

BAHRAIN
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Executive summary

The Kingdom of Bahrain has taken positive steps to implement its international human rights regulations, but there remain a number of areas where further progress is required, particularly regarding: trafficking and forced labour; discrimination against migrants, especially female migrants and domestic workers; weak justice mechanisms, and inequality in access to social security and health.

Ongoing issues especially concern the country's migrant population, who account for 55% of the population and almost 70% of the labour force. Though in its last UPR review, Bahrain supported a number of recommendations that touch on migrant and domestic worker rights, they remain inadequately addressed.

Migrant-Rights.org is a GCC-based advocacy organisation that aims to advance the rights of migrant workers. For over 15 years, we have documented and spotlighted emerging migrant rights issues and abuses across the GCC, and worked closely with key stakeholders across the ecosystem, supporting them to implement our recommendations in their unique contexts.

The information compiled in this report is based on our reporting on Bahrain and our engagement with relevant stakeholders.

Implementation of international human rights obligations, taking into account applicable international humanitarian law:

1. Cross-cutting issues

Equality and non-discrimination

Article 4 of Bahrain's constitution provides a guarantee against discrimination, but applies only to citizens. Discrimination against non-nationals, and against women, remains rife in law and practice. In 2018, Bahrain enacted Decree (59) for the year 2018

regarding discrimination and sexual harassment in the workplace. Domestic workers are explicitly excluded from the provisions of the decree which stipulates punishment against employers or their representatives for sexual harassment in the workplace, despite the exceptional prevalence of harassment faced by domestic workers.

Article (2) of the same decree prohibits discrimination between workers based on gender, origin, language, religion, or creed. Domestic workers are included in this article, but discrimination of foreign women openly persists; recruitment agencies remain permitted to link domestic workers' wages to their nationality in often dehumanizing adverts — for instance, advertising Ethiopian workers at a price lower than Indian workers.

Bahrain issued a similar decree in 2021 (Decree-Law 16/2021) aimed at addressing gender equality in the workplace. According to the decree, “discrimination in the wages between male and female workers in jobs of the same value shall be prohibited.” Domestic workers are also excluded from the provisions of the decree.

Bahrain has only set a minimum wage for its national workers in the public sector. Neither nationals nor non-nationals are not protected from any minimum wage laws in the private sector, but it is evident from interviews that Migrant-rights.org has conducted that citizens are paid more than migrants for the equal work they do.

During the Covid-19 pandemic, Bahrain excluded migrant workers from a scheme that protected wages for private-sector employees. This discrimination resulted in widespread wage theft and unemployment of non-citizen workers.¹ Migrant women predominantly employed in service jobs that were severely affected by the pandemic, such as salons and beauty parlours, were especially affected.

Recommendations:

1. Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
2. Expand Bahrain's constitutional rights to migrant workers
3. Allow for women to transfer their nationality to their children
4. Include domestic workers in all anti-discrimination legislation
5. Establish a non-discriminatory national minimum wage and prohibit recruitment agencies from linking wages for domestic workers to their nationalities.

¹ Migrant-Rights.Org (2020) GCC Covid-19 policies need to better protect migrant workers from infections and other related vulnerabilities. Retrieved from: <https://www.migrant-rights.org/2020/03/gcc-covid-19-policies-need-to-better-protect-migrant-workers-from-infections-and-other-related-vulnerabilities/>

2. Development, environment and business and human rights

Pollution and high heat levels, which are rising yearly due to climate change, disproportionately affect migrant workers who work outdoors during the day and return home to overcrowded living spaces that further exacerbate vulnerability to respiratory disease. Though Bahrain has introduced a ban on outdoor work during certain summer working hours (Ministerial Decision No. (3) of 2013), the legislation does not adequately protect workers from heat stress because it sources arbitrary calendar dates instead of real working temperatures.² Bahrain has the shortest midday work ban in the region, spanning only two months, while most GCC states with similar climates run for two and one half to three months.³

Recommendations:

1. Reform summer work bans to be based on real working temperatures instead of arbitrary calendar dates.
2. Ensure workers have access to appropriate dress, occupational safety and health measures, and have control over their workplace, which can help workers in adapting to heat stress.
3. Increase inspection capacity to ensure compliance

Civil and Political Rights

3. Administration of justice, including impunity, and the rule of law

Bahrain has supported recommendations to strengthen the rights of migrant workers in domestic legislation, but the Kafala (sponsorship) system continues to regulate the residence and employment of migrants in Bahrain. The system vests vast control in the hands of employers who control the residency status of their non-national employees, which works to undermine justice and the rule of law. Workers are often too intimidated to file complaints, or face reprisal from employers — in the form of threats to deportation or filing of criminal charges — if they do.

Bahrain has specifically supported recommendations to improve migrant workers' access to legal aid, but justice remains difficult to secure. When workers do manage to

² "Summer midday work ban fails to adequately protect workers." 14 Jun. 2021, <https://www.migrant-rights.org/2021/06/summer-midday-work-ban-fails-to-adequately-protect-workers/>relevant

³ "Summer outdoor work bans end across the GCC, but heat stress" 2 Oct. 2019, <https://www.migrant-rights.org/2019/10/summer-outdoor-work-ban-end-across-the-gcc-but-heat-stress-continues/>..

file complaints, the legal system does not guarantee fair or timely resolution. The complaints process is lengthy and difficult to navigate, particularly for workers already in distress. Complaints often involve unpaid or delayed wages, ranging from several months to over a year.

Often times, the Bahraini government itself is implicated in such complaints as workers are subcontracted on government projects, yet it does not take any additional measures to resolve such cases. Workers can be left destitute, reliant on charity for basic needs, for such extended periods of time that they eventually are forced to give up their dues. ⁴

The “Flexi-Visa” introduced in 2017 allows migrant workers who are undocumented to regularize and self-sponsor themselves. Steep fees prevent the visa from being practical for most workers, and permit-holders are not protected under the labour law, nor are they required to have work contracts. The Flexi-Visa thereby weakens the rule of the law rather than ensures that legal protections are extended without discrimination. The system is not an alternative or replacement to the Kafala, and excludes domestic workers entirely.⁵

Recommendations:

1. Delink workers’ residency status from their employment status, enabling workers to more easily change jobs and to file complaints without fear of retribution.
2. In the short-term, reform the Flexi-Visa by establishing a minimum hourly wage; introducing a standard contract enumerating the rights and responsibilities of both parties; include Flexi-Permit holders in the wage protection system; include permit holders in unemployment benefits,.
3. Enforce administrative and criminal penalties against errant employers and recruitment/manpower agencies. In particular: Provide for punitive damages in cases of non-payment of wages and uphold penalties against employers who confiscate workers’ identity documents .

4. Prohibition of all forms of slavery

⁴ "Half a lifetime of toil, and all that's left is charity | Migrant-Rights.org." 14 May. 2020, <https://www.migrant-rights.org/2020/05/half-a-lifetime-of-toil-and-all-thats-left-is-charity/>.

⁵ "The Flexi Permit Experiment: No Kafala, but poor labour practices" 12 Apr. 2021, [The Kingdom of Bahrain has taken positive steps to implement its international human rights regulations, but there remain a number of areas where further progress is required, particularly regarding: trafficking and forced labour; discrimination against migrants, especially female migrants and domestic workers; weak justice mechanisms, and inequality in access to social security and health.](#)

In the last UPR cycle, Bahrain supported many recommendations related to trafficking and forced labour, which most affect migrant workers. Bahrain has initiated some measures to address trafficking, including a new victim's fund, and an improved National Referral Mechanism (NRM), but there remain a number of protection gaps.

Though the 2008 anti-trafficking law criminalises sex and labour trafficking, Bahrain treats indicators of forced labour, such as passport confiscation and unpaid wages, as civil or labour law violations rather than investigating them as potential trafficking crimes. For example, cases in which domestic workers were unpaid for months to years are treated as civil as disputes. In 2020, Bahrain referred only one forced labour case for prosecution.

The LMRA's Expat Protection Unit has digitised the NRM procedure used to identify and support victims of trafficking, but it is geared primarily towards victims of sex trafficking. The unit only consistently provides recourse to migrant workers referred by embassies or police, and rarely takes cases to public prosecution or the labour court without this referral.

Bahrain also supported recommendations to improve training on the human trafficking law and protection for victims. However, training of frontline officials to deal with trafficking cases, in particular police and port authorities, remains weak. Migrant-Rights.org has documented several cases where migrant women who faced abuse and forced labour were not identified as victims by the police.⁶ Migrant-Rights.org has also spoken to many migrant workers, particularly those with an irregular status, who endured abusive conditions that amounted to forced labour but feared approaching authorities due to risk of detention and deportation.

Recommendations

1. Prosecute indicators of forced labour under the trafficking law;
2. Provide open shelters for victims of trafficking and forced labour, where women have the freedom to enter and leave;
3. Ratify the 2014 protocol to the Forced Labour Convention, 1930 of the International Labour Organization

⁶ "Lived Experience Of Migrant Women:." 15 Nov. 2019, <https://www.migrant-rights.org/wp-content/uploads/2019/11/Lived-Experiences-of-Migrant-Women.pdf> Article (2) of the same decree prohibits discrimination between workers based on gender, origin, language, religion, or creed. Domestic workers are included in this article, but discrimination of foreign women openly persists; recruitment agencies remain permitted to link domestic workers' wages to their nationality in often dehumanizing adverts — for instance, advertising Ethiopian workers at a price lower than Indian workers.

Economic, Social and Cultural Rights

5. Right to work and to just and favourable conditions of work

Bahrain took some steps to ease employment mobility and offer limited self-employment opportunities to some workers, but migrants are only allowed to change jobs without their sponsor's consent after working for one year. Domestic workers are not allowed to change sponsors without the consent of their current employer, except in cases of "grave abuse" and approval of transfer by the LMRA.

Domestic workers, the vast majority of whom are women, remain excluded from most of the labour law (Law no. 36), and no separate domestic workers' legislation exists. In 2012, Bahrain extended select provisions, including paid annual leave and access to mediation, but they remain excluded from key rights such as:

- a. Article 22, which prohibits contract substitution. There are no regulations on maximum working hours, mandatory rest hours, or a weekly day off. Domestic workers' accommodations are also not subject to labour inspection.⁷
- b. Article 39, which prohibits wage discrimination based on sex, origin, language, religion or ideology.
- c. Article 33 which prohibits employers from dismissing female workers due to marriage or during maternity leave.
- d. The Wage Protection System (WPS).⁸

The 2017 tripartite standard contract for domestic workers requires employers to stipulate working hours, rest days, and days off. However, the employer determines these conditions.⁹ The contract lacks strong enforcement mechanisms, and widespread non-compliance is evident in data collected by the Migrant Workers Protection Society (MWPS).

Recommendations

1. Fully incorporate domestic workers into the labour law.

⁷ "Assessing Bahrain's new standard contract for domestic workers." 15 Mar. 2018, <https://www.migrant-rights.org/2018/03/assessing-bahrains-new-standard-contract-for-domestic-workers/>.

⁸ "Bahrain yet again postpones the implementation of Wage-Protection" 12 Jun. 2019, <https://www.migrant-rights.org/2019/06/bahrain-yet-again-postpones-the-implementation-of-wage-protection-system/>.

⁹ Migrant women predominantly employed in service jobs that were severely affected by the pandemic, such as salons and beauty parlours, were especially affected. <https://www.migrant-rights.org/2018/03/assessing-bahrains-new-standard-contract-for-domestic-workers/>.

2. Enable workers to more easily change jobs without employers' consent, and allow workers to remain in the country for a longer period of time to find new work after ending a job contract.
3. Establish a minimum wage for all workers.

6. Right to social security

Article 10 of the Insurance Against Unemployment law includes migrant workers in the unemployment fund. However, migrant workers cannot practically access unemployment and other welfare benefits, even though they pay into the Social Security system. According to the Legislative Decree No. (78) of the year 2006, a migrant worker is entitled to unemployment benefits only if they have a regular status and are actively looking for a job. But unemployed migrants have only 30 days to regularise their status by transferring to another job. Yet, it often takes up to two months to set up a claim account at the Ministry to start receiving unemployment pay, so benefits remain virtually impossible for migrant workers to access.

Furthermore, the Ministry has recently attempted to undermine workers' legal right to these benefits.¹⁰

Recommendations:

1. Meaningfully include migrant workers in Bahrain's social security system by extending the period of time that workers can remain in the country and access benefits, and make benefits portable to the country of origin.

7. Right to health

The Bahraini government included migrant workers in its Covid-19 vaccination drive and provided health care to those stricken with the virus without discrimination.¹¹ Bahrain also temporarily removed the fees non-citizens pay for accessing healthcare at public centres. But the fees have now been reinstated, despite the rise in Covid-19 in

¹⁰ "Bahrain's unemployment benefits for migrants sparks backlash" 11 Nov. 2020, <https://www.migrant-rights.org/2020/11/bahrain-unemployment-benefits-for-migrants-sparks-backlash-backpedalling-from-ministry/>.

¹¹ "Bahrain includes irregular migrants in its Covid-19 vaccination drive." 27 Jun. 2021, <https://www.migrant-rights.org/2021/06/bahrain-includes-irregular-migrants-in-its-covid-19-vaccination-drive/>.

cases, and low-income migrant workers now find it difficult to access health facilities, especially as employers are not legally obligated to provide health insurance.

Additional disparities in access to health remain:

1. Bahrain enacted the "Law for the Prevention of Society from Acquired Immune Deficiency Syndrome (AIDS)" in 2017, which includes measures that protect those living with HIV from discrimination and from losing their jobs. However, migrant workers in Bahrain who test positive for HIV or other illnesses such as tuberculosis are deported immediately and are ineligible for residency and work permits.
2. Female migrants have limited access to postnatal and maternity care. Though hospitals are required to admit women in labour regardless of their visa status or ability to pay, they are not able to obtain birth certificates, travel documents or immigration clearance for their infants until they resolve their hospital debts and provide marriage certificates.¹²
3. Undocumented migrants have no safe access to public health care, as these institutions must inform authorities.

Recommendations:

1. Provide quality medical care to all women, including migrant women and domestic workers
2. Ensure that maternal and individual healthcare should be equitable for all, regardless of citizenship, ethnicity, class, or religion
3. Ensure a firewall exists between health officials and immigration authorities

Rights of specific persons or groups

8. Women

Though all women experience discrimination, the degree of vulnerability varies across several intersecting factors such as nationality, race ethnicity and social class, with low-income migrant women, and female domestic workers, in particular, the least protected. There are roughly 88,000 female migrant workers in Bahrain, the majority of whom are domestic workers.

¹² "Born into uncertainty: Pandemic aggravates the woes of migrant" 26 Aug. 2020, <https://www.migrant-rights.org/2020/08/born-into-uncertainty-pandemic-aggravates-the-woes-of-migrant-mothers-and-their-newborns/>.

Bahrain has supported a number of recommendations to strengthen legal protections for migrant domestic workers, but they remain excluded from the labour law, most labour protections, and discriminated against in other legislation, as detailed above.¹³

In 2021, several migrant women, predominantly from African countries, have been falsely accused by police of prostitution, and subjected to arbitrary arrest and deportation without due process.¹⁴

Except in cases where the mother's life is at stake, abortion in Bahrain is illegal. Women face prosecution for attempting an abortion, even in cases of rape. In 2020, proposals to legalise abortions under some conditions were rejected by the Shura council. As a result, many women resort to unsafe methods to terminate pregnancies. In 2020, Migrant-Rights.Org documented a case of an Ethiopian woman hospitalized and subsequently deported after suffering an abdominal burst for taking a blackmarket abortion pill.

The government introduced new laws in 2015, in particular Law No. 17 of 2015, to improve mechanisms for reporting domestic abuse and provide services for victims, However, since marital rape is not prohibited, the law does not offer enough protection for all women as it does not prohibit marital rape. Additionally, domestic workers are not explicitly covered by Law No. 17 of 2015, though they are especially vulnerable to abuse as they are often entrapped in their place of work and face difficulty accessing redress. Domestic workers are rarely able to access the government shelter for victims of domestic violence.

Bahraini women cannot transfer their citizenship to their children and foreign husbands. In 2020, a group of parliament members proposed an amendment to the citizenship law to allow Bahraini mothers to pass their citizenship to their children. The proposal remains under discussion by the parliament and Shura council, the upper house of Bahrain's National Assembly.

Female migrant women on dependent visas also require their husbands or fathers permission to obtain a work permit.

Recommendations:

1. Amend the citizenship law to enable women to pass their nationality to their children and husbands.

¹³ "Lived Experience Of Migrant Women:." 15 Nov. 2019, <https://www.migrant-rights.org/wp-content/uploads/2019/11/Lived-Experiences-of-Migrant-Women.pdf>.

¹⁴ "“I am not a business lady” | Migrant-Rights.org." 3 May. 2021, <https://www.migrant-rights.org/2021/05/i-am-not-a-business-lady/>.

2. Reform loopholes in legislation that allow abusers to avoid prosecution in cases of domestic abuse and rape.
3. Improve assistance to national and migrant women victims of abuse, including access to shelters.
4. Provide migrant women with free legal aid.
5. Decriminalise abortion and ensure migrant women's' equitable access to health
6. Ratify the Violence and Harassment Convention (No. 190)

9. Migrants, refugees, asylum seekers and internally displaced persons

Despite the Bahraini government's position that there are "no migrant workers in the country," there are over 531,447 non-nationals in the country, who account for almost 70% of the labour force.

We have referred to the issues facing migrants throughout this submission.

Recommendations:

1. Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
2. Expand Bahrain's constitutional rights to migrant workers