



## **Questionnaire on Deprivation of Liberty of Women and Girls**

**Submitted by: Americans for Democracy & Human Rights in Bahrain (ADHRB)**

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### *Method of Work*

The information presented in this Questionnaire is the product of open-source research and primary documentation by Americans for Democracy & Human Rights in Bahrain (ADHRB).

Bahrain does not publicly release comprehensive information on the prison system, which is run by the Ministry of Interior (MOI). Simultaneously the government has restricted access to the international community and independent domestic civil society organizations, imposing significant obstacles to determine the status of detention conditions. Prison administration is opaque, and authorities regularly work to smother personal communications and complaints from inmates. Bahrain has the largest detainee population in the Middle East as a percentage of the citizen population, but the government tightly controls visits and communications to Bahraini prisons.<sup>1</sup> Detainees or other individuals who report abuse in the prison system, such as torture, are consistently arrested in reprisal (including the case of a lawyer who tweeted about a client having visible evidence of torture on his body and was subsequently arrested).<sup>2</sup>

These constraints apply across Bahrain's prison system, extending to the women's pre-trial detention center and long-stay prison located at the Isa Town security complex (the facility formally comprises the Women's Detention Center, for pretrial detainees, and the Women's Reformation and Rehabilitation Center, for convicted prisoners; the complex will be hereafter referred to collectively as "Isa Town Prison"), as well as the connected immigration detention center, known as the Women's Removal Center.

As a result, ADHRB's awareness of women's prison conditions in Bahrain is limited by government censorship of information and the number of personal reports ADHRB has collected from victims. It is likely that the true scope of abuse is larger and more severe.

### **I. Justice System**

- 1. What are the main causes for women coming into conflict with the law and facing the associated deprivation of liberty, including pre-trial detention? Which are the groups of women who are most vulnerable and why? Please list the types of offenses for which women, or any particular group of women, are typically charged with, including administrative offenses.*

A main cause of women's incarceration is likely related to migrant labor legal issues in Bahrain, particularly the large, predominantly female domestic worker population that remains inadequately protected under Bahraini law.<sup>3</sup> However, the overwhelming majority of cases received by ADHRB are politically motivated detentions of Bahraini citizens. These have spiked since the government violently suppressed pro-democracy protests during the Arab Spring movement of 2011.

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<sup>1</sup> <http://bahrainrights.org/sites/default/files/Prison%20Report%20-%20FINAL%20II.pdf>

<sup>2</sup> *Id.*

<sup>3</sup> "ASSESSING BAHRAIN'S NEW STANDARD CONTRACT FOR DOMESTIC WORKERS," Migrant Rights, 15 March 2018, <https://www.migrant-rights.org/2018/03/assessing-bahrains-new-standard-contract-for-domestic-workers/>



Women comprise approximately 5 percent of the total incarcerated population in Bahrain and are housed in Isa Town Prison—the sole prison facility for women.<sup>4</sup> According to the most recent government reports, Isa Town held 115 prisoners and 65 pre-trial detainees as of 2015.<sup>5</sup> Combined, the detention center and prison facility are said to hold 290 inmates. According to the Bahrain Center for Human Rights (BCHR) in 2014, the majority of the imprisoned population is typically migrant workers.<sup>6</sup> Those that do not speak English or Arabic are not provided a translator or a translation of the charges against them, rendering migrant women particularly vulnerable to abuse.<sup>7</sup>

While Bahrain acceded to the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) in 2002, it maintains reservations to the treaty, holding that its provisions are only valid to the extent they conform to Sharia Law.<sup>8</sup> The judiciary remains predominantly male, and women continue to face legal discrimination in matters such as transference of citizenship.<sup>9</sup>

Bahrain's criminal legislation – particularly its penal code, anti-terror law, and cybercrime law, among others – are excessively broad and encompass peaceful acts of dissent, allowing authorities to imprison men and women for exercising fundamental human rights like free expression. While men are most commonly detained under these laws, there are certain provisions that are particularly used to target women. Bahrain's wide interpretation of "complicity," for example, allows authorities to detain women for living with, housing, or being otherwise affiliated with male relatives suspected of committing terror offenses.<sup>10</sup> Because Bahrain's anti-terror legislation outlaws forms of peaceful assembly and expression that "harm national unity," the authorities have legal grounds to collectively punish women and families for the alleged dissident or "terror" activity of loved ones.<sup>11</sup>

2. *Please indicate if there are cases of women facing detention in relation to civil law suits and identifying the particular groups of women mostly affected.*

In the criminal system, women face the same restrictions on their fundamental human rights to free expression, assembly, movement, and belief as men.<sup>12</sup> ADHRB represents numerous women subjected to arbitrary detention, torture, or travel bans by the authorities in reprisal for comments critical of the

<sup>4</sup> *Id.* BAHRAIN CENTER FOR HUMAN RIGHTS, LOCKED INSIDE A NIGHTMARE: VOICES FROM BAHRAINI PRISONS (June 09, 2014) <http://bahrainrights.org/sites/default/files/Prison%20Reports%20FINAL%202011.pdf>

<sup>5</sup> *Unannounced Visit to the Women's Detention Center (WDC)*, Prisoners and Detainees Rights Commission, MOI, Kingdom of Bahrain, January 2015, [http://www.pdrc.bh/mcms-store/pdf/ff5eab3f-b462-4426-80c1-fed95034150e\\_WDC-English%20edited.pdf](http://www.pdrc.bh/mcms-store/pdf/ff5eab3f-b462-4426-80c1-fed95034150e_WDC-English%20edited.pdf); and *Unannounced visit to the Women's Reformation and Rehabilitation Center (WRRRC)*, Prisoners and Detainees Rights Commission, MOI, Kingdom of Bahrain, January 2015, [http://www.pdrc.bh/mcms-store/pdf/aa3910d7-7470-480d-9c4e-d8fb30f8a6e0\\_Reformation%20and%20Rehabilitation%20Center%20\(WRRRC\).pdf](http://www.pdrc.bh/mcms-store/pdf/aa3910d7-7470-480d-9c4e-d8fb30f8a6e0_Reformation%20and%20Rehabilitation%20Center%20(WRRRC).pdf)

<sup>6</sup> BAHRAIN CENTER FOR HUMAN RIGHTS, LOCKED INSIDE A NIGHTMARE: VOICES FROM BAHRAINI PRISONS (June 09, 2014) <http://bahrainrights.org/sites/default/files/Prison%20Reports%20FINAL%202011.pdf>

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<sup>7</sup> *Id.*

<sup>8</sup> United Nations Convention on the Elimination of All Forms of Discrimination against Women, Dec. 18, 1979, 1249 U.N.T.S. 13 [hereinafter CEDAW].

<sup>9</sup> *The Legal Status of Women in Bahrain*, Bahrain Center for Human Rights, 2017, <http://bahrainrights.org/sites/default/files/NEW%20BCHR%20Legal%20Status%20of%20Women%20in%20Bahrain.pdf>

<sup>10</sup> *2018 International Women's Day: BCHR Asks Bahrain to Stop Using Counter-Terrorism Laws Against Women*, BAHRAIN CENTER FOR HUMAN RIGHTS (Mar. 8, 2018), <http://www.bahrainrights.org/en/node/8973>

<sup>11</sup> *Id.*

<sup>12</sup> United States Department of State, *Bahrain 2017 Human Rights Report*, 2017, available at <https://www.state.gov/documents/organization/277481.pdf> [accessed 25 September 2018]. <https://www.state.gov/documents/organization/277481.pdf>



government or raising human rights abuses, including online. Reports from 2011 onward describe several instances of women dying in political demonstrations from the inhalation of toxic gasses aimed at demonstrators.<sup>13</sup> These same reports also include accounts of women being dismissed from their places of employment and academic enrollment in retaliation for involvement or suspected involvement with political protests of the Sunni government.<sup>14</sup>

In personal law matters like marital conflict and child custody, which are governed by separate Sharia courts, women commonly report facing bias from male judges, including open disparagement and dismissal of claims without hearing arguments.<sup>15</sup> For example, cases for divorce brought by women are often dismissed, even in situations of abandonment, unless the women can prove their husbands physically abused them.<sup>16</sup> When a wife is abandoned by her husband but cannot file for divorce, she is precluded from claiming any welfare benefits though she may still be legally responsible for taking care of any children.<sup>17</sup> Women may receive social welfare benefits only through their husbands.<sup>18</sup> If she attempts to file for divorce based on abandonment, she risks being “blacklisted” in her social sphere and further disadvantaged from receiving aid from friends or family.<sup>19</sup> Female testimony is also devalued in the Sharia courts.

Concerning reproductive rights, it is still valid law in Bahrain that women must obtain spousal consent to undergo sterilization.<sup>20</sup> Consent from the husband must also be obtained for either a cesarean section (except in cases of medical emergency) or an abortion (permitted only in the case of the health of the mother).<sup>21</sup> It is unclear whether the violation of this legal requirement for spousal consent would result in detention, a fine, or some other civil remedy. A 2007 study reported that general practice among MENA countries that practice Islamic law is that someone performing an illegal abortion is compelled to pay the couple whose fetus was aborted, with the fine based on the stage of fetal development.<sup>22</sup> In addition, where a woman seeks an unsanctioned abortion, laws punish the woman and any that help her but do not punish the man whose fetus it is unless he tries to perform the abortion.<sup>23</sup>

According to the Ministry of Justice, Sharia courts only dealt with an average of 20 cases pertaining to women per month as of 2009.<sup>24</sup>

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<sup>13</sup> “Bahraini NGOs shadow Report to CEDAW 2014,” Bahrain Women Union, 7 (2014).

<sup>14</sup> *Id.*

<sup>15</sup> Suad Hamada, *Religion: New Family Law For Sunni Women in Bahrain not for Shiites*, Inter Press Service News Agency (June 5 2009), <http://www.ipsnews.net/2009/06/religion-new-family-law-for-sunni-women-in-bahrain-not-for-shiites/>

<sup>16</sup> *Id.*

<sup>17</sup> <http://www.ipsnews.net/2009/06/religion-new-family-law-for-sunni-women-in-bahrain-not-for-shiites/>

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> United States Department of State, *2016 Country Reports on Human Rights Practices-Bahrain*, 3 March 2017, available at <http://www.refworld.org/docid/58ec8a7213.html> [accessed 25 September 2018]

<sup>21</sup> WOMEN’S RIGHTS IN THE MIDDLE EAST AND NORTH AFRICA: PROGRESS AMID RESISTANCE, 22 (Sanja Kelly and Julia Breslin ed., New York, NY: Freedom House; Lanham, MD: Rowman & Littlefield, 2010), available at [http://www.freedomhouse.org.https://freedomhouse.org/sites/default/files/inline\\_images/Bahrain.pdf](http://www.freedomhouse.org.https://freedomhouse.org/sites/default/files/inline_images/Bahrain.pdf) (page 22)

<sup>22</sup> Leila Hessini (2007) Abortion and Islam: Policies and Practice in the Middle East and North Africa, *Reproductive Health Matters*, 15:29, 75-84, DOI: 10.1016/ S0968-8080(06)29279-6

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*



3. *What are the main challenges for women's access to justice, including, for example, the availability and quality of legal representation, the ability to pay for bail, and the existence of gender stereotyping and bias in judicial proceedings?*

A major challenge to women's access to justice is the structure of the laws. There are no Bahraini laws that specifically address gender-based violence.<sup>25</sup> Female victims of domestic violence rarely seek remedy against their abusers and, if redress is sought, the legal system is not empowered to hold perpetrators accountable in a way that deters further criminal behavior.<sup>26</sup> A probable sentence against a convicted domestic abuser is less than a week in jail and a fine, along with a signed pledge.<sup>27</sup>

Further, spousal rape has not been criminalized and Article 353 of the Penal Code allows a rapist to marry his victim to escape punishment, even though the man is still permitted to initiate unilateral divorce after the marriage.<sup>28</sup> Article 353, Chapter 3, § "Debauchery and Prostitution" of Bahraini Penal law mandates "no punishment for committing any crime of indecent assault or rape if the perpetrator marries the victim. Any verdict that was issued before marriage should be annulled together with its criminal effect."<sup>29</sup> Conversely, the penal code continues to criminalize *zina* (sexual relations outside of marriage) and prostitution with higher rates of enforcement and harsher punishments for women than for men.<sup>30</sup>

Even if the crime or civil infraction committed against the woman is criminalized behavior, a woman's testimony is valued at half that of a man's testimony in Sharia courts (they are weighed equally in other courts).<sup>31</sup> However, women are reportedly less likely than men to be sentenced to prison, since this punishment is seen as more suitable for men.<sup>32</sup>

4. *What have been the main drivers for the increasing or decreasing of the female prison population in your country in the past decade? To what extent are non-custodial measures used, in accordance with the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules)?*

The Bangkok Rules state that, "women prisoners are one of the vulnerable groups that have specific needs and requirements," and that, "many existing prison facilities worldwide were designed primarily for male prisoners, whereas the number of female prisoners has significantly increased over the years."<sup>33</sup> This is largely true of Bahrain, where there is only one standard detention complex for women, Isa Town Prison, which is estimated to be overcrowded and unresponsive to the specific needs of women.<sup>34</sup>

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<sup>25</sup> WOMEN'S RIGHTS IN THE MIDDLE EAST AND NORTH AFRICA: PROGRESS AMID RESISTANCE, 22 (Sanja Kelly and Julia Breslin ed., New York, NY: Freedom House; Lanham, MD: Rowman & Littlefield, 2010), available at <http://www.freedomhouse.org>. [https://freedomhouse.org/sites/default/files/inline\\_images/Bahrain.pdf](https://freedomhouse.org/sites/default/files/inline_images/Bahrain.pdf) *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> "Bahraini NGOs shadow Report to CEDAW 2014," Bahrain Women Union, 7 (2014).

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> The Bangkok Rules, 16 March 2011, A/RES/65/229, United Nations Office on Drugs and Crime [Accessed 25 September 2018].

<sup>34</sup> World Prison Brief (WPB), Bahrain – Female Prison Population: Trend, available at <http://prisonstudies.org/country/bahrain>.



According to Bahrain's semi-official National Institution for Human Rights (NIHR), Isa Town Prison currently holds 205 inmates. This is 22 percent over the prison's most recently reported capacity of 168 in 2015,<sup>35</sup> with an average of at least fifteen women assigned to each ten-person cell.<sup>36</sup> The systemic overcrowding and reportedly poor sanitary conditions contribute to high transmission rates of infectious diseases, including Hepatitis A and B.<sup>37</sup> These poor sanitation problems, particularly in the bathrooms and showers, leads to feminine hygiene issues, reflected in the high rates of urinary tract infections seen in Isa Town Prison.<sup>38</sup> In addition, long-term overcrowding has led to approximately five women from each cell being forced to sleep on the floor, a floor reportedly infested with cockroaches.<sup>39</sup> While another building was added to the prison by 2014, the guards in this building reportedly exact harsher treatment on the inmates, including physical abuse, daily verbal harassment, and threats of rape.<sup>40</sup>

Many women held in Isa Town Prison report being tortured, sexually assaulted, and deprived of adequate healthcare by the authorities.<sup>41</sup> This mistreatment is said to be orchestrated by the prison's commander, Major Maryam AlBardoli of the MOI, and she has singled out specific political prisoners for reprisal.<sup>42</sup> Guards have also punished women for celebrating religious occasions and have reportedly harassed and separated Sunni and Shia inmates that attempt to pray together. Previously imprisoned human rights defender Zainab al-Khawaja observed that guards subjected Shia women to hate speech during her time at Isa Town; in one case, a guard described a Bahraini Shia prisoner as one of the "disgusting terrorist Iranian people."<sup>43</sup> That prisoner had been arrested after she spoke back to a squad of riot police that called her a "dirty Shia whore."<sup>44</sup> Other previously imprisoned human rights defenders, including Zainab al-Khawaja's sister Maryam, report that migrant inmates face particularly commonplace and casual violence from the prison administration at Isa Town.<sup>45</sup>

Within the Isa Town complex, the MOI also runs the Women's Removal Center, which houses female immigration detainees.<sup>46</sup> The Global Detention Project (GDP) states that the official MOI Ombudsman, in its 2014-2015 report, found that one woman committed suicide at the "Women's Immigration Removal Centre" after hanging herself in the bathroom.<sup>47</sup> In 2016, Bahrain's Prisoners and Detainees

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<sup>35</sup> *Unannounced visit to the Women's Reformation and Rehabilitation Center (WRRRC)*, Prisoners and Detainees Rights Commission, MOI, Kingdom of Bahrain, January 2015, [http://www.pdrc.bh/mcmsg-store/pdf/aa3910d7-7470-480d-9c4e-d8fb30f8a6e0\\_Reformation%20and%20Rehabilitation%20Center%20\(WRRRC\).pdf](http://www.pdrc.bh/mcmsg-store/pdf/aa3910d7-7470-480d-9c4e-d8fb30f8a6e0_Reformation%20and%20Rehabilitation%20Center%20(WRRRC).pdf)

<sup>36</sup> World Prison Brief (WPB), Bahrain – Female Prison Population: Trend, available at <http://prisonstudies.org/country/bahrain>.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> This is based upon multiple cases of high-profile political prisoners which ADHRB represent. For further information on their cases, see Bahrain Institute for Rights and Democracy, *BAHRAIN: Further Retaliation Against Female Political Prisoner Following UN Secretary General's Report*, BIRD (19 Sept. 2018), <http://birdbh.org/2018/09/bahrain-further-retaliation-against-female-political-prisoner-following-un-secretary-generals-report/> [Accessed 1 October 2018].

<sup>43</sup> *Locked Inside a Nightmare: Voices from Bahraini Prisons*, BCHR and BYSHR, 9 June 2014, <http://www.bahrainrights.org/sites/default/files/Prison%20Report%20-%20FINAL%20II.pdf>

<sup>44</sup> *Ibid.*

<sup>45</sup> "What it was like inside Bahrain's Isa Town prison - Maryam al-Khawaja," Gulf Center for Human Rights, 2014, <https://www.youtube.com/watch?v=eKZ2AYnEGRE>

<sup>46</sup> Bahrain Immigration Detention Profile, Global Detention Project (Jan., Updated January 2016), <https://www.globaldetentionproject.org>, available from:

<https://www.globaldetentionproject.org/countries/middle-east/bahrain>

<sup>47</sup> *Id.*





Rights Commission (PDRC), a subsidiary organization of the MOI Ombudsman's Office, found that the Women's Removal Center is not equipped with surveillance cameras,<sup>48</sup> despite government claims to have installed cameras in all detention centers by 2014, in accordance with a key reform recommendation made by the Bahrain Independent Commission of Inquiry (BICI) in the aftermath of the 2011 crackdown.<sup>49</sup> Officers at the facility are not trained in the legal use of force or in the management of risk of self-harm. According to the PDRC, the center is unhygienic and severely overcrowded, at almost double its capacity at the time of reporting, with some detainees sleeping on the floor.<sup>50</sup> The PDRC and the Ombudsman lack sufficient independence from the government, and it is likely their reports actually understate the problems at facilities like the Women's Removal Center; according to the GDP, there is a "significant gap" between the PDRC's reporting and the reality of abuses experienced by prisoners.<sup>51</sup> To ADHRB's knowledge, conditions in the Women's Removal Centre have not been reformed since this incident. The GDP also notes that those arrested on immigration-related grounds are not always separated from the rest of the prison population.<sup>52</sup>

The United States (US) Department of State issued similar concerns over the Women's Removal Center in 2018, noting reports of unsanitary conditions. Conversely, the same State Department report did find there was improvement in access to healthcare.<sup>53</sup> To ADHRB's knowledge, conditions at the Women's Removal Center have yet to significantly improve.

It is unclear exactly how much the female prison population has varied annually in recent years, but government documents and statements indicate that Bahrain has seen an overall net increase in women prisoners: from as low as 57 in 2009,<sup>54</sup> to 115 in 2015,<sup>55</sup> to 205 in 2018.<sup>56</sup> In addition to population growth and increasingly draconian police practices in general, ADHRB hypothesizes that the proliferation of laws criminalizing a greater spectrum of nonviolent behavior – amid a country-wide campaign against dissent since 2011 – has likely resulted in more women being incarcerated (See *supra* discussion of "complicity" and expanded counter-terrorism legislation).

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<sup>48</sup> *Report 12 - Unannounced visit to the Women's Removal Center (WRC)*, PDRC, MOI, Kingdom of Bahrain, 2017, [http://www.pdrc.bh/mcms-store/pdf/6c5fdde8-3403-420e-a561-3822e6d0dbb4\\_Women%E2%80%99s%20Removal%20Center-English.pdf](http://www.pdrc.bh/mcms-store/pdf/6c5fdde8-3403-420e-a561-3822e6d0dbb4_Women%E2%80%99s%20Removal%20Center-English.pdf)

<sup>49</sup> See: Andrew Hammond, "Bahrain police install cameras to curb abuse," Reuters, 22 March 2012, <https://www.reuters.com/article/uk-bahrain-police-rights/bahrain-police-install-cameras-to-curb-abuse-idUKBRE82L0NE20120322>; and *Moving Beyond 2011*, BICI Follow-Up Unit, Kingdom of Bahrain, 2014, <http://www.biciunit.bh/reports/BICI%20Implementation%20report%20ENGLISH.pdf>

<sup>50</sup> *Report 12 - Unannounced visit to the Women's Removal Center (WRC)*, PDRC, MOI, Kingdom of Bahrain, 2017, [http://www.pdrc.bh/mcms-store/pdf/6c5fdde8-3403-420e-a561-3822e6d0dbb4\\_Women%E2%80%99s%20Removal%20Center-English.pdf](http://www.pdrc.bh/mcms-store/pdf/6c5fdde8-3403-420e-a561-3822e6d0dbb4_Women%E2%80%99s%20Removal%20Center-English.pdf)

<sup>51</sup> Global Detention Project, <https://www.globaldetentionproject.org/countries/middle-east/bahrain>

<sup>52</sup> *Id.*

<sup>53</sup> United States Department of State, *Country Reports on Human Rights Practices*, 20 April 2018 available from: <https://state.gov/j/drl/rls/hrrpt/2017/nea/27737.htm>

<sup>54</sup> "Female prison population: trend," World Prison Brief, 2018, <http://www.prisonstudies.org/country/bahrain>

<sup>55</sup> *Unannounced visit to the Women's Reformation and Rehabilitation Center (WRRRC)*, Prisoners and Detainees Rights Commission, MOI, Kingdom of Bahrain, January 2015, [http://www.pdrc.bh/mcms-store/pdf/aa3910d7-7470-480d-9c4e-d8fb30f8a6e0\\_Reformation%20and%20Rehabilitation%20Center%20\(WRRRC\).pdf](http://www.pdrc.bh/mcms-store/pdf/aa3910d7-7470-480d-9c4e-d8fb30f8a6e0_Reformation%20and%20Rehabilitation%20Center%20(WRRRC).pdf)

<sup>56</sup> "NIHR's delegation visits Women's Reformation Centre in Isa Town," Bahrain News Agency, Kingdom of Bahrain, 1 October 2018, <http://www.bna.bh/en/NIHRsdelegationvisitsWomensReformationCentreinIsaTown.aspx?cms=q8FmFJgiscL2fwlzON1%2bDidUh906oOfkl1CxEx01L08%3d>



## II. Other Institutions

1. *What other institutions outside the justice system exist in your country wherein women and girls are institutionalized on grounds such as care, correction, protection and prevention against potential harms, etc.? Please list the groups of women and girls who are most concerned in each situation.*

The Kafala system of migrant labor sponsorship, which is primarily enforced through the judiciary, the MOI, and the Labor Market Regulatory Authority, can result in the imprisonment of migrant women fleeing abusive labor arrangements as well as the functional incarceration of female domestic workers within the houses of their employers. Under the Kafala system, the Kafeel (sponsor of employment) has control over the migrant worker through the confiscation of her passport (illegal although largely unenforced) and through the use of immigration authorities.<sup>57</sup> These authorities may arrest the worker if she attempts to leave before the contract has expired.<sup>58</sup>

Although Bahrain has taken steps to formally dismantle the Kafala system, including the establishment of a flexible work permit allowing some workers to self-sponsor, it is unclear whether the permit system applies to migrant domestic and service workers, a group that is largely female.<sup>59</sup> It is also unclear if the flexible permits are effectively mitigating the most exploitative aspects of the Kafala system in practice, as wage withholding and passport confiscation are still common for migrant workers. Likewise, the government has not implemented labor laws that fully cover domestic workers. Because regulation of domestic work is seen as a household matter, domestic workers are often confined to the homes of the employers, where they may be mistreated with impunity, including sexual assault.<sup>60</sup> Impunity for labor violations remains a significant problem, and migrant workers continue to face difficulty achieving justice in labor courts. Some have reported filing court cases only to have a continuous pending trial due to the employer's refusal to attend.<sup>61</sup>

2. *Please explain the decision-making process for the institutionalization of women and girls in each situation, including the role of women and girls themselves in the decision or institutionalization. Please highlight any good practices in terms of enabling women to exercise agency within institutional systems, with due respect to their rights.*

The Kafala system allows Bahrain to maintain a steady supply of cheap labor for jobs the domestic population does not want to fill.<sup>62</sup> It inherently imbues sponsors with excessive authority over their employees, making them dependent on their employer for everything from housing to subsistence. Female domestic workers have limited control over their situation once they are employed within the

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<sup>57</sup> Bahrain Center For Human Rights, Bahrain Youth Society for Human Rights, Caram-Asia, *The Situation of Women Domestic Migrant Workers in Bahrain*, REPORT SUBMITTED TO THE 42ND SESSION OF THE CEDAW COMMITTEE (October 2008), <https://www.fidh.org/IMG/pdf/bchrbahrain42.pdf>

<sup>58</sup> *Id.*

<sup>59</sup> *Bahrain Moves to Reform Kafala, Exclusions Remain*, Americans For Democracy and Human Rights in Bahrain (Oct. 28, 2008), <https://www.adhrb.org/2016/10/bahrainkafala/>

<sup>60</sup> *Id.*

<sup>61</sup> "US State Department Neglects Persistent Rights Abuses in New TIP Designation for Bahrain," ADHRB, 11 July 2018, <https://www.adhrb.org/2018/07/us-state-department-neglects-persistent-rights-abuses-in-new-tip-designation-for-bahrain/>

<sup>62</sup> "Open Doors but Different Laws," *The Economist* 18 September 2016 [Accessed 27 September 2018] available from: <https://www.economist.com/middle-east-and-africa/2016/09/08/open-doors-but-different-laws>



Kafala system, and are particularly vulnerable to abuse.<sup>63</sup> It is illegal for migrants to flee abusive sponsors and authorities regularly arrest them: in just 2017, the Capital Police Directorate alone addressed 2,334 cases of migrant worker “escape from the sponsor” and 1,613 cases of migrant “illegal stay,” or remaining in-country without proper documentation. These figures – from only one of the kingdom’s four governorate police directorates – contrast with just 31 country-wide investigations into human trafficking that same year.<sup>64</sup>

As noted above, Bahrain has made nominal efforts to create alternative sponsorship systems that would grant workers more rights. However, it is not yet clear if this extends to migrant domestic and service workers, a primarily female demographic, and it has yet to address broader problems of abuse, criminalization, and access to justice.

### III. Forced Confinement in Private Contexts

1. *What forms of forced confinement of women and girls exist in a private or social context sanctioned by family, community or group of individuals such as abduction, servitude, guardianship and “honor” practices, trafficking, home detention, “witch camps”, widowhood rites, etc.?*

According to the 2017 US State Department Report on Human Rights Practices in Bahrain, “honor” killings are punishable, but there is a provision that allows for lighter sentencing for killing a spouse caught in the immediate act of adultery, whether male or female.<sup>65</sup>

The State Department reported in 2018 that Bahrain had made important progress in the area of eliminating human trafficking, earning it a higher ranking by the US Government,<sup>66</sup> however ADHRB is deeply concerned by the motivation and methodology underlying this decision: broader labor violations remain widespread, employers and especially government officials remain largely immune from serious sanction, and the overall clampdown on human rights and independent civil society undermines wider efforts to monitor abuses.<sup>67</sup>

Despite the progress reported by the US, Bahrain remains a “destination country” for the victims of human trafficking and forced labor network.<sup>68</sup> Many are voluntarily traveling from countries undergoing upheaval and economic displacement only to find themselves in conditions of forced servitude or sexual exploitation, a situation aggravated by the ongoing tradition of using the Kafala system for employment of migrant workers (*See Supra*).<sup>69</sup> Countries of origin are primarily Bangladesh, India, Pakistan, Nepal, Egypt, Jordan, Yemen, Thailand, Syria, and Kenya, among others.<sup>70</sup>

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<sup>63</sup> <https://www.fidh.org/IMG/pdf/bchrbahrain42.pdf>

<sup>64</sup> See: “Strengthening Relations: Police Directorates take Community into Confidence,” Al-Amn, December 2017, <http://www.policemc.gov.bh/en/al-amn-magazine/al-amn-magazine/77817>; and 2018 Trafficking in Persons Report – Country Narratives, DOS, US Government, 2018, <https://www.state.gov/documents/organization/282800.pdf>; and “US State Department Neglects Persistent Rights Abuses in New TIP Designation for Bahrain,” ADHRB, 11 July 2018, <https://www.adhrb.org/2018/07/us-state-department-neglects-persistent-rightsabuses-in-new-tip-designation-for-bahrain/>

<sup>65</sup> United States Department of State, Bahrain 2017 Human Rights Report [Accessed 27 September 2018].

<sup>66</sup> United States Department of State, 2018 Trafficking in Persons Report, Office to Monitor and Combat Trafficking in Persons [Accessed 27 September 2018].

<sup>67</sup> See: “US State Department Neglects Persistent Rights Abuses in New TIP Designation for Bahrain,” ADHRB, 11 July 2018, <https://www.adhrb.org/2018/07/us-state-department-neglects-persistent-rightsabuses-in-new-tip-designation-for-bahrain/>

<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*





In addition, Bahrain has continuously failed to adopt labor laws that apply to domestic workers, despite repeated recommendations through the United Nations Universal Periodic Review (UPR) process. Further, the flexible work permits that are intended to reform Kafala do not actually represent a full abolition of the sponsorship system, contradicting past government claims to the contrary. Wage withholding and passport confiscation remain common for migrant workers, for example. Further, the government has still failed to fully meet its obligations under repeated International Labor Organization (ILO) agreements to reinstate and compensate workers wrongfully dismissed during the crackdown on the 2011 pro-democracy movement.

As noted above, female domestic workers are particularly vulnerable to forced servitude and private home detention, and they may face formal arrest and imprisonment for attempting to flee abusive employment conditions.

Bahrain does not maintain a male guardianship system like neighboring Saudi Arabia, but local media reported that the government would institute a new guardianship policy for Bahraini women under the age of 45 seeking to travel to Saudi Arabia for the Muslim hajj to Mecca.<sup>71</sup> Bahraini authorities attributed the policy to a Saudi regulation with which they seek to adhere.<sup>72</sup> Reports indicated that the policy would be enacted by 2017, but it is as yet unclear if it has been fully enforced.

Additionally, the government routinely issues arbitrary travel bans against civil society actors attempting to leave the country to engage with international human rights mechanisms. While these are not explicitly based on gender, many women human rights defenders have been prevented from traveling under these policies, including Nedal al-Salman, Ebtisam al-Saegh, Zeinab al-Khamis, and Fatima al-Halwachi. Some activists, like al-Saegh, have been explicitly detained and tortured by security authorities in reprisal for past travel to the Human Rights Council.<sup>73</sup>

To ADHRB's knowledge, "witch camps" and widowhood rites are not a systemic problem in Bahrain.

## 2. *Please identify the groups of women and girls who are most affected by these situations.*

The groups classified as most vulnerable by the most recent State Department report on the human trafficking situation in Bahrain are: domestic workers, migrant workers, and women in prostitution.<sup>74</sup> Migrant domestic workers are at the highest risk of forced home detention in private contexts. All Bahraini women under the age of 45 are at risk of the hajj guardianship policy, temporarily restricting their right to free movement. Human rights defenders, activists, and journalists are particularly targeted for arbitrary travel bans and other constraints on freedom of movement in retaliation for their work.

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<sup>71</sup> "Bahrain hajj policy is a major step backwards for women's rights," ADHRB, 19 August 2016, <https://www.adhrb.org/2016/08/bahrain-takes-major-step-backwards-womens-rights/>

<sup>72</sup> "Haj rule banning women under 45 from solo travel to hit pilgrim numbers," Arabian Business, 10 August 2016, <https://www.arabianbusiness.com/haj-rule-banning-women-under-45-from-solo-travel-hit-pilgrim-numbers-641849.html#.V7RmnvkrKM8>

<sup>73</sup> *Crushing Civil Society*, ADHRB, June 2017, [https://www.adhrb.org/wp-content/uploads/2017/06/2017.6.5\\_crushing-civil-society\\_web.pdf](https://www.adhrb.org/wp-content/uploads/2017/06/2017.6.5_crushing-civil-society_web.pdf)

<sup>74</sup> United States Department of State, 2018 Trafficking in Persons Report, Office to Monitor and Combat Trafficking in Persons [Accessed 27 September 2018].



3. *What is the role of law and policy (including customary law and authorities) in your country concerning these types of confinement?*

The MOI is Bahrain's primary law enforcement authority. Its subdivisions run the standard and immigration detention centers, enforce Kafala sponsorship regulations, investigate trafficking cases, and also spearhead the security clampdown on dissent. Cases are referred to the Public Prosecution and the judiciary for trial. The Public Prosecution may also receive referrals from the Labor Market Regulatory Agency (LMRA) for cases of forced labor, particularly those cases involving recruitment agencies. According to the US State Department's recent report, the LMRA's Expatriate Protection Unit (EPU) reportedly identified 516 trafficking victims through the EPU hotline and provided them access to shelter, food, medical care, and other services including psychological counseling. This hotline was part of Bahrain's new initiative of May 2017, which included the creation of the National Committee to Combat Trafficking in Persons (NCCTIP) and a government-wide National Referral Mechanism (NRM) to increase both quality and quantity of reporting mechanisms and procedures for protecting identified victims of human trafficking and forced labor.<sup>75</sup>

Simultaneously, however, the same MOI agencies that are tasked with addressing trafficking and related violations – the General Directorate of Criminal Investigations and Forensic Science (GDCIFS) and the Nationality, Passports, and Residency Affairs (NPRA) division – are deeply implicated in systematic human rights violations and police brutality. The Criminal Investigations Directorate (CID), a subdivision of the GDCIFS, is the lead perpetrator of arbitrary detention, torture, enforced disappearance, and forced confessions in Bahrain, with ADHRB alone documenting hundreds of cases of severe human rights violations implicating CID personnel. While the vast majority of the cases recorded by ADHRB are politically motivated, e.g. aimed at suppressing dissent, CID and local governorate police are likewise at the forefront of arbitrarily detaining migrant workers for violations of Kafala, such as escaping abusive working conditions.

The NPRA, meanwhile, is the same agency implicated in imposing arbitrary travel bans on independent civil society actors, as well as blocking access to foreign journalists, human rights experts, and other individuals seeking to enter Bahrain to monitor violations. It also plays an enforcement role in Bahrain's practice of arbitrary revoking citizenship from government critics and members of the marginalized Shia Muslim community, as well as directly managing the country's immigration detention centers, which hold female detainees in overcrowded and inhumane conditions (see above).

The MOI is also responsible for violations of detention standards for women incarcerated in the standard prison system, which is run by its General Directorate of Reformation and Rehabilitation (GDRR). At the same time, watchdog agencies like the Ombudsman and PDRC remain part of the MOI and lack independence from the senior command and the government: at best, they are largely ineffective at securing reform, while at worst they actively obscure abuses or commit violations themselves.

In sum, the main authorities meant to address issues of informal or formal abusive confinement are one and the same with the authorities perpetrating the vast majority of violations. Impunity for crimes committed by the MOI and other security personnel is particularly rampant, and many officers directly implicated in illegal behavior are rewarded with promotions.<sup>76</sup>

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<sup>75</sup> *Id.*

<sup>76</sup> See ADHRB's forthcoming report: *Anatomy of a Police State: Systematic Repression, Brutality, and Bahrain's Ministry of Interior*, ADHRB, 2018.



## IV. Migration and Crisis Situations

1. *What are the specific risks of detention and confinement encountered by women on the move in the context of asylum seeking, internal displacement and migratory process?*

According to the most recent report from the UN High Commissioner for Refugees (UNHCR) in September of 2016 for Bahrain's Universal Periodic Review (UPR), UNHCR registered 271 refugees and 79 asylum seekers in Bahrain, of which 161 were women, 189 were men, and 57 were children.<sup>77</sup> The majority were Iraqis but were also, *inter alia*, Yemenis, Syrians, and Somalis.<sup>78</sup>

Bahraini women are particularly disadvantaged in that, unlike men, they cannot pass their nationality to their children at birth.<sup>79</sup> The UNHCR UPR recommendation no 115.95 was that Bahrain should adopt legislation which would allow Bahraini mothers and non-Bahraini fathers to confer Bahraini nationality to their children.<sup>80</sup> The increased number of individuals deprived of their nationality in Bahrain (237 individuals denaturalized thus far in 2018, 743 total since 2012) could also lead to an increase in children born stateless. These children will experience the same discrimination and targeting as their fathers, and will never be able to leave the country without obtaining identification. While children born prior to the denaturalization are still citizens of Bahrain,<sup>81</sup> individuals have reported that it can be extremely difficult to obtain a birth certificate or passport for the child after the denaturalization of their father. This in turn creates a burden on the mother of a stateless child, and prevents her from travelling internationally with her child, essentially detaining her within the borders of Bahrain.

In a 2010 report on stateless persons in the Middle East and North Africa, 90 percent of Bahraini women surveyed expressed guilt for causing the statelessness of their children, and sadness that their society blames them for the children's suffering.<sup>82</sup> Women report that it is extremely difficult to obtain residency status for the children without the help of the father.<sup>83</sup> Additionally, it was reported that stateless children are treated like foreigners, causing the children to feel unhappy and excluded.<sup>84</sup> Statelessness affects children both physiologically and physically. In a report on Bahraini children without citizenship, BCHR interviewed families and found that the impact on children includes: difficulty registering for public school, restricted access to free medical care, prevented from traveling freely, difficulty finding employment as an adult, unhappiness, feelings of social ostracism, and feelings of parental guilt.<sup>85</sup> Children whose fathers are incarcerated also face obstacles to accessing social services, which often require explicit permission from the father.<sup>86</sup>

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<sup>77</sup> UN High Commissioner for Refugees (UNHCR), *UNHCR Submission on Bahrain: UPR 27<sup>th</sup> Session*, September 2016, available at <http://www.refworld.org/docid/5a12b53b2.html> [accessed 27 September 2018].

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

<sup>80</sup> *Id.*

<sup>81</sup> See, ALBALAD, *supra* not. 9.

<sup>82</sup> Laura van Waas, *The situation of stateless persons in the Middle East and North Africa*, at 39 (October 2010), available at: <http://www.unhcr.org/4ce63e079.pdf>. <http://www.unhcr.org/4ce63e079.pdf>.

<sup>83</sup> *Id.*, at 19.

<sup>84</sup> *Id.*, at 39.

<sup>85</sup> *Bahrain: Children without Without Citizenship*, BAHRAIN CENTER FOR HUMAN RIGHTS (2017), at 11, <http://bahrainrights.org/sites/default/files/BCHR%20Children%20Without%20Citizenship%20-%20March%202017.pdf>. <http://bahrainrights.org/sites/default/files/BCHR%20Children%20Without%20Citizenship%20-%20March%202017.pdf>.

<sup>86</sup> *Id.*



2. *What is the policy relating to the administrative detention of women migrants including pregnant women and women with children?*

ADHRB is not aware of specific policies relating to pregnant migrants and woman with children.

In recent years, Bahraini women have been detained by the authorities along with their children. Authorities arrested human rights defender Zainab al-Khawaja with her one-year-old son in 2016 on politically motivated charges, holding them both in the same cell for the duration of her detention.<sup>87</sup> It is unclear if such detentions are a matter of policy, or if this was an additional act of reprisal against an activist.

### *Information on the Preparer of this Report*

ADHRB is a non-profit, 501(c)(3) organization based in Washington, DC. Through engagement with U.S. government officials, the United Nations, intergovernmental actors, activists, and the public, we seek to foster awareness of and support for democracy human rights in Bahrain and the wider Middle East.

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<sup>87</sup> "Bahrain detains activist Zainab al-Khawaja and her one-year-old son," *The Guardian*, 14 March 2016, <https://www.theguardian.com/world/2016/mar/14/bahrain-detains-activist-zainab-al-khawaja-and-one-year-old-son>