



**ECDHR**

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## **Bahrain – Migrant workers’ rights, June 2018**

In the approximately [1.4 million](#) residents of Bahrain, more than [604,697](#) are migrant workers who make up around 54,7% percent of the country’s workforce—most [working](#) in unskilled or low-skilled jobs, in industries such as construction, retail and wholesale and domestic work. About [99,500](#) of them are domestic workers (including 75,305 women).

### **Abuses against migrant workers**

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

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

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

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

- In **2006**, the **Labor Market Regulatory Authority (LMRA)** [was mandated](#) to regulate and control work permits for migrant workers. In 2009, the Bahraini government [attempted](#) to reform the *kafala* system by transferring migrant workers’ sponsorships from private citizens to the LMRA. It also allowed migrant workers to change employment without their employer’s consent after a three month-notice period. However, in practice, workers still [require](#) an individual or a company to be in charge of their legal stay in the country. Besides, in 2011, the government [scaled back](#) this reform by requiring migrant workers to stay with their employer for at least a year until they can change job without employer consent. Reports also [stress](#) the **inefficiency of the LMRA’s control, amid allegations of corruption**.
- Despite [Bahrain’s anti-trafficking Law No. 1 of 2008](#), conviction rates [remain](#) low and abuses characteristic of human trafficking, such as withhold of passports or wages, are usually investigated as labour law violations and not trafficking offenses. The [US 2017 Trafficking in Persons Report](#)

noted that **Bahrain remains a “destination country for men and women subjected to forced labour and sex trafficking”**, a majority of them coming from Southern Asia to work as domestic workers or in the construction or service industries. It highlights that, despite some efforts, including the launch of a **National Referral System hotline in 2017**, the Bahraini government did not *“fully meet the minimum, standards for the elimination of trafficking”*, in particular with regards to the few convictions of traffickers and its little efforts to pro-actively protect and identify victims.

- In 2012, the **Law No. 36 of 2012 governing labour in the private sector** was adopted. In theory, it provides welcomed rights and protections for workers without any distinction between Bahraini and foreign workers, including sick days, annual leave and increased fines for abusive employers. However, **the vast majority of its provisions doesn't cover domestic workers** and the Government has **failed to provide clear guidelines for its implementation**. In 2014, CEDAW **expressed** concern on the *“limited scope of application of the Law (...) given the many cases of violence, abuse and exploitation experienced by women migrant workers who are mainly employed as domestic workers in the State party”*. While the new law introduced a case management system, lengthy proceedings **makes** it impossible for many migrant workers to pursue litigation to a final ruling since they are unable to remain in Bahrain for a lengthy period without a job or income.
- In August 2017, the LMRA began **to issue “flexible labor permit,” or Flexi Permit for migrant workers** *“with canceled work permits ... work permits [that] are expired and were not renewed by their employers.”* This new flexible permit **could, if properly implemented, provide a great leap forward** as it would allow eligible workers to sponsor themselves instead of work under a sponsoring employer. Those who are eligible for the program will **receive** a “Blue Card,” which acts as proof of their legal residency and work status in the country. It gives them permission to work for more than one employer as well as enter and exit Bahrain freely. **However, the reform remains partial** as it **doesn't apply** to *“regular workers, non-regular workers, household workers, and workers leaving work”*. Only migrant workers in non-specialised jobs can apply for the permit. Besides, are not eligible workers who don't have a passport, have a criminal record or have ever attempted to escape a previous employer, even as a result of abuses. Moreover, the **high cost of the permit** (about BHD1169 every two years) and the additional mandatory healthcare fee **make** it inaccessible to many workers.
- In September 2017, the LMRA **introduced a new mandatory contract to be used by all recruitment agencies for domestic workers**. It could **represent serious progress in terms of transparency** as employers are requested to specify, among other things, the nature of the job, the number of rest hours and weekly days off (if any). This gives workers the possibility to be aware of the conditions of the job before accepting or rejecting the contract, even while still in their home countries. **However**, this new regulation fails to comply with ILO's domestic workers standards as the new contract **does not introduce any new mandatory working conditions**, such as a fixed minimum wage, limits on working hours, mandatory rest hours or weekly days off, despite the fact that domestic workers remain particularly likely to suffer those abuses. As mentioned above, existing laws barely offer any legal protection to domestic workers. Besides, doubts also remain as to **the implementation of this new reform**, as it does not confer inspectors with the necessary authority to investigate houses and this new contract doesn't fall under the provisions of Bahrain's Labour Law concerning *Labour Inspection and Judicial Powers*.

### UPR 2017 Recommendations

114.9	<b>Ratify the Domestic Workers Convention</b> , 2011 (No. 189) of the International Labour Organization (Switzerland) (Philippines) (Ghana) (Uganda)	Noted
114.10	Ratify the International <b>Convention on the Protection of the Rights of All Migrant Workers</b> and Members of Their Families (Philippines) (Ghana) (Guatemala)	Noted

114.24	Extend a standing invitation to all <b>special procedures</b> as soon as possible (Netherlands); Extend the standing invitation to all the mechanisms and special procedures of the Human Rights Council (Honduras); Facilitate a standing invitation to the special procedures mandate holders of the Human Rights Council (Guatemala); Issue a standing invitation to special procedure mandate holders (Bulgaria)	Noted
114.25	Cooperate with special procedures of the Human Rights Council, including by swiftly providing access for special rapporteurs with outstanding requests for visits to Bahrain (Iceland)	Noted
114.26	Encourage the Government to cooperate with all special procedures mandate holders (Iraq)	<b>Supported</b>
114.27	Continue to strengthen its cooperation with United Nations human rights mechanisms, in particular by accepting country visits of special rapporteurs (Republic of Korea)	<b>Supported</b>
114.132	Continue to <b>promote the rights of vulnerable groups, in particular girls, women, migrants</b> and persons with disabilities (Senegal)	<b>Supported</b>
114.154	Continue efforts to <b>ensure the safety, security and dignity of foreign migrant workers</b> , including women domestic workers, through requisite institutional and legislative measures (Nepal)	<b>Supported</b>
114.170	<b>Ensure the effective protection of migrants, particularly women migrant workers, against discrimination</b> (Philippines)	<b>Supported</b>
14.171	<b>Strengthen the legal protection for migrant workers, including domestic workers</b> , against discrimination on the grounds of race, sex, religion or nationality (Sierra Leone)	<b>Supported</b>
114.172	Continue to improve measures to <b>strengthen the rights of foreign migrant workers</b> , including putting in place the necessary domestic legislation and access to health care and legal aid (Sri Lanka)	<b>Supported</b>
114.88	Implement a national strategy to <b>tackle the trafficking of women and girls</b> , while building on its excellent work to ensure the <b>effective protection of all workers, including migrant workers</b> , against discrimination, and to <b>ratify the 2014 protocol to the Forced Labour Convention</b> , 1930 of the International Labour Organization (United Kingdom of Great Britain and Northern Ireland)	<b>Supported</b>

### UPR 2012 recommendations

115.20	Consider joining other states in ratifying <b>the International Convention on the Protection of the Rights of Migrant Workers and Members of their Families</b> and the ILO Convention 189 on Decent Work for Domestic Workers, as it progressively marches towards <b>institutionalizing protective mechanisms for migrant workers</b> (Philippines)	Noted
115.65	Respond favorably to the requests for visit of the country and also facilitate the <b>visits of the Special Rapporteur on migrants</b> , Special Rapporteur on torture and the Special Rapporteur on freedom of peaceful assembly and of association (Slovenia)	<b>Supported</b>
115.76	Take necessary measures to address issues relating to foreign workers, such as their facing travel bans and sometimes loss of rights to residence and work while being investigated for financial irregularity, so that the principles of natural justice are adhered to scrupulously (India)	<b>Supported</b>

115.164	Speed up as far as possible the adoption of <b>the draft labor law including the section on domestic workers</b> (Ecuador)	<b>Supported</b>
115.165	Continue its efforts in ensuring that the <b>housing conditions of workers to be continuously inspected and monitored</b> (Malaysia)	<b>Supported</b>
115.173	<b>Step up its efforts in promoting and protecting migrant workers</b> (Indonesia)	<b>Supported</b>
115.174	Continue efforts to ensure larger and more inclusive protection for foreign workers (Algeria);	<b>Supported</b>
115.175	Implements both procedural and legislative measures to <b>protect to the utmost extent possible migrant workers</b> in the country (Egypt)	<b>Supported</b>
115.176	<b>Intensify efforts and measures to enhance and expand protection for migrant workers in Bahrain</b> (Lebanon)	<b>Supported</b>

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

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