

Immigration Detention in Kuwait

About the Global Detention Project

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

This publication is made possible in part by the generous support of the Open Society Foundations.



OPEN SOCIETY
FOUNDATIONS

Immigration Detention in Kuwait

January 2016

Abstract

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

Introduction

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

Kuwait shares with many of its Gulf neighbours two important demographic characteristics: a significant minority population of Shiite citizens (numbering approximately 400,000) and a majority expatriate population that has ballooned since the oil boom in the 1970s. While the country has not experienced the same religious sectarian divisions that have plagued Saudi Arabia and Bahrain,¹ the country's massive population of foreign workers suffers similar challenges as foreign workers throughout the region.

Beginning in 2013, Kuwait began systematically targeting visa violators—foreigners working in Kuwait without authorization—paralleling a similar campaign that was taking place at the same time in neighbouring Saudi Arabia.² In early 2014, the Kuwaiti Ministry of Interior ordered a halt to immigration raids because police stations and prisons were no longer able to accommodate the large numbers of people being arrested for residency violations.³ Several months later, in January 2015, the government announced that it was launching a new crackdown on “illegal residents,” which was reportedly expected to result in the arrest of more than 100,000 people.⁴

¹ Alex Stout and Giorgio Cafiero, “Kuwait and the Islamic State,” *Lobelog*, 3 November 2015, <http://lobelog.com/kuwait-and-the-islamic-state/>.

² Migrant-Rights.org, “Kuwait’s inequitable and ineffective crackdown on undocumented workers,” 30 March 2013, <http://www.migrant-rights.org/research/kuwait-ineffective-and-inequitable-crackdown-on-undocumented-workers/>.

³ Migrant-Rights.org, “Kuwait’s police stations ‘crammed’ with deportees,” 3 June 2014, <http://www.migrant-rights.org/research/kuwait-police-stations-crammed-with-deportees/>.

⁴ Mary Sophia, “Kuwait to Arrest 100,000 Illegal Expats,” *Gulf Business*, 22 January 2015, <http://gulfbusiness.com/2015/01/kuwait-arrest-100000-illegal-expats/#.Vi-F0xCrRTY>.

According to statistics from the Public Authority for Civil Information, at the end of 2014 expatriates massively outnumbered Kuwaiti citizens—1.2 million Kuwaitis compared to 2.8 million foreign residents (including 1.5 million Asians and 1.2 million Arabs).⁵ Fifty-five percent of Kuwaiti citizens of working age are employed, compared to 85 percent of non-Kuwaitis.⁶ This imbalance and the high unemployment rates for Kuwaitis have been used as justifications for calls to deport expatriates. In February 2014, for example, Khalil Abdullah, a member of Parliament, called for the deportation of 280,000 foreigners per year for the next five years to help address the country's demographic imbalance.⁷

Among those targeted in these successive deportation campaigns have been Ethiopian domestic workers, who were at the centre of heated public debate in the country after news reports in March 2014 concerning the alleged murder of a young Kuwaiti woman at the hands of the Ethiopian maid employed by her family. Law makers called on the Ministry of Interior to not only halt the recruitment of maids from Ethiopia, but to also deport all Ethiopians currently working in the country.⁸ Ensuing police raids resulted in the deportation of nearly 13,000 Ethiopian domestic workers.⁹ Some sources indicated that maids were being deported at the rate of 100 a day.¹⁰

Despite the important role that detention plays in deportation efforts, it is difficult to develop a comprehensive assessment of the country's detention procedures. While Kuwait is considered to be relatively "liberal" when compared to its Gulf neighbours, it can often be opaque when it comes to information about the treatment of migrant labourers. Thus, while the government has in the past granted access to detention facilities to a local rights group called the Kuwait Society for Human Rights (KSHR), a delegation from the International Federation for Human Rights (FIDH) that visited Kuwait in November 2013 told the Global Detention Project (GDP) that during their visit to the country their requests to meet with various government ministries were rejected.

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

A representative with the UN High Commissioner for Refugees (UNHCR) in Kuwait informed the GDP that because there is no legal framework for the admission of refugees into Kuwait, people who register with the UNHCR as "persons of concern" are

⁵ Gulf Labour Markets and Migration. "Kuwait: Population by nationality group (December 2014)". Migration Policy Centre and Gulf Research Centre. <http://gulfmigration.eu/kuwait-population-by-nationality-group-december-2014/>

⁶ Computed by GDP from Gulf Labour Market and Migration data. Demographic and economic module. <http://gulfmigration.eu/glmm-database/demographic-and-economic-module/>

⁷ Habib Toumi, "Kuwait MP calls for deportation of 1.4 million expats," Gulf News.com, 23 February 2014, <http://gulfnnews.com/news/gulf/kuwait/kuwait-mp-calls-for-deportation-of-1-4-million-expats-1.1294523>.

⁸ Arab Times, "Maid admits to murder of 19 year-old Kuwaiti girl – MPs erupt in anger, call for expulsions," 16 March 2014,

<http://www.arabtimesonline.com/NewsDetails/tabid/96/smId/414/ArticleID/204514/reftab/36/t/MAID-ADMITS-TO-MURDER-OF-19-YEAR-OLD-KUWAITI-GIRL/Default.aspx>.

⁹ Mansour Al-Shemri, "13,000 servants deported," Al-Rai Media Group, 20 March 2014, <http://www.alraimedia.com/Articles.aspx?id=492080>.

¹⁰ Beatrice Thomas, "Kuwait deports 100 housemaids per day," Arabian Business.com, 28 April 2014, <http://m.arabianbusiness.com/kuwait-deports-100-housemaids-per-day-548118.html>.

obliged to obtain residency permits in Kuwait. Failure to get a permit or to renew it on time can result in detention and deportation.¹¹

The International Organisation for Migration (IOM) primarily assists with the repatriation of female domestic workers who have left their employers due to abusive and exploitative work environments. Many employers file a notice with the police when an employee has “absconded,” which generally leads to the arrest and detention of that person. The IOM said that they typically get involved in cases of women who have sought shelter with their embassies and thus are not in detention.¹²

A U.S. government representative in Kuwait told the GDP that most people who have been arrested in recent raids have been detained because of “visa violations” stemming from expired residency permits or violations of the sponsorship scheme, most commonly working for an employer who is not their original sponsor.¹³

An additional source of information about Kuwait is provided by international human rights mechanisms. As we discuss in more detail below, an important legacy of the 1990 Iraq invasion of Kuwait and the subsequent Gulf War is that the country has ratified more of the relevant international human rights treaties than its fellow Gulf states, including most notably the International Covenant on Civil and Political Rights and the UN Convention against Torture. As a party to these treaties, it provides information to treaty bodies overseeing their implementation. Thus, for instance, according to information submitted by Kuwait to the UN Committee against Torture in August 2015, we know that the government claims that 88,430 people were deported between January 2013 and June 2015.¹⁴ However, this information did not establish whether or for how long people were detained before being deported.

Laws, Policies, and Practices

Kuwait is a constitutional, hereditary emirate ruled by the al-Sabah family. The Constitution of Kuwait includes safeguards against unlawful arrest and imprisonment for all persons in the country.¹⁵ The Aliens Residence Law, issued by Amiri Decree No. 17 of 1959 and amended by Law No.6 of 2011 and Law 41 of 2014 (hereafter the Residence Law), provides the legal framework for the country’s immigration policies.¹⁶

¹¹ UNHCR Kuwait, Email exchange with Parastou Hassouri (Global Detention Project), 10 May 2014.

¹² IOM Kuwait, Email exchange with Parastou Hassouri (Global Detention Project), 2 February 2014.

¹³ Undisclosed source from US government (Kuwait), Email exchange with Parastou Hassouri (Global Detention Project), 3 April 2014.

¹⁴ Committee against Torture, “Consideration of reports submitted by States parties under article 19 of the Convention Pursuant to the optional procedure for reporting third periodic reports of States Parties due for submission in 2015 – Kuwait,” United Nations, CAT/C/KWT/3. 16 August 2015, (in Arabic only), http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fKWT%2f3&Lang=en; Kuwait Society for Human Rights, “Shadow report for Kuwait state Regarding to Kuwait government on implementing of the International Covenant on Civil and Political Rights,” September 2015,

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=948&Lang=en

¹⁵ Constitution of Kuwait, 1962, Article 31, https://www.constituteproject.org/constitution/Kuwait_1992.pdf.

¹⁶ Kuwait: Amiri Decree No. 17 of 1959 issuing the Aliens Residence Law, Gulf Labour Markets and Migration (GLMM), <http://gulfmigration.eu/amiri-decree-no-17-of-1959-issuing-the-aliens-residence-law-2/>; Human Rights Council, “National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21* - Kuwait,” United Nations, A/HRC/WG.6/21/KWT/1, 3 November 2014, <http://www.refworld.org/pdfid/54c234464.pdf>.

Grounds for detention and deportation. For foreigners residing in Kuwait, criminal prosecution and incarceration, immigration detention, and eventual deportation tend to be different phases of a single process. According to the British Embassy in Kuwait, "For most offences carrying a custodial sentence, deportation is automatic after completion of the prison term. If a sentence is followed by deportation, the prisoner will be taken to the Deportation Centre in Jleeb Al-Shuyoukh."¹⁷ As we detail in the section on "Criminalization" below, status-related immigration offenses are subject to prosecution and prison sentences. As such, the criminal and administrative aspects of immigration detention are intimately linked.

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

Kuwaiti authorities explained to the UN Human Rights Committee in 2014 that "The deportation (expulsion) process, which is governed by legally prescribed rules and procedures, may be of a judicial nature, i.e. based on a court judgement handed down in a criminal case, or may result from an administrative decision based on the public interest."¹⁸

However, only administrative deportation is subject to any form of appeal. "Deportation may be ordered by the judge (judicial deportation) or by the Ministry of Interior (administrative deportation); only in cases where the Ministry of Interior has ordered the deportation may it be appealed on humanitarian or similar grounds."¹⁹

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

According to sources in Kuwait, administrative deportation is increasingly used to deport non-nationals for minor offenses, including minor traffic violations.²⁰ A news article from 2013 mentions that nearly 12,000 persons were deported from Kuwait for traffic violations during a two and a half year period.²¹ Human Rights Watch (HRW) argues that

¹⁷ British Embassy Kuwait, "Information Pack for British Prisoners in Kuwait," 25 May 2015, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/436693/Prisoners_pack_2015.pdf.

¹⁸ Human Rights Committee, "Consideration of reports submitted by States parties under article 40 of the Covenant - Third periodic reports of States parties due in 2014 – Kuwait," United Nations, CCPR/C/KTW/3, 8 December 2014, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=948&Lang=en.

¹⁹ British Embassy Kuwait, "Information Pack for British Prisoners in Kuwait," 25 May 2015, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/436693/Prisoners_pack_2015.pdf.

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

²¹ Courtney Trenwith, "Kuwait departs total of 12,000 expats for traffic violations," Arabian Business.com, 9 June 2013, <http://www.arabianbusiness.com/kuwait-departs-total-of-12-000-expats-for-traffic-violations-504513.html>.

traffic-violation deportations are an example of the “indirect methods” Kuwait has used “to push migrants to leave.” Regulations for expatriates applying for a driving license are very dissuasive and include having at least two years of legal residence, a university degree, and earnings of at least US\$1,400 per month.²²

New legislation adopted in 2014 requires prior approval by the Interior Ministry before carrying out expulsions. However, traffic-related deportations continued into 2015.²³

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

Following a 2014 amendment to the Residence Law (law 41/2014), penalties for violating Article 4 (entering/exiting Kuwait through unauthorized ports of entry/exit) and for repeatedly breaching Article 12 (violating terms of residency permit, failing to renew it or to leave upon its expiration) were increased to a period not exceeding three years imprisonment and/or a fine not exceeding 3,000 dinars.²⁴

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

The UK Home Office has noted “a particular problem for those who have been in Kuwait previously and have not passed through Kuwaiti exit control upon their departure (for example, in the cases of persons who entered via commercial air but departed via military air). Such persons will show on immigration records as never having departed, i.e. visa overstays. When they attempt to enter the country again, they are frequently detained.”²⁵

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

In practice, foreigners in deportation proceedings can remain in detention for periods that far exceed the imprisonment sentences provided in law for violating immigration provisions. In a 2014 media interview, an Egyptian national who had been detained at the Talha Detention Centre for 11 months “due to routine and complicated administrative procedures” said that there were people in the facility who had been detained for up to three years.²⁶

²² Human Rights Watch, World Report 2014: Kuwait - Events of 2013, <https://www.hrw.org/world-report/2014/country-chapters/kuwait>.

²³ Courtney Trenwith, Kuwait deports 152 expats for illegal driving, Arabian Business.com, July 2015, <http://www.arabianbusiness.com/kuwait-deports-152-expats-for-illegal-driving-598933.html>.

²⁴ Law No. 41/2014 41 for the year 2014 amending some provisions of Emiri Decree No. 17 of 1959, (in Arabic), <http://www.gcc-legal.com/LawAsPDF.aspx?opt&country=1&LawID=4140>.

²⁵ Gov.UK, “Help for British Nationals overseas – guidance. Living in Kuwait,” 22 March 2013. <https://www.gov.uk/guidance/living-in-kuwait>.

²⁶ Kuwait Times, “Expat recalls ordeal at deportation jail – Bureaucracy delays release,” 15 October 2014, <http://news.kuwaittimes.net/expat-recalls-ordeal-deportation-jail-bureaucracy-delays-release/>.

There have been additional recent reports about lengthy detentions at Talha. In one case, some 80 detainees at the facility “reportedly slit their arms in protest at not being released despite completing their sentences” after spending up to an additional 18 months in prison.²⁷

In 2011, the KSHR stated in a shadow report to the UN Human Rights Committee that “Although Talha Center for Deportation is a temporary detention center for deportees, whereas they should not stay more than 30 days, there are prisoners who are staying for many months or many years.”²⁸

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

Trafficked persons and detention at shelters. The trafficking of foreigners in Kuwait is a significant problem as many foreign workers, particularly young women, find themselves forced to live and work in households against their will, effectively deprived of their liberty by their employers. Foreign governments have attempted to raise awareness of the abuses suffered by their nationals in Kuwait and national anti-trafficking agencies have launched numerous investigations. For instance, in 2014, [Uganda’s anti-trafficking task force appealed](#) to Interpol to assist the government in securing the release of some 100 Ugandan maids who had fled their places of work and been imprisoned in Kuwait for immigration offenses.²⁹

The U.S. State Department’s 2013 Trafficking in Persons Report (TIP Report) on Kuwait designates Kuwait as a “Tier 3” country, one whose government does not fully comply with the minimum standards to eliminate trafficking and is not making significant efforts to do so.³⁰

According to the TIP Report, although the government enacted an anti-trafficking law in March 2013, which prohibits all forms of trafficking and prescribes strict penalties ranging from 15 years to life imprisonment, the government did not demonstrate significant efforts to prosecute and convict offenders under the new or previously existing laws.³¹ During the reporting period, the government did not report any arrests, prosecutions, convictions, or sentences of traffickers for either forced labour or sex trafficking.

The report also criticised the weak protections provided to victims: “The government’s victim protection measures remained weak, particularly due to the lack of proactive

²⁷ Courtney Trenwith, “Kuwaiti detainees slit arms in protest over ‘illegal’ detention,” Arabian Business. Com, 22 October 2014, <http://www.arabianbusiness.com/kuwaiti-detainees-slit-arms-in-protest-over-illegal-detention-568838.html#.VjHjPkj3A2w>.

²⁸ Kuwait Society for Human Rights, “The Second Periodic Report of the State of Kuwait, to the concerned committee, on The International Covenant on Civil and Political Rights, Session 100,” August 2011.

²⁹ NTVUganda, “100 Ugandan Girls Detained in Kuwait Prisons,” 2 July 2014, <https://www.youtube.com/watch?v=5aQTYIoAKVM>.

³⁰ U.S. State Department, 2013 Trafficking in Persons Report - Kuwait, 19 June 2013, <http://www.state.gov/j/tip/rls/tiprpt/countries/2013/215497.htm>.

³¹ Law No. 91 of 2013 Combating Trafficking in Persons and Smuggling of Migrants was adopted on 17 March 2013, It does not explicitly protect victims of trafficking from detention.

victim identification and referral procedures and continued reliance on the sponsorship system, which inherently punishes, rather than protects, trafficking victims for immigration violations. The government continued to operate a temporary shelter for runaway female domestic workers, though it offered no shelter for male victims of trafficking.”

Reports indicate that trafficking victims and others accommodated at the government’s temporary shelters mentioned in the TIP Report (there are apparently at two for women while one for men was reportedly under construction as of 2014³²) are in effect deprived of their liberty.³³ The regulations at the facilities also refer to the occupants as “inmates.”³⁴ In an interview with Al Jazeera, Rima Kalush of Migrant-Rights.org said: “These shelters are essentially detention centres, as workers are not permitted to leave until their inevitable deportation.”³⁵

In the information it provided to the Human Rights Council in 2014, the Kuwaiti government reported: “Premises have been designated to shelter victims of trafficking in persons and smuggling of migrants under the supervision of the Domestic Workers’ Department in the Ministry of the Interior, in collaboration with the Ministry of Social Affairs and Labour and the Ministry of Health. ... The shelter, which is staffed by a number of sociologists, psychiatrists, jurists and health-care providers, accommodated 1,970 domestic workers during the period from 1 January to 31 December 2013. The government added that “The Statutes of the Domestic Workers’ Shelter Centre guarantee the rights of its inmates, including their right to be treated in a proper manner that preserves their human dignity, shields them from mental or physical abuse and ensures their access to a full range of services without discrimination based on nationality or religious belief or confession, their right to receive and make visits in and outside the Centre, and their right to enjoy all the rights guaranteed by the Constitution, the laws and the international treaties in force in the State.”³⁶

Minors. There is very little information available concerning the situation of foreign children and minors in custody. However, reports indicate that migrant women placed in deportation proceedings are detained with their children.³⁷ Also, women who become pregnant outside of marriage and who come to the attention of authorities are reportedly forced to remain during their pregnancies in a special secure ward of the Sabah Maternity Hospital known as “Ward 10” or the “IP Ward” (“illicit pregnancies”). After giving birth, the women and new-borns are taken to the Women’s Prison as they await removal from the country.³⁸

³² Thessa Lageman, “Kuwait Opens Shelter for Runaway Maids,” Al Jazeera, 10 November 2014.

³³ Pete Pattison, “Women from Sierra Leone ‘sold like slaves’ into domestic work in Kuwait,” The Guardian, 2 April 2015, <http://www.theguardian.com/global-development/2015/apr/02/women-sierra-leone-sold-like-slaves-domestic-work-kuwait>; also, Priyanka Motaparthy (Human Rights Watch), Email Correspondence with Michael Flynn (Global Detention Project), 23 March 2015.

³⁴ Human Rights Council, « National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21 – Kuwait,” United Nations, A/HRC/WG.6/21/KWT/1, 3 November 2014, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/KWSession21.aspx>.

³⁵ Thessa Lageman, “Kuwait Opens Shelter for Runaway Maids,” Al Jazeera, 10 November 2014.

³⁶ Human Rights Council, « National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21 – Kuwait,” United Nations, A/HRC/WG.6/21/KWT/1, 3 November 2014, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/KWSession21.aspx>.

³⁷ Priyanka Motaparthy (Human Rights Watch), Email Correspondence with Michael Flynn (Global Detention Project), 23 March 2015.

³⁸ Badrya Darwish, “Ward 10?” Kuwait Times, March 2014, <http://news.kuwaittimes.net/ward-10/>.

Researchers from HRW told the GDP that the detention of these women is a serious concern but that many of the details and statistics about this practice are not available.³⁹ Said one researcher: "Migrant women with children who go through deportation proceedings or who end up in jail also have their children in deportation detention or in jail with them. In some cases their husband is not Kuwaiti and no longer in the country, and in some cases the children were the result of rape or a relationship outside of marriage."⁴⁰

Asylum seekers. Kuwait is not a signatory to the 1951 Refugee Convention or its 1967 Protocol and there is no legal framework providing protection or legal status to refugees. According to the UNHCR, as of 2014 there were some 1,700 refugees and asylum seekers registered with the UNHCR office in Kuwait.⁴¹ Most of the refugees are from Syria, Iraq, Somalia, and Iran.⁴² Although the local integration of refugees is not facilitated by officials, the government did not expel or extradite refugees to their countries of origin. According to the UNHCR office in Kuwait, refugees who are unable to obtain or extend their residency permits in Kuwait are at risk of detention. UNHCR often attempts to seek alternative durable solutions, mainly resettlement in a third country, for refugees at risk of detention.⁴³

Access to detainees. The Ministry of Interior reportedly permitted independent monitoring of prison conditions by international organizations such as the International Committee of the Red Cross (ICRC) and the KSHR.⁴⁴ The ICRC's delegate for the Gulf Cooperation Council (GCC) confirmed that they have access to detention facilities.⁴⁵

However, a delegation from the FIDH visiting Kuwait in November 2013 was denied access to detention and deportation facilities.⁴⁶ The FIDH delegate said that embassies representatives are able to visit foreign nationals but they were reluctant to discuss details so as not to jeopardize access to these facilities.

Kuwait has ratified the Vienna Convention on Consular Relations, which provides that foreigners placed in detention can receive visits from consular officials. However, according to the U.S. Embassy, it is not always informed of arrests of U.S. citizens.⁴⁷

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

Challenging detention and deportation. In its 2011 shadow report to the UN Human Rights Committee, the KSHR stated that there is no possibility of challenging

³⁹ Belkis Wille (Human Rights Watch), Skype conversation with Parastou Hassouri (Global Detention Project), 23 January 2014.

⁴⁰ Priyanka Motaparthy (Human Rights Watch), Email Correspondence with Michael Flynn (Global Detention Project), 23 March 2015.

⁴¹ Statistics from UNHCR's 2014 Regional Operations Profile for the Middle East, available here: <http://www.unhcr.org/pages/49e4865f6.html>.

⁴² U.S. State Department, 2012 Country Reports on Human Rights Practices - Kuwait, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>.

⁴³ UNHCR Kuwait, Email exchange with Parastou Hassouri (Global Detention Project), 10 May 2014.

⁴⁴ U.S. State Department, 2012 Country Reports on Human Rights Practices - Kuwait, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>.

⁴⁵ Yazan Khalailah, Detention Delegate, ICRC (Kuwait), Email exchange with Parastou Hassouri (Global Detention Project), 23 March 2014.

⁴⁶ Sarah Prestianni, FIDH delegation (France), Skype conversation with with Parastou Hassouri (Global Detention Project), 18 March 2014.

⁴⁷ Embassy of the United States, Kuwait City – Kuwait, Arrests in Kuwait, http://kuwait.usembassy.gov/region_specific_information/arrests-in-kuwait.html.

administrative decisions of expulsion.⁴⁸ According to the U.S. Department of State: "Under the law questions of status, immigration, and citizenship are not subject to judicial review, so foreigners arrested for unlawful residency, or those whose lawful residency is cancelled due to an arrest, have no access to the courts. They are instead subjected to administrative deportation, unless they faced felony charges for separate offenses."⁴⁹

According to the UK Embassy in Kuwait, only "in cases where the Ministry of Interior has ordered the deportation may it be appealed on humanitarian or similar grounds."⁵⁰

Kuwait told the UN Human Rights Committee that "Ministerial Order No. 3941 of 2011 made provision for the formation of a committee to conduct a thorough study of the Deportation Department's files on detainees of all nationalities awaiting deportation. The committee has begun its work and has already looked into the cases of numerous persons."⁵¹ The Global Detention Project has been unable to find information with respect to the operation of this committee.

Access to information and statistics on detention. A staff person from the U.S. State Department who spoke to the GDP on condition of anonymity stated that they are unable to obtain up-to-date statistics on detainee numbers from the government and some members of parliament have also had trouble obtaining this information.⁵²

The most recent information about the percentage of foreign prisoners in Kuwait provided by the World Prison Brief (WPB) is from 2003. During that year, foreigners represented 13.5 percent of the country's total prison population. The WPB provides more recent statistics on the number of prison establishments (3 as of 2013), the official capacity of these facilities (3,200 as of 2010), and the occupancy level (130.6 percent in 2010). Between 2000 and 2009, the country's total annual prison population rose from approximately 3,100 to 4,045.⁵³

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

⁴⁸ Kuwait Society for Human Rights, "Shadow report for Kuwait state regarding to Kuwait government on implementing of the International Covenant on Civil and Political Rights," September 2015, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=948&Lang=en.

⁴⁹ United States Department of State, 2014 Country Reports on Human Rights Practices - Kuwait, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>.

⁵⁰ British Embassy Kuwait, "Information Pack for British Prisoners in Kuwait," 25 May 2015, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/436693/Prisoners_pack_2015.pdf.

⁵¹ Human Rights Committee, "Consideration of reports submitted by States parties under article 40 of the Covenant - Third periodic reports of States parties due in 2014 - Kuwait," United Nations, CCPR/C/KTW/3, 8 December 2014,

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=948&Lang=en.

⁵² Undisclosed source from US government (Kuwait), Email exchange with Parastou Hassouri (Global Detention Project), 3 April 2014.

⁵³ World Prison Brief, Kuwait, <http://www.prisonstudies.org/country/kuwait>.

However, like all other GCC countries, Kuwait has not ratified the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW). According to a joint academic project with universities in the United Kingdom and Qatar, ICRMW ratification has been identified as “an area of low elite and societal interest.” Participants at seminars organized by these researchers in 2013 said that migrant workers are considered “temporary workers whose rights fall short of those of migrant workers.”⁵⁴

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

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

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

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

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

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

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

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

⁵⁴ Basak Cali and Nazila Ghanea, “From Ratification to Implementation: UN Human Rights Treaties and the GCC Workshop Series Report,” 20 June 2013, <https://qatar.sfs.georgetown.edu/research/faculty-research/gcc-human-rights-project/progress-updates>.

HRW described the situation of domestic workers in Kuwait in a 2010 report, *Walls at Every Turn: Abuse of Migrant Domestic Workers through Kuwait's Sponsorship System*.⁵⁵ The report highlights some of the recurring patterns of exploitation experienced by domestic workers as a result of the sponsorship scheme, the exclusion of domestic workers from labour law protections, and their isolation within private homes. The most common problems faced by domestic workers include: non-payment of wages and overwork, physical, verbal, psychological and sexual abuse, inadequate food and medical treatment, and restrictions on freedom of movement (through passport confiscation and confinement in the home).

Detention Infrastructure

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

Deportation centres. Kuwait appears to have operated dedicated deportation facilities, often referred to as "deportation prisons," for many years. The earliest reports of such a facility found by the GDP, which date back more than 20 years, refer to a deportation centre called Shuwaikh. There are numerous references to this facility in media accounts and human rights reports until the late 2000s, when references to it (at least in online searches) dry up. While it is unclear what became of this facility, what we do know is that Kuwait City's Shuwaikh Industrial zone is where the Ministry of Interior's immigration office is currently located. It may be that at a certain point this office housed a detention unit.

Conditions of detention at Shuwaikh appear to have been abysmal. One early report about the facility, from HRW's 1992 World Report, described it thusly: "The Deportation Prison, located in al-Shuwaikh, west of Kuwait City, has been perhaps the busiest of all Kuwaiti prisons in 1991. It is a maximum-security facility, with some of the worst conditions in the country. It has twelve solitary confinement cells and one large wing, which holds as many as six to seven hundred people. There are no beds or mattresses; prisoners are simply given a blanket each. There is only one refrigerator for the prison and no air conditioning. Fans hang from a high ceiling but do not seem to alleviate the unbearable summer heat and poor ventilation. Because of the large number of people being held pending deportation—averaging one thousand at any given moment—the main Deportation Prison at al-Shuwaikh has been filled beyond capacity. Other facilities

⁵⁵ Human Rights Watch, *Walls at Every Turn: Abuse of Migrant Domestic Workers through Kuwait's Sponsorship System*, October 2010, <http://www.hrw.org/sites/default/files/reports/kuwait1010webwcover.pdf>.

are reported to have been opened to handle the overflow, but no information is available on conditions there. On June 9, the ICRC visited the Deportation Prison for the first time but was not allowed to interview any prisoners. Four hundred more people were deported on June 23. According to Kuwaiti authorities, most were Iraqis, but international observers told Middle East Watch that the deportees were actually Bedoons.⁵⁶

One of the final reports about Shuwaikh found on internet searches is from the U.S. State Department's 2008 human rights report. It reported: "During the year foreigners at the deportation facility in Shuwaikh were incarcerated, on average, between 10 days and two months awaiting deportation. Some were held there for much longer periods, often due to delays in the court system or bureaucracy."⁵⁷

Kuwait currently appears to use a different dedicated deportation facility, which is familiarly known as the Talha Detention (or Deportation) Centre and reportedly has a capacity of 1,000.⁵⁸ In a shadow report submitted to the Human Rights Committee in 2011, the KSHR reported numerous concerns regarding detention conditions at this facility.⁵⁹

Although Talha is intended to be a temporary detention facility for those awaiting deportation and confinement is not to exceed 30 days, many people have been held there for much longer periods, in some cases up to several years. Among the problems identified by KSHR during its visit to Talha were: inability to communicate with staff using a shared language; ill treatment by guards, including beatings; aging infrastructure with poor ventilation; inadequate water supplies, hygiene, and medical care; and no recreation or outdoor exercise.⁶⁰

The facility reportedly has two floors. On the first floor there are three wards closed with a metal gate with two bathrooms and three large rooms each. There are 60 to 90 detainees per ward, and up to a 100 at times. Although administrative detention should not be punitive under international law, there are solitary confinement cells in Talha, which are particularly dark and smell bad, as they had initially been used as toilets. A one-square-meter room called "Alsaja" is used to discipline prisoners. Detainees who had been on a hunger strike were reportedly placed there after an officer and four policemen beat them.⁶¹

Prisons. An initial site of detention where foreigners can find themselves is the Central Prison Complex, which is in Sulaibikhat, an area north of Kuwait City. It consists of a low-security men's prison, a high-security men's prison, and a women's prison. It is not meant to be used strictly for foreign nationals held on immigration matters, though non-nationals convicted of residency violations are imprisoned there. According to the UK Embassy in Kuwait, these prisons have "immigration sections," which appear to serve

⁵⁶ Human Rights Watch (HRW), "Kuwait: Human Rights Developments since Liberation," in Human Rights Watch World Report 1992, <http://www.hrw.org/reports/1992/WR92/MEW2.htm>.

⁵⁷ U.S. State Department, 2008 Country Reports on Human Rights Practices - Kuwait, February 2009, <http://www.refworld.org/docid/49a8f17ab9.html>.

⁵⁸ U.S. State Department, 2014 Country Reports on Human Rights Practices - Kuwait, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm>.

⁵⁹ Kuwait Society for Human Rights, "The Second Periodic Report of the State of Kuwait to the Concerned Committee on the International Covenant on Civil and Political Rights," Session 100, August 2011.

⁶⁰ Ibid.

⁶¹ Kuwait Times, "Expat recalls ordeal at deportation jail – Bureaucracy delays release," 15 October 2014, <http://news.kuwaittimes.net/expat-recalls-ordeal-deportation-jail-bureaucracy-delays-release/>.

as holding spaces that segregate people awaiting deportation from the rest of the prison population.⁶²

Conditions at the prison complex are reportedly deficient. The British Embassy reports, "Prison conditions in all of the detention facilities in Kuwait are well below UK standards. Overcrowding can be a problem, you cannot expect a single cell as a matter of course. A mattress and blanket should be provided."⁶³

In its 2011 report, the KSHR pointed to similar problems at the Central Prison as to those found at Talha: overcrowding, poor basic services, inadequate recreation, insufficient lighting, poor state of repair, beatings by guards, and ineffective complaints procedures.⁶⁴

According to the U.S. State Department, in 2013 the Central Prison Complex housed "approximately 400 inmates in the women's prison and 2,500 inmates in the men's prisons, both citizens and non-nationals. Inmates reportedly lived in moderately overcrowded conditions. Prisoners had access to potable water. There were two reported deaths of prisoners: a woman who hanged herself and a man who died from a drug overdose. There were some reports that security forces abused prisoners."⁶⁵

Although the regulations in Kuwait stipulate that female prisoners should be supervised by female guards while incarcerated, this does not happen initially in detention periods as some are held in police stations or investigation headquarters where security personnel are men, leaving them exposed to potential for more abuse and targets of sexual harassment and assault at hands of guards; expatriate women who do not speak Arabic are even more vulnerable to mistreatment. One researcher told the GDP: "There have been multiple media reports of domestic workers or other migrant women raped while in police custody. Some of these happened in police stations I believe, and others after women were picked up and in police custody."⁶⁶

Shelter detention. The first experience in custody for domestic workers, mainly women, can be specialised government-run shelters. Typically, women end up at these shelters after being sent there by their embassies.⁶⁷ Reports indicate that there are two such shelters for women while one for men was under construction as of 2014.⁶⁸ In an interview with Al Jazeera, Rima Kalush of Migrant-Rights.org, said: "These shelters are essentially detention centres, as workers are not permitted to leave until their inevitable deportation."⁶⁹

A 2015 report by The Guardian newspaper about female domestic workers from Sierra Leone in Kuwait detailed conditions at one of the shelters. According to the report, after one woman "escaped and sought refuge at the Sierra Leonean embassy ... she was

⁶² British Embassy Kuwait, "Information Pack for British Prisoners in Kuwait," 25 May 2015, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/436693/Prisoners_pack_2015.pdf.

⁶³ Ibid.

⁶⁴ Kuwait Society for Human Rights, "The Second Periodic Report of the State of Kuwait to the Concerned Committee on the International Covenant on Civil and Political Rights," Session 100, August 2011.

⁶⁵ U.S. State Department, 2013 Country Reports on Human Rights Practices - Kuwait, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm>.

⁶⁶ Priyanka Motaparthy (Human Rights Watch), Email Correspondence with Michael Flynn (Global Detention Project), 23 March 2015.

⁶⁷ Ibid.

⁶⁸ Thessa Lageman, "Kuwait Opens Shelter for Runaway Maids," Al Jazeera, 10 November 2014.

⁶⁹ Ibid.

moved to a Kuwaiti shelter for runaway maids, where she joined an estimated 300 former domestic workers awaiting deportation to their home countries. Many of those stuck there have been sent by their embassies, who considered it the best way to help them return. At the shelter, women find themselves in another type of prison. Under Kuwaiti law, employers are obliged to report any worker who has 'absconded' from a private home. Their residency permit is then cancelled and orders are issued to detain and deport them. While the facility is immaculate, with a large outdoor area and spotless corridors, those sheltering here are not allowed to go outside or use mobile phones. They can contact their families, but only on the shelter's phone, and only at weekends. Women can be trapped here for months, if not years."⁷⁰

Hospital detention. Unmarried foreign women who become pregnant can be arrested and held in Ward 10 (also known as the "Illicit Pregnancies" or "IP") of the Sabah Maternity Hospital until they give birth. According to media accounts and reports from human rights workers, after giving birth the women—together with their newborns—are transferred to the women's prison, charged with a crime, serve a jail sentence, and then remain at the facility to await removal from the country.⁷¹

A March 2014 report in the Kuwait Times reported that Ward 10 "has tight security with the doors locked and guarded 24 hours like a proper jail. Visits are not allowed. ... After the woman delivers, the mom and the baby are transported to the women's prison. A case will be filed against her by the general prosecutor, she will go before a judge, a verdict and sentence will be passed and she will serve a jail term after which she will be deported."⁷²

Commenting on this practice, a writer for the Kuwait Times said: "I'm not defending illicit pregnancies. Or encouraging a woman to stray. But simple mathematics: As an expat woman, she may be from another country that does not require marriage before being pregnant. Most Western countries and many Asian ones do not treat pregnancy before marriage as a crime. ... I know we are an Islamic country and we should abide by sharia laws. But my argument is this: Many of these maids don't know our rules and regulations and system. And sometimes they are abused by the employer who has the upper hand and she cannot challenge him even in the police station. Also, as we are accepting maids from all over the world with different nationalities and cultures, we cannot force them to accept our traditions, culture or religion. ... A jail is a very unhealthy environment to grow up in, and why should an innocent baby be delivered in a prison ward and raised with its mom in a jail?"⁷³

⁷⁰ Pete Pattison, "Women from Sierra Leone 'sold like slaves' into domestic work in Kuwait," *The Guardian*, 2 April 2015, <http://www.theguardian.com/global-development/2015/apr/02/women-sierra-leone-sold-like-slaves-domestic-work-kuwait>.

⁷¹ Badrya Darwish, "Ward 10?" *Kuwait Times*, March 2014, <http://news.kuwaittimes.net/ward-10/>; also Priyanka Motaparthy (Human Rights Watch), Email Correspondence with Michael Flynn (Global Detention Project), 23 March 2015.

⁷² Badrya Darwish, "Ward 10?" *Kuwait Times*, March 2014, <http://news.kuwaittimes.net/ward-10/>.

⁷³ *Ibid.*

Global Detention Project
3 rue de Varembé
1202 Geneva, Switzerland
globaldetentionproject.org
+41 (0) 22 733 08 97
admin@globaldetentionproject.org