

THE FIVE CORRIDORS PROJECT - CORRIDORS 2 AND 3

# Nepal to Kuwait and Qatar: Fair recruitment in review

JULY 2021



## **ABOUT THIS DOCUMENT**

The Five Corridors Project is an initiative led by FairSquare Projects, which aims to identify key measures that governments can take to ensure that migrant workers can migrate safely and with dignity. FairSquare Projects is a non-profit human rights organisation that tailors rigorous research with communication and advocacy work to promote systemic change. The Five Corridors Project is supported by Open Society Foundations, Humanity United and Porticus. The organisations that funded this project played no role in the design or execution of the research, and our conclusions and recommendations may not necessarily reflect the viewpoints of Humanity United, OSF or Porticus.

**fairsq.org**

Design by [www.NickPurserDesign.com](http://www.NickPurserDesign.com)

Cover photograph: Visa applicants at a Migration Resource Center in Kathmandu, Nepal, 2015. © ILO

# Assessment against the Five Corridors indicators:

## 1. National migration policy

- 1.1 Does the government work to ensure coherence between labour recruitment, migration, employment and other national policies? ..... 25
- 1.2 Does the government restrict countries that some or all workers can migrate to ..... 29
- 1.3 Does the government have a stated or observed preference/tendency towards government-to-government recruitment agreements? ..... 31
- 1.4 Does the government take gender and gender identity into account when formulating and implementing migration policy? ..... 32
- 1.5 Does the government significantly regulate the process for a worker to obtain a visa to migrate? (i.e. does the employer need multiple permissions at different levels of the state to migrate?) ..... 37
- 1.6 Do national laws allow all categories of migrant workers the ability to change jobs within the destination country? ..... 39
- 1.7 Do destination country laws offer migrant workers a pathway to long term residency and/or citizenship? ..... 42

# 1. National migration policy

*“[The] sponsorship system (kafala) system... which denies workers the opportunity of obtaining alternative employment, exposes migrant workers to abuse and undermines their ability to have recourse to means of redress”*

ILO COMMITTEE OF EXPERTS, COMMENTING ON KUWAIT, 2019

## Summary

Widespread extreme poverty and high unemployment, exacerbated by political conflicts and the effects of natural disasters, have led to nearly one in ten Nepalis seeking work abroad. Remittances make up almost a third of GDP. Although the government seeks to halt this flow by establishing more work opportunities at home, the current decline in agricultural output and international tourism is likely to keep pushing Nepalis to leave. Foreign employment therefore features centrally in Nepal’s economic planning and legislation, but whereas policies were previously focused mainly on developing labour opportunities to address unemployment, there has been a recent shift to greater emphasis on worker protections, and a push to sign Bilateral Labour Agreements (BLAs) with key destination countries. Regulation of the influential recruitment industry, which maintains close relationships with political parties, is a major challenge, given the rampant abuse of migrant workers and the intense competition - between recruiters and with other origin states - for jobs in wealthy destination countries. On top of these challenges the IOM has criticised the lack of coordination between the numerous ministries and committees managing migration policy, exacerbated by political instability, frequent changes in government and a high turn-over of labour ministers over the past decade. Policies are often adopted without clear implementation plans or adequate resources, and though seemingly well-intentioned, they produce adverse outcomes for migrants. In an attempt to increase coherence, Nepal is currently rolling out new software to manage migration data more efficiently. A lengthy and complicated labour permit application process means that most aspiring migrants use recruitment

agencies; three-quarters report abusive practices, including payment of recruitment fees far in excess of the national legal limit. Domestic work abroad – an area typically dominated by women – has also been at the intersection of the competing pressures of employment demand and worker protection. Despite prohibitions against gender-based discrimination in sending workers for foreign employment, and incremental improvements in legislation addressing the challenges faced by female migrant workers, the real-world effect of revolving travel bans on migration for domestic work (especially to Gulf countries) has been to unduly discriminate against women, and, contrary to a professed aim to protect, push female workers into irregular migration, placing them at greater risk of trafficking and abuse, and reducing their access to grievance mechanisms and consular assistance abroad.

Migrant workers – mostly men, working in low-paid, private sector jobs – make up more than two-thirds of Kuwait’s total population. Kuwaiti government policy is to reduce this imbalance, and ideally to reverse it, while at the same time developing the construction and hospitality sectors which rely on that very same workforce. The incoherence of this policy of “Kuwaitisation” has only been further deepened by the clear reluctance of Kuwaiti nationals to take up the lower-paid, stigmatised, jobs in the private sector. This gap between official migration policy and actual labour market demand has contributed to irregular migration and visa overstays, as well as “visa trading” – whereby workers in migrant countries buy visas, either from recruiters in Kuwait or in the origin country. The large population of irregular migrants, some of whom become undocumented after fleeing abusive employment conditions, has led the authorities

to launch regular mass arrest and deportation campaigns, making migrant workers' lives highly insecure. Kuwait also uses regular periodic amnesties to reduce the number of migrants with irregular status, which can result in workers forgoing unpaid wages and dues in order to regain regular status or return home without risking detention and/or additional fines. Migrant workers are subject to a 1959 residency law that ties them to a sponsor who controls their entry to the country, renewal of residence permits and termination of employment. They face significant restrictions in relation to changing jobs. Recent labour reforms, supported by the ILO, have largely focussed on the domestic work sector, perhaps because of its importance to the country and the scrutiny it has attracted. More than 660,000 domestic workers are employed in Kuwait - a country with a population of 1.3 million citizens, representing one domestic worker for every two Kuwaiti citizens. Ninety percent of Kuwaiti households have at least one domestic worker, the majority of them women, with many facing abuse, including physical and sexual violence. Seeking to address international criticism of its human rights record, since 2015, Kuwait adopted legal reforms that provide greater protections to domestic workers' rights by regulating employment, setting a minimum wage, banning the payment of recruitment fees, and establishing a state-owned recruitment agency to specifically recruit workers in this sector. However, there are deep failings in enforcement and a lack of knowledge of these laws. With allegations of abuse persisting, the government has banned recruitment of domestic workers from 27 countries that do not have diplomatic missions in Kuwait, while other countries have introduced bans to prevent their nationals from migrating to Kuwait.

Migrant workers outnumber nationals in Qatar by nine to one, attracted by opportunities for work created by a 20-year construction boom. This imbalance is viewed by government agencies as a social and security challenge, and policies are accordingly designed to maintain

the temporary basis upon which most of its low-skilled, overwhelmingly male, migrant workforce is recruited and to prevent them from settling and obtaining citizenship. Qatar's visa allocation policy appears to be in part linked to its political relationships, with the Ministry of Interior's distribution of "block" approvals for specific nationalities being one of the few areas that the government involves itself with the day-to-day management of migration. These block approvals in some cases do not align with the visas that employers request, driving the market for black-market "free visas". Otherwise, Qatar largely delegates its migration control to private recruitment agencies and employers. Qatar came under intense international pressure over the treatment of migrant workers after it won the right to host the 2022 World Cup, and faced the threat of an ILO commission of inquiry into forced labour. Under a cooperation partnership with ILO agreed in 2017, Qatar embarked on a program of labour reforms, including setting a non-discriminatory minimum wage and making changes to the migrant worker sponsorship system. New laws adopted since 2018 permit migrants to change jobs without obtaining permission from their current employer and to leave the country without an exit permit. The implementation of these laws has been closely scrutinized, in particularly the question of whether workers can change jobs as intended by the reforms, and it is too early to assess their effectiveness. While Qatar's migrant workforce is majority male, female domestic workers have long faced particularly severe abuses. Excluded from the provisions of the Labour Law, they obtained some protections through a 2017 law. However, failures of enforcement, in addition to weak guarantees for women's rights in the country in general, mean that women migrant workers continue to face abuses. In 2021, Qatar introduced a standard employment contract for domestic workers addressing a number of disparities between legal protections afforded under the domestic workers law and the 2004 Labour Law, from which domestic workers are excluded.

---

## Recommendations to the Government of Nepal:

- Conduct a formal, independent, public review of Nepal’s national migration policy. The review should solicit views from a wide range of stakeholders and should address issues including gender-sensitivity and the potential and feasibility of increasing the rate of workers hired via government to government recruitment models.
- Ensure that all migrant workers, regardless of their job, gender, or whether they migrated through regular channels, have full access to consular assistance in destination countries and grievance mechanisms in Nepal.
- Provide women with regulated channels to migrate to the Gulf for domestic work, investing in dedicated gender-sensitive capacities - both in domestic institutions and in diplomatic missions - to protect women, including banning employers found to have abused domestic workers from hiring in future, insisting that standard contracts include requirements for women to have mobile phones, and establishing shelters in embassies. Abandon proposals to require women to seek permission from family members before migrating.

---

## Recommendations to the Government of Kuwait:

- Conduct a formal, independent, public review of Kuwait’s national migration policy. The review should solicit views from a wide range of stakeholders and should specifically the relationship between Kuwaitisation and the human rights of migrant workers, and measures to address xenophobia and discrimination against migrant workers.
- Introduce legislation that enables migrant workers to transfer employers without the permission of their employers, and complement this with mechanisms that enable them to exercise this right in practice.

- Introduce a transparent visa allocation process so that employers can only receive the visas that they have requested.

---

## Recommendations to the Government of Qatar:

- Ensure that the legal reforms to Qatar’s kafala system of sponsorship (Law no 18 of 2020 and Law no 19 of 2020) are implemented fully, with migrant workers provided with mechanisms that enable them to exercise their legal right to change employers;
- Remove the charge of “absconding” from Law No 21 of 2015;
- Introduce a transparent visa allocation process so that employers can only receive the visas that they have requested.

---

### 1.1 Does the government work to ensure coherence between labour recruitment, migration, employment and other national policies?

#### *Nepal*

Migration is a key part of Nepal’s economy in terms of the contribution of remittances and poverty alleviation, and historically, it has also been a means of offsetting Nepal’s long-term domestic unemployment and underemployment problems, especially amongst young people.<sup>10</sup>

Despite a recent decline, Nepal is still one of the world’s largest remittance recipient countries.<sup>11</sup> In 2018, it received 8.1 billion USD in remittances, ranking fifth in the world in terms of share of GDP for that year (28%).<sup>12</sup> With 18.7% of the total population living below the poverty line and one of the highest unemployment rates in the region (11.4%),<sup>13</sup> Nepali nationals continue to seek economic opportunities abroad, migrating primarily

---

10. Rajesh Khanal, “Nepal’s unemployment rate estimated at 11.4 percent”, The Kathmandu Post, (27 April 2019).

11. World Bank, “Nepal Development Update”, (July 2020).

12. World Bank, “Migration and Development Brief No. 31”, (April 2019): 22

13. UNDP, “Rapid Assessment of socio-economic impact of Covid-19 in Nepal”, (July 2020): 27

to Gulf countries, Malaysia, and India - they can travel to the latter for work without labour approvals. More recently, land degradation as a result of natural disasters and climate change has also been pushing Nepalis to work abroad. Others migrate due to debt, or on account of their less favourable socio-economic status as minorities, women or low-caste people.<sup>14</sup>

According to the 2011 census, one in four Nepali households had a family member abroad, or approximately 7.3 % of the country's total population.<sup>15</sup> Nepali migrant workers are predominantly young men, doing low-skilled jobs on temporary contracts.<sup>16</sup> Despite their vulnerability to abuse and exploitation, many renew labour permits and choose to re-migrate shortly after their return.<sup>17</sup>

The prominence of foreign employment is reflected in Nepal's laws, as well as its national strategies relevant to all parts of the government. Over the years, Nepal has adopted laws and policies aimed, on the one hand, at strengthening protections for migrant workers, which nonetheless remain weak (see 2.2), and maximizing the benefits of labour migration, on the other. Labour migration has featured as a priority in Nepal's periodic development plans since the mid-1980s. While earlier plans saw it as a viable livelihood option for many households and even set targets for increasing the number of Nepalis travelling abroad, in the past decade, the focus has shifted towards retaining Nepalis, creating jobs in the country and ensuring that those who migrate do so in a safe and dignified manner.<sup>18</sup> An official from the Ministry of Law, Justice and Parliamentary Affairs told us: "The major priority of the government has been to reduce the rate of foreign employment and establish more employment opportunities at home. With regards to foreign employment, the sole focus is and always was on the rights and welfare of the workers."<sup>19</sup> A MOLESS official contextualised the increasing focus on rights-protection in migration which has emerged

and influenced Nepal's policy in recent years, telling us, "There has been a world-wide change in the migration principles and discussion on migration through international frameworks such as the Global Forum on Migration and Development, Sustainable Development Goals, and the Global Compact on migration. There has been a greater push on issues such as the employer pays principle, access to justice, and labour rights."<sup>20</sup> The 2020 Ministry of Labour, Employment and Social Security (MOLESS) migration report confirms that the government's overarching goal is to "actively prioritiz[e] domestic employment creation to ensure Nepali citizens can migrate out of choice and not necessity."<sup>21</sup> While the World Bank has noted important gains in this regard, Covid-19 is likely to affect job creation.<sup>22</sup>

Prior to the pandemic, more than 1,000 people were leaving Nepal each day to work abroad.<sup>23</sup> With an uncertain economic outlook affected by a decline in agricultural output and drop in international tourism,<sup>24</sup> the authorities have little choice but to focus on promoting safe and orderly migration. Three main instruments regulate and promote this: the 2007 Foreign Employment Act (FEA), the 2008 Foreign Employment Rules (FER) and the 2012 Foreign Employment Policy (FEP). The preamble to the 2007 FEA acknowledges the importance of adopting consolidated legislation on foreign employment to "promote and make such profession secured, organized and respectful as well as to protect the right[s] and interest[s] of employee[s] going for foreign employment".<sup>25</sup> The FER strengthened the FEA by including additional protections for migrant workers. The 2012 FEP in turn aims to: make foreign employment safe, organized and reliable; develop a skilled, capable and competitive labour force; promote regional cooperation in managing foreign employment; address the specific challenges of migrant women; and use economic resources obtained abroad to alleviate poverty by promoting the investment of remittances for economic and social development.<sup>26</sup>

14. OHCHR, "Report of the Special Rapporteur on the human rights of migrants on his mission to Nepal", (April 2018): 3

15. IOM, "Migration in Nepal: A Country Profile 2019", (2019): 35

16. Ministry of Labour, Employment and Social Security (MOLESS), "Nepal Labour Migration Report 2020", (2020): XV

17. Amnesty International, "Turning People into Profits: Abusive Recruitment, Trafficking and Forced Labour of Nepal Migrant Workers", (2017): 69

18. MOLESS, "Nepal Labour Migration Report 2020", (2020): 4-5.

19. Senior official, Ministry of Law Justice and Parliamentary Affairs, interview, 8 January 2020.

20. Senior official, Ministry of Labour, Employment and Social Security, interview, 10 January 2020.

21. MOLESS, "Nepal Labour Migration Report 2020", (2020): 5

22. World Bank, "Nepal Jobs Diagnostic" (2020): 2.

23. IOM, "Migration Governance Snapshot: Federal Democratic Republic of Nepal", (August 2018): 4

24. World Bank, Nepal Development Update: Post-Pandemic Nepal - Charting a Resilient Recovery and Future Growth Directions, (2020): xv

25. Foreign Employment Act, 2007

26. Foreign Employment Policy, 2012

Article 51 of Nepal's 2015 Constitution requires the government to "make foreign employment exploitation free, safe, and well-managed to guarantee workers' rights and employment ... encouraging the use of the capital, skills, technology and experience gained from foreign employment in productive sectors in the country".<sup>27</sup>

A MOLESS officer confirmed that past policies were focused exclusively on promoting employment opportunities in the international market, whereas now "policies are largely drafted keeping public welfare in mind".<sup>28</sup> Another MOLESS representative told us that the prioritization of negotiating Bilateral Labour Agreements (BLAs) with new destination countries is evidence of the government's efforts to ensure coherence in overseas migration policy.<sup>29</sup> Indeed, between 2017-19, Nepal signed agreements with Japan, Jordan, Malaysia, Mauritius, Israel and the UAE that contain strengthened protections for migrant workers in relation to equal pay, access to justice and requirements that employers bear recruitment costs (see section 3).<sup>30</sup> The government has also tried to open new migration corridors with European countries such as Poland, Turkey, Cyprus and Malta to secure access to more lucrative jobs for its nationals.<sup>31</sup>

However, despite these efforts and the importance of migration to Nepal's domestic agenda, according to the IOM, the authorities have failed to develop a comprehensive government plan specific to migration. As a result, migration governance and policy are spread across several ministries, departments, technical working groups and committees. In addition, experts interviewed for this report said that while some migration policies and laws affecting recruitment may appear as ill-thought-out or to have unintended consequences (see 2.5), they are often adopted as a means to consolidate power, appease party politics or to maintain popular legitimacy given the significance

of the migrant worker population.<sup>32</sup> One such example often cited is the 2015 "Free Visa, Free Ticket" policy, which set a limit on how much recruitment agencies could charge as fees for facilitating migration to seven major destination countries (see 6.1), but has never been enforced. According to an academic specializing in labour recruitment and the protection of Nepali migrant workers, the "Free Visa, Free Ticket" policy "is a classic illustration where no one has been able to roll back a policy that is dead in the water because of the legitimacy that it gives the state".<sup>33</sup> Another example is the contradiction between the "Free Visa, Free Ticket" policy and government-to-government agreements with Israel and the Republic of Korea, where the government itself is charging recruitment fees (see 4.4).<sup>34</sup> In general, though, policies tend to be adopted without real implementation plans, adequate resources or public engagement, and often remain unimplemented as a result. In some cases, strategic litigation by human rights groups has targeted the creation of positive outcomes for migrants where policy-making has failed.<sup>35</sup>

## Kuwait

As an oil-rich country, Kuwait has been a major destination for migrant workers from South Asia and the Middle East for decades. Today, migrant workers comprise 72% of Kuwait's total population,<sup>36</sup> making up 82% of the country's workforce. The vast majority are men and work in the private sector in low-paid jobs. By contrast, 74% of Kuwaiti nationals work in the public sector, where wages and benefits are much higher.<sup>37</sup> Kuwait's repeated efforts to reduce its reliance on foreign workers have been unsuccessful.

Kuwait's legal framework for migration is based on the 1959 Aliens Residence Law, which continues to govern migrant workers' employment and ties their residence status through the restrictive kafala (sponsorship)

27. [Constitution of Nepal](#), Article 51, 2015.

28. Official, Ministry of Labour, Employment and Social Security, interview, 8 January 2020.

29. Senior official, Ministry of Labour, Employment and Social Security, interview, 8 January 2020.

30. MOLESS, "[Nepal Labour Migration Report 2020](#)", (2020): 5

31. MOLESS, "[Nepal Labour Migration Report 2020](#)", (2020): 25

32. Dr Angela Sherwood, remote interview, 4 September 2020; remote interview with FSI Worldwide, 20 October 2020; ILO official, remote interview, 21 October 2020.

33. Dr Angela Sherwood, remote interview, 4 September 2020.

34. Upasana Khadka, "[The theory and practice of zero-cost migration](#)", Nepali Times, (4 October 2020).

35. For example, in 2018, the Supreme Court issued a [decision](#) on the regulation of agents used by recruitment agencies and the decentralisation of the grievance mechanism following a case filed by LAPSJO.

36. IOM, "[World Migration Report 2020](#)": 84

37. ILO, "[Decent Work Programme for Kuwait, 2018-2020](#)", (April 2018): 4



system.<sup>38</sup> Kuwait's migration, labour recruitment and employment policies are driven by a set of competing objectives, including on the one hand, the desire to reduce the demographic imbalance between nationals and foreigners and appease public and parliamentary opinion, which is often prejudiced against non-Muslim migrants from South Asia, and on the other, reform its economy, strengthen ties with origin states, and improve its international standing by assuaging concern over its treatment of migrant workers.<sup>39</sup> As a result, these policies often appear incoherent, and migration reforms tend not only to be half-hearted and incomplete but usually followed by crackdowns against migrant workers, further undermining their rights.

“Kuwaitisation” is a key overarching policy governing the country's labour market structure and influencing migration policy.<sup>40</sup> Kuwaitisation aims to incentivise the replacement of migrant workers with Kuwaitis in the labour market, mainly in the private sector, through various regulations, policies and educational reforms. This policy is articulated in “New Kuwait 2035”, Kuwait's national development plan, which seeks to transform the country into a financial and commercial hub by decreasing its reliance on oil and diversifying its economy through a set of public and private sector reforms, and increasing the participation of nationals in the private sector by 10%.<sup>41</sup> With the rise of xenophobia towards migrant workers who were blamed for the outbreak of the Covid-19 pandemic and a drop in global crude oil prices parliamentarians introduced a bill that goes far further, aiming to reduce the proportion of the country's foreign nationals from 70% to 30%. This followed statements from the Prime Minister in favour of such moves.<sup>42</sup>

In parallel, the government has set private sector employment quotas to increase the ratio of nationals in the private sector labour force. In 2018, the Ministry of Social Affairs and Labour (MSAL) introduced a US\$830 fee per “excess work permit” for companies

with foreign employees accounting for more than 50% of their workforce. Given that seven out of 10 Kuwaitis work in the public sector, the new policy was expected to result in most private sector companies having to pay extra fees for new foreign hires.<sup>43</sup> That same year, the government began assessing the validity of foreign nationals' university degree certificates before issuing or renewing residency documents and ceased hiring migrants under the age of 30 with university degrees in order to promote the employment of new Kuwaiti graduates.<sup>44</sup> In August 2020, the Kuwaiti authorities announced they would stop issuing work permits for foreign workers without a degree aged above 60.<sup>45</sup>

While the reduction of the foreign population is a long-stated goal, it does not correlate with labour market realities. As the ILO has noted: “Kuwait has a limited national labour supply and is, as most Gulf Cooperation Countries (GCC) countries, heavily reliant on foreign workers ever since the beginning of the oil age.”<sup>46</sup> The reluctance of Kuwaiti nationals to take up positions in the private sector, where wages are relatively lower than in the public sector, and where jobs come with an associated social stigma, is not consistent with the significant construction, infrastructure and hospitality sector growth envisioned in “New Kuwait 2035”. This means that demand for foreign labour – especially low-wage, low-skilled workers, particularly from South and South East Asia – continues.<sup>47</sup>

The number of migrants who find themselves in irregular situations as a result of overstaying their visas or because of lack of documents – often through no fault of their own such as escaping abusive work situations or migrating under the false promises of a job awaiting for them – is currently estimated at 120,000, according to Kuwaiti media.<sup>48</sup> A 2019 GLMM paper traces how in recent years, the government has declared a series of “amnesties” for undocumented migrants, usually followed by mass arrest and deportation campaigns. In 2011, 30,000 irregular migrants were deported, and the

38. Amiri Decree No. 17 of 1959 issuing the Aliens Residence Law, 1959.

39. Interviews with activists, trade union representatives and employers.

40. IOM, “Migration Governance Overview: The State of Kuwait”, (May 2018).

41. Sophie Olver-Ellis, “Building The New Kuwait Vision 2035 And The Challenge Of Diversification”, (January 2020): 7

42. Andrew Clarence, “India coronavirus: Kuwait's new expat bill has Indians worried”, BBC, (15 July 2020).

43. Gulf Business, “Kuwait introduces new \$830 fee for companies employing ‘excess’ foreigners”, (5 September 2017).

44. Gulf Business, “Kuwait to halt recruitment of foreign workers younger than 30”, (30 November 2017).

45. Al Arabiya English, “No work permits for those over 60, no visa extensions amid broad expat cut”, (18 August 2020).

46. ILO, “Kuwait Decent Work Programme 2018 – 2020”: 4.

47. Gulf Business, “Unemployed Kuwaitis unwilling to join the private sector”, (19 April 2016).

48. Al-Qabas, 9) وافد، 530 ألف للاستغناء عن August 2020).

following year MSAL stated that over 67,000 migrants had been stripped of their residency permits for overstaying their visas. In 2014, the Ministry of Interior decided to halt raids on migrant workers because of a lack of space in police stations and prisons. In 2018, 13,000 migrant workers were deported officially on account of their poor health conditions, labour law violations, or because they faced criminal charges.<sup>49</sup> Most recently, in August 2020, Kuwaiti media reported yet another government plan to deport the country's entire population of irregular migrants.<sup>50</sup>

## Qatar

Qatar's migrant population has grown from around only 14,000 people in 1960 to more than two million now, largely caused by a major boom in construction activities in the last 20 years. Qatar's foreign population vastly outnumbers Qatari nationals, accounting for more than 90% of the total population. The prominence of state-directed, long-term mega infrastructure projects, including the 2022 men's football World Cup, and the development of the hospitality and tourism sectors, have only increased labour recruitment demand.

Qatar National Vision 2030, the country's national development plan launched in 2008, articulated a concern about the implications of rapid growth:

*“Qatar must determine a suitable size and quality of its expatriate labor force. It must weigh the consequences of recruiting expatriate workers in terms of their cultural rights, housing and public service needs, as well as the potential negative impact on national identity, against the anticipated economic benefits that accrue from an increase in the numbers of foreign workers in the total labor force.”<sup>51</sup>*

Perhaps as a result of these concerns, while the Qatar National Vision 2030 prioritizes the recruitment of highly qualified foreign workers, the overwhelming majority of recruitment of foreign workers remains for low-paid

work on temporary contracts that are often no longer than two years. This policy has been maintained over the past decade, even as Qatar has intensively developed its infrastructure in a sustained and planned manner.<sup>52</sup>

This disconnect between an acknowledged long-term reliance on an imported workforce and a recruitment framework largely restricted to two-year contracts and residency permits, subject to renewal by the employer, suggests that a key policy concern is to prevent the settlement and integration of foreign workers in order to avoid concretising the demographic imbalance between Qatari and foreign nationals.<sup>53</sup> A labour migration expert told us that there is also a “financial incentive for high labour turnover”, given the kickback payments made by recruitment agencies in countries of origin to representatives of employers (see 6.1).<sup>54</sup>

Qatar's regional and international relations had a significant impact on its management of migration. It came under intense international pressure over its treatment of migrant workers after it won the right to host the 2022 World Cup, and as a result, unions launched a forced labour complaint to the ILO in 2014.<sup>55</sup> In 2017, with the prospect of a potential ILO commission of inquiry still looming, Qatar's Gulf neighbours cut off relations with Qatar over political differences and attempted to isolate it politically and economically. In this context, Qatar agreed a cooperation partnership with the ILO, under which several reforms have been taken, including most notably reform of the kafala (sponsorship) system.<sup>56</sup> It remains to be seen how Qatar will manage its migrant workforce after the international scrutiny provided by the World Cup recedes.

---

## 1.2 Does the government restrict countries that some or all workers can migrate to?

### Nepal

Nepal currently prohibits its citizens from migrating to work in Iraq, Afghanistan and Libya due to the security

---

49. GLMM, “Demography, Migration, and the Labour Market in Kuwait”, (2019): 6-7.

50. The New Arab, “Kuwait planning to deport 360,000 migrant workers”, (12 August 2020).

51. General Secretariat for Development Planning, “Qatar National Vision 2030”, (July 2008): 7

52. An examination of Qatar's bid for the 2022's Men World Cup bid illustrates that the scale of the country's construction programme was foreseeable. See FIFA, “2022 FIFA World Cup Bid Evaluation Report: Qatar”, (2010).

53. Zahra R. Babar, “Labor Migration in the State of Qatar Policy Making and Governance”, IFRI, (December 2013): 7.

54. Professor Ray Jureidini, written comments, October 2020.

55. Thomson Reuters Foundation, “ILO defers decision on whether to investigate Qatar on migrant abuses”, (22 March 2017).

56. See ILO, “Project Office for the State of Qatar”(2018).

situation in those countries. Nepali legislation also prohibits the departure for foreign employment via another country.<sup>57</sup> There are currently 111 approved labour destination countries. Further, Nepalis can obtain labour permits for migration to 172 countries when applying individually, and to 107 countries when applying through an institution.<sup>58</sup>

Temporary restrictions on specific countries are often adopted in response to disputes, or following incidents affecting Nepali workers in countries of destination that shock public opinion. Nepal temporarily suspended migration to Malaysia in 2019, for example, following a dispute over additional fees being charged to aspiring Nepali migrants during the visa application process.<sup>59</sup> Migration restarted in September 2019 after Malaysia and Nepal signed a new bilateral agreement.

Female migration and work in the domestic sector have also historically been subject to travel bans. Currently, the government does not permit Nepali nationals to work in the domestic sector unless a BLA has been signed between Nepal and the destination country, as is the case with Jordan.<sup>60</sup> Migration to Gulf countries and Lebanon has been particularly affected: the ban on female migration to the Gulf was first introduced in 1998 following the alleged sexual abuse and subsequent death of Kani Sherpa, a Nepali domestic worker in Kuwait, and lifted in 2003 on condition that the relevant diplomatic mission issues a certificate guaranteeing full security in the destination country.<sup>61</sup> In 2015, Nepal adopted guidelines prohibiting women younger than 24, or those with a child under the age of two, from seeking foreign employment as domestic workers.<sup>62</sup> A partial ban was reintroduced in 2017 after the parliamentary Labour and International Relations Committee instructed the Council of Ministers to prevent Nepali women from undertaking domestic employment in GCC countries, following its members' visit to the region.

The restriction on travel to Gulf countries for domestic work was partially lifted in August 2019 when a

parliamentary committee directed MOLESS to allow migrant workers who were doing domestic work, whether they had used legal channels or not, and were working under an accurate job description or not, to return to Nepal and apply for re-migration to work for the same employers.<sup>63</sup> The ban on aspiring domestic migrant workers remains, though in 2021 a contentious alternative was proposed by the government, which would have seen women under 40 needing authorisation from male relatives before migrating.<sup>64</sup> This issue is explored further in section 1.4.

## Kuwait

In 2019, Kuwait banned recruitment from 27 countries, including 25 African and two Asian countries. The list included: Djibouti, Kenya, Uganda, Nigeria, Togo, Ghana, Ethiopia, Burkina Faso, Guinea, Guinea-Bissau, Ivory Coast, Madagascar, Senegal, Malawi, Chad, Sierra Leone, Niger, Tanzania, the Gambia, Ghana, Chad, Zimbabwe, Cameroon, the Democratic Republic of the Congo and Burundi, in addition to Indonesia and Bhutan. For 13 of these countries, the ban applies only to women domestic workers.<sup>65</sup> Such restrictions were lifted, or partially lifted, at different times in order to address labour shortages in the domestic sector.<sup>66</sup>

In a December 2019 meeting, a Kuwaiti official told us that these measures were introduced following the alleged abuse of women domestic workers from Djibouti in Kuwaiti households, and the public criticism of Kuwait's policies towards migrants by Djibouti officials. The official said that the criticism was unfair, in that it failed to recognize Kuwait's efforts to assist workers who did not have access to a permanent diplomatic mission in Kuwait with the reissuing of official documents and visa or job reallocation processes. In response, Kuwaiti authorities decided to no longer permit the recruitment of nationals from countries without a permanent diplomatic presence in Kuwait, including those which rely on the embassies of regional neighbours.<sup>67</sup>

57. UN Human Right Council, "Report of the Special Rapporteur on the human rights of migrants on his mission to Nepal", A/HRC/38/41/Add1, (30 April 2018).

58. Government of Nepal, MOLESS, "Recognised countries"

59. The Kathmandu Post, "Government to scrap fees unfairly levied on Malaysia-bound Nepali workers", (18 May 2018).

60. Senior official, Foreign Employment Board, interview, 13 January 2020

61. Uddhab Pd. Pyakurel, "Restrictive Labour Migration Policy on Nepalese Women and Consequences", Sociology and Anthropology, (August 2018): 652.

62. UN Human Right Council, "Report of the Special Rapporteur on the human rights of migrants on his mission to Nepal", A/HRC/38/41/Add1, (30 April 2018): 13.

63. Official, Labour Office, MOLESS, interview, 10 January 2020.

64. The Kathmandu Post, "New rule requiring women under 40 to take approval from family, local ward office to go abroad draws criticism", (10 February 2021).

65. Khaled al-Hattab, "منع استخدام العمالة المنزلية من 27 دولة", Al Qabas, (30 November 2019).

66. Migrant-Rights.Org, "Kuwait lifts ban on domestic workers from several countries", (20 February 2019).

67. Kuwaiti official, interview, 13 December 2019.

Other countries have introduced bans on migration to Kuwait to protect their nationals. In January 2018, the Philippines issued a total prohibition on Filipino workers migrating to Kuwait, following reports of seven deaths of Filipino domestic staff in the country.<sup>68</sup> In 2015, Indonesia declared a temporary ban on sending new domestic workers to 21 Middle Eastern and North African countries, including Kuwait, following the execution of two Indonesian women in Saudi Arabia.<sup>69</sup>

### Qatar

A few weeks after the decision by Saudi Arabia, the UAE, Bahrain and Egypt to sever diplomatic ties with Qatar in June 2017, Qatar stopped issuing new work and family visas to Egyptians.<sup>70</sup> Qatar also stated in September 2017 that it would cease renewing visas for North Korean workers, following U.N. Security Council sanctions and pressure from the USA regarding the North Korean nuclear programme.<sup>71</sup>

More broadly, Qatar appears to prioritise visa distributions to specific countries with whom it has a BLA and/or MOU, or political, cultural, economic, religious or diplomatic ties. For example, Indian nationals make up the largest migrant community in Qatar due to strong economic relations between the two countries.<sup>72</sup> On the contrary, Qatar is yet to fulfill a commitment made in 2015 to hire 100,000 Pakistani skilled and semi-skilled workers. Although the authorities have not provided any official reason for the delay, many believe that Qatar was reluctant to issue visas to Pakistani nationals for political reasons.<sup>73</sup> Since coming into office, Pakistani Prime Minister Imran Khan has focussed on strengthening bilateral relations with Qatar, leading to the opening of Qatar Visa Centers in Pakistan in late 2018.<sup>74</sup>

## 1.3 Does the government have a stated or observed preference/tendency towards government-to-government recruitment agreements?

### Nepal

Nepal has signed a government-to-government agreement with the Republic of Korea to send workers under the Employment Permit System (EPS).<sup>75</sup> Nepali nationals can migrate for work to Japan under the Technical Intern Training Programme of the Japan International Training Cooperation Organisation (JITCO),<sup>76</sup> a public interest foundation, which promotes the recruitment of foreign nationals.<sup>77</sup> However, the Labour Minister in 2021 said that there have been problems implementing this programme, preventing Nepalis from accessing it.<sup>78</sup> Nepal and Israel have pursued various government-to-government recruitment programmes, though not at significant scale.<sup>79</sup>

However, according to a senior MOLESS official, Nepal does not prioritise the signing of government-to-government agreements and its experience with such agreements to date has been mostly negative.<sup>80</sup> A Ministry of Law official said that Nepal needed to work with private agencies, while continuing to monitor their activities to protect workers from any abuses and obstacles during the recruitment process: “government-to-government [agreements] are too costly, the government can’t fully afford them. The government-to-government agreements with Korea and Japan have had lots of challenges, so for countries like Qatar and Malaysia that host large numbers of migrant workers,

68. Human Rights Watch, “Kuwait/Philippines: Protect Filipino Migrant Workers”, (21 February 2018).

69. Equal Times, “Despite migration ban, Indonesian domestic workers still face forced labour and abuses in the Gulf”, (7 September 2017).

70. Fragomen, “Qatar Blockade and its impact on Immigration in the GCC”, (30 October 2017).

71. Reuters, “Qatar, Kuwait stop renewing visas for North Korean workers”, (19 September 2017).

72. Reuters, “India wants to delink Qatar gas supply deals from crude; Qatar says no”, (27 January 2020).

73. Tribune, “Why Qatar issues fewer ‘work visas’ to Pakistanis”, (13 October 2017).

74. Pakistan Today, “In Doha, Imran reiterates Pakistan’s continued support to Afghan peace”, (27 February 2020).

75. Embassy of Nepal, Seoul, Republic of Korea, “Bilateral relations: Nepal-Republic of Korea relations”; “Memorandum of Understanding between the Ministry of Labor and Transport Management, Government of Nepal and the Ministry of Labor of the Republic of Korea on the Sending of Workers to the Republic of Korea under the Employment Permit System”, (23 July 2007).

76. Japan International Trainee and Skilled Worker Cooperation Organisation, “Nepal: Sending Country Conditions”.

77. Ministry of Foreign Affairs of Japan, “Memorandum of Cooperation between the Ministry of Justice, the Ministry of Foreign Affairs, the Ministry of Health Labour and Welfare and the National Police Agency of Japan and the ministry of Labour, Employment and Social Security of the government of Nepal on a basic framework for information partnership for proper operation of the system pertaining to foreign human resources with the status of residence of ‘specified skilled worker’”.

78. Deshpandya, सरकारी संयन्त्र मार्फत थप देशमा श्रमिक पठाउने प्रयास हुँदछ: मन्त्री चौधरी, (7 March 2021).

79. Nepali Times, “Demand grows for Nepali caregivers in Israel”, (27 September 2020).

80. Senior official, Ministry of Labour, Employment and Social Security, interview, 8 January 2020.

we need to partner with private institutions”.<sup>81</sup> However, in 2021, recruitment agencies expressed concern when the Labour Minister announced plans to conclude a government-to-government recruitment programme with Qatar to provide security guards ahead of the 2022 men’s World Cup. At the time of writing in June 2021, the announcement did not appear to result in any concrete agreement and it was not clear that Qatar had agreed to the proposal.<sup>82</sup>

## Kuwait

The Kuwaiti state largely delegates the recruitment of foreign workers to the private sector. In 2017, Kuwait established a state-owned recruitment agency, Al-Durra, to facilitate the recruitment of foreign domestic workers.<sup>83</sup> However, Al-Durra does not enter into partnerships with governments in labour-sending countries. Instead, it works with licensed private sector recruitment agencies in Kuwait.<sup>84</sup>

## Qatar

Qatar effectively outsources migration control to the private sector, and with the exception of the Ministry of Interior’s role in the distribution of visa approvals, the government has minimal involvement in matching aspiring migrant workers with jobs.

---

### 1.4 Does the government take gender and gender identity into account when formulating and implementing migration policy?

## Nepal

Although Nepal has incorporated gender into the design of migration policies, significant gaps in legislation and an overly protectionist approach mean that women migrant workers continue to be discriminated against in practice, and to face physical abuse, trafficking and

other violations. Gender identity does not feature in Nepal’s migration policies.

Nepal ratified the Convention on the Elimination of Discrimination against Women (CEDAW) in 1991. In 2018, the CEDAW Committee identified three particular areas of concern with regards to the human rights situation of women migrant workers, namely: restrictions against women on access to foreign employment under the 2015 guidelines on women migrant domestic workers; lack of support for the reintegration of women migrants following their return to Nepal; and both freedom of movement restrictions and “limited pre-departure training programmes, which leave women exposed to discriminatory practices”.<sup>85</sup>

Although only approximately 8.7% of all labour permits issued in 2018/2019 were issued to women, according to DOFE data, female migration through official channels has been steadily on the rise over the past decade. Real numbers are likely much higher as more women migrate irregularly.<sup>86</sup> Despite the reintroduction of a ban on domestic work in the Gulf (see 1.2), between 2015-2019, the UAE was the top destination for Nepali women migrant workers, followed immediately by Qatar. Kuwait was the seventh most popular choice.

Article 8 of the 2007 FEA prohibits gender-based discrimination in sending workers for foreign employment. Article 9 states that special privileges may be provided to women migrating abroad for work and requires recruiters to send a set number of women for foreign employment. The 2008 FER also contains specific provisions aimed at protecting women migrants and addressing their specific needs. Amongst other things, Section 26 specifies the use of the Foreign Employment Welfare Fund for the reimbursement of fees paid by aspiring female migrants to attend the pre-departure orientation training and for the establishment of childcare centres to ensure adequate protection of the children of women workers who have gone for foreign employment. Section 43 requires the appointment of women labour attachés in countries where at least 1,000 women workers have been sent for foreign employment.<sup>87</sup>

---

81. Senior official, Ministry of Law, Justice and Parliamentary Affairs, interview, 8 January 2020.

82. The Kathmandu Post, “Recruiting agencies irked by ‘government intention’ to send workers to Qatar on its own”, (11 March 2021).

83. قانون رقم 68 لسنة 2015 في شأن العمالة المنزلية, ILO.

84. Arab Times, “Al-Durra company fails to hire domestic workers from abroad at cheaper prices”, (5 January 2020).

85. CEDAW, “Concluding observations on the sixth periodic report of Nepal”, (14 November 2018): 13.

86. IOM, “Migration in Nepal, A country profile 2019”, (2019): 48 and 108.

87. Foreign Employment Rules, 2008

The 2012 FEP addresses the specific challenges faced by women migrant workers including low salaries, vulnerability to irregular migration, physical violence, sexual harassment and abuse and economic exploitation, and aims to protect their rights in the migration cycle through skills training and pre-departure orientation, extensive dissemination of information regarding the migration process, the establishment of mechanisms for the protection of women migrants and enhanced collaboration with key actors to prevent human trafficking as a result of contract substitution. The policy takes into account the issue of family members left behind and gender specific challenges in the reintegration process faced by returning migrants. It also acknowledges an increase in the number of female migrant workers especially in the domestic work and care industry.

However, despite these legal safeguards, in designing migration policies, the Nepali authorities have failed to consider the reasons why women choose to migrate and the context in which they make their decisions to seek foreign employment, which is not only highly discriminatory but also places an expectation on them to provide for their families.<sup>88</sup> As a result, they have over the years adopted a series of measures aimed officially at protecting women from “sexual violence, physical abuse and economic exploitation” in destination countries, but which discriminate against women in practice, and restrict their access to foreign employment through official channels.<sup>89</sup> Women were only allowed to migrate for work in certain sectors in 1997, having required the consent of a guardian prior to that. They were then banned from international labour migration altogether a year later, and although the restriction was lifted in 2000, it was maintained for migration to the Gulf for several years. Other general restrictive measures on female migration were imposed in parallel. All these were removed, along with travel bans, in September 2007 with the adoption of the FEA, but new

restrictions and conditions on women intending to migrate to the Gulf and Lebanon as domestic workers were reintroduced (see 1.2), some of which remain until today, officially for women’s own protection.<sup>90</sup>

However, not only do these restrictions fail to prevent human trafficking and expose women to a greater risk of exploitation<sup>91</sup> as they increasingly opt for irregular routes via India,<sup>92</sup> as well as newer routes via Myanmar, Sri Lanka and Thailand,<sup>93</sup> they also limit women’s access to grievance mechanisms and consular help in case of abuse in destination countries (see 2.3 and 7.1). According to a specialist at AMKAS, an NGO, which supports the reintegration of female migrants following their return to Nepal, women migrant workers are generally not aware of the ban on domestic workers or that travelling via India to the Gulf could lead to them having an irregular status upon arrival in the destination country. The psychosocial counsellor explained that although the policy was intended to protect women from abuse, the government has failed to ensure that they are adequately informed of restrictions: “There are no awareness-raising programmes or public service announcements. Messages are not available via social media, and migrants are not aware of the domestic workers directives introduced by the government. Agents are also not aware of this, especially at the village level.”<sup>94</sup>

Initially, the Nepali authorities justified these restrictions on domestic workers as necessary “for the security of women migrant workers in order to prevent exploitation and trafficking”.<sup>95</sup> However, today, with the introduction of guidelines on domestic workers, the government’s official position is that such bans are not specifically targeting women but merely that any migrant intending to work as domestic worker is banned from doing so.<sup>96</sup> This position ignores the reality that domestic work is a sector traditionally dominated by women, and that as a result, it effectively targets women and restricts their access to regular migration.

88. Dr Angela Sherwood, interview, 4 September 2020.

89. Uddhab Pd. Pyakurel, “Restrictive Labour Migration Policy on Nepalese Women and Consequences”, *Sociology and Anthropology*, (2018): 652

90. Uddhab Pd. Pyakurel, “Restrictive Labour Migration Policy on Nepalese Women and Consequences”, *Sociology and Anthropology*, (2018): 652

91. The Kathmandu Post, “For Nepali women seeking work in the Gulf, new routes and old risks”, (4 January 2020).

92. A study on Restrictive Labour Migration Policy on Nepalese Women and Consequences by Pyakurel found that 3,200 Nepali women had been intercepted at New Delhi Airport in 2012 within a few months after the government requested Indian authorities to stop Nepali women in transit en route to the Gulf on visitor visas. “Nepali Times (2012) quoted Immigration officials at New Delhi airport and reported that they (the officials) intercept up to five Nepali women every day on forged passports or visas”. See Uddhab Pd. Pyakurel, “Restrictive Labour Migration Policy on Nepalese Women and Consequences, *Sociology and Anthropology*”, (2018): 650-656.

93. Specialist at AMKAS, interview, 17 January 2020.

94. Specialist at AMKAS, interview, 17 January 2020.

95. Uddhab Pd. Pyakurel, “Restrictive Labour Migration Policy on Nepalese Women and Consequences”, *Sociology and Anthropology*, (2018): 652.

96. Senior official, Foreign Employment Board, interview, 13 January 2020.

Indeed, government-imposed bans and restrictions on domestic workers drive women to take irregular routes when migrating abroad for work, and to use the services of recruiting agencies and agents that charge them fees far in excess of the national legal limit. Following his visit to Nepal in 2018, the UN Special Rapporteur on the human rights of migrants expressed concern that such restrictions on domestic workers were exposing Nepalese women to a greater risk of abuse and exploitation by forcing them into irregular migration via India at the hands of unethical recruiters, or by allowing their travel with a labour permit for a different job only to find themselves hired as domestic workers upon arrival in the destination country.<sup>97</sup>

Some women who migrated to the Gulf via transit countries such as India told us they did not know the route was irregular, while others were aware of the government ban. One woman described knowingly taking an unauthorised route via India after a business contact stole money from her, leaving her family in debt and her children unable to continue their education.<sup>98</sup>

Other government actions, although seemingly well-intended, fail to take into consideration women's specific needs and challenges. In March 2019 the Nepali authorities amended the FEA to ban recruitment agencies from hiring sub-agents.<sup>99</sup> While the reform was aimed at preventing fraudulent activities, it disproportionately affected women migrants' access to foreign employment given their heightened reliance on sub-agents in their own villages, whom they often trust and know through other members of their communities, not only to obtain relevant information but also to assist them through the migration process as the first point of contact and interface with all external stakeholders (see 4.1). Importantly, it has not stopped fraud, according to a DOFE official.<sup>100</sup>

In February 2021 the Nepali government proposed a new law which would require Nepali women under the

age of 40 to seek permission of a male guardian before migrating to the GCC or an African country for work,<sup>101</sup> prompting significant outrage and protests against such regressive proposals which would further undermine women's rights and most likely endanger women further by making them more reliant on irregular migration processes.<sup>102</sup>

## Kuwait

Kuwait ratified CEDAW in 1994 but entered several reservations that discriminate against women with regards to marriage and nationality. In 2017, the CEDAW Committee expressed concern that women migrants remained "vulnerable to abuse, sexual harassment and forced labour".<sup>103</sup> The 2035 National Development Plan includes gender-specific goals and indicators, though none are related to fair recruitment or migration.<sup>104</sup>

Women migrants account for 32% of Kuwait's population.<sup>105</sup> 45% work in the domestic sector, although civil society organisations believe that the number of female migrant workers in Kuwait is much larger than official statistics indicate, as they do not capture significant numbers of undocumented.<sup>106</sup> Nine out of ten Kuwaiti households have at least one domestic worker, the majority of them women.<sup>107</sup>

The 2015 Domestic Workers Law guarantees migrant domestic workers a number of labour rights including one day of rest per week, a 12-hour working day with rest periods, and annual paid leave. By adopting this legislation, Kuwait recognized the specific challenges and risks faced by domestic workers, in particular women migrants, and built on protections contained in Law No. 91 of 2013 on Combating Trafficking in Persons and Smuggling of Migrants.<sup>108</sup>

Despite this, the 2015 Domestic Workers Law contains significant gaps and loopholes and fails to guarantee domestic workers the same protections as those found

97. Human Rights Council, "Report of the Special Rapporteur on the human rights of migrants on his mission to Nepal", A/HRC/38/41/Add.1, (13 April 2018).

98. Migrant worker in Kuwait, remote interview, 8 August 2020.

99. The Kathmandu Post, "Scrapping of sub-agents from foreign employment leads to drop in fraudulent cases", (11 February 2020).

100. Interview with DOFE official, January 2020.

101. The Kathmandu Post, "New rule requiring women under 40 to take approval from family, local ward office to go abroad draws criticism", (10 February 2021).

102. South China Morning Post, "'Nepal is becoming Afghanistan': activists hit out at plan requiring women to get male assent for foreign travel" (18 February 2021).

103. CEDAW, *Concluding Observations on the fifth periodic report of Kuwait*, CEDAW/C/KWT/CO/5, (November 2017): 10.

104. CEDAW, *Concluding Observations on the fifth periodic report of Kuwait*, CEDAW/C/KWT/CO/5, (November 2017): 10.

105. Trading Economics, "Kuwait Female Migrants (Percent of International Migrant Stock)".

106. Françoise De Bel-Air, "Demography, Migration, and the Labour Market in Kuwait", Gulf Labour Markets, Migration and Population, (2019) :8.

107. BBC, "Slave markets found on Instagram and other apps"; BBC, (31 October 2019).

108. CEDAW, *Concluding Observations on the fifth periodic report of Kuwait*, CEDAW/C/KWT/CO/5, (November 2017)

in the 2010 Private Sector Labour law, including in relation to the length of the working day, maternity leave, breaks for breastfeeding mothers, and non-discrimination on account of pregnancy.<sup>109</sup> It does not include any implementation and control mechanisms, nor does it provide for mandatory inspections.<sup>110</sup> Crucially, the right to a weekly rest can be dismissed if the worker gives his or her “consent”, which is problematic in such a severely imbalanced employer-employee situation in a private household, governed by Kuwait’s sponsorship system. In addition, domestic workers must prove that their sponsor has violated the terms of their contract in order to leave their job without penalty, and even then, they do not have the option of changing employers unless they have completed the contract period. Sponsors, on the other hand, can cancel the contract for any reason at any time. In March 2021 a significant Court of Appeal ruling rejected an employer’s claim that their former domestic worker who had run away should compensate the employer for failing to complete their two year employment contract. Kuwaiti media reported that the court’s judgement stated that, “forcing [a domestic worker] to work during the entire term of the contract represents one of the types of modern forced labor or slavery, which is what the laws in civil states try to fight.”<sup>111</sup>

In 2016, Kuwait became the first GCC country to set a minimum monthly wage of KD60 (USD 200) for domestic workers.<sup>112</sup> In 2018, it shifted the jurisdiction over domestic workers from the Ministry of Interior to PAM, which regulates the employment of migrant workers covered by the labour law.<sup>113</sup> An IOM representative welcomed this development and saw it as a sign of enhanced coherence in the implementation of Kuwait’s labour protections.<sup>114</sup> However, despite these reforms, abuses against domestic workers, the overwhelming majority of whom are women, persist not only because of legal gaps but also due to weak implementation. According to Migrant-Rights.Org, the enforcement of the 2015 Domestic Workers Law is “almost non-existent”

with migrant domestic workers considered to effectively be “beyond the reach of legal protection” given that their employment takes place within the private sphere. With the absence of investigatory powers and grievance processes detailed in the law, employers of domestic workers are “virtually self-regulatory”, with penalties only being issued in response to complaints.<sup>115</sup>

An Al-Durra recruitment company representative told us that employers are reluctant to grant domestic migrant workers freedom of movement: “These workers need to understand that we are a conservative society. Our women don’t leave the house alone, the same goes for our maids because they become part of the household. We worry about them because they do not speak Arabic and could fall victim to a crime.” He went on to say that there is, “widespread concern that they would engage in sexual relationships as well and come back to us with diseases and pregnancies. Why would I want my kids to be around something like that?”<sup>116</sup>

A survey conducted in 2018 by the Kuwait Society for Human Rights (KSHR) found that 71.59 % of domestic workers themselves are unaware of the law and that more than half of employers did not have a contract for their domestic worker, which suggests continuing high levels of abusive recruitment practices and insecure working conditions. About 28% of employers acknowledged that they do not allow their workers to have a weekly day off, only 42% permitted the weekly day off from time to time, and 51% denied workers annual leave.<sup>117</sup> In 2019, a BBC Arabic undercover investigation found that thousands of women domestic workers were effectively being illegally “traded” via online markets or apps hosted by Facebook, Google and Apple and recruited into highly abusive work situations where they continued to face exploitation, physical and sexual abuse. According to BBC Arabic, the vast majority of the “sellers” of these women migrants advocated “confiscating the women’s passports, confining them to the house, denying them any time off and giving them little or no access to a phone”<sup>118</sup>

109. Article 65 of the Private Sector Labour Law limits the working day to eight hours, while articles 24-25 guarantee women 70 days of paid leave and four months of unpaid leave for childbirth and grant female workers two hours off during the working day for breastfeeding.

110. Human Rights Watch, “Kuwait: New Law a Breakthrough for Domestic Workers”, (June 2015).

111. Al Jarida, 9) *محكمة الاستئناف: لا يجوز إجبار العمالة المنزلية على العمل طوال العقد*, (March 2021).

112. Françoise De Bel-Air, “Demography, Migration and the Labour Market in Kuwait”, Gulf Labour Markets, Migration and Population, (2019): 7.

113. Migrant-Rights.Org, “Lived Experience of Migrant Women: Qatar, Bahrain, and Kuwait”, (2019): 15-16.

114. Interview with IOM Kuwait official, December 2019.

115. Migrant-Rights.Org, “Lived Experience of Migrant Women: Qatar, Bahrain, and Kuwait”, (2019): 24.

116. Senior representative of Al-Durra, remote interview, May 2020.

117. Kuwait Society for Human Rights, “The Rights of Domestic Workers between Legislative System and Enforcement”, (2018): 30-37.

118. BBC, “Slave markets found on Instagram and other apps”, (31 October 2019).



The Kuwaiti authorities do not appear to take into account gender identity when devising and implementing migration policies and continue to discriminate against LGBTI people both in law and in practice. Article 198 of the Penal Code criminalizes “imitating the opposite sex,” which exposes transgender people to the risk of arbitrary arrest. In recent years, Human Rights Watch has documented scores of cases in which Kuwait police subjected transgender women to torture and sexual violence on account of their gender identity.<sup>119</sup>

## Qatar

Qatar acceded to CEDAW in 2009 but made a number of reservations on fundamental provisions to the Convention, including in relation to inheritance, marriage, and citizenship.<sup>120</sup> NGOs report that women are inadequately protected against domestic violence, and face discrimination in law and in practice.<sup>121</sup>

Like many GCC states, Qatar has striking levels of gender imbalance. According to the World Bank, in 2019, women made up only 24.7% of Qatar’s total population, making it the smallest female proportion of any country’s population in the world.<sup>122</sup> This is a direct result of Qatar hosting large numbers of unaccompanied male migrants, working in the low-paid sectors of the labour market. Although many of these workers are married and have children, they cannot afford to bring their families to Qatar as the majority do not earn anywhere near the required minimum salary of 10,000 riyals (USD 2,620) that would enable them to do so.<sup>123</sup>

In 2017, Qatar adopted Law No. 15 of 2017 on Domestic Workers (2017 Domestic Workers Law) addressing significant gaps in Qatar’s labour rights protection predominantly impacting female migrants, in a move that acknowledged specific risks to women workers. Although it provides weaker protections than the 2004 Labour Law, which continues to exclude domestic workers, and does not outline enforcement mechanisms,

the law grants domestic workers three weeks of annual leave, one day rest a week, an end-of-service payment, and a maximum 10-hour workday.<sup>124</sup> In January 2020, a ministerial decision removed exit permit requirements for domestic workers (though they are still expected to notify employers 72 hours prior to leaving the country), and other previously excluded groups of foreign workers, in another step towards greater protection for migrant women’s rights.<sup>125</sup> However, major challenges with the enforcement of the 2017 Domestic Workers Law persist and, combined with harmful gender stereotypes and weak guarantees for women’s rights in general, female migrant workers continue to face abuses, highlighted in a 2020 report by Amnesty International on the situation of domestic workers.<sup>126</sup> And while the exit permit has been largely removed, employers can still lodge criminal “absconding” charges against domestic workers, providing another barrier to their ability to leave the country freely.

In 2021, Qatar introduced a standard employment contract for domestic workers addressing a number of disparities between legal protections afforded under Qatar’s 2004 Labour Law, from which domestic workers are excluded. Key components in the new standard employment contract include specification of legal working hour restrictions, overtime rates, provision for sick leave and reaffirmation that employers are responsible for any recruitment costs. Domestic workers may “request” to work on their weekly day-off, and to convert this into annual leave.<sup>127</sup>

Since 2010, Qatar has adopted a series of laws segregating mainly unaccompanied male migrant workers and prohibiting them from living in large areas of the country, particularly the capital, designated as “family only” areas.<sup>128</sup> Most recently, Ministerial Decision No. 105 of 2020 issued by the Minister of Municipality and Environment banned groups of more than five workers from living in such “family areas”, and permitted forced evictions, electricity and water cuts and imprisonment in case of non-compliance.<sup>129</sup>

119. Human Rights Watch, “Kuwait: End Police Abuses against Transgender Women”, (15 January 2012); Human Rights Watch, “Kuwaiti Transgender Woman’s Video Sparks Worldwide Solidarity”, (10 June 2020).

120. CEDAW, “Qatar reservations”, (2009).

121. Human Rights Watch, “Qatar events of 2018”, (2018).

122. World Bank, “Female population (% of total population)”, (2019).

123. Professor Ray Jureidini, “Migrant labour recruitment to Qatar”, Qatar Foundation, (2014): 8.

124. Human Rights Watch, “Qatar: New Law Gives Domestic Workers Labor Rights”, (24 August 2017).

125. ILO, “Exit permits consigned to history for almost all migrant workers in Qatar”, (16 January 2020).

126. Amnesty International, “Qatar: Domestic workers share harrowing accounts of abuse and exploitation”, (20 October 2020)

127. ADLSA, *Standard Employment Contract for Domestic Workers*, (2021)

128. The Guardian, “Qatar’s ‘families only’ zones entrench segregation of migrant workers”, (13 April 2016).

129. Ministry of Municipality and Environment, “قرار وزاري بتحديد تجمعات العمال في مناطق سكن العائلات”, (April 2020).

There is no evidence indicating that gender identity is taken into account in the formulation and implementation of migration policies. In fact, Qatari legislation criminalizes consensual same-sex relations and punishes acts deemed to be immoral, discriminating against LGBTI people.

---

### **1.5 Does the government significantly regulate the process for a worker to obtain a visa to migrate? (i.e. does the worker need multiple permissions at different levels of the state to migrate?)**

#### **Nepal**

Each aspiring migrant must obtain a labour permit in order to be able to travel abroad for work through a process which is regulated by the 2007 FEA and its 2008 Rules.<sup>130</sup> Labour permit requests can be initiated either by individuals or institutions and must be submitted through DOFE. However, the process is lengthy and complicated, and as a result, 90% of aspiring migrants go through recruitment agencies in order to obtain labour permits and visas, with more than 75% of workers reporting abusive practices, according to a 2019 National Human Rights Commission report.<sup>131</sup> Although recruitment agencies are responsible for facilitating the recruitment process on behalf of aspirant migrant workers, they must obtain a license from DOFE as per procedures mandated under the FEA. The recruitment process, as described to us by an agency, is as follows:<sup>132</sup>

1. Obtaining a “demand letter”, detailing the number of workers and skills required by employers in a destination country
2. Certifying the demand letter at the relevant Nepali diplomatic mission
3. Acquiring a labour permit from DOFE to begin the process of recruiting workers
4. Publishing an advertisement for workers’ recruitment

5. Completing the worker selection process
6. Ensuring that selected workers undergo medical examinations
7. Completing visa procedures on behalf of selected workers
8. Signing contracts with workers
9. Organising a pre-departure orientation training
10. Making insurance payments and contributions to the welfare fund
11. Collecting the final labour permit from DOFE
12. Handing over passports and labour permit papers to the workers
13. Organizing the travel of migrant workers for foreign employment

Article 19 of the FEA requires recruitment agencies to submit various documents to obtain labour permits on behalf of aspiring migrant workers. These include health and insurance certificates, a copy of the contract between the agency and the worker, a copy of the contract between the employer and the worker, and a receipt showing recruitment fees paid by workers.

In November 2019, DOFE introduced electronic labour permits (also referred to as e-stickers) with the aim of reducing document forgery and irregular migration, and to decrease costs associated with travel to Kathmandu for aspiring migrant workers to collect labour permits.<sup>133</sup>

#### **Kuwait**

Employers seeking to recruit non-Kuwaiti workers must first secure an annual approval on the number of staff they require from the General Manpower Authority (GMA), which falls under PAM’s supervision.<sup>134</sup> Misrepresenting or inflating the number of workers required can result in a fine of up to KWD500 (USD 1,634). Repeat offenders can be fined up to KWD1,000 (USD 3,628). Non-Kuwaiti workers can only be employed as long as there are no Kuwaiti nationals available to perform the job, the employer’s plan is consistent with their business needs, and a match between the worker and employer has been identified.<sup>135</sup> Once an approval

---

130. Section 15 of [Foreign Employment Act, 2007](#)

131. National Human Rights Commission, “[Research-Report on The Situation of the Rights of Migrant Workers Recruitment Practices and Access to Justice of Migrant Workers](#)”, (November 2019): 163

132. Interview with representative of Trikon recruitment agency, 18 December 2020.

133. The Himalayan Times, “[Government starts issuing e-stickers to migrant workers](#)”, (14 November 2019).

134. [Private Sector Labour Law](#), Articles 9 and 10, 2010.

135. [The Public Authority for Manpower, Administrative Order 552 of 2018 Regulating the Rules and Procedures for Granting a Work Permit](#), Article 26, 2018.

has been granted, employers must apply for a work permit on behalf of the migrant worker within a month of his or her arrival in Kuwait, attaching the worker's travel document, the entry visa certified in a Kuwaiti consulate abroad, a copy of the employment contract, and an application form signed by the employer.<sup>136</sup> The work permit is valid for three years.<sup>137</sup>

Under Article 10 of the 2010 Private Sector Labour Law, employers are banned from recruiting foreign workers without providing them with employment and must "bear the expenses for returning the labourer to his country" if it becomes obvious that the worker is not needed.<sup>138</sup> Despite this, a 2014 KNOMAD pilot survey on migration costs in Kuwait found that many Kuwaiti nationals were involved in so-called visa trading, with "large amounts [being] paid by workers for their visas, [and] the money going to Kuwaiti citizens who have permission to recruit foreign workers, not the Kuwaiti government". Kuwaiti nationals also sell these visas to recruiters in countries of origin, who pass the cost on to workers.<sup>139</sup>

A Kuwaiti government official told us that visa trading remained rampant among migrant workers from countries with whom Kuwait did not have MOUs on migration. He said the introduction of such an agreement between Egypt and Kuwait had decreased visa trading and the number of Egyptians working in Kuwait on "free visas".<sup>140</sup> We have not seen any statistical evidence to support this claim.

## Qatar

The employment of migrant workers is regulated under Section 3 of the 2004 Labour Law. Under Article 18, priority in employment is given to Qatari nationals, and foreign workers can only be hired as long as there are no Qatari workers qualified for the required job, they have a residence permit and they are medically fit.

To hire non-Qataris, companies must apply to ADLSA, providing details of their request, which includes profession, nationality, gender, and number of workers.<sup>141</sup> Decisions on migrant worker recruitment applications are taken by committees operated by ADLSA and the Ministry of Interior. A Permanent Committee for Recruitment was established in 1995, under the auspices of the Ministry of Interior, to take decisions on the recruitment of migrant workers after reviewing the "type of workforce to be recruited, their nationalities and qualifications to perform the required works".<sup>142</sup> In 2003 this was turned into a cross-government committee, chaired by the labour ministry (now ADLSA) and including officials of the Ministry of Interior.<sup>143</sup> In 2013, a separate Permanent Committee for Recruitment was set up in the Ministry of Interior, with a specific mandate for decisions on the recruitment of domestic workers, among other issues.<sup>144</sup> The processes of the two committees and the relationship between them are opaque, with little official information provided on the basis for their decision-making, with a 2015 media article reporting that the cross-government committee, which met three to four times a week, processed companies' applications in less than a week, and that companies had to commit to having no preference with regard to nationality.<sup>145</sup> In 2018, ADLSA said it would cancel the Permanent Committee for Recruitment,<sup>146</sup> but this does not appear to have taken place.<sup>147</sup>

Once the nationality quota has been approved, ADLSA issues "block visas" and a demand letter, which then needs to be signed and stamped by the Ministry of Interior, the Ministry of Foreign Affairs and the Qatari Chamber of Commerce,<sup>148</sup> before being sent to the embassy of the origin country in Qatar for attestation. Once approved, the demand letter is granted to the employer, who can then provide this to either an agency in Qatar or directly to a recruitment agency in the origin country for them to start the worker selection process.

136. The Public Authority for Manpower, *Administrative Order 552 of 2018 Regulating the Rules and Procedures for Granting a Work Permit*, Article 28, 2018.

137. The Public Authority for Manpower, *Administrative Order 552 of 2018 Regulating the Rules and Procedures for Granting a Work Permit*, Article 29, 2018.

138. *Private Sector Labour Law*, Article 10, 2010.

139. Manolo Abella and Philip Martin, "Migration Costs of Low-skilled labor migrants: Key Findings from Pilot Surveys in Korea, Kuwait and Spain", KNOMAD, (2014): 10.

140. Kuwaiti government official, interview, December 2019.

141. *Hukoomi: Submit labour request*

142. Council of Ministers Resolution No (5) for 1995 Concerning the Establishment of the Permanent Committee for Recruitment

143. Council of Ministers Resolution No (26) for 2003 concerning the Permanent Committee for Recruitment

144. Council of Ministers Resolution No (49) for 2013 concerning the Establishment of the Permanent Committee for Recruitment in the Ministry of the Interior

145. The Peninsula, "Online facility to help recruit new workers", (21 November 2015).

146. Al Sharq, (18). "إنشاء مدينة عمالية جديدة بمواصفات عالمية نهاية العام الجاري", February 2018).

147. The ADLSA website still referred to the Permanent Recruitment Committee in June 2021.

148. Verité, "An Exploratory Study on the Role of Corruption in International Labor Migration", (January 2016): 9.

Employers expressed frustration to us regarding the lack of transparency and rigidity of the “block visa” system, which does not take into consideration their preferences as regards nationality and workers’ skills. One told us, however, that he respected the reason for this policy:

*“It is irritating when you go ask for a number of engineers or workers from a specific country that you trust and [the request is] only half granted, but I have never heard of a project dying because of that.... If the authorities do not keep the numbers diversified and allow companies to recruit as they please, we will start to see the expat community from some countries like India, the Philippines or Egypt grow even bigger, and that could empower these groups to organise. Imagine if we allow Qatari companies to rely mostly on Indians, what will happen if these communities decide to strike to demand more privileges? They would bring the country to a halt.”<sup>149</sup>*

Research conducted in 2014 on behalf of Qatar Foundation found that the visas which were issued as part of this process did not accord with the actual skills being sought, so that workers ended up with employment contracts showing positions that differed from the job descriptions listed on their visa, forcing them “to accept a fraudulent occupation on [their] ID card for which [they are] liable”.<sup>150</sup>

Another consequence of the lack of transparency in ADLSA’s quota system, and the complexity of the visa process in general, is that many companies and recruitment agencies resort to so-called “visa trading” or “free visas” because they are unable to secure visas for the jobs and skills they require.<sup>151</sup> A “free visa” one that is sold by sponsors, usually through informal networks in the country of origin,<sup>152</sup> to workers, who generally pay a monthly fee for their residence permits. In return, they are allowed to work for other employers, a practice which is illegal under Qatari law and places workers at

risk of arrest and deportation.<sup>153</sup> When working under a “free visa”, migrants perform jobs other than those listed on their residence permits which tie them to their sponsors. As a result, they are also vulnerable to extortion by sponsors who can threaten them with cancelling their contracts.<sup>154</sup> It is yet to be seen what impact the removal of the no objection certificate, which should allow more labour market mobility for workers, will have on the “free visa”. An expert familiar with the reform process told us they hoped these reforms would foster a local labour market with greater job mobility for migrants, reducing Qatar’s dependency on new arrivals from overseas using high-risk recruitment processes.<sup>155</sup> The Qatar Chamber of Commerce and Industry announced a new platform for local recruitment in August 2020, with further plans afoot to launch a portal for local employment by the government as well.<sup>156</sup>

---

## 1.6 Do national laws allow all categories of migrant workers the ability to change jobs within the destination country?

### *Kuwait*

Kuwait’s kafala sponsorship system, derived from the amended 1959 Aliens’ Residence Law and its associated decrees, ties migrant workers to a local “sponsor”, who, as their employer, controls their entry to the country, renewal of their residence permits and termination of their employment.<sup>157</sup> This highly-imbalanced employer-employee power dynamic creates a permissive environment that, as the ILO Committee of Experts has observed, exposes many workers to “abuse and undermines their ability to have recourse to means of redress.”<sup>158</sup>

One of the most problematic effects of the sponsorship system is that workers face significant obstacles to change employers, since in almost all cases, this cannot be done without the permission of that current

---

149. Interview with business owner in Qatar, July 2020.

150. Professor Ray Jureidini, “Migrant Labour Migration to Qatar”, Qatar Foundation, (2014): 91.

151. Professor Ray Jureidini, “Migrant Labour Migration to Qatar”, Qatar Foundation, (2014): 93.

152. Silvia Pessoa, Laura Harkness and Andrew M. Gardner, “Ethiopian Labor Markets and the “Free Visa” System in Qatar”, Human Organisation, (2014): 206.

153. Amnesty International, “Abusive Labour Migration Policies, Submission to the UN Committee on Migrant Workers”, (April 2014): 6.

154. Professor Ray Jureidini, “Migrant Labour Migration to Qatar”, Qatar Foundation, (2014): 93.

155. Interview with expert familiar with the reform process (name withheld), September 2020.

156. The Peninsula, “Labour re-employment platform now available for all companies: Qatar Chamber”, (20 July 2020).

157. ILO, “Employer-Migrant Worker Relationships in the Middle East: Exploring scope for internal market mobility and fair migration”, (March 2017): 12.

158. ILO, “Report of the Committee of Experts on the Application of Conventions and Recommendations”, (2019): 410.

employer. Even if the employer grants that permission, then workers must still have completed one year of continuous employment, or, if that period has not passed, pay a fee of KWD 300 (USD 989), as well as obtaining a further authorisation for the change from PAM itself.<sup>159</sup> For workers who were recruited to work on government contracts, the time of continuous labour residence in Kuwait extends to three years before any change can be sought. Those in the farming, fishing, and agricultural sectors also face additional restrictions.<sup>160</sup>

The only circumstance in which a private sector migrant worker can transfer jobs without the permission of their employer is if three years have passed since their work permit was issued, and they give 90 days' notice to their current employer.<sup>161</sup> This was the reform of Decree No. 378 of 2016 which PAM adopted as a step towards introducing some flexibility into the rigid kafala provisions. Migrant workers, who wish to change employment without the permission of their employer, and before the completion of three years of service, must file a complaint with PAM's Labour Relations Department.<sup>162</sup>

The provisions of Decree No. 378 of 2016 do not extend to domestic workers, however, who are excluded from the protections of the 2010 Private Sector Labour Law, and whose job mobility continues to be severely restricted even despite the introduction of the 2015 Domestic Workers Law. A previous directive had formerly enabled domestic workers to transfer to a different sponsor once every two years, with the sponsor's approval. However, a standardized labour contract for domestic workers was introduced by the Ministry of Interior in 2006, removing this right.<sup>163</sup> If a domestic worker cannot secure transfer approval from their original sponsor, they are only able to change employers after they have completed their contract.<sup>164</sup>

This situation clearly leaves many migrants without any means to escape abusive working environments, and

women migrant workers are particularly vulnerable to mistreatment when trying to change jobs. If workers try to obtain the employer's permission to leave, as Migrant-Rights.Org has pointed out, "an abusive employer is unlikely to release a worker, especially without charging the worker a high – though illegal – fee. It is difficult for workers to legally challenge rejection to a NOC [No Objection Certificate]. Most would be unaware of the procedure, and the burden of proof and associated costs are high in what is often a protracted and clunky process."<sup>165</sup>

If migrant workers decide to act independently, employers can file "absconding" or "runaway worker" charges for leaving without their consent. Such charges are filed by employers with either PAM or the police, and different protections exist depending on the category of workers. For those covered under the private sector law, absconding charges are registered 90 days after they were filed, while domestic workers are formally charged merely seven days after the employer's initial reporting of "absconding".<sup>166</sup> During this "grace" period, both categories of workers can contest the charge in PAM's offices provided that the original "absconding" was filed with PAM itself.<sup>167</sup> If workers' appeals are dismissed, their residency permits are automatically cancelled, putting them at risk of arrest, detention for up to six months with a fine of up to KWD600 (approximately USD 1,980), and eventually deportation and a six year re-entry ban to Kuwait.<sup>168</sup> In cases where employers report "absconding" directly to the police, migrants are usually unable to challenge the charge, and they are automatically placed under arrest, pending deportation. In some cases, employers have been found to have filed false absconding charges against workers in retaliation for a disagreement, or to prevent workers from accessing grievance mechanisms, or to avoid some legal obligations owed to the worker.<sup>169</sup> The only means for the worker to avoid the registration of the absconding charge is to attend the PAM shelter or to notify the

159. Kuwaiti Ministerial Order No. 227 of 2014 Amending Ministerial Order No. 200 of 2011 concerning the regulation of employment in the private sector, Article 2, 2014.

160. Kuwaiti Ministerial Decree No. 200 of 2011 on regulating work in the private sector, Al Kuwait Al Youm, Al Jarida Al Rasmiyya, 27-2-2010, No. 1016., Article 13, 2011.

161. ILO, "Application of International Labour Standards", (2019): 410.

162. Ministerial Decree No. 200 of 2011 on regulating work in the private sector, Article 16, 2010; Françoise De Bel-Air, "Demography, Migration and the Labour Market in Kuwait", The Gulf Labour Markets, Migration and Population, (2019): 7.

163. Maysa Zahra, "The Legal Framework of the Sponsorship Systems of Qatar, Saudi Arabia and Kuwait: A Comparative Examination", The Gulf Labour Markets, Migration and Population, (2014).

164. Migrant-Rights.Org, "Lived experiences of Migrant Women: Qatar, Bahrain and Kuwait", (2019): 16.

165. Migrant-Rights.Org, "Lived experiences of Migrant Women: Qatar, Bahrain and Kuwait", (2019): 24.

166. ILO, "Kuwait: Regulatory Framework governing migrant workers", (November 2019): 3

167. Migrants-Right.Org, "Huroob, Runaway, Absconding: Trapping migrants in extreme abuse", (30 September 2020).

168. ILO, "Kuwait: Regulatory Framework governing migrant workers", (November 2019): 3

169. Migrant-Rights.Org, "Kuwait drops all "absconding" cases reported during Covid-19 crisis", (9 July 2020).

Domestic Workers Department. The shelter however is open to women migrants only, and accessing it is not possible without a police referral. Once accepted in the shelter, women migrants cannot leave the premises freely, according to Social Work Society, which provides legal services in the facilities.<sup>170</sup>

Even if a worker manages to change jobs, they may face problems with their status: in January 2020, Kuwaiti media reported an increase in arrests of women migrants for working in non-domestic areas of the private sector despite having been recruited as domestic workers, therefore breaching provisions of the 2010 Private Sector Law and the 2015 Domestic Workers Law in relation to changing jobs.<sup>171</sup>

The grim reality of the position in which many workers find themselves was revealed by a 2019 BBC Arabic investigation, which exposed the online market trading of women domestic workers via mobile applications and social media (see 1.4 and 5.3). Following this exposé, the Director-General of the General Administration of Residency Affairs issued a circular updating the sponsorship transfer process for domestic workers, requiring both the current and new sponsor to be physically present in the Office of Residency Affairs, along with the domestic worker, to arrange a transfer of sponsorship. The worker's written consent is also now required for the transfer to be arranged.<sup>172</sup>

In March 2021, amidst a major employment crisis and labour shortages triggered by the Covid-19 pandemic, the Public Authority for Manpower (PAM) issued a new decision easing some restrictions on migrant workers' ability to change employers. Administrative decision no. (142) of 2021 allows locally-employed migrants to transfer between public, private and free trade zone sectors (until further notice) and before completing one year's service (as is normally required under article 5 of the administrative decision no. (842) of 2015), but only with the approval of their previous employer.<sup>173</sup>

## Qatar

Until 2020, migrant workers could not move jobs within their contract periods without the permission of their employers, under Law no 21. of 2015 (sometimes called "the sponsorship law"). The Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance noted in December 2019, following her visit to Qatar, that "immense power imbalances persist[ed] between employers and migrant workers, imbalances rooted in the kafala (sponsorship)" resulting in many low-income workers [being] too afraid to seek justice for labor violations, and reasonably so."<sup>174</sup>

However, in a long-awaited breakthrough, on 30 August 2020, the Qatari authorities adopted Law No. 19 of 2020 removing restrictions on migrants' ability to change jobs before the end of their contracts, without having to first obtain a "No Objection Certificate" (NOC) from their employer.<sup>175</sup> Law No. 18 of 2020, adopted on the same day, set out procedures for the termination of contracts, allowing migrant workers to leave their jobs on the condition that they provide one month notice in writing, if they have worked for the employer less than two years, and two months' notice after the first two years of employment.<sup>176</sup> Amnesty International said that, "if implemented as promised, the removal of restrictions on workers changing jobs should make it easier for workers to escape abuse".<sup>177</sup>

However, some elements of kafala have remained. With Article 16 of Law No. 21 of 2015 unchanged, employers are still able to file criminal "absconding" charges against migrants who leave their positions without consent. Qatari media reported in late 2020 that this charge would be abolished "soon", but no subsequent announcements have been made in this regard.<sup>178</sup> In the meantime, some employers may continue to use them as a threat against those workers who dare to complain. Although foreign workers are able to leave for another job prior to the end of their six-month probation period, provided that they give one month's notice in writing, their new employers will still have to repay a

170. Representative, Social Work Society, remote interview, 27 October 2020.

171. Arab Times, "Influx of visa holders to tighten", (14 January 2020).

172. Migrant-Rights.Org, "Kuwait and Saudi Arabia react to BBC's investigation of online 'maid trade'", (11 December 2019).

173. Migrant-Rights.Org, "Kuwait issues a new decision to ease job transfer of migrant workers", (5 March 2021).

174. UN Human Right Council, "End of Mission Statement of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, Prof. E. Tendayi Achiume, at the Conclusion of Her Mission to Qatar Doha, Qatar", (1 December 2019).

175. Law No. 19 of 2020 amending certain provisions of Law No. 21 of 2015 related to organizing the entry and exit of expatriates and their residence. Migrant workers' job mobility was previously significantly more restricted under Law No. 21 of 2015, making them vulnerable to exploitation and other abuses by employers.

176. Law No. 18 of 2020 amending certain provisions of Law No. 21 of 2015 related to organizing the entry and exit of expatriates and their residence.

177. Amnesty International, "Qatar: New laws to protect migrant workers are a step in the right direction", (30 August 2020).

178. The Peninsula, "System of reporting absconding workers to be abolished soon", (20 October 2020).

proportion of their recruitment fees and air ticket to their old employers.<sup>179</sup> There is some concern that these costs could be passed onto workers. Workers will also continue to be dependent on their employers for the renewal and cancellation of their residence permits, maintaining a power imbalance in the employee-employer relationship.<sup>180</sup>

The government told media organisations that in the final quarter of 2020, 78,000 migrant workers switched jobs under the new law.<sup>181</sup> However by November 2020, there were signs that businesses were seeking to find ways of blocking workers from changing jobs, and reports of job transfers being conditional upon the current employer's signing of the workers' resignation letter suggested that the NOC was still de facto in operation in some sectors, in particular domestic work. One NGO called it "the de facto NOC".<sup>182</sup> In February 2021, the Shura Council put forward recommendations which would effectively undo the September 2020 reforms by requiring more workers to seek permission to exit the country and reintroducing restrictions on workers' ability to change employers during the duration of their contracts.<sup>183</sup> It was unclear how the government planned to respond to these proposals, at the time of writing in June 2021.

---

## 1.7 Do destination country laws offer migrant workers a pathway to long term residency and/or citizenship?

### *Kuwait*

Kuwait does not offer any meaningful pathway to permanent residence and naturalization for migrant workers. In theory, under Article 4 of the 1959 Nationality Law, Kuwaiti nationality can be granted by decree upon the recommendation of the Minister of Interior to anyone "of full age" who has been lawfully residing in Kuwait for 20 consecutive years (or 15 in the case of Arab nationals), has earned a living lawfully, has sufficient

knowledge of Arabic, is "qualified" or provides services needed in Kuwait, and has been a Muslim for at least five years.<sup>184</sup> While some low-paid migrant workers may be eligible in theory for this programme, the reality is that it is not intended for them. Indeed the direction of travel is in the opposite direction: in 2020, Kuwait banned the renewal of residence permits for migrant workers above the age of 60 without university degrees.<sup>185</sup>

Family reunification is only possible under specific circumstances, subject to earnings. Only male migrant workers are allowed to sponsor their spouses or children in Kuwait, but they must earn a (largely unattainable) minimum monthly salary. Furthermore, only female children above the age of 21 can be sponsored by their parents.<sup>186</sup>

### *Qatar*

Qatari laws do not provide a clear pathway to either long-term residency or citizenship for migrant workers. Law No. 10 of 2018 on Permanent Residence grants permanent residence to a maximum of 100 foreign nationals every year.<sup>187</sup> It gives priority to children and spouses of Qatari women, and allows migrant workers to apply for permanent residence in very limited circumstances: they must have lived in Qatar for at least 20 years, speak Arabic, "be of good behaviour and reputation", and importantly, have the required financial resources.<sup>188</sup> Alternatively, under Law No. 38 of 2015 on the Acquisition of Qatari Nationality, foreign nationals must reside in the country for at least 25 years, speak Arabic, have a "lawful means of income" and a "good reputation" in order to be granted Qatari nationality.<sup>189</sup> Dual citizenship is banned.

These laws aim to protect Qatar's national and political identity, and effectively exclude almost all of the country's two million migrant workers, who are low-paid, on temporary contracts, and normally know little Arabic.

---

179. Law No. 19 of 2020 amending certain provisions of Law No. 21 of 2015 related to organizing the entry and exit of expatriates and their residence

180. Amnesty International, "Qatar: New laws to protect migrant workers are a step in the right direction", (30 August 2020).

181. Al Jazeera, "Labour law changes: Are Qatar's migrant workers better off?", (15 March 2021)

182. Migrant-Rights.Org, "A de facto NOC in Qatar?", (10 January 2021).

183. The Peninsula, "Shura Council makes recommendations on change of employer and expat worker's exit", (22 February 2021).

184. Nationality Law, 1959.

185. Kuwait Times, "Exemptions to over-60 expat ban mulled", (5 April 2021).

186. IOM, "Migration Governance Overview: the State of Kuwait", (May 2018): 3

187. Human Rights Watch, "Qatar's Permanent Residency Law a Step Forward but Discrimination Remains", (11 September 2018). The maximum number of permanent residency cards can be increased only by the Emir upon recommendation by the Ministry of Interior.

188. Law No. 10 of 2018 on Permanent Residency

189. Law No. 38 of 2015 on the Acquisition of Qatari Nationality

Supported by Open Society Foundations, Humanity United and Porticus

Produced by FairSquare

**OPEN SOCIETY  
FOUNDATIONS**



**fairsq.org**