department of State. 2019 Country Reports on Human Rights Practices: Bahrain.

¹² Americans for Democracy and Human Rights in Bahrain (ADHRB) (2014) “Slaving Away. Migrant Labor Exploitation and Human Trafficking in the Gulf” p. 12

¹³ Ibid.

¹⁴ Anichkova, D. (2012). *Central Asia’s Migrant Headache*. [online] Carnegie Endowment for International Peace. Available at: <https://carnegieendowment.org/2012/06/21/central-asia-s-migrant-headache-pub-48574> [Accessed 11 Oct. 2021].

¹⁵ UN International Covenant on Economic, Social and Cultural Rights, December 1966. Article 7 (b)

2012¹⁶ and under Article 4 of Law No.19/2006 Regulating the Labor Market¹⁷, migrant workers often face significant abuse at the hands of their employers including unsafe working conditions, physical, sexual and mental abuse, and forced labor.¹⁸

In many cases, employers do not provide migrants with adequate protective gear or special clothing¹⁹. Accidents on worksites are common, however, despite Articles 87 and 92 of the Bahraini Labor Law, only the most severely injured are usually treated and workers rarely receive compensation²⁰. This, combined with the unsanitary working conditions, makes for unsafe and unhealthy work environments. Physical and mental abuse is so widespread that suicide rates among migrant workers in Bahrain are alarmingly high^{21,22}. The isolating and private nature of domestic work means that sexual abuse is particularly high among migrant domestic workers. In addition, as they typically reside under the same roof where they work, employers subject them to longer working hours²³.

Article 7(d) states that everyone should enjoy “[r]est, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays”²⁴. Title VII of the Law No.36 of 2012²⁵ outlines the mandatory working hours and rest periods that workers should enjoy nationwide. Nevertheless, these provisions are seldom respected as migrant workers are often forced to work for longer hours and without enough rest²⁶. In addition to this, employers might not always pay their workers for any overtime hours²⁷. The situation for domestic workers is particularly dire. Unlike laborers, migrant domestic workers are excluded from the important

¹⁶ Law No 36/2012 Issuing the Labor law for the Private sector <https://gulfmigration.org/bahrain-law-no-36-of-2012-issuing-the-labour-law-for-the-private-sector/>

¹⁷ Law No.19/2006 Regulating the Labour Market. Available at:

<https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/81807/89017/F986257018/BHR81807.pdf>

¹⁸ Human Rights Watch. (2012). *Bahrain: Abuse of Migrant Workers Despite Reforms*. [online] Available at: <https://www.hrw.org/news/2012/09/30/bahrain-abuse-migrant-workers-despite-reforms> [Accessed 11 Oct. 2021].

¹⁹ Ibid.

²⁰ Ibid.

²¹ Ibid

²² US Department of State. “2014 Trafficking in Persons Report Bahrain”.

²³ Human Rights Watch. (2012). *Bahrain: Abuse of Migrant Workers Despite Reforms*. [online] Available at: <https://www.hrw.org/news/2012/09/30/bahrain-abuse-migrant-workers-despite-reforms> [Accessed 11 Oct. 2021].

²⁴ UN International Covenant on Economic, Social and Cultural Rights, December 1966. Article 7 (d)

²⁵ Law No 36/2012 Issuing the Labor law for the Private sector <https://gulfmigration.org/bahrain-law-no-36-of-2012-issuing-the-labour-law-for-the-private-sector/>

²⁶ Human Rights Watch. (2012). *Bahrain: Abuse of Migrant Workers Despite Reforms*. [online] Available at: <https://www.hrw.org/news/2012/09/30/bahrain-abuse-migrant-workers-despite-reforms> [Accessed 11 Oct. 2021].

²⁷ Americans for Democracy and Human Rights in Bahrain (ADHRB)(2016) “Living as Commodities. Human and Sex Trafficking in the GCC

protections granted by Title VII of the BLL²⁸. Domestic workers are forced to work for long hours with few, if any, breaks. A past International Labor Organization (ILO) study found that the average workweek for a domestic migrant worker in Bahrain consisted of 108 hours, having to work between 15 to 17 hours a day, seven days a week²⁹.

Recommendations:

1. Extend to domestic workers all legal and regulatory protections that apply to other workers, including provisions related to periods of daily and weekly rest, overtime pay, employment mobility, LMRA jurisdiction, and wage discrimination.
2. Introduce additional protections to address the specific nature of domestic work, such as working hours that allow for rest periods during the workday, the need for safe and private living accommodation, and a worker's dependence on their employer for adequate food.
3. Ensure a timely, full investigation and prosecution of employers and recruiters who violate provisions of Bahrain's criminal laws and impose meaningful penalties on employers found to have violated the law.
4. Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Ratify relevant International Labor Organization (ILO) Conventions, including Convention No. 97 (1949) on Migration for Employment, and No. 143 (1975) concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers.
5. Take stronger measures to identify, investigate, and punish recruitment agencies and informal labor brokers who charge workers illegal fees or engage in other illegal and unethical practices.
6. Ratify relevant international human rights treaties and take steps to fulfill existing obligations.

²⁸ International Trade Union Confederation (ITUC). "Facilitating Exploitation: A review of Labour Laws for Migrant Domestic Workers in Gulf Cooperation Council Countries". 2017.

²⁹ BCHR. "The Situation of Women Migrant Domestic Workers in Bahrain". 2008. Available at: <https://16dayscampaign.org/wp-content/uploads/2018/11/Situation-of-Women-Migrant-Domestic-Workers-in-Bahrain-Bahrain-Centre-for-Human-rIGHTS-2008.pdf>

2.2. Trade Unions

Regarding article 8 of the International Covenant on Economic, Social and Cultural Rights; the States Parties undertake to guarantee the right of everyone to form and join trade unions in order to promote and protect economic and social interests. In addition, the Covenant recognizes the right of trade unions to form national federations or confederations and the right of such federations or confederations to form or join international trade union organizations.

In Bahrain, only one national trade union center is recognized, for the other national trade unions, rights are limited. According to the Indian Migration Report of 2014, migrant workers are allowed to join trade unions, but they do not have the right to vote for policy in these Unions. The 2006 report of the ICFTU highlights that

The Workers' Trade Union Law of September 2002 introduced the right to join trade unions in Bahrain... private and public sector workers can join trade unions, including non-citizens, who make up the majority of Bahrain's workforce³⁰.

Bahrain recognizes the right of the migrant population to join a trade union. However, as the report also states

Although in theory they [foreign workers] are allowed to join unions and run for union office, they prefer to stay out of union activities since they have no protection against dismissal.³¹

It is also important to highlight that despite the promises made by the Bahraini government to end the kafala system, the system remains in effect.

Activist Karim Rahdi of the Secretariat of the General Federation of Bahrain Trade Unions in an interview with Jadaliyya, an online newspaper, spoke about the problems faced by the migrant population in labor relations, including union membership. He emphasized that these problems are an integral part of the culture in Bahrain and their attitudes towards migrants, something that will require a great effort to change³². In his words, citizens of the Gulf countries view migrant workers as second-class citizens, and they accuse them of causing the collapse of the

³⁰ "Trade Union Rights in Law" (2006), International Confederation of Free Trade Unions (ICFTU), online.

³¹ Ibid.

³² "Migrant Workers and Labor Unions in the Gulf: An Interview with Karim Radhi", online newspaper Jadaliyya, 23rd June 2014, available in <https://www.jadaliyya.com/Details/30862>

labor system and public services by overcrowding the job market.³³ However, the economy of Bahrain, like the economies of the rest of the Gulf countries, is primarily based on migrant workers.

There are laws restricting the establishment of trade unions even for Bahraini citizens. The King of Bahrain established the trade union law in Edict 33 of 2002 as a product of legislative and political reform. There is an extensive list of workers who are limited in their right to join trade unions, for example, those workers who are covered by Public Administration Regulations, i.e., working in the public sector, are not allowed to create unions. They may only join existing organizations that bring together workers who have occupations or professions similar to their own³⁴. Agricultural workers are also forbidden to join or form a trade union and domestic workers and "persons regarded as such" are excluded from labor legislation altogether and therefore do not have the right to join and form a trade union, even though they make up about fifteen percent of the workforce³⁵. Also, temporary workers who provide auxiliary services to an employer for a period of less than one year do not have the right to join or form a trade union³⁶.

Recommendations:

1. Unions should consider migrant workers as the main target of their activities given that 75% of Bahraini workers are foreigners. These organizations should address the issues that concern this group in relation to national legislation, especially regarding domestic and temporary workers, since both groups are those whose labor protection has been most restricted.
2. Exert pressure on the Bahraini government to work together with the governments of the countries of origin of this migrant population in order to protect them.

3. Health

Although the right to attain physical and mental health is assumed in Bahrain. Bahrain has 23 healthcare centers distributed across the five regions of the country, and treatment is free for all

³³ Ibid

³⁴ Trade Union Law, Article 10; Circular No. 1 of February 10, 2003, on the right of public administration workers to join workers' unions

³⁵ Private Sector Labor Act 2012, Art. 2

³⁶ Survey of violations of Trade Union Rights, from the ITUC Global Rights Index. Last updated: 12 August 2014. (Private Sector Labor Act of 2012, Art. 2)

Bahrainis.³⁷ However, it is common knowledge that this does not apply to members of the population in prison, including political prisoners and prisoners of conscience.

Inmates have restricted access to medical attention and there is a lack of qualified staff in the prisons. For example, in Jau prison, the largest in Bahrain, there are only two physicians on call (one per shift), and no more than two or three medical staff on duty at any given time. The doctors at the prison are general practitioners; there are no specialist staff, and diagnostic equipment such as X-ray machines are lacking.³⁸ Prisoners are constantly denied adequate health care, this can be as simple as being denied access to dietary accommodations due to medical conditions making it difficult to receive special dietary requirements.³⁹

Amnesty International's Gulf researcher, Devin Kenney, reiterates this by stating that:

*"The reports we heard from prisoners' relatives paint a stark picture of medical negligence and intentional ill-treatment in Bahrain's prisons. Although medical treatment is provided, it is far from adequate, and prisoners are frequently subjected to disruptions, delays and needless, petty cruelty. In one appalling case, a man with stage-three cancer was sent back to prison just days after a biopsy - the same individual recently had to wait for more than a month for his medication. Another man has lost at least seven teeth since being detained, due to denial of dental treatment."*⁴⁰

Living conditions in Bahraini prisons do not satisfy the right for everyone to have adequate living conditions. The prisons are overcrowded and there is a disregard for basic human needs. In 2015, a study showed that Jau prison is 34% over capacity, with buildings with a capacity for 1201 people housing 1608 inmates⁴¹. An example of neglect of basic needs can be seen when

³⁷ Moh.gov.bh. Available at: <<https://www.moh.gov.bh/HealthInstitution/HealthCenters>> [Accessed 11 Oct. 2021].

³⁸ Amnesty.org. 2018. *Continuing Lack Of Adequate Medical Care In Bahrain's Prisons*. [online] Available at: <<https://www.amnesty.org/en/latest/campaigns/2018/09/continuing-lack-of-adequate-medical-care-in-bahrain-prisons/>>

³⁹ United States Department of State. 2018. *Bahrain - United States Department Of State*. [online] Available at: <<https://www.state.gov/reports/2018-country-reports-on-human-rights-practices/bahrain/>>

⁴⁰ Amnesty.org.uk. 2018. *'Prisoners Are Frequently Subjected To Disruptions, Delays And Needless, Petty Cruelty'*. [online] Available at: <<https://www.amnesty.org.uk/press-releases/bahrain-prisoners-denied-medical-care-despite-serious-illnesses-new-investigation>>

⁴¹ Americans for Democracy and Human Rights in Bahrain, Bahrain Institute for Rights and Democracy and Bahrain Center for Human Rights, 2015. *INSIDE JAU: Government Brutality In Bahrain's Central Prison*. [online] Available at: <https://www.adhrb.org/wp-content/uploads/2015/06/Inside-Jau-Report_Final.pdf>

government officials have stated that there is available potable water for all inmates, yet evidence shows a lack of drinking and washing water, shower facilities, soap and toilet facilities.⁴² The conditions in these prisons are not only unsanitary but allow for the propagation of diseases. In both Dry Dock and Jau Prison in December 2019 and January 2020 there was an outbreak of the Scabies epidemic due to the lack of sanitary conditions and appropriate measures put in place.⁴³ Furthermore, the increase in COVID-19 cases is worrying as prisoners are put in conditions where they are at a higher risk of contracting the disease, yet officials show no signs of putting necessary measures in place in order to mitigate the spread of the virus.

Prisoners are not the only ones living in miserable conditions that are unhygienic and allow for the spread of diseases. Housing provided by agencies for migrant labor workers' is deplorable with overcrowding and a lack of basic facilities. A report issued by Human Rights Watch, detailed extremely cramped and hazardous conditions, with exposed electrical wiring and a lack of air conditioning posing a serious health risk to the workers, particularly considering that the local climate can reach up to 42°C.⁴⁴ There was insufficient hygienic standards with no running water or basic amenities and 20 men sleeping in a room designed to hold ten people⁴⁵.

Migrant workers have an increased risk for adverse health conditions due not only to their living conditions but their working environment. A study in 2011 showed that Asian immigrant workers in the Middle East had an increased risk of having mental illness issues due to their living conditions⁴⁶. On the physical side, in Bahrain specifically, evidence showed proof that immigrant workers had a higher exposure to accidents compared to national workers, with foreign construction workers being the most at-risk demographic in this regard.⁴⁷ Foreign domestic

⁴² United States Department of State. 2018. *Bahrain - United States Department Of State*. [online] Available at: <<https://www.state.gov/reports/2018-country-reports-on-human-rights-practices/bahrain/>>

⁴³ Policemc.gov.bh. 2019. الإصلاح والتأهيل. [online] Available at: <<https://www.policemc.gov.bh/news/ministry/99333>>

⁴⁴ Human Rights Watch. 2012. *For A Better Life*. [online] Available at: <<https://www.hrw.org/report/2012/09/30/better-life/migrant-worker-abuse-bahrain-and-government-reform-agenda>>

⁴⁵ Ibid.

⁴⁶ *Health Science Journal*, 2011. Health Issues among Nepalese migrant workers in the Middle East. [online] 5(3). Available at: <<http://eprints.bournemouth.ac.uk/18279/1/532.pdf>>

⁴⁷ *Health Science Journal*, 2011. Health Issues among Nepalese migrant workers in the Middle East. [online] 5(3). Available at: <<http://eprints.bournemouth.ac.uk/18279/1/532.pdf>>

workers are more exposed to sexual, physical and verbal assault with many being sexually abused by their sponsors, their sponsor's sons, visiting men or other workers⁴⁸ .

This has been exacerbated by the COVID-19 pandemic, as mentioned by the head of Filipino advocacy group Migrante International, Joana Concepcion, who stated that:

“Domestic workers have been placed in further danger as abusive employers use lockdowns to stop them from leaving the homes they work in... there’s been very limited responses in trying to assist in rescuing migrant workers who are victims of rape and physical abuse⁴⁹.”

Evidence shows that both the health and living conditions of migrant workers as well as prisoners do not comply with Article 11 or 12 of the ICESR. These sections of Bahraini society are excluded from basic human rights and their standards of living and health are below adequate. This needs to be addressed especially given the circumstances of COVID-19 in the country.

Recommendations

1. All those in state custody should have access to adequate healthcare, as they are entitled to under international law.
2. Prisoners who have underlying health conditions and the elderly should be considered for early release.
3. The authorities should ensure that anyone who remains in custody has access to disease prevention and treatment services, including always ensuring physical distancing of prisoners, including in housing, eating areas and social areas.
4. Prison authorities should screen all guards to prevent the introduction of COVID-19, and any similarly contagious infection, into prisons and provide sanitary supplies and appropriate information on hygiene.

⁴⁸ International Labor Organization, 2004. *GENDER AND MIGRATION IN ARAB STATES: THE CASE OF DOMESTIC WORKERS*. [online] Beirut: Regional Office for Arab States. Available at: <https://www.arabtradeunion.org/upload/GENDER%20AND%20MIGRATION%20IN%20ARAB%20STATES%200%20THE%20CASE%20OF%20DOMESTIC%20WORKERS_0.pdf#page=8>

⁴⁹ Allinson, T. and Sanders, L., 2020. *Coronavirus Deepens Risks For Migrant Workers In The Gulf*. [online] DW.COM. Available at: <<https://www.dw.com/en/coronavirus-deepens-risks-for-migrant-workers-in-the-gulf/a-53297391>>

5. The provision of adequate protective materials to prisoners during any pandemic.
6. Ensure that all common areas accessible to prisoners, prison staff, and visitors are disinfected regularly.
7. Measures should be developed for quarantining or isolating people exposed to or infected with any contagious virus.
8. Political prisoners should be released in order to mitigate risk and reduce exposure to any contagious virus, such as COVID-19.
9. The provision of adequate living and health conditions for migrant workers.
10. The creation of programmes to aid the physical and mental wellbeing for migrant workers.
11. The implementation of effective resources and programmes for domestic workers who are victims of violence, to report their abuses and for perpetrators to be held to account.

4. Discrimination

Article 3 of the Covenant states that members shall “ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant”.

On December 3, 2019, Bahrain submitted its state party’s report to the Economic, Social and Cultural Committee of the United Nations. The country claimed to have made important progress towards the implementation of the Covenant.

Concerning article 3, the Government pointed out that article 5 of the Bahraini Constitution guarantees equal access for both men and women to the political, social, cultural and economic domains of society. Furthermore, it highlighted the creation of the Women Council in 2001, the ratification of the Convention on the Elimination of All Forms of Discrimination against Women and Article 72 of the Bahraini Civil Code as examples of legislation to curb gender-based discrimination in the country.

Nevertheless, these initiatives and regulations only mention Bahraini women, therefore failing to address the situation of female migrant workers. The majority of female migrant workers

find a job as domestic laborers. In fact, migrant domestic workers are predominantly women, and they make up 42.2 percent of the entire female workforce in Bahrain.⁵⁰ Many of these women travel to Bahrain believing they will work as childcare assistants, secretaries, or teachers. However, once they arrive in the country, they realize that they have been placed as domestic workers in private households. These workers find themselves in a particularly vulnerable position since there is little authoritative oversight in the houses where they live and work.

Employers usually confiscate their passports upon arrival at work. This means that women migrant workers cannot exercise their right to mobility. With limited opportunities to leave the house, they are completely dependent on their employers for food and shelter.⁵¹ In a study conducted by the International Labor Organization, most interviewees had private bedrooms while others slept with the children or a female adult, lived with other female workers or even slept in the kitchen.⁵² They are often forced to work long hours without leave⁵³ and are often restricted to a small space in the house⁵⁴. Another ILO study concluded the average workweek for a domestic worker in Bahrain consisted of 108 hours, averaging fifteen to seventeen hours per day.⁵⁵ Their legal status is tied to their employers due to the sponsorship system that regulates their arrival and stay in the country. It is for this reason that they can be criminally prosecuted if they try to escape from their employers. Even if they succeed, they risk being trafficked and forced into prostitution.

The Bahraini Government regulates the rights and conditions of the workforce through the Labor Law for the private sector no. 36 of 2012. However, this law does not make any distinctions between Bahraini and foreign workers. Nevertheless, domestic workers are partially excluded under article 2(b) of the law:

⁵⁰ International Trade Union Confederation, *Facilitating Exploitation: A review of Labor Laws for Migrant Domestic Workers in Gulf Cooperation Council Countries*, (Brussels: ITUC, November 2014), 32.

⁵¹ Heather Murray. "Hope for Reform Springs Eternal: How the Sponsorship System, Domestic Laws and Traditional Customs Fail to Protect Migrant Domestic Workers in GCC Countries." *Cornell International Law Journal*, 2012: 462-58.

⁵² Sabika al-Najjar, "Women Migrant Domestic Workers in Bahrain," ILO Report: *Gender & Migration in Arab States, The Case of Domestic Workers*. June 2004. pp. 24-40.

⁵³ Gloria Morento-Fontes Chammartin. "Domestic Workers: Little Protection for the Underpaid." Migration Policy Institute. April 2005. <http://www.migrationpolicy.org/article/domestic-workers-little-protection-underpaid>.

⁵⁴ Sigma Huda. "Report of the Special Rapporteur on trafficking in persons, especially women and children: Mission to Bahrain, Oman, and Qatar." United Nations Human Rights Council, 2006.

⁵⁵ 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/bchrbahrain42.pdf>

Except for the provisions specified in Article 6, 19, 20, 21, 37, 38, 40, 48, 49, 58, 116, 183 and 185 and in Titles XII and XIII of this Law, the provisions of this law shall not be applicable to:

1. Domestic servants and persons regarded as such, including agricultural workers, security house-guards, nannies, drivers and cooks performing their works for the employer or his family members;

Given that the majority of domestic workers are women, their partial exclusion from the Labor Law indicates the existence of gender-based discrimination. Women migrant workers are not treated equally to male ones. Therefore, Bahrain violates article 3 of the Covenant. The Government should ensure the regulation fully protects all workers, especially those in vulnerable conditions such as domestic workers.

Recommendations:

1. Include domestic workers in article 2 of the Labor Law for the private sector no. 36 of 2012.
2. Fully implement the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children.
3. Sign and ratify the UN International Convention on the Protection and the Rights of All Migrant Workers and Members of their Families.
4. Fulfill its obligations under the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).
5. Improve the recognition of victims of human trafficking. Modify Law No. 1 of 2008 to increase its efficiency.
6. Fully enforce the ministerial order that states that withholding a migrant worker's passport is illegal.

5. Conclusion

It is concerning that the Government of Bahrain has failed to effectively implement their commitments under the International Covenant on Economic, Social and Cultural Rights given

that it ratified the covenant over 14 years ago. As mentioned above, there is evidence that Bahrain has violated a series of articles under this covenant. It is important that Bahrain implements the recommendations above to fully commit to the covenant as well as to reform the human rights situation within the country.