About the Global Detention Project

The Global Detention Project (GDP) is a non-profit research centre based in Geneva, Switzerland, that investigates the use of detention in response to global migration. The GDP’s aims include: (1) providing researchers, advocates, and journalists with a measurable and regularly updated baseline for analysing the growth and evolution of detention practices and policies; (2) facilitating accountability and transparency in the treatment of detainees; and (3) encouraging scholarship in this field of immigration and refugee studies.

About the authors

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Introduction

Seen from afar, the six member states of the Gulf Cooperation Council (GCC)¹ —Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates—can seem extraordinarily alike. Islamic monarchical rule, closed political systems run by a male-dominated elite, oil-based economies, massive dependence on foreign workers from Asia and Africa who often represent the largest segment of the labour force, and resistance to human rights reforms, to name just a few of the more immediately recognizable commonalities.

When these countries are observed through the prism of immigration-related detention, however, lesser well-known similarities become apparent, as do some important differences. For instance, the challenges foreign workers face because of the region-wide “kafala” labour system—which ties workers to their employers (or “sponsors”), making them extremely vulnerable to abuses—are today widely recognised and reported on. Less well known is what happens to these workers when they are arrested and detained. Although all six Gulf countries provide constitutional guarantees against arbitrary or unlawful arrest and imprisonment, this Global Detention Project (GDP) report makes clear that all the GCC member states make widespread use of forms of immigration-related detention for the purposes of punishing or deporting foreigners, often in situations that may be considered arbitrary or otherwise contrary to human rights norms.

¹ Officially the “Cooperation Council for the Arab States of the Gulf.”
Likewise, it is common knowledge that women in Gulf countries face severe limitations on their freedoms, in some countries more than in others. However, what has been less clearly understood and systemically characterized are the numerous ways in which non-citizen women can be deprived of their liberty, a situation that Human Rights Watch (HRW) once aptly described—in a report on domestic workers in Kuwait—as “walls at every turn.”

One contribution of this GDP report is to help fill this gap.

There have been countless cases reported across the Gulf of domestic labourers being locked inside the homes where they work, sometimes subjected to forced labour as well as physical and sexual abuse. While this form of deprivation of liberty is not immigration-related detention per se, it is clear that these deprivations are encouraged by the labour systems in these countries, some of which exempt domestic workers from the minimal rights and guarantees provided in labour laws.

When women flee abusive employers, they are sometimes sent by their embassies to government-run shelters where, depending on the country, they are in effect detained. Kuwait and Saudi Arabia, for instance, operate “shelters” that serve as de facto detention centres. Bahrain and Qatar, on the other hand:

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hand, reportedly do not deprive women of their liberty at government-run shelters, although women are advised not to leave without permission or chaperones.

Women who flee their domestic jobs are often reported as having “absconded” and then labelled as “runaways,” which can lead to arrest and prosecution. If they are convicted of labour-related infractions, they generally lose their right to remain in the country and can end up languishing in detention to await deportation after serving time in prison. However, whether they remain in prison or are transferred to specialized immigration detention centres—which are usually referred to as “deportation centres”—may depend on the country in which they reside. For instance, in the United Arab Emirates, all deportation facilities appear to be in fact criminal prisons, while in Oman and Bahrain there are dedicated deportation facilities.

Many countries are also notorious for detaining unmarried migrant domestic workers who become pregnant. In some countries, officials confine these women in secure hospital wards before they give birth and then transfer them and their new-borns to prisons or specialised detention centres to await deportation. Among the countries where this practice—or some form of it—appears to be common are Kuwait, Qatar, and Saudi Arabia.

Of course, foreign men are also subject to detention and deportation, and they doubtless make up the vast majority of the region’s population of immigration detainees. And like immigrant women, men can find themselves in both administrative and overtly punitive forms of immigration-related detention.

The GDP defines immigration detention as “the deprivation of liberty of non-citizens for reasons related to their immigration status.” Notably, this definition is intended to encompass both administrative detention, when a person is deprived of liberty without being charged with a crime, as well as criminal incarceration, when a person is convicted and then imprisoned.

“All Gulf states make widespread use of immigration detention to punish or deport foreigners, often confining people in situations that are arbitrary or otherwise contrary to human rights norms.”
GCC Members - Ratification of Core International Human Rights Treaties

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Nevertheless, it is impossible to confirm the extent to which people are prosecuted for status-related violations because the detention regimes in all the Gulf states are largely—and in some cases, emphatically—opaque. Some countries have begun to undertake limited reforms, however, including setting up official monitoring bodies. Most notably in this regard is Bahrain. With assistance from the United Kingdom, Bahrain recently established one of the region’s only dedicated prison monitoring bodies, the Prisoners and Detainees Rights Commission (PDRC). Although it has been harshly criticized by civil society groups for lacking independence and being methodologically flawed, the PDRC has published on its website a series of reports (available in English) on visits to many of the country’s prisons and detention facilities. In contrast, Oman has a National Human Rights Commission that reportedly inspects prisons and investigates alleged abuses, but it makes none of its findings public.

To some extent, the amount of information that is publicly known about detention practices and the degree to which civil society groups—both nationally and internationally—are able to address this issue correspond with each country’s level of engagement with international human rights treaties and norms. Saudi Arabia and Oman have ratified the fewest number of core human rights treaties, there is little or no domestic civil society in either country, and we know the least amount about their detention practices.

On the other hand, we have numerous reports regarding detention activities in Kuwait, Qatar, and Bahrain, even though there remain significant gaps in our information. Kuwait, alongside Bahrain, has ratified the highest number of human rights treaties among Gulf countries, which has been a key part of its promised reforms to the international community since it was liberated from Iraq after the

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4 Treaty abbreviations: CERD (International Convention on the Elimination of All Forms of Racial Discrimination); ICCPR (International Covenant on Civil and Political Rights); ICESCR (International Covenant on Economic, Social, and Cultural Rights); CEDAW (Convention on the Elimination of All Forms of Discrimination against Women); CAT (Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment); CRC (Convention on the Rights of the Child); ICRMWC (International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families); CRPD (Convention on the Rights of Persons with Disabilities); CED (International Convention for the Protection of All Persons from Enforced Disappearance); Refugee Convention (Convention relating to the Status of Refugees); VCCR (Vienna Convention on Consular Relations).

first Gulf War. Qatar, reeling from numerous reports of the abject suffering of migrant workers who have been employed to help the country prepare for the 2022 World Cup, has sought to engage the international human rights community, including allowing a 2013 visit by UN Special Rapporteur on the Human Rights of Migrants, whose report on the country provides numerous details about immigration detention. Nevertheless, despite these efforts to burnish their images, there appears to be in all these countries a distinct divide between promised reforms and the continuing harsh realities faced by their migrant populations.

“Many countries are also notorious for detaining unmarried migrant domestic workers who become pregnant.”

Part of the challenge to encouraging reforms is the palpable fear or discomfort that seems to exist among citizens of these countries when it comes to their foreign workers. On the one hand, the high standard of living that citizens enjoy is intimately linked to the massive number of domestic and other low-paid workers they employ. However, these burgeoning populations of marginalised residents have spurred simmering social tensions in the Gulf states, many of which have responded by undertaking large-scale deportation efforts and adopting policies aimed at increasing the proportion of citizens in the labour force (for instance, “Saudisation” and “Omanisation”). These initiatives have in turn resulted at times in large spikes in the numbers of foreigners placed in detention.

Another sign of this discomfort is that people who speak out about the treatment of migrant workers can face significant reprisals. A case in point is the United Arab Emirates, which has one of the highest ratios of foreigners in the world with expatriates representing roughly 90 percent of the total population and a stunning 95 percent of the workforce. The country has refused to allow researchers from both Amnesty International and HRW to visit in recent years and it has deported numerous activists and writers who have spoken out about the plight of foreign workers.

Methodology

Investigating immigration detention in the Gulf is fraught with challenges because of government secrecy, public repression, and language barriers. This report is the product of a two-year investigation that involved several overlapping stages. To assist our research the GDP contracted an Arab-speaking human rights specialist based in the Middle East, who attempted to contact the ministries of labour and interior in each of the countries in order to request basic information concerning where people are detained and the numbers of migrants placed in detention. None of the ministries responded to our inquiries.
The consultant then identified and interviewed non-governmental actors in each country who have either worked with detainees or have experienced detention themselves. All sources who continue to reside in the Gulf asked to remain anonymous for fear of reprisals for talking to us.

The GDP also attempted to interview officials at national human rights commissions and ombudsman offices, officials at embassies of migrant worker source countries, as well as representatives of international organisations with offices in the region. Although there were a few notable exceptions, most of these sources refused to answer questions or go on the record, in some cases because of an apparent fear of losing access to the people they are charged with helping.

To complement this research effort, GDP staff consulted numerous human rights researchers and academics with expertise in the region and undertook a thorough review of available documentation, including relevant national laws and regulations, reports by local and international human rights groups, academic studies, press accounts, and documents produced by UN rights mechanisms like the Universal Periodic Review, the UN Special Rapporteur on the Human Rights of Migrants, and the UN Special Rapporteur on Trafficking. An important source of information was the U.S. State Department, whose annual reviews on human rights and anti-trafficking practices provided numerous details that were unavailable elsewhere.

Acknowledgements

During various stages of the drafting of this report the GDP received assistance from numerous human rights experts with experience in the region, who generously gave of their time to review specific claims or early chapter drafts, provide critical comments, and point us to overlooked sources of information. The GDP would like to acknowledge the valuable assistance provided by the following individuals: Meghna Abraham (Amnesty International), Ahmed Ali (Bahrain Institute for Rights and Democracy), Rothna Begum (Human Rights Watch), Adam Coogle (Human Rights Watch), Elizabeth Frantz (Open Society Foundations), Priyanka Motaparthy (Human Rights Watch), and Vani Saraswathi (Migrant-Rights.org). Any errors in this report are those of the GDP.
Introduction

The Kingdom of Bahrain, an island nation and the smallest of the Gulf States, relies heavily on foreign workers. Since 2010, immigrants have outnumbered citizens, accounting for more than 51 percent of the country’s population and nearly 80 percent of its work force. Recurring tensions between “locals” and “expats” have spurred heated public debate that at times reaches “xenophobic pitch.”

Bahrain has also been wracked by sectarian conflict. Although the country is ruled by a Sunni monarchy, it is the only Gulf country with a Shia majority. During the “Arab Spring” uprisings in 2011, social tensions spilled over into major anti-government protests, which were violently suppressed by the country’s Sunni-dominated military. Since then, the country has experienced a number of additional violent protests. According to civil society reports, at the end of 2014 some 4,000 people remained in detention or prison in Bahrain for crimes “related to thought, expression, and assembly.”

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Sectarian and migration politics can overlap in Bahrain. A newspaper from the region reported in 2012: “Several migrant workers have been killed in the last two years. Those opposing the current government accuse the regime of killing migrants in order to defame the revolution and provoke tensions, while the government accuses the ‘Shia’ of taking revenge on the regime by killing workers.”

These social challenges notwithstanding, the country has attempted to cultivate a reputation as being a leading reformer among Gulf countries in terms of its labour laws, having introduced a number of reforms as well as amnesties for undocumented migrant workers in recent years. In contrast to its neighbours, Bahrain has also established several rights-related institutions since 2011, including a Prisoners and Detainees Rights Commission (PDRC).

The PDRC, which has received close cooperation and capacity-building from the UK’s Her Majesty’s Inspectorate of Prisons (HMIP), has carried out a series of unannounced visits to places of detention. However, the commission’s work has come under criticism from some human rights groups (see the section on “Detention Monitoring and Access to Detention Centres” below). According to these groups, there is a significant gap between stated intentions and reality on the ground, leaving migrant workers to face many of the same challenges and hardships as those in other countries in the region, including with respect to detention and deportation.

Helping aggravate these problems is what some observers see as a “culture” of indifference and superiority in Bahraini society with respect to foreign workers. Said one trade union leader in Bahrain during a 2014 interview: “The Gulf/Khaleeji citizen, unfortunately, believes that it is normal for migrant workers to suffer. The Khaleejs believe that they are being hospitable when offering them a job in their country. Even when they empathize with the migrant workers, this empathy is more like pitying migrant workers. This empathy does not come from the belief that they should have the same rights as he/she does, such as a fair wage, decent housing, healthy nutrition, and a good job.”

The country’s foreign labour population is comprised mainly of migrants from India, Pakistan, Nepal, Sri Lanka, Bangladesh, Indonesia, and the Philippines, many of whom come to the country to work as domestic workers or as unskilled labourers in the construction and service industries. Unskilled workers are often exploited because they tend not to protest unfair working conditions, making them particularly vulnerable to forced labour and sexual exploitation. According to the U.S. State Department, government officials and local NGOs “report that abuse and sexual assault of female

domestic workers are significant problems in Bahrain; however, strict confinement to the household and intimidation by employers prevent these workers from reporting abuse.”

There are long-standing concerns regarding the situation of foreigners in Bahrain who are held in administrative detention pending deportation. As early as 2001, the UN Working Group on Arbitrary Detention noted that non-citizens placed in administrative detention face a very different legal situation than foreigners incarcerated for criminal offenses and highlighted abuses in the labour system that led to detention and expulsion.

There has also been an alarming rise in suicide rates among migrant workers. The cause of suicides is generally linked to the poor financial condition of workers, especially those who acquire debts they are unable to pay off. The U.S. State Department reports that during 2013 “40 suicides among migrant workers in Bahrain were reported, especially those from India, allegedly due at least in part to conditions of forced labour and debt bondage, including the withholding of wages and passport confiscation.”

To develop this report on immigration detention in Bahrain, the GDP submitted requests for information to numerous sources, including government agencies and foreign embassies, and corresponded with several civil society groups, individual activists, journalists, and lawyers representing migrant workers. Most official sources failed to respond to our requests, with the exception of the Bahraini Ombudsman’s Office and the Prisoners and Detainees Rights Commission (PDRC). Although it provided only minimal information and was unable to provide any detention statistics, the Ombudsman helped clear up some questions concerning where people are detained in Bahrain and was among the few official bodies in the entire Gulf region that responded, at least in part, to successive requests for information.

Laws, Policies, and Practices

Bahrain is a constitutional monarchy. Article 19 of the 2002 Constitution includes safeguards against unlawful detention. It provides that “A person cannot be detained or imprisoned in locations other than those designated in the prison regulations covered by health and social care and subject to control by the judicial authority.”

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The key norms regulating immigration-related detention in Bahrain are provided in the Aliens Immigration and Residence Act of 1965 (amended by Law No. 21 of 1980)\(^{20}\) and also in Law No. 19 of 2006, Regulating the Labour Market.\(^{21}\)

**Grounds for detention and deportation.**

Article 26(4) of the Immigration and Residence Act provides detention measures for any alien against whom a deportation order has been issued. Detention can be ordered by the General Director of Police and Public Security.

Articles 25 and 26 of the 1965 Immigration and Residence Act provide grounds for deportation, which can ordered when it is considered to be in the “public benefit” or when the person has been convicted of crimes and imprisoned.

A broadly phrased blanket provision in Article 30 states: “Immigration functionary or any policeman in his official uniform may arrest, without order, any person who has committed or suspected for a sound reason to have committed a crime under this law or may arrest a person liable to arrest in accordance with any provision of this law.”

**Criminalisation.**

Article 29(1) of the Immigration and Residence Act as amended provides a penalty for illegal entry: Any person who enters Bahrain illegally can be punished by imprisonment for a period of not less than six months.

**Length of detention.**

The Immigration and Residence Act does not provide a limit on the length of time a person can remain in administrative immigration detention. According to Article 26(4): “Any alien against whom a deportation order is issued may be detained … until dealt with in accordance with subsection (1) of this article (i.e. deported).

Length of detention can be highly variable. According to an activist with Bahrain’s Migrant Workers Protection Society (MWPS), detention can last as little as two weeks or as long as several months depending in part on the willingness of the sponsor to cooperate and whether an investigation is required to verify a grievance. If, for instance, a sponsor fails to complete formalities allowing a worker to leave and refuses to produce the worker’s passport, then the worker’s Embassy has to issue an “Emergency Certificate” or “Out Pass” for the worker. This “Emergency Certificate” or “Out Pass” must then be taken to the Immigration Directorate of the Ministry of Interior, who can approve an exit visa.

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The process is prolonged further in cases where sponsors demand money to recover recruitment costs from a worker who has left their employment prior to the termination of the contract.\textsuperscript{22}

\textbf{Asylum seekers.}

Bahrain is not a signatory to the 1951 Convention on Refugees or its 1967 Protocol. There is no domestic legislation granting asylum or refugee status, and the government has not established a system for providing protection to refugees. The UN High Commissioner for Refugees (UNHCR) covers Bahrain through its office in Saudi Arabia. According to UNHCR, only a very small number of people are registered with it and residing in Bahrain as refugees.\textsuperscript{23}

\textbf{Trafficked persons.}

Bahrain's anti-trafficking law, Law No. of 1 of 2008 with Respect to Trafficking in Persons, prohibits all forms of trafficking and provides for the admission of victims to shelters if necessary (art 5 (5)).\textsuperscript{24} However, reports indicate that the government makes little effort to investigate or prosecute trafficking offenses and tends to treat potential cases of forced labour as labour disputes instead of as serious crimes.\textsuperscript{25}

This apparent failure to treat trafficking cases seriously makes foreign workers vulnerable to abuses, as well as to detention and deportation. As the U.S. State Department reported in 2013, “The government continued to lack systematic procedures to identify victims among vulnerable groups, such as migrant domestic workers who have fled their employers or women arrested for prostitution, putting trafficking victims at risk for being punished for employment or immigration violations, and subjected to detention or deportation. Government officials failed to recognize that some contract violations or salary disputes (including withholding of salaries) are indicators of forced labour and required further investigation.”\textsuperscript{26}

In 2012, the government established a domestic violence shelter to accommodate victims of trafficking. Like similar shelters in Qatar (and in contrast to those in Kuwait, which operate as de facto detention centres), these shelters appear to be non-secure, allowing women to leave at will and unchaperoned. However, most trafficking victims reportedly seek shelter at their embassies.\textsuperscript{27}

“The participation of victims in investigation and prosecution of traffickers,” according to the U.S. State Department, “is hampered due to fear, ignorance of the law, distrust of the legal system and lengthy court procedures, the inability to afford legal representation, lack of interpretation, and fear of losing residency permits during proceedings.”\textsuperscript{28}

\begin{footnotes}
\item[22] Mehru Vesuvala (Migrant Workers Protection Society), Email exchange with Parastou Hassouri (Global Detention Project), Geneva, Switzerland, 23 December 2013.
\item[26] Ibid.
\item[27] Ibid.
\item[28] Ibid.
\end{footnotes}
Migrant workers who flee abusive employers are frequently charged as “runaways” and sentenced to detention and deported. Following her visit in 2006, the UN Special Rapporteur on Trafficking recommended that “Screening and identification procedures of trafficked persons in detention centres be systematic. Alternative arrangements, other than deportation or detention centres, should be considered to safely house identified trafficked persons.”

Minors.

There appears to be little available information concerning immigration-related detention of children. However, rights groups have expressed concern about the custodial care of all minors (not just immigrants) who have been arrested or detained. Independent human rights groups have repeatedly denounced the treatment of minors in the country’s prisons, including physical beatings using rubber hoses as well as slapping and kicking, use of torture during interrogations, verbal abuse often of a sectarian nature, and extreme psychological trauma.

In its June 2014 publication “Locked Inside a Nightmare: Voices from Bahraini Prisons,” the Bahrain Centre for Human Rights (BCHR) reported that during the first half of 2014 it “documented more than 70 cases of children who have been arrested. While some of them have been released, others remain in detention. At the end of May, a judge ordered one-week detention against two young children—an 11-year-old and a 13-year-old—on charges of ‘illegal gathering.’ Children as young as 13 have been sentenced to prison on charges of terrorism in trials that lacked any evidence and despite the fact that the Bahraini law does not define prison punishment for children below the age of 15 in the event of a criminal conviction.”

Previously, in 2012 Amnesty International published a report about the arrest and incarceration of children, some as young as 13, for suspected participation in anti-government protests.

Minors appear to be regularly detained alongside adults. A 2013 report by the Bahraini Ombudsman’s Office stated that children between the ages of 15-18 were confined in a ward alongside men in a situation of extreme overcrowding in Jaw Prison, which rights groups claim is regularly used as a deportation centre holding migrants awaiting removal from the country.

It is worth noting that, as with other Gulf countries, unmarried foreign women in Bahrain who become
pregnant are subject to arrest and detention.\footnote{UK Foreign and Commonwealth Office, “Living in Bahrain,” 9 October 2013, https://www.gov.uk/guidance/living-in-bahrain} This raises the possibility that these women not only give birth in carceral settings, but also that they serve time in prison and then remain in detention with their new-borns until they can be deported, a practice common across the Gulf region (see, for instance, the GDP’s reports on Kuwait and Qatar).

**Adherence to international norms.**

Bahrain holds the best record among Gulf countries with respect to ratification of core human rights treaties, together with Kuwait. It ratified the International Covenant on Civil and Political Rights (ICCPR) in 2006 and the Convention against Torture (CAT) in 1998, both of which are directly relevant to immigration-related detention. However, Bahrain has never reported on its implementation of the ICCPR and only recently submitted a long-overdue report on CAT in September 2015.\footnote{Committee against Torture, “Consideration of reports submitted by States parties under article 19 of the Convention under the optional reporting procedure - Second periodic reports of States parties due in 2007: Bahrain,” Date received: 29 September 2015, (available in Arabic only), http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/countries.aspx?CountryCode=BHR&Lang=EN.}

Like the other Gulf countries, Bahrain has not ratified a number of other human rights instruments that have provisions relevant to immigration detention, namely the International Convention on Protection of the Rights of all Migrant Workers, the Convention Relating to the Status of Refugees, and the Optional Protocol to CAT (OPCAT), which mandates the establishment of national preventive mechanisms to visit all places of detention.

The country has also appeared to have ambivalent relationships with UN human rights mechanisms. For instance, although it hosted the UN Working Group on Arbitrary Detention for a 2001 visit, more recently, in 2013, it called off a visit by the UN special rapporteur on torture.\footnote{Human Rights Watch, “Bahrain: Allegations of Severe Prisoner Abuse,” 6 May 2015, https://www.hrw.org/news/2015/05/06/bahrain-allegations-severe-prisoner-abuse.}

**Detention monitoring and access to detention centres.**

Although it has not ratified OPCAT, Bahrain has taken steps to set up monitoring mechanisms. In 2013, it established the PDRC to monitor places of detention, verify the conditions of inmates, and prevent torture and ill-treatment.\footnote{Royal Decree No. 61/2013, http://www.bna.bh/portal/en/news/577880.} As of December 2015, the PDRC had published nine reports on unannounced visits to various prisons and law enforcement facilities (which are available online). However, none of the reports discussed immigration-related detention.\footnote{Prisoners and Detainees Rights Commission, “Events and Activities,” http://www.pdrc.bh/events-and-activities/.} The Ombudsman’s office informed the GDP that it expected the PDRC to complete an inspection of an immigration detention centre during the course of 2015, but no report had been released by the time of this publication.\footnote{Bahrain Ombudsman Office—International Cooperation and Development Directorate, Multiple Emails with Michael Flynn (Global Detention Project), 12 October 2015.} The Ombudsman office likewise provides public reports on visits to prisons in its annual reports, which are also available online.
The government has received capacity-building assistance from the United Kingdom to improve its prison monitoring. The UK provided a £1.5 million reform assistance package to the country in 2014 to strengthen “human rights and the rule of law, including torture prevention and capacity building of the Ombudsman’s Office for the Ministry of Interior.” The UK HMIP has also organized trainings and inspection visits for PDRC members.

However, the PDRC has come under criticism from civil society groups, who argue that it lacks independence, is plagued by institutional weaknesses, and has methodological flaws. In September 2015, Americans for Democracy & Human Rights in Bahrain (ADHRB) and the Bahrain Institute for Rights and Democracy (BIRD) jointly published a report critiquing the work of the PDRC titled “Fundamentally Flawed: A Review of Bahrain’s Prisoners and Detainees Rights Commission.” They concluded: “Bahrain established the PDRC in September 2013, as part of a series of reforms ostensibly designed to counteract the human rights violations that have characterized Bahrain's political situation since 2011. While Bahrain has not ratified the OPCAT, it established the PDRC to be a National Preventive Mechanism in line with the Protocol’s vision. However, as detailed in the report, the PDRC fails to meet several key standards outlined by the OPCAT. Most notably, the PDRC’s institutional framework prevents independence; several of the PDRC’s members are from the same judicial and public prosecution office responsible for the sentencing of prisoners of conscience. Further, PDRC inspections have failed to examine substantial and credible allegations of torture emerging from Bahrain’s prison system.”

Because of severe on-going problems in Bahraini detention centres and prisons, civil society groups have called on the United Kingdom to halt its reform work with the government. In a joint May 2015 report, BIRD, ADHRB, and the BCHR said: "In light of the ineffectiveness of the PDRC and the lack of meaningful reform within Bahrain’s judicial system and police force, and the continued use of torture, BIRD, ADHRB and BCHR recommend that the UK end its assistance programme and shift all technical assistance to the responsibility of the United Nations and its Special Procedures.”

Commenting on these criticisms, one informed source said that although it is understandable that civil society groups are concerned and frustrated with the slow pace of reforms, it is important to put Bahrain in perspective and to recognize the steps that have been made in a short space of time. In particular, he pointed to the fact that Bahrain is the only Gulf country to make any effort at setting up monitoring bodies that make public reports and needs time to develop these institutions. He also cautioned that “it wouldn’t take much for the PDRC to be buried, and that would be a backward step in protecting the rights of detainees.”

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45 Anonymous source, Phone conversation with Michael Flynn (Global Detention Project), 22 September 2015.
Government-related monitoring bodies are not the only ones given access to prisons and detainees in Bahrain. The International Committee of the Red Cross (ICRC) can access prisons and it visited inmates at Jau Prison in 2012. The GDP was also informed that embassy staff and family members are able to visit detainees, although reports indicate that at Jau prison staff routinely and without advance warning cancel visits. It appears that civil society groups are finding it increasingly difficult or impossible to visit detention facilities. One source who works with the Migrant Workers Protection Society told the GDP that they used to have access to detainees but as of a “couple of years” only embassy staff are able to visit detainees. Also, Human Rights Watch’s lead researcher on their 2012 report stated that during their investigation in Bahrain they were unable to visit an immigration detention centre because the government told them that “there is no such thing.”

**Access to information.**

Accessing specific information on detention/deportation matters in Bahrain is difficult, although arguably not as difficult as in other Gulf countries because of the public availability of the reports produced by the PDRC. Nevertheless, because of the government’s lack of transparency and particularly given its clampdown on civil society since the 2011 protests, it is very difficult to obtain basic details about detention and incarceration practices. The government ministries themselves are non-responsive. Sending country embassies also are reluctant to share information. The information the GDP was able to obtain regarding detention practices came from reviewing press reports and reports issued by NGOs, interviewing activists and human rights workers, and corresponding with labour leaders and journalists. Additionally, the Ombudsman’s Office and the PDRC were helpful in confirming some sites of detention.

There also appears to be little availability of up-to-date comprehensive statistics concerning detention or incarceration rates. The most recently available statistics provided by the World Prison Brief concerning the numbers of foreigners in Bahraini prisons is from 2005, at which time just over 30 percent of the total prison population was comprised of foreigners. In its correspondence with the GDP, the Ombudsman’s Office stated that it did not have “exact numbers of the detainees … in each facility … as they were not in the inspection plan.”

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48 Mehru Vesuvala (Migrant Workers Protection Society), Email exchange with Parastou Hassouri (Global Detention Project), Geneva, Switzerland, 23 December 2013.

49 Mani Mostofi, HRW Researcher (U.S.), Email exchange with Parastou Hassouri (Global Detention Project), Geneva, Switzerland, 16 December 2013.


Foreign workers.

Bahrain is one of the few countries in the GCC to have tried to implement substantive reforms in its sponsorship scheme. In 2006, the Labour Market Regulatory Authority (LMRA) was established with a mandate to regulate, among other things, recruitment agencies, work visas, and employment transfers. Its duties include issuing work visas, licensing recruiters, and educating workers and employers about their rights and obligations. The law governing work permits, the licensing of recruitment agencies, employment transfers, etc. is Law No. 19 of 2006.

Article 23(A) and (B) of Law No. 19 (2006) provides that no foreigner may work in Bahrain and no Bahraini may employ a foreigner unless a work permit has been issued in accordance with the provisions of the law.

One of the significant reforms Bahrain made to its sponsorship scheme was to allow workers to move from one employer to another without the first employer’s consent. However, Article 25 of Law No. 19 (2006), which allows for this, also states that a worker may not enjoy this right if there has been a violation of the terms of his employment. Some human rights organizations have stated that this provision grants a sponsor the ability to control the worker’s transfer as it is easy for a sponsor to allege that a worker has violated the terms of a contract.

In general, there has been concern by human rights organizations and NGOs monitoring migrant labour conditions in Bahrain that the implementation of reforms is lagging. For example, a 2011 study by the Bahrain government’s LMRA found that 65 percent of migrant workers had not seen their employment contract and that 89 percent were unaware of their terms of employment upon arrival in Bahrain.

Many labour recruitment agencies in Bahrain and source countries require workers to pay high recruitment fees, a practice that makes workers highly vulnerable to forced labour once in Bahrain. The LMRA study found that 70 percent of foreign workers borrowed money or sold property in their home countries in order to secure a job in Bahrain. Some Bahraini employers illegally charge workers exorbitant fees to remain in Bahrain working for third-party employers (under the “free visa” arrangement). In previous years, the LMRA has estimated that approximately 10 percent of migrant workers were in Bahrain under illegal “free visa” arrangements—a practice that can contribute to debt bondage—while source country embassies put the figure at 20 percent.

In a 2012 report titled “For a Better Life: Migrant Worker Abuse in Bahrain and the Government Reform Agenda,” Human Rights Watch (HRW) highlighted some of the shortcomings in the implementation and enforcement of labour reforms, including: charging of recruitment fees, passport confiscation and restrictions on mobility (especially for domestic workers), unpaid wages and low wages, excessive

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workload, poor accommodation and food, physical and psychological abuse, and sexual abuse (especially for domestic workers). 55

These difficult conditions have led to increasing rates of suicides among migrant workers. Statistics from the Health Ministry indicate that expatriates account for almost three quarters of suicides in Bahrain. 56

The issue of detention is not addressed in any detail in the HRW report, though the potential for detention is mentioned (for example, if a worker is reported to the police for “absconding,” or failing to secure the sponsor’s permission before exiting the country). 57

Following her visit in 2006, the UN Special Rapporteur on Trafficking recommended that “migrant workers in detention centres be informed of the reasons of their arrest in a language they understand, be provided with legal assistance if requested, be allowed to make a local or international phone call, and have access to their embassies.” 58

Detention Infrastructure

Based on information provided by the Bahraini Ombudsman’s Office, it appears that Bahrain has two main facilities for immigration-related detention: the Al Eker Detention Centre, which is a newly established dedicated immigration facility for male detainees that is apparently only intended for temporary use until a permanent finality is established; and the Isa Town Women’s Detention Centre, which holds female remand prisoners and appears to also house the Women’s Immigration Removal Centre. 59

For many years, Bahrain also reportedly operated the Asry Detention Centre (also known as Al Hidd) as a dedicated immigration facility. According to sources, immigration detainees at Asry appear to have been moved to the Al Eker facility at some point in 2014 or 2015. However, the GDP has received conflicting reports about this. For instance, BIRD told the GDP: “Our people on the ground have all said that the immigration detention facility is in Al Asry/Hidd as you referred to before. Your [information that] detainees have moved to Al Eker … seems to be the most up to date information, however we

haven't managed to corroborate it on our end unfortunately. It is not public information so individuals are still not aware of this facility [Al Eker].  

In addition, various civil society groups told the GDP that people who are arrested for immigration-related reasons or have served prison sentences can remain in prison as they await deportation, including at the county's central jail, Jau Prison, and the Dry Dock Detention Centre. Immigrant detainees apparently are not segregated from the rest of the prison population.

The PDRC and the Ombudsman's office did not respond to direct questions seeking corroboration of claims about immigration-related detention in prisons. However, reports about the use of these facilities as deportation prisons date back many years. For instance, after its 2001 visit to Bahrain, the UN Working Group on Arbitrary Detention (WGAD) reported that on the day of its visit to Dry Dock there were "several hundred political prisoners" but "a mere four foreigners in administrative detention, all of whom were serving light sentences and awaiting expulsion from Bahrain."

Finally, labour activists in Bahrain told the GDP that police stations often serve as the initial sites of detention for migrant workers who are apprehended. However, in cases of runaway female workers, the police often seek to place the detainees directly in a shelter operated by the Migrant Workers Protection Society (MWPS) or to contact embassies instead of confining them in prisons or jail cells. Women staying at the MWPS shelter are, for their own safety, encouraged not to leave the shelter on their own and to take a chaperone with them if they need to go shopping or undertake other errands.

**Detention conditions.**

Reports from local media outlets, human rights NGOs, foreign governments, and Bahrain's official rights institutions all indicate that overcrowding is a recurring and serious problem in many of Bahrain's detention centres and prisons. Additionally, all of the facilities reportedly used for immigration purposes have been the subject of numerous complaints regarding the material conditions of the facilities and the poor treatment of detainees.

According to the U.S. State Department, during 2014 "Local human rights groups, including the unlicensed Bahrain Center for Human Rights (BCHR), Bahrain Human Rights Society (BHRS), and

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60 Bahrain Institute for Rights and Democracy, Email Correspondence with Michael Flynn (Global Detention Project), 17 November 2015.
61 Bahrain Institute for Rights and Democracy, Email Correspondence with Michael Flynn (Global Detention Project), 7 September 2015 – 13 November 2015; and Bahrain Center for Human Rights, Email exchange with Parastou Hassouri (Global Detention Project), Geneva, Switzerland, 19 January 2014.
62 Bahrain Center for Human Rights, Email exchange with Parastou Hassouri (Global Detention Project), Geneva, Switzerland, 19 January 2014.
64 Mehru Vesvala (Migrant Workers Protection Society), Email exchange with Parastou Hassouri (Global Detention Project), Global Detention Project, Geneva, Switzerland, 23 December 2013.
the Shia opposition political society al-Wifaq’s Freedom and Human Rights Department reported authorities sometimes mistreated detainees, including youth, during interrogations and denied medical treatment to injured or ill detainees and prisoners. Reports indicated the MOI interrogated detainees about involvement in either sanctioned or unsanctioned protest activity, postings to social media, association with individuals known to law enforcement, recent travels, and participation in religious activities, sometimes with the intent of extracting confessions. Detainees reported mistreatment at official interrogation facilities. Local human rights groups claimed the most serious mistreatment took place at the MOI’s Criminal Investigation Directorate (CID), but also named the following MOI facilities: Isa Town Detention Center for Women, Dry Docks Detention Center, and Jaw Prison.67

**Dry Dock.**

In its report on an unannounced visit to the Dry Dock Detention Centre on 21-24 April 2014, the PDRC found that the facility was at that time holding 991 inmates and had a capacity of 1,020. There were 108 detainees between the ages of 15-18 and 226 prisoners were non-Bahraini. While minors were separated from the rest of the prison population, the PDRC expressed concern that staff at the facility were not properly trained to handle the special needs of various detainee groups, including notably minors and foreigners. The PDRC found a number of other pressing problems, including severe lack of medical care, insufficient information in foreign languages, lack of cleanliness in cells, no suitable waiting rooms for visits, shortage of telephones and other communications means, failure to install surveillance cameras throughout the facility, no educational materials, and no written procedures for the legal use of force.68

There have been numerous accusations of torture at Dry Dock. In one case, a blogger named Naji Fateel was sentenced to 15 years of prison after being convicted of belonging to an opposition group. In July 2013, shortly after a court of appeals upheld his sentence, “local human rights groups released photographs showing marks on Fateel’s body consistent with torture. According to human rights groups, authorities in 2013 subjected Fateel to electric shocks, beating, simulated drowning, sexual harassment, the threat of rape, sleep deprivation, and standing for long periods while in detention at the CID and Dry Docks prison.”69

**Isa Town.**

During its visit to Bahrain in 2001, the WGAD investigated operations at the Isa Town Women’s Detention Centre. According to its report, “All women deprived of their liberty are held at Isa Town prison, which housed 24 inmates on the day of the visit, of whom six had been convicted. Convicted prisoners are segregated from the other categories of detainees (remand prisoners and foreigners being held pending expulsion).”70

During 18-20 January 2015, the PDRC carried out an unannounced visit at Isa Town. It reported that there were 65 detainees at the time of its visit, but the centre had a capacity of 122. There were only two minors in detention at the time as well as one mother and child. The vast majority of detainees (58) were non-Bahrainis. Although it found many conditions of detention to be adequate—including ventilation, medical care, lighting, and bedding—it reported a number of inadequacies, including insufficient staff, insufficient use of foreign languages, insufficient recreation and outdoor exercise, and uncleanliness. Also worth noting, the report stated that staff were adequately trained to assist pregnant women detained at the centre, which indicates that unmarried foreign women who become pregnant are likely detained at this facility (for more on this issue, see the section on “Minors” above).71

In its 2014-2015 annual report, the Ombudsman reported that one woman committed suicide at the "Women’s Immigration Removal Centre," which appears to be a part of the Isa Town facility. According to the report: “The Independent Ombudsman was notified by the Directorate of Reform and Rehabilitation that Ms. B, a foreign national detainee in the Immigration Removal Centre, had died by suicide. Ms. B was being held at the Centre for being in Bahrain illegally and the Ombudsman established that she had been told that she would be deported on 18 March 2015. Ms. B died by hanging whilst in an Immigration Centre bathroom.”72

Jau (Jaw) Prison.

Also known as the Central Prison, Jau Prison is the largest and arguably the most controversial prison facility in Bahrain. The extent to which it is used for immigration-related reasons is unclear. After its 2001 visit, the WGAD did not report any administrative or deportation uses at Jau, stating only that “Prisoners serving long-term sentences are housed” there. More recently, however, rights groups indicate that Jau confines people who are awaiting deportation after they serve their sentences.73

A 2013 report by the Bahraini Ombudsman’s Office stated that minors between the ages of 15-18 were confined in a ward alongside men in a situation of extreme overcrowding in Jau Prison. The Ombudsman reported that at the time of its visit, there were 1,608 prisoners at the facility, although it had a maximum capacity of only 1,201.74 A May 2015 report jointly published by three civil society groups claimed that “at least 2,700 inmates” were being held at the facility.75

Jau is notorious for having terrible conditions and there have been repeated allegations over many years of severe abuse of prisoners, as numerous national and international human rights groups have

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73 Bahrain Institute for Rights and Democracy, Email Correspondence with Michael Flynn (Global Detention Project), 7 September 2015 – 13 November 2015; and Bahrain Center for Human Rights, Email exchange with Parastou Hassouri (Global Detention Project), Geneva, Switzerland, 19 January 2014.
The serial mistreatment and terrible conditions of detention have spurred numerous revolts among inmates. According to the U.S. State Department, “In April [2014] human rights groups reported authorities abused and mistreated detainees at Jaw Prison, and activists reported many prisoners went on hunger strike to protest their mistreatment. On April 30, the government stated publicly that the Public Prosecution questioned 236 prisoners and that a medical professional examined detainees who alleged mistreatment. Also on April 30, Bahrain News Agency reported prisoners had gathered outside their cells aiming to raise a riot … in an attempt to capture a number of police officers to use them as hostages for their escape attempt.”

In their joint 2014 report “Locked Inside a Nightmare: Voices from Bahraini Prisons,” the Bahrain Centre for Human Rights and the Bahrain Youth Society for Human Rights described the Jau (“Jaw”) thusly: “Jaw Prison is made up of nine buildings. Building eight and nine were recently built. Political and prisoners with criminal cases with lengthy prison sentences are held in Building One. Prisoners sentenced in drug related cases are held in Building Two. Building Three is a mix of prisoners sentenced in criminal cases and political prisoners between the age of eighteen and twenty-one. Building Four is also a mix of political prisoners and prisoners sentenced in criminal cases. People sentenced in traffic cases and fraud are held in Building Five. Building Six is designated for children, whereas Building Seven is only for those sentenced in the case known as the ‘Bahrain 13.’ Buildings Eight and Nine are for non-Bahraini prisoners. The cells at Jaw Prison are reported to be unclean and overcrowded. The cells are assigned with so many prisoners that several prisoners such as human rights defender Naji Fateel are forced to sleep on the floor in the corridors. For example, in Building Three, there are small, medium and large cells. The small cells are fit to hold two people, but have four. The medium sized cells are fit to hold four people but have seven. The larger cells are fit to hold ten people but have contained up to eighteen.”

Al Eker.

There is no information available about the Al Eker dedicated immigration detention facility. After the GDP received information from the Ombudsman’s office confirming the existence of this facility in November 2015, we reported this to Bahraini civil society groups, who expressed surprise. One group asked people they know who live in Al Eker, but no one had heard of it. The facility is apparently only intended to be used temporarily.


Introduction

The State of Kuwait is an important destination for migrant workers from across the Middle East, Africa, and Asia. Despite its reliance on foreign labourers, the country has in recent years carried out a series of enforcement actions targeting non-citizens for arrest and deportation, in particular people without valid residence papers or work visas. Successive crackdowns have led to the expulsion of tens of thousands of people during the last two years as well as over-crowding in detention centres and prisons.

Kuwait shares with many of its Gulf neighbours two important demographic characteristics: a significant minority population of Shiite citizens (numbering approximately 400,000) and a majority expatriate population that has ballooned since the oil boom in the 1970s. While the country has not experienced the same religious sectarian divisions that have plagued Saudi Arabia and Bahrain, the country’s massive population of foreign workers suffers similar challenges as foreign workers throughout the region.

Beginning in 2013, Kuwait began systematically targeting visa violators—foreigners working in Kuwait without authorization—paralleling a similar campaign that was taking place at the same time as in other Gulf states. While the number of expatriates in Kuwait is large, the citizenship rate among them is higher than in other Gulf countries due to the presence of a significant Shia community.

time in neighbouring Saudi Arabia.\textsuperscript{80} In early 2014, the Kuwaiti Ministry of Interior ordered a halt to immigration raids because police stations and prisons were no longer able to accommodate the large numbers of people being arrested for residency violations.\textsuperscript{81} Several months later, in January 2015, the government announced that it was launching a new crackdown on “illegal residents,” which was reportedly expected to result in the arrest of more than 100,000 people.\textsuperscript{82}

According to statistics from the Public Authority for Civil Information, at the end of 2014 expatriates massively outnumbered Kuwaiti citizens—1.2 million Kuwaitis compared to 2.8 million foreign residents (including 1.5 million Asians and 1.2 million Arabs).\textsuperscript{83} Fifty-five percent of Kuwaiti citizens of working age are employed, compared to 85 percent of non-Kuwaitis.\textsuperscript{84} This imbalance and the high unemployment rates for Kuwaitis have been used as justifications for calls to deport expatriates. In February 2014, for example, Khalil Abdullah, a member of Parliament, called for the deportation of 280,000 foreigners per year for the next five years to help address the country’s demographic imbalance.\textsuperscript{85}

Among those targeted in these successive deportation campaigns have been Ethiopian domestic workers, who were at the centre of heated public debate in the country after news reports in March 2014 concerning the alleged murder of a young Kuwaiti woman at the hands of the Ethiopian maid employed by her family. Law makers called on the Ministry of Interior to not only halt the recruitment of maids from Ethiopia, but to also deport all Ethiopians currently working in the country.\textsuperscript{86} Ensuing police raids resulted in the deportation of nearly 13,000 Ethiopian domestic workers.\textsuperscript{87} Some sources indicated that maids were being deported at the rate of 100 a day.\textsuperscript{88}

Despite the important role that detention plays in deportation efforts, it is difficult to develop a comprehensive assessment of the country’s detention procedures. While Kuwait is considered to be relatively “liberal” when compared to its Gulf neighbours, it can often be opaque when it comes to information about the treatment of migrant labourers. Thus, while the government has in the past granted access to detention facilities to a local rights group called the Kuwait Society for Human Rights

\begin{itemize}
\item \textsuperscript{82} [Mary Sophia, “Kuwait to Arrest 100,000 Illegal Expats,” Gulf Business, 22 January 2015, http://gulfbusiness.com/2015/01/kuwait-arrest-100000-illegal-expats/.
\item \textsuperscript{84} [Computed by GDP from Gulf Labour Market and Migration data. Demographic and economic module. http://gulfmigration.eu/glmm-database/demographic-and-economic-module/
\item \textsuperscript{88} [Beatrice Thomas, “Kuwait deports 100 housemaids per day,” Arabian Business, 28 April 2014, http://m.arabianbusiness.com/kuwait-deports-100-housemaids-per-day-548118.html.
\end{itemize}
A delegation from the International Federation for Human Rights (FIDH) that visited Kuwait in November 2013 told the Global Detention Project (GDP) that during their visit to the country their requests to meet with various government ministries were rejected.

To develop a profile on Kuwait’s detention policies and practices, the GDP reviewed relevant laws and available reports from the media and human rights groups. We also interviewed representatives from foreign governments and international organisations. While these sources were able to help clarify the different situations that make non-citizens in Kuwait vulnerable to detention, they were unable to provide details about detention procedures.

A representative with the UN High Commissioner for Refugees (UNHCR) in Kuwait informed the GDP that because there is no legal framework for the admission of refugees into Kuwait, people who register with the UNHCR as “persons of concern” are obliged to obtain residency permits in Kuwait. Failure to get a permit or to renew it on time can result in detention and deportation.89

The International Organisation for Migration (IOM) primarily assists with the repatriation of female domestic workers who have left their employers due to abusive and exploitative work environments. Many employers file a notice with the police when an employee has “absconded,” which generally leads to the arrest and detention of that person. The IOM said that they typically get involved in cases of women who have sought shelter with their embassies and thus are not in detention.90

A U.S. government representative in Kuwait told the GDP that most people who have been arrested in recent raids have been detained because of “visa violations” stemming from expired residency permits or violations of the sponsorship scheme, most commonly working for an employer who is not their original sponsor.91

An additional source of information about Kuwait is provided by international human rights mechanisms. As we discuss in more detail below, an important legacy of the 1990 Iraq invasion of Kuwait and the subsequent Gulf War is that the county has ratified more of the relevant international human rights treaties than its fellow Gulf states, including most notably the International Covenant on Civil and Political Rights and the UN Convention against Torture. As a party to these treaties, it provides information to treaty bodies overseeing their implementation. Thus, for instance, according to information submitted by Kuwait to the UN Committee against Torture in August 2015, we know

89 UNHCR Kuwait, Email exchange with Parastou Hassouri (Global Detention Project), 10 May 2014.
90 IOM Kuwait, Email exchange with Parastou Hassouri (Global Detention Project), 2 February 2014.
91 Undisclosed source from US government (Kuwait), Email exchange with Parastou Hassouri (Global Detention Project), 3 April 2014.
that the government claims that 88,430 people were deported between January 2013 and June 2015. However, this information did not establish whether or for how long people were detained before being deported.

**Laws, Policies, and Practices**

Kuwait is a constitutional, hereditary emirate ruled by the al-Sabah family. The Constitution of Kuwait includes safeguards against unlawful arrest and imprisonment for all persons in the country. The Aliens Residence Law, issued by Amiri Decree No. 17 of 1959 and amended by Law No.6 of 2011 and Law 41 of 2014 (hereafter the Residence Law), provides the legal framework for the country’s immigration policies.

**Grounds for detention and deportation.**

For foreigners residing in Kuwait, criminal prosecution and incarceration, immigration detention, and eventual deportation tend to be different phases of a single process. According to the British Embassy in Kuwait, “For most offences carrying a custodial sentence, deportation is automatic after completion of the prison term. If a sentence is followed by deportation, the prisoner will be taken to the Deportation Centre in Jleeb Al-Shuyoukh.” As we detail in the section on “Criminalization” below, status-related immigration offenses are subject to prosecution and prison sentences. As such, the criminal and administrative aspects of immigration detention are intimately linked.

The only explicit reference to administrative immigration-related detention provided in Kuwaiti law is found in Article 18 of the Residence Law, which provides that people can be detained for up to 30 days if necessary to carry out a deportation order.

Kuwaiti authorities explained to the UN Human Rights Committee in 2014 that “The deportation (expulsion) process, which is governed by legally prescribed rules and procedures, may be of a judicial nature, i.e. based on a court judgement handed down in a criminal case, or may result from an
However, only administrative deportation is subject to any form of appeal. “Deportation may be ordered by the judge (judicial deportation) or by the Ministry of Interior (administrative deportation); only in cases where the Ministry of Interior has ordered the deportation may it be appealed on humanitarian or similar grounds.”

Articles 16 of the Residence Law provides that the Head of Police and Public Security may deport any expatriate, even one holding a valid residency permit in the following circumstances: (1) a court has ordered his deportation; (2) he has no means of living/supporting himself; or (3) the Head of Police and Public Security consider the deportation to be in the public interest. Article 17 provides that the dependents of a foreigner who has been ordered deported must also be deported. Any foreigner whose residence permit has expired and not renewed may also be deported, pursuant to Article 20 of the Aliens Residence Law.

According to sources in Kuwait, administrative deportation is increasingly used to deport non-nationals for minor offenses, including minor traffic violations. A news article from 2013 mentions that nearly 12,000 persons were deported from Kuwait for traffic violations during a two and a half year period. Human Rights Watch (HRW) argues that traffic-violation deportations are an example of the “indirect methods” Kuwait has used “to push migrants to leave.” Regulations for expatriates applying for a driving license are very dissuasive and include having at least two years of legal residence, a university degree, and earnings of at least US$1,400 per month.

New legislation adopted in 2014 requires prior approval by the Interior Ministry before carrying out expulsions. However, traffic-related deportations continued into 2015.

Criminalisation.

Article 24 of the Residence Law provides penalties, including fines and imprisonment, for various immigration-related violations. People can be sentenced to prison terms of between 3-6 months for violating: Article 1 (not carrying a valid passport or travel document); Article 6 (failure to register with authorities within 48 hours of entry into Kuwait); Article 8 (failure to submit passport or other information to authorities when requested); and Article 10 ( overstaying a visitor’s visa of one month); and Article 11 (violating terms of temporary residence permit).


98 Undisclosed source from an International NGO (Kuwait), Skype Conversation with Parastou Hassouri (Global Detention Project), 20 March 2014.


Following a 2014 amendment to the Residence Law (law 41/2014), penalties for violating Article 4 (entering/exiting Kuwait through unauthorized ports of entry/exit) and for repeatedly breaching Article 12 (violating terms of residency permit, failing to renew it or to leave upon its expiration) were increased to a period not exceeding three years imprisonment and/or a fine not exceeding 3,000 dinars.102

The residence law provides for up to a year of imprisonment for violations of Article 19 (trying to re-enter Kuwait subsequent to deportation, without special permission from the Minister of Interior). According to the 2014 amendment, repeated breaches can be punished with up to five years in prison and/or 5,000 dinars.

The UK Home Office has noted “a particular problem for those who have been in Kuwait previously and have not passed through Kuwaiti exit control upon their departure (for example, in the cases of persons who entered via commercial air but departed via military air). Such persons will show on immigration records as never having departed, i.e. visa overstays. When they attempt to enter the country again, they are frequently detained.”103

**Length of detention.**

Article 18 of the Residence Law permits detention for up to 30 days to carry out a deportation order.

In practice, foreigners in deportation proceedings can remain in detention for periods that far exceed the imprisonment sentences provided in law for violating immigration provisions. In a 2014 media interview, an Egyptian national who had been detained at the Talha Detention Centre for 11 months “due to routine and complicated administrative procedures” said that there were people in the facility who had been detained for up to three years.104

There have been additional recent reports about lengthy detentions at Talha. In one case, some 80 detainees at the facility “reportedly slit their arms in protest at not being released despite completing their sentences” after spending up to an additional 18 months in prison.105

In 2011, the KSHR stated in a shadow report to the UN Human Rights Committee that “Although Talha Center for Deportation is a temporary detention center for deportees, whereas they should not stay more than 30 days, there are prisoners who are staying for many months or many years.”106

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The length of time spent in detention is reportedly highly variable depending on the circumstances of each case (for instance, if a sponsor is holding a person’s passport, or if counterclaims have been charged against the migrant by his employer). In some cases, deportees have languished months in detention because their former employers do not cancel their work permits or provide authorities with their travel documents.

**Trafficked persons and detention at shelters.**

The trafficking of foreigners in Kuwait is a significant problem as many foreign workers, particularly young women, find themselves forced to live and work in households against their will, effectively deprived of their liberty by their employers. Foreign governments have attempted to raise awareness of the abuses suffered by their nationals in Kuwait and national anti-trafficking agencies have launched numerous investigations. For instance, in 2014, Uganda’s anti-trafficking task force appealed to Interpol to assist the government in securing the release of some 100 Ugandan maids who had fled their places of work and been imprisoned in Kuwait for immigration offenses.107

The U.S. State Department’s 2013 Trafficking in Persons Report (TIP Report) on Kuwait designates Kuwait as a “Tier 3” country, one whose government does not fully comply with the minimum standards to eliminate trafficking and is not making significant efforts to do so.108

According to the TIP Report, although the government enacted an anti-trafficking law in March 2013, which prohibits all forms of trafficking and prescribes strict penalties ranging from 15 years to life imprisonment, the government did not demonstrate significant efforts to prosecute and convict offenders under the new or previously existing laws.109 During the reporting period, the government did not report any arrests, prosecutions, convictions, or sentences of traffickers for either forced labour or sex trafficking.

The report also criticised the weak protections provided to victims: “The government’s victim protection measures remained weak, particularly due to the lack of proactive victim identification and referral procedures and continued reliance on the sponsorship system, which inherently punishes, rather than protects, trafficking victims for immigration violations. The government continued to operate a temporary shelter for runaway female domestic workers, though it offered no shelter for male victims of trafficking.”

Reports indicate that trafficking victims and others accommodated at the government’s temporary shelters mentioned in the TIP Report (there are apparently at two for women while one for men was

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109 Law No. 91 of 2013 Combating Trafficking in Persons and Smuggling of Migrants was adopted on 17 March 2013. It does not explicitly protect victims of trafficking from detention.
reportedly under construction as of 2014\textsuperscript{110} are in effect deprived of their liberty.\textsuperscript{111} The regulations at the facilities also refer to the occupants as “inmates.”\textsuperscript{112} In an interview with Al Jazeera, Rima Kalush of Migrant-Rights.org said: “These shelters are essentially detention centres, as workers are not permitted to leave until their inevitable deportation.”\textsuperscript{113}

In the information it provided to the Human Rights Council in 2014, the Kuwaiti government reported: “Premises have been designated to shelter victims of trafficking in persons and smuggling of migrants under the supervision of the Domestic Workers’ Department in the Ministry of the Interior, in collaboration with the Ministry of Social Affairs and Labour and the Ministry of Health. … The shelter, which is staffed by a number of sociologists, psychiatrists, jurists and health-care providers, accommodated 1,970 domestic workers during the period from 1 January to 31 December 2013. The government added that “The Statutes of the Domestic Workers’ Shelter Centre guarantee the rights of its inmates, including their right to be treated in a proper manner that preserves their human dignity, shields them from mental or physical abuse and ensures their access to a full range of services without discrimination based on nationality or religious belief or confession, their right to receive and make visits in and outside the Centre, and their right to enjoy all the rights guaranteed by the Constitution, the laws and the international treaties in force in the State.”\textsuperscript{114}

\textbf{Minors.}

There is very little information available concerning the situation of foreign children and minors in custody. However, reports indicate that migrant women placed in deportation proceedings are detained with their children.\textsuperscript{115} Also, women who become pregnant outside of marriage and who come to the attention of authorities are reportedly forced to remain during their pregnancies in a special secure ward of the Sabah Maternity Hospital known as “Ward 10” or the “IP Ward” (“illicit pregnancies”). After giving birth, the women and new-borns are taken to the Women’s Prison as they await removal form the country.\textsuperscript{116}

Researchers from HRW told the GDP that the detention of these women is a serious concern but that many of the details and statistics about this practice are not available.\textsuperscript{117} Said one researcher: “Migrant women with children who go through deportation proceedings or who end up in jail also have their children in deportation detention or in jail with them. In some cases their husband is not Kuwaiti
and no longer in the country, and in some cases the children were the result of rape or a relationship outside of marriage.\footnote{Priyanka Motaparthy (Human Rights Watch), Email Correspondence with Michael Flynn (Global Detention Project), 23 March 2015.}

**Asylum seekers.**

Kuwait is not a signatory to the 1951 Refugee Convention or its 1967 Protocol and there is no legal framework providing protection or legal status to refugees. According to the UNHCR, as of 2014 there were some 1,700 refugees and asylum seekers registered with the UNHCR office in Kuwait.\footnote{Statistics from UNHCR's 2014 Regional Operations Profile for the Middle East, available here: http://www.unhcr.org/pages/49e4865f6.html.} Most of the refugees are from Syria, Iraq, Somalia, and Iran.\footnote{U.S. State Department, 2012 Country Reports on Human Rights Practices - Kuwait, 19 April 2013, http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper.} Although the local integration of refugees is not facilitated by officials, the government did not expel or extradite refugees to their countries of origin. According to the UNHCR office in Kuwait, refugees who are unable to obtain or extend their residency permits in Kuwait are at risk of detention. UNHCR often attempts to seek alternative durable solutions, mainly resettlement in a third country, for refugees at risk of detention.\footnote{UNHCR Kuwait, Email exchange with Parastou Hassouri (Global Detention Project), 10 May 2014.}

**Access to detainees.**

The Ministry of Interior reportedly permitted independent monitoring of prison conditions by international organizations such as the International Committee of the Red Cross (ICRC) and the KSHR.\footnote{UNHCR Kuwait, Email exchange with Parastou Hassouri (Global Detention Project), 10 May 2014.} The ICRC’s delegate for the Gulf Cooperation Council (GCC) confirmed that they have access to detention facilities.\footnote{Yazan Khalaileh, Detention Delegate, ICRC (Kuwait), Email exchange with Parastou Hassouri (Global Detention Project), 23 March 2014.}

However, a delegation from the FIDH visiting Kuwait in November 2013 was denied access to detention and deportation facilities.\footnote{Sarah Prestianni, FIDH delegation (France), Skype conversation with with Parastou Hassouri (Global Detention Project), 18 March 2014.} The FIDH delegate said that embassies representatives are able to visit foreign nationals but they were reluctant to discuss details so as not to jeopardize access to these facilities.

Kuwait has ratified the Vienna Convention on Consular Relations, which provides that foreigners placed in detention can receive visits from consular officials. However, according to the U.S. Embassy, it is not always informed of arrests of U.S. citizens.\footnote{Yazan Khalaileh, Detention Delegate, ICRC (Kuwait), Email exchange with Parastou Hassouri (Global Detention Project), 23 March 2014.}

The GDP has been unable to obtain information directly from sending country embassies regarding their access to detainees.

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118 Priyanka Motaparthy (Human Rights Watch), Email Correspondence with Michael Flynn (Global Detention Project), 23 March 2015.
121 UNHCR Kuwait, Email exchange with Parastou Hassouri (Global Detention Project), 10 May 2014.
123 Yazan Khalaileh, Detention Delegate, ICRC (Kuwait), Email exchange with Parastou Hassouri (Global Detention Project), 23 March 2014.
124 Sarah Prestianni, FIDH delegation (France), Skype conversation with with Parastou Hassouri (Global Detention Project), 18 March 2014.
Challenging detention and deportation.

In its 2011 shadow report to the UN Human Rights Committee, the KSHR stated that there is no possibility of challenging administrative decisions of expulsion. According to the U.S. Department of State: “Under the law questions of status, immigration, and citizenship are not subject to judicial review, so foreigners arrested for unlawful residency, or those whose lawful residency is cancelled due to an arrest, have no access to the courts. They are instead subjected to administrative deportation, unless they faced felony charges for separate offenses.”

According to the UK Embassy in Kuwait, only “in cases where the Ministry of Interior has ordered the deportation may it be appealed on humanitarian or similar grounds.”

Kuwait told the UN Human Rights Committee that “Ministerial Order No. 3941 of 2011 made provision for the formation of a committee to conduct a thorough study of the Deportation Department’s files on detainees of all nationalities awaiting deportation. The committee has begun its work and has already looked into the cases of numerous persons.” The Global Detention Project has been unable to find information with respect to the operation of this committee.

Access to information and statistics on detention.

A staff person from the U.S. State Department who spoke to the GDP on condition of anonymity stated that they are unable to obtain up-to-date statistics on detainee numbers from the government and some members of parliament have also had trouble obtaining this information.

The most recent information about the percentage of foreign prisoners in Kuwait provided by the World Prison Brief (WPB) is from 2003. During that year, foreigners represented 13.5 percent of the country’s total prison population. The WPB provides more recent statistics on the number of prison establishments (3 as of 2013), the official capacity of these faculties (3,200 as of 2010), and the occupancy level (130.6 percent in 2010). Between 2000 and 2009, the country’s total annual prison population rose from approximately 3,100 to 4,045.

Adherence to international norms.

Kuwait’s political system, both monarchical and parliamentary, is often described as one of the more liberal systems in the Arab world. Kuwait, along with Bahrain, holds the highest number of ratifications.
of core international human treaties among GCC member states. These ratifications were mostly made after the 1990-1991 Iraqi invasion and were intended in part as a “thank you” to the international community for liberating the country and as part of the reforms promised by Kuwaiti elites. Most relevant to migrants, Kuwait is a party to the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture (CAT).

However, like all other GCC countries, Kuwait has not ratified the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW). According to a joint academic project with universities in the United Kingdom and Qatar, ICRMW ratification has been identified as “an area of low elite and societal interest.” Participants at seminars organized by these researchers in 2013 said that migrant workers are considered “temporary workers whose rights fall short of those of migrant workers.”

Kuwait regularly reports to UN treaty monitoring bodies on implementation of the treaties it has ratified. In 2011 the Human Rights Committee recommended that it “ensure that persons awaiting deportation are detained only for a reasonable period of time, and that judicial remedies are available to review the lawfulness of their detention.” Kuwait is scheduled to be examined in 2016 by the committees overseeing the ICCPR and CAT, both of which include deportation issues in their examinations.

**Foreign workers.**

The legal status of foreign workers in Kuwait is governed by the Aliens Residence Law – Amiri Decree No. 17 of 1959 and the New Private Sector Labour Law No. 6 of 2010 (Labour Law).

Similar to the other GCC countries, Kuwait applies a sponsorship—or kafala—labour scheme that ties the legal status of foreign nationals to a specific sponsoring employer.

Article 12 of the Residence Law prohibits providing residence or employing a foreign national whose residence in Kuwait is illegal. It also prohibits employing a foreign national sponsored by another employer for the duration of his contract. Article 15 of the Residence Law obligates anyone employing a foreigner to notify the authorities of the termination of the employment relationship within a week.

Article 10 of the Labour Law states: “If it is evident that [an employer] is not actually in need of those labourers, the employer shall bear the expenses for returning the labourer to his country. If the worker abandons coming to his work and worked for another employer, the employer shall be obliged to return him to his home country, upon registering an absconding notice against the worker by his main sponsor.”

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When an employer files an “absconding notice” with the authorities, the foreign national’s residence permit is cancelled, which authorizes the police to arrest and detain him or her.

Critics of the kafala sponsorship scheme have stated that these regulations open the door to abuse of the system by sponsors.

It is also important to note that Article 5 of the Labour Law excludes domestic workers from its provision, and so the other provisions in the law governing matters such as work hours, work conditions, leave, etc. do not apply to domestic workers, leaving them particularly vulnerable to abuse.

HRW described the situation of domestic workers in Kuwait in a 2010 report, Walls at Every Turn: Abuse of Migrant Domestic Workers through Kuwait’s Sponsorship System. The report highlights some of the recurring patterns of exploitation experienced by domestic workers as a result of the sponsorship scheme, the exclusion of domestic workers from labour law protections, and their isolation within private homes. The most common problems faced by domestic workers include: non-payment of wages and overwork, physical, verbal, psychological and sexual abuse, inadequate food and medical treatment, and restrictions on freedom of movement (through passport confiscation and confinement in the home).

**Detention Infrastructure**

Deprivation of liberty for immigration-related reasons appears to occur in a number of different institutional settings in Kuwait. After initial arrest, migrants are temporarily detained at police stations before being transferred to prisons or deportation facilities; prisons reportedly have immigration or deportation sections that accommodate convicted foreign criminals after they serve their sentences and are awaiting deportation; unmarried foreign women who become pregnant can be confined in a secure hospital ward during their pregnancies; victims of trafficking who flee abusive domestic working environments can be forced to remain inside secure government “shelters”; and the country has one specialised immigration detention facility, the Talha Deportation Centre, which seems to be used exclusively to hold people as they await removal from the country. Lastly, although it is not immigration detention per se, domestic labourers appear to be routinely deprived of their liberty at the households where they work, a situation that is abetted and encouraged by the kafala system.

**Deportation centres.**

Kuwait appears to have operated dedicated deportation facilities, often referred to as “deportation prisons,” for many years. The earliest reports of such a facility found by the GDP, which date back more than 20 years, refer to a deportation centre called Shuwaikh. There are numerous references to this

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facility in media accounts and human rights reports until the late 2000s, when references to it (at least in online searches) dry up. While it is unclear what became of this facility, what we do know is that Kuwait City’s Shuwaikh Industrial zone is where the Ministry of Interior’s immigration office is currently located. It may be that at a certain point this office housed a detention unit.

Conditions of detention at Shuwaikh appear to have been abysmal. One early report about the facility, from HRW’s 1992 World Report, described it thusly: “The Deportation Prison, located in al-Shuwaikh, west of Kuwait City, has been perhaps the busiest of all Kuwaiti prisons in 1991. It is a maximum-security facility, with some of the worst conditions in the country. It has twelve solitary confinement cells and one large wing, which holds as many as six to seven hundred people. There are no beds or mattresses; prisoners are simply given a blanket each. There is only one refrigerator for the prison and no air conditioning. Fans hang from a high ceiling but do not seem to alleviate the unbearable summer heat and poor ventilation. Because of the large number of people being held pending deportation—averaging one thousand at any given moment—the main Deportation Prison at al-Shuwaikh has been filled beyond capacity. Other facilities are reported to have been opened to handle the overflow, but no information is available on conditions there. On June 9, the ICRC visited the Deportation Prison for the first time but was not allowed to interview any prisoners. Four hundred more people were deported on June 23. According to Kuwaiti authorities, most were Iraqis, but international observers told Middle East Watch that the deportees were actually Bedoons.”

One of the final reports about Shuwaikh found on internet searches is from the U.S. State Department’s 2008 human rights report. It reported: “During the year foreigners at the deportation facility in Shuwaikh were incarcerated, on average, between 10 days and two months awaiting deportation. Some were held there for much longer periods, often due to delays in the court system or bureaucracy.”

Kuwait currently appears to use a different dedicated deportation facility, which is familiarly known as the Talha Detention (or Deportation) Centre and reportedly has a capacity of 1,000. In a shadow report submitted to the Human Rights Committee in 2011, the KSHR reported numerous concerns regarding detention conditions at this facility.

Although Talha is intended to be a temporary detention facility for those awaiting deportation and confinement is not to exceed 30 days, many people have been held there for much longer periods, in some cases up to several years. Among the problems identified by KSHR during its visit to Talha were: inability to communicate with staff using a shared language; ill treatment by guards, including

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beatings; aging infrastructure with poor ventilation; inadequate water supplies, hygiene, and medical care; and no recreation or outdoor exercise.  

The facility reportedly has two floors. On the first floor there are three wards closed with a metal gate with two bathrooms and three large rooms each. There are 60 to 90 detainees per ward, and up to a 100 at times. Although administrative detention should not be punitive under international law, there are solitary confinement cells in Talha, which are particularly dark and smell bad, as they had initially been used as toilets. A one-square-meter room called “Alsaja” is used to discipline prisoners. Detainees who had been on a hunger strike were reportedly placed there after an officer and four policemen beat them.  

Prisons.

An initial site of detention where foreigners can find themselves is the Central Prison Complex, which is in Sulaibikhat, an area north of Kuwait City. It consists of a low-security men’s prison, a high-security men’s prison, and a women’s prison. It is not meant to be used strictly for foreign nationals held on immigration matters, though non-nationals convicted of residency violations are imprisoned there. According to the UK Embassy in Kuwait, these prisons have “immigration sections,” which appear to serve as holding spaces that segregate people awaiting deportation from the rest of the prison population.

Conditions at the prison complex are reportedly deficient. The British Embassy reports, “Prison conditions in all of the detention facilities in Kuwait are well below UK standards. Overcrowding can be a problem, you cannot expect a single cell as a matter of course. A mattress and blanket should be provided.”

In its 2011 report, the KSHR pointed to similar problems at the Central Prison as to those found at Talha: overcrowding, poor basic services, inadequate recreation, insufficient lighting, poor state of repair, beatings by guards, and ineffective complaints procedures.

According to the U.S. State Department, in 2013 the Central Prison Complex housed “approximately 400 inmates in the women’s prison and 2,500 inmates in the men’s prisons, both citizens and non-nationals. Inmates reportedly lived in moderately overcrowded conditions. Prisoners had access to

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138 Ibid.
141 Ibid.
potable water. There were two reported deaths of prisoners: a woman who hanged herself and a man who died from a drug overdose. There were some reports that security forces abused prisoners.”

Although the regulations in Kuwait stipulate that female prisoners should be supervised by female guards while incarcerated, this does not happen initially in detention periods as some are held in police stations or investigation headquarters where security personnel are men, leaving them exposed to potential for more abuse and targets of sexual harassment and assault at hands of guards; expatriate women who do not speak Arabic are even more vulnerable to mistreatment. One researcher told the GDP: “There have been multiple media reports of domestic workers or other migrant women raped while in police custody. Some of these happened in police stations I believe, and others after women were picked up and in police custody.”

**Shelter detention.**

The first experience in custody for domestic workers, mainly women, can be specialised government-run shelters. Typically, women end up at these shelters after being sent there by their embassies. Reports indicate that there are two such shelters for women while one for men was under construction as of 2014. In an interview with Al Jazeera, Rima Kalush of Migrant-Rights.org, said: “These shelters are essentially detention centres, as workers are not permitted to leave until their inevitable deportation.”

A 2015 report by The Guardian newspaper about female domestic workers from Sierra Leone in Kuwait detailed conditions at one of the shelters. According to the report, after one woman “escaped and sought refuge at the Sierra Leonian embassy … she was moved to a Kuwaiti shelter for runaway maids, where she joined an estimated 300 former domestic workers awaiting deportation to their home countries. Many of those stuck there have been sent by their embassies, who considered it the best way to help them return. At the shelter, women find themselves in another type of prison. Under Kuwaiti law, employers are obliged to report any worker who has ‘absconded’ from a private home. Their residency permit is then cancelled and orders are issued to detain and deport them. While the facility is immaculate, with a large outdoor area and spotless corridors, those sheltering here are not allowed to go outside or use mobile phones. They can contact their families, but only on the shelter’s phone, and only at weekends. Women can be trapped here for months, if not years.”

144 Priyanka Motaparthy (Human Rights Watch), Email Correspondence with Michael Flynn (Global Detention Project), 23 March 2015.
145 Ibid.
146 Thessa Lageman, “Kuwait Opens Shelter for Runaway Maids,” Al Jazeera, 10 November 2014.
147 Ibid.
Hospital detention.

Unmarried foreign women who become pregnant can be arrested and held in Ward 10 (also known as the “Illicit Pregnancies” or “IP”) of the Sabah Maternity Hospital until they give birth. According to media accounts and reports from human rights workers, after giving birth the women—together with their newborns—are transferred to the women’s prison, charged with a crime, serve a jail sentence, and then remain at the facility to await removal from the country. ¹⁴⁹

A March 2014 report in the Kuwait Times reported that Ward 10 “has tight security with the doors locked and guarded 24 hours like a proper jail. Visits are not allowed. ... After the woman delivers, the mom and the baby are transported to the women’s prison. A case will be filed against her by the general prosecutor, she will go before a judge, a verdict and sentence will be passed and she will serve a jail term after which she will be deported.” ¹⁵⁰

Commenting on this practice, a writer for the Kuwait Times said: “I’m not defending illicit pregnancies. Or encouraging a woman to stray. But simple mathematics: As an expat woman, she may be from another country that does not require marriage before being pregnant. Most Western countries and many Asian ones do not treat pregnancy before marriage as a crime. ... I know we are an Islamic country and we should abide by sharia laws. But my argument is this: Many of these maids don’t know our rules and regulations and system. And sometimes they are abused by the employer who has the upper hand and she cannot challenge him even in the police station. Also, as we are accepting maids from all over the world with different nationalities and cultures, we cannot force them to accept our traditions, culture or religion. ... A jail is a very unhealthy environment to grow up in, and why should an innocent baby be delivered in a prison ward and raised with its mom in a jail?” ¹⁵¹


¹⁵¹ Ibid.
Introduction

The Sultanate of Oman is both an important magnet for migrant labourers as well as a destination for asylum seekers from various countries in Asia and Africa. However, it has one of the more restrictive immigration enforcement regimes in the Gulf and, like its larger neighbour Saudi Arabia, has sought to decrease the proportion of foreigners in its labour force (“Omanisation”). During 2014 and 2015, the country undertook aggressive detention and deportation efforts, which observers say resulted in the forced removal of both refugees and undocumented migrant workers, whom the Royal Oman Police (ROP) designated as “infiltrators.”

Describing the country’s crackdown, Migrant-Rights.org reported, “As part of one of the region’s stricter nationalization policies, Oman deported hundreds of workers a week in 2014. In the first week of 2015, over 50 undocumented workers were deported. Deported workers included those in violation of labour and residency laws.”

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According to the U.S. State Department’s 2014 human rights report on Oman, the government failed to protect refugees against refoulement to countries where their lives or freedom would be threatened. It reported: “Authorities apprehended and deported hundreds of presumed economic migrants from Somalia, Yemen, Ethiopia, and Eritrea who sought to enter the country illegally by land and sea in the south. Afghans and Pakistanis generally came to the country by boat via Iran. Authorities generally detained these persons in centres in Salalah or the northern port city of Sohar, where they were held an average of one month before deportation to their countries of origin.”

Expatriates constitute a significant portion of Oman’s population, more than 44 percent according to some estimates. There are approximately 1.5 million foreign workers in the country, the vast majority of whom are males from India, Bangladesh, and Pakistan.

Most migrants travel willingly and legally to Oman with the expectation of employment in domestic service or as low-skilled workers in the country’s construction, agriculture, or service sectors. Like other countries that apply the kafala (or “sponsorship”) labour scheme, foreigners are extremely vulnerable to conditions indicative of forced labour, such as the withholding of passports, restrictions on movement, nonpayment of wages, long working hours without food or rest, and physical or sexual abuse.

Oman’s closed political system and lack of government transparency make it very difficult for non-governmental groups to operate in the country. While the country has a National Human Rights Commission that reportedly visits detention centres, its reports are not made public. The country is thus very similar to Saudi Arabia—and starkly different to Bahrain, where there is both an active civil society and various official human rights bodies that report on the treatment of migrant labourers and detention conditions.

Like elsewhere in the region, simmering social tensions have spurred the country to announce limited reforms (including its “Omanisation” programme); however the political environment remains very restrictive. According to the Gulf Centre for Human Rights, human rights defenders and their families are frequently targeted for arrest, interrogation, and harassment, and torture is routine in penal institutions. Human rights defenders have been charged with offenses such as “undermining the status and prestige of the state” and insulting the Sultan.

What is known about the detention of foreigners in Oman largely comes from scattered press accounts, external human rights reports (from both governmental and non-governmental sources), and occasional statements from sending-country governments. The Omani government also sporadically releases piecemeal information about its detention and deportation efforts, which are then repeated in press accounts. For instance, a 2014 story in the Times of Oman reported that the Ministry of Manpower had announced that in 2012 some 15,000 absconding expat workers were arrested and some 11,000 in 2011.163

To fill in gaps in available information about detention practices in the country, the Global Detention Project (GDP) attempted to contact various official sources, including the embassies of the principal sending countries. To date, no responses have been forthcoming. However, the GDP was able to correspond with three self-described “activists” who volunteer time assisting migrant workers and have visited detainees in various prisons and detention centres. Due to the sensitivity of this issue in Oman and the fact that all three are foreign nationals, they asked to remain anonymous. One of the sources stated that because of his efforts on behalf of migrant workers he had received unspecified “threats.”164 These sources are not lawyers and do not have expertise in Omani law. They answered questions based on their knowledge and experience of the situation and were only able to provide general information regarding detention practices.

Finally, numerous details about detention and deportation procedures in Oman were revealed in a series of leaked U.S. Embassy cables from 2006-2007, which were released by Wikileaks.165 Although the information provided in these cables is dated, this GDP report includes numerous details from them as they demonstrate policy trends and confirm (and in some cases contradict) information provided by other, more recent sources.

Laws, Policies, and Practices

The Sultanate of Oman is a hereditary monarchy that has been ruled by Sultan Qaboos Al-Said since 1970. He is the sole authority empowered to enact laws through decree, although ministries draft laws and citizens provide input through the bicameral Oman Council. Oman’s constitution, called the


164 Undisclosed source (Activist No. 1 – Muscat, Oman), Email exchange with Parastou Hassouri (Global Detention Project), Geneva, Switzerland, 1 February 2014.

Basic Statute of the State, was promulgated in 1996 and amended in 2011. It contains provisions against unlawful arrest and detention (Article 18); prohibits detention or imprisonment “in places other than those designated for such purpose under the laws of prisons, where health and social care are provided” (Article 19); and includes protection against physical or psychological torture (Article 20).

**Immigration authorities.**

Alongside standard policing operations, the Royal Oman Police (ROP), is charged with providing security at all points of entry into the country and serves as the immigration and customs agency. The Royal Army of Oman, part of the Ministry of Defence, is responsible for securing the borders and also plays domestic security roles. The Ministry of Manpower has jurisdiction over cases involving alleged labour-law violations.

**Grounds for deportation and detention.**

The key provisions regulating administrative immigration-related detention in Oman are provided in the Foreigners’ Residency Law (Law No. 16 of 1995). Chapter Eight of the Residency Law (Articles 28-35) sets out the terms for deportation, which is linked to detention.

Article 29 provides that any foreigner who has entered the Sultanate in an unauthorized manner may be expelled through an order of the General Prosecutor, and that the costs for the removal are to be covered by the deportee or his/her employer.

Article 31 allows for the General Prosecutor to revoke the residency permit of any foreigner and order his deportation (along with that of his dependents) in the following circumstances:

- If he undertakes any activity that harms the security of the Sultanate or if he violates general order and morals;
- If he undertakes any activity that harms the well-being of the Sultanate in its external relations with other countries;
- If he is not earning his living legally.

Article 32 provides for detention if a person does not depart by a specific deadline and the measure is deemed necessary to carry out a deportation order.

**Length of detention.**

According to Article 32, detention for deportation can last up to two weeks. However, according to the GDP’s sources in Oman, the actual length of detention depends on the circumstances of each case and can be much longer than two weeks.

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One source told the GDP that detention can last from a few days to two years, depending on whether the person receives consular assistance and the sponsor does not put up barriers:
“If a person has committed a crime … and is convicted for a certain period, say for two years or more, by the time he is freed his residence status becomes invalid. It is the responsibility of the [consular] mission of his or her country to provide the travel documents. I have come across many such cases, where the terms are over, but the person is still inside the prison just for the reason that his or her mission has not submitted travel documents to the local authorities. It is harder when the person’s original passport was confiscated by their sponsor, who is unwilling to return it, or sometimes can’t even be located. Also, people who have migration violations will have to pay fees. Sometimes these fees are waived, but if they are not, collecting the money for the fee, or for the airfare ticket back (if the embassy won’t provide it) can make detention longer.”

Another source said that some people, like domestic workers from Ethiopia, are particularly vulnerable to lengthy periods in detention because they do not have a consulate in Oman to assist them. (In June 2014, just a few months after the GDP’s interview with this source, Ethiopia opened an “Honorary Consulate” in Oman’s capital Muscat. It is unclear to what extent this honorary mission is able to assist Ethiopian nationals with issues like deportation procedures.)

Criminalization.

An initial reason that foreigners are arrested and detained in Oman is because they are accused of violating the terms of their work permits or are charged with criminal violations of immigration laws. In this respect, Oman is similar to all of the other countries in the Gulf, where immigration-related detention has both criminal and administrative forms.

Foreigners do not appear to be systematically charged with status-related crimes unless they are repeat offenders. According to a 2006 U.S. Embassy cable detailing a visit to a “deportation centre” in the city of Sohar, U.S. officials were told that “illegal migrants arriving by boat along the Iran-facing Batinah coast are apprehended, interviewed at local police stations, and then brought to the detention facility where they are fingerprinted and photographed. … Fingerprints allow the ROP to determine if the illegal migrant has been detained before; in which case, a criminal case may be filed. It is estimated that less than 10 percent of the apprehended detainees are repeat offenders.”

Chapter Ten (Articles 41-48) of the Residency Law, titled “Penalties,” provides specific punishments—including fines and imprisonment—for immigration-related violations. Article 41 of the law provides prison sentences of up to three years for unlawfully “infiltrating” Omani territory or failing to abide

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169 Undisclosed source (Activist No. 2 – Muscat, Oman), Email exchange with Parastou Hassouri (Global Detention Project), Geneva, Switzerland, 15 February 2014.
170 Undisclosed source (Activist No. 1 – Muscat, Oman), Email exchange with Parastou Hassouri (Global Detention Project), Geneva, Switzerland, 1 February 2014.
by a departure order. Article 42 imposes a prison term of no less than seven days and no more than three months for any foreigner who neglects to request a renewal of residency within the required timeframe.

One source told the GDP that a common reason foreigners are arrested is because sponsors sometimes report that a worker has stolen something after he/she has approached “authorities with complaints against the employer for non-payment of wages or harassment.”

Another source said that many immigration-related arrests stem from alleged violations of the sponsorship scheme, like working for an unofficial sponsor. The source added that if a migrant flees from his or her sponsor, sometimes the employer will put an “absconding” advertisement in the newspaper and register the “absconder” with the police, which will result in the person’s detention and eventual deportation (unless they reach a settlement with the sponsor to return to work, which is rare). There are numerous press accounts discussing cases like these.

**Asylum seekers.**

Oman has not signed the 1951 Convention on the Status of Refugees or its 1967 Protocol. However, it is one of the few countries in the region to have domestic asylum legislation. Chapter 7 of the Residency Law (Articles 24 and 25) provides for the conditions under which political asylum may be granted.

Article 24 permits a foreigner to seek political asylum and reside in the Sultanate if his life or freedom is threatened for political reasons, as long as the reasons for seeking asylum do not contradict the general political situation in the country or Islamic beliefs.

Despite these legal provisions, there is very little available information about asylum procedures. The UN High Commissioner for Refugees (UNHCR) does not have a presence in Oman. According to its latest statistics, there are few “persons of concern” (less than 200 registered refugees and asylum seekers) in the country.

The agency responsible for asylum procedures is the ROP. According to the U.S. State Department, “The ROP reportedly granted asylum and accepted displaced persons for resettlement during the year [2014]. The ROP’s system for granting asylum and resettlement is not transparent, and the law does not specify a time frame in which the ROP must adjudicate an asylum application.”

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173 Undisclosed source (Activist No. 2 – Muscat, Oman), Email exchange with Parastou Hassouri (Global Detention Project), Geneva, Switzerland, 15 February 2014.

174 Undisclosed source (Activist No. 1 – Muscat, Oman), Email exchange with Parastou Hassouri (Global Detention Project), Geneva, Switzerland, 1 February 2014.


Trafficked persons.

Through Royal Decree No. 126/2008, known as the Law Combating Trafficking in Persons, the government of Oman prohibits all forms of trafficking and prescribes punishments ranging from three to fifteen years’ imprisonment, in addition to financial penalties for trafficking crimes. There is also a National Committee for Combating Human Trafficking, which conducts anti-trafficking trainings for prosecutors, judges, and law enforcement officials.

However, observers contend that the country does not fully comply with the minimum standards for the elimination of trafficking. Although there have been some prosecutions of sex traffickers, no labour traffickers have been investigated or prosecuted. Additionally, while the Ministry of Manpower issued a circular (No. 2/2006) that prohibits employers from withholding migrants’ passports, the practice is still quite widespread. And despite the existence of a government-run shelter for victims of trafficking, it is reportedly underused, mainly because of the government’s inadequate efforts to identify victims.178

A 2006 U.S. Embassy cable reported that an Omani government request to visit U.S. immigration detention centres was related to a critical Trafficking in Persons report concerning Oman’s anti-trafficking policies. According to the cable, “Seeking to strengthen processing and handling of the over 10,000 illegal migrants apprehended every year, the Government of Oman has requested that the Embassy facilitate a reciprocal visit to a U.S. deportation facility. The Omani request is directly relevant to the 2006 Trafficking in Persons report on the Sultanate, which recommended that Oman ‘develop and deploy a more comprehensive screening procedure to ensure that any (trafficking) victims are identified and provided with appropriate protection services.’ … While disturbed by the allegations published in the Department’s recent TIP Report, the Omani government sought to reassure Embassy officials of the fair and humane treatment of illegal migrants.”179

The weak efforts to protect trafficked persons make them vulnerable to detention and deportation. Following a visit to the country, the UN Special Rapporteur on Trafficking recommended that “Screening and identification procedures of trafficked persons in detention centres be systematic. Alternative arrangements, other than deportation or detention centres, should be considered to safely house identified trafficked persons.”180

Minors.

There is very little information concerning the detention of children in Oman. According to a global survey of laws concerning the detention of children with their parents, Omani law provides that newborn children can remain in prison with their mothers during their first two years, after which they are

to live with their father or a relative or go to an orphanage.\textsuperscript{181}

A 2006 U.S. Embassy cable stated that at that time embassy officials were reasonably certain that children and women were not being detained in the country’s deportation centres: “According to [Omani] officials, no women or children have ever been detained. Moreover, given the high cost of passage from Iran—approximately $300 USD per person—women and children are unlikely to have the necessary funds or be allowed to travel from their respective home countries.”\textsuperscript{182}

**Foreign workers.**

Like the other countries in the region, foreigners wishing to work in Oman must have a sponsor and their legal status remains tied to the continued employment with that particular sponsor. Chapter Two of Oman’s Labour Law (Royal Decree No. 35/2003) sets out the regulations for foreign workers.\textsuperscript{183} Article 18 provides that an Omani wishing to hire a foreigner can seek a permit from the Labour Ministry if: (a) there are not sufficient Omanis for the particular work; (b) the employer has otherwise complied with quotas required by “Omanisation”; and (c) the appropriate fees have been paid. The worker then must comply with all the requirements set out under the residency laws.

As noted previously in this report, the sponsorship scheme in Oman makes foreign workers vulnerable to both criminal and administrative forms of immigration-related detention. Migrant workers who flee abusive employers are frequently charged as “runaways” and sentenced to detention and deportation, which was highlighted by the UN Special Rapporteur on Trafficking.\textsuperscript{184}

A leaked 2007 U.S. Embassy cable relates an incident in which several workers from India and Nepal were severely beaten and detained by Omani security forces when they protested alleged contract violations and poor living conditions at a housing compound operated by their employer. When the Embassy inquired about the incident, Omani officials refused to say whether they would investigate the claims made by the workers, who were placed in deportation proceedings. When U.S. officials told their Indian counterparts in the country that they were willing to press Oman about this incident, the Indian officials asked them not to, saying that they did not want the U.S. Embassy “to interfere with the Indian government’s efforts to protect its nationals.”

The Embassy cable concluded: “In responding to this protest, the Omani government has an opportunity to demonstrate its commitment to the welfare of expatriate workers and to investigate allegations of labor exploitation seriously. However, the allegedly excessive police response, and the


MOM’s [Ministry of Manpower] unclear intent to investigate allegations of company malfeasance, calls its resolve into question.”

**Adherence to international norms.**

Oman has ratified the fewest number of core international human rights treaties among Gulf countries. In particular, it has failed to ratify two pivotal treaties with provisions relevant to immigration detention: the International Covenant on Civil and Political Rights and the Convention against Torture, which have been ratified by Kuwait and Bahrain. It has also not signed or ratified the Convention for the Protection of All Persons from Enforced Disappearance or the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. According to researchers, one obstacle to treaty ratification in Oman is the lack of a single agency or ministry that would be responsible for implementation.

**Access to detainees and detention monitoring.**

Obtaining information about detention practices in Oman is difficult due in part to the fact that there are no domestic organizations reporting on detention visits and NGOs and international organisations do not have access to detention facilities. Oman has a National Human Rights Commission, which reportedly monitors detention centres and investigates reports of abuse. However, it does not make its reports public. Also, the International Committee of the Red Cross, which has had access to detention facilities in other Gulf States like Bahrain, does not have access to detention facilities in Oman.

According to the U.S. State Department, in 2014 “The law permitted visits by independent human rights observer groups; however, none existed in the country. Consular officers from various embassies reported regular difficulties in meeting with prisoners. Prisoners and detainees did not always have reasonable access to visitors. There were no reports of independent nongovernmental observers requesting to visit the country. Foreign officials were not allowed to visit inside a prison to verify conditions for more than a decade.”

According to a 2006 U.S. Embassy cable, one of the first-ever visits by a foreign government or organization to one of Oman’s dedicated immigration detention centres occurred in 2006, when Oman

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189 Yazan Khalalileh, ICRC Detention Delegate, Email exchange with Parastou Hassouri (Global Detention Project), Geneva, Switzerland, 23 March 2014.

granted “a long-standing request” from a U.S. “PolOff” (political officer) to visit the “deportation centre” in Sohar. According to the cable, “No international non-governmental organizations (NGOs) or embassy personnel without detained citizens have ever requested to visit the facility. The first visit of its kind, the PolOff was accompanied by the Public Relations Director of the Royal Oman Police. The visit lasted about one hour and included a tour of the arrivals processing rooms, sleeping quarters, embassy interview rooms, and kitchen facilities. In whole, the facility, opened just four years ago, appeared neat, clean and well-organized.”

The GDP’s sources in Oman said that they are occasionally able to visit detainees to provide basic assistance (like clothing and food) and to help facilitate removal procedures.

**Access to information.**

The government provides little or no information or statistics concerning immigration detention. One source told the GDP that it is likely that officials do maintain statistics because the government sometimes makes announcements concerning the number of people being deported during specific periods. The GDP source said that it is only by closely following media reports that one can get a sense of how many people are detained and deported in a given year, and estimated that in 2013 some 6,000 people were detained. Another source estimated this number to be closer to 10,000, a figure that is in line with U.S. Embassy estimates reported in 2006.

**International cooperation.**

A notable element of the Wikileaks U.S. Embassy cables is the privileged view they provide into the process of how detention policies and practices can spread between countries. For instance, one of the cables concerns a request by Omani officials to visit U.S. detention centres in order to learn “techniques” for handling “illegal migrants.”

The embassy cable, which is described as an “action request” for the U.S. Department of Homeland Security (DHS), states: “In response to recent requests by the Royal Oman Police, the Embassy seeks DHS assistance in arranging a senior-level Omani government delegation to visit immigration detention/deportation facilities in the U.S. with a specific focus on handling potential victims of trafficking in persons. … The Royal Oman Police (ROP), in an effort to learn more about international

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192 Undisclosed source (Activist No. 2 – Muscat, Oman), Email exchange with Parastou Hassouri (Global Detention Project), Geneva, Switzerland, 15 February 2014.

193 Undisclosed source (Activist No. 1 – Muscat, Oman), Email exchange with Parastou Hassouri (Global Detention Project), Geneva, Switzerland, 1 February 2014.


techniques in processing illegal migrants, including screening them for possible victims of human trafficking, is seeking an opportunity to visit [sic] U.S. interviewing and investigation techniques.

As part of their visit, the ROP Operations Officers would also be interested in visiting shelters, non-governmental organizations and other support services that aid victims of trafficking.

The cable concludes: “The Embassy would like to present the Omani government with a proposed agenda for a 1-2 week program to occur in early FY 07. This exchange program will not only buttress international protections against trafficking in persons, but also further solidify a growing relationship between USG and Oman customs and border protection personnel.”

Costs of detention.

In its 2006 cables, the U.S. Embassy provided some estimates on the costs associated with detaining people at Oman’s deportation facilities. “Maintaining the center is a costly operation,” reported the cable. “On foodstuffs alone, it is estimated that the Omani government spends about $21 USD per day per detainee (almost $250,000 USD a year).”

Detention Infrastructure

Oman’s detention centres and prisons are among the least well known in the Gulf. According to the World Prison Brief, as of 2000, Oman had three prison establishments—two adult institutions and one juvenile detention facility. However, according to sources consulted for this report, there seem to be several more prisons and detention centres currently in operation in Oman, many of which reportedly are used for immigration detention and deportation procedures, including the Central Prison in Sumail as well as facilities in Qurum, Bausher, and Nizwa. Of these, the Central Prison is the largest and most important.

While the GDP’s sources in Oman said that they were unaware of the existence of any dedicated detention facilities, the Wikileaks cables from the U.S. Embassy in Oman reported the existence of two such facilities as of 2006, in the cities of Salalah and Sohar. U.S. officials visited the centre in Sohar, reporting that an estimated 400 “Pakistanis and other nationals” were deported from the facility every month.

The 2014 U.S. State Department human rights report confirmed that both Salalah and Sohar continue


199 Undisclosed source (Activist No. 2 – Muscat, Oman), Email exchange with Parastou Hassouri (Global Detention Project), Geneva, Switzerland, 15 February 2014.

to be important detention locations. According to the report, there is a “primary” facility used for immigration detention, but it does not specify which facility or where it is located. It reported: “The primary detention centre for illegal immigrants was overcrowded. There were also several hundred undocumented immigrants in detention centres awaiting deportation.”

One of the GDP’s sources in Oman claimed that migrants who are arrested are initially held at police stations before being transferred to the Central Prison in Sumail, where they are mixed with the regular prison population as they await deportation. He recalled an incident during which a large number of people, nearly 5,000, were arrested during a brief span of time for overstaying their visas and had to be held in an “open air jail” using tents because of overcrowding at Central Prison.

Another source, who provides assistance to detainees, said that some of the people she visited were in “detention centres” in Qurum and Bausher, as well as at the prison in Nizwa, although most were at Central Prison. She also said that the list of detainees in the main jail are normally provided to embassies.

Of the three sources, one had visited the central prison in Sumail on two occasions, and another had visited Sumail and the prisons in Qurum and Bausher. The main problems they reported concerned overcrowding and poor hygiene.

According to the U.S. State Department, the main detention centre for illegal immigrants was overcrowded and several hundred undocumented immigrants were awaiting deportation in detention in 2014. In contrast, in its 2006 cables, the U.S. Embassy describes the deportation centre in Sohar as having excellent conditions, stating that it “appears to meet high standards.”

Reported the cable: “The deportation facility itself is a large, nondescript square compound visible from the main road and within a mile of the town center. Within the exterior wall there are two separate sections, each made up of six rectangular-shaped rooms. Detainees are housed by nationality. Each room is approximately 30 feet by 60 feet and can easily accommodate up to forty persons. The rooms are sparse, but appeared to have plenty of blankets and pillows, as well as showers and toilets behind a privacy wall along the back. There is also cold drinking water and six ceiling fans in each room. According to officers running the facility, the detainees are provided two hours of exercise each day and are given reading materials, cards, and a copy of the Quran if they are Muslim.”
Introduction

The State of Qatar has been under intense scrutiny since it was selected by the Fédération Internationale de Football Association (FIFA) to host the 2022 World Cup games. The international spotlight has brought widespread attention to the abuses that foreign workers face in the country. Despite official promises of reform, observers argue that little has changed for most of the country’s 1.5 million migrant labourers.  

Foreigners, described as “expatriates” in Qatari immigration law, account for 90 percent of the country’s population of 2.2 million. The migrant population experienced a record surge in 2014, increasing by a record 10 percent, driven in part by a spike in labour needs related to World Cup preparations.

Central to the challenges facing foreigners in Qatar is the country’s Sponsorship Law, which ties foreign workers to their employers. The kafala (“sponsor”) system has been harshly criticized for enabling the mistreatment of workers. The law also specifically provides for immigration detention measures and

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thousands of people have been detained in recent years, sometimes for periods lasting more than a year.208 In one well known case, a Nepali worker languished for 17 months in a detention centre as the Ministry of Interior failed to secure his departure formalities because he was under a travel ban stemming from problems with his previous sponsor. He was only released and allowed to board a flight back to Nepal after the intervention of human rights groups.209

Responding to pressure to reform its kafala system, the country announced in May 2014 that it intended to abolish its sponsorship scheme and replace it with a system based on labour contracts.210 In October 2015, the country announced that it had adopted reforms as part of its new sponsorship law (Law No. 21 of 2015). According to Human Rights Watch (HRW), although the new law refers to “recruiters” instead of “sponsors” it still requires “low-paid migrant workers to get their employer’s permission to change jobs or to leave the country” and thus “prevents workers from leaving abusive employers.”211

Recent press reports and investigations by human rights groups have highlighted a range of problems associated with Qatar’s labour practices, including: large numbers of deaths at construction sites since the country won the World Cup bid212; protection gaps in the recruitment process (including charging fees of workers and misrepresentation of working hours and conditions); passport confiscation and failure to issue workers with residence permits; forced labour; and the failure to issue exit visas for workers wishing to leave.213

Some of these reports have mentioned issues related to detention and deportation, depicting a systemic pattern showing that migrant workers are mostly at risk of detention as a result of problems related to their working conditions. Migrants flee abusive conditions; employers report them as “absconders,” which turns them into illegal residents; they are arrested, sentenced to prison terms, and then kept in detention until deported.214

Qatar has also received considerable attention recently from international organisations. In November of 2013, the UN Special Rapporteur on the Human Rights of Migrants visited Qatar, his first visit to a Gulf country. The rapporteur’s mission report, in addition to highlighting some of the structural

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210 AFP, “Qatar to end sponsorship system for foreign workers,” AFP, 14 May 2014.


212 Owen Gibson, “Qatar government admits almost 1,000 fatalities among migrant workers,” The Guardian, 14 May 2014.


problems of the sponsorship scheme and abusive work conditions, devoted an entire section to detention and included the Special Rapporteur’s observations based on his visit to a detention centre.215

Like its Gulf neighbours, Qatar is politically restrictive and lacks transparency. However, it has sought to burnish its international reputation by being more open to visits from rights actors and non-governmental organizations, a trend that has been reinforced since Qatar’s selection to host the 2022 FIFA World Cup games. As a result, some information about immigration-related detention has also come to light.

Nevertheless, Qatar has strong censorship practices that make researchers and journalists vulnerable to arrest. In May 2015, for example, authorities arrested and detained a BBC team—who had been invited to Qatar by the Prime Minister’s office—for reporting on World Cup labourers. In September 2014, two British researchers commissioned by a Norwegian non-governmental organization to carry out research on migrants labour issues were held incommunicado for six days. Following an international media and civil society outcry, the Qatari authorities acknowledged holding the men in custody and subsequently released them.216

In an effort to develop a profile of Qatari immigration detention practices, the Global Detention Project (GDP) interviewed representatives of the UN Office of the Special Rapporteur on Human Rights of Migrants, human rights researchers, worker’s rights activists, as well as an expatriate worker who had been deported from Qatar. The GDP also requested interviews with the Qatar National Human Rights Committee (NHRC), the Qatar Foundation to Combat Human Trafficking (FCHT), and various sending country embassies. The NHRC and FCHT never responded to our requests while the embassies expressed reluctance to provide information.

Laws, Policies, and Practices

Qatar is a constitutional monarchy with hereditary rule by males in the emir’s branch of the Al Thani family, which has ruled since 1868. Article 36 of the 2004 Constitution provides: “Personal freedom shall be guaranteed and no person may be arrested, detained, searched, neither may his freedom of residence and mobility be restricted save under the provisions of the law; and no person may be subjected to torture, or any degrading treatment; and torture shall be considered a crime punishable by law.”


Grounds for detention and deportation.

The legal framework governing immigration-related detention in Qatar is provided in “Law No. 4 of 2009, Regulating the Entry and Exit of Expatriates in Qatar and Their Residence and Sponsorship” (the “Sponsorship Law of 2009”). Like other Gulf countries, immigration-related detention includes both criminal and administrative forms of deprivation of liberty. Administrative immigration detention is linked to deportation. The only explicit reference to administrative immigration-related detention provided in Qatari law is found in Chapter Five of the law, “Deportation and the Order to Leave the State.” Article 38 authorizes the Interior Minister to arrest/detain an expatriate who has been ordered exiled or deported for thirty days, “renewable or several similar periods.”

The Sponsorship Law provides a number of grounds for deportation of foreigners from Qatar. Article 37 provides for the deportation of any expatriate whose presence in Qatar poses a threat to national security or may damage the national economy or public health or morals.

As detailed below in the section on “Criminalisation,” there are additional provisions in the Sponsorship Law that penalise certain immigration violations with incarceration.

Criminalisation.

The 2009 Sponsorship Law provides criminal sanctions for violations of status-related provisions, which are enumerated in Chapter Seven of the law. Article 51 provides that a person may be fined up to 50,000 Qatari Riyals (approximately $13,700 U.S.) and/or jailed for up to three years for violations of: Article 2 (not holding valid passport/travel document and/or visa to enter Qatar); Article 3 (failure to enter/exit the country through authorized ports of entry/exit); Article 10 (2) (remaining in Qatar beyond visa validity or failing to obtain a residence permit); Article 11 (staying in Qatar in breach of purpose for which one originally entered, and/or failing to leave when business is completed); Article 39 (2) (failure to comply with a deportation order/order to surrender); and Article 48 (violating purpose of residence permit).

Employers and sponsors often retain workers’ passports and fail to provide them with a valid Qatar ID, which makes migrant workers vulnerable to charges of illegal residence or not holding valid ID. One human rights researcher told the GDP that a common ground for detention is Article 11 of the Sponsorship Law, which stipulates that expatriates must not breach the purpose for which they were granted residence. The researcher added that another important ground is Article 37, allowing for detention and deportation of those deemed to be a threat to the state, which is often applied against workers who have absconded (as they may “damage the national economy or public health or morals”).

218 James Lynch, Amnesty International Researcher (United Kingdom), Email exchange with Parastou Hassouri (Global Detention Project), Geneva, Switzerland, 3 February 2014.
A worker’s rights activist also interviewed indicated that fear of detention is commonly expressed among migrants who are almost “exclusively detained for charges of having an expired ID card of residency permit, or for ‘absconding.’ The authorities frequently check the validity of ID cards of certain categories of workers (primarily in the construction and service industry) to ensure they are not ‘illegally residing in Qatar.’ Although it is the legal responsibility of the employer to obtain the residency permit of a worker and to renew it (and in fact the worker cannot do so himself), it is the employee who is fined 10 Qatari Riyals per day for overstaying and he is the one who is punished. When workers leave one sponsor to work elsewhere (usually because they are offered a higher wage, or they are being exploited by the current sponsor), the initial employer may not agree to let them join a different company. If the workers leave without permission, the initial employer would classify them as ‘runaways’ or ‘absconders’ and the authorities are allowed to detain and/or arrest them for working with a different employer.”

**Length of detention.**

Article 38 of the 2009 Sponsorship Law provides for the arrest and 30-day detention of an expatriate who has been ordered deported. This can be renewed as often as deemed necessary. There is thus no time limit placed on this form of administrative detention. An Amnesty International (AI) researcher was told by officials that the normal length of detention in the deportation centre is seven to ten days. However, according to the UN Special Rapporteur, detention can last up to a year.

The rapporteur told the GDP that the length of detention was variable, depending on how the sponsor chooses to deal with the situation. During his visit, he was informed of numerous cases where detention was approaching the one-year mark, and reasons for delay typically had to do with either the sponsor’s refusal to grant an exit visa or sign a “no objection certificate” to the migrant’s departure from Qatar.

**Non-custodial measures (“alternatives to detention”).**

Article 39 states that if a deportation order has not been executed the Minister may “force the Expatriate to reside in a specific area for two renewable weeks in lieu of arresting him for a period or other similar periods. Accordingly, the expatriate has to surrender himself to the security department of the same area on the dates provided in the issued order until exiling or deporting him.” However, the GDP has not come across information about implementation of this provision.

During his 2013 visit, the Special Rapporteur found that “a large number of detainees” wished to return to their home countries and thus there was little risk of their absconding from removal proceedings.

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219 Aakash Jayaprakash, activist (Doha), Email exchange with Parastou Hassouri (Global Detention Project), Geneva, Switzerland, 30 January 2014.

220 James Lynch, Amnesty International Researcher (United Kingdom), Email exchange with Parastou Hassouri (Global Detention Project), Geneva, Switzerland, 3 February 2014.


222 François Crepeau, UN Special Rapporteur on Human Rights of Migrants (Geneva, Switzerland), Skype interview with Parastou Hassouri (Global Detention Project), Geneva, Switzerland, 20 January 2014.
In these cases, he concluded, “detention is not necessary and thus a violation of that person’s rights.” In his report, the rapporteur recommended “Qatari authorities to systematically rely on non-custodial measures rather than detention. An individual assessment of the necessity of detention should be undertaken in all cases, in accordance with international human rights standards, and non-custodial measures should always be considered before detention.”

According to the rapporteur, additional alternative measures include housing in shelters. “The Special Rapporteur was informed that some migrants asked to be kept in the deportation centre because they had no place to live. Keeping such people in a shelter would not only be much cheaper than detaining them, but would also better respect the human rights and dignity of those concerned. … The capacity in such shelters should be expanded and new shelters should be established for all migrants in difficult situations, men, women and children.”

**Procedural standards, challenging detention.**

According to informants, there is little possibility of challenging detention or deportation orders. This is due both to the restrictive nature of the sponsorship scheme and the fact that procedures to obtain relief from detention/deportation are not readily available to migrants. There is also no legal aid and significant language barriers. According to AI, it found only 50 successful cases in which deportation orders were challenged (out of thousands).225

One activist told the GDP that he has seen many cases where workers have filed labour complaints, which are sometimes referred to the Ministry of Justice, but that more often than not, he has seen that workers appear and sponsors do not. However, instead of deciding in favour of the worker, the case gets rescheduled and can drag on for months, until the worker decides to give up.226

In his report, the UN expert reported: “The Special Rapporteur is concerned that detainees have limited ability to contact their families, limited access to legal assistance or consular services and virtually no professional interpretation services. Access to a phone was not guaranteed for those who did not have money to pay for the pay phone and mobile phones were confiscated. The detainees therefore had difficult access to the outside world and little knowledge about complaint mechanisms and how to challenge their detention. The detainees reported that there was no way for them to make complaints about their detention or the conditions in detention. Some of them had spent several months in the deportation centre and lacked information about their situation, not knowing why they were there or what would happen to them. In general, the detainees that the Special Rapporteur met had little or no information in a language they could understand about the reasons for their detention or its duration.

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224 Ibid.


226 Undisclosed source (Activist-Doha), Interview with Parastou Hassouni (Global Detention Project), Geneva, Switzerland, 14 December 2013.
and little or no consular access or means of challenging their detention and/or deportation.”

**Asylum seekers.**

Qatar is not a signatory to the 1951 Refugee Convention or its 1967 Protocol and there is no domestic legislation explicitly providing for the granting of asylum or refugee status. According to statistics maintained by the UN High Commissioner for Refugees, a very small number of individuals are registered with their office as refugees and/or asylum seekers in Qatar.

**Trafficked persons.**

Qatar enacted comprehensive anti-trafficking legislation, Law No. 15, in October 2011. The law prohibits all forms of trafficking and prescribes penalties including fines (the equivalent of $82,000) and imprisonment of up to 15 years. Under Article 9 of the 2009 Sponsorship law, employers are to return a worker’s passport to him/her upon completion of procedures to obtain a residency permit, however, as will be discussed below, the majority of employers fail to comply with this provision.

The country operates an official shelter for women and children, providing access to medical and psycho-social care, repatriation assistance, and legal aid to trafficking victims.

However, according to the 2013 U.S. State Department Trafficking in Persons Report (TIP Report), despite making some efforts, the government of Qatar does not fully comply with the minimum standards for the elimination of trafficking. Implementation of the law remains a serious issue, and trafficking offenses are under prosecuted.

According to the TIP Report, several factors—including employers’ retention of workers’ passports, recruitment fees paid by workers in home countries, and the non-payment of wages—demonstrate that trafficking is a serious concern in Qatar that has not been adequately addressed.

**Minors.**

The office of the UN Special Rapporteur informed the GDP that children and migrant women who become pregnant outside of marriage are imprisoned because extra-marital relationships are criminalized (many Gulf countries, including Kuwait and Saudi Arabia, apply similar measures). Some of the women are reportedly detained with their children at the country’s dedicated immigration detention facility.

Commenting on the detention of children and pregnant women in Qatar, the UN expert said in his report: “There were several pregnant women in the deportation centre during the visit of the Special Rapporteur. The Special Rapporteur deeply regrets this practice. The authorities should either facilitate their return to their countries, or house them in shelters. Similarly, children should never find

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228 Christel Mobech, Office of UN Special Rapporteur on Human Rights of Migrants (Geneva, Switzerland), Skype Interview with Parastou Hassouni (Global Detention Project), Geneva, Switzerland, 21 January 2014.
themselves in detention: migrant women with children should always be hosted in shelters. While there were no children in the deportation centre during his visit, the Special Rapporteur was informed by several sources that women with small children are routinely kept in the deportation centre and he was told that approximately 10 women with children had been removed from the centre the day preceding his visit.  


Access to detainees.

Based on numerous conversations with sources in Qatar, it seems clear that there are mechanisms in place that enable access to people held in immigration detention. Embassy representatives are granted access to their nationals. Also, the country’s deportation facility has regular visiting hours. However, because this facility is located outside the urban centre and there is no nearby public transportation, it is difficult for family members to visit. Both the UN Special Rapporteur and AI told the GDP that their visits to the detention centre were facilitated by the Qatari National Commission for Human Rights. Journalists and researchers wishing to visit the facility can seek permission from the Ministry of Interior.

Access to information.

Although the Qatari authorities have been relatively open to visits by foreign delegations wishing to research migrant worker issues, access to detailed information and statistics remains a significant problem. For instance, authorities do not provide statistics on the numbers of migrants detained and deported. The UN Special Rapporteur informed the GDP that one official in the Ministry of Interior claimed that statistics were not kept.  

230 Francois Crepeau, UN Special Rapporteur on Human Rights of Migrants (Geneva, Switzerland), Skype interview with Parastou Hassouri (Global Detention Project), Geneva, Switzerland, 20 January 2014.

AI stated that only when pressed did one official in the Ministry of Interior provide him with some numbers.  

231 James Lynch, Amnesty International Researcher (United Kingdom), Skype interview with Parastou Hassouri (Global Detention Project), Geneva, Switzerland, 23 December 2013.

The GDP’s requests for information and statistics from governmental and other official bodies like the NHRC and the FCHT were ignored.

Detention monitoring.

Both the Human Rights Department of the Ministry of Interior and the NHRC are mandated to visit sites of detention and the Committee has investigated conditions at the country’s sole specialised immigration detention facility in Doha. The regularity of these monitoring efforts is unclear, however, as the Committee did not grant the GDP an interview. According to its 2014 annual report, “The deportation centre is extremely crowded, which affects hygiene and safety standards. The NHRC was informed of a tragic incident whereby a fire started in the prison in September 2014, which results in the death of 5 prisoners. The Ministry of Interior announced the incident the following day. The crowdedness also creates a hostile and tense atmosphere among the detainees, according to testimonies from a group of workers who were released after being detained in the prison.”
In his report on Qatar after visiting the country in 2013, the UN Special Rapporteur highlighted the committee’s limitations: “Despite its good will and awareness of the issues, the National Human Rights Committee has limited means and cannot take any decisions, only transfer the complaint to the relevant ministry. The Ministry of Labour can only mediate and if the employer does not agree, the worker has to file a case with the court. Migrants find the division of competencies between the Committee and the Ministries of Labour and Interior confusing.” He added: “The Special Rapporteur notes as positive the visits to the deportation centre by the National Human Rights Committee and the Human Rights Department of the Ministry of Interior. However, he believes it is important for Qatar to ratify the Optional Protocol to the Convention against Torture and establish an independent national preventive mechanism tasked with undertaking regular unannounced visits to all places of deprivation of liberty in Qatar.”

**Foreign workers.**

Qatar has one of the highest proportions of migrants of any country in the world, who comprise more than 90 percent of its workforce. Considerable international attention has been focused on the abusive conditions faced by foreign worker in the country since Qatar was selected to host 2022 World Cup.

The main law governing foreign workers in Qatar is the 2009 Sponsorship Law. The law provides that each expatriate granted an entry visa to Qatar must have a sponsor. The foreign worker is then tied to that specific employer, unless, as required by Article 22 of the 2009 Sponsorship Law, the sponsorship is transferred to a new employer by a written agreement between the current/former and new employer, and approved by the Ministry of Labour. Furthermore, Article 26 requires that the sponsor sign the exit permit of a worker before he/she can leave the country.

According to the 2013 U.S. State Department’s TIP Report, though many workers “voluntarily migrate to Qatar as low-skilled labourers and domestic servants … many subsequently face involuntary servitude. According to Qatar University’s Social and Economic Survey Research Institute, a November 2012 study found that 86 percent of expatriate workers surrendered their passports to employers. There are also reports of widespread non-payment of wages. Female domestic workers are particularly vulnerable to trafficking due to their isolation in private residences and lack of protection under Qatari labour laws. Many migrant workers arriving for work in Qatar have paid exorbitant fees to recruiters in their home countries—a practice that makes workers highly vulnerable to forced labour once in Qatar. Moreover, Qatar’s sponsorship system binds foreign workers to their designated employers, placing a significant amount of power in the hands of employers; because of this, when workers face abuse, they often avoid legal action because of the lengthy recourse process, fear of reprisal, or lack of knowledge of their legal rights.”

According to the UN Special Rapporteur: “Sponsors are empowered by the Sponsorship Law to prevent migrants from changing employers and from leaving Qatar. The kafala system enables unscrupulous employers to exploit employees. Frequent cases of abuse against migrants include the confiscation

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of passports, refusal to give “no objection” certificates (allowing migrants to change employer) or exit permits and refusal to pay migrants’ plane tickets to return home. Some employers do not extend residence permits for their employees, often because of the fees incurred. This leads to migrants ending up in an irregular situation, with no valid identity card, despite the fact that they are regularly employed.\footnote{Human Rights Council, Report of the Special Rapporteur on the human rights of migrants, François Crépeau, Mission to Qatar, Twenty-sixth Session, 23 April 2014, http://www.ohchr.org/Documents/Issues/SRMigrants/A-HRC-26-35-Add1_en.pdf.}

In October 2015, the country announced that it had adopted reforms as part of its new sponsorship law (Law No. 21 of 2015). According to HRW, although the new law refers to “recruiters” instead of “sponsors” it still requires “low-paid migrant workers to get their employer’s permission to change jobs or to leave the country” and thus “prevents workers from leaving abusive employers.”\footnote{Human Rights Watch, “Qatar: New Reforms Won’t Protect Migrant Workers,” 8 November 2015, https://www.hrw.org/news/2015/11/08/qatar-new-reforms-wont-protect-migrant-workers.}

### Adherence to international norms.

Qatar has not ratified the main international human rights treaties that have provisions relevant to immigration detention and procedural safeguards for detainees (including the International Covenant on Civil and Political Rights and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families).

On the other hand, Qatar has ratified the Convention against Torture. During examination of a report by Qatar in 2012, the UN Committee on Torture, which oversees member states’ implementation of the treaty, recommended that Qatar should “ensure that all detainees, including non-citizens, are afforded, in practice, all fundamental legal safeguards from the very outset of detention, including the rights to promptly receive independent legal assistance and a medical examination by an independent doctor, contact relatives, and appear before a judge within a time limit in accordance with international standards.” It also recommended that it “ensure that fully independent monitoring of all places used for deprivation of liberty, including the deportation detention centre” and encouraged it to “accept monitoring of places of detention by non-governmental organizations and relevant international mechanisms.”\footnote{Committee against Torture, “Concluding Observations on the 2nd Periodic Report of Qatar, Adopted by the Committee At Its 49th Session, 29 October–23 November 2012,” United Nations, CAT/C/QAT/CO/2, 25 January 2013, http://uhri.ohchr.org/document/index/25564306-801e-4693-9e10-52ecd7a190eb.}

In 2007, after her visit to Bahrain, Oman, and Qatar, the Special Rapporteur on Trafficking in Persons also made relevant recommendations to all three states to ensure that “Migrant workers in detention centres be informed of the reasons of their arrest in a language they understand, be provided with legal assistance if requested, be allowed to make a local or international phone call and have access to their embassies” and that “Screening and identification procedures of trafficked persons in detention
centres be systematic. Alternative arrangements, other than deportation or detention centres, should be considered to safely house identified trafficked persons.236

In 2014, ahead of elections of members to the UN Human Rights Council, Qatar pledged to consider “mechanisms to govern the working conditions of domestic workers and reviewing the law on the entry, exit, residence and sponsorship (kafala) of migrants and the labour law with a view to their development.”237

Detention Infrastructure

Qatar appears to operate one dedicated immigration detention facility, commonly referred to as the Deportation Detention Centre, which is located in Doha. The facility is administered by the Search and Follow-up Department of the Ministry of Interior.238 It is located in the industrial area outside the city centre, on Salwa Road, and consists of one-story blocks that contain accommodation and dining quarters. Men and women are segregated.

Non-citizens arrested for criminal offenses or convictions, which can include immigration violations, are held at the central prison in Doha. Migrants are additionally held in police stations, but police custody is usually short-term, anywhere from a few hours to 48 hours, before the person is transferred to another facility (or a shelter in the case of domestic workers who are reporting abuse).

In addition to these facilities, the government runs a shelter for trafficking victims. The Special Rapporteur visited the shelter, and during the time of the visit, fifteen women were staying there after alleging that they had been raped by their employers. In contrast to similar shelters in Kuwait, which reportedly operate as de facto detention centres, the Qatar shelter is non-secure, allowing women to leave at their will. However, the Rapporteur was informed that most women do not leave the premises because they lack documents and fear being arrested.239

A researcher for AI visited the deportation centre in 2012 and 2013. He was told that there were roughly 1,000-1,200 men and 250-400 women in the centre during his visits, but that numbers fluctuate month to month, depending on the availability of flights to sending countries. He said that


239 Christel Mobech, Office of UN Special Rapporteur on Human Rights of Migrants (Geneva, Switzerland), Skype Interview with Parastou Hassouni (Global Detention Project), Geneva, Switzerland, 21 January 2014.
during Ramadan and summer months, the numbers of detainees increase. In terms of nationalities, among males, Nepalis constituted the single largest group of detainees, followed by Indians and Bangladeshis. Among women, the largest numbers were from the Philippines and Indonesia. An interior ministry official also told him that on average, 12,000 migrants are deported from Qatar annually.\footnote{240}

When asked if detention was a “common concern” among workers interviewed, the AI researcher said: “it is difficult to answer, but certainly in cases where groups of migrant workers are facing serious problems (e.g. lacking residence permits, companies denying exit permits, long periods without pay), or where workers are fighting lengthy court cases, workers have been very aware of the possibly of being detained. And we have come across various cases of workers being detained and struggling to be released.”\footnote{241}

Another activist told the GDP that if the authorities truly wanted to crack down on all instances of sponsorship law violation, the scale of immigration detention in the country would be much larger. This person added that large scale detention and deportation would cost the government too much money, and defeats the purpose of having a large, pliant workforce that is afraid of detention and deportation and therefore less likely to report violations of their rights.\footnote{242}

The UN expert who also visited the main deportation centre during his November 2013 visit to Qatar provided similar statistics on the numbers detained. According to the Rapporteur, 1,050 men were present at that time of his visit and 300 women. The males were primarily from Nepal, India, Pakistan, and Bangladesh, and the women were mostly Indonesian or Filipina. He also reported that authorities in Qatar were not forthcoming regarding statistics, claiming that they do not keep them.\footnote{243}

### Conditions of detention.

Some recent reports concerning the state of Qatar’s prisons indicate that they generally meet basic standards although overcrowding appears to be a recurring problem, including at the dedicated deportation centre in Doha, which the NHRC has recommend expanding. According to the U.S. State Department, during 2014, “prisons and detention centers generally provided clean sanitation facilities, potable water, and access to adequate medical care.” However, the UN Special Rapporteur found the country’s dedicated immigration detention centre “to be overcrowded and unsanitary.” According to the rapporteur’s report, “Some migrants who had been both in the central prison and the deportation

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\footnote{240}{James Lynch, Amnesty International Researcher (United Kingdom), Skype interview with Parastou Hassouri (Global Detention Project), Geneva, Switzerland, 23 December 2013.}
\footnote{241}{James Lynch, Amnesty International Researcher (United Kingdom), Email exchange with Parastou Hassouri (Global Detention Project), Geneva, Switzerland, 3 February 2014.}
\footnote{242}{Undisclosed source (Activist-Doha), Interview with Parastou Hassouri (Global Detention Project), Geneva, Switzerland, 14 December 2013.}
\footnote{243}{Francois Crepeau, UN Special Rapporteur on Human Rights of Migrants (Geneva, Switzerland), Skype interview with Parastou Hassouri (Global Detention Project), Geneva, Switzerland, 20 January 2014.}
centre, stated that the deportation centre had the worst detention conditions, a remark that fits with an unfortunate pattern of treating migrants with little respect for their dignity.\textsuperscript{244}

According to information the GDP has received, the Doha detention centre appears to have regular visiting days and hours for family and friends, and embassy representatives and lawyers are reportedly able to visit it any day. The AI researcher who visited the facility said that he was unable to assess the overall conditions of the facility but that detainees complained about the quality and adequacy of food and adequacy of time spent outdoors. One of the more disconcerting aspects of his visit was that detainees were not fully aware of the reasons for their detention and did not know what steps they could take to apply for release or return to their countries. Part of the challenge for detainees is that communication with the outside world is very limited (mobile phones are banned in the centre and are taken away from detainees and there appear to be regular problems with landlines in the centre, plus phone cards are expensive). The researcher also told the GDP that that there were women detained at the facility who were pregnant or with small children,\textsuperscript{245} a problem also highlighted by the UN Special Rapporteur during his visit in 2014.\textsuperscript{246}

According to the UN Special Rapporteur, there was serious overcrowding at the facility. Qatari officials told him that they were building a new ward at the facility to accommodate up to 500 women. The rapporteur noted a litany of other problems at the facility, including unsanitary toilets, insufficient bedding, limited access to legal assistance and consular services, no professional interpretation services, no change of clothes, shortage of basic hygienic products, lack of access to outside world, no public transportation to enable visits by family members, and inadequate access to phones.\textsuperscript{247}

The UN Special Rapporteur also highlighted deficiencies in medical treatment: “Several of the migrants the Special Rapporteur met reported different health conditions, both physical and mental, but they had not had adequate medical attention. One housemaid had been beaten and burned by her employer before running away. Another had injured her leg in an accident. One ran away after an attempted rape. Access to a doctor was difficult, with no proper treatment given. The detainees reported that the only medication given was aspirin, regardless of their illness. The Special Rapporteur heard stories of pregnant women in detention not receiving prenatal care, including one who had miscarried inside the deportation centre. It was also reported to the Special Rapporteur that mentally ill persons had been kept in the deportation centre, with no adequate treatment.”\textsuperscript{248}

\begin{itemize}
\item \textsuperscript{245} James Lynch, Amnesty International Researcher (United Kingdom), Email exchange with Parastou Hassouri (Global Detention Project), Geneva, Switzerland. 3 February 2014.
\item \textsuperscript{247} Ibid.
\item \textsuperscript{248} Ibid.
\end{itemize}
Introduction

In March 2014, Agence France-Presse reported that a migrant confined in an immigration detention centre near Mecca was killed and nine others injured when police intervened to stop an uprising at the facility. A police spokesperson explained that the intervention had been necessary because detainees “tried to cause chaos ... resulting in damages to the centre.”\textsuperscript{249} A few months earlier, in November 2013, a spokesperson for the Riyadh police was quoted in a news report saying the government was spending some 1 million Saudi Riyals (approximately 266,000USD) daily to detain “illegal Ethiopians” and had “rented 90 rest houses at double the normal price and milk valued at SR200,000 for their children.”\textsuperscript{250}

As there is little government transparency in Saudi Arabia and no independent oversight of detention practices, what we know about immigration detention in the country comes from scattered press accounts like the ones cited above and reports by human rights organizations that rely on information provided by former detainees after they have been deported. While our knowledge of the Saudi detention regime remains very incomplete, these reports make clear that detention has become an


important tool in the government’s efforts to restrict the number of unauthorized foreign workers. Additionally, there are reports dating back more than a decade indicating that Saudi authorities were using prisons and other facilities to hold non-citizens in a form of immigration detention.

To help fill in gaps in our knowledge of detention practices in the country, the Global Detention Project (GDP) reviewed the country’s legislation, contacted sending country embassies and local offices of international organizations, corresponded with NGOs, consulted human rights reports and websites that address immigration issues in the country (including www.migranteme.org, www.migrantenemen.blogspot.ch, and www.migrant-rights.org), and examined the meagre resources on the country produced by relevant human rights bodies. The GDP also reached out to rights activists working with migrants both in Saudi Arabia and after deportation, interviewing in particular one individual who advocates on behalf of migrants.

Saudi Arabia has long been an important destination for workers from across Asia and the Middle East, who account for nearly a third of the country’s population. Labour migration to the Kingdom began as early as the 1930s, spurred by oil exploration, but picked up significantly after the oil boom of the 1970s (Saudi Arabia has the second largest oil reserve in the world and maintains the world’s largest crude oil production). As of 2013, the country was home to approximately 9 million immigrants.

Foreign workers, in fact, represent the largest segment of the country’s working population. By 2008, non-nationals accounted for 50.6 percent of the country’s workers. A more recent study reports that by 2013 foreigners “accounted for 56.5 percent of the employed population, and 89 percent of the private sector workforce.” According to the Middle East online advocacy forum Migrant-Rights.org, a stunning 99.6 percent of all domestic workers and personal assistants in the Kingdom are foreigners. Complicating their situation is the fact that many of these workers are undocumented. According to the activist working with Filipinos who was interviewed by the GDP, of the 1.2 million Filipino workers

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253 Because of the sensitivity of this issue in Saudi Arabia and the vulnerability faced by migrants in the country, the source asked to remain anonymous. Undisclosed source, multiple telephone interviews and email exchanges with Parastou Hassouri and Michael Flynn (Global Detention Project), between February 2014 and October 2015.


258 Ibid.


in Saudi Arabia, the vast majority are “undocumented” because they have either left their official employer or overstayed their permits. In August 2015, Saudi Arabia also experienced a significant influx of refugees fleeing conflicts in nearby countries, particularly Syria. Media reports citing government sources state that by September 2015 some 500,000 Syrians had arrived in the country. Saudi Arabia, however, has not ratified the UN Refugee Convention, and the Syrians are not considered to be refugees. One Saudi journalist writes that while many Syrians have been able to remain in the country after their visas expired and find jobs, the country is trying to prevent more refugees from coming because the labour market is “saturated.” He writes: “Our brotherly relations with the Syrian people … prevailed, and we opened our doors to them as much we could. But our economy cannot tolerate hosting refugees who turn into residents.”

It is against this demographic backdrop that any assessment of immigration detention in Saudi Arabia must be understood. On the one hand, the country—like all of its Gulf neighbours—is notorious for its sponsorship (kafala) labour system, which ties workers to their employers and places enormous pressures on foreign workers, making them vulnerable to abuses at their places of work as well as to arrest, detention, and deportation. There have been numerous reports on the challenges and human rights violations that expatriate workers experience in this system, particularly low-wage workers and women domestic workers.

At the same time, “Saudi Arabia is one of the countries that have implemented vigorous policies to reduce dependence on foreign workers and increase the employment of nationals in the economy.” As recently as 1985, non-nationals accounted for a 65 percent of the country’s labour force. To drive down these numbers, a policy of “Saudisation” has been pursued, which has included a series of deportation campaigns aimed at removing “illegal workers.” These mass removal efforts have led to huge numbers of people being placed in detention as they await removal from the country. According to Amnesty International’s 2014/2015 report on Saudi Arabia, “Many migrants reported that prior to their deportation they had been packed into severely overcrowded makeshift detention facilities where they received little food and water and were abused by guards.”

The deportations, part of a larger domestic labour market restructuring called Nitaqat, have been massive in scale. In April 2013, Saudi authorities announced that nearly 800,000 illegal workers had

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261 Undisclosed Source, Telephone Interview with Parastou Hassouri (Global Detention Project), 18 February 2014.


been deported during the previous 15 months. Further, between November 2013 and March 2014 over 1.5 million “illegal noncitizen workers” reportedly “either self-deported or were forcibly deported” and the Ministry of Interior reported that “it detained an average of 22,000 “illegal migrants” per month between February and August [2013].” According to the International Organisation for Migration (IOM), during the period June 2013 to November 2014, 613,743 Yemenis were returned.

In November 2013, by which time some five million undocumented expatriates had been regularized, a “grace period” expired and a Ministry of Interior spokesman declared that “all expatriates who work for their personal gain or overstayed their Haj, Umrah, and visit visas and infiltrators will be caught and will be detained until completing legal procedures for penal measures and deportation.” The government also stated that the campaign would target those who “cover up illegals or those who give them shelter or transportation or any kind of help” and that all “branches of the Public Security will shoulder the responsibility of catching the violators and handing them over to detention centres, which will be under the supervision of the General Prisons Directors.”

This crackdown was accompanied by numerous reports of ill-treatment, which generally came to light after people had been deported. For instance, when 30 Filipino workers were expelled in November 2013, they made allegations of abuse, stating that the Saudi police rounded them up and placed them in a crowded cell for four days with their feet chained before taking them to the airport to be deported.

Also in early November 2013, round-ups in the Manfouha district in Riyadh, where many East Africans (particularly Ethiopians) live, led to clashes with security forces and resulted in scores of injuries and at least two deaths. Human Rights Watch (HRW) spoke to five Ethiopian migrant workers in Saudi Arabia who described the attacks that took place in the Manfouha neighbourhood. It is estimated that more than 150,000 Ethiopians were expelled from the Kingdom during the crackdown.

However, in a 2014 interview, Aida Awel, Chief Technical Advisor on Migrant Domestic Workers at the

International Labour Organization’s Addis Ababa Office stated that the number of Ethiopian returnees had reached 163,018, of which 100,688 were men, 53,732 women, and 8,598 children.276

The large scale of round-ups in a relatively short period of time also meant that migrants were detained in makeshift facilities and even camps.277

There has also been concern that the recent deportations in Saudi Arabia have included refugees and asylum seekers. According to reports, between December 2013 and August 2014, Saudi authorities summarily deported 40,000 Somalis, many of them from parts of Somalia where their lives and freedom would likely be threatened.278 During debriefings after their deportations, the Somalis claimed that beatings and other abusive treatment occurred during the deportation process.279

As noted previously in this report, the recent crackdown on foreigners is not unprecedented. There are reports dating back nearly 15 years of people being placed in immigration detention. Also, in 2003, Saudi Arabia attempted to construct a fence along its 1,800-kilometer border with Yemen. Construction was halted after the Yemeni government complained that it violated a border treaty the two countries signed in 2000.280 However, construction of the fence resumed in 2013,281 accompanied with the deportation of hundreds of thousands of Yemenis, causing an outcry from the impoverished nation, which depends heavily on remittances.282

Laws, Policies, and Practices

The Kingdom of Saudi Arabia, an absolute monarchy whose king is both head of state and head of government, is arguably the most conservative country in the Middle East. It is heavily influenced by an extreme form of Islam known as Wahhabism and it is notorious for its pervasive gender-based discrimination.

The government bases its legitimacy on its interpretation of Sharia (Islamic law) and on the 1992 Basic Law of Governance, which specifies that “the Kingdom of Saudi Arabia is a sovereign Arab Islamic State” and that the rulers of the country shall be male descendants of the country’s founder, King Abdulaziz.

bin Abdulrahman Al-Faisal Al-Saud.\textsuperscript{283} Article 36 of the Basic Law stipulates that “[t]he State shall provide security for all citizens and residents on its territories. No one may be confined, arrested or imprisoned without reference to the Law”.

Article 35 of the Law of Criminal Procedure (Royal Decree No. M/39) also states that “no person shall be arrested or detained except on the basis of a judicial order from the competent authority.” This article also specifies that “[a]ny such person ... shall also be advised of the reasons of his detention ...”\textsuperscript{284} Additionally, article 114 of the Law of Criminal Procedure provides that if an accused is to be detained in pretrial detention, it is to last a maximum of five days, renewable up to a total of six months. Article 116 provides that “Whoever is arrested or detained shall be promptly notified of the reasons for his arrest or detention, and shall be entitled to communicate with any person of his choice, to inform him (of his arrest or detention), provided that such communication is under the supervision of the criminal investigation officer.” However, the GDP has not come across practical instances where these safeguards are applied to immigration detainees.

There have been numerous reports of overcrowding in prisons and mistreatment of detainees (including torture), denial of due process, arbitrary interference with privacy, and discrimination based on gender, religion, sect, race, and ethnicity.\textsuperscript{285} It is virtually impossible for independent non-governmental organizations to operate in Saudi Arabia, there is no independent oversight of prisons or detention centres, and human rights defenders are frequently the target of harassment and prosecution.

**Grounds for detention and criminalisation.**

Saudi Arabia does not have a comprehensive migration policy. However, the Residence Regulations (No. 17/2/25/1337 of 1952), which contains a set of laws pertaining to immigration status and the rights of non-citizens, provides norms concerning the detention and incarceration of non-citizens for immigration-related reasons.\textsuperscript{286} Additionally, the Labour Law provides penalties for violations of immigration-related statutes.\textsuperscript{287}

These laws, however, generally relate to criminal punishments and do not make reference to administrative immigration-related detention. It is often unclear to what extent one can separate immigration detention from criminal incarceration, and many cases of foreigners being held in prison awaiting deportation tend to describe the detentions as being related to criminal procedures.

Thus, for instance, in a 2012 letter to the Saudi government expressing concern about the imprisonment of a group of Ethiopian Christians, the UN High Commissioner for Human Rights stated that although the individuals were being held at Jeddah’s Briman Prison to await deportation, they had all been “informally charged” with “illicit mingling” of unmarried persons of the opposite sex.\footnote{UN High Commissioner for Human Rights, Letter to the Government of the Kingdom of Saudi Arabia concerning the detention of Ethiopian Migrants, 14 February 2012, https://spdb.ohchr.org/hrdb/20th/UA_Saudi_Arabia_14.02.2012_(2.2012)jp.pdf.}

Even when the detentions appear to be strictly related to immigration reasons, deprivation of liberty is generally described as resulting from a criminal procedure.\footnote{For example, a 2014 medical research article discussing the frequency of chlamydia infections among female inmates at Briman Prison describes the participants in the study thusly: “Among the participants, 58.5% were convicted for prostitution, 10.2% for illegal immigration, 6.8% were convicted for wine trading, and the rest were convicted for forgery, theft, begging, etc.” Wafa Fageeh et al, “Chlamydia trachomatis infection among female inmates at Briman prison in Saudi Arabia,” BMC Public Health, 20 March 2014, http://www.biomedcentral.com/1471-2458/14/267. Interestingly, the study highlighted the overwhelmingly high proportion of foreign inmates in the prison: “Two out of five (2/5, 40%) Yamani, (4/33 12.1%) Indonesian, (3/33, 9.1%) Somalian and (2/26, 7.7%) Ethiopian inmates were positive for infection. None of the Saudi inmates (0/14) were positive for infection.”}

Part IV of the Residence Regulations covers penalties for violations of immigration-related provisions. Article 50 states that any foreigner who enters the country illegally—in violation of Articles 2 (requiring a valid passport or travel document and visa) and 3 (requiring entry/exit into the Kingdom through designated ports of entry) of the law—shall be imprisoned until deported.

Article 53 states that any person in breach of Article 5 (stating conditions of entry into the Kingdom) shall be fined 100-200 Saudi Riyals or imprisoned for a period ranging from two weeks to a month, deprived of residency, and deported.

Additionally, an unusual catch-all provision, Article 60, states that any breach of the Residency Regulations for which no penalty has been stipulated shall incur a financial fine of 100-300 Saudi Riyals and/or imprisonment for two to six weeks.

The country’s Labour Law also provides penalties for working for a non-sponsor. According to the recently amended Article 39 in 2013, “The Ministry of Interior shall arrest, deport and enforce the penalties on the violators from those who are working for their own account, from the streets. The Ministry shall arrest those who are absent from work (fleeing), their employers and those who are covering them, transferring them and each one has a rule in the violation and apply the penalties thereon.”\footnote{The Saudi Arabian Labour Statute (Law), promulgated by the Royal Decree No. M/51 dated 23.08.1426 A.H. corresponding to 27.09.2005 G, published in the official gazette “Um el Qurah” No. 4068 DATED 25.09.1426 A.H. corresponding to 28.10.2005, in force as of 29.03.1427 A.H. corresponding to 27.04.2006 G as amended, In lex arabiae an in-house magazine of Meyer-Remann & Partners, http://lexarabiae.meyer-reumann.com/issues/2013-2/vol-xvii-issue-2-apr-2013-articles/new-amendments-to-the-saudi-labour-law-with-a-view-of-reducing-the-expatriates-working-unofficially/#_ftn1.}

**Adherence to International Norms.**

Saudi Arabia holds one of the lowest levels of ratification of core international human rights treaties and has not ratified the main instruments relevant to immigration detention, including the Refugee Convention, the Convention on Statelessness, the International Covenant on Civil and Political Rights,
or the Migrant Workers Convention. It has made implementation of the few human rights norms it has subscribed to conditional upon respect for the norms of Islam and Sharia law. Further, Saudi Arabia's reporting to relevant human rights mechanisms tasked with monitoring implementation of these treaties is lagging severely. The country has not responded to requests for visits by the Working Group on Arbitrary Detention (in 2008 and 2011), the Special Rapporteur on Torture (in 2006, 2007 and 2010), or the Special Rapporteur on Trafficking (in 2005).

This poor record concerning adherence to key global norms is an important indicator of the vulnerability of migrants, asylum seekers, and refugees in immigration-related detention. However, in 2009 Saudi Arabia ratified the Arab Charter on Human Rights, which contains provisions against arbitrary detention and some procedural safeguards during detention. The GDP has been unable to find information about Saudi Arabia's reporting to the Arab Committee on Human Rights mandated to monitor implementation of the Charter.

**Length of detention.**

As the law does not specifically provide for administrative immigration-related detention, there is no specified time limit for this practice. According to one source, the longest time spent in immigration detention that he was aware of was about three years. He said that advocates in the country have “raised serious concerns” regarding lengthening periods in detention, which often last from between three months to a year due to complications in completing deportation formalities.

Describing the problems that impact lengths of immigration detention, the GDP source said that they mainly stem from the kafala system, which requires that a migrant obtain an exit clearance from his or her sponsor and/or employer. “Tracing and negotiating with an employer to obtain exit visa/clearance is really a big obstacle for deportation.” He added that there is also “the question on who will pay the penalty” for an expired residence permit.

**Deportation.**

The Residence Regulations provide a number of grounds for deportation from the country. All the articles mentioned above include deportation as the final penalty. In addition to those articles, Article 54 provides that any foreigner who violates Article 12 (working without a permit) will be deprived of his residency and deported. Further, Article 55 states that any foreigner who fails to renew his residency permit in a timely manner shall be fined for his first offense, pay double for his second offense, and be deported the third time.

**Asylum seekers.**

Saudi Arabia is not a signatory to the 1951 Convention Relating to the Status of Refugees or its 1967 Protocol. It is unclear to what extent asylum seekers face arrest and detention. Article 42 of the 1992

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291 Undisclosed Source (activist in Saudi Arabia), Telephone Interview with Parastou Hassouri (Global Detention Project), 18 February 2014.
292 Undisclosed Source, Email Correspondence with Michael Flynn (Global Detention Project), 15-16 September 2015.
293 Ibid.
Basic Law provides that the state will grant political asylum “if so required by the public interest.”\(^{294}\) However, there is no legislation implementing this provision, and Saudi Arabia only permits those with residence permits to apply for asylum—that is, the policy is not to grant refugee status to persons in the country illegally, including those who have overstayed a pilgrimage visa.\(^{295}\)

The UN High Commissioner for Refugees (UNHCR) operates in Saudi Arabia and the government permits UNHCR-recognized refugees to stay in the country temporarily until a durable solution is found for them. Refugees and asylum seekers are unable to work legally and access to basic services is reserved for citizens only.\(^{296}\) In 2014, there were 561 refugees registered with UNHCR and 100 asylum seekers. Most asylum seekers were Iraqi nationals, although there were also some Syrians and Eritreans.\(^{297}\)

**Trafficked persons.**

There have been reports concerning the detention of trafficked persons in Saudi Arabia, despite the country’s adoption of the 2009 Suppression of the Trafficking in Persons Act, which prohibits all forms of human trafficking, prescribes stringent punishments, and is intended to provide some protections for victims.\(^{298}\)

The U.S. State Department’s Trafficking in Persons Report (TIP Report) criticizes Saudi authorities for failing to implement procedures to systematically identify victims and reports that Saudi officials even admit that trafficking victims are sometimes detained and deported. According to the TIP Report, “officials continued to arrest, detain, and sometimes prosecute victims of trafficking for unlawful acts committed as a result of being trafficked. The Saudi government acknowledged that victims of trafficking may be detained and deported because of their irregular migration status in Saudi Arabia, as some police officers arrested and deported foreign workers for running away from their employers. Some government officials did not view runaway domestic workers as potential victims of trafficking. When domestic workers’ employers failed to claim them at the airport, passport officials in Najran province were required to hold them in a detention center with people who were charged with crimes or immigration violations.”\(^{299}\)

The TIP Report also highlights vulnerabilities that trafficking victims can face with respect to forced labour, stating that “the 2009 anti-trafficking law does not address the withholding of passports and exit visas as means of obtaining or maintaining a person’s forced labour or service. … The government

\(^{294}\) The Basic Law of Government, issued by royal decree in March 1992, serves as the constitutional framework (Saudi Arabia has no formal constitution) and is based on the Qur’an and the life and tradition of the Prophet Mohammed. It is a constitution-like charter divided into nine chapters, consisting of 83 articles. It is in accordance with the Salafi understanding of Sharia and does not override Islamic laws. It sets out the general principles on which the Kingdom of Saudi Arabia is founded.


\(^{296}\) Ibid.


\(^{299}\) Ibid.
did not report efforts to enforce the Council of Ministers’ decision prohibing the confiscation of foreign workers’ passports, residency permits, and the use of exit permits to control workers’ movements; reports indicate that this practice continued to be widespread.\textsuperscript{300} According to the TIP Report, Saudi authorities made only limited efforts to tackle human trafficking, prosecuting “10 cases of forced labour, one case of forced begging, and two cases of sex trafficking under the anti-trafficking law during the reporting period.”\textsuperscript{301} It also reported that the Saudi authorities failed to investigate allegations of abusive employers and that country diplomatic missions had difficulty accessing nationals held in detention.

Minors.

There is little information available concerning migration-related detention of minors in Saudi Arabia. However, as noted previously in this report, minors are often impacted during crackdowns on irregular migration and during large-scale deportation campaigns. In an interview with Migrant-Rights.org, International Labour Organization representative Aida Awel stated that over 8,500 of the Ethiopians deported from Saudi Arabia were children.\textsuperscript{302} A statement by HRW concerning the deportation of Somalis in February 2014 also mentions that children were among those deported.\textsuperscript{303} Additionally, based on testimonies from deported migrants, the Regional Mixed Migration Secretariat (RMMS) has reported that migrant children are detained “without prompt access to legal and other appropriate services, which violates the Convention on the Rights of the Child.”\textsuperscript{304}

Foreign workers.

The laws and regulations concerning foreign workers are notable for their insistence on attempting to control unauthorised labour and subjecting foreign workers to onerous conditions of employment, residence, and departure. Article 26 of the Residence Regulations states: “All patronees of His Majesty’s Government, companies, commercial houses, merchants, business houses, contractors and the like, shall not employ a foreigner unless he is carrying a residence permit or evidence (stamp) of work permit. All of them are instructed to notify Foreigners Control Office or its substitute of security authorities upon any foreigner’s departure of his work or absence for two days without reasons.”

Saudi Arabia has been heavily criticized for its treatment of foreign workers and the abuses that some receive at the hands of employers. Like other countries of the Gulf Cooperation Council (GCC), Saudi Arabia’s labour migration policy is based on a sponsorship scheme that ties a worker’s status in the country to a specific sponsor, whose written consent is required before the worker can change jobs or leave the country.

\textsuperscript{300} Ibid.
\textsuperscript{301} Ibid.
\textsuperscript{304} Regional Mixed Migration Network, “Behind Bars: The Detention of Migrants in and from the East & Horn of Africa,” February 2015.
A foreign worker cannot change his or her sponsor or job unless a release from the sponsor is issued, along with a new sponsorship form from a new employer, and an approval from the authorities within both the Foreigners Control Office and the Labour Department. The sponsor can either be an individual or a governmental or private institution. As soon as the labour contract is no longer in place, the visa automatically becomes invalid and the worker has to leave the country. The kafala sponsorship scheme has been criticized for the immense power that it gives to employers and described as a form of modern-day slavery.

Domestic workers are also covered by the sponsorship scheme, and require the sponsor’s approval to exit the country legally. Consequently, domestic workers who flee their employers are vulnerable to detention and deportation. Until 2013, domestic workers were excluded from labour laws, which theoretically provide protections to other workers. However, in July 2013, the country adopted specific regulations concerning domestic workers, providing obligations for both employers and employees. According to the 2015 U.S. State Department TIP Report, “in November 2014, the government announced workers who fled their employers would not be jailed or forced to return to their employers to obtain an exit visa, provided the workers cooperated with their respective embassies within a 72-hour period and had no criminal charges or outstanding fines against them.”

Although many of the problems faced by domestic workers in Saudi Arabia mirror those in other countries of the region, female domestic workers face particularly repressive conditions. A 2008 report by HRW highlighted how women face restrictions on dress, movement, mixing with opposite gender, as well as the free exercise of religion. In addition, all domestic workers—both men and women—are often faced with excessive labour, confinement in the house, confiscation of passports, withholding of wages, and threats and occasional use of verbal, psychological, physical and sexual violence. According to HRW, every domestic worker they interviewed stated that the employer kept her passport. Approximately a quarter of the workers interviewed claimed that their employers confined them in the home, locking the door from outside if they left the worker home alone.

Domestic workers also are exceedingly vulnerable to criminal prosecution. Although allegations of theft, often made by sponsors/employers to counter the worker’s complaints or allegations of abuse, are common in Saudi Arabia (as in the other Gulf countries), there have also been high profile cases of workers charged other offenses, including witchcraft, immoral conduct, adultery, and fornication. Some of these offenses are punishable by death, and in the meanwhile, the accused migrants languish within a justice system where they are likely to experience “uneven or severely delayed access to

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309 Ibid.
interpretation, legal aid, and access to their consulates.” According to one report, officials from many sending countries have claimed that they are not made aware of arrests or criminal proceedings until several months after they have taken place, often when it is too late to intercede with legal assistance.

Residence and nationality.

Saudi Arabia imposes strict regulations where residency and nationality are concerned. Pursuant to Articles 2 and 3 of the Residence Regulations, all foreigners entering Saudi Arabia must have valid passports and visas, and enter/exit the country through valid ports of entry/exit. Failing to comply with this results in penalties (mentioned above). Further, Article 5 of the Residence Regulations requires foreigners entering Saudi Arabia to provide detailed information about themselves, and to submit finger prints (within three days of arrival) and the name of a sponsor/guarantor in case of deportation, who shall “pay an amount of money equivalent to the costs of his return to the place where his last visa was issued.” Article 14 requires foreigners wishing to leave Saudi Arabia to submit their documents, including their residency permit to the “Foreigners Control Office” where their passport will be stamped, indicating that they must leave within a certain period.

Article 18 stipulates that foreigners permitted to “enter, pass by, move within or reside in the country” may not be “undesirable on religious, moral, or political grounds.” And, under Article 24, foreigners are required to submit, upon request, passport and identity documents to authorities or appear at the Foreigners Control Office whenever required.

Article 32 of the Residence Regulations provides: “Residence permit shall not be granted to a foreigner except after six months of his entry to the Kingdom, during which he will be under surveillance of foreigners’ control authority to ensure that he has legitimate reasons for residence.” Article 33 gives the Ministry of Interior the right to withdraw a foreigner’s residence permit and instruct him to leave the country “at any time and without mentioning any reasons.” Finally, the duration of the residence permit is limited to one year, though it is renewable.

Access to detainees and monitoring.

Access to detention facilities by lawyers and international organizations is severely restricted. This is particularly the case for outside organizations, which often have difficulty obtaining visas to enter the country. For instance, an International Committee of the Red Cross (ICRC) delegate informed the GDP that Saudi Arabia is not one of the countries where they have access to detention facilities.

In 1989, a Ministry of Interior mechanism was created and tasked with “Monitoring and inspection of prisons, detention centers and any places where criminal sentences are executed, as well as hearing

310 Ibid.
311 Ibid.
312 Yazan Khalalileh, ICRC Detention Delegate, Email exchange with Parastou Hassouri (Global Detention Project), 23 March 2014.
complaints of prisoners and detainees, insuring the legality of their imprisonment or detention.”313 The Bureau of Investigation and Public Prosecution is attached to the Ministry of Interior and is also tasked with investigating crimes and prosecuting cases. HRW reported that the Bureau was only established in 1995 and that “practice bears out the Bureau’s lack of independence”.314 The GDP has not come across information indicating whether the Bureau has carried out visits to places of detention, including immigration detention.

The U.S. State Department has reported that consular missions sometimes face challenges in accessing nationals in detention facilities.315 Its Country Reports on Human Rights Practices mentions that no independent human rights observers or NGOs were able to visit prisons or detention centres; only the governmental Human Rights Commission and the National Society for Human Rights were allowed access to monitor detention conditions.316 Following a 2002 Mission to Saudi Arabia, the UN Special Rapporteur on the Independence of Judges and Lawyers already recommended that “When an accused person is arrested, he should be informed of his rights and provided with an opportunity to contact a lawyer. In the case of a foreign national, he should be informed of his right to seek consular assistance and provided with an opportunity to do so.”317

NGOs and many humanitarian agencies researching migrants issues in Saudi Arabia have had to rely on interviews with individuals following their deportation from the country. For example, RMMS states in a 2014 report on migration policy in Saudi Arabia that they were prevented from traveling to Saudi Arabia to conduct interviews.318 The HRW’s researcher for Saudi Arabia also confirmed that the organisation has been unable to secure a visa for research purposes.319 The GDP was unable to establish to what extent UNHCR representatives are able access detention facilities.

The lack of access to detainees makes independent monitoring of immigration detention in Saudi Arabia a practical impossibility. According to RMMS, “The last prison visit conducted by an independent human rights organization was a 2006 visit by Human Rights Watch. The government does however permit the governmental Human Rights Commission (HRC) and the quasi-nongovernmental National Society for Human Rights (NSHR) to monitor prison conditions. In 2013, the NSHR brought deficiencies regarding health care to the attention of the Ministry of Interior.”320 As described above, Saudi Arabia

319 Adam Coogle, Human Rights Watch, Skype Conversation with Parastou Hassouri (Global Detention Project), 13 October 2013.
has consistently left requests for visits by international human rights mechanisms unanswered for a decade.

Detention Infrastructure

The GDP has been unable to get adequate information to develop a comprehensive map of facilities in Saudi Arabia. Based on available information, it appears that the country detains migrants in a range of facilities, including dedicated immigration detention facilities, which are referred to as “deportation centres” (and also sometimes “shelters”); prisons and police stations; as well as dozens of ad hoc or makeshift facilities. Generally, it appears that foreigners who are only in deportation proceedings are held in the deportation centres while those who have committed petty crimes or violated their work permits are held in general detention centres or jails, although it is not always clear if these practices are strictly applied.\footnote{321}

Recent press reports and interviews with activists who assist detainees indicate that there are at least three dedicated facilities (“deportation centres”), one in Jeddah and two in Riyadh (one of which is used exclusively for women). There were already media reports in the mid-2000s stating that migrants were being held at “deportation centres” in Jeddah and Riyadh.\footnote{322} One source told the GDP that he is “quite certain” that there are additional deportation facilities “in other cities like Al Khobar and Dhamman in the Eastern region.”\footnote{323} A 2011 “socio-legal” study about domestic workers in Saudi Arabia and the Emirates reported that “governmental shelters” in Riyadh, Jeddah, and Dhamman were commonly referred to as “deportation centres” by domestic workers interviewed for the study.\footnote{324}

Press reports have variously identified the Jeddah deportation centre as the Al-Shumaisi Detention Centre,\footnote{325} the Tarhil Immigration Detention Center,\footnote{326} and Tarhil-Shumaysi\footnote{327} (“tarhil” is a transliteration of the Arabic word for “deportation”). Based on these reports, it appears that this facility is located

\begin{footnotes}
\footnote{321 Undisclosed Source, Email Correspondence with Michael Flynn (Global Detention Project), 15-16 September 2015.}
\footnote{323 Undisclosed Source (activist in Saudi Arabia), Email Correspondence with Michael Flynn (Global Detention Project), 16-17 September 2015.}
\footnote{324 Antoinette Vlieger, Domestic Workers in Saudi Arabia and the Emirates: A Socio-Legal Study on Conflicts, Quid Pro Books (Human Rights and Culture Series): New Orleans, 2011.}
\footnote{327 Ibid.}
\end{footnotes}
between Jeddah and Mecca. This was corroborated by an activist in Saudi Arabia who told the GDP that the facility is located between the city of Jeddah and the municipality of Mecca.\footnote{Undisclosed Source (activist in Saudi Arabia), Email Correspondence with Michael Flynn (Global Detention Project), 16-17 September 2015.}

This same source told the GDP that there are two dedicated facilities in Riyadh, the women-only facility located at “Exit 6, Riyadh City” as well as another facility, which is generally referred to using a similar name as that used for the facility in Jeddah, the Shimeisi Deportation Centre.\footnote{Ibid.}


Because of the at times unclear legal status of people awaiting deportation in detention centres (are they in criminal incarceration or a form of administrative detention awaiting deportation?) as well as the lack of clarity in media reports concerning how these centres operate, it is difficult to characterize many of these facilities with any degree of confidence. However, due to the sheer number and variety of recent press reports attesting to the deportation operations of the Tarhil/Shumaysi facility in the Mecca-Jeddah area, the GDP has opted to code this facility as a dedicated immigration detention site. On the other hand, even though there are various recent sources discussing the detention of migrants in Jeddah’s Briman Prison, we have found only one report, which dates back many years, that states that this facility includes a deportation centre, while the more recent reports all appear to indicate that non-citizens awaiting deportation have been criminally prosecuted. Thus, we have opted to code Briman as a prison.

In addition to these facilities, press reports and NGO publications indicate that Saudi Arabia uses a large network of ad hoc or makeshift facilities for immigration detention purposes, particularly as part of the country’s massive deportation campaigns. For instance, one news article reports that 1,000 Filipinos are being confined in “makeshift tents outside the Filipino embassy in Jeddah.”\footnote{Estrella Torres, “Filipino workers in ‘Saudisation’ Fallout,” Equal Times, 20 January 2014, http://www.equaltimes.org/filipino-workers-deported-in?lang=en#.U4c1F_mSzKB.} According to a 2015 HRW report, Saudi authorities “did not anticipate the number of undocumented migrants who decided to turn themselves in voluntarily when the official campaign of detaining and deporting undocumented migrants resumed in November 2013, and this caused them to confine many undocumented migrants in ad hoc detention facilities. An Ethiopian official in Sanaa told HRW on November 26 [2014]: ‘I’m not sure Saudi Arabia was fully prepared for this.’”\footnote{Human Rights Watch, “Detained, Beaten, Deported: Saudi Absuses against Migrants during Mass Expulsions,” 10 May 2015.} The Ethiopian government also reportedly told the IOM that as of late 2013 there were 64 facilities in Saudi Arabia
confining undocumented Ethiopian migrants.  

A researcher who spoke to a number of Ethiopian migrants following their deportation received reports of people being held in various ad hoc sites in Manfouha during late 2013, including a wedding hall and university campus.  

An RMMS report on Saudi migration policy cites an interview with a migrant in Yemen in November 2013 who had been held, along with 500 other migrants, in a “secret” detention centre near the city of Jizan (near the border with Yemen).  

While these reports appear to point to on-going and large-scale detention in various parts of the country, the lack of additional corroborating information about the locations and durations of use of these sites makes it impossible to accurately code them or to know if they continue to be used.  

**Conditions of detention.**  

The U.S. State Department’s 2014 Country Reports on Human Rights Practices on Saudi Arabia makes reference to detention conditions, generally, citing a report by the National Society for Human Rights, who, after visiting 16 jails across the kingdom reported that there is overcrowding, with most jails operating at double their capacities. Their report specifically mentions the women’s section of the Deportation and Detention Center in Jeddah as being the worst. Concerns regarding detention conditions raised in the report included improperly trained wardens, lack of access to prompt medical treatment, holding prisoners beyond the end of sentences and failure to inform prisoners of their rights.  

Following the expulsion of thousands of Somalis in February 2014, HRW researchers in Mogadishu interviewed nine deportees who “spoke of severe overcrowding, little air or daylight, poor sanitary facilities, sweltering heat in some cases and cold in others, and limited access to medical assistance. Some said they had developed chronic health problems, including persistent coughing, as a result of their time in custody. Children are sometimes detained with their relatives but some have also been separated from their parents or caregivers.”  

One of the individuals interviewed, Mohammed, who surrendered to the police on his own after losing his job told HRW researchers that he spent 57 days detained: “In the first detention center in Riyadh, there was so little food, we fought over it,” he said. “So the strongest ate the most. Guards told us to

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face the wall and then beat our backs with metal rods. In the second place, there were two toilets for 1,200 people, including dozens of children.\textsuperscript{339}

Another woman interviewed, Saladu, 35, who was detained in Jeddah with her two children, 7 and 9, and her sister’s three children before deportation described the conditions as follows: “The room we stayed in with 150 other women and children was extremely hot and there was no air conditioning,” she said. “The children were sick. My son was vomiting and his stomach was very bloated. There were no mattresses. People just slept on the floor.”\textsuperscript{340}

Another interviewee, Razia, a 45 year-old woman who was detained for three months with her daughter also told the researchers: “There were a lot of people in the room, some little children…You would have to fight to get your space.”\textsuperscript{341}

The GDP’s source in Saudi Arabia confirmed reports of overcrowding, poor and inadequate bedding and food at detention facilities during the crackdown, due to the high volume of migrants being detained prior to be deported. He estimates that some 30,000 Filipinos may have been deported during the crackdown (he has sought the exact number from the Philippines Embassy, but did not receive a response).\textsuperscript{342}

\textsuperscript{339} Ibid.
\textsuperscript{340} Ibid.
\textsuperscript{341} Ibid.
\textsuperscript{342} Undisclosed Source (activist in Saudi Arabia), Telephone Interview with Parastou Hassouri (Global Detention Project), 18 February 2014.
Introduction

In mid-2014, reports from major news sources highlighted the arrest and deportation of foreign workers who had gone on strike to protest deplorable labour conditions in the United Arab Emirates (UAE). A key place of unrest at the time was a construction site in Abu Dhabi that is intended to showcase the country’s cultural advancements by hosting a campus of New York University as well as Louvre and the Guggenheim Museum sites.343

According to these reports, in addition to being barred from conducting strikes or forming unions, foreign workers in the UAE are forced to pay fees of up to a year’s wages to recruiters, surrender their passports to their sponsors, live in overcrowded and substandard housing, and work exceedingly long hours in difficult conditions.344

The stark employment conditions of foreign workers in the UAE have been repeatedly confirmed in follow up investigations undertaken by major international rights groups, including Human Rights Watch (HRW), which published back-to-back reports in 2014-2015 documenting abuses suffered by female domestic workers as well as foreign workers at the construction site in Abu Dhabi.345

However, there is an important gap in these reports, which one finds in nearly all media and NGO investigations about the UAE—that is, there is nearly no information about where and in what conditions migrants are detained after they are arrested or as they await deportation. The reason for this gap, as a HRW researcher told the Global Detention Project (GDP), is the government’s effort to limit access by rights actors to detention centres.

The UAE has endeavoured to cultivate a reputation as a bastion of business, tourism, and the arts. However, as numerous human rights researchers have discovered, the government appears to zealously protect this fledgling reputation by sometimes refusing to allow rights actors to enter the country. Researchers from both Amnesty International (AI) and HRW have been denied entry in recent years.

The country appears to be particularly unnerved about its massive foreign-born population and has long sought to implement stringent border controls. For instance, a confidential 2007 report from the U.S. Consul General in Dubai, which was released by Wikileaks, recounts the UAE’s efforts to build fences along its borders with Oman and Saudi Arabia “to stop illegal immigration.” According to the report, “Since 2005 the [government] has been erecting fences along its borders with Saudi Arabia and Oman. [U.S. officials] have observed that the fence along the borders of the UAE and Oman is almost complete, except for a few sections, which are still being completed.” One Omani source told the U.S. official “that when the residents of the mountains … noticed strangers, they would detain them and call the police. When illegal immigrants are turned over to the RAK [Ras Al Khaimah] police, the RAK government gives them a reward. He added that illegal immigrants are detained a few times a month and that most of them were Pakistani, Baluchi, or Iranian.”

More recently, several foreign writers and bloggers in the UAE who have tried to raise awareness of the treatment of non-citizens have been detained and deported. Detailing the arrest and expulsion of the Palestinian blogger Iyad el-Baghdadi in early 2014, Migrant-Rights.org reported: “Before [Iyad], stateless activist Ahmed Abdulkhalieq was jailed for months before being exiled to Thailand. Yasin Kakande, a Ugandan journalist who worked in Emirati press for 10 years, was next. Kakande was exiled for writing a book on the UAE’s migration and trafficking issues, a topic local journalists are heavily constrained in reporting. Iyad reminds us that these are not ‘deportations’ as the regime likes to phrase them, but repressive measures designed to silence criticism and dissent; authorities exploit migrants’ legal vulnerabilities, easily displacing them without explanation, let alone justification.”

A small Gulf country occupying the southern coast of the Persian Gulf, the UAE is a federation of seven small semiautonomous principalities that was formed in 1971 after independence from Britain. Foreign labour has been a critically important element in the country’s ability to spur economic growth and

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346 Rothna Begum (Human Rights Watch), Email Correspondence with Michael Flynn (Global Detention Project), 5-10 February 2015.
maintain a high standard of living for native Emiratis, who are a tiny minority. The country has one of the highest ratios of foreigners in the world with expatriates representing roughly 90 percent of the total population and 95 percent of the workforce.\textsuperscript{349} This imbalance is also starkly reflected in the country’s prison population. According to the World Prison Brief, as of 2006 (the most recent year for which statistics are available), 92.2 percent of the country’s prisoners were foreigners.\textsuperscript{350}

Perhaps in an effort to improve public perception of its treatment of foreigners, in mid-2015, as the refugee crisis in Syria exploded, the UAE government announced that it was implementing a “strategic humanitarian plan” to assist refugees. A centrepiece of the plan was to fund shelters for refugees close to Lebanon “in order to facilitate their return home when the crisis is over.” The state-run Emirates News Agency reported, “Since the crisis began in 2011, the Gulf countries received more than 100,000 Syrian refugees. … The UAE was one of the first countries to respond to the growing humanitarian crisis, providing more than USD530 million in direct aid, mainly through the Syria Recovery Trust Fund.” The Minister of State for Foreign Affairs told the news agency, “Syrian families are living a natural and normal life in the UAE’s secure and welcoming environment.”\textsuperscript{351}

Similar to other countries of the Gulf Cooperation Council (GCC), foreign workers enter the UAE through the kafala sponsorship scheme. Though both highly-skilled/high wage workers and low-wage workers have migrated to the UAE, it is particularly the low-wage workers employed in certain industries—such as construction, services, and domestic work—who are most susceptible to exploitation under the kafala scheme.\textsuperscript{352}

Not only is dissent among migrant workers often forcefully suppressed, there is also no independent civil society network that can monitor migrant workers or advocate on their behalf. Domestic laws severely impede the ability of NGOs to operate and national human rights defenders are frequently harassed.\textsuperscript{353}

Because of the highly non-transparent nature of the government, the virtual non-existence of independent civil society,\textsuperscript{354} and the sensitive nature of the topic of migrant workers’ rights, it is exceedingly difficult to develop a detailed profile of the country’s immigration detention regime. What little information the GDP was able to gather was gleaned through reviewing relevant legislation, media reports, reports of the U.S. State Department, as well as reports from researchers at international

NGOs like AI and HRW, with whom the GDP consulted directly during the preparation of this report. The GDP also undertook a thorough review of information available from European Union institutions and relevant UN agencies and human rights mechanisms. Lastly, the GDP reached out to international organisations with offices in the country and the embassies of migrant sending countries, though these efforts failed to result in much information.

Laws, Policies, and Practices

According to Article 26 of the UAE Constitution, “Personal liberty is guaranteed to all citizens. No person may be arrested, searched, detained or imprisoned except in accordance with the provisions of law. No person shall be subjected to torture or to degrading treatment.” Article 40 reads: “Foreigners shall enjoy, within the Union, the rights and freedom stipulated in international charters which are in force or in treaties and agreements to which the Union is party. They shall be subject to the corresponding obligations.” Article 344 of the Penal Code reads: “Whoever illegally kidnaps, arrests, detains or deprives a person of his freedom, whether by himself or through another by any means without lawful justification, shall be punished by term imprisonment.” Punishment can be up to life imprisonment.

These strong safeguards notwithstanding, there appears to be a wide gap between law and policy in the country. According to the U.S. State Department, arbitrary arrests, incommunicado detentions, and lengthy pretrial detentions of dissenting citizens and non-citizens alike are commonplace in the UAE. There are also frequent reports of prison guard brutality, discrimination against non-citizens, and mistreatment and sexual abuse of foreign domestic servants and other migrant workers.

Grounds for detention and criminalisation.

Federal Law No (13) of 1996 Concerning “Aliens Entry and Residence,” which amends provisions of Federal Law No (6) of 1973 relating to immigration and residence (hereafter Federal Law No. 6 on Entry and Residence of Aliens), prescribes detention in certain circumstances, including to execute a deportation or as punishment for violating immigration provisions.

Aliens can be detained for up to three months for failing to maintain a valid residence permit; failing to leave the country after cancellation or expiry of an entry or residence permit; or failing to pay overstay fines (Article 21 of Federal Law No. 6 on Entry and Residence of Aliens). The Department of Nationality

and Immigration is authorized to order the deportation of any alien who does not have a residence permit or who has not renewed his permit in accordance with legal requirements (Article 29).

In addition, the Minister of Interior is authorized to detain any foreigner against whom a deportation order has been issued for a period not exceeding two weeks, but only if the detention is essential for executing the deportation order (Article 25). The Minister may order the deportation of a non-national—even if holding a residence permit—if convicted and the court has issued an order for his deportation; if he has no apparent means of living; or if the security authorities see that public interest or public security or public morals require his deportation (Article 23).

Under Article 26 as amended by Federal Decree - Law no. 7 of 13 November 2007, the Ministry of Interior is to bear the costs if the foreigner cannot cover the expense of deportation. Article 28 provides that anyone ordered deported may not return to the UAE, except with special permission from the Minister of Interior.

Article 31 provides that anyone who enters the UAE illegally shall be imprisoned for a period of “not less than one month” and/or pay a fine of “not less than 1,000 Dirham” (approximately $270), followed by deportation ordered by the court. Article 35, a catch-all general provision, states that any person who violates the provisions of this law or related regulations shall be punished with imprisonment for a period not less than one month and a fine of no less than one thousand Dirham (approximately $270).

**Length of detention.**

According to a source at the International Organisation for Migration (IOM), the length of time a person can remain in detention as they await removal from the country can vary widely, ranging anywhere from a month to more than a year.359 Some of the factors that can prolong detention include: difficulties getting passport/travel documents (especially for those whose passports are held by sponsors who will not return them); procuring the funds to pay overstay fees; waiting for a clearance or “no objection letter” from local police before leaving (which can be delayed if there are claims against a worker for theft, or if the migrant has any debts from loans); and in case of refugees, waiting until a resettlement country accepts them.360

**Adherence to international norms.**

The UAE has only ratified half of the core international human rights treaties. It has not ratified the main instruments relevant to immigration detention, including the International Covenant on Civil and Political Rights and the Migrant Workers Convention. Upon ratification of the Convention against Torture, the UAE made a reservation limiting the definition of torture provided for in Article 1. In

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359 International Organization for Migration (UAE), Email exchange with Parastou Hassouri (Global Detention Project), 28 January 2014.
360 Ibid.
response, over a dozen states parties to the Convention registered official objections to this reservation with the UN Secretariat for being “incompatible with the object and purpose of the Convention.”

Asylum seekers and refugees.

The UAE is not a signatory to the 1951 Convention on Refugees or its 1967 Protocol. There is no domestic legal framework for providing asylum or refugee status and there appears to be no transparent, codified system for providing protection to refugees. However, the authorities reportedly cooperate with representatives from the UN High Commissioner for Refugees (UNHCR) in the country and allow refugees to remain temporarily until UNHCR finds another solution. Nevertheless, asylum seekers and refugees can be detained for lack of legal residency status. The number of persons registered with the UNHCR as asylum seekers and refugees is quite small. According to figures available on the UNHCR’s website, there are approximately 633 such “persons of concern” registered with their offices.

However, according to official sources there were 243,324 Syrian residents in the country as of September 2015, 101,364 of whom had arrived since the conflict began in 2011. The government, which does not formally recognize Syrians as refugees, previously had regularized the status of tens of thousands of Syrians whose residency permits or passports had expired.

Trafficked persons.

All forms of human trafficking are forbidden under federal law Number 51 of 2006, which provides penalties ranging from one year to life in prison as well as fines and deportation. The law does not include protection from detention for victims of trafficking. According to the U.S. Department of State's 2014 Trafficking in Persons Report (TIP Report), the government of the UAE does not fully comply with minimum standards for the elimination of trafficking, though it made efforts to do so. The government did not proactively enforce a prohibition on the widespread withholding of workers’ passports, which greatly contributes to forced labour. The TIP report states that “unidentified victims of sex trafficking and forced labor may have been penalized through incarceration, fines, or deportation for unlawful acts committed as a direct result of being trafficked, such as prostitution or immigration violations.”


The UN Special Rapporteur on Trafficking visited the UAE in 2012 and received allegations of arbitrary arrests and deportation of women and girls who were not provided interpreters, detained in overcrowded rooms, and deported within 24 to 36 hours. The Rapporteur expressed concern that “trafficked persons may often be misidentified as irregular migrants and consequently, arrested, detained and summarily deported” and she recommended that victims should not be criminalised or penalised, or detained for status-related offences.  

Minors.

The UN Committee on the Rights of the Child (CRC) examined the report of the UAE in September 2015. It urged the UAE to prevent the trafficking of children, bring perpetrators to justice, provide effective protection to these children, and ensure that they are no longer deported but made no reference to their national origin. The CRC also recommended that the UAE formalize a cooperation agreement with the UNHCR concerning trafficking in persons including children.

The privately owned Gulf News produced a video report in 2013 from inside the Dubai Women’s Central Jail in Al Aweer, which showed detained women with their children. As we detail in the section on Detention Infrastructure below, this is one of a handful of prisons in the UAE that reportedly has a deportation function, thus we conclude that it is highly likely that accompanied children slated for deportation with their mothers are detained at the facility.

Access to detainees.

The UAE has neglected to provide international human rights organisations access to facilities that are used to detain people for immigration-related reasons. In its 2014 report on abuses suffered by female domestic labourers in the country, HRW reported: “Due to the failure of the UAE authorities to respond, Human Rights Watch was unable to visit the Ewa’a Shelters, the deportation center, and prisons. The Dubai Foundation for Women and Children said they were unable to arrange a visit to their shelter. Human Rights Watch cannot, therefore, verify the circumstances in which shelters admit foreign domestic workers or assess their conditions and treatment in shelters or when detained pending deportation or in prisons.”

Consular representatives have also expressed problems in the past attempting to visit facilities. In its 2006 report on human rights in the UAE, the U.S. State Department reported that diplomatic representatives were “refused entry to the Dubai Immigration Detention Center by the deputy director of the center to talk to with potential sex trafficking victims awaiting deportation.”

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367 Human Rights Council, Report of the Special Rapporteur on trafficking in persons, especially women and children, Joy Ngozi Ezeilo
Trafficking/Pages/visits.aspx.

368 Committee on the Rights of the Child, Concluding observations on the second periodic report of the United Arab Emirates, Advanced


370 Human Rights Watch, “I Already Bought You”: Abuse and Exploitation of Female Migrant Domestic Workers in the United Arab Emirates,”
domestic-workers-united.
On the other hand, in its more recent 2014 report on the UAE, the U.S. State Department reported that the government had begun permitting civil society groups to visit prisons, though it did not explicitly mention immigration detainees. According to the 2014 report, officials permitted “charitable non-governmental organizations to visit prisons and provide material support. Members of the government-sanctioned, albeit largely privately funded, Emirates Human Rights Association (EHRA) met with federal Ministry of Interior officials and prisoners during visits to several detention facilities.”

Staff from the UNHCR told the GDP that they were being given access to asylum seekers in detention centres for the purpose of conducting “refugee status determination” interviews. In addition, staff from IOM, who assist in both resettlement of refugees to third countries and repatriation of migrants to home countries, confirmed that they are given access to detainees.

The GDP has been unable to get first-hand accounts from any other sources who may have visited detention facilities or prisons in the UAE.

Access to detention information.

Obtaining information regarding detention practices is extremely difficult. Not only does the government not allow researchers investigating the rights of migrant workers to access detention centres, it also has not released statistics on prison demographics or made prison records public in nearly a decade. The most recently available statistics concerning incarceration in the UAE provided by World Prison Survey are from 2006. Attempts by the GDP to obtain information from embassies of sending countries also failed to produce results.

Foreign workers.

The status of foreign workers in the UAE is governed by Federal Law No. 6 on Entry and Residence of Aliens as well as the labour law, Federal Law No. 8 of 1980.

Like all GCC countries, the UAE has a sponsorship scheme that ties an individual to a specific employer. Article 11 of Federal Law No. 6 on Entry and Residence of Aliens states that foreigners who enter the UAE as visitors may not work anywhere in the country, with or without pay, or on their own (self-employment); and that if a foreigner holds a work visa, he may not work for another individual or establishment without the written consent of the original sponsor and approval from the Directorate of Nationality and Immigration. The residency law also requires anyone who employs a foreigner to submit to the authorities, within 48 hours of when the employment begins, a declaration regarding the

371 Nisreen Rubaian, United Nations High Commissioner for Refugees (UAE), Email exchange with Parastou Hassouri (Global Detention Project), 3 March 2014.
372 International Organization for Migration (UAE), Email exchange with Parastou Hassouri (Global Detention Project), 28 January 2014.
374 An NYU university student who volunteers for a shelter operated by the Philippines Embassy submitted numerous requests for information to the Embassy on behalf of the Global Detention Project, to be told that the information could not be shared, NYU Student (UAE), Email exchange with Parastou Hassouri (Global Detention Project), 16 February 2014.
employment relationship, and to declare when the employment ends (Article 16 of Federal Law No. 6 on Entry and Residence of Aliens).

According to Article 13 of the labour law (Law No. 8/1980), foreigners may be employed in the UAE after approval of the labour department and obtaining of work permits, which are only granted if the foreign employee has the competence/qualifications for the job and has lawfully entered the country and complies with residence regulations in force. Article 14 of Law No. 8/1980 states that the Department of Labour may only approve the employment of foreign workers if there are no qualified UAE nationals for the job. Article 15 of the law states that a work permit may be cancelled if the worker remains unemployed for a period exceeding three consecutive months.

If a worker quits his job, the employer will request the Ministry of Labour to cancel his work permit, which will also nullify his visa. Remaining in the UAE without a visa puts the worker at risk of arrest, detention, fines and ultimately deportation.

The condition of workers, particularly in the low wage and services industry, has been explored and criticized by numerous human rights organizations. HRW has reported on labour conditions of construction workers at Saadiyat Island, a 27-square kilometre island 500 meters off the coast of Abu Dhabi in the Arabian Gulf, which has been the object of ambitious development plans that include cultural institutions (including outposts of the Guggenheim and Louvre museums), a campus of New York University, golf courses, private residences and hotels.

HRW’s first report in 2009 on labour conditions at Saadiyat Island explored the following problems faced by the labourers: the fact that workers arrive in Abu Dhabi already in debt for having had to pay high fees to recruiters/ labour agencies; deception regarding work conditions; coercive contractual circumstances (including threats of deportation for refusing to sign contracts); confiscation of passports; restrictions of freedom of movement (limited transport off construction sites/ labour camps); wage violations (refusal to pay overtime, late wages or refusal to pay wages and illegal deductions); other exploitative work conditions (insufficient leave, inadequate health care, unsafe work conditions); threats against organizing/joining unions; and a fear of expressing grievances (worry about being deported of pursue claims against employers).

A follow-up report by HRW in 2012 revealed that though steps had been taken to remedy some of the grievances recounted by workers previously, many problems remained. In particular, HRW found that the following problems still existed: payment of high recruitment fees, contract substitution, passport confiscation, inability to terminate contracts, deductions from wages, poor accommodation, inadequate medical care and workplace injury compensation, insufficient workplace safety training,

and late payment of wages. Further, they found still a need for an independent, third party to monitor the implementation of the recommendations.

The reports do not, however, cover the issue of detention and deportation or provide any details regarding detention practices, despite referring to threats of deportation as a common tactic used by employers to keep workers in line. The main reason for this lack of coverage is the government’s refusal to grant rights actors access to detention centres.377

Like other countries of the GCC, many households in the UAE employ female migrant workers as domestic servants. One study on domestic workers in the UAE estimates that each household employs an average of three domestic workers, with most coming from the Philippines, Indonesia, Sri Lanka, India, and Ethiopia.378 As domestic workers are not covered in labour laws (Article 3 of Law No. 8 of 1980 specifically exempts “domestic workers working in private residences”), and as they work in the isolation of the private household, they are particularly vulnerable to abusive work conditions and exploitation. An International Labour Organization study on domestic workers in the UAE found similarities between the conditions of domestic workers there and other GCC countries. The workers interviewed expressed feeling that they were completely controlled, isolated, and subject to demeaning treatment.379 The chief complaint regarding working conditions was the long hours worked without time off. In addition, many reported being targets of verbal abuse, and to a lesser extent physical violence at the hands of their employers. The report fails to provide any details regarding potential detention of runaway domestic workers.

Residency and nationality.

The rules governing residency in the UAE are spelled out in Federal Law No. 6 on Entry and Residence of Aliens. The law requires that all foreigners entering the country be in possession of valid passports or travel documents (Article 2) and enter and exit through authorized, designated ports of entry (Article 3).

Foreigners entering the UAE are required to notify the authorities within a week of their entry regarding their residence, and to notify authorities of any change of address within a week of such change as well (Article 13). Furthermore, during their stay in the country, foreigners must present their passports or any other such documents to authorities upon request (Article 15).

Pursuant to Article 17 of the law, residence permits are issued by the Directorate of Nationality and Immigration, and are valid for up to three years. Article 20 authorizes the Minister of Interior to cancel a residence permit at any time and for any reason. Foreigners whose residence permits have been expired or cancelled and who have failed to request a new one or renew them maybe fined at the rate

377 Rothna Begum (Human Rights Watch), Email Correspondence with Michael Flynn (Global Detention Project), 5-10 February 2015.
379 Ibid.
of 100 Dirham per day (approximately $27). Failure to pay overstay fines may also result in detention (up to three months), or additional fines of 4,000 Dirhams (approximately $1,090) and deportation.

Detention Infrastructure

The GDP has been unable to develop detailed information about where people are detained for immigration-related detention or the conditions of their detention. Key reasons for the lack of information include: government secrecy; a refusal to grant access to independent civil society actors; and the failure to release statistical details about detention or incarceration in nearly a decade.  

What information does exist about sites of detention used for immigration purposes has been gleaned from an assortment of sources, including media reports, the U.S. State Department human rights reports, interviews with representatives of international organisations, testimonies provided by former detainees, and information provided by foreign embassies.

Some sources appear to indicate that the UAE has operated at least one dedicated deportation or immigration detention facility. In its 2006 report on the UAE, the U.S. State Department specifically mentions an “Immigration Detention Centre” in Dubai. More recently, in 2015, a former detainee told Migrant-Rights.org that he had been initially detained in an “on-site jail block” at the immigration office of the Emirate of Amjan before eventually being taken “to a high-security prison called al-Sadr prison in al-Dhafra“ to await deportation.” While the former detainee referred to the facility as a “deportation prison,” based on his description of the conditions of detention and his fellow inmates, the facility appears to be used as part of the criminal justice system while also having a deportation component.

This assessment is supported by information provided in a 2013 information sheet about prisons in the UAE that was produced by the UK Embassies in Abu Dhabi and Dubai. Of the several dozen prisons and police facilities mentioned in that sheet, five were specified as having deportation functions. The sheet states that when inmates complete their prison sentences at these five facilities, they are placed in deportation proceedings, which generally last a minimum of a week. Only one of the facilities mentioned on the sheet, the Sharjah Jail for Men, was described as having a separate section dedicated for people in deportation proceedings.

Although the UK embassy sheet does not mention the Al Sadr Prison, other sources confirm the existence of this facility and its use as a deportation centre. A Canadian government consular services

website mentions the “Al Sader / Al Taweela Prison” and states that “most of the prisoners there are awaiting deportation.” The GDP has been unable to confirm whether a dedicated immigration detention facility in Dubai is in operation, as reported in 2006 by the U.S. State Department. Thus, we have concluded that either the U.S. State Department was referring to a deportation section located in a Dubai prison or that the facility in question has ceased operating.

Based on the above information, the GDP concludes that it has information indicating that there are at least seven facilities in the UAE that are currently used for immigration-related detention and that only one of these facilities—the Amjan Immigration Office—is immigration-only. All of the other facilities appear to combine criminal incarceration with immigration functions. And of these, only two, the Sharjah Jail for Men and the Al Sadr Prison, appear to have some system for segregating migrant detainees from the rest of the prison population. In addition, as noted earlier in in this report in the section on “Minors,” at least one of these facilities, the Dubai Central Jail for Women in Al Aweer, detains accompanied children alongside their mothers.

The list of facilities is:

- Al Sadr / Al Taweela Prison (located just outside Abu Dhabi, between Abu Dhabi and Al Ain)
- Amjan Immigration Office
- Dubai Central Jail for Men (also Al-Aweer Detention Centre for Men)
- Dubai Central Jail for Women (also Al-Aweer Detention Centre for Women)
- Dubai (Out)Jail (for short-term or temporary male prisoners)
- Sharjah Central/Out Jail for Men
- Sharjah Jail for Women

In addition to these facilities, female domestic workers who have disagreements with or otherwise leave (escape) their employers are sometimes accommodated in shelters located at the embassies of their countries of origin. Although these shelters are not technically speaking detention facilities and are “open” shelters, one student volunteer (who asked to remain anonymous) at a shelter run by an embassy informed the GDP that the women staying there are actively discouraged from leaving embassy grounds because they lack papers and are subject to arrest, especially if their sponsors have put out a “warrant.”

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386 Anonymous Source in UAE, Email exchange with Parastou Hassouri (Global Detention Project), 16 February 2014.
There are few current reports detailing conditions of detention facilities. According to the U.S. State Department’s 2014 Country Reports on Human Rights Practices, prison conditions in the UAE vary widely. There were “unconfirmed reports that police and prison guards mistreated individuals” and in Dubai prisoners “reported poor sanitary conditions, inadequate lighting, and poor temperature control. Some prisons were reportedly overcrowded, especially in Abu Dhabi and Dubai.”

The U.S. State Department also reports that “Ombudsmen cannot serve on behalf of prisoners and detainees. Prisoners had a right to submit complaints to judicial authorities; however, details about investigations into complaints were not publicly available.”

UNHCR staff members told the GDP that they need prior authorization from the authorities to visit detainees, but that access is always granted.\(^{387}\) UNHCR access is mainly for the purpose of conducting refugee status determination interviews, and the number of cases in detention were reported as “very few.” They said that the conditions of detention in prisons in Dubai and Abu Dhabi were good.\(^{388}\)

IOM representatives contacted by the GDP also reported that they visit detainees, mainly for the purpose of assisting with resettlement outside the country. The detention facility that IOM reportedly visited the most was the Al Aweer detention centre in Dubai (also known as the Dubai Central Prison). The IOM did not share any information about the conditions of detention it encountered at this facility.\(^{389}\)

\(^{387}\) Nisreen Rubaian, United Nations High Commissioner for Refugees (UAE), Email exchange with Parastou Hassouri (Global Detention Project), 3 March 2014.

\(^{388}\) Ibid.

\(^{389}\) International Organization for Migration (UAE), Email exchange with Parastou Hassouri (Global Detention Project), 28 January 2014.