

**Global Detention Project Submission to the UN Committee on the Elimination of
Discrimination against Women**

Pre-sessional Working Group for the 69th session (24-28 July 2017)

Saudi Arabia

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Issues related to immigration detention

The Global Detention Project (GDP) welcomes the opportunity to provide information relevant to the Consideration of the Combined third and fourth periodic reports CEDAW (due in 2013 and received by the United Nations on 29 August 2016), with respect to the implementation of the Convention on the Elimination of All Forms of Discrimination against Women.

The GDP is an independent research centre based in Geneva that investigates immigration-related detention. As per the GDP's mandate, this submission focuses on the State party's laws and practices concerning detention for immigration-related reasons. This submission is based on Global Detention Project Immigration Detention Profile published in January 2016, which includes research findings from GDP partners and other stakeholders and official Saudi Arabian information.¹

I. Immigration detention context

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. 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. 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 an activist working with Filipinos who was interviewed by the GDP, of the 1.2 million Filipino workers in Saudi Arabia, the vast majority are "undocumented" because they have either left their official employer or overstayed their permits.

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

¹ See Global Detention Project, "Saudi Arabia Immigration Detention Profile", January 2016, <https://www.globaldetentionproject.org/countries/middle-east/saudi-arabia>.
www.globaldetentionproject.org

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.” To drive down the numbers of migrants, 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 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. 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. 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.

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. During debriefings after their deportations, the Somalis claimed that beatings and other abusive treatment occurred during the deportation process.

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.

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."

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.

Legal Framework

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. Additionally, the Labour Law provides penalties for violations of immigration-related statutes.

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. Even when the detentions appear to be strictly related to immigration reasons, deprivation of liberty is generally described as resulting from a criminal procedure.

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 role in the violation and apply the penalties thereon."

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.

Conditions in detention

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. 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." 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.

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." 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.'" The Ethiopian government also reportedly told the IOM that as of late 2013 there were 64 facilities in Saudi Arabia confining undocumented Ethiopian migrants.

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 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.”

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.”

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.”

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).

II. Key Questions for Saudi Arabia

Despite the dire situation above, the Combined third and fourth periodic reports of Saudi Arabia² to be reviewed by CEDAW fails to address the situation of women in immigration detention in Saudi Arabia.

- How many women are placed in immigration detention per year?
- Where are women placed in immigration detention? Are they placed in facilities monitored by women wardens? Can authorities produce an official list of all facilities used to hold women for immigration-related reasons?

² Committee on the Elimination of Discrimination against Women, “Combined third and fourth periodic reports of States parties due in 2013 – Saudi Arabia,” CEDAW/C/SAU/3-4, 29 August 2016, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fSAU%2f3-4&Lang=en.

- What grounds are there in law for immigration detention, and what are the limits to the length of immigration detention?
- Does the government provide non-detention measures for the most vulnerable of women (e.g. pregnant and lactating mothers, asylum seeking and refugee women and girls, those with significant physical or mental health needs)? If not are there plans to do so?
- What mechanism is in place to ensure that women domestic workers are not penalized for running away from abusive and violent employers? What mechanisms are in place to ensure that victims or trafficking are identified and not detained?
- Which organizations or institutions have regular access to visit places of immigration detention? Can they carry out regular and unannounced visits?

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