



# SAUDI ARABIA

ISSUES RELATED TO  
IMMIGRATION  
DETENTION

**MIGRANT-  
RIGHTS.ORG**

Joint Submission to the Universal Periodic Review

of the Human Rights Council

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## 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.

## ABOUT MIGRANT-RIGHTS.ORG

Migrant-Rights.org is a Gulf Cooperation Council (GCC)-based advocacy platform working to advance the rights of migrant workers. It aims to change perspectives towards migrant workers by improving access to information on migration in the Gulf region and its migration corridors and promoting informed, local discussion on migration issues. Both off and online, Migrant-Rights.org engages residents, local businesses, and employers to challenge perspectives towards migrants and improve working conditions for some of the region's most vulnerable workers.

### **Global Detention Project**

3 rue de Varembe  
1202 Geneva  
Switzerland

**Email:** [admin@globaldetentionproject.org](mailto:admin@globaldetentionproject.org)

**Website:** [www.globaldetentionproject.org](http://www.globaldetentionproject.org)

### **Migrant-Rights.org**

**Website:** <https://www.migrant-rights.org/>

## Immigration Detention Context

The Kingdom of Saudi Arabia (KSA) holds one of the lowest levels of ratification of core international human rights treaties and has not ratified the main instruments relevant to immigration detention and protection against arbitrary detention, including the International Covenant on Civil and Political Rights, the Optional Protocol to the Convention against Torture (which provides for national prevention mechanisms and detention monitoring visits), the Migrant Workers Convention, the Refugee Convention and the Convention on Statelessness. The KSA has made implementation of the few human rights norms it has subscribed to conditional upon respect for the norms of Islam and Sharia law.

As other countries in the Gulf Cooperation Council, the Kingdom of Saudi Arabia has long been an important destination for migrant workers especially from across Asia, the Middle East and the Horn of Africa who represent 37% of the population. According to United Nations 2017 statistics, the KSA hosts 12.2 million migrants, 31% of whom are women (3.78 million).<sup>1</sup>

It is against this demographic backdrop that any assessment of immigration detention in Saudi Arabia must be understood. On the one hand, the country—like all of its Gulf neighbours—is notorious for its sponsorship (*kafala*) labour system, which ties workers to their employers and places enormous pressures on foreign workers, making them vulnerable to abuses at their places of work as well as to arrest, detention, and deportation.

At the same time, Saudi Arabia has implemented vigorous policies to reduce dependence on foreign workers and increase the employment of nationals in the economy. To drive down the numbers of migrants, a policy of “Saudisation” has been pursued, which has included a series of deportation campaigns aimed at removing “illegal workers.” These mass removal efforts have led to huge numbers of people being placed in detention as they await removal from the country.

**Legal Framework.** Saudi Arabia does not have a comprehensive migration policy. However, the Residence Regulations (No. 17/2/25/1337 of 1952), which contains a set of laws pertaining to immigration status and the rights of non-citizens, provides norms concerning the detention and incarceration of non-citizens for immigration-related reasons. Additionally, the Labour Law provides penalties for violations of immigration-related statutes. However, Labour Law does not apply to migrant domestic workers, the majority of whom are women who are thus discriminated against.

These laws, however, generally relate to criminal punishments and do not make reference to administrative immigration-related detention. It is often unclear to what extent one can separate immigration detention from criminal incarceration, and many

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<sup>1</sup> Department of Economic and Social Affairs Population Division, International Migration Report 2017, United Nations.

cases of foreigners being held in prison awaiting deportation tend to describe the detentions as being related to criminal procedures.

According to Saudi Arabia's reports<sup>2</sup>, the authorities have taken measures to “enforce the ban on the retention of workers’ passports pursuant to Cabinet Decision No. 166, referred to in paragraph 23 of the report. The Ministry of Labour and Social Development imposes the statutory fine on those who violate the ban.” This measure, if implemented, does not protect abused domestic workers who run away from violent employers from being detained (if detected, as they are treated as “illegal” migrants). It is easier for them to be repatriated if they have their passport but all migrant workers do need an exit visa issued by their employer to be allowed to return home.

However, as reported by two Saudi columnists in daily newspapers, the Cabinet Decision No. 166 above is not enforced. Recent regulations adopted in 2013 and 2017 fail to adequately protect domestic workers (Ministerial Decisions No. 310 of 1434 and 605 of 1434 on employment of domestic workers and transfer between employers in certain circumstances.)<sup>3</sup>

In specific incidents, female domestic workers are transferred to what is referred to as “the Center for Housemaid Affairs.” It is not a detention centre per se. However, many migrant women sent to it end up being deported. The specific incidents are: 1) Domestic workers who arrived in the kingdom but their sponsor did not pick them up (male workers arriving in the country do not require sponsor pick up). If the worker does not get picked up by her employer she is either transferred to another Saudi employer interested in her service or deported. 2) Runaway domestic workers found on “the street” by the police or those who filed a labour dispute with the police or the ministry of labour: the domestic worker’s case is investigated, possibly by the Ministry of Labour or the police or both. If it is not resolved, she might end up being deported.

**Mass deportation leading to detention.** To drive down the numbers of migrants, the authorities have launched a number of mass deportation campaigns. Academic researchers who interviewed Ethiopian women returnees during the 2013/2014 deportation campaign said they feared rape in detention centres because Saudi guards and policemen slept next to them. They reported instances of harassment and rape<sup>4</sup> (see CEDAW General Recommendation 35 updating 19 – Gender Based Violence).

As part of a campaign entitled “A Homeland With No Illegals,” Saudi authorities launched a mass deportation operation in November 2017. The campaign is ongoing at the time of writing. Since then the Saudi authorities detained around 670,000

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<sup>2</sup> § 81 of the replies of Saudi Arabia to the List of issues and § 23 of Saudi Arabia Combined 3rd and 4th Periodic Report”.

<sup>3</sup> Available in Arabic only: <http://www.alwatan.com.sa/Articles/Detail.aspx?ArticleID=16306> and <http://www.al-madina.com/article/49077/>

<sup>4</sup> De Regt, Marina, Tafesse, Medareshaw, Deported before experiencing the good sides of migration: Ethiopians returning from Saudi Arabia, *African and Black Diaspora: An International Journal* Vol. 9, Iss. 2, 2016

persons for violating its residency and labour laws, including many women.<sup>5</sup> As of 26 February 2018,<sup>6</sup> among those who were detained:

- 160,000 were deported
- 13,000 were awaiting deportation

The Ministry does not provide gender disaggregated data for migrants placed in immigration detention.

According to Alhayat newspaper, around 100,000 undocumented workers were detained during the amnesty period prior to the implementation of the latest deportation campaign. Many workers could not leave during the amnesty because of bureaucratic or other legal issues. In addition, 469,836 migrants were arrested for residency violations; 142,016 were arrested for breaking labour laws; 59,420 were arrested for breaching border security; and 1,300 persons were detained for providing accommodation and transport to “illegal expatriates,” nearly 200 of whom were actually Saudi citizens. Deported migrants are presented as “illegals” with an emphasis on criminality and employers practices leading them into irregularity often fail to be reported. For instance thousands of construction workers lost their legal status because construction companies did not renew their residency ID (*iqamas*).<sup>7</sup>

Crackdowns were accompanied by numerous reports of ill-treatment, which generally came to light after people had been deported. In November 2013, round-ups in the Manfouha district in Riyadh, where many East Africans (particularly Ethiopians) live, led to clashes with security forces and resulted in scores of injuries and at least two deaths. In a 2014 interview, Aida Awel, Chief Technical Advisor on Migrant Domestic Workers at the International Labour Organization’s Addis Ababa Office stated that the number of Ethiopian returnees had reached 163,018, of which 100,688 were men, 53,732 women, and 8,598 children.<sup>8</sup> The large scale of round-ups in a relatively short period of time also meant that migrants were detained in makeshift facilities and even camps.

**Migrant women.** In a context where women citizens are often discriminated against in law and policies (as emphasized in CEDAW’s recommendation<sup>9</sup>), foreign women

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<sup>5</sup> Elias Meseret, Ethiopians deported en masse by Saudi Arabia allege abuse, 28 December 2017, Associated Press. For the last numbers of detainees and deportees, see the Twitter account of the Saudi Ministry of Interior in Arabic: <https://twitter.com/MOISaudiArabia/status/955843221569097728>

<sup>6</sup> @MOISaudiArabia, @MOISaudiArabia available in Arabic only.

<sup>7</sup> “A Homeland without illegals”, 6 March 2018, <https://www.migrant-rights.org/2018/03/a-homeland-without-illegals/>

<sup>8</sup> Migrant-Rights.org, “Interview: the ILO’s Aida Awel on the future of Ethiopia’s 160,000 returning migrants,” 10 April 2014, <http://www.migrant-rights.org/2014/04/interview-the-ilos-aida-awel-on-the-future-of-ethiopias-160000-returning-migrants/>.

<sup>9</sup> Concluding comments of the Committee on the Elimination of Discrimination against Women - Saudi Arabia, CEDAW/C/SAU/CO/2, 8 April 2008, [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolNo=CEDAW/C/SAU/CO/2&Lang=En](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolNo=CEDAW/C/SAU/CO/2&Lang=En); and CEDAW/C/SAU/CO/3-4, 9 March 2018, [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolNo=CEDAW/C/SAU/CO/3-4&Lang=En](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolNo=CEDAW/C/SAU/CO/3-4&Lang=En)

and in particular migrant domestic workers are even more unlikely to access protection from abuse and redress after suffering violations of their rights under international human rights norms and standards.

According to the findings of Migrant-Rights.org, a stunning 99.6 percent of all domestic workers and personal assistants in the Kingdom are foreigners: women domestic workers work 63.7 hours per week on average.

Among gendered root causes leading to irregular status for many migrant women or exposing them to abuse is that unlike their male counterparts, they mostly work as domestic workers. Domestic workers are isolated with little access to resources outside their employers and non-existent legal support and limited other assistance when they escape abusive employers.

Another discriminatory factor is that contrary to male migrant workers in other employment sectors, women domestic workers are not protected by labour law. They are vulnerable to physical abuse, exposed to extremely long working hours, lack of privacy, and lack of freedom of movement which can all lead to ill-treatment and abuse. This, combined with the on-going retention of passports despite this being illegal, and together with employers' control over job transfer / exiting the country, generates illegal status which often leads to detention.

Other root causes leading to detention include lack of timely renewal of work visa and inability to transfer to another employer.

For instance, according to an activist working with Filipinos interviewed by the Global Detention Project, of the 1.2 million Filipino workers in Saudi Arabia, the vast majority are “undocumented” mostly because they have either left their official employer – after generally entering the KSA via legal channel. Others have overstayed their permits, at times due to the impossibility of returning to their home countries as their employers are withholding their passports and the authorities refuse to grant them an exit visa.

**Trafficked persons, especially women.** The U.S. State Department’s Trafficking in Persons Report (TIP Report) criticizes Saudi authorities for failing to implement procedures to systematically identify victims and reports that Saudi officials even admit that trafficking victims are sometimes detained and deported. According to the 2017 TIP Report, “Government officials continued to arrest, deport, imprison, and penalize some domestic workers who fled their employers and undocumented foreign workers, some of whom could be potential trafficking victims.”<sup>10</sup>

According to Migrants-Right. org findings Filipino women who are trafficked, as defined by Saudi law, are sent to “shelters” not defined by KSA as detention centres but that may amount to detention facilities if women held there do not have freedom of movement.

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<sup>10</sup> U.S. Department of State, Trafficking in Persons Report 2017.

**Conditions in detention.** According to Migrant-Rights.org research, there is at least one detention centre in almost every administrative region in Saudi Arabia. The major airports that fly international flights are only located in Jeddah, Riyadh and Dammam (Eastern Province). Detainees in regional detention centres are transferred by buses to either the deportation centres in large cities or directly to airports to fly them out of the country. The regional detention centres have worse conditions than the ones in main cities. A 2010 report by the government-managed National Society for Human Rights (NSHR) describes the "miserable" and "painful" conditions of the immigrant detention center in Asir region, adding that the detention centre is even "worse than horrible".<sup>11</sup> A 2011 "socio-legal" study about domestic workers in Saudi Arabia and the Emirates reported that "governmental shelters" in Riyadh, Jeddah, and Damman were commonly referred to as "deportation centres" by domestic workers interviewed for the study.

The U.S. State Department's 2014 Country Reports on Human Rights Practices on Saudi Arabia makes reference to detention conditions, generally, citing a report by the National Society for Human Rights who, after visiting 16 jails across the kingdom, reported that there is overcrowding, with most jails operating at double their capacities. Their report specifically mentions the women's section of the Deportation and Detention Centres in Jeddah as being the worst. Concerns regarding detention conditions raised in the report included improperly trained wardens, lack of access to prompt medical treatment, holding prisoners beyond the end of sentences and failure to inform prisoners of their rights.

In February 2014, Human Rights Watch (HRW) researchers in Mogadishu interviewed a woman who had been detained for nine days with her two children, 7 and 9, and her sister's three children before deportation. "The room we stayed in with 150 other women and children was extremely hot and there was no air conditioning," she said. "The children were sick. My son was vomiting and his stomach was very bloated. There were no mattresses. People just slept on the floor."<sup>12</sup> According to the HRW report "IOM publicly said that many of the deportees [to Somalia] are in poor health because of their prolonged detention in substandard conditions before they were deported. Some had suffered physical and psychological trauma or had respiratory illnesses, including pneumonia. IOM noted that "a significant number may have been subjected to ill-treatment." There are also reports of sexual harassment in detention centres and deportation procedures take longer for women migrants.<sup>13</sup>

According to Amnesty International's 2014/2015 report on Saudi Arabia, "Many migrants reported that prior to their deportation they had been packed into severely overcrowded makeshift detention facilities where they received little food and water and were abused by guards." The deportations, part of a larger domestic labour market restructuring called Nitaqat, have been massive in scale.

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<sup>11</sup> [http://www.alwatan.com.sa/Local/News\\_Detail.aspx?ArticleID=13023](http://www.alwatan.com.sa/Local/News_Detail.aspx?ArticleID=13023) available in Arabic only.

<sup>12</sup> Human Rights Watch, Saudi Arabia: 12,000 Somalis Expelled. 18 February 2014.

<sup>13</sup> MD Rasooldeen, Foreign missions disappointed at slow deportation process, Arab News, 26 June 2013, <http://www.arabnews.com/news/456212>.

## Questions Relating to Immigration Detention in Saudi Arabia

- Are crimes of physical violence by employers that lead many migrant workers to flee their employers and expose them to arbitrary detention investigated or prosecuted?
- What mechanisms are in place to ensure that victims of trafficking are not detained? What mechanism is in place to identify victims of trafficking in detention centres?
- What measures are in place to ensure that once detained, migrant workers are not further exploited. Are women placed in immigration detention held in facilities monitored by women wardens and protected from sexual abuse while in detention?
- Are statistics available about women detained with children? What is being done to ensure the health and safety of children detained with their mothers?
- As per its Statute the Human Rights Commission is mandated to visit detention centres and to receive human rights complaints:<sup>14</sup>
  - Does the Commission visit detention centres holding migrant workers (including domestic workers) during the government deportation and expulsion campaigns?
  - What is the mechanism for migrant workers (including domestic workers) held in detention centres to access the Human Rights Commission send complaints about human rights issues?

## Key Priorities Concerning Immigration Detention in Saudi Arabia

Saudi Arabia needs to tackle root causes leading to irregular status which exposes migrants to the risk of arbitrary detention, immigration detention and deportation in conditions that do not respect human rights norms and standards. The focus should

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<sup>14</sup> Statute of Human Rights Commission, Council of Ministers Resolution No. 207 Dated 8 Sha'ban 1426H / 12 September 2005, [Official] Translation of Saudi Laws, First Edition 2010. See Article 5 "(6) "Visit prisons and detention centers at any time without permission from the competent authority and bring reports on them before the President of the Council of Ministers. 5 (7) Receive and verify complaints related to human rights and take legal measures pertaining to them."



be on *protection* of migrant women from arbitrary detention, and from abuse when detained (irrespective of the reasons that led to them being detained).

Necessary measures include:

- to *effectively reform* the *kafala* sponsorship system not only in law but also in practice.
- to afford women migrant domestic workers the full protection of labour law.
- to ensure the timely renewal of work and residency visas.
- to sanction retention of passports and employers' remaining control over job transfers.
- to ensure that employers and recruiters are prosecuted and do not repeat the cycle with another migrant worker.
- to effect deportation based on a case by case assessment.
- to investigate cases of ill-treatment and abuse in detention.



[www.globaldetentionproject.org](http://www.globaldetentionproject.org)

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