SPECIAL REPORT

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Slavery entrenched by law: Depriving migrant workers of their wages in the Gulf

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Title: Stolen Livelihoods
Cover Illustration: Arab Reporters for Investigative Journalism (ARIJ)
Translated from a publication by ARIJ

Published: January 2022

This report is available to download free of charge on the Middle East Monitor Website: www.middleeastmonitor.com

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Siddiq Shehab arrived in the Gulf from his native Mangalore in South India in 1982, carrying an almost empty suitcase. Siddiq left everything behind and travelled to the Gulf to work for one of the largest contracting companies to save money for his wedding.

Two years later, Siddiq got married and returned to the Gulf, where he stayed for 39 more years. He only saw his family for a couple of months once every two years, as he had to remain in the Gulf for work, while all his earnings went to support his family.

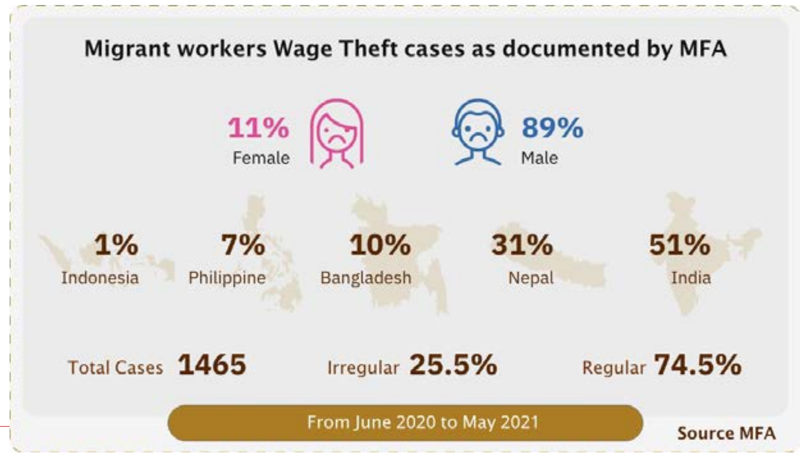
Siddiq, an electrical supervisor, never thought he would return home empty-handed after not receiving his salary for 18 consecutive months. Without a choice, Siddiq left the Gulf for good in March 2021, with the contracting company owing him $48,900 in salary arrears and end-of-service benefits, burying his dream of securing a dignified life after retirement.

Siddiq and 18 of his colleagues - the last remaining employees of a company that once contracted over 1,000 employees - have received irregular salaries since 2017. The company allowed them to live in designated workers' accommodation, where they had to make ends meet on a $53 salary per month, relying on charity for food, with minimal access to healthcare services. In addition, Siddiq, who turned 70 years old, faced another dilemma when his residence permit expired in May 2019, putting him at risk of imprisonment and deportation as an irregular migrant worker.

Siddiq and his colleagues' stories shed light on the problem of hundreds of thousands of migrant workers in the Gulf countries deprived of their wages and end-of-service benefits - a common violation committed by *kafeels* ("sponsor" in Arabic) and employers. Workers' rights organisations describe this as "wage theft". There are laws regulating the relationship between employer and employee, however, they are full of loopholes that some employers exploit. Even though there are mechanisms to lodge complaints and litigation procedures to resolve disputes, various difficulties and obstacles often prevent migrant workers from resorting to them to preserve their rights.

By the time the residence permits of Siddiq's 18 colleagues expired, who all worked for the company for different periods ranging from three to 38 years, the company owed them figures ranging between $7,089 and $108,152 each. The total amount owed to the employees stands at $526,000 - an amount enough to construct a 500-square metre villa in the Gulf. However, the large company, which implemented public and private sector projects worth millions of dinars, never paid these dues.

> *"We faced challenges due to some parties rejecting the adoption of the term 'wage theft' as they preferred to use 'unpaid wages'. However, what is happening today is much more than simply not paying wages; it is systematic theft of the wages and other entitlements of millions of migrant workers who spent their lives serving the destination countries and contributing to their development. What is happening now is truly a major crime. It is a humanitarian crisis because we do not see the situation as it is, hence (we fail) to address it properly."*
> *- William Gois, regional coordinator of the Migrant Forum in Asia (MFA).*



A rampant phenomenon

According to the Saudi Ministry of Human Resources and Social Development's Contractual Relationship Improvement Initiative document, prepared in August 2020, 1.2 million migrant workers' wages have been delayed.

These workers constitute 8.3 per cent of the total workforce in Saudi Arabia, where 79 per cent of the workforce is constructed of migrant workers. This depicts the problem of wage theft in the Gulf. The workforce in Saudi Arabia constitutes about 50.2 per cent of the total workforce in the Gulf countries, and Saudi Arabia alone hosts 47.3 per cent of the total number of migrant workers present in the Gulf.

It is estimated that there are 24 million migrant workers in the Gulf countries, forming 83.3 per cent of the total workforce. Migrant workers compose the majority of the workforce in Qatar (94.0 per cent), the United Arab Emirates (UAE) (92.5 per cent), Kuwait (84.2 per cent), Bahrain (79.4 per cent) and Oman (78.4 per cent).

The document written within the framework of Vision 2030 initiatives reveals the real magnitude of the problem and aims to improve contractual relations between employers and employees based on international standards. In December 2020, Saudi Arabia signed the Protection of Wages Convention, 1949 (No. 95), becoming the only Gulf country to sign this convention to protect workers' wages.

Implementing this convention requires fulfilling three main criteria: efficient supervision, appropriate penalties and a means for compensating the victims.

In Bahrain, Minister of Labour and Social Development Jameel Humaidan said that 2,863 workers in 18 companies received irregular wages in 2018, adding that companies delayed salary payments for periods of between two months and six months.

Key principles of the Protection of Wages Convention (No. 95)

- Workers shall be free to dispose of their wages as they choose.
- Wages must be paid in national currency.
- In cases of partial payment in kind, the value should be fair and reasonable.
- No unlawful deductions are permitted (right to receive wages in full).
- In cases of employer insolvency, wages shall enjoy a priority in the distribution of liquidated assets.
- Regular payment of wages, including full and swift final settlement of all wages within a reasonable time, upon the termination of employment.

Source: International Labour Organisation

Twice a victim

In addition to legal migrant workers, who are theoretically protected by employment contracts but practically face the risk of wage theft due to employers' exploitation and deception, hundreds of thousands of irregular migrant workers are most vulnerable to wage theft. This category of migrant workers working outside the legal frameworks is termed "wandering workers" or "free visa" workers.

With the exception of Saudi Arabia, there are no accurate numbers of irregular migrant workers in the Gulf. The data only shows the number of those whose residence permits have expired or were cancelled by sponsors. The law views these workers as violators, although they have not intentionally violated the laws and have simply found themselves in this predicament because renewing their residence permits is impossible without a sponsor.

The workers' situation becomes more dangerous if their sponsors lodge a complaint accusing them of Horoob (meaning "absconding"). The penalty for absconding in Gulf countries is arrest and deportation. In Kuwait, for instance, absconding workers are also blacklisted and banned from re-entering the country for a certain number of years. In Saudi Arabia, they face being fined $13,000 with six months' imprisonment, followed by deportation and a permanent ban from the country. Workers facing the accusation of absconding keep a low profile while working in secret, becoming more vulnerable to exploitation and wage theft.

A migrant workers' rights activist, who requested to remain anonymous, clarified: "A form of irregular employment has emerged in the Gulf due to exploiting the sponsorship system to sell visas. Employers or ordinary individuals issue migrants visas as domestic workers, then, with the employer's permission, allow them to take other jobs in exchange for payments that range between $3,200-$3,700 (every two years), and the worker usually pays the sponsor once every two years. Some workers willingly travel (to this destination country) fully aware of the situation as they need (to make a living) and are (often) promised by agents (who facilitate their travel) plenty of job opportunities in the Gulf. Sometimes, the sponsor does not renew the visa, and the worker does not have the capability to return home; hence he unwillingly ends up in a legal dilemma."

> *"In Kuwait, workers are brought into the country to work for employers who are parties in contracts for governmental projects. For example, employers in the construction sector bring into the country 300 workers even though the project only needs 20 workers. The rest of the workers are then allowed to take other jobs either by paying the employers to do so or via 'selling' these workers' visas to other companies. Workers also face exploitation (in this case) because they cannot get another job unless the new employer has contracts with the government. Therefore, the worker cannot obtain a new work permit and is forced to accept a wage less than what was agreed with the recruiter since he needs to work. Workers are thus exploited because the company, which brought them into the country, did not abide by the contract that it recruited them through."*
> *- A Kuwaiti lawyer who requested anonymity.*

Victims confined within homes

In addition to migrant workers facing the risk of wage theft, domestic workers, particularly women, also face similar risks. Domestic workers, who constitute 25 per cent of the total migrant workforce in the Gulf, work in residences that are not inspected, and their work is also not governed by labour laws.

The only exception in this regard is Bahrain, which included domestic workers under 13 labour law articles in 2013. Although Gulf countries - except Oman - have set laws to protect migrant workers, a report by the author of this investigation, entitled *Domestic Work: A Comparative Overview between Bahrain and the Rest of the Gulf Cooperation Council Countries (GCC)*, stated: "These laws are still superficial when defining the rights of domestic workers and are governed by a social culture that fears granting this category of workers their full rights and equating them with the rights enumerated in these countries' labour laws and in accordance with the Convention on Domestic Workers, which none of the Gulf countries has signed." Gulf countries also exclude domestic workers from their wage protection systems.

Migrant workers are the 'human fuel' of GCC economies

Migrants have played a significant role in building Gulf countries' economies since the 1970s. During the past three decades, they have contributed significantly to their growth. Migrants constitute the largest percentage of population growth, reaching 151.5 per cent in all six Gulf countries.

Figures indicate that the number of migrants has tripled compared with the national population increase in the past three decades. The number of citizens has increased by 87.5 per cent and that of migrants by 267.4 per cent.

During this period, Gulf economies recorded a growth in their GDP from $210 billion to $1,817 billion (765 per cent). The number of migrants in Gulf countries reached 30 million, constituting 11 per cent of the total number of migrant workers worldwide, estimated at 272 million. This is despite the fact that the population of all six Gulf countries does not exceed 0.8 per cent of the world's population.

Migrant workers in Gulf countries constitute 14.2 per cent of the total number of people migrating for work internationally, reaching 169 million according to figures of the International Labour Organisation (ILO).

The number of migrants in Gulf countries reached 30 million, constituting 11 per cent of the total number of migrant workers worldwide, estimated at 272 million. This is despite the fact that the population of all six Gulf countries does not exceed 0.8 per cent of the world's population. Migrant workers in Gulf countries constitute 14.2 per cent of the total number of people migrating for work internationally, which reached 169 million, according to ILO figures.

Period: From 1990 to 2019. Source: The United Nations and the World Bank

COVID-19: Migrant workers suffer the most from force majeure

Wage theft is a permanent problem facing migrant workers in the Gulf. The coronavirus pandemic, which negatively affected Gulf economies, helped expose the violations of migrant workers' rights.

Wage theft had the worst impact on migrant workers whose main purpose of travelling to the Gulf was to make a living to provide for themselves and their families. This issue also sheds light on the loopholes in labour laws and the obstacles that migrant workers face when resorting to the available complaint mechanisms and litigation procedures.

At the end of 2019, it had been an entire year since Siddiq last received a salary from his employer and six months since his last working day. Siddiq began to worry due to the company's procrastination in paying his dues. At the time, Siddiq had not visited family for five years.

Due to ill health, he finally decided to file a complaint against the company with the Ministry of Labour and Social Development. Siddiq expressed: "In early 2020, [news emerged] about a virus spreading in the world, and we heard that we may be prohibited from travelling. I want to be with my family. Time passed quickly while I was working. Every time I intended to return home, I kept postponing my return for another year because of my financial obligations."

After his residence permit expired, Siddiq could no longer attend the governmental healthcare centre. He could also no longer afford medication for his chronic health conditions that cost him $106 per month - twice the amount the company paid him ($53). His colleagues faced similar problems.

The company informed Siddiq and his colleagues that travelling was prohibited and reassured them that these were exceptional circumstances and they shouldn't worry if their residence permits expired. Siddiq and his colleagues could only access healthcare if they contracted COVID-19, as the government announced that it would treat migrant workers without examining their legal residency status.

At this point, ordinary work within ministries (employees' attendance at offices) was suspended; hence, Siddiq and his colleagues were not able to follow up on their complaints with the Ministry of Labour. The company stopped communicating with them. They continued to live in the accommodation provided by their employer, but faced the risk of eviction after the company stopped paying the rent. They lived in dire conditions and had to rely on charity for subsistence. The landlord eventually cut off the power, leaving them to rely on a generator, worsening their living conditions even further as they suffered from power outages during the scorching summer heat because they could not afford fuel to refill it.

As COVID-19 spread, work was suspended in several sectors in the Gulf. The pandemic and its economic repercussions on Gulf economies exposed the fragile circumstances of migrant workers in Gulf countries.

Although migrant workers are the backbone of the labour market in Gulf countries, comprising 83.8 per cent of the workforce, these countries' crisis response did not consider them a priority. Instead, they rushed to help private sector companies by activating force majeure measures in their laws to allow affected companies to decrease employees' wages or force them to take paid or unpaid leave. On the level of workers' rights, this looked more like a measure that paved the way for wage theft during the pandemic.

At the same time, the governments helped these companies pay citizens' wages. They also helped with rent and exempted them from fees to renew residence and work permits of migrant workers, subjecting only migrant workers in the private sector to harm due to force majeure.

Governmental measures to confront the pandemic's consequences for the private sector

Saudi Arabia

The force majeure regulation was activated to mitigate the effects on private sector facilities. This regulation, which is included in the Explanatory Memorandum of Article No. (41) of the Labour Law Implementing Regulations, allows reducing employees' wages by 40 per cent for six months and allows the termination of their contracts.

Kuwait

Some companies violated Article 28 of the Law of Labour in the Private Sector No. 6 of 2010, which stipulates: "Regardless of whether the work contract is for a specific indefinite term, the remuneration of the worker may not be reduced during the contract validity period."

According to the article, any reductions in the worker's remuneration shall be deemed null and void. *Al-Jazeera* channel reported that companies' reduction of workers' remuneration ranged between 30 and 65 per cent, while some employees' contracts were terminated. The government approved, in principle, a draft law to add a new article to the labour law that allows companies to negotiate with their employees to reduce their wages and grant them paid leave during crises and disasters. However, parliament did not approve the proposal to lower wages in the private sector by 50 per cent.

UAE

The UAE enabled employers to reduce the wages of migrant workers via activating Ministerial Resolution No. 279 of 2020 regarding the stability of employment in the private sector.

Governmental measures to confront the pandemic's consequences for the private sector

Bahrain

Bahrain activated Article 43 of the Law of Labour that stipulates that if the worker is prevented from executing his work for reasons of force majeure beyond the employer's control, the worker shall be entitled to half his wage.

Qatar

The Ministry of Finance requested ministries and governmental institutions to reduce the monthly costs of non-Qatari employees by 30 per cent by either lowering wages or terminating their services. It also allowed Qatar Energy (formerly Qatar Petroleum) and Qatar Airways to minimise spending and lay off 20 per cent of non-Qatari employees.

Oman

The Supreme Committee tasked with studying the scope for a mechanism to deal with developments resulting from the coronavirus granted permission for affected companies to give paid leave to employees in the sectors where work was suspended. It also permitted negotiating a reduction in their wages for three months in exchange for reducing working hours. It emphasised obligating private sector institutions to sustain the work of Omanis and not terminate their services. However, it urged them to lay off non-Omani workers where necessary.

The Business & Human Rights Resource Centre, which follows up on violations of migrant workers' rights in the Gulf, recorded that the allegations of abuse in Gulf countries between April 2020 and August 2020 witnessed a 275 per cent increase when compared with allegations of abuse for the same period during 2019. Out of the 80 allegations of abuse that the centre recorded, non-payment of wages was the most frequent. This violation was cited in 81 per cent of cases.

In Saudi Arabia, labour courts settled 31,766 lawsuits during the year COVID-19 spread (March 2020 until March 2021). Lawsuits pertaining to wages constituted 59 per cent of cases. Other lawsuits pertained to requesting compensations, allowances and bonuses, which all fall within the practice of wage theft.

A report published on Bahrain's Ministry of Labour and Social Development website noted that until October 2020, the ministry received 16,532 requests to settle disputes between employees and employers. It added that 50.3 per cent of disputes were resolved amicably. The ministry also received 14 complaints lodged collectively, which were also resolved amicably. This number (16,532) reflects an increase of 52 per cent compared with the number of complaints filed in the previous year.

Although the author of this investigative report communicated with relevant parties in all Gulf countries, she could not clarify the nature of the complaints and whether they pertained to non-payment of wages. She also could not obtain the number of lawsuits relating to migrant workers nor obtain the total number of complaints or lawsuits relating to non-payment of wages in all Gulf countries discussed in this investigation.

Migrant workers also faced problems during the pandemic due to the suspension of work at some government departments, including courts and offices where complaints are lodged. Meanwhile, departments that continued to operate were under pressure due to reduced working hours and employee capacity. In the UAE, the suspension of labour courts' work delayed investigating the non-payment of wages lawsuits.

In a summary of its meeting held in February 2021, the ILO Regional Office for Arab States indicated: “Labour dispute commissions in the Gulf have reduced their operation capacity to 30 per cent due to COVID-19. Wage protection systems in the Gulf that were set up to punish employers who violate workers’ rights in terms of wages received an enormous amount of complaints. Workers’ insurance funds in Qatar and the UAE were also unable (to address) challenges. For example, the Workers’ Support and Insurance Fund in Qatar was only able to disburse $3.85 million as of August 2020 to 5,500 workers, a large number of other workers did not receive their wages.”

Exodus and global sympathy

No statistics exist on the number of migrant workers whose livelihoods were affected by the pandemic. However, the number of migrant workers who permanently left Gulf countries during the pandemic indicates unusual circumstances pushing them to leave. These workers either left because of the termination of their job contracts or out of fear of the protective measures excluding them, particularly amid governmental statements that urged its institutions to expedite the nationalisation of their labour forces and reduce the reliance on migrant workers.

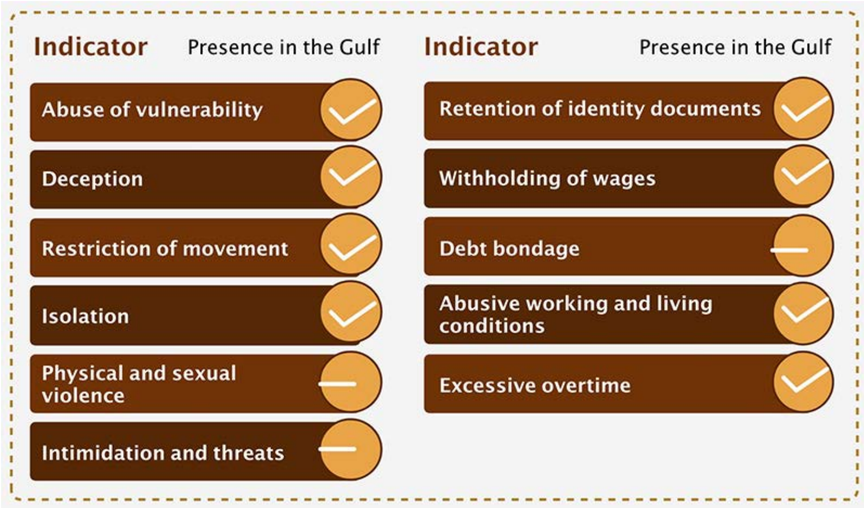
Credit rating agency Standard & Poor’s estimated that the population of the six Gulf countries, discussed in this report, decreased by four per cent during the year the pandemic spread and attributed this decrease to the high levels of job losses in the Gulf.

Gulf governments facilitated irregular migrant workers’ departures by exempting them from fines for violating their residency statuses. This raised fears about the dues owed to these workers, pushing international workers’ rights organisations, civil society and labour syndicates to mobilise. They launched a global campaign to establish urgent judicial mechanisms to retrieve workers’ wages from employers. The campaign also aimed to draw the world’s attention to the inhumane practices committed against migrant workers.

The MFA, which led this campaign along with other organisations, documented 1,465 cases of wage theft against migrant workers in all Gulf countries between June 2020 and May 2021. These cases, however, were documented based on the victims’ initiatives and on the organisations that followed up on these cases. They represent a model and do not reflect the magnitude of the problem in each country. Legal migrant workers constituted the largest percentage of these cases in all Gulf countries except Kuwait. This indicates that the victims were subjected to wage theft while working in prominent companies. It also suggests the difficulty irregular migrant workers face when demanding the payment of their dues since most work without contracts.

The database obtained by Arab Reporters for Investigative Journalism (ARIJ) with assistance from the MFA showed that 89 per cent (of the 1,465 cases) were male and 11 per cent were female. The majority were from India (51 per cent), Nepal (31 per cent), Bangladesh (ten per cent) and the Philippines (seven per cent), with (one per cent) from Indonesia.

Indicators of human trafficking



This investigative report reveals that there are at least eight out of 11 indicators of forced labour as specified by the ILO's Special Action Programme to Combat Forced Labour derived from the ILO's theoretical and practical experience. Forced labour is considered a form of human trafficking.

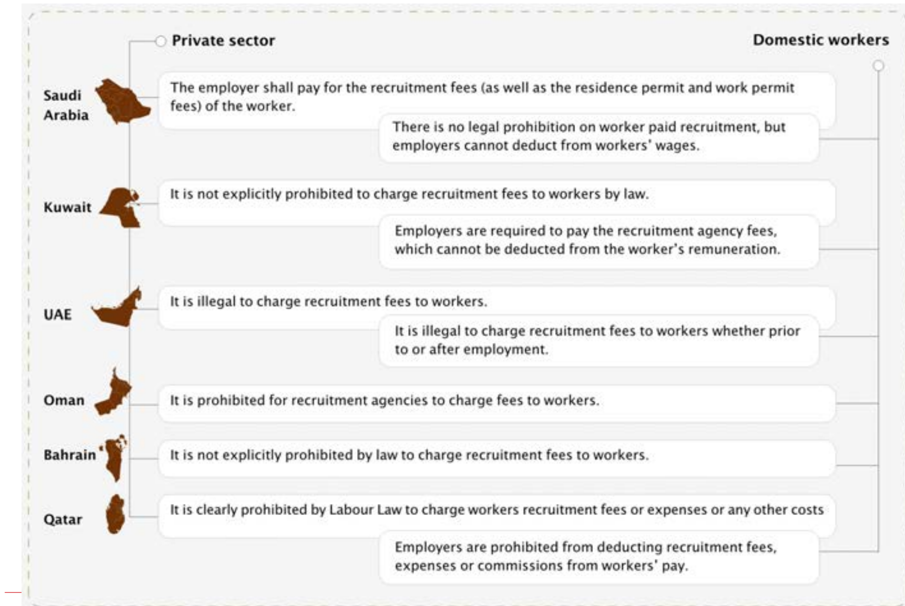
The fact that laws are prohibiting the practices on which these indicators are based reflects their danger. However, these practices have become common due to the lax implementation of laws that are also full of loopholes. This is in addition to the fragile conditions in which those affected live and the circumstances preventing them from seeking help or justice.

Types of wage theft

Lawyers and activists in Gulf countries have identified 17 types of wage theft that vary in commonality according to the differences in the strictness of laws regulating wages and the contractual relationship between employer and employee. In addition to the monthly salary, wage theft also includes the theft of overtime allowances, leave entitlements and end of service gratuities.

1. Some recruitment agencies in countries of origin and countries of destination impose fees upon the individual in order to recruit them. The worker thus ends up in debt before even taking up the new job, although the laws of all Gulf countries - except Kuwait - prohibit charging fees to workers.

Ibrahim S. is one of 120 workers subjected to wage theft during the pandemic. Workers were deported without being issued their end of service gratuity after their wages had been withheld since 2017. The MFA reported that these workers paid between $673 and $1,076 to a recruitment agency in India to gain employment in a large construction company in Saudi Arabia. The company, owned by investors from Saudi Arabia and India, employs around 10,000 such workers.

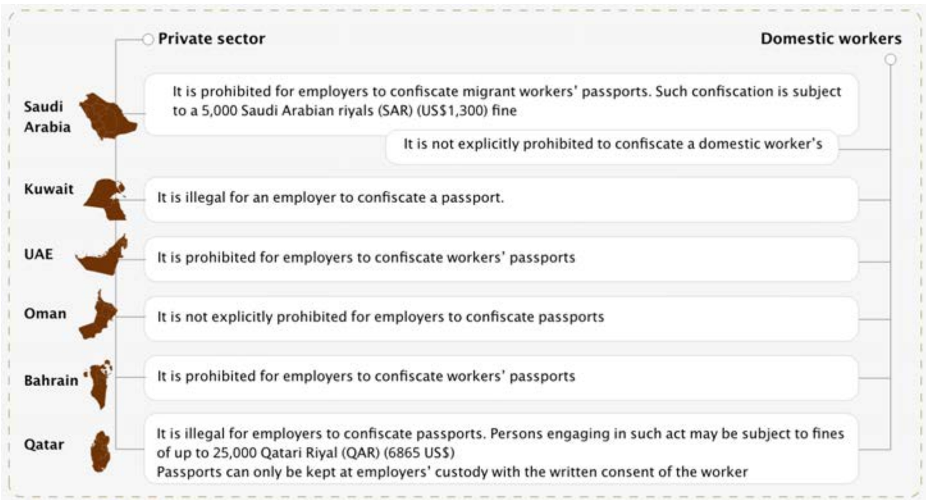


2. Replacing an agreement with another for a lesser wage upon arrival.

> *"Migrants are deceived by dual agreements, one in the country of origin and another in the country of destination. The agreements have different conditions. When the migrants realise this is happening to them, it would be too late (to do anything) as they have already become in debt and there's no way back."*
> *- Dr Nasrah Shah, professor at the faculty of economics at Lahore University, who worked at Kuwait University for 30 years.*

3. Termination of services and deportation without paying dues.

4. Blackmail by confiscating passports to force workers to sign work compensation settlements even if not all dues have been paid. Confiscation of passports is common in Gulf countries, although the law in these countries prohibits this practice.



Source: ILO Fact sheet

5. Working without a valid visa.

An employer's consent is mandatory to renew a visa. In Bahrain, courts deem employees demanding their dues after their visa expires as ineligible, even though they cannot renew their visa without the employer's approval.

6. Compulsory working period.

All Gulf countries do not allow workers to change employment without the employer's approval or only allows them to do so after a certain amount of time. Some employers exploit this time to force workers to work for a lesser wage.

7. Not paying overtime remuneration.

Some laws allow employers to keep certain employees in positions to work additional hours, such as security guards. Employers exploit this, noting it in the contract without granting extra payment for the additional hours worked.

8. Manipulation of end of service gratuity.

The end of service gratuity is calculated based on the employee's last wage. Some employers pay their salary dues once every two years of service; hence, the employee may receive a lesser amount.

9. Changing a worker's visa to indicate that they are working for another registered company, although owned by the same original employer, often without the worker's knowledge.

Changing the company's register deprives the worker of their right to demand dues a year after changing the company's register, such as the end of service gratuity, even if the holding company of the new firm is the same.

10. Procrastination.

Employers often use empty promises to deter workers from filing a lawsuit. They continue to make these promises until the limitation period to claim wages and other entitlements passes. The worker also does not receive remuneration for wrongful termination. Moreover, they do not get the salaries and other entitlements for the remaining duration of the contract nor the compensation as stipulated by law if the limitation period has passed. In Bahrain, for example, a worker cannot make any claims if one year has passed since the contract was terminated.

11. Employers withhold employees' ATM cards to withdraw money after the agreed wages are deposited, then pay the workers' wages in cash.

> *"Some companies circumvent the law that stipulates paying workers via a bank deposit. They exploit the workers' lack of knowledge of their rights and need to work and make a living. These companies keep the workers' ATM cards to deposit and withdraw money on their behalf, which is often considered a criminal act. In Kuwait, for instance, this is considered a crime of forgery that the perpetrator is punished for according to the penal code. Such a practice aims to mislead the authorities in case the worker demands his wages and entitlements and to hide the exact amount of his wage. In Kuwait, for instance, this is a violation of the Labour Law of Kuwait No. 6 of 2010."*
> *- Kuwaiti lawyer Meshari Al-Humaidan.*

12. Recruitment agents deduct a sum of the agreed salary, violating the agreement between the recruitment agency and the employers.

This practice is very common in the cases of domestic workers and security guards in all Gulf countries, where public and private companies hire employees via agreements with recruitment agencies.

13. Exploiting the salary rates set for certain sectors.

In Kuwait, there are specific salary brackets for work in certain sectors. Employers issue work permits for certain jobs linked to government benefits and advantages that the workers should obtain. However, after the work permit is issued, the employers change the worker's job title and function for a different wage than stipulated in the original contract.

14. Female domestic employees work around the clock.

Most laws pertaining to domestic work jobs in the Gulf do not determine working hours. Some stipulate that the domestic worker is entitled to a certain number of hours to rest per day. Domestic workers end up working for up to 15 hours per day, without any financial compensation and in violation of all international standards.

15. Some wage theft practices begin in the country of origin based on an agreement between the recruitment agencies and the families hiring a domestic worker. The agency and family agree not to pay the domestic worker a wage for a month or more after the worker's arrival to the destination country to decrease the capital cost of the domestic worker's employment to the employer.

16. Making domestic workers work for long hours and tasking them with working unpaid at relatives' houses.

> *"I never received a full wage on time ever since I arrived to work ten months ago. According to the contract, my wage is $235, but I only received amounts between $77 and $105 per month while I worked. Then I was asked to work for free in the house of my employer's daughter, who had fired her domestic worker. I fled because of this treatment, and my passport is still with them. I think they filed a lawsuit against me and accused me of absconding. I do not know for sure, but they must have done that."*
> *- Sarah, 26, a Kenyan domestic worker employed by a family in Riyadh.*

17. Not paying workers who returned to their country of origin and could not return to the destination country because their visa expired during the pandemic. Employers refuse to pay the financial dues owed.

> *"Before and after the pandemic, a large number of workers returned to India and got stuck there. Their visas expired, hence, they could not return to the destination country unless the company renewed their visas. Some of them worked for these companies for a long period of time, such as 30 years. They were thus not paid their wages or end of service gratuities, and employers did not renew their visas because they are aware that the financial dues constitute large sums of money."*
> *- Sotheer Thironelath, director of humanitarian affairs at the World NRA Council and the director of the Indian Embassy's emergency trust fund in Bahrain.*

Reasons for wage theft
The kafala system and the abuse of migrant workers' rights

Many reasons have resulted in wage theft becoming commonplace and even acceptable by the employer, employee and society as a whole. The imbalance of power between migrant workers and employers in the Gulf is mainly attributed to the sponsorship system (kafala) introduced in 1928 during the British colonial period.

British administrators first introduced the sponsorship system to organise the relationship between employers and divers arriving in Bahrain. According to researcher Dr Omar Al-Shehabi: "British officials had assumed the task of issuing entry visas to Bahrain as entry to the island required the approval of the British political agent and an entry visa. Passport control points to enter were first established in 1929."

British authorities adopted this sponsorship system to control labour migration in Bahrain, and they began implementing it in other Gulf areas they colonised. By 1971, these countries became independent. They authorised the citizen to act as the sponsor to deal with migrant workers after previously relying on British authorities.

What is currently referred to as the kafala system is a set of legislations that legally controls migration and residence in Gulf countries (Table 1), except for Qatar, which gradually abolished it.

The sponsorship system defines the legal relationship between the employer (the sponsor), the employee (the sponsored) and the state. Workers cannot enter any Gulf country unless a citizen or a company sponsors them. Although the term "sponsorship" appears to imply protecting workers, the sponsor's powers in issuing, renewing and cancelling migrants' worker permits and residency make this relationship closer to slavery. The system controls two major aspects restricting the workers' freedom: changing jobs and travel. The employers control the fate of migrant workers since their arrival to the destination country and for the duration of their stay, even dictating their movement and exit from the country.

Gulf countries introduced amendments to the sponsorship law. With each amendment made, they celebrated "abolishing" the sponsorship system. However, when examining these amendments, it is clear that the complicated measures do not strictly prohibit the employer from restraining workers' freedoms. In four of the six countries that this report addresses, the only item abolished was obtaining the employer's approval for the worker to leave the country. However, the employer's permission for the worker to enter the country remained in place. Workers are allowed to change jobs in Bahrain and Saudi Arabia after working for their original sponsor for a full year. In other countries, workers cannot change their position for the first two or more years. As for domestic workers, they are not allowed to change jobs unless their contract expires or violations are committed.

Only Bahrain introduced a measure to allow workers to live and work without an employer or sponsor. Introduced in 2017, the Flexi Permit allows migrant workers already present in Bahrain to be their own sponsors. However, this means the labour law no longer protects them as the Flexi Permit dictates that they are now employers and not employees. The workers' situations thus become more fragile since they cannot resort to labour courts if their rights are violated. Acquiring a Flexi Permit is also a costly affair as the application fees can reach $2,100 per permit valid for one year or $3,906 per permit valid for two years. These sums are close to what irregular workers pay middlepeople or illegal agents in the country of origin and destination.

Exploitation and blackmail

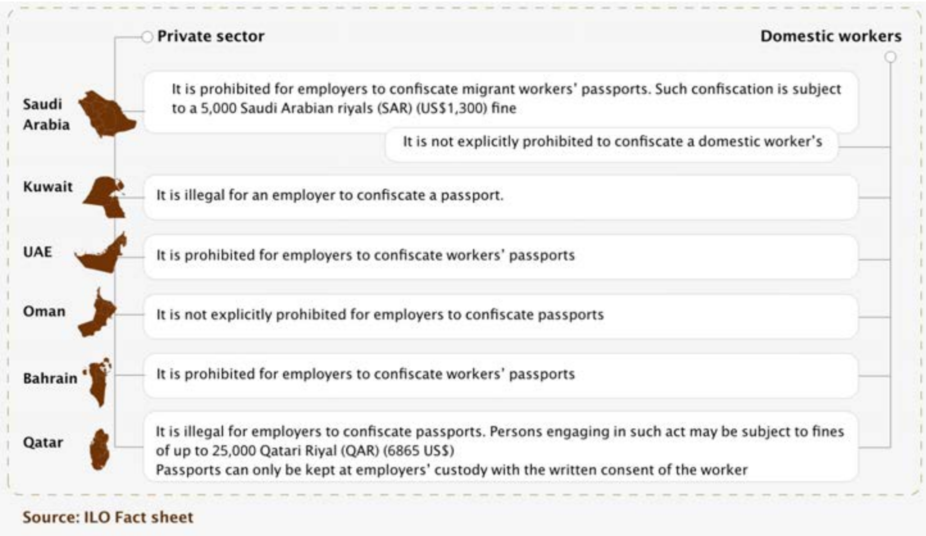
A number of practices arose from this new sponsorship system, such as the emergence of trading visas and the rise in exploitative agents. If the sponsor does not renew the worker's residency, the worker becomes an irregular worker, meaning they cannot legally demand the payment of wages. It is thus the responsibility of the country of origin to raise the awareness of its citizens on their financial rights, the laws that regulate their relationship with employers and the consequences of intentional and unintentional violations in the country of destination.

This happened to Siddiq when he wanted to file a lawsuit against the company for which he worked. His lawyer informed him that it had been more than a year since he received his salary and other entitlements.

Siddiq had believed the company's promises to make these payments and settle the dispute amicably through the Ministry of Labour, where he and his colleagues had lodged a complaint. Siddiq was unaware that the company was stalling until the limitation period ended and only realised when the company's representative stopped responding to calls.

The last salary Siddiq received, a figure of $1,396, was at the end of November 2018. He then worked for seven months without receiving his wage, and the company kept promising to pay later. Siddiq thus never lodged an official complaint until December 2019, which was too late.

Although all Gulf countries prohibit confiscating workers' passports (Table 2), this practice is commonplace, as no legal measures are taken against the perpetrator. The exception is Qatar, where a fine of up to $6,865 is imposed, and the passport is returned to the worker since the employers usually only receive a warning to return the passport. This is one aspect of the power imbalance between employer and employee as it facilitates the blackmailing of employees to force them to surrender rights if they want to travel or change jobs.



Passport confiscation (Table 2)

Female domestic workers suffer most from this practice that worsens their already fragile situation. This is aggravated because it is easy to lodge a complaint accusing the domestic worker of absconding any time she tries to leave the house to seek the help of the existing mechanisms.

A Kuwaiti lawyer, who requested anonymity, said that the sponsorship system is flawed not only for workers, adding that it "forces" employers into undesirable situations to sustain their businesses. There are always fears for both parties. This flaw can be reformed if the worker becomes their own sponsor: "I hope this happens in Kuwait and that they (set) official agreements that organise the relationship between the two parties. The sponsorship system must be changed in order to make it possible to amend laws and regulations that fall under it."

A scarecrow

The accusation of absconding is the scarecrow that intimidates migrant workers, particularly domestic workers. Kuwaiti lawyer May Al-Tararwah from the legal department at the Kuwaiti Social Work Society explained that lodging a complaint accusing a worker of absconding is not easy and requires evidence proving the worker did not attend work.

"What worries me most as a lawyer is delaying the original case brought by the employee. We thus communicate with employees at the relevant departments to expedite recording that the worker is the one who lodged a complaint before the employer lodges a complaint accusing the worker of absconding," Al-Tararwah added. The penalty for absconding is deportation, meaning the worker is blacklisted and prohibited from re-entering Kuwait and Gulf countries for five years.

In a group on a social media platform that includes 4,200 migrant workers (among them one female migrant researcher who assisted in this investigative report) in Saudi Arabia, the participants mainly spoke about delays and non-payment of wages and the consequences of absconding if a worker decides to leave their employment after months of not receiving a salary. Thirty female domestic workers were randomly selected from this group and asked if their salaries were delayed. Sixty-six per cent answered "yes", and all agreed that female domestic workers are the most frequently subjected to exploitation, considering their employment circumstances.

Justice mechanisms are not enough despite advancements

Complaint mechanisms and litigation procedures are similar in Gulf countries, and resorting to them begins with ministries and employment commissions. All Gulf countries have labour courts, but migrant workers face difficulties when resorting to them. The first obstacle is that contracts are drawn up in Arabic, and even if there is a translated copy, the Arabic version is the one adopted (Table 3). The follow-up and notifications are also sent in Arabic via text message.

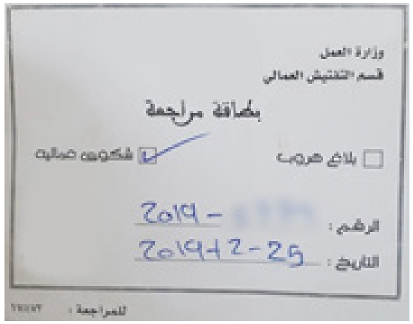
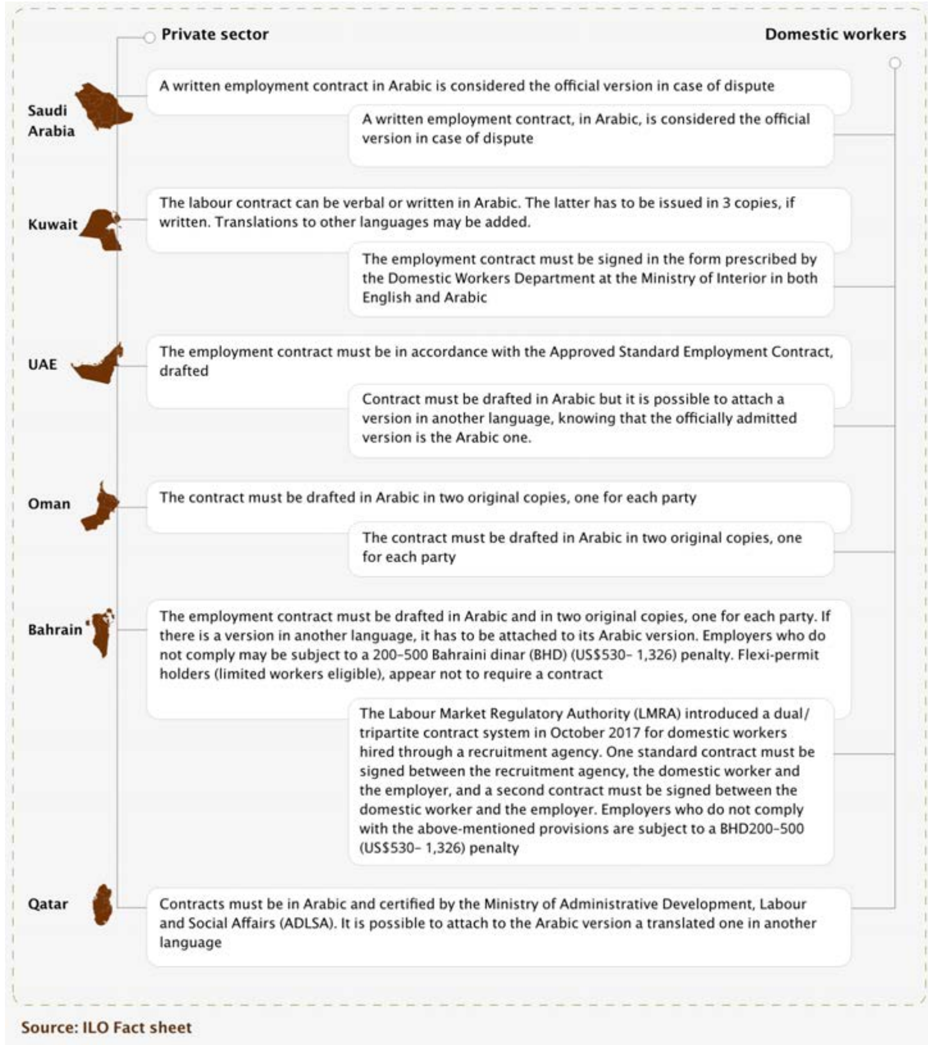


Image: Siddiq always carries a piece of paper in his pocket on which all financial dues owed to him, the name of the ministry, the department handling his case and a phone number is written for follow-up.

The biggest challenge workers face is the possibility of losing their jobs if they lodge a complaint or file a lawsuit against their employer. This is the main reason workers tolerate abuse before resorting to the law. The failure to reach a settlement on the case first handled by ministries, employment commissions and labour attachés at embassies means the case will be directly transferred to labour courts in countries like Saudi Arabia and the UAE. In Bahrain, it is possible for the worker to directly resort to the court or to appoint someone who represents them to file a lawsuit.



	Private sector	Domestic workers
Saudi Arabia	A written employment contract in Arabic is considered the official version in case of dispute	A written employment contract, in Arabic, is considered the official version in case of dispute
Kuwait	The labour contract can be verbal or written in Arabic. The latter has to be issued in 3 copies, if written. Translations to other languages may be added.	The employment contract must be signed in the form prescribed by the Domestic Workers Department at the Ministry of Interior in both English and Arabic
UAE	The employment contract must be in accordance with the Approved Standard Employment Contract, drafted	Contract must be drafted in Arabic but it is possible to attach a version in another language, knowing that the officially admitted version is the Arabic one.
Oman	The contract must be drafted in Arabic in two original copies, one for each party	The contract must be drafted in Arabic in two original copies, one for each party
Bahrain	The employment contract must be drafted in Arabic and in two original copies, one for each party. If there is a version in another language, it has to be attached to its Arabic version. Employers who do not comply may be subject to a 200-500 Bahraini dinar (BHD) (US$530- 1,326) penalty. Flexi-permit holders (limited workers eligible), appear not to require a contract	The Labour Market Regulatory Authority (LMRA) introduced a dual/ tripartite contract system in October 2017 for domestic workers hired through a recruitment agency. One standard contract must be signed between the recruitment agency, the domestic worker and the employer, and a second contract must be signed between the domestic worker and the employer. Employers who do not comply with the above-mentioned provisions are subject to a BHD200-500 (US$530- 1,326) penalty
Qatar	Contracts must be in Arabic and certified by the Ministry of Administrative Development, Labour and Social Affairs (ADLSA). It is possible to attach to the Arabic version a translated one in another language	

Source: ILO Fact sheet

Contracts language (Table 3)

During the litigation period, workers are responsible for their rent and living expenses, as well as the transportation fees, to attend court proceedings. Female domestic workers may bear the heaviest burden because leaving the employer's home to lodge a complaint puts them at risk of being accused of absconding - an accusation that makes it easy for abusive employers to avoid accountability. This is in addition to the difficulty finding shelter until the complaint or the lawsuit (if the female domestic worker decides to go to court) is settled, especially since shelters are primarily for victims of physical and sexual abuse.

Al-Tararwah explains the difficulties that female domestic workers face when deciding to leave their employer's home: "If she decides to leave to lodge a complaint, she does not know where the relevant department is - it's actually a small department in the area of Rumaithiya. She also has to pay the transportation costs. Many workers do not speak Arabic while the majority of employees (at the department) do not speak English even though the department does what it can to help." Al-Tararwah added that language is a huge barrier for workers in the private sector and female domestic workers.

Domestic workers face this problem in all Gulf countries except the UAE, where they can lodge complaints online via the Tadbeer app, which is available in Arabic, English and Hindi. In Qatar, there is also an app called Amerni, in Arabic and English.

An international labour expert, who requested to remain anonymous, conveyed: "Victims of wage theft believe that litigation procedures against the employer are costly and it's a process that takes a long time, especially that even if a verdict is issued in favour of the employee, it does not mean that the company will (pay) the wages since there are no strict implementation procedures once the case is closed."

A system that punishes but does not compensate

Wage protection systems in the Gulf were first put in place in the UAE in 2009. Despite the importance as a monitoring tool, they have fallen short of fully protecting migrant workers. Domestic workers, who make up a quarter of migrant workers, are not covered by wage protection systems.

The punishment imposed on employers violating migrant workers' rights is an administrative matter and not a criminal act, despite the magnitude of harm that wage theft victims and their families suffer. Employers found guilty of violating migrant workers' rights are only fined. The money goes to the state's treasury and does not extend to compensate the worker.

Gulf countries designed wage protection systems successively (Table 4) by obliging employers to deposit workers' wages, except for domestic workers, in banks and financial institutions and link the accounts to the Ministry of Labour to monitor the full and regular payment of salaries. However, these systems cannot monitor wage theft cases that result from not paying overtime. They also cannot determine if the employer withholds the employee's ATM card to later withdraw the money, issuing the worker a lesser amount than their actual salary.

	Private sector	Domestic workers
Saudi Arabia	Wages must be paid monthly through the Wage Protection System to an accredited bank	Wages must be paid by the end of the Islamic calendar month, unless contractually agreed otherwise. Employers should pay in cash, cheque or deposit the wage in a bank account upon workers' request. Domestic workers are not included in the Wage Protection System, but all employers must register for the Household Payroll Card, under which workers can withdraw their salary by automated teller machine (ATM)
Kuwait	Wages must be paid on a fortnightly or monthly basis through the Wage Protection System, to an accredited bank	Wages must be paid at the end of the month along with a receipt. The employer is charged a KWD 10 (US$ 33) penalty for each month of delayed payment
UAE	Employers must pay workers via the Wage Protection System at least once a month or at the dates	Employers have to pay domestic workers on a monthly basis no later than 10 days after the due date. A written receipt must be provided
Oman	Employers have to pay workers at least on a monthly basis through the Wage Protection System to an accredited bank, within seven days from the end of the period when wages become due. Employers who make late payments are subject to a penalty of OMR100 (US$260) per employee	Employers have to pay domestic workers on a monthly basis in OMR, within seven days of the end of each month. The domestic worker must be provided a signed receipt when payment is made
Bahrain	Workers on a monthly wage must be paid at least once a month Employers are only cleared with regard to payment once it is fully paid to the worker in accordance with the Wages Protection Scheme	
Qatar	Employers have to pay wages electronically in accordance with the Wage Protection System introduced in November 2015	It is possible for the employer to pay wages through the worker's bank account, or in cash by virtue of a receipt signed by the worker, which confirms his/her receipt of the full wage. Employers must pay wages at the end of the month and no later than the third day of the following month.

Source: ILO Fact sheet

Payment of wages (Table 4)

Researcher Ray Jureidini criticised wage protection systems in the Gulf, stating: "It may be argued that the wage protection procedures in the GCC states are not yet designed to protect wages. They operate to ensure that there is a record that workers' wages have been paid and on time. It may be that most employees are paid properly and on time. The system, however, leaves a number of doors open for unscrupulous employers to manipulate the system for their own benefit and to the detriment of their employees."

Anas Shaker, technical officer at the ILO's office in Kuwait, said that the best practices include improving the role of committees that combat human trafficking to monitor the indicators of forced labour that lead to human trafficking. He added that in cases of suspected forced labour, such cases must be transferred to the criminal investigation department to further examine forced labour and human trafficking issues.

Dr Nasrah Shah, who worked as a lecturer in demographics at Kuwait University for 30 years, voiced fears that the situation may worsen as it does not seem to be improving, noting that the longer a migrant worker spends as an irregular worker puts them at risk of not finding another job; hence their situation will worsen. She shared that migrant workers and the countries of origin are helpless because they need the migrant's remittances, especially amid rising unemployment rates everywhere. This signifies a decline in protection. Dr Shah added that the: "Transition to the knowledge-based economy will decrease the opportunities of low-skilled workers, whose numbers are currently high in the Gulf, in favour of medium-skilled and high-skilled workers. For instance, low-skilled workers will not find job opportunities in the construction sector."

Dr Shah also indicated that wage theft psychologically impacts victims and that 99.99 per cent of migrants travel to the Gulf to work. When this goal is not achieved, their psychological state is significantly impacted.

> *"My father is no longer the same man every time he visits us. He is absent-minded and feels aggrieved because he was deprived of his financial dues, and he feels disappointed that the Ministry of Labour was not strict with the company to force it to pay these dues."*
> *- Samareeha, Siddiq's daughter.*

Before leaving, Siddiq, with the help of an NGO, appointed a lawyer to file a lawsuit to demand his dues.

Seven months have passed since Siddiq left. At the time of publishing this report, the lawyer had no success obtaining dues through the courts.

Regional Coordinator of the MFA Gois emphasised: "The importance of setting up an international mechanism to demand and guarantee the payment of migrant workers' wages and other entitlements. Gulf countries will continue to need migrant workers, and the countries of origin will not be able to absorb the number of those looking for jobs. Therefore, this problem will go on. The solution, however, is to set strong legislative frameworks that can protect migrant workers' rights. There must be exceptional measures to handle the high number of wage theft that have even greatly increased due to the pandemic."

"Migrant workers, who are the most fragile, have been crushed during the crisis. What happened is certainly a huge crime that did not only affect migrant workers but also affected their families at home and their children. If we do not address this issue properly, we will be looked upon as the worst and the most selfish generation in history, and future generations will be witnesses to our bad management of this crisis," he concluded.

Note: All tables were designed based on ILO factsheets for all Gulf countries.

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