



Bahrain – Migrant workers' rights, June 2019

In the approximately [1.6 million](#) residents of Bahrain, more than [600,857](#) are migrant workers who make up around 54,7% percent of the country's workforce—most [working](#) in unskilled or low-skilled jobs, in industries such as construction, retail and wholesale and domestic work. About [99,500](#) of them are domestic workers (including 75,305 women).

Abuses against migrant workers

As in most Gulf countries, **employment of migrant workers** in Bahrain have long been regulated by **the traditional *Kafala* sponsorship system** under which migrant workers are tied with in-country sponsors, whom they need consent to obtain either a visa, an exit permit or to move to another job – a system which largely [remains](#) a source of exploitation. Under the *Kafala* system, migrant workers in Bahrain have been [subjected to](#) excessive workhours, withhold of passports and salaries, abusive recruitment fees by recruitment agencies or [denied](#) salaries for month. Their average wage [is estimated](#) at BHD 196 a month while the government [defines](#) "low pay" as less than BHD 200. Some migrant workers also report physical abuses and most of them suffer discrimination within the wider Bahraini society. Abuses to migrant workers rights' to adequate housing [remain rampant](#). **Domestic workers are, in particular, vulnerable to exploitation.** Many are not allowed to communicate with their relatives nor to leave their house. They are often [denied](#) their freedom to worship, including deprived the right to attend religious centers and events, and discriminated against on religious grounds.

Despite recent reforms (see infra), in May 2017, ahead of Bahrain's UPR review, the UN High Commissioner for Human Rights [recalled](#) ILO Committee of Experts' previous call "*to ensure the effective protection of all migrant workers against discrimination*" and **to guarantee their access "to appropriate procedures and remedies"**. Unfortunately, [Bahrain's National Institution for Human Rights \(NIHR\) 2017 Report](#) failed to provide statistics related to migrant rights' abuses, and human trafficking and any analysis of the practical enjoyment of the right to organize, which [remains](#) heavily circumscribed.

Attempts at reforming the *Kafala* system: some positive but limited steps

While Bahrain provides for legal protections to migrant workers that are [absent](#) in several neighboring Gulf states, its legislative apparatus still [fails](#) to offer some of the most basic rights, such as collective bargaining or a minimum wage. The legislative framework also lacks enforcement mechanisms and largely exclude domestic workers. Despite Bahraini government's [claim](#) that it would abolish the *Kafala* system in April 2017, Bahrain has still not ratified the International Convention on the Protection of the Rights of All Migrant Workers and [Bahrain's NIHR 2017 Report declined](#) to provide any explanation of the Kingdom's continued refusal to accede to the Convention.

- In **2006**, the **Labor Market Regulatory Authority (LMRA)** [was mandated](#) to regulate and control work permits for migrant workers. In 2009, the Bahraini government [attempted](#) to reform the *kafala* system by transferring migrant workers' sponsorships from private citizens to the LMRA. It also allowed migrant workers to change employment without their employer's consent after a three month-notice period. However, in practice, workers still [require](#) an individual or a company to be in charge of their legal stay in the country. Besides, in 2011, the government [scaled back](#) this reform by requiring migrant workers to stay with their employer for at least a year until they can change

job without employer consent. Reports also [stress](#) the **inefficiency of the LMRA's control, amid allegations of corruption.**

- Despite [Bahrain's anti-trafficking Law No. 1 of 2008](#), conviction rates [remain](#) low and abuses characteristic of human trafficking, such as withhold of passports or wages, are usually investigated as labour law violations and not trafficking offenses. The [US 2017 Trafficking in Persons Report](#) noted that **Bahrain remains a "destination country for men and women subjected to forced labour and sex trafficking"**, a majority of them coming from Southern Asia to work as domestic workers or in the construction or service industries. It highlights that, despite some efforts, including the launch of a [National Referral System hotline in 2017](#), the Bahraini government did not *"fully meet the minimum, standards for the elimination of trafficking"*, in particular with regards to the few convictions of traffickers and its little efforts to pro-actively protect and identify victims.
- May 2009, the Bahraini government announced that it would repeal the *kafala system*, instituting instead a policy of directly sponsoring migrants through the LMRA. This new system would purportedly grant workers greater freedoms and protections, such as allowing them to unilaterally leave their employers and look for new employment. **That same year, however, Human Rights Watch found that the authorities failed to properly enforce the system and that much of the kafala structure remained intact.**
- In 2012, the **Law No. 36 of 2012 governing labour in the private sector** was adopted. In theory, it provides welcomed rights and protections for workers without any distinction between Bahraini and foreign workers, including sick days, annual leave and increased fines for abusive employers. However, **the vast majority of its provisions [doesn't cover](#) domestic workers** and the Government has **failed to provide clear guidelines for its implementation**. In 2014, CEDAW [expressed](#) concern on the *"limited scope of application of the Law (...) given the many cases of violence, abuse and exploitation experienced by women migrant workers who are mainly employed as domestic workers in the State party"*. While the new law introduced a case management system, lengthy proceedings [makes](#) it impossible for many migrant workers to pursue litigation to a final ruling since they are unable to remain in Bahrain for a lengthy period without a job or income.
- In the 2014, Bahrain's rating report was "Tier 2: Watch List," where it had been for the prior three years. In 2014, Bahrain was given an Administration waiver for a mandatory downgrade to Tier 3 (a requirement if a country is on the Watch List for three consecutive years) on the grounds that it had a written plan to come into compliance with international standards on this issue.
- December 2016, the Alsharq al-Awsat newspaper reported that the Bahraini government would officially abolish the kafala system starting in April 2017, but no progress was yet been made
- In 2017, the State Department's "Trafficking in Persons Report" placed Bahrain in "Tier 2" on the grounds that while it does not meet the minimum standards for the elimination of trafficking in persons, it continues to make efforts to do so. During the year, the government developed a national referral mechanism and disseminated the strategy to relevant government and civil society stakeholders.
- On 7 June 2017, migrant laborers staged a [rally](#) with almost one hundred demonstrators, consisting of mostly Indian and Bangladeshi workers. The gathering is a notable occurrence in a country that enforces extreme restrictions on the right to free assembly. It was held in Sanad and called for the workers to be paid by their construction company for salaries owed up to five months. This demonstration was the second of its kind in several months. The same workers protested in [March 2017](#), but dispersed after police intervened. At the time, the workers had not been paid an entire year's salary. Though Bahraini officials and representatives of the respective embassies settled on

a temporary solution, it did not resolve the underlying problems. Withheld salaries are not a new phenomenon in Bahrain.

- In July 2017, according to the Bahrain current Overview, **migrant workers in Bahrain continue to confront unpaid wages, passport confiscation, unsafe housing and excessive work hours.** Hundred of thousands of them, mostly coming from South Asia, face exploitation and abuse despite government reforms intended to protect them. Authorities have not adequately carried out several other worker protections (e.g. those against withholding wages, charging recruitment fees, and confiscating passports) that make it harder for workers to leave abusive situations.
- In August 2017, the LMRA began [to issue](#) **“flexible labor permit,” or Flexi Permit for migrant workers** *“with canceled work permits ... work permits [that] are expired and were not renewed by their employers.”* This new flexible permit **could, if properly implemented, provide a great leap forward** as it would allow eligible workers to sponsor themselves instead of work under a sponsoring employer. Those who are eligible for the program will [receive](#) a “Blue Card,” which acts as proof of their legal residency and work status in the country. It gives them permission to work for more than one employer as well as enter and exit Bahrain freely. **However, the reform remains partial** as it [doesn't apply](#) to *“regular workers, non-regular workers, household workers, and workers leaving work”*. Only migrant workers in non-specialised jobs can apply for the permit. Besides, are not eligible workers who don't have a passport, have a criminal record or have ever attempted to escape a previous employer, even as a result of abuses. Moreover, the **high cost of the permit** (about BHD1169 every two years) and the additional mandatory healthcare fee [make](#) it inaccessible to many workers.
- Because of the Gulf Crisis, in 2017, an entry visa to the Kingdom of Bahrain has been imposed on citizens and residents of the State of Qatar [Art. 1, Decision No. 167 of 2017 Regarding the Imposition of an Entry Visa to the Kingdom of Bahrain]
- In September 2017, the LMRA [introduced](#) **a new mandatory contract to be used by all recruitment agencies for domestic workers.** It could [represent](#) **serious progress in terms of transparency** as employers are requested to specify, among other things, the nature of the job, the number of rest hours and weekly days off (if any). This gives workers the possibility to be aware of the conditions of the job before accepting or rejecting the contract, even while still in their home countries. **However**, this new regulation fails to comply with ILO's domestic workers standards as the new contract **does not introduce any new mandatory working conditions**, such as a fixed minimum wage, limits on working hours, mandatory rest hours or weekly days off, despite the fact that domestic workers remain particularly likely to suffer those abuses. As mentioned above, existing laws barely offer any legal protection to domestic workers. Besides, doubts also remain as to **the implementation of this new reform**, as it does not confer inspectors with the necessary authority to investigate houses and this new contract doesn't fall under the provisions of Bahrain's Labour Law concerning *Labour Inspection and Judicial Powers*. The first section of the contract specifies the number of daily working and rest hours, and weekly off day off, whether the day off is spent indoors or out, and wages. It also includes details of the employer's residence, information about the employer's family members, and the nature of the job – such as whether it involves cleaning, cooking or caring for elderly people. When the employer has filled out the first section of the contract, the recruitment agency then sends the details to a designated domestic worker or to an affiliated agency abroad, where the worker can then reject or accept the job contract while still in his or her home country. This is a positive step towards ensuring domestic workers are aware of the nature of the work, the living and working environment, and their salary. However, the responsibility to translate the contract and inform the domestic worker of all details of the job offer lies solely with the recruitment agencies, still leaving opportunity to [misinform and deceive](#) the domestic workers about the terms and conditions of the job. The new contract does not lay out any new mandatory working conditions. It remains up to the employer to determine the working hours,

minimum wage, and rest time – factors which should be regulated by law. The absence of a maximum working hours mandatory rest time is a gross diversion from the provisions of part seven of Bahrain's labour law, which does not apply to domestic workers, which stipulates a maximum daily limit of eight working hours. Domestic workers are slated to be included in the recently announced Wage Protection System, which will be implemented gradually starting in May 2018.

- 28 March 2018, Bahrain's National Institution for Human Rights (NIHR) submitted its 2017 annual report "on the Progress Achieved in the Human Rights Situation" to the king. **The annual report correctly identifies the LMRA's new "flexible labor permit," or Flexi Permit, as a significant reform of the abusive kafala sponsorship system**, which typically grants employers excessive control over migrant workers and facilitates human trafficking. **If properly implemented, the new permits will give workers the option to sponsor themselves.** Those who are eligible for the program will receive a "Blue Card," which acts as proof of their legal residency and work status in the country. It gives them permission to work for more than one employer as well as enter and exit Bahrain freely, and is renewable on a six-month basis. However, it remains a partial reform that only impacts some workers, as "regular workers, household workers, and workers leaving work" are excluded from applying.
- According to [Migrant Rights](#) "the Flexi Permit appears to be designed primarily to lower the cost of hiring migrant workers and to boost government coffers, rather than to genuinely reform the structural deficiencies of the sponsorship system that render workers vulnerable to exploitation and pushes them into irregularity."
- The US Department of State's [2018 Trafficking In Persons \(TIP\) Report](#) moved Bahrain from Tier 2 to Tier 1 status, indicating that the government "fully meets the minimum standards for the elimination of trafficking," overlooking the human rights abuses going on and the rise in suicides among migrant workers due to the harsh conditions, ill treatment, and financial instability.
- 15 October 2018 [UN adopts Bahrain Flexible Work Permit model](#) as one of best international practices
- Problems related with the Flexible Work Permit: The work permit has a strict eligibility criterion that oblige migrants' workers to remain in illegality. According to the [Gulf Research Center](#) "domestic workers, irregular migrants who entered Bahrain on a visit visa, those with "runaway" complaints against them, with travel bans or court cases and those with expired passports or with passports that are valid for less than six months are not eligible to claim a Flexi Permit, despite their de facto vulnerability. Regular migrants who are employed cannot leave their employer and apply for the scheme, either.²⁷ Family reunion is forbidden for beneficiaries of the new scheme. The high cost of the Flexi Permit is another obstacle to fix one's situation. Permit holders must pay an initial BD449 (\$1,200) to the LMRA, including health coverage and other fees, as well as a monthly BD30 (\$80) fee".
- 6 March 2019 [LMRA](#) announces a new domestic employers' system
- The [US State Department's 2019 Trafficking in Persons \(TIP\) Report](#) confirms Bahrain as a Tier 1 country. According to the report "*The Government of Bahrain fully meets the minimum standards for the elimination of trafficking. The government continued to demonstrate serious and sustained efforts during the reporting period; therefore, Bahrain remained on Tier 1*".

UPR 2017 Recommendations

114.9	Ratify the Domestic Workers Convention , 2011 (No. 189) of the International Labour Organization (Switzerland) (Philippines) (Ghana) (Uganda)	Noted
114.10	Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Philippines) (Ghana) (Guatemala)	Noted
114.24	Extend a standing invitation to all special procedures as soon as possible (Netherlands); Extend the standing invitation to all the mechanisms and special procedures of the Human Rights Council (Honduras); Facilitate a standing invitation to the special procedures mandate holders of the Human Rights Council (Guatemala); Issue a standing invitation to special procedure mandate holders (Bulgaria)	Noted
114.25	Cooperate with special procedures of the Human Rights Council, including by swiftly providing access for special rapporteurs with outstanding requests for visits to Bahrain (Iceland)	Noted
114.26	Encourage the Government to cooperate with all special procedures mandate holders (Iraq)	Supported
114.27	Continue to strengthen its cooperation with United Nations human rights mechanisms, in particular by accepting country visits of special rapporteurs (Republic of Korea)	Supported
114.132	Continue to promote the rights of vulnerable groups, in particular girls, women, migrants and persons with disabilities (Senegal)	Supported
114.154	Continue efforts to ensure the safety, security and dignity of foreign migrant workers , including women domestic workers, through requisite institutional and legislative measures (Nepal)	Supported
114.170	Ensure the effective protection of migrants, particularly women migrant workers, against discrimination (Philippines)	Supported
14.171	Strengthen the legal protection for migrant workers, including domestic workers , against discrimination on the grounds of race, sex, religion or nationality (Sierra Leone)	Supported
114.172	Continue to improve measures to strengthen the rights of foreign migrant workers , including putting in place the necessary domestic legislation and access to health care and legal aid (Sri Lanka)	Supported
114.88	Implement a national strategy to tackle the trafficking of women and girls , while building on its excellent work to ensure the effective protection of all workers, including migrant workers , against discrimination, and to ratify the 2014 protocol to the Forced Labour Convention , 1930 of the International Labour Organization (United Kingdom of Great Britain and Northern Ireland)	Supported

UPR 2012 recommendations

115.20	Consider joining other states in ratifying the International Convention on the Protection of the Rights of Migrant Workers and Members of their Families and the ILO Convention 189 on Decent Work for Domestic Workers, as it progressively marches towards institutionalizing protective mechanisms for migrant workers (Philippines)	Noted
115.65	Respond favorably to the requests for visit of the country and also facilitate the visits of the Special Rapporteur on migrants , Special Rapporteur on torture and	Supported

	the Special Rapporteur on freedom of peaceful assembly and of association (Slovenia)	
115.76	Take necessary measures to address issues relating to foreign workers, such as their facing travel bans and sometimes loss of rights to residence and work while being investigated for financial irregularity, so that the principles of natural justice are adhered to scrupulously (India)	Supported
115.164	Speed up as far as possible the adoption of the draft labor law including the section on domestic workers (Ecuador)	Supported
115.165	Continue its efforts in ensuring that the housing conditions of workers to be continuously inspected and monitored (Malaysia)	Supported
115.173	Step up its efforts in promoting and protecting migrant workers (Indonesia)	Supported
115.174	Continue efforts to ensure larger and more inclusive protection for foreign workers (Algeria);	Supported
115.175	Implements both procedural and legislative measures to protect to the utmost extent possible migrant workers in the country (Egypt)	Supported
115.176	Intensify efforts and measures to enhance and expand protection for migrant workers in Bahrain (Lebanon)	Supported

Recommendations from [Bahrain's National Institution for Human Rights' 2017 Report](#)

- Accession to the International Labour Organization Conventions No. (87) of 1988 concerning the **trade unions freedom and protecting the right to organize**, and the International Labour Organization Conventions No. (98) of 1988 concerning applying the principles of the right to organize and collective bargaining.
- Call for adopting strict legal measures vis-à-vis business owners, companies and institutions which do not comply with the minimum level of conditions which must be met in the **housing of expatriate workers**.
- Call for enacting a **special law that tackles the affairs of household workers [i.e. domestic workers]** and the recruitment offices, including a statement of the rights and obligations of the concerned parties.

Suggested questions

- Does the government consider the ratification **International Convention on the Protection of the Rights of All Migrant Workers**? What challenges does it face in this respect?
- Can the government provide credible assurance that it will accept to cooperate with relevant UN experts, especially with a view towards accepting the **UN Special Rapporteur on migrants' visit request**?
- Does the government consider adopting a **minimum wage legislation** for migrant workers?
- Following the introduction of a mandatory contract for **domestic workers**, what kind of **enforcement mechanisms** does the government intend to put in place to ensure the full implementation of this law?
- In line with NIHR's recommendations to adopt a law on domestic workers, does the government consider to introduce **ILO's domestic workers standards**, such as a fixed minimum wage, limits on working hours, mandatory rest hours or weekly days off?

- Does the government consider **extending the Flexi Permit** contracts to all type of migrant workers? How does the government plan to address the concern that this new permit is unaffordable for many migrant workers?
- Does the Government agree with the US DoS' view that it has not met "*the minimum standards for the elimination of **trafficking***"? How does it intend to cope that issue?

Recommendations from [US State Department's 2019 Trafficking in Persons \(TIP\)](#)

- Increase efforts to investigate, prosecute, and convict traffickers, particularly suspects of labor trafficking crimes, indicators of trafficking among domestic workers, and allegedly complicit officials.
- Expand and actively enforce labor law protections for domestic workers.
- Strengthen and expand efforts to reform the sponsorship system by extending labor law protections to all workers in Bahrain, including domestic workers and all workers holding flexible work permits; and include all employment sectors under the Wage Protection System.
- Increase investigations and prosecutions of potential trafficking cases involving passport retention and non-payment of wages as trafficking crimes.
- Increase proactive identification of trafficking victims among vulnerable groups, such as domestic workers, migrant workers, and women in prostitution.
- Routinely use tripartite labor contracts for domestic workers.
- Strengthen training for officials, particularly police personnel, on the anti-trafficking law and victim identification.
- Continue to conduct national anti-trafficking awareness campaigns, strategically targeting migrant and domestic workers.