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**MIDDLE EAST WATCH  
WOMEN'S RIGHTS PROJECT**

**DIVISIONS OF HUMAN RIGHTS WATCH**

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**PUNISHING THE VICTIM**

**RAPE AND MISTREATMENT  
OF ASIAN MAIDS IN KUWAIT**

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## INTRODUCTION

Since the liberation of Kuwait in March 1991 to the present, nearly two thousand women domestic servants,<sup>1</sup> mainly from Sri Lanka, Bangladesh, India and the Philippines, have fled the homes of abusive Kuwaiti employers and sought refuge in their embassies. This mass exodus of maids culminates a longstanding problem of abuse of Asian women domestic servants<sup>2</sup> and occurs at a time of general hostility towards foreigners that has escalated since liberation.<sup>3</sup>

In April 1992, Middle East Watch and the Women's Rights Project, both divisions of Human Rights Watch, conducted a two-week fact-finding mission in Kuwait to investigate reports of abuse of Asian women domestic servants. Participating in the mission were Patt Derian, a member of the Board of Directors of Middle East Watch and of the Women's Rights Project's Advisory Committee, and Michele E. Beasley, staff attorney for the Women's Rights Project.

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<sup>1</sup> This estimate is based on the official lists given to us of maids deported in the weeks surrounding and during our mission, the records of the Asian embassies, our interviews with the Asian Ambassadors and Western diplomats, and newspaper accounts.

<sup>2</sup> Reports of rape, assault and other forms of mistreatment of Asian maids have been aired since 1988. *See, e.g.*, Lee Stokes, "India bans women from working in three Persian Gulf states," *UPI*, September 23, 1988. In two 1989 cases, Asian maids died as a result of the abuse inflicted on them by their employers. *U.S. Department of State Country Reports on Human Rights Practices for 1989*, p. 1464.

<sup>3</sup> Middle East Watch will be releasing a report in August/September 1992 on the general situation of expatriate workers in Kuwait. Middle East Watch/Women's Rights Project

**We found that while not all domestic servants in Kuwait suffer at the hands of their employers,<sup>4</sup> there exists a significant and pervasive pattern of rape, physical assault and mistreatment of Asian maids that takes place largely with impunity.**

**One third of the sixty cases we investigated directly involved the rape or sexual assault of maids by their employers or a man with access to the employer's house. Over two-thirds involved physical assault, including kicking, beating with sticks and pipes, slapping, punching and hair pulling. Almost without exception the women we interviewed spoke of non-payment of salary, passport deprivation and near total confinement in their employers' homes. All of these abuses are illegal under Kuwaiti law, but have gone largely unattended to by the government.**

**To our knowledge, only a handful of the charges against abusive employers have ever been investigated or prosecuted. We have submitted formal requests for information of cases in which allegedly abusive employers have been prosecuted, but the Kuwaiti government has yet to respond to those requests.<sup>5</sup> Moreover, we found that, rather than investigate or prosecute alleged abusers, Kuwaiti authorities often detain maids seeking to report crimes to the police or simply return them to their employers. Worse, there have also been credible reports of abuse of women domestic servants in police custody that likewise goes unpunished.**

**In addition to failing to provide abused domestic servants with justice under applicable criminal and civil law, the government of Kuwait has explicitly excluded them from the protection of the country's labor law. The law covers most other workers (including expatriates), and regulates working conditions, providing for civil arbitration in the case of employment disputes. The domestic servants' exclusion from the labor law has created a widespread attitude that the maids are not entitled to the same rights as other workers. This has rendered them particularly vulnerable to abuse and simultaneously limited possible remedies, like arbitration, for it. Only criminal or civil sanctions remain and they, as noted, are rarely applied and can often backlash on the abused women.**

**Ultimately, abused maids had little alternative but to flee to their embassies or to shelter with friends. Many sought to settle their disputes or to find new jobs. Others simply wanted to return home. Initially, the al-Sabah government foreclosed all these options. Arbitration was unavailable, job transfer exceedingly difficult to secure, and the government flatly denied exit visas to many maids seeking to leave. The result was that, unless the maids could find informal means of resolving their difficulties, as some did, they languished in ever increasing numbers at their embassies.**

**Eventually, in the week prior to our mission, Kuwait deported over 800<sup>6</sup> maids, mostly from their**

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<sup>4</sup> Our best estimate, based on our research into this and other expatriate issues in Kuwait, is that something less than half of domestic servants, including chauffeurs, are men. The focus of this report is the treatment of women domestic servants.

<sup>5</sup> Letter to Abdul Aziz Dikheel al-Dikheel, Undersecretary, Ministry of Justice (May 26, 1992); letter to International Organizations Liaison Office, Ministry of Interior (May 26, 1992); letter to International Organizations Liaison Office, Ministry of Interior (June 7, 1992).

<sup>6</sup> Although we have records and information establishing that nearly 2,000 maids have fled their employers since liberation, we were unable to determine in each case what happened to the woman. It is our understanding that in

embassies. The deportation relieved the immediate problem, but raised a number of prominent concerns. Prior to deportation, the Kuwaiti government made no systematic effort to document abused women's criminal complaints or civil claims. Upon investigation, we found these had been effectively dropped. In addition, for those women desiring to remain in Kuwait, alternatives to deportation, like job transfer, were never made available, despite the fact that they had had a legitimate rationale for leaving their employers. Finally, deportation seems to have allowed the Kuwaiti government to wash its hands of the maids' problems without addressing the underlying causes of their abuse. The government has yet to punish known abusers or implement the legal and practical reforms necessary to ensure that the pattern of abuse and mistreatment of Asian maids with impunity does not recur. According to sources in Kuwait, new maids seeking refuge appear daily at the Asian embassies.<sup>7</sup>

Middle East Watch and the Women's Rights Project recognize that Kuwait has experienced enormous loss and upheaval over the past two years and that it is still in the process of rebuilding and restructuring its society. But, if, as part of this process, the Kuwaiti government fails to take the necessary steps towards addressing and preventing abuse of Asian women domestic servants, in the words of one Asian official, "This will go on forever."<sup>8</sup> We urge the al-Sabah administration, in a series of recommendations made at the end of this report, to ensure that abuse and mistreatment of Asian women domestic servants is punished, adequate protection against abuse provided, and all Asian maids' international human rights to due process and equal protection of the law guaranteed.

## **I. BACKGROUND**

The abuse and mistreatment suffered by Asian maids in Kuwait is occurring in the context of hostility towards expatriates that has increased since liberation in 1991.<sup>9</sup> Kuwait has long depended upon expatriates to provide the backbone of its labor force.<sup>10</sup> By 1990, prior to the Iraqi invasion of Kuwait, foreign workers and their dependents, also referred to as expatriates, accounted for nearly 62% of Kuwait's population.<sup>11</sup> Large numbers of these workers come from India, Sri Lanka, Bangladesh and the Philippines.

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hundreds of cases the Asian embassies repatriated maids at their own expense, helped them to resolve disputes or find them new employers, while other maids returned to their employers or informally found other jobs.

<sup>7</sup> Interview No. III-9, Washington, DC, June 1992.

<sup>8</sup> Interview No. I-1, Kuwait City, April 1992.

<sup>9</sup> Middle East Watch will be releasing a report in August/September 1992 on the general situation of expatriate workers in Kuwait.

<sup>10</sup> The demand for foreign labor in Kuwait originated with the development of oil resources following World War II. Migration to Kuwait from Asia accelerated in 1973 and 1974 when escalating oil prices, surplus capital and labor shortages produced the need for large-scale importation of workers. Ian J. Seccombe, "Economic Recession and International Labour Migration in the Arab Gulf," 6 *The Arab Gulf Journal* (April 1986), p. 46.

<sup>11</sup> Population Estimates, Ministry of Planning (1990). The Ministry of Planning estimated in mid-1990 that out of a total population of 2,142,600, 1,316,014 were foreigners, 517,436 of whom were women.

Until the mid-1970s, Asian women came to Kuwait as dependents of their husbands, fathers or other male relatives, but were not themselves a significant percentage of the foreign labor force.<sup>12</sup> Since that time, increasing numbers of Asian women have joined Kuwait's labor force in their own right, growing from 1,000 in 1965 to over 72,000 in 1985.<sup>13</sup> The numbers of Asian women workers continued to rise through the late 1980s.<sup>14</sup> By 1992, the number of Asian maids reached roughly 75,000 to 100,000, approximately one for every seven Kuwaiti citizens (men, women and children).<sup>15</sup>

In the wake of its liberation, Kuwait has embarked upon a concerted campaign to rectify what it sees as a dangerous imbalance in its population. A report prepared by the government's Higher Planning Council concluded that the high numbers of expatriates are "a threat to national security" because they outnumber Kuwaiti citizens. The government, by taking steps to limit immigration of foreign workers and curtail employment benefits for expatriates, is actively seeking to invert the pre-war population ratio so that by 1995 Kuwaitis will constitute 60% of the population.

New policies restricting immigration of foreign workers include women domestic servants. The government has reportedly stopped granting permission to bring over more maids to families that already have one or more.<sup>16</sup> However, this new restructuring apparently has yet to significantly affect the number of Asian maids in Kuwait. Asian women domestics are in increasing demand as more Kuwaiti women enter the work force or choose to employ a maid<sup>17</sup> and much of Kuwait's social structure remains dependent upon the presence of domestic servants who care for the homes and children of Kuwaiti families.

To some degree, however, these new policies do reflect what the maids we interviewed perceived as a sea change in the way their employers treated them. Of the women who spoke to us, those who worked

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<sup>12</sup> Nasra Shah, Sulayman S. Al-Qudsi & Mahkdoom A. Shah, "Asian Women Workers in Kuwait," 25 *International Migration Review*(Fall 1991), p. 466.

<sup>13</sup> *Ibid.*, pp. 464, 466-67.

<sup>14</sup> Seccombe, pp. 44-45. *See also* Frank Eelens and J.D. Speckmann, "Recruitment of Labor Migrants for the Middle East: The Sri Lankan Case," *XXIV International Migration Review*(Summer 1990), p. 299.

<sup>15</sup> Hard facts about exactly how many Asian maids are currently working in Kuwait are nearly impossible to obtain. The Kuwaiti government's official current statistics indicate that there are 30,036 Indian, 5,433 Sri Lankan, 11,428 Bangladeshi and 25,699 Filipino male and female domestic servants now working as servants in Kuwait. Letter from the International Organizations Liaison Office, Ministry of Interior, to Middle East Watch and the Women's Rights Project, dated July 15, 1992. However, these figures differ significantly from those given by Asian embassy sources, who place the population of women servants alone nearly as high as the government's figures for both male and female servants, with the exception of the Indians. Interview with U.S. Department of State, Washington, DC, May 1992. Media estimates of the total population of Asian maids have ranged as high as 250,000. *See, e.g.*, "Cabinet acts on domestics," *Arab Times*, May 4, 1992. Our research indicates that the number ranges between 75,000 to 100,000.

<sup>16</sup> "Hold on family visit visas confirmed," *Arab Times*, May 1, 1992.

<sup>17</sup> *Ibid.*, pp. 468-69.

**in Kuwait both prior to and following the Iraqi invasion cited a marked deterioration in their treatment after the war's end. This heightened abuse may have accounted, in part, for the flight of the maids to their embassies, a phenomenon that occurred in pre-invasion Kuwait, but increased dramatically in the post-war period.**

**According to information we obtained from embassies, Asian diplomatic officials, journalists, the U.S. Department of State and Kuwaiti government officials, over 1,400 Filipinas -- between 14-20% of the estimated number of Filipina maids -- fled their employers between May 1991 and April 1992. During the first four months of 1992, we determined that at least 300 Sri Lankan maids ran away from their employers to the Sri Lankan embassy, most of them complaining of rape and mistreatment. The U.S. State Department told us that large numbers of Bangladeshi and Indian women also fled to their embassies during this time period. The Bangladesh embassy sheltered 20 women a day,<sup>18</sup> while there were ten to twenty women at the Indian embassy at any given time.<sup>19</sup>**

**It is difficult to say precisely what proportion of those maids who fled experienced abuses and mistreatment because it was not possible in the two weeks we were in Kuwait to pursue every reported case. However, our investigation revealed a significant and pervasive pattern of rape, physical assault and mistreatment of Asian maids by their Kuwaiti employers, largely with impunity.**

**One third of the sixty cases we investigated directly involved the rape or sexual assault of maids by their employers or a man with access to the employer's house. Well over two-thirds involved physical assault, including kicking, beating with sticks, slapping and punching. Almost without exception the women we interviewed spoke of non-payment of salary, passport deprivation and near total confinement in their employers' homes. Asian embassy officials and other sources reported to us that these findings held true across the larger population of maids who fled their employers.**

**We found every indication that such abuses are underreported.<sup>20</sup> Impediments to the maids' reporting abuse or mistreatment, such as confinement in the homes of their employers or police refusal to investigate their complaints, as well as the social stigma attached to certain types of abuse, particularly sexual assault, present serious disincentives to reporting employer abuse to the authorities.**

## **II. A No-Win Situation**

**The abuse of Asian maids is not limited to sexual or physical assault. Underlying abuses, such as**

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<sup>18</sup> Interview with U.S. Department of State, Washington, DC, June 1992.

<sup>19</sup> Interview with U.S. Department of State, Washington, DC, June 1992. Asian officials were reluctant to let us talk to women staying in their embassies or to give us concrete information about their numbers or complaints.

<sup>20</sup> It should also be noted that domestic violence and rape are two of the most underreported crimes, internationally. *See United Nations, Violence Against Women in the Family* (New York: United Nations, 1989), p. 17.

debt bondage, passport deprivation and confinement, are also common and create conditions for the maids to suffer assault in near total isolation from the outside world. The maids' exclusion from the labor law paved the way for this isolation and denied the maids even minimal protection against unfair practices. The government, by virtue of having excluded the maids from the labor law in the first place, has effectively disclaimed responsibility for the abusive practices that have arisen directly and indirectly from that exclusion.

#### **EXCLUSION FROM THE LABOR LAW**

Kuwait's Private Sector Labour Law No. 38 of 1964 (hereinafter "the labor law") governs working conditions for most workers -- including expatriates -- in the private sector. It explicitly excludes domestic servants from its provisions.<sup>21</sup> According to Meshari al-Osaimi, a prominent attorney and President of the Kuwait Lawyers' Association, many of the problems facing the maids in Kuwait stem from this exclusion:

**It affects the atmosphere of work and the sense of what treatment maids are entitled to. In 1964 there were only a few hundred maids, today there are 200,000;<sup>22</sup> now their exclusion from the law is a human rights issue.<sup>23</sup>**

The labor law contains rules governing the maximum daily and/or weekly hours an employee can be required to work,<sup>24</sup> employees' entitlement to overtime,<sup>25</sup> and provisions for weekly and annual leave.<sup>26</sup> If employers violate these requirements, the labor law provides workers with access to the Ministry of Social Affairs and Labour to air their grievances about working conditions and have them investigated or arbitrated by the Ministry.<sup>27</sup>

**The exclusion of domestic servants from this protection has created a widespread attitude that**

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<sup>21</sup> Law No. 38 of 1964 Concerning Labour in Private Sector (as amended through 1989), Chapter 1 (Scope of Implementation), article 2(e) (hereinafter "Law No. 38"): "The following categories shall not be subject to the applications of this law's provisions...e. Domestic servants and those having their status."

The law also excludes government workers (who are predominantly Kuwaiti at this time), seasonal laborers, sea laborers and owners of non-mechanical minor business concerns (i.e. people who work in small shops). Government workers are covered by other labor laws and sea laborers by traditional law. Only shop workers and seasonal laborers also work without the protection of a labor code.

<sup>22</sup> As noted earlier, the exact number of Asian maids in Kuwait is difficult to establish.

<sup>23</sup> Interview with Attorney Meshari al-Osaimi, President of the Kuwait Lawyer's Association, Kuwait City, April 1992.

<sup>24</sup> Law No. 38, Article 33.

<sup>25</sup> *Ibid.*, Article 34.

<sup>26</sup> *Ibid.*, Articles 35-39.

<sup>27</sup> *Ibid.*, Chapter XV (General Provisions), Articles 95 and 96.

**the maids are not entitled to the same rights as other workers. This renders them not only especially vulnerable to the abuses against which the labor law protects, but also largely powerless to combat them. As a group, women domestic servants have no right to organize<sup>28</sup>, no power to bargain for fair employment terms or to enforce the terms their employers agreed to when they were hired. Nor do they have access to the government facilities for arbitration of employment disputes. This has clearly created an atmosphere in which the maids can be, and often are, overworked and ill-treated by their employers at whim with little expectation that the state will intervene.**

## **ILLEGAL EMPLOYMENT PRACTICES**

### **Debt Bondage**

**Debt bondage, prohibited under international human rights law, is a situation in which a debtor pledges her or his personal services against a debt she or he owes, but the person to whom she or he owes it fails to deduct the value of the debtor's services from the debt, or the length and nature of those services are not respectively limited and defined.<sup>29</sup>**

**Kuwait's labor law, which tracks this stricture, requires that no more than ten percent of wages due may be deducted for settlement of debts owed the employer.<sup>30</sup> However, because domestic servants are excluded from this law, they cannot invoke this provision. The result is that employers often do not honor the ten percent limitation. In many cases we investigated, large percentages or, in some cases, the entirety of the maids' salaries had been withheld by employers, allegedly to settle the maids' debts.<sup>31</sup> The**

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<sup>28</sup> **Maids are denied the right to organize because labor organizations are only authorized under Law No. 38 from which the women are excluded. However, even if they were covered by Law No. 38's provisions, their ability to organize would still be effectively foreclosed because Kuwaiti unions can only be established by Kuwaiti employees and, to our knowledge, there are no Kuwaiti women working as maids. See Law No. 38, Chapter XIII (Organization of Laborers and Employers), Articles 69-74. The effective denial of the right to organize is a problem in other expatriate-dominated industries in Kuwait, such as the oil refineries and manufacturing, as are the substantial restrictions on expatriate workers' freedom of association. See Statement of Don Stillman, director of Governmental and International Affairs, International Union, UAW to the Overseas Private Investment Corporation, *On Worker Rights in Kuwait* (November 12, 1991).**

<sup>29</sup> **1957 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, Article 1(a). Kuwait has ratified this convention.**

<sup>30</sup> **Law No. 38, Chapter VII (Wages), Article 31. It also requires that employment of all covered workers must be made under a contract, which may or may not be written. *Ibid*, Chapter IV (Contracts), Article 12.**

<sup>31</sup> **Although the legitimacy of the debts themselves is beyond the scope of this report, we found they are often incurred under questionable circumstances. In most cases, employment agents, based either in Kuwait or in an Asian country, charge the Kuwaiti employer a commission -- sometimes as high as US \$1,200 to \$2,000 -- as well as the cost of airfare to find and bring the maid over to Kuwait. Employers are told that they can recoup these fees from the maids. However, maids have usually already paid duplicate fees to the agents (and they or their families have often gone into debt to do so) and only upon arrival in Kuwait do many learn that employers will deduct their own payments to the agent from the maid's salary. Thus maids find themselves indebted involuntarily to their employers from the outset.**

**Maids are usually recruited through employment agencies that are illegal under a seldom-enforced Kuwaiti law and have been outlawed or regulated to some extent in other countries. Kuwaiti government spokespeople have**



women workers appeared to have no say in the amount attributed as loaned to them or in the decision regarding salary proportions to be deducted towards their debt. In many cases we investigated, debt had the effect of placing women in bondage to their employers. It was used as a means of forcing the women to endure prolonged working hours, inadequate food and sleep, no days off, and no time to attend a place of worship,<sup>32</sup> for fear of never getting paid or of losing their jobs.

A young Filipina, who was not paid for six months, told us she woke at 5:30 a.m. and went to bed at 1 a.m. She had no rest periods during the day. She took care of all the children, cooked all the family's meals, ironed the clothes and was only allowed to eat leftovers after the family had finished their meals.<sup>33</sup> Another young woman said that she woke at 4 or 5 a.m. each morning, but she was not allowed to eat anything until all the adults in the family had left the house for the day. She was not paid for two months, so she left and went to her embassy.<sup>34</sup> Larena Peralta, whose case is detailed later in this Section, was never paid her monthly salary of at any time during the entire fifteen months she worked for her employers.<sup>35</sup> Namali Thushlaka, whose case is also discussed in depth below, told us her employers had agreed to pay her KD 40 (approx. US \$120) per month, but only paid her KD 30 (approx. US \$90) for the whole three months she worked for them. She told us she was not fed very much and she often got food from the neighbor's maids. She started work at 6:30 and was not allowed to go to bed until 1 or 1:30 a.m.<sup>36</sup> According to Asian embassy sources, this non-payment of salary and oppressive working conditions were common.<sup>37</sup>

It is extremely difficult for the women to escape debt bondage. First and foremost, they need the money. Relative to what they can earn in their home countries, maids make extremely good salaries in Kuwait. The average Asian maid earns between US \$75 and \$120 per month and sends most, if not all, of her earnings to support her family at home. For this reason, they incur the considerable expense of coming to Kuwait and cannot afford to risk not getting paid. Even if they did wish to leave, the lack of money is a significant obstacle to escape. They can neither afford a ticket home nor support themselves while attempting to find another job, which in any case is nearly impossible to do without their previous employer's consent. Furthermore, employers often threaten maids with arrest should they leave without satisfying their debt.

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announced that the government will pass a new law to legalize and regulate the employment agencies, but the government has yet to promulgate the new regulations.

<sup>32</sup> Interviews with six Indian women at church, Kuwait City, May 1992; Interview with Mary, Kuwait City, May 1992.

<sup>33</sup> Interview No. III-2-1, Kuwait City, April 1992.

<sup>34</sup> Interview No. III-2-3, Kuwait City, April 1992.

<sup>35</sup> Interview with Larena Peralta, Kuwait City, April 1992. For more information about Ms. Peralta, see p. 13 below.

<sup>36</sup> Interview with Namali Thushlaka, Kuwait City, May 1992. For more information on Ms. Thushlaka's case, see p. 12 below.

<sup>37</sup> Interview No. I-83, Kuwait City, May 1992; Interview No. I-75, Kuwait City, May 1992; Interview No. I-26, Kuwait City, April 1992.

## Passport Deprivation

The effective bondage of the women workers is further enforced through the taking of their passports. Kuwaiti Undersecretary of Foreign Affairs al-Shaheen told us that "the employers keep the passports to put pressure on the girls [to pay their debts]."<sup>38</sup> Almost every maid's passport is taken from her by her employer upon arrival in Kuwait.<sup>39</sup>

Passport deprivation by employers is illegal. According to a 1972 decision by the Superior Appeals Court of Kuwait:

**[A] person may not be deprived of their passport nor denied access to it without a legally sanctioned reason...[A]ssuming the [employer] withheld it because of a dispute it had with the [employee] and that [the employer] had substantive reasons to believe that the [employee] might flee, there are other means available to it to prevent his escape by filing a motion with a court of law. *Confiscation of the passport, which by necessity leads to illegal restriction of the freedom of its holder, is a consequence that the employer does not have the right to effect and is against the law.*<sup>40</sup> [Emphasis added]**

Yet, despite the court's unambiguous decision directly linking passport deprivation to "illegal restriction of the freedom of its holder," the government appears to see this practice, when applied to Asian maids, as benign. The Ministry of Interior's Director of Police Investigations, Brigadier al-Muhaini, told us

I'm not concerned with the passports, as a matter of fact. If an employer keeps the passport, it is only so the employee won't lose it, not to keep them in custody. It is just as we treat our children at home—it's the same thing with the maids.<sup>41</sup>

However, while the government tolerates the taking of the maids' passports, it rigorously enforces the Aliens Residence Law, specifically requiring foreigners to carry their passports at all times or be subject to immediate arrest and fine or detention,<sup>42</sup> an especially likely occurrence since liberation. Thus,

<sup>38</sup> Interview with Undersecretary Suleiman al-Shaheen, Ministry of Foreign Affairs, Kuwait City, May 5, 1992.

<sup>39</sup> Interview with Brigadier Yagoub al-Muhaini, Ministry of Interior, Director of Police Investigations, Kuwait City, May 1992; Interview with Attorney Meshari al-Osaimi, President of Kuwait Lawyer's Association, Kuwait City, April 1992; Interview with Dr. Ghanem al-Najjar, Kuwaiti Association to Defend War Victims, Kuwait City, April 1992.

<sup>40</sup> Superior Appeals Court, 1st Circuit Commercial, No. 638 (1972), August 5, 1972. Translation by Middle East Watch. *See also* Superior Appeals Court, 1st Circuit Commercial, No. 662 (1972), August 5, 1972 ("Since a passport is a personal document indispensable for an individual for identification and secure and safe movement within the country...a passport may not be withheld from the person to whom it has been issued.") (translation by Middle East Watch).

<sup>41</sup> Interview with Brigadier Yagoub al-Muhaini, Director of Investigations, Ministry of Interior, Kuwait City, May 1992.

<sup>42</sup> Aliens must present their passports and other identity and residence documents "whenever requested" by appropriate authorities. Aliens Residence Law, Section II, Article 8. Violation of the requirement to produce these documents may be punished by imprisonment for not more than 3 months and/or a fine of KD 200 to 400. *Ibid.*, Article 24. This is equivalent to approximately US \$600 to \$1,400, or many times the usual monthly salary of most Asian maids.

if a maid flees without her passport, she is very likely to be arrested or detained.<sup>43</sup> We found that Asian women walking out in the streets are subjected to random stops by police or military officials.<sup>44</sup> If a maid cannot produce her passport, she can be detained.<sup>45</sup> L, whose case is detailed below in this section, was arrested from a street near the Philippines Embassy where she sought refuge after escaping an abusive employer. She was kept in detention for over a month. To our knowledge, no action was ever taken against her employer for taking her passport or for the alleged abuse.<sup>46</sup>

Passport deprivation was also a barrier to maids' ability to leave Kuwait. As described in Section III below, the Kuwaiti government requires an exit visa to be stamped on the passport of all departing aliens. Most maids who fled abusive employers did not have their passports and could not obtain the necessary exit visa. Thus, the government at first prevented them from leaving Kuwait, in violation of the internationally guaranteed right to leave any country.<sup>47</sup>

### **Illegal Confinement**

Debt bondage coupled with the taking of the woman's passport, often results in the illegal confinement of Asian maids by their employers. Confinement may be limited or total. Limited confinement has meant that a maid may be permitted to accompany the family on an excursion, or go to a public place of worship. In total confinement, employers have refused maids any contact whatsoever with the outside world, including by phone or mail. In many of the cases we investigated, the abused women had experienced such total confinement, sometimes including being locked in the room in which they slept. One woman described to us how her employers ensured that she would not be able to communicate with anyone about her situation. When they left the home, they unplugged the phones and locked her into one room. Then they locked all the windows and the front door behind them. The woman eventually escaped early one morning by climbing over the wall of the garden when her employers were just getting up.<sup>48</sup>

**A Filipina told us that her employers took her passport when she arrived in Kuwait and locked her**

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<sup>43</sup> We did not come across any cases in which the escaped maid was fined, although that penalty is prescribed by the law.

<sup>44</sup> Throughout April and May 1992, the frequency of checkpoints increased. This was in part because of the nearness of the deadline by which expatriates were required to obtain residence permits or face deportation or fines. On two separate occasions, we observed police officers waving through individuals who appeared to be Kuwaiti or European, while they stopped all others and looked at their papers. Stepping up checkpoints will undoubtedly increase the number of expatriates, including Asian maids, who are detained by police at any one moment. For more discussion of the Kuwait government's policies regarding the expatriate population, see Section I above.

<sup>45</sup> Interview No. I-23, Kuwait City, April 1992.

<sup>46</sup> Interview with L, Kuwait City, April 1992. Further discussion of L's case can be found on p. 15 below.

<sup>47</sup> Article 12, International Covenant on Civil and Political Rights: "Everyone shall be free to leave any country, including his own." Ultimately, the government deported the women *en masse*.

<sup>48</sup> Interview No. III-6, Kuwait City, April 1992.

in the house every time they left.<sup>49</sup> An Indian woman we interviewed at her church told us that although she had been in Kuwait for one month, that day was the first time she had been allowed out of the house since she arrived.<sup>50</sup> Another Indian woman told us that her employers ordered her not to leave the house for any reason and that in the past month she had only had one day off to go to church.<sup>51</sup> Larena Peralta, who was not paid as described above, told us "They never let me leave the house, not for church, not even to empty the garbage."<sup>52</sup>

The effect of isolating the maids from the outside world is that no one is aware of the employers' abusive practices and it is nearly impossible for a woman to report abuse to the police -- presuming they would be responsive -- or to her embassy, unless she is able (and courageous enough) to take the drastic step of running away. In some cases, the maids became so desperate they went to any lengths to escape. Some women jumped out of windows or off balconies two or more stories high to get away, while others tried to commit suicide following intolerable abuse. These women often ended up at hospitals<sup>53</sup> with injuries typically associated with jumping from a great height, such as broken ankles and heels, fractured pelvises, broken vertebrae, and paralysis.

In one case we investigated, Namali Thushlaka, who had worked for three months for an employer in the Fahaheel district of Kuwait City, told us "The Mama was always beating me on the head with her shoes." Ms. Thushlaka tried to leave her employers, but they refused to relinquish her passport. In an attempt to escape, Ms. Thushlaka jumped from a second floor window. She suffered a fractured pelvis and two broken ankles. She also broke her back at the B12 vertebrae and was paralyzed, although when we interviewed her she was beginning to be able to wiggle her toes.<sup>54</sup>

In a particularly disturbing escape attempt, paramedics at Mubarak al-Kabir Hospital told us that Helen Demetillar, a Filipina maid, was admitted with her hands bound behind her back and a gag in her mouth. She told hospital personnel that she was raped by her employer and had jumped from a fourth story window to escape.<sup>55</sup> After receiving treatment at Mubarak and al-Razi Orthopedic Hospital, Ms. Demetillar was arrested pursuant to a police order on unspecified felony charges and taken to al-Nugra Police Station.<sup>56</sup> According to our information, the police then returned her to the same employer.<sup>57</sup>

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<sup>49</sup> Interview No. III-7, Kuwait City, April 1992.

<sup>50</sup> Interview No. I-126, Kuwait City, May 1992.

<sup>51</sup> Interview No. I-125, Kuwait City, May 1992.

<sup>52</sup> Interview with Larena Peralta, Kuwait City, April 1992. For further discussion of Larena's case, see p. 13 below.

<sup>53</sup> Medical treatment in Kuwait is free and available to expatriates and Kuwaitis alike.

<sup>54</sup> Interview with Namali Thushlaka, Kuwait City, May 1992.

<sup>55</sup> Interviews No. I-44, I-70, Kuwait City, May 1992. We were unable to obtain or examine her hospital records to determine if her rape allegation was medically substantiated. For more discussion of this case, see p. 19 below.

<sup>56</sup> Al-Nugra Police Station Arrest Order, signed by Lt. Col. Adel Muhammed al-Sabbagha, for Hawalli District Commander, Hawalli Province Investigations Administration, Ministry of Interior, dated April 14, 1992, Ref. J 3/4/14.

In another case, Mumtaz Sharif, a 19-year-old Sri Lankan woman, attempted suicide by drinking two glasses of Clorox bleach after repeated rape attempts by her employer's son and a series of beatings by her employer, who never let her out of their house in the Suleibikhat district of Kuwait City.<sup>58</sup> Larena Peralta, in addition to being confined and not paid by her employers as described above, was frequently punched in the face by her employers or knocked down. After an incident in which her female employer allegedly choked Ms. Peralta with the employer's *hejab*,<sup>59</sup> Ms. Peralta attempted suicide on August 18, 1991 by jumping from the third floor of the house. She spent six months in al-Razi Orthopedic Hospital with a broken right heel and fractures in three vertebrae, undergoing five operations to repair her injuries.<sup>60</sup>

## **RAPE AND PHYSICAL ASSAULT**

### **Rape and Sexual Assault of Asian Maids**

It is impossible to say what percentage of all the maids working in Kuwait have been sexually assaulted by their employers. As noted above, the obstacles to reporting are considerable. As a result of the pervasive use of debt bondage, passport deprivation and confinement, no one outside the family would necessarily know what is happening to the maid and it would be extremely difficult for her to escape. Even if she does manage to escape, this act brings with it the risk of arrest for being out without her passport or for other offenses. Increasingly, it also involves the possibility of deportation. Furthermore, even if the maids do manage to overcome all these obstacles, they may be reluctant to report that they had been raped or sexually assaulted.<sup>61</sup>

Nonetheless, our investigation of reported cases revealed a disturbing prevalence of rape and sexual assault claims that demands the immediate attention of the Kuwaiti authorities. Some of the Asian maids we interviewed were subjected to a number of forms of extreme violence in connection with being raped or sexually assaulted, including being beaten during a rape or attempted rape by their employer.

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<sup>57</sup> Middle East Watch and the Women's Rights Project have brought this case to the attention of His Highness, the Emir of Kuwait, but have yet to receive any reply to our letter. *See* Appendix.

<sup>58</sup> Interview with Mumtaz Sharif, Kuwait City, May 1992. Mumtaz was arrested from the hospital following her treatment. Unspecified charges were filed against the son, but ultimately dismissed for reasons we were unable to ascertain. For a discussion of what happened to Mumtaz following her arrest, see p. 18 below.

<sup>59</sup> A head scarf worn by some Kuwaiti women that covers the hair.

<sup>60</sup> Interview with Larena Peralta, Kuwait City, April 1992. To our knowledge, Ms. Peralta has not been charged with attempted suicide, which is a felony under Kuwaiti law. *See* Section III below. This may be due to the fact that she is still receiving medical treatment while living at the Philippines Embassy compound.

<sup>61</sup> The social barriers to reporting rape and sexual assault are tremendous. Many women have families and children whom they did not want to find out. Others, especially younger, single women, told us they found it difficult to report being raped because they were virgins before the assault and came from countries in which their virginity was a prerequisite to marriage.

**Others were beaten when they refused to consent to sex with an employer or his male relative. Still others were subjected to violence or its threat to coerce them into sexual intercourse.**

**In the most egregious cases, the rape itself was violent enough to require the woman's hospitalization. In several of these instances, the physical and emotional trauma was so severe that the women became catatonic and psychologically, as well as physically, damaged. In some cases, the woman received appropriate medical care, but a number of escaped maids in the embassies or the government deportation center, whom we interviewed, showed unmistakable signs of trauma that had not received any medical attention.**

**The following are some of the cases we documented of rape and sexual assault, a number among the women awaiting repatriation or deportation to their country of origin.<sup>62</sup> Some details regarding the current whereabouts, or country of origin, of the women have been deleted, either to maintain their privacy or to protect them from the possibility of retribution for speaking with us. Interviews took place either in their national embassies or else in places where the runaway had been given shelter.**

### ***Rape***

#### ***Singala Bolasi***

**Singala Bolasi, a 20-year-old Sri Lankan, told us that on the day she was admitted to the hospital, her employer had followed her into a room she was cleaning, locked the door and raped her.<sup>63</sup> After he raped her, Ms. Bolasi said that he threw her off the balcony and she landed on the ground several stories below.<sup>64</sup>**

**Ms. Bolasi was admitted to al-Razi Orthopedic Hospital on April 4, 1992. Both her ankles were broken, she was bleeding vaginally and there were lacerations to her labia and rectal area that required stitches. We observed that she had a tear that extended from her vagina into her anus, an injury consistent with having been forcibly raped by someone using a sharp object.<sup>65</sup>**

**Ms. Bolasi was catatonic and unresponsive to verbal cues for weeks following her admission to the hospital.<sup>66</sup> Although she was able to answer our questions in early May, 1992, she still appeared**

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<sup>62</sup> We have only set forth in this section cases in which we were able to interview the victim herself and corroborate information about her we obtained from other sources. However, the nature and type of abuses reported in the other cases not detailed in this section, but also investigated by us, parallel and confirm the facts of the cases we recount.

<sup>63</sup> Interview No. I-70, Kuwait City, May 1992.

<sup>64</sup> Interview with Singala Bolasi, Kuwait City, May 1992.

<sup>65</sup> Interview No. I-70, Kuwait City, May 1992. Hospital personnel reported that her bladder and rectum had both been torn internally; she was incontinent and passed both feces and urine through her bowels. She has been operated on to correct both the internal and external injuries she suffered. *Ibid*; Ministry of Interior Investigator's Report, April 4, 1992; al-Razi Hospital Medical Records of Singala Bolasi.

<sup>66</sup> Interview No. I-70, Kuwait City, May 1992; Interview No. III-9, Washington, DC, June 1992.

withdrawn, had trouble focusing on the faces of those around her, and became visibly agitated when questioned about how she received her injuries.<sup>67</sup>

Despite an initial investigatory report by hospital-based police investigators, and a letter from us to His Highness, the Emir of Kuwait, on June 15, 1992, requesting that her case be investigated and she be kept safe from her employer, to date Kuwaiti authorities appear to have taken no action against Ms. Bolasi's former employer.<sup>68</sup>

### **L**

L, whose case we referred to above in Section II(B), is a 22-year-old Filipina who ran away from the same employer three times. In January 1992, after she ran away the first time because her employer pressured her for sex, she was arrested for being out without her passport<sup>69</sup> and taken to Dasma police station where she was detained for a month until her employer got her released. He brought her back to his home in the Salmiyah district of Kuwait City where he again asked her to have sex with him. She told us that when she refused, "he punched my face [and] said he would kill me." She told us that thereafter the employer raped her at least once a week.

In March, L escaped again and this time stayed with a friend. She called her employer to request her passport so she could go home. He agreed to give it to her, but when he brought her back to his home, he beat her, punching her in the face repeatedly. He then took her to Mubarak Hospital where she received three stitches under her left eye. "I did not tell the doctor [how I got hurt] because I was afraid. I also did not tell the doctor I was raped and might be pregnant." After she received treatment, the employer took her back to his home. On April 28, L again ran away, this time to the Philippines Embassy. When we interviewed her moments after her arrival, the entire left side of her face was swollen and bruised and the three stitches on her left lower eyelid were leaking blood. She said that her employer had beaten her again and that she ran away after he punched her in the face where the stitches were.<sup>70</sup>

To our knowledge, no case was pursued against her employer and L was deported<sup>71</sup> to the Philippines during the first week of May, 1992.

### **W. Tikna**

W. Tikna came to Kuwait from Sri Lanka in September, 1991. She worked for a couple in the town of Jahra. She told us that her employers' son raped her repeatedly: "Before I came here I was a virgin and he made me a woman. Now no-one in Sri Lanka will marry me. I have been ruined." On one occasion Ms.

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<sup>67</sup> Interview with Singala Bolasi, Kuwait City, May 1992.

<sup>68</sup> See Appendix. As of the publication of this report, we had received no response to our petition.

<sup>69</sup> Her employer retains her passport to this day.

<sup>70</sup> Interview No. I-20, Kuwait City, April 1992.

<sup>71</sup> Many of the women who were deported during the last week of April and first week of May 1992, left Kuwait voluntarily. In other cases, however, the women wanted to stay and continue working, but the government denied them this option. See Section III of this report.

**Tikna's female employer threw boiling tea at her, causing blisters on her shoulders and breasts.<sup>72</sup> When she complained to her employer about being raped, the woman kicked her in the stomach and beat her before taking her to see a gynecologist at al-Jahra Hospital.<sup>73</sup>**

**Ms. Tikna fled her employer and sought refuge at her embassy, but they sent her to the police station where we interviewed her in May 1992. The police told us they called the son and his father to the police station for questioning. They told the father to return to the station with Ms. Tikna's passport within a few days. We do not know the outcome of the police's investigation into her case, although we do know that Ms. Tikna was detained at the Dasma Police Station Detention Center for at least a week, while the son was released immediately.<sup>74</sup>**

### ***Sheikha***

**Sheikha, a 30 year old Indian woman, was raped and beaten by her employer, who left bruises on her chest and thighs.<sup>75</sup> After she was raped, Sheikha escaped from the house and walked alone to al-Razi Hospital, where she fainted in the entrance at 6:30 a.m.<sup>76</sup> According to hospital employees, while Sheikha was in the hospital, the employer who allegedly raped her came to the hospital and asked to see her records. He told the hospital staff that she had epilepsy and was bruised when she fell down during a seizure. He said she should be released to his custody when her treatment was completed. Sheikha was afraid to go back and told staff members, "Maybe they will kill me and then who will take care of my children?"**

**Sheikha was repatriated to India by her embassy in late March. To our knowledge, no action was taken against her employer.<sup>77</sup>**

### ***Lourdes***

**Lourdes told us that five days prior to being interviewed, she was abducted by some unknown men in a car who took her to the desert and raped her.<sup>78</sup> Her captors then drove her to her embassy and pushed**

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<sup>72</sup> Interview with W. Tikna, Kuwait City, May 1992. For further discussion of Ms. Tikna's case, see p. 30 below.

<sup>73</sup> *Ibid.*

<sup>74</sup> *Ibid.*; Interview with Captain Adeb al-Swedan, Dasma Police Station/Deportation Center, Kuwait, May 1992.

<sup>75</sup> For further discussion of Sheikha's case, see p. 32 below.

<sup>76</sup> Interview No. I-72, Kuwait City, April 1992.

<sup>77</sup> Interview No. I-73, Kuwait City, April 1992.

<sup>78</sup> We were unable to learn details of the rape, as Lourdes was extremely distraught during the entire interview. After ten minutes of interviewing, Lourdes was unable to speak any further, and appeared to be unable to realize we were talking to her.



her from the car.

According to Lourdes, there was no police report or investigation into her case. She had not seen a doctor.<sup>79</sup> She was deported April 28, 1992.<sup>80</sup>

### ***Helen Demetillar***

Helen Demetillar, whose case is described above in the illegal confinement section, was allegedly raped by her employer who bound her arms, gagged her and left her in the room. She jumped from an upper story window to escape him and was taken by paramedics to the hospital. Our sources indicated that the police returned Ms. Demetillar to the home of her employer, without taking action against him for the alleged rape.<sup>81</sup>

### ***Attempted Rape and Sexual Assault***

#### ***Ambia Khatum***

Ambia Khatum told us she was subjected to repeated attempted rape by her male employer. She said that on one occasion, "*Baba*"<sup>82</sup> wanted to have sex with me and he took a knife and put it to my throat. That time he broke my thumb. My madame came and took the knife so he wouldn't cut me." Ms. Khatum also described her employer's unwanted fondling of her breasts and genitals. She said that "My Madame wanted to send me home, but the *baba* refused." She said that sometimes her male employer also beat her with a plastic water pipe that left her legs bloody. We noted visible scars on her legs.

One day, Ms. Khatum's male employer beat her and threw her out the front gate, locking it behind her. She eventually met a group of Bangladeshis who took her to a safe place.<sup>83</sup>

#### ***Evelyn***

Evelyn is 24 and worked in the Hawalli District for a police officer who often grabbed or hit her breasts. During Ramadan, she was ironing one of his shirts around 8:00 p.m. when he came in the room after drinking wine that evening. He told her he wanted to have sex with her. Evelyn refused and he grabbed her left arm and twisted it. She held the hot iron up into his face and he stopped.

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<sup>79</sup> Interview No. I-5, Kuwait City, April 1992.

<sup>80</sup> Government List of Deportees, April 28, 1992.

<sup>81</sup> Interview No. I-44, Kuwait City, April 1992. For more information on Helen's case, see p. 13 above.

<sup>82</sup> Asian maids often referred to their male employers as "baba" and their female employers as "mama" or "Madame."

<sup>83</sup> The family also employed a Bangladeshi man as a driver. Ms. Khatum told us that when the employer threw her out the gate, the driver came and beat her, trying to convince her to have sex with their employer. When she refused, the driver put her in the car and took her to a Pakistani man who also wanted to have sex with her. She fought with the Pakistani, got out of the car and ran away. She found a bus stop and met an Indian boy who told her to take the bus to the airport. She did that and at the airport she met the group of Bangladeshis who took her to safety. Interview with Ambia Khatum, Kuwait City, May 1992.

**She told us that "After that I slept under the bed for three days. I kept waking up; I was afraid he was coming to the room." On the third day he came to her room at night, but she was under the bed. Shortly thereafter, Evelyn put all her things into a garbage bag so it would seem she was taking out the trash. She said she took her passport from where her employers kept it and ran away to her embassy.<sup>84</sup>**

**Evelyn was repatriated in April, 1992.**

### ***Mumtaz Sharif***

**Mumtaz Sharif, a 19-year-old Sri Lankan woman who worked for a family in the Suleibikhat District of Kuwait City, was sexually assaulted by her employer's son who pinched her cheeks, forced her to put her hands on the crotch of his pants and tried to get into bed with her at night. She was also punched in the head repeatedly by her employer whenever the infant she took care of misbehaved. After two months of this treatment, Ms. Sharif told us she drank two tall glasses of Clorox bleach to try to kill herself. Her employers took her to Suleibikhat Hospital for treatment, from where she was arrested for attempted suicide following her treatment.<sup>85</sup> Unspecified charges were filed against the son, but were ultimately dismissed for reasons we were unable to ascertain. Ms. Sharif was still hiding out in the home of a friend in Kuwait as of May 1992, looking for a new job.<sup>86</sup>**

### **Physical Abuse**

**As noted, physical abuse was more widely reported by maids than sexual assault and appears to be pervasive. Over two-thirds of the cases we investigated involved complaints of physical assault, including kicking, beating with sticks and pipes, slapping, punching and hair pulling. Asian embassy officials, Western diplomatic sources and local human rights activists independently corroborated this finding, noting that the vast majority of the Asian women who have run away to their embassies since May 1991 claim to have been beaten or otherwise physically assaulted in some manner. In some cases physical assault was severe enough to require hospitalization of the woman victim.**

**We also spoke to some women who had not run away from their employers who also reported being slapped in the face, hit on the back of the head with a shoe, or kicked in the shins for "transgressions" as minor as not moving fast enough. Male and female employers of every social background were cited as assaulting their maids. The cases detailed here exemplify the nature and type of physical abuse perpetrated by employers in Kuwait.**

### ***N. G.***

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<sup>84</sup> Interview No. I-9, Kuwait City, April 1992.

<sup>85</sup> These charges were ultimately dropped and she was sent to her embassy. *See* p. 26 below for more information about Ms. Sharif's treatment while in custody.

<sup>86</sup> Interview with Mumtaz Sharif, Kuwait City, May 1992. It is likely that any new job Ms. Sharif found would be illegal for her to hold, unless she was given permission to take it by her employer, whom Ms. Sharif told us she never wanted to see again.

**N. G. is a 25-year-old Bangladeshi who told us she worked for a relative of the Emir. She came to work in September, 1991, along with a 24-year-old countrywoman. N.G. said that one day in early 1992 her employer kicked her in the stomach after falsely accusing her of being pregnant. She also reported being beaten frequently with a ruler. She said that every morning she was expected to start work at exactly 5:30. "If I was one second late, [the Madamel would slap me on the left side of my face. She has a slightly paralyzed left hand so she always hit us with her right hand on our left cheeks." As a consequence of this mistreatment, N.G. carries scars on her stomach, arms and thighs. She told us that she can no longer hear well in her left ear and has pain in the left side of her jaw and teeth. She also had a scar on her forehead that she told us came about after "[The Madamel grabbed my hair in her right hand and banged my head against the wall."<sup>87</sup> She said "I was not allowed to cry." N.G. said she received treatment for some of these ailments at Mubarak al-Kabir Hospital after she escaped in April, 1992.<sup>88</sup>**

**Since we interviewed her, we have learned that both N.G. and her friend were able to use private Kuwaiti connections to leave Kuwait and are both now in Bangladesh. To our knowledge, no action was ever taken against her employer.<sup>89</sup>**

### ***R.C.***

**R.C., a young Filipina, told us that she had worked for her employer, Mrs. al-Delal, for six months, between November 1992 and April 1992, without a day off. She said her employer hit her on the ear on repeated occasions, or took R.C.'s hair in one hand and banged her head against the wall. On other occasions, Mrs. al-Delal threw her slippers or a piece of wood at R.C. On April 13, 1992, her employer hit R.C. in the face hard enough to cause a blood clot in her eye and leave her face swollen and her eye unable to focus properly. She fled shortly after this incident. When we interviewed her at her embassy two weeks later, three-quarters of her face was still black and blue and the blood clot remained evident.<sup>90</sup>**

**Our sources in Kuwait indicate that R.C. may have been deported by the Kuwaiti government in late April, 1992 as part of its mass deportation scheme, but we were unable to confirm her departure. To our knowledge, no action was taken against Madame al-Delal.**

### ***R.P.***

**R.P., a 21 year old Bangladeshi woman, came to Kuwait in January, 1992 to work for a Dr. Mohammad Faisal Ali. She only stayed for two months before running away because of the constant physical abuse.**

**"They shouted all the time and the Madame pinched my cheek or back with her long finger nails, sometimes drawing blood, almost every day. She would also catch my hair and bang my head on the floor. When the baby cried, she got angry; if the baby broke a glass, she would say 'You broke it' and slap me in the face."**

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<sup>87</sup> Interviews with N.G. and B.A., Kuwait City, May 1992.

<sup>88</sup> This was confirmed by an embassy official with whom we spoke.

<sup>89</sup> Interview No. III-9, Washington, DC, June 1992.

<sup>90</sup> Interview No. I-7, Kuwait City, April 1992.

When we interviewed her, R.P. had so far been unsuccessful in obtaining an exit visa to leave Kuwait and no action was being taken against her employer.<sup>91</sup> We do not know if she has yet left the country.

### ***Fatima***

Fatima is around 45 years old. The first time she worked in Kuwait, she was there for six years working for a family in Jahra, a district suburb of Kuwait's capital. When she came back after liberation, she told us her "new family paid me nothing after the first month." She said that they frequently kicked and beat her, sometimes "with a piece of wood about 1 foot, two to three inches thick." On one occasion, she said her employer kicked her down a flight of stairs. In another incident, the employer's son, twenty-five years old, "hit me on the head with the toilet cover as I was cleaning the toilet."

When we interviewed her, Fatima was living in a friend's house and attempting to find a new employer.<sup>92</sup>

### ***Bessie***

A young Filipina, Bessie worked in a house near the U.S. Embassy compound in Kuwait City. She told us that the woman who employed her would regularly push her so that she fell to the floor, kick her in the back or throw her shoes at her head. Bessie ran away from her employers after a final beating that left her unable to easily move her right arm and shoulder. When she was interviewed in April, 1992, she had been in the Philippines Embassy since March. She was in obvious pain and still appeared to suffer some immobility on her right side.<sup>93</sup>

Bessie wanted to stay in Kuwait and work for another employer, but she had not found one by the time we interviewed her and was scheduled to be repatriated in late April, 1992. No action was taken against her employer.

## **III. THE GOVERNMENT'S RESPONSE**

To our knowledge, none of the cases of sexual and physical abuse or mistreatment of Asian maids detailed above have ended in the punishment of the abusive employers. We found a consistent pattern of law enforcement agencies' refusing to credit women's allegations, and failing to investigate or prosecute rape, physical assault, debt bondage, passport deprivation and confinement. In addition, police often wrongfully detained women seeking to report abuse or arrested abused women for supposed violations of Kuwaiti law without investigating the context in which those supposed violations, like being out without a passport, occurred. In general, Kuwait's response to abuse of Asian women servants has been characterized by a tendency to abdicate responsibility for the problem, extend undue protection to Kuwaiti

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<sup>91</sup> Interview No. I-140, Kuwait City, May 1992.

<sup>92</sup> Interview No. I-145, Kuwait City, May 1992.

<sup>93</sup> Interview No. I-6, Kuwait City, April 1992.

employers, and deny the abused women duly available remedies.

In some instances, individual Kuwaiti law enforcement officials have attempted to provide the abused maids with some assistance. We discovered cases in which police officers attempted informally to arbitrate employment disputes with employers or secure new jobs for maids, rather than return them to abusive employers or process them for deportation. These individual efforts are laudable. However, such *ad hoc* solutions to the maids' problems have served to undercut vigorous enforcement of existing criminal law and to obscure the necessity for legal reforms that would provide more effective protection than informal procedures. Without such enforcement and reform, abused women without good, informal connections were (and still are) left with little alternative but to return home. Initially, the government foreclosed even that opportunity. And, once they agreed to deport the women, they did so without investigating the abused women's complaints or resolving their claims.

### ABDICATION OF RESPONSIBILITY

In the wake of the extensive international publicity in early 1992 given to the phenomenon of abused Asian women domestic servants fleeing to their embassies of origin,<sup>94</sup> the Kuwaiti government was forced to take cognizance of this long-standing problem. Its first reaction was to deny that the problem existed on a significant scale. By the time of our mission in April, some members of the Kuwaiti government were willing to admit there was a problem, but in meetings with us, senior officials attempted to shift the blame elsewhere, often to the maids themselves. Ministry of Justice Undersecretary al-Dikheel told us: "in my experience, the women make up the charges of rape and assault."<sup>95</sup> This viewpoint was echoed in varying degrees of intensity by almost every official with whom we spoke and were similar to the opinions expressed by prominent Kuwaitis, such as former Minister of Planning, Suleiman Mutawwa, who called the maids' claims "exaggerated, very much exaggerated."<sup>96</sup>

The government also attempted to shift the responsibility for the problem, and its solution, to the Asian governments. One official said that the "problems facing the Asian servants and maids in Kuwait were due to...the irresponsibility of the servants offices in their countries."<sup>97</sup> In the same vein, Kuwait's Chief Public Prosecutor told us he thought it was the responsibility of the embassies to pursue claims on

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<sup>94</sup> USA Today, the New York Times, Reuters and the Washington Post all carried prominent stories on the situation in January and February 1992. See Nassir Shirkani, "Dream Becomes Nightmare for Kuwait's Asian Maids," *The Reuter Library Report*, February 26, 1992; Chris Hedges, "Foreign Women Lured Into Bondage in Kuwait," *New York Times*, January 3, 1992; Jack Kelley, "Kuwaitis are 'treating us like animals,'" *USA Today*, February 21, 1992.

<sup>95</sup> Interview with Undersecretary Abdul Aziz Dikheel al-Dikheel, Ministry of Justice, Kuwait City, May 1992.

<sup>96</sup> Jack Kelley, "Kuwaitis are 'treating us like animals,'" *USA Today*, February 21, 1992. Denials that any maids ever experienced problems were cited in numerous newspaper articles.

<sup>97</sup> "Indian envoy urges maids law, fires broadside at dream agents," *Arab Times*, March 24, 1992. "Servants offices" refers to the employment agencies that recruit maids for jobs in Kuwait and other Gulf countries, many of which operate illegally in Asia. It should be noted that Kuwaiti employment agencies also exist and reportedly are soon to be regulated by the state.

behalf of the women.<sup>98</sup> Undersecretary of Foreign Affairs al-Shaheen publicly called on the Asian embassies in Kuwait to "play a bigger role to protect the rights of their citizens."<sup>99</sup>

The Asian embassies' capacity to advocate on the maids' behalf is limited by their perception that such activism jeopardizes their national economic self-interest. At a time when Kuwait is attempting to rid itself of many foreign workers it perceives as undesirable,<sup>100</sup> the Asian ambassadors expressed concern that if they put pressure on the Kuwaiti government regarding the treatment of the maids, Kuwait will retaliate by limiting the employment of both the maids and other nationals from that country, including ones working in more skilled-labor positions.<sup>101</sup>

The remittances potentially at risk are significant. Kuwaiti wages are astronomical compared to what Asian workers could earn at home. An average wage of KD 30 to 40 per month (approx. US \$90 to \$120) could, for instance, support three to four people in Sri Lanka or Bangladesh.<sup>102</sup> One Asian official told us that "women maids send home by far more money than all the educated people we send away and then lose to the brain drain."<sup>103</sup> A Sri Lankan diplomat told us that the foreign exchange remittance his country receives from housemaids laboring abroad is the highest source of all his country's export earnings, accounting for more revenue than tea, rattan or coconut.<sup>104</sup>

Nevertheless, Asian embassies have attempted to assist their nationals to the extent possible. They have given the maids refuge and every Asian embassy official we contacted said that they had reported to Kuwaiti officials some complaints of escaped maids.<sup>105</sup> Undersecretary of Foreign Affairs, Mr. al-Shaheen, and police at the Dasma Police Station deportation center showed us letters from various

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<sup>98</sup> Interview with Chief Public Prosecutor, Mohammed al-Bennay, Kuwait City, May 1992.

<sup>99</sup> Jack Kelley, "Kuwait rape reports to be probed," *USA Today*, March 3, 1992, p. 4A.

<sup>100</sup> See Middle East Watch, *Nowhere to Go: Palestinians in Kuwait* (October 1991).

<sup>101</sup> In fact, this threat is very real. Saudi Arabia, a strong influence on Kuwait's government, responded to the Philippines 1988 ban on domestics taking up positions in the Kingdom by imposing a five-month freeze on work permits for all Filipino workers. Philip Shehadi, "Asian, Gulf governments take action against maid abuse," *Reuters Library Report*, March 31, 1989.

<sup>102</sup> Interview No. I-83, Kuwait City, May 1992. There is also some competition between Asian governments to provide the largest number of expatriate workers, including maids. Several sources alluded to a "price war" for maids: one source said that while Sri Lankan maids get KD 40 (approx. US \$120) per month, Bangladeshi or Indian women would work for KD 25 (approx. US \$75), while another source complained that Bangladeshi women make more than Filipinas.

<sup>103</sup> Interview No. I-83, Kuwait City, May 1992.

<sup>104</sup> Interview No. I-87, Kuwait City, May 1992.

<sup>105</sup> Deputy Prime Minister Sheikh Salem al-Sabah al-Salem was reported to have publicly claimed that no Asian embassy officials had complained to the government on behalf of their citizens, a charge embassy officials refuted. Jack Kelley, "Kuwait rape reports to be probed," *USA Today*, March 3, 1992, p. 4A.

embassies requesting action on specific cases.<sup>106</sup> But, while we found the government apparently does act on some of these individual embassy requests, this manner of advancing the claims of escaped maids is no substitute for the formal investigation and prosecution of maids' complaints.

Perhaps in recognition of this inherent limitation on the Asian governments, Kuwait's Foreign Affairs Ministry has reportedly told the Asian ambassadors that they may no longer shelter escaped maids and must turn them over to the police.<sup>107</sup> As a result, some embassies have begun to send women to the police and have denied them refuge on embassy property. During our visit in Kuwait, we noted padlocks on the gates of the Sri Lankan and Philippines embassies and were told by women standing on the sidewalk that they had been denied entrance by embassy officials. Yet, even as the government has eliminated the embassies as a safe haven for the maids, it is failing to meet its own obligations to provide them with due process and equal protection of the law.

### **FAILURE TO PROVIDE DUE PROCESS AND EQUAL PROTECTION**

#### **Legal Protections Available to Maids**

Kuwait has an international obligation to provide Asian maids with due process<sup>108</sup> and equal protection<sup>109</sup> under: the criminal law, which prohibits rape, assault and illegal confinement; the constitution, which precludes restricting the right to freedom of movement, including through the deprivation of passports;<sup>110</sup> and the civil law, which should be used to enforce their right to be paid.<sup>111</sup> The

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<sup>106</sup> Interview with Suleiman al-Shaheen, Undersecretary, Ministry of Foreign Affairs, Kuwait City, May 1992; Interview with Captain Adeb al-Swedan, Dasma Deportation Center, Kuwait City, May 1992.

<sup>107</sup> Mr. al-Shaheen told us that he and the ambassadors of Sri Lanka, the Philippines, Bangladesh and India had reached an "understanding" regarding this restriction of diplomatic privilege. Interview with Undersecretary Suleiman al-Shaheen, Ministry of Foreign Affairs, Kuwait City, May 1992. On the other hand, Asian embassy sources informed us that some ambassadors had been threatened with police raids of embassy property and other penalties if they refused to go along with this prohibition.

<sup>108</sup> The right to due process is the right to be treated fairly and in non-arbitrary manner. It flows from Article 8 of the Universal Declaration of Human Rights, which guarantees that "[e]veryone has the right to an effective remedy by the competent national tribunals for actions violating the fundamental rights granted him [sic] by the constitution or by law;" and Article 10, which states that "[e]veryone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his [sic] rights."

<sup>109</sup> The international human right to equal protection is articulated in Article 7 of the Universal Declaration of Human Rights, which states: "All are equal before the law and are entitled without any discrimination to equal protection of the law."

<sup>110</sup> Constitution of the State of Kuwait, Part III (Public Rights and Duties), Article 31 states that "nor shall...[any person's] liberty of movement be restricted, except in accordance with the provisions of law." The Kuwaiti courts have interpreted this provision to mean that employers may not unilaterally withhold an employee's passport. *See* Section II on passport deprivation, above.

<sup>111</sup> The problem of unpaid wages that underlies debt bondage also violates Kuwait's Civil Code, which maids could

fact that most of the abuses in question were committed by private individuals does not excuse Kuwait's responsibility under international law to provide due process and equal protection to Asian maids.<sup>112</sup>

Under Kuwaiti law, rape and sexual assault are felonies. Rape by use of force, threat or deception, is punishable by death or life imprisonment. A mandatory death sentence is prescribed if the perpetrator is someone who has authority over the victim.<sup>113</sup> A number of other articles set forth the sentences for other situations of rape and sexual assault.<sup>114</sup>

Assault resulting in bodily harm is punishable by two years imprisonment and a fine,<sup>115</sup> while if someone is assaulted by a person using a knife or other weapon, or if the assault results in permanent disability to the victim, the perpetrator can be sentenced to ten years in prison and a fine.<sup>116</sup> Assault resulting in severe physical pain or temporary disability is punishable by up to five years in prison and a fine.<sup>117</sup> Threatening someone with violence or death is also punishable by a two- or three-year sentence, respectively.<sup>118</sup>

Passport deprivation by employers has been clearly outlawed under the Constitution and confinement is a felony punishable by three years in prison.<sup>119</sup> As detailed above, non-payment of salary is

invoke to sue their employers. Civil Code, Law No. 67 of 1980, Article 209 ("In a contract...if one side does not fulfill his obligation after he is notified to do so, the other side may [receive] compensation if warranted...") (translation by Middle East Watch).

<sup>112</sup> Section 702 of the Third Restatement of the Foreign Relations Law of the United States sets forth the binding principle of state responsibility for the acts of private individuals: "A government may be presumed to have encouraged or condoned acts prohibited...if such acts...have been repeated or notorious and no steps have been taken to prevent them or to punish perpetrators."

<sup>113</sup> Penal Code, Law No. 16 of 1960 (as amended), Part II: Crimes Against Individuals, Section 2 (Crimes Against Honor and Reputation), Article 186 (hereinafter "Penal Code"). Middle East Watch and the Women's Rights Project strongly condemn the imposition of the death penalty for any act.

<sup>114</sup> Article 188 sentences to fifteen years imprisonment anyone who has intercourse with a woman between the ages of 15 and 21, or to life, if the perpetrator has authority over the woman. Article 191 punishes anyone who sexually violates the honor of another by use of force, threat or deception with 15 years in prison, or with life, if the perpetrator has authority over the woman. Article 199 also criminalizes "a disgracing act committed in private, but less than dishonor" that is committed against a woman without her consent and perpetrators can be sentenced to prison for up to one year. "Dishonor" in this article is usually understood to mean sexual intercourse.

<sup>115</sup> Penal Code, Article 160.

<sup>116</sup> *Ibid.*, Articles 161 and 162.

<sup>117</sup> *Ibid.*, Article 162.

<sup>118</sup> *Ibid.*, Article 173.

<sup>119</sup> *Ibid.*, Article 184. The penalty for confinement is enhanced to seven years if the action is accompanied by physical torture or threats of killing.



a civil violation and debt bondage violates both Kuwait's international human rights obligations<sup>120</sup> as well as Kuwait's own labor law, although, as noted, the government has excluded the maids from the latter protection.

### **Failure to Enforce the Laws for Asian Maids**

According to attorneys, human rights activists, Asian officials and women domestic servants we interviewed, despite these protections, no employer has been prosecuted for debt bondage or illegal confinement of an Asian domestic servant. Passport deprivation was the subject of a 1972 case against an employer, cited in Section II above. However, the decision does not appear to have been applied to any of the Asian maids' cases. Thus, these abuses occur with near total impunity and are pervasive. In interview after interview, maids cited non-payment of salary, passport deprivation and confinement as prominent aspects of the conditions under which they worked.

Moreover, the Kuwaiti government has largely failed to apply rape and battery laws to abusive employers and provide the prescribed criminal and civil remedies to the maids. We are aware of only a handful of cases since liberation in which the police or public prosecutor have investigated and prosecuted rape or assault of a maid by her employer, and, to our knowledge, few resulted in punishment of the defendant.<sup>121</sup> The only cases we are aware of in which an employer was actually sentenced occurred before liberation and involved employers who murdered their foreign servants.<sup>122</sup> In May 1992, both Chief Public Prosecutor al-Bennay and Ministry of Justice Undersecretary al-Dikheel told us that they did not know of a single case then pending against an employer for abuse or mistreatment of a maid.<sup>123</sup> We have requested, but have not received, from the Kuwaiti government details about any current or past investigation or prosecution of such incidents.<sup>124</sup>

### ***Police Mistreatment and Abuse of Asian Maids***

One of the main reasons that maids' charges of abuse do not get pursued is police reluctance to

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<sup>120</sup> Kuwait is a signatory to the 1957 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery that outlaws debt bondage. *See* Article 1.

<sup>121</sup> *See, e.g.*, the case of Mumtaz Sharif discussed p. 18.

<sup>122</sup> *See U.S. Department of State Country Reports on Human Rights Practices for 1989*, p. 1464; *U.S. Department of State Country Reports on Human Rights Practices for 1990*, p. 1518.

<sup>123</sup> Interview with Chief Public Prosecutor Mohammed al-Bennay, Ministry of Justice, Kuwait City, May 1992; Interview with Undersecretary Abdul Aziz Dikheel al-Dikheel, Ministry of Justice, Kuwait City, May 1992. Both did say that there had been "a few" cases in the past, but although asked, did not provide any details.

<sup>124</sup> Letter from Middle East Watch and the Women's Rights Project (MEW/WRP) to the International Organizations Liaison Office, Ministry of Interior (May 26, 1992); letter from MEW/WRP to Undersecretary Abdul Aziz Dikheel al-Dikheel, Ministry of Justice (May 26, 1992); letter from MEW/WRP to International Organizations Liaison Office, Ministry of Interior (June 7, 1992); letter from MEW/WRP to His Highness Shaikh Jaber al-Ahmed al-Jaber al-Sabah, The Emir of Kuwait (June 15, 1992) (reproduced in Appendix).

credit such allegations. Most of the abused women with whom we spoke who had attempted to report incidents of violence or mistreatment to the police, said the officers did not appear to believe their accusations, making jokes or becoming angry when they asked them to register their complaints. This attitude was reflected by the officer in charge of the Dasma deportation center, the main clearinghouse for abused maids deported in the mass effort in late April, who told us that a Sri Lankan woman at the center who was alleging repeated rape and non-payment of wages, "just wants money," and that, in his view, "nothing probably happened."<sup>125</sup>

Sometimes police return maids seeking to register complaints to abusive employers, a practice that can backlash on the employee by exposing her to retaliatory violence. In one case we investigated, L ran away in December, 1991, because her employer was pressuring her to have sex. The police sent her back home to her employer, who again asked her to have sex with him, beat her when she refused, and then raped her. L ran away from him a second time and was again returned by the police. On the third occasion that she ran away, she went to her embassy and was repatriated.<sup>126</sup>

Police are not only unresponsive to women's allegations of abuse, but reportedly have been abusive of Asian maids themselves.<sup>127</sup> We heard a number of credible reports that police mistreated or beat Asian women in custody who ran away from their abusive employers. In one case we investigated, Mumtaz Sharif, whose rape case against her employer's son was dismissed,<sup>128</sup> was detained at Suleibikhat police station. Officers there allegedly beat Ms. Sharif on her feet with a thin baton two feet in length, after which she said she could not walk. The police threatened to file charges against her for running away if she refused to return to work. The police then sent Ms. Sharif to the Sri Lankan embassy, but she left the same day and went into hiding. When we interviewed her in hiding several weeks later, Ms. Sharif was still limping from the beatings she received on her feet.<sup>129</sup>

In another police abuse case we investigated, a Sri Lankan woman was stopped by a police officer

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<sup>125</sup> Interview with Captain Adeb al-Swedan, Dasma Police Station, Kuwait City, May 1992. In fact, W. Tikna did ask for money, both back wages as well as an extra year's salary as compensation for being raped. However, a request for what might be considered civil damages does not detract from the credibility of her criminal allegations themselves, nor does it excuse the extreme skepticism and indifference with which her case was treated. For more discussion of W. Tikna's case, see pp. 15.

<sup>126</sup> Interview No. I-20, Kuwait City, April 1992. For further discussion of L's case, see pp. 15 above.

<sup>127</sup> Police who, as mentioned above, have a reputation for torturing and otherwise mistreating foreigners. Especially in the aftermath of Kuwait's liberation, the police were responsible for serious and ongoing human rights abuses, including rape, torture, arbitrary arrest and detention. See Middle East Watch, *A Victory Turned Sour* (September 1991). The maids' fear of the police stems in part from the fact that aliens accounted for the largest number of victims of those abuses. *Ibid.*, p. 1.

<sup>128</sup> As noted above, this is one of the few cases we investigated in which the maid's abuse charge was investigated and prosecuted, although the charges against the defendant were ultimately dismissed for reasons we were unable to ascertain.

<sup>129</sup> Interview with Mumtaz Sharif, Kuwait City, May 1992. For further discussion of Mumtaz's case, see pp. 18 above.

who asked for her identification and took her into custody when she could not produce her passport. He took her in his car to the desert where he raped her. He then left her in a restaurant in Kuwait City. She returned to her employers, who took her to the police station to register a rape complaint. At the police station, she identified one of the officers there as the rapist, however, she told us that he was not prosecuted.<sup>130</sup>

Police abuse of Asian women workers was also reported to us by Asian embassy officials who told us they heard complaints from two women, who had been detained in Suleibikhat Central Jail, that they had been beaten by police officers and then forcibly returned to employers from whom they had run away.<sup>131</sup>

### ***Failure to Investigate and Prosecute Complaints***

Although several senior government officials told us that the women should go to the police and register their complaints,<sup>132</sup> one of those same officials conceded to us that "the police generally don't do it [investigate]."<sup>133</sup> Our research revealed several cases in which the police failed to investigate criminal complaints. Helen Demetillar arrived at the hospital bound and gagged and reported being raped to hospital staff. However, to our knowledge there was no investigation or charge laid against her employer, the police later took her into custody,<sup>134</sup> and reportedly sent her back to the employer.<sup>135</sup> In another case, Josephine, a 26-year-old, was beaten and cut severely by her employer. She broke her ankle when she jumped from an upper floor of the house and was admitted to al-Razi Hospital where she received treatment for her fracture, as well as cuts in her abdomen her employer made with a knife. From there, she was arrested<sup>136</sup> and taken to Delibsha Police station. Although the police immediately released her in order to deport her, a hospital staff member told us the police did not investigate the charges against the employer.<sup>137</sup>

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<sup>130</sup> Interview No. II-7, Kuwait City, May 1992.

<sup>131</sup> Interview No. I-26, Kuwait City, April 1992.

<sup>132</sup> *Ibid.*

<sup>133</sup> Interview with Undersecretary Abdul Aziz Dikheel al-Dikheel, Ministry of Justice, Kuwait City, May 1992.

<sup>134</sup> Our researchers obtained a copy of the request signed by Lieutenant Colonel Adel Muhammed al-Sabbagha on behalf of the Hawalli District Commander ordering the Director of al-Razi Hospital to release Ms. Demetillar to the custody of the al-Nugra Police Station. She was listed as being a "suspect in the felony No. 7/92," the nature of which charge was not specified.

<sup>135</sup> Interview No. II-27, Kuwait City, May 1992; Ministry of Interior, Hawalli Province Investigations Administration Report, Ref. J 3/4/14 (dated April 14, 1992). Ms. Demetillar's case is discussed above on p. 13.

<sup>136</sup> We were unable to discover on precisely what charge she was arrested, although, given our findings of general police practice in these cases, it was probably either for attempted suicide or for leaving her employer without her passport.

<sup>137</sup> Interview No. I-71, Kuwait City, April 1992.

In some cases an initial investigation into a maid's charges was instituted by police, but was not followed up. We documented two cases in which initial reports of abuse were made by hospital investigators,<sup>138</sup> yet to our knowledge neither of those investigations was pursued nor either employer arrested, charged or prosecuted.<sup>139</sup> In the first instance, Ms. Peralta, whose case is detailed in Section II, complained to the police at the hospital about the beatings her employers inflicted, their failure to pay her and their refusal to relinquish her passport. She was interrogated by investigators twice while she was in the hospital, but as of late May the police had taken no action on her behalf against the employer.<sup>140</sup>

In the case of Singala Bolasi, the young Sri Lankan woman who was allegedly raped by her employer and then thrown from a balcony, we were able to obtain a copy of an initial report made by an unnamed Police Station Investigator attached to the Ministry of Interior's General Administration of Investigations on April 4, 1992. However, the report made no mention that her injuries indicated rape or of her allegation that her injuries were caused by her employer. In any case, to our knowledge, the report was never followed up.<sup>141</sup>

### ***Wrongful Detention of Asian Maids***

While Kuwaiti law enforcement officials have repeatedly shown themselves to be extremely reluctant to investigate and subsequently prosecute employers, they often detain abused employees. We have documented numerous cases in which maids who registered (or attempted to register) complaints against employers were detained by the police, pending the investigation or other "resolution" of the complaint. In the case of alleged rape of W. Tikna we discussed above, for example, police detained W. Tikna without charge at Dasma for three days, pending their investigation of her allegations, while allowing the alleged rapist to remain at liberty.<sup>142</sup> Embassy officials gave us the names of ten other women who were similarly detained after reporting abuses to the police,<sup>143</sup> although we were unable to gain access to the

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<sup>138</sup> Kuwait maintains investigators on call 24 hours a day in all the country's hospitals. If any person is admitted to a hospital with injuries that do not appear to be the result of an accident, the officials at the hospital immediately report the situation to the investigators' office. The investigator is then supposed to inform the police station in the district where the accident occurred and a police investigator is then required to come to the hospital to open a case. Interview with Brigadier Yagoub al-Muhaini, Director of Police Investigations, Ministry of Interior, Kuwait City, May 1992.

<sup>139</sup> Case of Helen Demetillar; Interview with Larena Peralta, Kuwait City, April 1992. For more information on their cases, see pp. 13 and 13, respectively.

<sup>140</sup> Interview with Larena Peralta, Kuwait City, April 1992; Interview No. III-10, Washington, DC, June 1992. For more information on Ms. Peralta's case, see p. 13 above.

<sup>141</sup> For a more complete discussion of Ms. Bolasi's case, see p. 14 above.

<sup>142</sup> Interview with W. Tikna, Kuwait City, May 1992 (*See* p. 15 above for further details of her case); Interview with Captain Adeb al-Swedan, Dasma Police Station, Kuwait City, May 1992. Captain Swedan also informed us that Ms. Tikna would be held at least until the boy's father returned her passport the following week.

<sup>143</sup> Interview Nos. I-23 and I-26, Kuwait City, April 1992.

**police stations in which they were being held independently to confirm these reports.**

**In some instances, the police apparently view the detention of these complainants without charge as a form of "protective" custody. Brigadier al-Muhaini, the Interior Ministry Director of Police Investigations, confirmed that "if the police are afraid to send her to the employer or she has no place to go, they will keep her at the station."<sup>144</sup> We understand that the inequity of arresting Asian maids stems, in part, from Kuwait's lack of an alternative place to house the women while their cases are being investigated, short of sending them back to abusive employers. While we wholly endorse police officers' concern for the maids' safety, it is utterly inappropriate to detain complainants. The government is under a duty not effectively to penalize women who seek to exercise their right to police protection. Rather, reasonable alternatives, such as providing a neutral shelter or allowing the women to reside at their embassies, must be established.**

**In still other cases, abused women workers who have fled without their passports or have attempted suicide, following abuse, have been arrested for violating Kuwaiti law requiring maids to carry their passports at all times<sup>145</sup> and prohibiting suicide. These women are arrested and charged by the police, despite Kuwait's Penal Code, which provides that people are not criminally responsible for acts they commit under threat of violence or in order to protect themselves from physical harm.<sup>146</sup> In one case we investigated, Editha Castro, a Filipina who was allegedly raped by her employer, was arrested for not having her passport when walking near the embassy where she had sought refuge.<sup>147</sup> The police did not investigate the possibility that she had broken the passport law to escape further physical harm (nor did they investigate the alleged rape).**

**The most egregious examples of the Kuwaiti government's tendency to penalize the victims, without reasonably investigating the context in which their seeming violation occurs, are found amongst the suicide attempts we documented. Out of a total of 39 registered felonies committed by all domestic servants, both male and female, between January and April 1992, nearly half were suicide cases in which the servants were accused of trying to kill themselves.<sup>148</sup> In each of the attempted suicide cases involving Asian maids that we investigated, the woman tried to kill herself only after suffering extreme mistreatment or abuse at the hands of her employer, as in the cases discussed above of Mumtaz Sharif, who was raped by**

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<sup>144</sup> Interview with Brigadier Yagoub al-Muhaini, Director of Police Investigations, Ministry of Interior, Kuwait City, May 1992. Brigadier al-Muhaini's statement comports with our findings that there are occasions on which police do not force maids to return to abusive employers.

<sup>145</sup> The residence permit of a servant who leaves her employer's service before the end of her contract is deemed canceled. Ministerial Order No. 84 of 1977 (Regulating the conditions and Formalities of Private Servants Ordinary Residence), Article 3. Without a residence permit, an expatriate cannot legally reside in Kuwait, and she is subject to immediate arrest and deportation. *Ibid.*

<sup>146</sup> Penal Code, Articles 24 and 25.

<sup>147</sup> Interview No. I-27, Kuwait City, April 1992.

<sup>148</sup> Letter from Ministry of Interior, International Organization Liaison Office to Middle East Watch and the Women's Rights Project (May 20, 1992), at p. 3. This letter lists attempted suicide as a felony.

her employer's son, beaten by her employer and confined for months,<sup>149</sup> and Sheikha, who was brutally raped by her employer.<sup>150</sup> The abuses that underlie the women's attempted suicides appear not to have been investigated by the police.

### **Police Informal Resolution of Complaints**

As an alternative to detaining the maids, either in "protective" custody or on a separate charge, Brigadier al-Muhaini told us that "the regular procedure in case of any abuse is for the police to caution the abuser and threaten him with criminal prosecution," as a means of resolving the situation.<sup>151</sup> This acts, to some extent, as a substitute for the formal arbitration of employment disputes by the Ministry of Social Affairs and Labour that has been precluded by the maids' exclusion from the labor law.

If the differences cannot be resolved, the police sometimes try to find a new employer for the maid. Officials at Dasma Deportation Center described several cases in which they had successfully assisted the transfer of a maid from one employer to another. For example, in response to a letter from the Indian Embassy regarding one of its nationals, Shaikh Amina BeShaikh Nawab Jan, the officers brought her employer and Ms. Jan to the police station, along with an Indian man she wanted as her new employer. The police supervised the transfer of her papers and the buy-out of her contract by her new employer.<sup>152</sup>

Resolving maids' complaints by informally attempting to arbitrate or secure new jobs is in some sense a positive step towards filling the legal vacuum in which maids work. Police preference for quiet mediation in some of these cases may also derive from general sociological factors, as well as the special predicament in which maids work. Officers may be reluctant to investigate higher-born Kuwaiti citizens accused of abusing their maids, who are potentially able to create trouble for the police officer involved. Additionally, in rape cases, the penalty of death is so extreme that it may be deterring police from pursuing those cases formally.

Although we are sympathetic to these pressures on police, the adverse side effect of the informal approach is that the police often feel justified in doing nothing to enforce the relevant criminal or civil law to protect Asian maids. This should be the law enforcement agencies' paramount concern. Moreover, informal resolution of the maids' problems obscures the need to institute legal reforms and provide better protections.

For example, under the present Aliens Residence Law, if a maid wishes to work for a different

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<sup>149</sup> Interview with Mumtaz Sharif, Kuwait City, May 1992. See pp. 18 and 26 above for a complete discussion of Ms. Sharif's case.

<sup>150</sup> Interview No. I-70, Kuwait City, May 1992. For more discussion of Sheikha's case, see pp. 16 and **Error! Bookmark not defined.** above.

<sup>151</sup> Interview with Brigadier Yagoub al-Muhaini, Director of Police Investigations, Ministry of Interior, Kuwait City, May 1992.

<sup>152</sup> Interview with Captain Adeb al-Swedan, Kuwait City, May 1992.

employer, her first employer must okay the transfer of her residence permit to the second employer.<sup>153</sup> If her previous employer does not consent – as was often the case with abused women servants who fled – and she nonetheless terminates her contract, her residence permit is considered revoked and she is subject to immediate deportation.<sup>154</sup> *Ad hoc* police intervention has apparently worked in some instances to encourage previous employers to consent to transfer, but such intervention is not available to the vast majority of abused maids, who are left to face deportation should they attempt to transfer employers without consent. Deportation is highly likely, especially now that the government is beginning to deport people without valid residence permits.<sup>155</sup>

We do not *per se* object to the al-Sabah government's policy of deporting workers who terminate their contracts in advance of closure. However, if the cause for the maids' early termination is abuse by their employers, automatic residence permit revocation and immediate deportation, in the event they cannot receive a legal job transfer, are not appropriate. All Asian women servants found to have fled as a result of abuse should have, at a minimum, the opportunity to find another job, if they so desire, without risk of deportation.

In addition, although Kuwait is under no clear obligation to extend the labor law to cover domestic servants, the labor law would immediately address and protect maids against some of the abuse and mistreatment they experience – such as the non-payment of wages, debt bondage and oppressive conditions – and provide a workable arbitration mechanism that would help all maids to resolve employment disputes. Many of the maids with whom we spoke would have appreciated this opportunity; without it, they had little choice but to return to abusive employers or to their country of origin.

#### **REFUSAL TO REPATRIATE AND SUBSEQUENT DEPORTATION**

Initially, the Kuwaiti government was unwilling to allow abused Asian women domestic servants to go home. Kuwaiti employers had in most cases refused to relinquish their workers' passports, and the government would not issue exit visas to the women without their passports.<sup>156</sup> Some embassies tried to

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<sup>153</sup> Law No. 55 of 1982, Amending Some Provisions of Aliens Residence Law, Article 1: "In the event of leaving service of his employer, the alien's residence permit shall be canceled...and the alien shall leave the country...Unless the consent of the employer is secured in writing, it is impermissible to employ...any alien whose residence permit was canceled in accordance with [these provisions]." (Translation by Middle East Watch)

<sup>154</sup> *See* Aliens Residence Law, Article 20 ("an alien shall be expelled from Kuwait...if the period of his residence permit has expired") and Ministerial Order No. 84 of 1977, Regulating the Conditions and Formalities of Private Servants Ordinary Residence, Articles 3 ("If a servant leaves the service of his employer before the expiry of his service contract term, his residence permit shall be canceled"), and 4 ("In the event of [a servant's] residence permit cancellation...an order shall be issued for deportation of such servant").

<sup>155</sup> "Hold on family visit visas confirmed," *Arab Times*, May 1, 1992. Watch for Middle East Watch's forthcoming report on Kuwait's treatment of expatriate workers in August/September 1992.

<sup>156</sup> To further complicate matters, maids who ran away often had no idea of the name or address of their employer (or did not wish to say for fear of being forcibly returned to them). This made it impossible for their embassies or the police assist with the return of their passports.

eliminate this obstacle by providing the maids with replacement passports or *laissez-passers*,<sup>157</sup> but found that, despite the fact that the law requires them to honor such documents,<sup>158</sup> the Kuwaiti government refused to do so or issue exit visas to women holding them. The al-Sabah administration's refusal to allow Asian maids to leave Kuwait was a flagrant violation of international human rights law, which guarantees that "Everyone shall be free to leave any country."<sup>159</sup>

In one case we investigated, discussed in detail in Section II, N.G. escaped from her employer and was issued a *laissez passer* by her embassy and given a free ticket home. However, when she went to get her papers stamped with an exit visa, the Immigration officials told her she had to get her employer's permission to leave.<sup>160</sup> N.G. felt it would be too dangerous to let the employer know where she was and so she did not receive her exit visa.<sup>161</sup> As a result, like many others, she was not allowed to leave. In general, the Asian embassies did their best to cope with a population whose size it was unprepared to handle and to try to resolve the maids' complaints. Still, the maids often ended up in poor conditions.<sup>162</sup> However, to compel them to return to their employers would have been tantamount to forced labor.<sup>163</sup>

Finally, the government offered to let some Filipina maids go home, but only if they each paid US \$1,463 for the ticket. The normal one-way fare to the Philippines is US \$592; the Kuwaiti government reportedly said it was going to give the other US \$871 to Kuwaiti employers as "reimbursement" for the fact

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<sup>157</sup> Temporary travel documents.

<sup>158</sup> Kuwaiti law states that "[l]aissez-passer or any other document, issued by competent authority... may substitute the passport." Minister of Interior Order No. 22 of 1975, Promulgating the Implementing Regulations of Aliens Residence Law, Article 1.

<sup>159</sup> Universal Declaration of Human Rights, Article 13: "Everyone has the right to leave any country, including his own, and to return to his country."

<sup>160</sup> Although it appears to be the practice of Immigration officials to require an employer's consent to the issuance of an exit visa, we have been unable to locate any provision of Kuwaiti law that mandates procuring such permission.

<sup>161</sup> Interview with N.G., Kuwait City, May 1992. Since we interviewed her, we have learned that N.G. is now in Bangladesh. Interview No. III-8, Washington, DC, May 1992. For more details of N.G.'s case, see p. 18 above.

<sup>162</sup> For example, the three to four hundred women in the Embassy of the Philippines the week of April 27, 1992 lived in abysmal conditions. Cots lined the corridors of the three-story building next to the embassy offices, and women stored their belongings along the staircases. Every landing on the stairs was fitted with a pallet on which someone slept and the rooms were crowded with pallets and cots laid end to end, no room between them. There was only one toilet on each floor and one kitchen for the hundreds of women. Food and water were difficult to obtain and the bathroom and kitchen sinks were kept filled with water for drinking. Some of the women staying at the embassy said that area restaurants, American military personnel and Bechtel Corporation donated food for the women. Nevertheless, many women said they only received one meal a day. Embassy sources said they were unable to pay for enough food to feed all the run away maids who had sought sanctuary with the embassy.

<sup>163</sup> Forced labor is defined as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily." International Labor Organization, Convention No. 20 Concerning Forced or Compulsory Labour (1932).



that they were losing their servants.<sup>164</sup> The request for exorbitant fees was particularly egregious given that Kuwait was prepared to use the funds to reimburse disgruntled employers, but had made no discernible effort to recoup the back salary due many of the abused maids. As noted earlier, the back salary had often been withheld without maids' consent and absent the proper contractual agreement required by international law.

In addition, the government's request for travel fees from the maids was inconsistent with Kuwait law that requires the government to shoulder the deportation expense in cases where the government decides to deport a person and that person cannot pay the cost.<sup>165</sup> Moreover, under the implementing regulations of the Aliens Residence Law, in cases where an employment contract has been terminated<sup>166</sup> in advance of the agreed upon date, the employer -- not the employee -- is required to pay repatriation costs.<sup>167</sup>

The government of Kuwait did, ultimately, agree to deport the women at its own expense. In the weeks before and during our mission to Kuwait, the government deported hundreds of Asian maids: over 100 Bangladeshis,<sup>168</sup> nearly 500 Filipinas,<sup>169</sup> over 200 Sri Lankans<sup>170</sup> and at least 50 Indians.<sup>171</sup> The large-scale deportations were, in part, necessitated by the increasing numbers of women stranded in their embassies.

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<sup>164</sup> The Philippines government refused, saying it didn't have the money to send the women at that price. Jack Kelley, "Women must pay high price to exit Kuwait," *USA Today* March 5, 1992.

The Kuwaitis also refused to allow others to fly the women -- free of charge -- to their countries of origin. U.S. Representative Pat Schroeder asked the U.S. Defense Department to provide her with a military plane so that she could fly to Kuwait in March 1992, and evacuate the women to their home countries. Jack Kelley, "Kuwaiti rape reports to be probed," *USA Today*, March 3, 1992, p. 4A. While there was some question whether the Pentagon would allow Representative Schroeder the use of a plane, the al-Sabah government foreclosed the possibility by suggesting it was not a good time for her to visit their country. Jack Kelley, "Women must pay high price to exit Kuwait," *USA Today*, March 5, 1992.

<sup>165</sup> Although the Head of Police and Public Security Departments may order the alien to bear her or his own costs of deportation if she or he has money available (Aliens Residence Law, Article 21), the comments to the Aliens Residence Law state that the government will undertake to pay such expenses in the case that the deportee cannot. *Ibid*, Explanatory Memoranda.

<sup>166</sup> To the extent that these regulations do not explicitly specify that sexual or physical abuse constitutes termination of contract, they should be reformed to so indicate.

<sup>167</sup> Implementing Regulations of Aliens Residence Law, Minister of Interior Order No. 22 of 1975, article 20.

<sup>168</sup> Interview No. I-75, Kuwait City, May 1992.

<sup>169</sup> Interviews No. I-1 and I-47, Kuwait City, April 1992.

<sup>170</sup> Interview No. I-83, Kuwait City, May 1992.

<sup>171</sup> Interview No. I-121, Kuwait City, May 1992. Prior to this the Sri Lankan embassy had sent home between three and four hundred Sri Lankan maids at its own expense during the winter. Interview No. I-83, Kuwait City, May 1992.

**While we recognize that deportation relieved the immediate problem of maids languishing in the embassies, it raised some serious concerns. No systematic effort was made to document the women's criminal complaints or civil claims prior to their being deported. The vast majority of women we interviewed at Dasma deportation center told us that the police had not asked them whether they were abused or even why they ran away from their employers. Embassy sources confirmed that many women with legitimate complaints had been deported without the resolution of their claims. We also documented cases of women with severe physical and mental injuries who were deported without proper testimony being taken, despite the fact that their injuries should have raised serious questions in the minds of the departing officials about their causes.<sup>172</sup> As a result of this failure either to resolve cases or preserve them for future prosecution, the deportees' cases were effectively dropped.**

**In addition, deportation should not have been the only option available to Asian maids who suffered abuse. For those seeking to return home, if their testimony had been properly preserved prior to deportation, then deportation would have been appropriate. However, those who desired to stay should have been provided with opportunities to secure new employment if they so desired. Instead, simply as a result of complaining, they lost their livelihood and, in effect, were forced to return to their country of origin.**

**Moreover, deportation seems to have enabled the Kuwaiti government to wash its hands of the abused Asian maids without addressing the underlying causes of their abuse. The government has made no attempt to pursue known cases or to implement the necessary legal and practical reforms to ensure that the pattern of abuse of Asian maids with impunity does not recur. According to sources in Kuwait, new maids complaining of sexual and physical abuse and mistreatment continue to appear daily at the Asian embassies.<sup>173</sup> If anything, deportation, rather than solving the problem has had a chilling effect on maids' reporting of crimes. Undersecretary of Foreign Affairs Suleiman al-Shaheen acknowledged to us that now "the women are afraid to complain for fear of being deported."<sup>174</sup>**

#### **IV. U.S. Policy**

**Despite its preeminent influence in Kuwait, the United States government has not taken a firm public stand, either before or after the Gulf War, on behalf of abused and mistreated Asian maids. This low profile has been maintained in the face of glaring evidence of an endemic problem.**

**The U.S. government documented abuses against maids as far back as 1988 in its annual *Country Reports on Human Rights Practices*. In 1988, for example, the State Department cited reports of underpayment of salaries for servants in Kuwait.<sup>175</sup> The following year, the State Department noted that the**

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<sup>172</sup> Interview Nos. I-1, I-26, I-47, I-75, I-83, Kuwait City, April and May 1992.

<sup>173</sup> Interview III-9, Washington, DC, June 1992.

<sup>174</sup> Interview with Undersecretary Suleiman al-Shaheen, Ministry of Foreign Affairs, Kuwait City, May 1992.

<sup>175</sup> *Country Reports on Human Rights Practices for 1988*, p. 1407.

Kuwaiti press regularly reported some of the worst cases of physical and sexual abuse of maids. In at least two cases, Asian maids died as a result of the abuses inflicted on them by their employers.<sup>176</sup> The U.S. Embassy in Kuwait was at that time clearly aware that abuse of maids often went unreported due to fear of reprisals.<sup>177</sup> In 1989 and 1990, the State Department also noted that employees were required to surrender their passports to their employers.<sup>178</sup> In 1991, the State Department noted that reports of physical abuse and rape of women domestic servants were widespread, although the perpetrators generally went unpunished.<sup>179</sup>

Despite the availability of ample background knowledge within the Department, a State Department spokesperson had little to say in February 1992 about a spate of graphic press reports concerning the dramatic revival of the issue in post-liberation Kuwait:

**Q** ...There are 250 women, mostly Asian women, who've taken refuge in the embassies of Sri Lanka, Philippines, India and Bangladesh. They're maids who've come to Kuwait to work for Kuwaitis, and they say that they've been beaten and raped and cheated. There are pictures of some of them with cigarette burns on them. And they are basically barricaded in the embassies. Are you aware of this situation? If you are, do you have any comment on it?

**Mr. Richard Boucher:** I personally am not aware of it.<sup>180</sup>

The State Department issued no follow-up statement about the matter.

In the spring of 1992, public outcry in the U.S. over the treatment of Asian women domestic servants reached a peak. Some of the outrage was directed at the U.S. government, which was roundly condemned for its refusal to take a stronger stand on Kuwait's failure to provide due process and equal protection of the law to those who suffer rape and mistreatment by their employers.<sup>181</sup> Nevertheless, the Administration was largely unresponsive to demands that the United States use its influence to pressure its close ally, the al-Sabah government, to address the issue seriously.

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<sup>176</sup> *Country Reports on Human Rights Practices for 1989*, p. 1464.

<sup>177</sup> *Ibid.*: "Although domestic servants are able to take legal recourse against their employers if they so choose, many cases involving the abuse of domestic servants go unreported due to fear of repercussions from employers."

<sup>178</sup> *Ibid.*, p. 1461; *Country Reports on Human Rights Practices for 1990*, pp. 1510, 1518.

<sup>179</sup> *Country Reports on Human Rights Practices for 1991*, p. 1481.

<sup>180</sup> Statement by Richard Boucher, State Department Regular Briefing, Wednesday, February 26, 1992.

<sup>181</sup> "U.S. should help women alleging abuse in Kuwait," *USA Today*, March 6, 1992, Editorials, at p. 8A; Laura Flanders, "War on Women," *Village Voice*, March 3, 1992; Judy Mann, "Is this what we went to war for?," *Washington Post*, March 1992. The Fund for the Feminist Majority sponsored an international action alert letter-writing campaign to protest the rape and assault of Asian maids in Kuwait and to advocate that the U.S. take a leadership role in securing the safety of abused Asian maids. Open Letter from Eleanor Smeal, President of the Fund for the Feminist Majority (March 16, 1992).

The U.S. Embassy in Kuwait told our delegation that it had been "pressing the Kuwaitis to rewrite and revise their laws and to strengthen" the redress channels available to maids.<sup>182</sup> At the same time however, Ambassador Edward W. "Skip" Gnehm defended the Kuwaiti government over its handling of the issue, saying "*we have to understand that the abuses are cultural.*" [Emphasis added] It is the way one people treat another, and prejudice" that cause the problems.<sup>183</sup> This apologist language suggests a tolerance for behavior by the Kuwaitis that the Administration repeatedly denounced in the past as a violation of human rights.

U.S. Representative Pat Schroeder, frustrated by the lack of official response to the maids' plight, attempted to take a military plane to Kuwait so she could meet with the various Asian ambassadors and evacuate the women who were stranded in their embassies back to their countries of origin. However, she was unable to secure the use of a military transport plane to effect the rescue and the government of Kuwait did not encourage her visit.<sup>184</sup>

The U.S. government was willing to commit U.S. military resources to protect Kuwait from the deprivations of Iraq. And, in the wake of the Gulf War, its influence with Kuwait's ruling family has reached an unprecedented level. Regrettably, this influence does not appear to have been utilized to fulfill the United States' duty to promote human rights by advocating strongly on behalf of abused foreign domestics in Kuwait. The U.S. government should, at a minimum, call on Kuwait to prosecute abusive employers and improve legal protections for the maids so that their abuse and mistreatment cannot recur with impunity.

### **CONCLUSIONS AND RECOMMENDATIONS**

This report documents a pervasive problem of rape, physical assault and mistreatment of Asian women domestic servants by their employers. The Kuwaiti government has both failed to investigate and punish such abuse and to ensure that maids receive adequate protection from it under the law. As a result of the government's failure to enforce -- and in some cases, to reform -- the law, abused Asian maids have been left with little alternative to enduring abusive employers but to flee, largely to their embassies. From there, they have usually been deported.

While deportation appears to have resolved the immediate problem of maids languishing in their embassies, the present deportation procedure does nothing to address the abuse that caused maids to flee. Nor is it an adequate substitute for ensuring that the pattern of abuse and mistreatment with impunity does not recur.

The al-Sabah administration should undertake the following steps to eliminate unpunished abuse and mistreatment of Asian women domestic servants and meet its international human rights obligations to guarantee the Asian maids due process and equal protection of the law:

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<sup>182</sup> Interview with U.S. Ambassador Edward W. Gnehm, Kuwait City, May 1992.

<sup>183</sup> *Ibid.*

<sup>184</sup> She was also told by the Kuwaitis that it was "not a good time for her to visit the country."

## **1) Law Enforcement**

**We call on Kuwait to enforce existing laws fully and fairly, by**

- **Investigating and prosecuting all reports by Asian maids of rape and assault;**
- **Punishing debt bondage, passport deprivation, and confinement as required by law;**
- **Ceasing the wrongful arrest and detention of Asian maids who complain about or flee from abusive employers;**
- **Honoring the provision of the Aliens Residence Law that allows temporary travel documents and replacement passports to be issued by embassies when a woman is unable to retrieve the passport that was unlawfully taken from her; and**
- **Preserving the testimony or evidence regarding abuse or mistreatment, prior to deportation, in such a manner that police and prosecutors can follow-through the investigation and pursue the maids' cases irrespective of whether the woman is still present in Kuwait.**

## **2) Legal Reform**

**We call on Kuwait to reform existing laws to guarantee Asian maids adequate protection against abuse, by**

- **Amending the Aliens Residence Law to include abuse by an employer as cause for proper termination of an employment contract, giving rise to the employer's duty to bear the cost of the employee's repatriation;**
- **Amending the Aliens Residence Law to provide that maids abused by employers can seek alternative employment, should they so desire, without the need to obtain their first employer's permission or running the risk of deportation;**
- **Amending the Private Sector Labor Law to remove all undue restrictions on expatriates' freedom of association;**
- **Enacting the proposed employment agency regulation law; ensuring that it will regulate the fees employment agencies can charge employers, and forbid employers from recouping those fees by deducting them from the salaries of their domestic servants without a signed prior agreement by the employee;**
- **Promulgating standardized employment contracts for domestic servants that can be enforced in the courts of Kuwait or through other official administrative channels, such as the Ministry of Social Affairs and Labour; and**

- **Amending the private sector labor law to include domestic servants within its protections, which include limits on hours, days off, deductions from salary and other working conditions and provide for formal arbitration of employment disputes. Short of amending the labor law to include domestic servants, the government should provide otherwise effective and simple legal mechanisms for Asian maids to resolve employment disputes and utilize the legal system where necessary.**

### **3) International Obligations**

**We call on the government of Kuwait to demonstrate its commitment to eliminating abuse and providing Asian women domestic servants with due process and equal protection by**

- **Signing the International Covenant on Civil and Political Rights and the Convention to End All Forms of Discrimination Against Women; and**

### **4) Social Assistance**

**We urge Kuwait to assist all maids in resolving employment disputes and working under safe, unoppressive conditions by**

- **Establishing a shelter for maids who experience abuse or mistreatment where women can stay while their status is being determined so that maids do not have to choose between remaining with an abusive employer, being held in jail, or languishing in their embassies; and**

- **Allowing women who are staying in the shelter full freedom to contact their embassies, the police or any other authority they may deem necessary for the full resolution of their situation. Kuwaiti authorities may wish to post officials from the Ministry of Social Affairs and Labor and the Ministry of Interior Department of Investigations in such a shelter to facilitate resolution of abuses or problems experienced by Asian maids.**

## **APPENDIX**

### ***Letter from Middle East Watch and the Women's Rights Project of Human Rights Watch to His Highness Shaikh Jaber al-Ahmed al-Jaber al-Sabah, The Emir of Kuwait:***

**June 15, 1992**

**His Highness Shaikh Jaber al-Ahmed al-Jaber al-Sabah  
The Emir of Kuwait  
The Emiri Diwan  
The State of Kuwait**

**Your Highness,**

**Middle East Watch and the Women's Rights Project of Human Rights Watch are writing to bring to Your Highness's attention the cases of Singala Bolasi, a Sri Lankan domestic servant who is in immediate danger of being returned to her employer whom she accuses of raping her and throwing her from a third floor balcony, and of Helen Demetillar, a Filipina domestic servant who has reportedly already been returned to the home of the employer who raped her.**

**Middle East Watch and the Women's Rights Project, both divisions of Human Rights Watch, recently sent a mission to the State of Kuwait to investigate the situation of Asian women domestic workers. We appreciate the cooperation of Kuwaiti officials and the assistance extended by various departments of your government to our researchers. During the investigation, these especially troubling cases regarding the situation of some Asian women domestic workers came to the attention of our representatives that we believe merit immediate attention by your government.**

**Singala Bolasi, a citizen of Sri Lanka, is currently receiving medical treatment at al-Razi Orthopedic Hospital. She was admitted with injuries due to a fall from a great height and with severe lacerations to her genitals. She alleges that she was raped by her employer who then threw her off the balcony of the room. She has also apparently suffered from severe catatonia and other psychiatric disorders as a result of her experience. Her employer visited her while she was in the hospital and stated that she should return to his house upon her discharge from the hospital. We have been informed that Ms. Bolasi is due to be released from the hospital within the next few days.**

**We are especially alarmed about Ms. Bolasi because another rape victim, Helen Demetillar, a citizen of the Philippines, was already returned to the home of her abuser. Ms. Demetillar was originally admitted to Mubarak Hospital and transferred to al-Razi Orthopedic Hospital on January 23. We were informed that she was admitted to Mubarak Hospital with her hands bound behind her back and a gag in her mouth. She said she was raped by her employer and had jumped from a fourth story window to escape. She was discharged from al-Razi Hospital in the last week of April and taken to Nugra Police Station. However, on May 2 Ms. Demetillar was no longer present at Nugra and it is rumoured that she was returned to her employer's home. Our investigators are not aware that she was among the hundreds of Filipina women**

**who were deported around this time.**

**Middle East Watch and the Women's Rights Project are deeply concerned for the safety of these women and request that Your Excellency ensure that they are not returned to the homes of their respective employers. We trust that Your Highness will see to it that Ms. Bolasi and Ms. Demetillar are repatriated to their countries of origin, if they so wish, at the expense of their employers in accordance with Article 4 of Ministerial Order No. 84 of 1977 (Duly Regulating the Conditions and Formalities of Private Servants Ordinary Residence). We also request that Your Excellency ensure that all proper criminal procedures are undertaken with regard to these cases, including, but not limited to, investigation by the appropriate authorities into the allegations of rape and assault against Ms. Bolasi and Ms. Demetillar's employers, preservation of the two women's evidence regarding their charges, and prosecution of those employers, if warranted.**

**We thank Your Highness in advance for your attention to these matters. We would be grateful if Your Highness would inform us about what actions you take regarding these cases and look forward to hearing from you in the near future.**

**Sincerely,**

**Andrew Whitley  
Director, Middle East Watch**

**Dorothy Q. Thomas  
Director, Women's Rights Project**

**cc: Undersecretary of Foreign Affairs Suleiman Majid Al-Shaheen  
Ambassador to the United States Saud Nasir Al-Sabah**



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***Middle East Watch was created in 1989 to monitor human rights practices in the Middle East and North Africa and to promote respect for internationally recognized standards. The chair of Middle East Watch is Gary Sick, the vice chairs are Lisa Anderson and Bruce Rabb, the executive director is Andrew Whitley, the research director is Eric Goldstein, the associate director is Virginia N. Sherry, the senior researcher is Aziz Abu-Hamad, and the associate is Suzanne Howard.***

***The Women's Rights Project was established in 1990 to monitor, in conjunction with Human Rights Watch's five regional divisions, violence against women and gender discrimination throughout the world. The director is Dorothy Q. Thomas, the staff attorney is Georgetown University WLPP Fellow Michele E. Beasley, and the associate is Dionne A. Morris.***

***Middle East Watch and the Women's Rights Project are divisions of Human Rights Watch, a nongovernmental organization which is also composed of Africa Watch, Americas Watch, Asia Watch, the Fund for Free Expression and Helsinki Watch. The chair of Human Rights Watch is Robert L. Bernstein, the vice chair is Adrian W. DeWind, the executive director is Aryeh Neier, the deputy director is Kenneth Roth, the Washington director is Holly J. Burkhalter, and the press director is Susan Osnos.***