



KUWAIT

# Walls at Every Turn

Abuse of Migrant Domestic Workers through  
Kuwait's Sponsorship System

HUMAN  
RIGHTS  
WATCH



## **Walls at Every Turn**

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Kuwait's Sponsorship System**

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# Walls at Every Turn

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## **Summary and Key Recommendations**

*Kuwaiti people treat domestic workers like members of the family. There is no difference between them and any member of the family.*

—MOHAMMED AL-KANDARI, UNDERSECRETARY OF SOCIAL AFFAIRS AND LABOR, KUWAIT, NOVEMBER 23, 2009.

*“Mama [my employer]” would close the fridge; we were not allowed to take any food. She also beat me if there was anything wrong, like a tiny speck of dust. I worked from 6 a.m. until 1 a.m. I wanted to leave, but she would not allow me. I call[ed] the agency ... they told me not to come to them. [Now] I want to go home, but my passport is still with Mama. She threatens to go to the police if [I] bother her again.*

—SAWLA T., ETHIOPIAN DOMESTIC WORKER, KUWAIT, NOVEMBER 17, 2009.

# WALLS AT EVERY TURN

Photographs by Moises Saman/Magnum

Foreign domestic workers play an essential role in nearly every Kuwaiti household. More than 660,000 foreign domestic workers from Asia and Africa, the majority of whom are women, work for Kuwait’s 1.3 million citizens, as well as for foreign residents living in the country. While some employers develop an affectionate and caring bond with the women who care for their children, cook their meals, and clean their homes, others take advantage of weak legal protections and an isolated home environment that shields human rights abuses from outside scrutiny.





In 2009, embassies of labor-sending countries in Kuwait City received more than 10,000 complaints from domestic workers about nonpayment of wages, excessively long working hours without rest, and physical, sexual, and psychological abuse. Many more abuses likely remain unreported. Domestic workers have few avenues for redress. Kuwait's labor laws exclude domestic workers, while its immigration laws prohibit them from "absconding" from the workplace—leaving or changing jobs without their employer's consent.

Domestic workers who leave their job without their employer's permission, even those fleeing abuse, may face immigration charges with criminal penalties, indefinite detention, and deportation. More than half the domestic workers who Human Rights Watch interviewed for this report had charges of absconding registered against them. The

A recruitment agent stands with a group of Ethiopian domestic workers as they waited for potential clients at an agency office in the basement of a shopping center in the Hawalli neighborhood of Kuwait. Women who leave employers and return to recruitment agencies—either as a result of their employer's decision or their request—are called "returns."

government deports thousands of workers each year who have little opportunity to pursue their own complaints. In other cases, employers try to force workers wishing to change their job to repay the initial cost of recruiting them, in violation of Kuwaiti regulations, by keeping their passports and withholding their consent to change employment.

Kuwait's *kafala* (sponsorship) system effectively shields employers from legal responsibility to respond to charges of nonpayment, forced labor, or abuse by allowing them to petition immigration authorities to cancel workers' legal residency, and by providing workers with few practical avenues for redress. Kuwaiti officials and lawmakers have repeatedly voiced the opinion that certain legal reforms are unnecessary because employers in Kuwait treat domestic workers as members of their families. However, such descriptions remove workers from the rules and protections that would govern any other workplace. They also ignore government responsibilities to prevent mistreatment, and to respond to repeated complaints of legal violations, including those that take place in private homes.

During the May 2010 review of Kuwait's human rights record at the UN Human Rights Council in Geneva, several of the 52 speakers representing foreign government delegations pressed Kuwait on the status of domestic workers in the country. Following the review, the government agreed to pass labor legislation covering domestic work as part of its commitment to improving human rights protections. Such legislation will need to provide domestic workers with protections equal to those of other workers in the country, while addressing the particular monitoring and enforcement challenges that have rendered previous reforms ineffective in achieving greater protection for this sector. Kuwait's neighbors in the region have similarly been held to account for treatment of domestic workers in their countries, and governments have begun to implement reforms. Kuwait's next steps in resolving this issue can mark it as a regional leader in human rights, or, if reforms remain incomplete, as a state where workers are conspicuously left vulnerable to abuse.

Women workers migrate to Kuwait and other countries in the Middle East chiefly from India, Indonesia, Sri Lanka, the Philippines, Nepal, and Ethiopia, for financial reasons that include the desire to support their children, invest in small businesses, or buy a house back in their home country. Domestic workers generally migrate to Kuwait via recruitment agencies in their home countries that maintain relationships with agents in Kuwait. Most have agreed to two-year contracts. Countries that send large numbers of female migrants to work in Kuwait take insufficient steps to protect their citizens either before or during their migration, leaving workers vulnerable to inadequate information or misrepresentation regarding future employment, illegal recruitment fees confinement by agencies pre-departure, and extortion from corrupt local officials. Once in Kuwait, these workers find themselves vulnerable to further abuse in a system that leaves them with almost no effective legal protections.



A major contributing factor to domestic workers' vulnerability is Kuwait's *kafala* (sponsorship) system. The Aliens' Residence Law of 1959 (the Residence Law), with its implementing regulations, remains the primary law setting forth this system. Governing domestic workers' legal



residency and work permits, these regulations require employers to act as “sponsors” of workers’ legal residency and employment in Kuwait. Sponsors decide whether a worker may change employers and can easily file paperwork with Kuwaiti immigration authorities to cancel a worker’s

A Nepalese domestic worker and her employer wait to process immigration paperwork inside the Embassy of Nepal in Kuwait City.



The son of a Filipina domestic worker, only one-month-old, lives with his mother at the Philippines Embassy. Domestic workers who have children in Kuwait face particular difficulties obtaining the legal clearances necessary for these children to leave the country and travel to their mothers' home country—a process that can take years.

residency permit at any time. By delegating to individual employers the power to determine a worker's immigration status—tying a worker's ability to be legally present in the country to the satisfaction of her employer—lawmakers have ignored the exploitative potential inherent in these regulations. Workers desperate to earn money fear retaliation, cancelation of their visas, and deportation should they attempt to pursue claims of contract violation or abuse.

Domestic workers' rights are further compromised by their inability to invoke labor protections. Though domestic workers have worked in Kuwaiti homes for generations, Kuwait has excluded domestic workers from labor protections—including minimum wage regulations, paid holidays, and sick leave—since the first Labor Law for the Private Sector was passed in 1964. A new labor law enacted in February 2010, Law No. 6 Governing Labor in the Private Sector, retains this discriminatory exclusion. The new law strengthens protection for privately employed workers by

restricting working hours to eight hours per day, providing for paid maternity leave, end-of-service payments, and access to Labor Ministry dispute resolution mechanisms. Domestic workers, however, remain without any protection under this law.

Kuwait's current Minister of Social Affairs and Labor Mohammad al-'Afas, as well as certain members of Kuwait's National Assembly (the parliamentary body), have publicly recognized the need for a law governing domestic work. A new draft law under consideration by parliament could significantly improve the terms of employment for domestic workers and allow them the possibility of seeking a new employer in cases of abuse or contract breach. In addition to the terms already provided in the standard contract, the new draft law would standardize eight-hour workdays, payment of overtime, days off for domestic workers on official public holidays, and penalties for late payment of salaries. Workers could transfer employment without their sponsor's consent by following specific dispute resolution procedures. These provisions, if realized, would represent major progress for workers' rights. To date, however, the proposed draft fails to ensure full reform of the problematic *kafala* system. The proposed form still does not allow workers full freedom to terminate or change jobs at will, and maintains references to the system of employment sponsorship.

As a step towards improving legal protection for domestic workers, the Kuwaiti government in 2006 revised the standard contract that agencies, employers, and domestic workers are legally required to sign during the process of recruiting a domestic worker. Government officials continue to cite this standard contract as the main source of protection for foreign domestic workers. While the contract marks progress, setting at least a minimum of standards, it lacks the more comprehensive protections that other private sectors receive and remains poorly enforced. Human Rights Watch found that many workers never see the contract in practice and have had little success enforcing even its basic provisions.

Current requirements in the standard contract for domestic work include rest breaks for every three hours of continuous work, a weekly day off, and two months of paid leave for every two years of service. Employers must provide food, accommodation, and medical treatment; they also bear responsibility for workers' arrival and return air tickets. However, the contract fails to restrict the total number of hours worked per day and lacks overtime and sick leave provisions, causing it to fall short of labor protections enjoyed by other private sector workers in Kuwait as well as those recommended under international labor standards.

Employers must also pay all recruitment fees under the standard contract, while recruitment regulations prohibit both employers and agents from collecting any reimbursement from workers. In practice, both employers and agents regularly exploit their power over workers to demand repayment of recruitment fees or to extract further services from workers who cannot pay them. Workers may be returned to employment agencies or turned over to new employers in exchange for large payments of recruitment fees, in some cases without their consent, and in yet others, by threat.

Contract guarantees and agency regulations have in numerous cases failed to improve the actual employment conditions of many domestic workers. The government lacks mechanisms to monitor and enforce employer compliance with their contractual obligations. Instead, workers must take it upon themselves to procure the necessary information and seek government help in making sure their employers follow the law, a process rife with obstacles. Human Rights Watch research into the current situation of migrant domestic workers in the country determined that while some workers experienced satisfactory employment situations, others left the jobs they had traveled thousands of miles to reach, citing employers' abuse and exploitation. While Human Rights Watch cannot estimate the total number of workers abused, it found that current regulations and practice not only fail to ensure the rights of many workers, but in many cases they are subjected to further penalty and hardship after these rights have been violated.

Nonpayment of salaries for months at a time and excessively long working hours without rest topped the list of complaints reported by domestic workers in Kuwait. They also said that they had in some cases encountered punitive or violent reactions to their request for overdue wages. Despite the mandatory rest periods included in Kuwait's standard domestic labor contract, workers reported that employers expected them to remain on-call at all hours of the day and required them to perform unreasonable amounts of work. Workers also described incidences of physical and sexual abuse, as well as denial of adequate food and medical care.

Workers that Human Rights Watch spoke to routinely described how employers not only retained their passports, but used the passports as a method of control by refusing to return them when workers tried to leave their employ. Employers' fears of domestic workers "running away" to find a boyfriend or other jobs led some to prohibit any independent movement by locking workers inside the home or keeping them under constant supervision. Without stronger protections for their freedom of movement, some workers remained physically confined to the workplace, trapped in abusive conditions and denied accessible avenues to report contract violations.

Other workers risk their lives to escape, attempting dangerous climbs from the windows or balconies of their employers' homes. Those who fall often suffer serious injury and sometimes permanent disability, and some subsequently discover that criminal charges of absconding or theft have been filed against them. Local media typically report these falls as cases of attempted suicide. Human Rights Watch found conflicting information about the legal consequences for workers who have indeed attempted suicide and for workers whose unsuccessful escapes are described as such. While some experienced lawyers told Human Rights Watch that an individual unsuccessfully attempting suicide would face criminal penalties, others disagreed. Regardless, responsible authorities tend to treat workers as they would other immigration law violators rather than providing them with the assistance and counseling that their circumstances merit.

Human Rights Watch documented dozens of cases in which workers who left employers' homes faced punishment or further exploitation. We interviewed 49 domestic workers, in addition to local employers, Kuwaiti lawyers, members of civil society organizations, and government officials.

Kuwaiti government officials told Human Rights Watch that domestic workers alleging contract breach or abuse should lodge complaints with (1) the police, (2) the Ministry of Interior's Domestic Workers Department, or (3) a civil court.

However, each of these institutions presents legal or practical barriers to workers seeking redress.

In practice, Kuwaiti police stations provide an inconsistent array of responses to workers' complaints. Domestic workers leaving their employers must successfully register a complaint with the police before their employer reports their absence in order to avoid "absconding" charges, pursuant to which a worker faces criminal and financial penalties of up to six months in prison and KD600 (US\$2060) for leaving her job without the employer's permission. The Aliens' Residence Law requires employers to report workers who are absent for more than a week to the police. This race-to-the-police-station approach frequently punishes, rather than protects, workers who are escaping abuse.

The majority of workers that Human Rights Watch interviewed said that their sponsors had reported them to the police as cases of "absconding" after they left abusive employment situations. Upon receiving an absconding report, police cancel the worker's residency visa and register an order for her detention. Domestic workers charged with absconding, including workers who said they quit jobs because they had not been paid, or were beaten, denied food, or subjected to sexual violence, thus joined the ranks of criminal suspects and offenders in Kuwait's penal system. While some workers were able to report abuse through their embassies or directly to the police, very few could successfully pursue claims to their resolution.

Domestic workers seeking assistance at police stations were left unsure as to whether they would be helped or penalized, while some workers were abused by the authorities responsible for their protection. In January 2010, Kuwaiti papers reported two separate incidents in which policemen or immigration officers admitted to raping domestic workers in their custody. Most domestic workers whom Human Rights Watch interviewed avoided going to the police station and instead sought assistance from their home country embassies or local community groups.

Administrative complaint resolution proves similarly ineffective. Embassies typically direct workers' employment complaints first to the Domestic Workers' Department for dispute resolution. The department cannot compel employers to attend dispute resolution hearings, nor can they evaluate the complaint and impose an equitable solution. Instead, the responsible officer mediates between a representative of the worker's embassy and the employer, trying to get the parties to reach an agreement. Even when sponsors did participate in such negotiations, they sometimes bargained for full or partial repayment of recruitment fees in exchange for paying overdue wages, providing an air ticket home, or returning the domestic worker's passport. Such agreements are made even

though the standard contract prohibits domestic workers being charged for recruitment fees.

For nonpayment and other breach of contract claims, the current standard domestic labor contract provides that any disputes arising under its provisions should be referred to a Kuwaiti court. Workers who were victims of crimes and those who considered pursuing civil legal claims after failing to resolve their cases through the Domestic Workers Department faced a host of practical and financial concerns that discouraged them from doing so. These included the length of time involved in filing a claim; high filing fees and limited access to legal services; lack of accommodation and employment opportunities during the review period; difficulty substantiating their claims with evidence that would convince a court given the lack of witnesses or poor police investigations; and mistrust of the legal system.

Domestic workers who left homes in which they said they worked without pay for months on end, experienced physical or sexual abuse, or worked without sufficient food or medical care, also had very few options for emergency shelter while they tried to resolve their claims or return to their home countries. Many workers turn initially for help to their recruitment agency, which served as their first point of contact in Kuwait. However, workers that Human Rights Watch interviewed said that, in some cases, recruitment agents gave them inadequate food or shelter, or tried to coerce them into working in another home even if they wished to leave Kuwait.

The Kuwaiti government currently provides no immediately accessible shelter to domestic workers in distress. Despite the fact that hundreds of domestic workers need shelter on any given day, at the time of Human Rights Watch's visit, the official government shelter could house just 50 to 60 women. Shelter policy allows the facility to accommodate only women who have no "cases," meaning women whose employers or others have not reported them as "absconding" or filed criminal charges (even ones with no credible basis) against them. These overly restrictive policies left the government shelter operating well under capacity. In the meantime, domestic workers who sought refuge at their home country embassies found themselves waiting for weeks or months in crowded shelters while overtaxed embassy staff tried to resolve their cases. In October 2009, the Indonesian embassy housed over 600 domestic workers, while in November 2009 the Sri Lankan embassy sheltered over 200. Domestic workers whose governments do not maintain embassies in Kuwait lack even this option.

Abuse of domestic workers in Kuwait is not new. Almost two decades ago, Human Rights Watch reported that "nearly two thousand women domestic servants ... have fled the homes of abusive Kuwaiti employers and sought refuge in their



embassies,” and that “there exists a significant and pervasive pattern of rape, physical assault and mistreatment of Asian maids that takes place largely with impunity.” The 1992 report, “Punishing the Victim: Rape and Mistreatment of Asian Maids in Kuwait,” found that the government “made no systematic effort to document abused women’s criminal complaints or civil claims,” but deported large groups of workers rather than resolving their claims or offering alternatives like job transfer. “Deportation seems to have allowed the Kuwaiti government to wash its hands of the maids’ problems without addressing the underlying causes of their abuse,” it concluded.

The Kuwaiti government continues to rely on deportation as the primary method for dealing with the several thousand domestic workers who terminate their employment by “absconding,” or leaving their employers without consent. Even workers who claim that their employers breached their contractual obligations or abused them physically or sexually, often leave Kuwait through deportation proceedings. Workers reported spending weeks or months in official custody, moving from embassy shelters to police stations to criminal investigation facilities to deportation detention. Many of the workers Human Rights Watch interviewed said that officers had failed to explain any charges against them, or they had

More than 200 women are packed in a sweltering room in the Philippines Embassy, where they sleep on their luggage. Other labor-sending countries, including Sri Lanka, Indonesia, Nepal, Ethiopia, and India, maintain shelters in Kuwait. Most are equally, if not more, crowded.

failed to provide information on when these charges would be resolved and they could leave the country.

The head of Kuwait’s deportation department told Human Rights Watch that workers could wait lengthy periods in deportation detention while waiting for passports or travel documents, air tickets, or the resolution of any remaining charges against them (though the workers should have been cleared of such charges before entering deportation custody). Relying on deportation to “solve” domestic workers’ problems treats them as offenders rather than workers legitimately seeking to change employment. Current procedures also neglect workers’ own potential claims against employers, leaving them to depart without the wages that they are owed or redress for blatant breaches of other contract provisions.

In an April 2010 public address in Jeddah, Saudi Arabia, Navanethem Pillay, the UN High Commissioner for Human Rights, joined the call for reform of the sponsorship system,



**April 1992**

A group of domestic workers from the Philippines have taken shelter at the embassy safe house. Since that time, domestic workers have continued to face similar abuses, but few legal protections have been implemented.

© 1992 Terry Smith/ TIME & LIFE Images

*Abuse of domestic workers in Kuwait is not new. Almost two decades ago, Human Rights Watch reported that “nearly two thousand women domestic servants ... have fled the homes of abusive Kuwaiti employers and sought refuge in their embassies,” ...*

FROM “PUNISHING THE VICTIM: RAPE AND MISTREATMENT OF ASIAN MAIDS IN KUWAIT”, A HUMAN RIGHT WATCH REPORT PUBLISHED IN 1992.



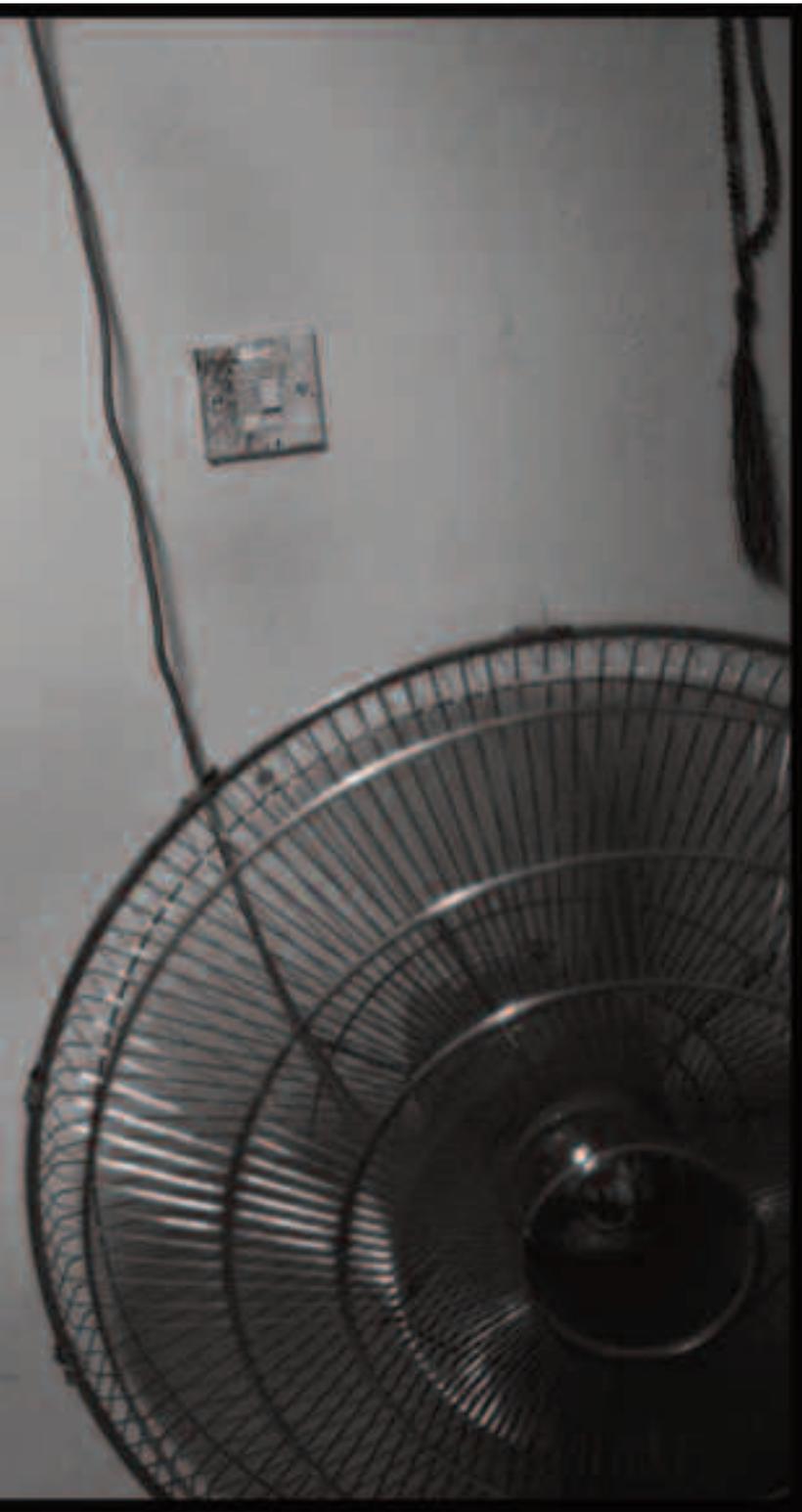
### **August 2010**

Female domestic workers sleep on the floor of the Philippines Embassy shelter in Kuwait. With few legal protections against employers who choose not to pay them, push them too hard, or abuse them, domestic workers in Kuwait have little choice but to turn to shelters.



one of the lynchpins enabling employer abuse and worker vulnerability across the Gulf region. In her speech, at the beginning of a tour examining human rights priorities across Gulf Cooperation Council (GCC) countries, Pillay stated that “many problems have arisen through a lack of protection safeguards in the so-called *kafala* – or sponsorship – system

that leaves migrant workers vulnerable to exploitation in an unequal power relationship with their employers,” and stressed that “the numerous highly vulnerable domestic workers do not yet receive anything like adequate legal protection.” However, she continued, “all the governments I have spoken to so far recognize that this needs to change.”



Workers continue to spend long periods waiting at embassy shelters, including the Philippines safe house, shown here. Since 1992, the Kuwaiti government has relied on deportation as the primary method for dealing with domestic workers who face employment-related problems. Workers reported spending weeks or months in official custody, moving from embassy shelters to police stations, and from there to criminal investigation facilities, before they were sent to deportation detention.

Today, further advancements must overcome significant opposition from political factions and local recruitment businesses. Full protection of migrant domestic workers' basic rights in Kuwait remains an unrealized goal.

# KEY RECOMMENDATIONS

## TO THE GOVERNMENT OF KUWAIT

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- **Reform Kuwait’s sponsorship system.** In particular, remove provisions on absconding, including any criminal penalties. Repeal or amend all articles and regulations under the Aliens’ Residence Law to enable foreign workers to change employers without losing valid immigration status and without having to obtain their first employer’s permission.
- **Prohibit employers from confiscating domestic workers’ passports.** Monitor compliance and penalize employers and recruiters who violate this prohibition.
- **Include domestic workers under Kuwait’s labor laws.** Ensure that a specific law for domestic work does not create weaker or unequal protections to those in the main labor laws. Set out and enforce standard labor rights protected by the ILO conventions that Kuwait has signed, including defined working hours, freedom to take a weekly day off outside employer supervision, and just and equitable employment conditions including regular payment of wages.
- **Inform domestic workers of their rights and responsibilities under Kuwaiti law,** and provide information and contact details for sources of assistance. Make this information available in languages spoken fluently by the largest numbers of domestic workers in Kuwait.
- **Empower the Ministry of Labor to resolve domestic labor complaints through dispute-resolution or arbitration mechanisms.** Refer all complaints that do not reach resolution to the courts system. Create a labor-complaints court that can expedite resolution of domestic worker complaints, allowing workers who have faced abuse to return home as soon as possible.
- **Collect and publish statistics on a yearly basis regarding the number and type of complaints filed with both courts of law and the Domestic Workers’ Department (or any authority that assumes supervision of domestic labor) as well as on how these complaints are resolved.**
- **Provide shelters or financial support for civil society shelters that meet international standards and allow access to all workers escaping abusive work conditions.**
- **Create a domestic labor inspection task force to monitor working conditions and legal compliance for this sector.** In particular, investigate places of work where domestic workers have alleged violations.
- **Increase recruitment agency monitoring by devoting greater resources towards this mandate and by hiring more staff for the Domestic Workers Department, or any alternate government monitoring authority created.** Ensure accountability for agency abuses.

## **TO GOVERNMENTS WHOSE NATIONALS PERFORM DOMESTIC WORK IN KUWAIT, INCLUDING INDIA, INDONESIA, SRI LANKA, THE PHILIPPINES, NEPAL, AND ETHIOPIA**

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- **Enhance labor departments of embassies or consulates in Kuwait to assist migrant domestic worker nationals whose rights are violated by their employers.**
- **Inform all domestic workers before they travel abroad of their contractual rights as well as their rights under Kuwaiti and international law. Provide information on means of support and legal assistance, as well as contact information for embassy officials and other resources in Kuwait.**
- **Raise cases of nationals who suffered abuse at the diplomatic, and if necessary, public level. Advocate for increased legal protection and assistance to domestic workers in Kuwait who face criminal assault or work for long periods without pay.**



A female employer and her children are accompanied by their domestic worker, back right, as they walk through The Avenues, an indoor luxury shopping center in Kuwait City. Many employers bring domestic workers when they go to local grocery stores or shopping malls.



## Methodology

Three Human Rights Watch researchers conducted research in Kuwait on migrant domestic workers for 18 days in November 2009, and one researcher returned for an additional week in January 2010, conducting a total of 121 interviews. These interviews were supplemented by follow-up research through July 2010.

We interviewed relevant government authorities that granted our appointment requests, representatives from international and local organizations working on the domestic labor sector, and employers. We also conducted extensive background research, including reviewing existing laws and regulations, statistics from government sources, press reports, and studies by international organizations and civil society groups.

Researchers spoke with 49 domestic workers about their experiences working in Kuwait and conducted two group interviews in shelter facilities. Human Rights Watch interviewed workers at embassy shelters, a Kuwaiti government shelter, a local hospital, a government deportation center, a labor recruitment agency, local churches, and a villa where migrant workers rented rooms. With the exception of the churches, all of the locations visited were places that domestic workers went after leaving employers' homes because of employment disputes, alleged abuse, or because they wished to return to their home countries.

When possible, interviews with workers took place in their native languages with the assistance of an interpreter; other interviews were conducted in English or Arabic. Female interviewers and interpreters conducted the majority of interviews and all interviews involving detailed allegations of sexual violence. Researchers interviewed workers in private rooms or areas.

Researchers also interviewed three ambassadors and six labor department officials from the embassies of Ethiopia, Indonesia, the Philippines, and Sri Lanka. The Indian embassy did not respond to several requests for meetings that were made over a period of four months.<sup>1</sup>

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<sup>1</sup> Letter from Human Rights Watch to Ajay Malhotra, ambassador, Embassy of the Republic of India, Kuwait, November 3, 2009 and Human Rights Watch telephone call to S. Narsing Rao, first labor secretary, Embassy of the Republic of India. We received a response November 7, 2009 denying the request due to a cultural festival. We also sent a letter via email on January 6, 2010, and were told our request to meet in during our visit to Kuwait in late January was under consideration. We contacted the embassy without response each day between January 25 and 28, 2010.

Human Rights Watch spoke with eight Kuwaiti citizens and foreign residents about their experience employing migrant domestic workers. Researchers also interviewed five lawyers working in Kuwait, five journalists for local media, three academics who specialize in Kuwait or labor migration to the Gulf region, and two health professionals whose work includes research on domestic workers.

Human Rights Watch met with Kuwaiti government officials who oversee areas pertinent to domestic workers' rights including the head of the Immigration Authority, Brigadier General Kamil al-'Awadhi; the head of the Domestic Workers Department, Colonel Abdullah 'Awwadh al-'Ali; the undersecretary for Social Affairs and Labor, Mohammed al-Kandari; the head of the Deportation Department, Ahmad Rajaiba; and Massouma al-Mubarak, a member of parliament. Fifteen members of local civil society organizations that donate basic supplies, collect funds for return airfare, or provide legal or practical counseling to domestic workers in distress, as well as four staff members from the International Labor Organization (ILO) and the International Organization for Migration (IOM) also participated in interviews.

By conducting interviews with domestic workers primarily at shelters, hospitals, and a deportation center, Human Rights Watch was able to speak with workers who had left their employers' homes for reasons that included abuse and who often wished to leave the country. While the interview subjects do not represent a random sample of experiences workers might have in Kuwait, they do provide evidence of how the Kuwaiti government addresses its commitments under international law to protect women workers' rights and provide mechanisms that effectively address violations that do occur. Though interviews took place in a range of settings, interviewees who had never met and spoke several different languages all reported similar types of abuse that indicated patterns in employers' treatment of workers; it also indicated that the problems they reported existed on a larger scale.

Human Rights Watch makes no claims based on these interviews regarding the prevalence of such abuse among the total population of domestic workers in Kuwait. Rather, this report examines how Kuwait's legal and regulatory system handles allegations of abuse from domestic workers as well as the options for redress it provides. Human Rights Watch collected testimony regarding the barriers workers faced that prevented them from lodging complaints, turning to the designated authorities, or pursuing legal redress. By collecting complaint statistics from four embassies whose citizens make up the majority of domestic workers, Human Rights Watch also assessed the volume of complaints responsible authorities must address.

Most interviewees are referred to by pseudonyms to avoid suffering repercussions for participating in the research, or because they requested that Human Rights Watch do so. In some cases, interviewees explicitly requested or provided permission to use their real names. Officials from the foreign missions of labor-sending countries typically released detailed information to Human Rights Watch that was conditional on their anonymity.

## I. Background

When I opened my eyes [to the world], I found maids taking care of me.  
—Mohammad Khuraibet, a lawyer born and raised in Kuwait, November 19, 2009.

### The Migration of Domestic Workers to Kuwait

Kuwaitis have employed live-in migrant domestic workers in their homes for more than half a century.<sup>2</sup> Demand for domestic workers has increased exponentially since 1965, when only one thousand migrant household workers worked in the country.<sup>3</sup> That began to change in the mid-1970s, as Kuwait saw a huge increase in its oil revenues and domestic workers immigrated from India, Sri Lanka, and the Philippines to meet increasing demand for household labor.<sup>4</sup> By 1989, Kuwait hosted between 100,000 and 130,000 foreign domestic workers.<sup>5</sup> By 2009, the number of domestic workers in Kuwait exceeded 660,000.<sup>6</sup>

Most women currently come from South or Southeast Asia, though a growing number of African migrants have entered the domestic service labor market.<sup>7</sup> Indian, Sri Lankan, Filipina, Indonesian, Nepali, and Ethiopian women constitute the most widely-represented nationalities among Kuwait's domestic workers.<sup>8</sup>

Kuwait employs the second-largest number of domestic workers in the Middle East after Saudi Arabia, with domestic labor constituting over one-third of the total expatriate

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<sup>2</sup> Anh Nga Longva, *Walls Built on Sand: Migration, Exclusion, and Society in Kuwait* (Oxford: Westview Press, 1997). According to Amani al-Bedah, a Kuwaiti academic and activist on domestic worker rights since the early 1990s, “[Domestic work] is something that was part of the culture from a very long time ago. It used to be not Indian domestic workers—it used to be Yemenites....They were considered the “boy” of the house—it was a form of social adoption. When they got married, the family would pay their marriage costs. Somehow, that turned into the huge demand for [domestic labor] you see today.” Human Rights Watch interview with Amani al-Bedah, Kuwait, November 24, 2009.

<sup>3</sup> *Ibid.*, pp. 43-45.

<sup>4</sup> *Ibid.*, p.69.

<sup>5</sup> *Ibid.*

<sup>6</sup> Habib Toumi, “New Entry Rules Set for Domestic Workers,” *Gulf News*, <http://gulfnews.com/news/gulf/kuwait/new-entry-rules-set-for-domestic-workers-1.578029> (accessed March 18, 2010).

<sup>7</sup> Kuwaiti recruitment agencies place advertisements in weekly classified papers such as *al-Wasit* and *8o8o8o*. Human Rights Watch found advertisements for workers from Ethiopia, Eritrea, and Ghana in these publications (on file with Human Rights Watch).

<sup>8</sup> “Nepal conditions labor export,” *Arab Times*, February 6, 2010, <http://www.arabtimesonline.com/NewsDetails/tabid/96/smid/414/ArticleID/149210/reftab/99/Default.aspx> (accessed March 12, 2010).

workforce. It also has the highest ratio of domestic workers to citizens, with one foreign domestic worker for every two Kuwaiti citizens. In practice workers are spread unevenly. Large houses sometimes employ over a dozen domestic staff members, while in other cases one worker may work for multiple families occupying different units in a shared residence. Current regulations permit families to employ a domestic staff of either three or four, based on family size.<sup>9</sup> However, families may easily hire additional workers by paying supplemental fees to Kuwait's immigration authority.<sup>10</sup>

Kuwaiti residents spoke repeatedly about the important role domestic workers play in society. "There is a whole generation of Kuwaiti kids that have been raised by maids," said Mariam al-Foudery, a civil society activist. "Everyone has a story about a maid they grew up with."<sup>11</sup> The ambassador of a labor-sending country told us, "Kuwaiti children can be very attached to these ladies.... Sometimes the sponsors don't know what to do when [workers] leave because the children are so distressed."<sup>12</sup>

Hiring foreign domestic workers to perform time-consuming chores such as cleaning and childcare has reduced the amount of household labor demanded from Kuwaiti women, who otherwise bear primary responsibility for these tasks. Over the past few decades, Kuwaiti women have entered the workforce in increasing numbers, pursued higher education, and generally engaged in more active lives outside the home.<sup>13</sup>

Domestic workers seek employment outside their home countries for a variety of reasons. Some women sought work in Kuwait because they were the sole income-earners for their families and had few employment opportunities at home. Others hoped to save for a house or to invest in a small family business.<sup>14</sup> Latha M., a domestic worker from Gampola, Sri Lanka, said she migrated because of family debts: "My husband broke his leg; he can't work.

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<sup>9</sup> Ministry of Interior, Ministerial Decree No. 640 of 1987 concerning the Executing Regulations of the Aliens' Residence Law (Law No.17 of 1964), sec. 2, art. 5 (b)(1).

<sup>10</sup> Ibid.

<sup>11</sup> Human Rights Watch interview with Mariam al-Foudery, Salmiya, Kuwait, November 22, 2009.

<sup>12</sup> Human Rights Watch interview with foreign ambassador to Kuwait, name withheld upon request, Kuwait, November 11, 2009.

<sup>13</sup> Ministry of Planning, *State of Kuwait: The Millenium Development Goals Progress Report 2005* (Kuwait, Ministry of Planning, 2005), [http://undp-kuwait.org/mdg/KUW\\_MDG\\_2005\\_Eng.pdf](http://undp-kuwait.org/mdg/KUW_MDG_2005_Eng.pdf) (accessed June 16, 2010); United Nations Development Programme (UNDP), *Human Development Report 2009* (New York: United Nations Development Programme, 2009), Kuwait chapter, [http://hdrstats.undp.org/en/countries/country\\_fact\\_sheets/cty\\_fs\\_KWT.html](http://hdrstats.undp.org/en/countries/country_fact_sheets/cty_fs_KWT.html) (accessed June 16, 2010).

<sup>14</sup> Human Rights Watch interview with Mary P., Kuwait, November 11, 2009; Human Rights Watch interview with Jyotamma A., Indian domestic worker, Farwaniya, Kuwait, January 27, 2010; and Human Rights Watch interview with Latha M., Sri Lankan worker, Dasman, Kuwait, November 20, 2009.

There [was] no chance to get money.”<sup>15</sup> Before his accident, Latha and her husband had taken a loan to purchase a truck so that he could earn income by transporting cargo. After Latha’s migration to Kuwait, the family also decided to build a new home. These expenses left her responsible for debts back in Sri Lanka that would require repayment in installments over a period of years. Finally, some women seek economic stability and independence. For example, Tigit A., an Ethiopian domestic worker, said, “I don’t have any relative or parent so I want[ed] to help myself. I worked as a housemaid in Ethiopia, also. I made just 60 birr (US\$4.47) a month. I wanted to change my life.”

Expatriate workers in Kuwait, including domestic workers, send home remittances totaling around \$3 billion per year, or about four percent of Kuwait’s annual gross domestic product.<sup>16</sup> For the sending countries remittances can play an important role in poverty alleviation. Although data disaggregating the contribution of domestic workers compared to other migrants is unavailable, remittances from workers abroad made up 21.6 percent of Nepal’s gross domestic product (GDP) in 2008, 11.2 percent of the Philippines’ GDP, 7.2 percent in Sri Lanka, 4.2 percent in India, 1.5 percent in Ethiopia, and 1.3 percent in Indonesia.<sup>17</sup>

The huge flow of women workers from lower-income countries to Kuwait creates both economic benefits and social costs. Migrant domestic workers leave behind families, including their own children, when they emigrate to work abroad. Repeat migrants grow dependent on earnings in countries where restrictive immigration policies allow neither longer-term residency status nor any realistic possibility for family unification. While domestic workers provide care for their employers’ children, they regularly go for years without seeing their own.

## **Sending Countries’ Protection Gaps**

Though governments of labor-sending countries depend upon the financial contributions that migrant domestic workers make to their local economies, they take insufficient steps to protect nationals migrating for domestic work either before or during their migration.

Domestic workers who migrate to Kuwait typically do so through independent recruiters who visit their hometowns or villages and connect them to recruitment agencies in their home

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<sup>15</sup> Ibid.

<sup>16</sup> The World Bank, *Migration and Remittances Factbook 2008* (Washington DC: The World Bank, 2008), pp.14-15.

<sup>17</sup> Dilip Ratha, Sanket Mohapatra, and Ani Silwal, “Migration and Remittance Trends 2009,” World Bank Migration and Development Brief 11, November 3, 2009, <http://go.worldbank.org/5YMRRoVW8o> (accessed December 15, 2009).

countries. Labor agents typically arrange all of the paperwork required for a worker's migration, including whatever employment contract she will sign. Poor regulation by sending-country governments leaves workers vulnerable to a variety of abuses including misrepresentation of contract terms, forced confinement and other abuses while under agency care, and even cases of human trafficking. Over the past six years, Human Rights Watch has interviewed hundreds of migrant domestic workers from labor-sending countries, including some employed in Kuwait, who faced abuses in the recruitment process. These included Indonesian domestic workers who recounted experiences of forcible confinement for months in overcrowded local training centers before they began their journeys, and Sri Lankan domestic workers who were charged illegal recruitment fees or deceived about the working conditions and location of their jobs.<sup>18</sup>

Domestic workers interviewed commonly complained that labor agents in their home countries promised them a higher wage, a day off per week, a particular sleeping accommodation, and other conditions of work, but that their employers provided significantly different conditions and lower payments.<sup>19</sup> Kuwait's recruitment regulations require that domestic workers sign a copy of the government-issued standardized employment contract, available in English and Arabic, at the Kuwaiti consulate in their home country—though Human Rights Watch found that workers are rarely informed of its provisions in detail before they migrate—and that agents told many workers that their rights differed from those outlined in this document. Exploitative practices such as misrepresenting terms of employment or substituting different employment contracts than those signed in home countries set the stage for additional abuses these women later experienced. However, Human Rights Watch also noted that government officials responsible for overseeing domestic work in Kuwait tended to cite sending-country governments as the primary source of domestic workers' problems, neglecting to acknowledge the abuses perpetuated due to the absence of labor rights protections under Kuwaiti law and the failure of current institutions to effectively enforce workers' rights.

Diplomats from labor-sending countries have negotiated with the Kuwaiti government for improved protection of domestic workers' rights through political dialogue or via mechanisms such as memoranda of understanding (MOUs), which specify a minimum wage, weekly rest days, direct payment of salaries into workers' bank accounts, and prohibitions

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<sup>18</sup> Human Rights Watch, *Help Wanted: Abuses Against Female Migrant Domestic Workers in Indonesia and Malaysia*, vol. 16, no. 9 (B), July 2004, <http://www.hrw.org/en/reports/2004/07/21/help-wanted>; Human Rights Watch, *Sri Lanka/Middle East – Exported and Exposed: Abuses against Sri Lankan Domestic Workers in Saudi Arabia, Kuwait, Lebanon, and the United Arab Emirates*, vol. 19, no. 16 (C), November 2007, <http://www.hrw.org/en/reports/2007/11/13/exported-and-exposed-2>.

<sup>19</sup> *Ibid.*

on passport confiscation.<sup>20</sup> They may also impose recruitment bans to press the Kuwaiti government for increased domestic worker protection.<sup>21</sup> For example, in October 2009, the Indonesian government banned all domestic labor migration to Kuwait until the governments could agree on a new MOU protecting workers' rights.<sup>22</sup>

However, the limited use of such diplomatic tools illustrates sending countries' broader failure to achieve systematic protections for their nationals who perform domestic work in Kuwait. These failures are attributable to competing priorities, including political pressure to maintain recruitment and remittance flows as well as diplomatic cooperation.<sup>23</sup> Some diplomats from labor-sending countries said that their governments specifically instructed them to maintain friendly relations with Kuwait and to preserve labor recruitment.<sup>24</sup> Embassy officials for governments that prioritized domestic workers' concerns, such as the Philippines, could more effectively assist their citizens in distress, highlighting cases of their nationals in the news and speaking freely of the problems their workers faced. By contrast, the Indonesian and Sri Lankan embassies found themselves with severely overcrowded shelters and a backlog of cases, while local activists reported that the Indian embassy shelter remained difficult to access and its personnel less responsive, leaving workers to turn to community organizations for support instead.<sup>25</sup> All embassies' labor attachés and their staff interviewed by Human Rights Watch described unmanageable workloads and lack of resources in the face of a constant flow of complaints from domestic workers.<sup>26</sup> "The volume of work does not allow us to rest," one labor attaché said. "Some of our staff [members] already have broken health [or] emotional problems."<sup>27</sup>

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<sup>20</sup> Memorandum of Understanding on Labor, Employment, and Manpower Development between India and Kuwait, signed April 10, 2007; Anita Rachman, "Ministry Engaging Kuwait, Malaysia, Over Migrants," *Jakarta Globe*, January 3, 2010; Ben Garcia, "Indonesia bans maids recruitment to Kuwait," *Kuwait Times*, October 15, 2009, [http://www.kuwaittimes.net/read\\_news.php?newsid=NzAyNzQoNjU3](http://www.kuwaittimes.net/read_news.php?newsid=NzAyNzQoNjU3) (accessed March 16, 2010); and Habib Toumi, "Kuwait and Indonesia to ink worker pact," *Gulf News*, January 6, 2010, <http://gulfnews.com/news/gulf/kuwait/kuwait-and-indonesia-to-ink-worker-pact-1.564006> (accessed March 16, 2010).

<sup>21</sup> Nurfika Osman, "Indonesia and Kuwait Hold Talks on Rights of Migrant Workers," *Jakarta Globe*, February 24, 2010.

<sup>22</sup> *Ibid.*

<sup>23</sup> Human Rights Watch interview with ambassador from labor-sending country, Kuwait, November 11, 2009; Human Rights Watch interview with ambassador from labor-sending country, Kuwait, November 15, 2009; and Human Rights Watch interview with political officers of labor-sending country, Kuwait, November 24, 2009.

<sup>24</sup> Two embassy officials told Human Rights Watch that they had received a diplomatic note from Kuwait's Ministry of Foreign Affairs, stating that the country in question should refrain from tarnishing Kuwait's international reputation by discussing the domestic worker problem. Human Rights Watch interview with ambassador from labor-sending country, Kuwait, November 11, 2009 and Human Rights Watch interview with political officers of labor-sending country, Kuwait, November 24, 2009.

<sup>25</sup> Human Rights Watch interview with C.N., Kuwait City, November 10, 2009; Human Rights Watch interview with Indian community activist living in Kuwait, January 27, 2010.

<sup>26</sup> Human Rights Watch interviews with labor-sending country ambassadors and labor staff, Kuwait, November 2009.

<sup>27</sup> Human Rights Watch interview with labor attaché from labor-sending country, Kuwait, November 11, 2009.

## Sanju R.'s Story

Sanju R., a 33-year-old domestic worker from Kurunegala, Sri Lanka, migrated to Kuwait to provide support for her husband and three children. She had previously worked for five-and-a-half years in Kuwait, and returned for a second time after a two-year break in Sri Lanka. She described working for her second employer from 6 a.m. to midnight.

*I had no day off. There was no rest. The madam [employer] always beat me; [she] would beat me on the head. I always had [severe] headaches. She told me, "I can kill you; I can beat you. No one cares about you." She has had many housemaids, but none of them stay.*

*For five months, I stayed. [The only time] I could go outside [was] with madam, for shopping. She took me with her to prevent me running away. One time, I had tried to run away but [Sir] caught me at the gate. He told me, "Sanju, I have a watch that cost 2000 KD [\$6,900]. If you run away, I'll say you took it." I was very afraid; I don't like that people would think that. I am not a thief.*

*Madam said I must stay for nine months without a salary. She said she gave 530 KD [\$1830] to the agent. She said, "I want nine months of your salary to pay [that fee back]."*

*[Voice starts to break, almost crying] I say, "Sorry, I have a husband and three children. As long as you give me my salary, it's fine if you beat me." But she didn't like this. She wanted to beat me without giving a salary. They owe me 300 KD [\$1037] for five months of work. [After five months,] I said, "Don't worry about the salary, just give me a ticket home to Sri Lanka."*

Sanju escaped to her embassy. She said the embassy staff told her she could try to reclaim the wages she was owed; she contacted her female employer who claimed that she could not pay because she was in poor health and did not have the money.

*[She said,] "I will give you a release so you can go to another home, you can go work, but you must pay me 530 KD [\$1830]." The agency took this money from her, not me! Why do I have to pay it back?*

Sanju had spent two months at her embassy's shelter and in investigative detention, waiting for her case to be resolved so she could return home. Human Rights Watch met her at the Khaitan shelter maintained by the Kuwaiti government, where she had been for two days. Though she had access to free legal advice through both her embassy and the government shelter, she had little information about her rights in this situation, what might happen to her next, or how long she would have to wait before she could return home.

*"Sometimes I think, will I go to camp, jail, [or] the embassy? What will happen to our life tomorrow?"*

—Sanju R., Khaitan government shelter, Kuwait, November 17, 2009.

## II. Legal Framework for Migrant Domestic Workers

I cannot agree more that we [should] have a law.... to deal with this segment of people [domestic workers]. All members [of parliament] will not disagree [with this].

—Massouma al-Mubarak, member of Kuwait’s parliament, Kuwait City, November 15, 2009.

Migrant domestic work in Kuwait is regulated by a combination of overly restrictive immigration laws and weak labor protections. Kuwait’s Aliens’ Residence Law of 1959 (the Residence Law) remains the primary law governing domestic workers’ legal residency and work permits, while lawmakers continue to exclude domestic workers from national labor legislation’s protections.<sup>28</sup> A standard contract updated by Kuwait’s Ministry of Interior in October 2006 sets forth obligations upon the recruitment agency and the employer, including the employer’s responsibility to pay all recruitment fees, but provides workers with little protection, government monitoring, or effective means to lodge and pursue complaints.<sup>29</sup>

Migrant domestic workers in Kuwait are protected under an established body of international law that covers their rights as individuals and as workers. Kuwaiti national laws also afford workers certain protections, including a prohibition banning agencies from collecting recruitment fees from workers, constitutional protections against forced confinement (including confinement by private individuals), and the right to redress when it comes to criminal offenses, including physical and sexual assault. However, poor enforcement of current recruitment regulations, immigration laws, and other domestic legislation, leaves workers with few effective avenues to seek even those human rights protections recognized in domestic law. Other laws or legal exclusions themselves violate international human rights commitments, in particular the exclusion of domestic work from labor protections, which violates both nondiscrimination and labor rights protections. As several delegations noted during Kuwait’s May 12, 2010 Universal Periodic Review session in

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<sup>28</sup> Aliens’ Residence Law of 1959, promulgated by Amiri Decree No.17 of 1959, *Kuwait al-Youm*, December 14, 1959.

<sup>29</sup> Contract for Recruiting Private Servants and Those in that Category and Employment, standardized domestic labor contract for Kuwait, on file with Human Rights Watch.

Geneva, domestic workers remain excluded from core international labor rights standards, including those provided to workers in other sectors under Kuwaiti law.<sup>30</sup>

## International Human Rights Obligations

Kuwait is obligated under international human rights law and international agreements it has ratified to protect domestic workers in its territory from abuses from employers, agency staff, and public officers. These laws and treaties also oblige Kuwait to provide effective means of recourse to individuals claiming abuse and remedies to those whose claims are deemed valid.

Kuwait has acceded to international human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).<sup>31</sup> Article 70 of the Constitution of Kuwait provides that “a treaty has the force of law after it is signed, ratified, and published in the official gazette.”<sup>32</sup> Under these conventions, as well as under customary international law, the state must take appropriate measures to prevent, punish, investigate, or redress harm to individuals’ rights, whether these harms stem from acts by private individuals and entities, or state employees and institutions.<sup>33</sup> These international human rights agreements outline Kuwait’s obligations to its citizens, but also to all Kuwait’s residents, including migrant domestic workers.

Domestic workers who have left their sponsors, or otherwise lack valid residency permits, face discriminatory treatment when it comes to access to redress. International Labor

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<sup>30</sup> “Draft Report of the Working Group on the Universal Periodic Review,” distributed May 14, 2010, UN Doc. A/HRC/WG.6/8/L.14, [http://lib.ohchr.org/HRBodies/UPR/Documents/Session8/KW/A\\_HRC\\_WG.6\\_8\\_L.14\\_Kuwait.pdf](http://lib.ohchr.org/HRBodies/UPR/Documents/Session8/KW/A_HRC_WG.6_8_L.14_Kuwait.pdf) (accessed May 24, 2010).

<sup>31</sup> International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, adopted May 21, 1996; International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force January 3, 1976, adopted May 21, 1996; and Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted December 18, 1979, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, entered into force September 3, 1981, adopted September 2, 1994.

<sup>32</sup> Constitution of the State of Kuwait, adopted November 11, 1962, art. 70.

<sup>33</sup> See, e.g., Human Rights Committee, General Comment 31, Nature of the General Legal Obligation on States Parties to the Covenant, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (2004), para. 8; UN General Assembly, Declaration on the Elimination of Violence against Women, U.N. General Assembly Resolution 48/104 (A/RES/48/104), article 4(c) (“States should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end, should: (c) Exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons”).

Organization (ILO) Convention No. 111 concerning Discrimination in Respect of Employment and Occupation (Employment and Occupation Convention), ratified by Kuwait in 1966, states that prohibited discrimination includes “any distinction, exclusion or preference ... which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation,” which includes discrimination against domestic workers as compared to workers in other sectors. The 2010 report of the Committee of Experts on the Application of Conventions and Recommendations, in the observation on Kuwait, noted “the particular vulnerability of migrant domestic workers,” and “urged the government to pursue efforts to ensure more effective protection in law and practice against discrimination of these workers ... and that there was effective enforcement and access to complaints procedures.”<sup>34</sup>

International law also requires governments to protect the rights of *all* individuals in employment relationships regardless of whether they hold valid work permits. The Committee on the Elimination of Racial Discrimination, the UN body of experts that oversees the eponymous convention ratified by Kuwait on October 15, 1968, states in General Recommendation No.30 that once an employment relationship has been initiated, the employee engaged should enjoy all labor and employment rights until the relationship is terminated.<sup>35</sup>

The ICESCR specifically recognizes “the right of everyone to just and favorable conditions of work,” including “[f]air wages and equal remuneration for work of equal value without distinction of any kind in particular women being guaranteed conditions of work not inferior to those enjoyed by men.... ;b) [s]afe and healthy working conditions... ; d) [r]est, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.”<sup>36</sup> The committee of independent experts who clarify application of the ICESCR has emphasized both the importance of the right to adequate housing and its expansive definition, stressing that this right “should be seen as the right to live somewhere in security, peace and dignity...The physical safety of occupants must be

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<sup>34</sup> ILO Committee of Experts on the Implementation of Conventions and Recommendations, Individual Observation concerning Discrimination (Employment and Occupation) Convention, 1958 (No. 111) Kuwait (ratification: 1966), 2010, <http://www.ilo.org/ilolex/cgi-lex/pdconv.pl?host=status01&textbase=iloilc&document=478&chapter=3&query=C111%40ref%2B%23YEAR%3D2010&highlight=&querytype=bool&context=0> (accessed June 16, 2010).

<sup>35</sup> UN Committee on the Elimination of Racial Discrimination, General Recommendation 30, Discrimination against Non-citizens (Sixty-fourth session, 2004), U.N. Doc. CERD/C/64/Misc.11/rev.3 (2004), [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/e3980a673769e229c1256f8d0057cd3d?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/e3980a673769e229c1256f8d0057cd3d?Opendocument) (accessed May 24, 2010), para. 35.

<sup>36</sup> ICESCR, art. 7.

guaranteed as well.”<sup>37</sup> Thus, where workers depend on employers to provide shelter, and employers fail to provide shelter that guarantees their physical safety, peace, and dignity, the government must provide an alternative.

These international human rights agreements obligate Kuwait to protect domestic workers, as well as anyone else in their territory, from acts of violence, under ICCPR article 9 protecting security of person; to prevent slavery, servitude, and forced labor, under article 8; and to ensure workers’ liberty of movement, under article 12. In particular, as a state party to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Kuwaiti government undertook the obligation to “pursue by all appropriate means and without delay a policy of eliminating discrimination against women,” and to “take all appropriate measures...to suppress all forms of traffic in women,” including forced labor.<sup>38</sup> Freedom of movement, and the prohibition on arbitrary detention, protected by Articles 9 and 12 of the ICCPR, are also reflected in the prohibition against forced confinement in the Kuwaiti constitution.

Kuwait has also acceded to the UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children (Trafficking Protocol), which supplements the 2000 Convention against Transnational Organized Crime. The Trafficking Protocol defines human trafficking as “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.”<sup>39</sup>

As a member state of the International Labor Organization (ILO) since 1961, Kuwait has an obligation to “respect, to promote, and to realize” fundamental rights under ILO conventions, including the elimination of discrimination in respect of employment and occupation, and the elimination of all forms of forced or compulsory labor. Kuwait also has ratified seven of

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<sup>37</sup> ICESCR, Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 4: *The Right to Adequate Housing (Article 11(1) of the Covenant)*, U.N. Doc. E/1992/23 (1992), paras. 7, 8.

<sup>38</sup> Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted December 18, 1979, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, entered into force September 3, 1981, acceded to by Kuwait on September 2, 1994.

<sup>39</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (“Palermo Protocol”), A/RES/55/25, adopted November 15, 2000, entry into force December 25, 2003, acceded to by Kuwait on May 12, 2006, <http://www2.ohchr.org/english/law/protocoltraffic.htm> (accessed May 24, 2010).

the eight conventions protecting the organization’s core labor standards: Convention Nos. 29 (Forced Labor Convention) and 105 (Abolition of Forced Labor Convention); Nos. 87 and 98, protecting freedom of association and the right to organize; No. 111 prohibiting discrimination in employment and occupation; Nos. 138 (Minimum Age Convention); and No. 182 (Worst Forms of Child Labor Convention).<sup>40</sup> Kuwait has not ratified ILO Convention No. 100 concerning equal Remuneration for Men and Women Workers for Work of Equal Value (Equal Remuneration Convention).<sup>41</sup>

In a 2009 report on global laws and practices governing domestic work, the ILO reported that conditions in this sector do not improve without committed action to improve its underlying legal framework.<sup>42</sup> The organization’s recognition of domestic work as an undervalued sector requiring more specific and comprehensive protections resulted in the decision to adopt a binding international convention on domestic work in June 2010, at the annual International Labor Conference in Geneva.

## National Laws

The sponsorship system is the root of all evils. It gives power to the employer to the extent that the maid is totally under his power and domination.

—Ambassador, labor-sending country, Kuwait, November 11, 2009.

### *The Aliens’ Residence Law of 1959 and Accompanying Regulations*

The Aliens’ Residence Law and its implementing regulations are the primary legal sources for Kuwait’s sponsorship system, which places the burden of monitoring a worker’s whereabouts and immigration status—typically a government function—on private sponsors or guarantors. This law requires all migrants to have a local *kafil*, or immigration sponsor,

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<sup>40</sup> ILO Convention No. 29 concerning Forced or Compulsory Labor (Forced Labor Convention), adopted June 28, 1930, 39 U.N.T.S. 55, entered into force May 1, 1932, ratified by Kuwait on September 23, 1968. ILO Convention No. 105 concerning Abolition of Forced Labor (Abolition of Forced Labor Convention), adopted June 25, 1957, 320 U.N.T.S. 291, entered into force January 17, 1959. ILO Convention No. 111 concerning Discrimination in Respect to Employment and Occupation, adopted June 25, 1958, 362 U.N.T.S. 31, entered into force June 15, 1960. ILO Convention No. 87 concerning Freedom of Association and Protection of the Right to Organize, adopted July 9, 1948, 68 U.N.T.S. 17, entered into force July 4, 1950, ratified by Kuwait on September 21, 1961; ILO Convention No. 98 concerning the Right to Organize and Collective Bargaining Convention, adopted July 1, 1949, 96 U.N.T.S. 257, entered into force July 18, 1951, ratified by Kuwait on August 9, 2007; ILO Convention No. 138 concerning the Minimum Age for Admission to Employment (Minimum Age Convention), adopted June 26, 1973, 1015 U.N.T.S. 297, entered into force June 19, 1976; ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor (Worst Forms of Child Labor Convention), adopted June 17, 1999, 38 I.L.M. 1207, entered into force November 19, 2000.

<sup>41</sup> ILO Convention No. 100 concerning equal Remuneration for Men and Women Workers for Work of Equal Value (Equal Remuneration Convention), adopted June 29, 1951, entered into force May 23, 1953.

<sup>42</sup> International Labor Organization, Decent Work for Domestic Workers, Report IV(1), International Labor Conference, 99<sup>th</sup> Session 2010 (Geneva, International Labor Office, 2009), p.94.

who must also be their employer. Implementing regulations gives sponsoring employers the power to prevent workers from legally changing employment; to cancel their residency visa at will, thus rendering them immigration law violators; and to report workers as illegal residents should they leave employment without the sponsor's consent, thus subjecting them to criminal penalties or deportation.

A domestic worker's sponsoring employer guarantees the validity of her *iqama*, or residency permit, by undertaking to "notify the Nationality, Passports and Residence Administration immediately upon termination of her services or change of her place of residence," as well as to notify authorities within one week in cases of "absconding," or leaving the service of the employer without permission.<sup>43</sup> The system thus enables the government to regulate a huge population of low-wage immigrant laborers (including domestic workers) that outnumbers citizens two to one by outsourcing monitoring functions to private individuals—at the expense of workers' rights. "The sponsorship [system] always [tries] to get the maximum out of the maid, [and] give the minimum to her," the ambassador of a labor-sending country told Human Rights Watch. "The system is for the employers."<sup>44</sup>

When an employer notifies police that a worker has absconded, the police cancel the worker's residency permit and file an order for her detention.<sup>45</sup> After this order is filed, police arrest and detain the worker should they find her.<sup>46</sup> Though the government can prosecute workers for violating Kuwait's residency laws, lawyers and embassy officials told Human Rights Watch that in the majority of cases they see police authorities deport domestic workers charged with absconding after a period of detention.<sup>47</sup> "If they are convicted of absconding, [the law provides for] a maximum of 6 months incarceration. But because of jail congestion, they must be deported," one labor-sending country's ambassador said.<sup>48</sup>

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<sup>43</sup> Interior Ministry Resolution No.640 of 1987 promulgating the by-law of the Aliens' Residence Law, *Kuwait al-Yaum*, November 14, 1987, art. 20.

<sup>44</sup> Human Rights Watch interview with the ambassador of a labor-sending country, Kuwait, November 11, 2009.

<sup>45</sup> Human Rights Watch interview with Mohammad Khuraibet, Jabriya, Kuwait, November 19, 2009; "If a servant leaves the service of his employer before the expiry of his service contract term, his residence permit shall be cancelled. In the event of residence permit cancellation in accordance with the provisions of the preceding article, an order shall be issued for deportation of such servant." Ministerial Order No. 84 of 1977 (Regulating the conditions and Formalities of Private Servants Ordinary Residence), arts. 3 and 4.

<sup>46</sup> Human Rights Watch interview with unidentified police officer, Rumaithiyya Police Station, Kuwait, November 20, 2009.

<sup>47</sup> Human Rights Watch interview with ambassador from labor-sending country, November 11, 2009; Human Rights Watch interview with labor attaché of labor-sending country, November 11, 2009; and Human Rights interview with Mohammad Khuraibet, Kuwaiti lawyer for the Indonesian embassy, November 19, 2009.

<sup>48</sup> Human Rights Watch interview with sending-country labor attaché, November 11, 2009. Interior Ministry Resolution No.640 of 1987 promulgating the by-law of the Aliens' Residence Law, *Kuwait al-Yaum*, November 14, 1987, art. 24, articulates possible penalties, including a maximum of six months in prison.

Though the residency laws grant sponsors power to determine a worker’s legal residency status, they fail to include effective safeguards against abuse of this discretion. Thus workers face the constant possibility—and in coercive relationships, the constant threat—that an employer may suddenly effect their deportation.<sup>49</sup> Domestic workers said that this fear makes them reluctant to raise employment-related complaints.

Police have the authority to deport domestic workers who have absconding violations registered in their names. This power stems from broad discretion that section four of the Aliens’ Residence Law gives the police. Covering deportation of foreigners, its provisions permit the head of the Police and Public Security Department to issue written deportation orders under the following circumstances: 1) In cases where a court has ruled that the foreign resident should be deported; 2) in cases where the foreign resident has no “visible means of livelihood”; and 3) in cases where the head of the police department determines that the foreign resident’s deportation would serve the public interest, public security, or public morals.<sup>50</sup> The individual whose deportation has been ordered may delay his or her deportation for up to thirty days if delay is necessary “for the execution of the deportation order.”<sup>51</sup> Once deported, the deportee may not return to Kuwait without special permission from the police authority.

The police may detain and deport them whether these workers come to police attention through various identity checkpoints, because they come to a police station seeking assistance, or because embassies report they have entered the embassy shelter, as required under the residency law. Though the judiciary can order deportation of foreign residents who violate Kuwait’s criminal code, deportation regulations make no mention of judicial supervision for administrative deportation, nor do they provide any right of appeal or review once responsible interior ministry authorities have issued a deportation order. Article 13 of the ICCPR provides a right of review for individuals who were lawfully within state territory. Individuals with deportation orders may only seek delay through the ministry of up to thirty days, or if they have assets that must be liquidated and post a bond, for up to three months for the purposes of liquidation.<sup>52</sup>

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<sup>49</sup> Summary deportation has long served as a threat, or mechanism of control, used to manage Kuwait’s expatriate worker population. According to social anthropologist Anh Nga Longva, “Deportation cast a disproportionately long shadow over the daily life of non-Kuwaitis, even the most law-abiding ones. Fear of being deported was universal in the various expatriate communities,” Anh Nga Longva, *Walls Built on Sand*, p.98.

<sup>50</sup> Aliens’ Residence Law, Section Four, art. 16.

<sup>51</sup> Ibid, art. 18.

<sup>52</sup> Ibid, art. 22.

Sponsoring employers can unilaterally terminate employment contracts, leading to a worker's repatriation or deportation.<sup>53</sup> In contrast, a domestic worker who wishes to change employment cannot do so of her own choosing, but must obtain a signed *tanazu*, or release from the original employer, before she can legally transfer sponsorship.<sup>54</sup> The frequent inability to obtain a *tanazu* leads to workers being trapped in abusive or exploitative conditions over several months, since the only other option is to escape, forfeit legal residency status, and face deportation.<sup>55</sup>

When workers leave their employers' homes and depart from Kuwait—whether or not they have completed their contract term—residency regulations require employers to pay their airfare home.<sup>56</sup> If an employer fails to purchase the worker's ticket and she returns home through deportation proceedings, the government pays for her ticket and registers a charge of over KD350 (\$1,211) in the employer's name.<sup>57</sup> Employers avoid this obligation only where a worker has violated Kuwait's penal code, in which case she becomes responsible for ticket costs. If she cannot pay, the government assumes responsibility.

Employers' legal obligation to pay for a return ticket, combined with the high initial recruitment fees they pay, provides a strong financial incentive for them to prevent workers who wish to leave from doing so. As described in more detail in Section IV, workers said that employers locked them in their homes, demanded full reimbursement of recruitment fees in return for release, or forced them to work for new employers rather than permitting them to leave.

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<sup>53</sup> Under the Aliens' Residence Law, sponsors must employ workers under their sponsorship and may not require workers to render services to other employers. In practice, many individuals sponsor individuals while either permitting them to work for other employers or requiring them to find independent employment. Thus sponsors may not be employers, and employers may not be sponsors. Kuwaiti media has reported on the practice whereby sponsors sell nominal sponsorship to workers, thus affording them legal residency in Kuwait. This practice is commonly called "visa trading." In this report, unless otherwise indicated, we use the term "employer" to mean a worker's legal sponsor and employer.

<sup>54</sup> Under Article 25 of the immigration regulations, "transfer of a residence permit for employment as a domestic servant and the like from one employer to another may not be made unless the consent of the employer under whose sponsorship the residence permit was issued is secured." Article 25, Interior Ministry Resolution No.640 of 1987, pursuant to the Aliens' Residence Law. Article 20 of the same resolution sets forth that employers of domestic workers must obtain a residency permit for the worker. "An ordinary residency permit for employment as a domestic servant and the like may be granted under an application submitted by the employer ... in which he shall undertake that the domestic servant works for him."

<sup>55</sup> Human Rights Watch interview with Mary P., Kuwait, November 11, 2009; Human Rights Watch interview with Latha M., Dasman, Kuwait, November 20, 2009; and Human Rights Watch interview with Tilkumari P., Khaitan, Kuwait, November 17, 2009.

<sup>56</sup> Interior Ministry Resolution No. 640 imposes financial responsibility for deporting illegal residents upon sponsors, who in assuming legal sponsorship undertake to "repatriate such servant to her country at the employer's expense upon termination of her services." Article 20, Ministerial Resolution No. 640 of 1987.

<sup>57</sup> Human Rights Watch interview with Eman Tarkhan, IOM Operations and Logistic Support, IOM Kuwait office, Safat, Kuwait, November 15, 2009; Human Rights Watch interview with Colonel Ahmad al-Rajaiba, director of Kuwait's Deportation Detention Center, Talha Deportation Center, Kuwait, November 18, 2009.

Although the Aliens' Residence Law does not require a worker to obtain her sponsor's permission to exit the country, workers who leave their employment without an employer's release may be charged with absconding.<sup>58</sup> The law provides that a worker convicted of absconding may be fined up to KD600 (\$2077) or sentenced for up to six months in prison, while workers charged with this offense and never convicted may be detained indefinitely and deported from the country. Human Rights Watch did not document any cases of migrant domestic workers who had been fined or imprisoned for "absconding." Embassy officials and civil society activists reported that the majority of such charges resulted in workers' deportation, and Human Rights Watch met former domestic workers in a government detention center with this charge listed on their exit paperwork.

In fact, by agreeing to sponsor a worker, employers undertake the legal obligation to register absent foreign workers as absconding. Enacted pursuant to the Aliens' Residence Law, Article 20 of Interior Ministry Resolution No. 640, which governs the crime of absconding, obliges an employer to "notify the Ministry of Interior if a servant absconds or leaves his/her service, within one week from the date of such act."<sup>59</sup> Law Decree No. 41 of 1987 provides that any person who violates Article 4 of the Aliens' Residence Law shall be penalized by up to six months in prison or a fine between KD200 and KD600 (\$692 and \$2077), or both of these penalties, while Article 4 states that "in the event of leaving services of his employer the residence granted to [an expatriate worker] shall be cancelled with effect from the date of leaving service."

While the law prohibits workers from absenting themselves from the place of work without notification or prior permission, it fails to indicate how workers may legally terminate employment. Human Rights Watch asked Colonel Ahmad al-Rajaiba, director of Kuwait's Deportation Department, as well as Fahad al-'Ajmi, president of the Human Rights Committee at the Kuwaiti Lawyers' Association, what workers who leave abusive situations should do to prevent their residency visa being cancelled. Both said that workers should register a police complaint before their employer reports their absence, in order to avoid absconding charges.<sup>60</sup>

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<sup>58</sup> Ministerial Resolution No.640 of 1987 Promulgating the By-law of the Aliens' Residence Law, *Kuwait al-Youm*, November 14, 1987, art.24.

<sup>59</sup> *Ibid*, art. 20.

<sup>60</sup> Human Rights Watch interview with Col. Ahmad al-Rajaiba, director of Kuwait's Deportation Department, al-Talha Deportation Center, Kuwait, November 18, 2009, and Human Rights Watch interview with Fahad al-'Ajmi, Bneid al-Gar, Kuwait, January 22, 2010.

In practice, the race to the police station between sponsor and worker tends to punish—not protect—workers facing abuse. Domestic workers in Kuwait face both deterrents and practical barriers to successfully lodging a police complaint against their employers for breach of contract or criminal offenses. Some workers told us they had escaped from homes where employers kept them locked inside; others said that employers kept them under nearly constant watch, making it difficult to leave. Finally, migrant workers who seek advice from co-workers or recruitment agency staff are typically told to seek help through their agencies rather than the local police. Most do not know the legal consequences of failing to report directly to the police station.

In order to meet its international legal obligation to protect freedom of movement, the Kuwaiti government must investigate incidents of forced confinement through due diligence and prosecute violations where they occur. Human Rights Watch found that employers widely restrict freedom of movement by confiscating workers' passports and identity documents, by forbidding them to leave the home under threat of dismissal or deportation, and by forcibly confining them. Services rendered in these conditions can also rise to the level of forced labor, defined by the ILO 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."<sup>61</sup> In particular when workers are not paid, and are forcibly confined in employers' homes or unable to leave employers' supervision, the Kuwaiti government has an obligation to "completely suppress such forced or compulsory labour" extracted for the benefit of private individuals.<sup>62</sup> Section IV describes restrictions on freedom of movement in greater detail, while Section VII, outlining obstacles to reporting complaints, addresses the barriers that workers face when seeking protection from responsible government authorities.

Kuwait's sponsorship system developed in part from traditional bonded-labor relationships, in which workers labored against a debt previously incurred instead of receiving wages. In return, sponsors guaranteed that they would meet workers' basic needs and those of their families while workers remained in their employ.<sup>63</sup> "What is the *kafala* system? It is a custom,

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<sup>61</sup> ILO Convention No. 29 concerning Forced or Compulsory Labor (Forced Labor Convention), adopted June 28, 1930, 39 U.N.T.S. 55, entered into force May 1, 1932, ratified by Kuwait on September 23, 1968.

<sup>62</sup> Forced Labor Convention, art 4(2).

<sup>63</sup> Longva, *Walls Built on Sand*, "The Historical Factor: Indentured Labor Before Oil," pp.103-107. Longva describes how pearl divers in Kuwait lived under lifelong debt to the captains of their boat. Captains would advance divers money for their living expenses each season, in exchange for the diver's services during the upcoming pearl-diving season, thus "guaranteeing" or sponsoring their subsistence.

not a code,” said Thabet al-Haroun, representative of the ILO in Kuwait. “It is from the culture of the people.”<sup>64</sup>

In 1956, the UN Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Practices Similar to Slavery outlawed the practice of debt bondage under international law and called upon states party to the convention to work for its abolition.<sup>65</sup> Kuwait’s Constitution, enacted in 1962, bans forced labor of any kind.

### *Labor Protections for Domestic Workers*

Kuwait’s 1964 Labor Law, in effect for nearly half a century, specifically excluded domestic workers from its protections.<sup>66</sup> A new labor law, the country’s first major revision seeking to bring national labor regulation in line with international standards, passed into effect in February 2010. The new law marked the culmination of efforts by the country’s ILO office, the local trade union, and other civil society groups to overhaul legislation that had for decades escaped major reform.

Despite the advances it provided, Kuwait’s new law continues to ignore core international labor standards that the government has ratified, including the ILO Convention on Nondiscrimination in Employment and Occupation, by excluding domestic labor from the protections afforded to other private sector employees.<sup>67</sup> For those workers, the law now restricts working hours to eight hours per day, specifies overtime pay rates and restrictions, requires employers to provide a weekly day off, provides paid maternity leave and annual leave, and regulates termination procedures.<sup>68</sup> A 2007 Labor Ministry decree prohibiting employers from confiscating workers’ passports and a 2009 Labor Ministry decree permitting workers to change jobs without a sponsor’s consent also fail to cover the

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<sup>64</sup> Human Rights Watch interview with Thabet al-Haroun, country representative, ILO Office in Kuwait, November 11, 2009.

<sup>65</sup> The Convention defines debt bondage as “the status or condition arising from a pledge by a debtor of his personal services ... as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined.” UN Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, adopted September 7, 1956, 226 U.N.T.S. 3, entered into force April 30, 1957, <http://www2.ohchr.org/english/law/slavetrade.htm> (accessed May 24, 2010).

<sup>66</sup> Law No. 38 of 1964 Concerning Labor in Private Sector Employment, Chapter 1, Article 2(e) stated that “domestic servants and those having their status [shall] not be subject to the application of this law’s provisions.”

<sup>67</sup> “Private Sector Labor Law Comes Into Force,” *Kuwait Times*, February 23, 2010.

<sup>68</sup> *Ibid.*

domestic sector.<sup>69</sup> To date, no Kuwaiti law provides comprehensive protection for domestic workers' labor rights.

In 2004, the Ministry of Interior issued a decree requiring all licensed domestic labor agencies to execute a standardized contract with prospective employers and workers prior to recruitment.<sup>70</sup> This decree requires employers to present the Immigration Authority with a copy of the employment contract when applying for a certificate of "no objection" that provides clearance for the prospective worker to enter Kuwait.<sup>71</sup> The standard contract represents an improvement over having no minimum standards at all, but it has significantly fewer and weaker protections than those in the labor law.

Updated in 2006, the standard domestic labor contract requires any person sponsoring a domestic worker to pay the worker's travel costs and any agency fees, as well as food and living expenses, medical treatment costs, and return airfare.<sup>72</sup> Employers are prohibited from extracting any reimbursement of any recruitment expenses from workers.<sup>73</sup> In practice, however, both agents and employers seek payments from workers who wish to terminate their employment early. Kuwait's residency laws require that the employer return the worker to her country at his expense, with few exceptions. Where a worker wishes to transfer employment, or an employer wishes her to do so, the contract refers the parties to Kuwait's residency law regulations. These regulations, discussed subsequently, permit transfer of employment only with an employer's consent. Workers have no independent right to transfer.

The standard contract mandates rest periods of one hour for every three hours worked by the employee, one month of paid leave annually, compensation for workplace injuries or death of a worker during the contract term, and a minimum salary of KD40 (US\$139) to be paid monthly. However, this minimum wage provides domestic workers with discriminatory compensation, falling well below even the KD60 (\$207) minimum wage instituted for other

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<sup>69</sup> Labor Ministry Decree no. 166 of 2007, published in *al-Kuwait al-Youm*, July 18, 2007 and Labor Ministry Decree no.179 of 2009, published in *al-Kuwait al-Youm*, September 9, 2009. The transfer is only permitted after three years or the end of an employment contract.

<sup>70</sup> Interior Ministry Decree No. 313 of 2004 amending provisions of Ministerial Decree No.617 of 1992 organizing the rules and procedures for licensing private domestic labor recruitment agencies, art. 8, states that "the agency must execute a contract with the *kafil* (sponsor) and the recruit (the servant or his like) before his recruitment from abroad, according to the example provided by the Public Immigration Authority, which sets forth the requirements and rights of the agency, the sponsor, and the servant. Issued by publication in *Al-Kuwait Al-Youm*, No.663, April 25, 2004.

<sup>71</sup> *Ibid.*

<sup>72</sup> Contract for Recruiting Private Servants.

<sup>73</sup> Decree implementing Law No. 40 of 1992 concerning the organization of employment offices for private servants and those in that category, art.2. On file with Human Rights Watch.

private sector workers in April 2010.<sup>74</sup> While the contract entitles a domestic worker to one fully paid rest day every week, it neglects to articulate a worker’s right to free movement during non-working hours, including only the caveat that the worker “is allowed to spend [the rest day] with the family,”—a provision that can be easily abused.<sup>75</sup> The contract does not explicitly grant a worker the right to spend her rest day apart from her employer’s family or house.

Moreover, the standard contract fails to restrict the total number of working hours per day and fails to outline how employees may legally terminate a work contract. It also fails to designate practicable means for workers to demand enforcement of these terms. Currently, the contract specifies that any disputes should be referred to Kuwaiti courts. However, in abusive situations—such as nonpayment of wages, confinement in the home, exploitation of labor, or legal sanction for quitting employment—workers have little opportunity to enforce these contract terms and impractical opportunities for access to justice.

The Domestic Workers’ Department, an administrative division within the Ministry of Interior, provides mediation for civil domestic employment disputes, including breach of the domestic labor contract, though participation remains voluntary. The department lacks authority to make any binding determinations in domestic labor disputes. The standard contract provides that “any dispute emerging concerning the items of this contract...should be transferred to the Kuwaiti courts to be settled.”<sup>76</sup> However, three lawyers who have worked with embassies to resolve domestic worker claims told Human Rights Watch that claims for contract violations had proven extremely difficult to pursue in practice. One, who had handled numerous domestic worker claims for the Philippines embassy, told us that he had handled only two cases for breaches of contract other than nonpayment of wages.<sup>77</sup> Section VII discusses in greater detail the shortcomings of legal redress through the court system as well as in the complaint resolution procedures offered through the Domestic Workers’ Department.

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<sup>74</sup> Contract for Recruiting Private Servants, Section Three, art. 3, specifies a KD40 minimum wage.

<sup>75</sup> Contract for Recruiting Private Servants and Those in That Category and Employment, pursuant to Ministerial decision no. 92/617, requiring the owners of the recruitment agencies for domestic workers to execute a contract agreement between him, the employer, and the house worker before recruiting him/her from outside the country.

<sup>76</sup> Contract for Recruiting Private Servants, sec. five, art. 4.

<sup>77</sup> Human Rights Watch interview with Abd al-Majid Khuraibet, Kuwait City, November 23, 2009.

### *Draft Domestic Labor Legislation*

Kuwait's current Minister of Social Affairs and Labor, Mohammad al-'Afasi, as well as certain members of Kuwait's National Assembly (the parliamentary body), have publicly recognized the need for domestic labor legislation.<sup>78</sup> In March 2008, the Kuwaiti newspaper *al-Qabas* published a draft domestic labor law submitted by the Kuwait Lawyers' Association.<sup>79</sup> As of May 2010, a new proposed domestic labor law, drafted by the office of parliamentary representative Saleh Ashour, was under review at the National Assembly. Local sources suggest that lawmakers will require at least a year of discussion and revision before any legislation is adopted.<sup>80</sup>

As of May 2010, the draft law includes provisions that establish eight-hour workdays, require employers to give workers leave on national public holidays as well as annual leave, and impose penalties for late payment of salaries. The proposed law would prohibit employers from recruiting workers except through state-licensed agencies, from confiscating the passports or identity documents of domestic workers, and from requiring workers to perform tasks not specified in the contract. In recognition of the common complaint of nonpayment of wages, the draft law requires domestic workers to establish bank accounts in their home countries prior to migration and instructs employers to deposit their salaries into these accounts at the end of each month. Bank transfer receipts would constitute the only acceptable proof of payment.

The draft law sets forth the procedures by which disputes should be arbitrated, and if unresolved, referred to the court system. Workers would be exempt from all court fees. The proposed legislation would permit workers to transfer employment without their sponsor's consent by following specific dispute resolution procedures. Any fines paid by employers or agents would be deposited in a government-administered fund that provides disbursements to workers in circumstances of need, for example where workers fall ill for long periods of time; as well as situations of injustice, e.g. where employers unjustly benefit from workers' services by failing to pay salaries, or where employers fail to renew or terminate employment contracts without providing required end-of-service payments.

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<sup>78</sup> Abubakar A. Ibrahim, "Labor Law Published in 2 Days," *Arab Times*, February 16, 2010, <http://www.arabtimesonline.com/NewsDetails/tabid/96/smld/414/ArticleID/149720/reftab/96/t/Labor-Law-published-in-2-days/Default.aspx> (accessed March 11, 2010).

<sup>79</sup> Ahmad al-Masaoudi, "Forbidden to Employ the Worker After 10 PM, and the Sponsor Must Provide Insurance For Him," *al-Qabas*, March 11, 2008.

<sup>80</sup> Human Rights Watch telephone interview with Dina al-Beheri from the ILO Kuwait Office, New York, March 9, 2010.

However, the draft fails to tackle the main problem with the *kafala* system; it continues to link a worker's valid immigration status to a single employer. It also keeps the onus on workers to enforce protections by approaching authorities and filing complaints, instead of proposing inspection and monitoring mechanisms to help identify cases of abuse. The draft also calls for recruitment agencies to serve as the first mediating party between employers and workers in disputes. These agencies' profit motives conflict with the protection of workers' rights. For example, workers' freedom to terminate employment early, including in conditions of abuse, leads to potential profit loss for agencies. This and similar conflicts of interest render recruitment agencies unreliable guardians of workers' safety.

### **III. A System that Breeds Exploitation**

As far as [employers] are concerned, [they] bought this person. “I paid 600 KD.” That’s why they lock the door. “This is my property now.”

—C.N., local activist who counsels domestic workers, Kuwait City, November 10, 2009.

Business practices that dominate Kuwait’s domestic labor recruitment sector, combined with the restrictive immigration sponsorship system and the lack of labor protections, form a labor marketplace in which employers have both financial incentives and the freedom to exploit domestic workers with little fear of accountability, while workers exercise little control over the circumstances of their employment. Recruitment agencies, which charge employers initial recruitment fees equivalent to the domestic worker’s annual salary, may illegally pass these costs on to domestic workers by requiring those who wish to leave their sponsoring employer to provide either full repayment or service for a new employer. Employers may also take advantage of their status as the worker’s immigration sponsor to extort such payments.

#### **The Business of Recruitment**

According to Brigadier General Kamil al-‘Awadhi, the head of Kuwait’s Immigration Authority, approximately 700 licensed recruitment agencies currently operate in the country. Agencies vary greatly in size and formality. Some are large businesses that operate several branches in various neighborhoods of Kuwait, maintain websites where employers can review profiles and recruitment fees for prospective employees of diverse nationalities, and provide the opportunity for employers to conduct video interviews with candidates. Other agencies provide few amenities, operating through small offices where many independent agents share space.

Al-‘Awadhi told Human Rights Watch that the majority of agencies rent desk space in their offices to unaffiliated agents, who broker domestic work contracts independently. The agents are typically expatriate residents who run recruitment businesses and pay a Kuwaiti owner rental fees that include payment for holding the license in his name. “If we close one

[agency], the owner will just open it in his brother's name," al-'Awadhi said. "[Owners] just rent out desks in their agency. [They] don't supervise [what happens there]."<sup>81</sup>

Under Kuwait's current recruitment system, a resident wishing to hire a domestic worker typically visits a recruitment agency in Kuwait. There, she is presented with plastic binders full of prospective employees' data and photographs, grouped by nationality. After selecting a worker based on her nationality, religion, age, appearance, experience, language ability, and associated fees, she will sign a contract with the recruitment agent and pay a fee of between KD280 and KD600 (approximately \$976 to \$2078) to cover recruitment fees, as well as the worker's one-way plane ticket, processing fees, and other incidental and associated costs.<sup>82</sup> Standard recruitment fees charged by agencies, as well as the promised terms of employment, frequently vary based upon the prospective worker's nationality.

### *Where Does the Money Go?*

#### **A Breakdown of Recruitment Fees**

Prospective employers pay between 280 and KD600 (between \$966 - \$2071) to recruitment agencies when contracting to hire a domestic worker.

Marilyn K., Helen P., and Maripol S., three secretary-managers of domestic labor offices in Kuwait originally from the Philippines, explained the use of recruitment fees, using the KD600 payment typically charged to recruit Filipina domestic workers as an example:

**From the KD600** in recruitment fees, 440 are sent to the agency's partner in the Philippines, which uses approximately KD140 and KD175 to pay for the worker's airfare. Agency partners also use this to cover processing fees, including a medical examination, visa and passport fees. The local agency partner keeps the balance, in part to pay for its own expenses of staff salaries, office rental, workers' transport, food and housing, and other administrative fees.

**From the KD160** that Kuwaiti agencies keep, they use KD20 for government processing fees in Kuwait. They keep the balance, in part to pay the licensing fee, agents' salaries, vans to transport workers, and for rent on the workers' temporary accommodation and the agency office.<sup>83</sup>

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<sup>81</sup> Human Rights Watch Interview with Brigadier-General Kamil al-'Awadhi, Immigration Authority offices, Kuwait, November 17, 2009.

<sup>82</sup> Human Rights Watch interviews with three labor recruitment agents, Hawalli, November 19, 2009; interview with one agent, agency at al-Othman roundabout, November 24, 2009; interviews with three labor agency secretaries, Jabriya, Kuwait, January 27, 2010.

<sup>83</sup> Human Rights Watch group interview with Marilyn K., Helen P., and Maripol S., managers of domestic labor recruitment offices, Kuwait, January 27 2010.

Kuwaiti law currently places no caps or restrictions on the amount recruitment agencies may charge. However, Law No.40 of 1992, governing recruitment agency practices, prohibits licensed agencies in Kuwait from charging workers any amount for their recruitment or employment, either directly or indirectly.<sup>84</sup> Violators may be penalized with a fine of KD200 (\$690), imprisonment of up to three months, or both of these penalties. Furthermore, the standard contract prohibits employers from passing recruitment expenses on to domestic workers.<sup>85</sup>

Human Rights Watch interviews with workers and employers, however, indicated that both agents and employers seek reimbursement with impunity.<sup>86</sup> Employers regularly demand payment from workers, to grant the legally required release form transferring employment sponsorship or to return a worker's passport and allow her to leave the country. Several workers also testified that agents asked them for payments in violation of Kuwait's regulations, passing along any reimbursement demanded by employers. "In the agency, there is a rule," said Tigit A., an Ethiopian domestic worker who had left her employment citing abusive conditions. "If you don't finish the two-year contract, you have to pay them back the ticket, [and] money [recruitment fees]."<sup>87</sup>

The high recruitment fees employers pay upon hiring a domestic worker lead some to abuse their power as sponsors. The sense of having "paid for" or having "bought" a worker makes some employers feel entitled to treat the worker however they wish, especially in the context of inadequate and poorly enforced laws. As described in the next section, this treatment can include demanding long hours without a day off, withholding salaries, insulting, hitting, or sexually harassing the worker, and locking her inside the house.

Though many employment situations do not reach this level of abuse, other employers feel justified in denying a worker either individual rights or contract guarantees, particularly a worker's right to free movement and her ability to change or terminate employment. All eight employers to whom Human Rights Watch spoke referred to the high fees they had paid to explain their interest, or that of other employers they knew, in restricting a worker's

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<sup>84</sup> Amiri Decree No.123 Implementing Law No.40 of 1992, Governing the Licensing of Private Recruitment Agencies, issued by publication in *al-Kuwait al-Youm*, July 29, 1992. Article 2 states that "the licensee and his employees are prohibited from collecting any amount from the servant and his like for employing him with the employer or placing him there, whether in a direct or indirect manner."

<sup>85</sup> Contract for Recruiting Private Servants, Section Three, art. 8.

<sup>86</sup> Amiri Decree No.123 Implementing Law No.40 of 1992, Governing the Licensing of Private Recruitment Agencies, issued by publication in *al-Kuwait al-Youm*, July 29, 1992, art.3.

<sup>87</sup> Human Rights Watch interview with Tigit A., Kuwait, November 17, 2009.

movement, retaining her passport, or refusing to accept her request to terminate employment. Employers pay these fees with the expectation that a worker will complete her two-year contract of service.

Agencies facilitate employee transfers and repayment of recruitment fees—when employers wish it—by arranging the “return” and “sale” of domestic workers. For the first six months of a two-year contract, employers may return a worker to the agency in exchange for a full refund of recruitment fees, or they may be granted a replacement employee. However, even after this period, some agencies will accept the return of workers whom sponsor-employers no longer wish to employ, planning to place workers with new employers who will reimburse full recruitment fees. Hashim al-Majid, former president of the Kuwaiti Union for Domestic Labor Offices (KUDLO), a business association for owners of domestic labor recruitment agencies, and operator of a recruitment agency, said that “agencies use [this] guarantee to buy and sell [workers.]”<sup>88</sup> Mohammad Khuraibet, a Kuwaiti lawyer, told Human Rights Watch that “the price of [hiring] ‘returned’ maids is the same [as those newly recruited, however], there is no [return] guarantee at all.”<sup>89</sup>

The system of returning and rehiring domestic workers now makes up a secondary labor market in which employers can hire workers for periods ranging from a few days to two years. Despite the requirement under Kuwait’s immigration regulations that domestic employment relationships take place pursuant to a written contract, Human Rights Watch found that some workers did not sign contracts with new employers, and that no government authority stepped in to enforce this requirement.<sup>90</sup> Workers interviewed described feeling “bought” or “sold,” rather than entering freely into contractual relationships with their new employers.

Workers who signed contracts to provide domestic services for two years before returning to their countries, in cases where they left an initial employer after several months of work, found that agencies expected them to complete two additional full years of service with a new employer before they could receive an employer-paid return ticket home. Al-Majid said that these practices dominate the recruitment industry, unimpeded by government interference. “The agency doesn’t have the right to send this lady to another house for another two years.”<sup>91</sup>

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<sup>88</sup> Human Rights Watch interview with Hashim al-Majid, hotel café, Salmiya, Kuwait, November 14, 2009.

<sup>89</sup> Human Rights Watch interview with Mohammad Khuraibet, Jabriya, Kuwait, November 19, 2009.

<sup>90</sup> Human Rights Watch interview with Hashim al-Majid, November 14, 2009; Human Rights Watch interview with Makeda T., Talha deportation center, Kuwait, November 18, 2009; Human Rights Watch interview with Latha A., November 20, 2009.

<sup>91</sup> Human Rights Watch interview with Hashim al-Majid, November 14, 2009.

Sixteen workers interviewed by Human Rights Watch had worked in two or more houses, while some had worked in the homes of up to five different employers, reporting that they faced varying abuses in each one and were “resold” each time a problem arose. Workers lack the means to effectively contest an employer’s decision to transfer them to a new agency or employer. While Section Three of the standard contract permits employment transfer with an employer’s consent, it does not provide that workers who transfer employment should begin their full contract term anew. However, the ambassador stated, “[workers] who have not completed two years with the *last* sponsor—even if they are on their third sponsor, for example—they have to work for [the new] sponsor for two years before they can go [home].”<sup>92</sup>

Though workers should have the freedom to freely terminate employment at any point in their contract, by linking their recruitment fees to the provision of two years of service with a single employer—rather than two years of service brokered through their recruitment agency, or two years of labor in Kuwait—current recruitment practices change the terms of employment workers initially accepted, thus allowing recruiters and employers to exploit their vulnerable position and demand extended periods of service.

Some employers force workers in their employ to stay longer than a two-year period without their consent. Nancy R., a Filipina worker from Mindanao, told Human Rights Watch that she worked in her first employer’s home for seven months, during which her sponsor physically abused her, before transferring her to a new agency. “She spit in my face, hit me, threw food,” Nancy R. said. “[Then,] she sold me back [to an agency]. I never saw my passport.”<sup>93</sup> Nancy worked for her second employer for more than two years, but when she asked to leave her second employer after spending three years in Kuwait, her employer said she had to stay in Kuwait and continue working. Nancy’s case and others like it meet international standards for forced labor.

## Buying Back Their Freedom

In Kuwait, a domestic worker’s freedom to accept or reject employment, or to exercise her right to freely leave the country, often comes with a price. Employers may take advantage of their authority to grant or deny employment transfer or their ability to hold workers’ passports with impunity to demand a payment equivalent to the original recruitment fees. “Mostly, sponsors won’t release them. The important thing for the sponsor is to get his

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<sup>92</sup> Human Rights Watch interview with foreign ambassador to Kuwait, name withheld upon request, Kuwait, November 11, 2009.

<sup>93</sup> Human Rights Watch interview with Nancy R., Kuwait, November 11, 2009.

money back, the 600 KD,” the political officer of a labor-sending country said. In some cases the original sponsor asks the domestic worker for this payment; in others, he or she will approach the worker’s potential new employer. “The new employer will pay the amount, after they negotiate. Sometimes they make [a] profit.”<sup>94</sup>

While only part of the original recruitment fees covers a worker’s travel and processing expenses, and the remainder is a profit for the recruitment agency, employers may ask workers to repay the full amount. Some workers said that their employers demanded full repayment even though they had already provided services for between three and seven months of their two-year contract.<sup>95</sup>

Tigit A., a 22-year-old domestic worker from Ethiopia, told Human Rights Watch that her employers fed her only a few pieces of bread and tea every day, did not pay her for two months, and allowed a cousin to slap her and kick her chest until she could not breathe. After this incident, she escaped from the house and returned to her recruitment agency, where she said the agents tried to make her responsible for paying her return ticket home, despite this being her employer’s contractual responsibility, and repayment of her recruitment fees. “Because I have not finished my contract, I have to pay 250 KD to my employer. [He] asked this from the agency,” she said. “I also have to buy my own ticket, for 90 KD.”<sup>96</sup>

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<sup>94</sup> Human Rights Watch interview with political officer, embassy of labor-sending country, Kuwait, November 17, 2009.

<sup>95</sup> Human Rights Watch interview with Tigit A., Kuwait, November 17, 2009; Human Rights Watch interview with Moulou T., Kuwait, November 17, 2009.

<sup>96</sup> Human Rights Watch interview with Tigit A., November 17, 2009.

## IV. Workplace Abuses

They call them *zabala*, it means rubbish.... There is a lot of bitterness and shame. [The workers] feel devalued, that their worth is taken from them. Their employers tell them, “we will kill you, we will send your body back.” They live in a state of fear.

—C.N., local activist who counsels domestic workers, Kuwait City, November 10, 2009.

An employer’s ability to block transfer to a new employer and to return a worker to the agency does not necessarily give rise to human rights concerns where the parties enjoy a harmonious working relationship. Many domestic workers in Kuwait have positive work experiences, and some form strong attachments to their employers that last for several years.

Aileen C., a domestic worker from Mumbai, has worked in the same Kuwaiti household for 17 years. “I am very, very happy [in Kuwait],” she told Human Rights Watch. “My madam is the best madam.”<sup>97</sup> Aileen worked in a large household with a staff of 18. Due to her senior status, she said her employers allowed her to take a day off every week, but she exercised this option only every other week, as did her co-workers in the home. “I told madam, treat me the same as the other staff,” she said. “But anytime I want, I can take vacation.”<sup>98</sup> Aileen visits family in Mumbai on a regular basis, but says she feels “somewhat extra” there, and considers Kuwait her “second home.”<sup>99</sup>

However, unlike Aileen, the majority of workers who spoke to Human Rights Watch were not satisfied; speaking from embassy or government shelters and deportation facilities, they had, not surprisingly, either faced abuse or were otherwise dissatisfied with their employment. Interviewees repeatedly said that they remained in abusive employment for months or years, daunted by the legal and practical limitations of finding alternate employment.

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<sup>97</sup> Human Rights Watch interview with Aileen C., Indian domestic worker, Kuwait City, November 8, 2009.

<sup>98</sup> *Ibid.*

<sup>99</sup> *Ibid.*

While Human Rights Watch makes no claims about how most domestic workers in Kuwait are treated, our research the absence of a worker’s ability to freely transfer or terminate employment and finds few protections in the current system for workers who face abuse.

Instead current laws, along with poor enforcement for any existing protections, give employers power over workers that enables and prolongs situations of abuse. Latha M., a Sri Lankan worker, said that after her first employer’s son sexually abused her, she decided not to leave a subsequent employer’s home, preferring to endure abusive conditions there rather than risking the possibility of worse conditions. “Madam [was] sometimes very good, sometimes like a sister, [but] sometimes she [was] very bad,” she said. “[She] beat me, the children beat me, but the food was ok. The salary was ok.... I work[ed] for two years in that home.”<sup>100</sup>

Protection gaps persist even while shelters in Kuwait continue to receive thousands of domestic worker complaints each year. Six domestic workers interviewed said that they remained isolated in their employers’ homes, restricted from outside communication, for the duration of their employment. Dozens said they faced the choice either to accept abusive treatment, including nonpayment of monthly wages; unrestricted working hours and lack of rest days; verbal abuse, beatings, and sexual assault; and deprivation of food and health care, or to leave an employer’s home without their permission and thus lose their legal basis for residence in the country.

## **Nonpayment of Wages and Overwork**

We come here, we do our work, we are tired, we sweat. Without a salary, for what are we working?

—Sanju R., 33, Sri Lankan domestic worker, Kuwait, November 17, 2009.

Nonpayment of salaries and unrestricted working hours headed the list of complaints that domestic workers in Kuwait reported.

Despite the mandatory rest periods included in Kuwait’s standard domestic labor contract, many workers we spoke with said that their employers frequently required them to remain available at all hours of the day and to perform unreasonable amounts of work. Manik J., a Sri Lankan domestic worker in the Kuwaiti government-run temporary shelter, told Human Rights Watch that she had worked for more than 18 hours a day for ten months, but did not

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<sup>100</sup> Human Rights Watch interview with Latha M., November 20, 2009.

receive her salary for most of that period. She said, “For seven or eight months, they didn’t give me [any] salary. I am one person, [but was] working for two families.”<sup>101</sup>

Ambika L., also from Sri Lanka, said that she worked up to 20 hours per day in her employer’s home. “I would sleep sometimes at 2 a.m., wake up at 5:30 in the morning,” she said. Four employers told Human Rights Watch that they gave domestic workers daily personal time, and that for most workers, rest periods occurred naturally during the day. Abd al-‘Aziz J., a Kuwaiti employer, described the wide variety in employer practices: “For me, the safe thing is to protect the [workers’] human rights.... However, I have seen some families where the maid is like a machine, working 24 hours a day.”<sup>102</sup> Twenty-one workers Human Rights Watch interviewed said that they had worked 18 or more hours per day on repeated occasions during their employment. A 2004 ILO study on domestic work in the region found that female domestic workers in Kuwait worked an average of 101 hours per week.<sup>103</sup>

While the standard contract requires employers to pay domestic workers’ salaries in full at the end of every month, 25 workers reported that they received late payments or partial payments of monthly wages, or that employers failed to pay them for a month or more. 21 workers told Human Rights Watch that they worked for more than 15 hours per day, and most said that their employers permitted them no rest breaks, though the standard contract requires employers to provide a one-hour break for every three hours of work. Labor-sending embassies, Kuwaiti lawyers, and civil society activists who regularly assisted domestic workers all confirmed the high rates of these particular violations.

Workers with wage complaints told Human Rights Watch they went between two months to over a year with no payment. Fayrouza W., from Sri Lanka, said, “[My employers] chased me out of the house. They owed me two months’ salary. I don’t know if they sent the money or not.” Moulou T., an Ethiopian domestic worker, said that she worked in a house for seven-and-a-half months, but received only four months of her wages. She left when her employer’s son tried to sexually molest her. “After [that] problem, I told madam I want [my] salary. She promised to pay me tomorrow...after tomorrow. She didn’t want to give [it to] me. I didn’t want to stay.”<sup>104</sup>

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<sup>101</sup> Human Rights Watch interview with Manik J., government shelter, Khaitan, Kuwait, November 17, 2009.

<sup>102</sup> Interview with Abd al-‘Aziz J., Kuwaiti employer, Kuwait City, November 23, 2009.

<sup>103</sup> Simel Esim and Monica Smith, eds., International Labor Organization, “Gender and Migration in Arab States: The Case of Domestic Workers,” June 2004, p.18.

<sup>104</sup> Human Rights Watch interview with Moulou T., Kuwait, November 17, 2009.

Domestic workers who asked their employers for overdue wages repeatedly said they feared employers' reactions to their request. Their fear came from the very real possibility of physical punishment, verbal abuse, or the threat of deportation. Tarina S., from Ambon, Indonesia, worked in a home in the Manqaf neighborhood for four months, though her employers did not pay her for three of them, she said. Tarina said that on some days, she worked from 7 or 8 a.m. until 3 or 4 a.m. the following morning. "When I asked for my salary, they beat me," she said.<sup>105</sup>

## Sexual, Physical, and Psychological Abuses

My employer always called me dog, donkey, as if I am not a person anymore.

There was no day the employer didn't say these bad words.

—Mary P., Filipina domestic worker, Kuwait, November 11, 2009.

Human Rights Watch interviewed 22 workers who said employers or agents had physically abused them, and seven who shared accounts of sexual abuse. The ambassador of one labor-sending country told Human Rights Watch that his embassy received approximately 950 rape and sexual harassment claims in 2009, while another ambassador said that his staff received complaints of sexual violence or harassment on a daily basis.<sup>106</sup> These numbers may not reflect the full extent of violations, as women have numerous reasons to underreport sexual violence in Kuwait. They may fear prosecution under Kuwait's adultery laws, lack evidence to support their claim, or seek to avoid any negative social stigma that might follow them back home. Other barriers include fear of retaliation from perpetrators and lack of faith in the ability of the Kuwaiti legal system to provide redress.

Nancy K., from the Philippines, told Human Rights Watch that she had experienced physical abuse in her employer's home. "Madam [my female employer] is good but her son, when he drinks, he becomes crazy. When I am ironing, he comes in my room, he hits me and pulls my hair."<sup>107</sup> Moulou T., from Ethiopia, told Human Rights Watch that she remained in danger of sexual assault during the seven months she spent with her employer. "My employer has three sons," she said. "They treated me in a bad way ... they tried to rape me."<sup>108</sup> Latha M. said of her first employer, "She hit me and scratched me. One day she beat me, locked me inside, and locked the outside door." When Latha escaped her employer's home, her agency

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<sup>105</sup> Human Rights Watch interview with Tarina S., al-Razi Hospital, Kuwait, November 13, 2009.

<sup>106</sup> Human Rights Watch interview with ambassador of labor-sending country, Kuwait, November 11, 2009; Human Rights Watch interview with ambassador of labor-sending country, Kuwait, November 11, 2009.

<sup>107</sup> Human Rights Watch interview with Nancy K., Kuwait, November 11, 2009.

<sup>108</sup> Human Rights Watch interview with Moulou T., Kuwait, November 17, 2009.

sent her to a second employer, where she said that her employers' sons sexually abused her.<sup>109</sup>

Domestic workers also spoke about the verbal and psychological abuse they endured in employers' homes. Women who could calmly describe physical assault became visibly distressed when recounting humiliating language or treatment from their employers. Mary Joy K., from the Philippines, said agitatedly, "Our madam says a *khadama* [housemaid] is not like a husband, or her child. She is like an animal."<sup>110</sup> Mary P., another Filipina worker who said that her employer beat and insulted her grew increasingly upset as she described the degradation she endured. "Sometimes my sir would spit in my face," she said. "My employer always called me dog, donkey, as if I am not a person anymore. There was no day the employer didn't say these bad words .... I accepted this because I am the breadwinner of [my] family."<sup>111</sup>

Some agents interviewed by Human Rights Watch instructed workers to accept verbal insults from their employers, and told them they should not request their contractually-guaranteed day off, to discourage workers from antagonizing employers.<sup>112</sup> Marilyn K., a labor office secretary, said she tells domestic workers at her agency that "shouting is like music to [Kuwaitis]." She acknowledged some of the more degrading comments that domestic workers frequently describe, but said she advises workers to dismiss these. "There is too much *himar* [donkey], *haywan* [animal]," she said, but "[even] when they say 'I will kill you,' even that is only talking."<sup>113</sup>

## Denial of Adequate Food and Health Care

Eight of the domestic workers that Human Rights Watch interviewed told us their employers had either provided them with grossly inadequate food or denied them food for several days at a time. Mary P. said that her employers refused to give her and her co-workers food, forcing them to forage among the family's garbage. "The madam would not allow us to eat," she said. "Sometimes, we would hide food in dirty towels, in the garbage. I had no choice

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<sup>109</sup> Human Rights Watch interview with Latha M., Dasman, Kuwait, November 20, 2009.

<sup>110</sup> Human Rights Watch interview with Mary Joy K., Kuwait, November 11, 2009. *Khadima*, pronounced "kadama" by many domestic workers, means servant or maid in Arabic.

<sup>111</sup> Human Rights Watch interview with Mary P., Kuwait, November 11, 2009.

<sup>112</sup> Human Rights Watch interviews with three labor recruitment agents, Hawalli, November 19, 2009; interview with one agent, agency at al-Othman roundabout, November 24, 2009; interviews with three labor agency secretaries, Jabriya, Kuwait, January 27, 2010.

<sup>113</sup> Human Rights Watch interview with Marilyn K., recruitment agency secretary from the Philippines, Kuwait, January 27, 2010.

because I was hungry.”<sup>114</sup> Asnagensh M., a domestic worker from Ethiopia who said that she routinely worked eighteen hours a day without rest, described the meager food her employers provided. “In the morning, I got one piece of bread, one glass of tea. For lunch a little rice, one piece of bread. I had no dinner.”<sup>115</sup>

Under Kuwait’s official domestic labor employment contract, employers are responsible for providing domestic workers not only with adequate food and shelter, but also with medical care. However, some workers reported that employers or agents had prevented them from seeking medical treatment. Prithika L., from Sri Lanka, said that a heavy steel chair fell on her head while she was cleaning. “I was made to continue to work for one week...I had black blood running from my nose,” she said.<sup>116</sup> Nirupa H., a Nepali domestic worker, told Human Rights Watch that she worked for seven months at one home, where she routinely slept only five-and-a-half hours per night. “[My employers] were good,” she said, “but I got sick, and was not allowed to see a doctor.”<sup>117</sup>

Other employers refused to pay for workers’ medical treatment, despite their assumption of these costs through the required employment contract. Amanda D., from the Philippines, told us that her employer deducted KD15 (US\$52) from her salary each month for her medicines and required her to work even when she felt too ill to do so.<sup>118</sup>

## Restrictions on Freedom of Movement

What appear to be widespread employment practices in Kuwait deny domestic workers their right to freedom of movement under international law, yet persist without government interference.<sup>119</sup> Workers interviewed said that their employers routinely confiscate their passports, lock them inside homes, and deny them unsupervised rest days to spend as they choose. Kuwait’s constitution prohibits forcible confinement, and the standard domestic labor contract provides for one day of rest per week.<sup>120</sup> Nevertheless, we found that employers widely restrict their employees’ freedom of movement with impunity, including by prohibiting workers from spending any time off outside the home. Human Rights Watch also

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<sup>114</sup> Human Rights Watch interview with Mary P., November 11, 2009.

<sup>115</sup> Human Rights Watch interview with Asnagensh M., Kuwait, November 17, 2009.

<sup>116</sup> Human Rights Watch interview with Prithika L., Kuwait, November 21, 2009.

<sup>117</sup> Human Rights Watch interview with Nirupa H., Kuwait, November 19, 2009.

<sup>118</sup> Human Rights Watch interview with Amanda D., Kuwait, November 11, 2009.

<sup>119</sup> ICCPR art.12 protects the freedom of movement.

<sup>120</sup> Constitution of the State of Kuwait, Part III (Public Rights and Duties), Article 31, states "nor shall...[any person's] liberty of movement be restricted, except in accordance with the provisions of law."

interviewed five domestic workers who reported prohibitions on using the phone or speaking with neighbors, greatly increasing their isolation.

Without any government regulation of contractual promises for a day off outside their employers' homes, many domestic workers labored in situations that were effectively forcible confinement. Those workers struggling in abusive situations lacked safe methods to report contract violations or abuse, too often leaving escape their only option. To escape employers' homes, workers we interviewed said that they climbed out of elevated windows under considerable danger, or waited for rare opportunities when a door was left unlocked. Section VI addresses these escapes and their consequences in depth.

### *Passport Confiscation*

If you roam Kuwait, 80 to 90 percent [of sponsors] will hold the [worker's] passport.

—Iman Ereiqtat, program officer with the International Organization for Migration, Safat, Kuwait, November 15, 2009.

The confiscation of domestic worker passports by employers or recruiting agencies is a widely acknowledged practice in Kuwait.<sup>121</sup> Most interviewees Human Rights Watch spoke with for this report confirmed its prevalence, despite prohibitions under international and domestic laws. Article 12 of the ICCPR offers broad protections for freedom of movement.<sup>122</sup> Article 21 of the International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families (Migrant Workers Convention) articulates this ban clearly, stating that “it shall be unlawful for anyone, other than a public official duly authorized by law, to confiscate ... identity documents, documents authorizing entry to or stay, residence or establishment in the national territory or work permits.”<sup>123</sup> While Kuwait has not ratified the Migrant Workers' Convention, this convention articulates best practices under international law, while some of its provisions are echoed in recommendations made by the International Labour Organization (ILO) for domestic work in the 2010 report “Decent Work for Domestic Workers.”

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<sup>121</sup> The ILO study, “Gender and Migration in Arab States,” p.18, shows the results of country-specific research surveys based on interviews conducted with female domestic workers in Kuwait in 2002. The study lists passport confiscation in Kuwait as “common” for these workers.

<sup>122</sup> In 1993, the United Nations Human Rights Committee found, in the case of *Bahamonde v. Equatorial Guinea*, that confiscating an individual's passport amounted to an Article 12 violation. *Oló Bahamonde v. Equatorial Guinea*, Views of the UN Human Rights Committee, Communication No. 468/1991, U.N. Doc. CCPR/C/49/D/468/1991 (1993), para. 9.3.

<sup>123</sup> International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Migrant Workers Convention), adopted December 18, 1990, G.A. Res. 45/158, annex, 45 U.N. GAOR Supp. (No. 49A) at 262, U.N. Doc. A/45/49 (1990), entered into force July 1, 2003.

A 2007 Ministry of Labor decree banned passport confiscation by employers; however, unlike other regulations meant to protect workers, it does not apply to the domestic sector.<sup>124</sup> 20 domestic workers interviewed said that their employers had taken possession of their passports upon employment. Some employers told us they held passports as a method of control, hoping to discourage workers from leaving their employment or to protect themselves against legal charges.<sup>125</sup> They often justified this practice by referring to the high recruitment fees that employers paid and might lose if a domestic worker ran away.

Iman Eriqat, a program officer with the International Organization for Migration, said, “If you roam Kuwait, 80 to 90 percent [of sponsors] will hold the [worker’s] passport. We [employers] pay about \$2,500 to get [the worker] here.”<sup>126</sup> Abd al-‘Aziz J., a Kuwaiti employer, said: “When [the worker] has her passport, she can run away to her embassy. [Workers] can sue you for anything; they can say ‘they beat me there,’ [if] they want to be on the safe side.”<sup>127</sup> Massouma al-Mubarak, a member of the Kuwaiti parliament, also described passport confiscation as a way for employers to protect themselves. Al-Mubarak told Human Rights Watch, “If I keep her passport, at least she thinks twice about doing something wrong. At least she will not run away. If I give her the passport, I have nothing to protect myself.”<sup>128</sup>

Despite this attempt to prevent workers from terminating their employment, hundreds of domestic workers still flee their employers’ homes each month, seeking refuge at embassies or with friends while risking immigration penalties and deportation.<sup>129</sup>

### *Forced Confinement in the Workplace*

I do know many people who let their domestic worker out of the house, sometimes for prayers, on Sunday or Friday. But some ... do not have the same awareness, and they lock her up. I and many of my friends find that the working environment is better if we let her out.

—Abd al-Majid Khuraibet, lawyer, Kuwait, November 23, 2009.

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<sup>124</sup> “[I]t is prohibited for employers in the private sector to retain the travel documents of their workers.” Ministry of Social Affairs and Labor, Ministerial Decree No.166 of 2007 Concerning the Prohibition on Confiscating Travel Documents of Workers in the Private Sector. Moreover, foreign governments typically decree all travel documents they have issued property of the government. Passports themselves contain statements to this effect, and require that they remain with the person to whom they were issued.

<sup>125</sup> Human Rights Watch interview with Abd al-‘Aziz J., Kuwait City, November 23, 2009; Human Rights Watch interview with Fahad al-‘Ajmi, Kuwait, January 22, 2010.

<sup>126</sup> Human Rights Watch interview with Iman Eriqat, program officer, IOM Kuwait office, Safat, Kuwait, November 15, 2009.

<sup>127</sup> Human Rights Watch interview with Abd al-‘Aziz J., Kuwait City, November 23, 2009.

<sup>128</sup> Human Rights Watch interview with Massouma al-Mubarak, National Assembly, Kuwait City, November 15, 2009.

<sup>129</sup> Statistics Human Rights Watch collected from four labor-sending country embassies for 2009, on file with Human Rights Watch.

Kuwait's standard domestic labor contract does not explicitly grant a worker the right to spend her rest day apart from her employer's family or to leave her employer's house.<sup>130</sup> Agents further reinforce the belief that days off lie within an employer's discretion. "Whether she leaves the house or takes vacation or gets a day off is up to [the employer]," an employee at a large Hawalli agency told Human Rights Watch.<sup>131</sup> Two other agents also described days off, and workers' freedom of movement, as an employer's personal choice.<sup>132</sup>

Employers' fears of domestic workers finding other jobs or boyfriends led many to prohibit any independent movement. Abd al-'Aziz J. told Human Rights Watch that "most Kuwaitis give the worker a holiday, but with the family. These days off cause problems inside the house.... the big problem is the outside relationships. Sometimes they have bad friendships."<sup>133</sup>

Without a requirement under national law that employers allow workers to leave the home, and their supervision, on a regular basis, workers can become prisoners in abusive homes. Article 31 the Kuwaiti constitution prohibits forced confinement, including confinement by private individuals, in accordance with the ICCPR, stating that "No person shall be ... compelled to reside in a specified place, nor shall the residence of any person or his liberty to choose his place of residence or his liberty of movement be restricted, except in accordance with the provisions of the law."<sup>134</sup> However, domestic workers regularly find themselves in homes where employers violate this provision without consequence.

Latha M., a domestic worker from Sri Lanka, worked under constant watch by her employer. "I could not go out. Even if I threw out the garbage downstairs, she followed me," she said. Latha's employer also hit her on a regular basis. "One day, she beat me, locked me inside [her room], and also locked the outside door. When she locked me in, I just took a decision. I made a rope from bed sheets. The room had a window. I climbed down from the second floor to the ground floor."<sup>135</sup> Though Latha survived her dangerous escape, many other workers

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<sup>130</sup> "Contract for Recruiting Private Servants and Those in That Category and Employment," pursuant to Ministerial decision no. 92/617, requiring the owners of the recruitment agencies for domestic workers to execute a contract agreement between him, the employer, and the house worker before recruiting him/her from outside the country.

<sup>131</sup> Human Rights Watch interview with recruitment agency employee, Hawalli, Kuwait, November 18, 2009.

<sup>132</sup> Human Rights Watch interview with two recruitment agency employees, Hawalli, Kuwait, November 18, 2009.

<sup>133</sup> Human Rights Watch interview with Abdulaziz J., November 23, 2009.

<sup>134</sup> General Comment 27 on the ICCPR confirms that states must ensure that an individual's freedom of movement is not unduly restricted by other persons. U.N. Doc. E/C.12/1999/10, para.s 1,2.

<sup>135</sup> Human Rights Watch interview with Latha M., Dasman, Kuwait, November 20, 2009.

fall and severely injure themselves while trying to escape abusive employers.<sup>136</sup> Section VI describes how Kuwaiti police may then register these escapes as “suicide attempts.”

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<sup>136</sup> Human Rights Watch interviewed six workers who sustained injuries in these circumstances.

## V. Nowhere to Turn

Domestic workers who leave homes where they have worked without pay, been subjected to physical or sexual abuse, denied food or medical care, or kept against their will, have very few safe avenues to make complaints (discussed further in section VII) or obtain immediately accessible shelter. While the Kuwaiti government maintains a temporary shelter facility that provides access to medical treatment, counseling, and legal advice, that facility does not receive domestic workers in immediate distress. At present, domestic workers who leave their employer's home can only turn to their embassies if seeking publicly-available emergency shelter. However, some workers' home country embassies also fail to provide shelter, while others come from countries such as Ghana that do not maintain an embassy or consulate in Kuwait.

The Kuwaiti government is not meeting its obligation to protect domestic workers' safety of person, in particular their right to be free from all forms of domestic violence and to have access to a safe place of shelter. UN General Assembly Resolution 48/104 (the Declaration on the Elimination of Violence Against Women) calls upon states to provide "specialized assistance, such as rehabilitation, assistance in child care and maintenance, treatment, counseling, and health and social services, facilities and programs, as well as support structures, and ... all other appropriate measures to promote their safety and physical and psychological rehabilitation" to women who have been subjected to violence.<sup>137</sup>

Many workers in distress turn initially to their recruitment agency, which served as their first point of contact in Kuwait. While some agencies exert their best efforts to assist domestic workers in distress, others threaten or abuse workers who turn to them for assistance.

### Agency Abuses

Recruitment agents prove poor guardians of domestic workers' safety. As business operators, they have a conflict of interest between worker's welfare and their own profits. Workers interviewed said that agents gave them inadequate food or shelter, or tried to coerce them into working in another home even when they wished to return to their home country or had

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<sup>137</sup> United Nations Declaration on the Elimination of Violence Against Women, December 20, 1993, G.A. res. 48/104, 48 U.N. GAOR Supp. (No. 49) at 217, U.N. Doc. A/48/49 (1993), [http://www.unhcr.ch/huridocda/huridoca.nsf/\(symbol\)/a.res.48.104.en](http://www.unhcr.ch/huridocda/huridoca.nsf/(symbol)/a.res.48.104.en) (last accessed March 26, 2010).

experienced traumatic conditions with their previous employer.<sup>138</sup> Embassy officials, civil society activists, and two government ministry officials interviewed also noted abuses by employment agencies.

Human Rights Watch visited seven domestic labor recruitment offices in Kuwait, in addition to interviewing domestic workers about their own experiences with local agencies. While some workers who left abusive employers found their agencies willing to offer them shelter and help them find better employment situations, others said that agents failed to provide them with food or adequate shelter. Lema A. said that at her agency, an Indonesian agency employee took her in. “However, I had to spend the nights in the open, outside [her] flat. She did not give me anything to eat. After three days without eating I ran away to the embassy.”<sup>139</sup>

Other workers reported that agency staff allowed employers who came looking for them to hit, kick, or otherwise physically abuse them. Vemila L., a Sri Lankan domestic worker, said that her employer took her to a recruitment agency—not the one that had arranged her recruitment to Kuwait—after hitting her, locking her in a room for long periods of time, and denying her food.<sup>140</sup> She said that a male employee at the recruitment office tried to strangle her with an electrical cord. “He tried to strangle me two times. I said ‘I don’t want to die!’”<sup>141</sup>

Other workers reported that agency staff threatened them with violence or intimidated them into returning to abusive employment situations. Latha M. turned to her agency after spending a few weeks in a home where she alleged her employers’ sons sexually abused her. She told Human Rights Watch that the staff there threatened her with violence so that she would return to her employer’s home. “They said, ‘We will beat you very much if you don’t go.’”<sup>142</sup>

After Lotchie B., from the Philippines, became sick during her employment, her employer brought her back to the office that had recruited her. The staff there later subjected her to

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<sup>138</sup> Human Rights Watch interview with Lema A., Kuwait, November 17, 2009; Human Rights Watch interview with Sanju R., government shelter, Khaitan, Kuwait, November 17, 2009; and Human Rights Watch interview with Latha M., Dasman, Kuwait, November 20, 2009.

<sup>139</sup> Human Rights Watch interview with Lema A., Kuwait, November 17, 2009.

<sup>140</sup> Human Rights Watch Interview with Vemila L., Kuwait, November 22, 2009.

<sup>141</sup> Ibid.

<sup>142</sup> Human Rights Watch interview with Latha M., Dasman, Kuwait, November 20, 2009.

physical and sexual harassment, she said. “The owner of the agency is male. He tried to hold me here [points to her chest] and slap me with the notebook.”<sup>143</sup>

Agencies mistreat workers in a system of loose government controls. Kuwait’s Domestic Labor Department—a division of the Interior Ministry—bears responsibility for inspecting domestic labor recruitment agencies and for closing those agencies that violate national regulations. Mariam al-Foudery, a Kuwaiti civil society member, described the unregulated nature of the recruitment sector. “[There are] big agencies and tiny hole in the wall agencies. Some agencies behave well; some don’t care,” she said. “[The agencies] have a lot of power.”<sup>144</sup>

## Lack of Shelter

Workers that Human Rights Watch spoke to who escaped abuse found themselves with few options for emergency shelter. Embassies offer overcrowded accommodations with inadequate resources and overtaxed staff. Workers who had relatives or friends in Kuwait sometimes sought shelter with them, but sheltering out-of-status domestic workers violates Kuwait’s Residence Law and includes up to six months imprisonment among the possible penalties, despite the government’s failure to provide alternatives.<sup>145</sup> Human Rights Watch interviewed members of an informal community group that had sheltered domestic workers in the past, but did so secretly, to avoid discovery by police.<sup>146</sup> Amani al-Bedah, an activist who has supported domestic workers’ rights since the early 1990s, told Human Rights Watch that some longer-term migrants also provide shelter to other workers from their home country in need. “[Expats] create [safehouses]; usually these happen in houses of older women or men who are settled in Kuwait,” she said. “There’s a huge, huge risk being taken here.”<sup>147</sup>

The Universal Declaration of Human Rights (UDHR), as well as the International Covenant on Economic, Social and Cultural Rights (ICESCR), to which Kuwait is a state party, provide a

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<sup>143</sup> Human Rights Watch interview with Lotchie B., Kuwait, November 11, 2009.

<sup>144</sup> Human Rights Watch interview with Mariam al-Foudery, Salmiya, Kuwait, November 22, 2009.

<sup>145</sup> According to the Aliens’ Residence Law, “it is prohibited to accommodate, lodge or engage any alien whose residence in the country is illegal.” Those who violate this provision face penalties ranging from KD200 to 600, and a prison term of up to six months. Interior Ministry Decree No.41 of 1987, amending certain provisions of Law No. 17 of 1959 on Aliens Residence Law, Article 12 Bis.

<sup>146</sup> Human Rights Watch interview with community group that provides legal and practical advice to expatriate workers in Kuwait and has offered emergency shelter in the past, office location, Kuwait, January 27, 2010.

<sup>147</sup> Human Rights Watch telephone interview with Amani al-Bedah, Kuwait, November 24, 2009.

basic right to shelter.<sup>148</sup> However, the Kuwaiti government shelter for domestic workers, to date, does not accommodate individual workers seeking immediate refuge. Instead, embassy staff must attempt to clear charges pending against workers before referring them to the facility. The facility does not serve workers' emergency needs, but often creates simply another bureaucratic stage of deportation. "What they have is not a shelter," Khalid al-Azmy, head of the Kuwaiti Trade Union Federation (KTUF), told Human Rights Watch. "It's a bottleneck."<sup>149</sup>

Laws that set criminal penalties for residents that shelter domestic workers, combined with overtaxed embassy shelters and the failure of other sending countries to provide shelter altogether, create a huge need for Kuwaiti government shelter. Despite this evident gap, the government's current facility regularly operates well under its 50 person capacity.

### *Government Shelters*

In September 2007, the Kuwaiti government opened the Temporary Shelter Center for Expatriate Workers in Khaitan, a suburb of Kuwait City, which currently serves domestic workers escaping abuse.<sup>150</sup> When Human Rights Watch visited, the Khaitan shelter had the capacity to house between 50 and 60 women; it also provided medical care, counseling services, legal advice (in Arabic), and food, as well as a garden and a television room.<sup>151</sup> At the same time, the government announced plans to refurbish a building to shelter 700 male and female expatriate workers, at a cost of approximately \$2.5 million.<sup>152</sup> As of May 2010, completion of the larger shelter remained stalled. The U.S. government has consistently recommended increased shelter capacity in its annual Trafficking in Persons report.<sup>153</sup>

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<sup>148</sup> UDHR Article 25 (1), states that "everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control." The International Covenant on Economic, Social, and Cultural Rights provides, in Article 11(1), provides the same right, and states that "the States Parties will take appropriate steps to ensure the realization of this right." International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force January 3, 1976, ratified by Kuwait on May 21, 1996.

<sup>149</sup> Human Rights Watch interview with Khalid al-Azmy, KTUF offices, Hawalli, Kuwait, November 22, 2009.

<sup>150</sup> US State Department, Office to Monitor and Combat Trafficking in Persons, "Trafficking in Persons Report" June 16, 2009, <http://www.state.gov/documents/organization/123362.pdf> (accessed March 12, 2010), pp 179-180.

<sup>151</sup> Human Rights Watch visit to the Kuwaiti government shelter, Khaitan, November 17, 2009.

<sup>152</sup> US State Department, Office to Monitor and Combat Trafficking in Persons, "Trafficking in Persons Report" June 16, 2009.

<sup>153</sup> Human Rights Watch interview with Garth Hall, political officer, and Samer Okla, political specialist, U.S. Embassy, Bayan, Kuwait, November 20, 2009.

Kuwaiti citizens and residents who try to assist domestic workers either did not know about the government shelter or could not help domestic workers gain access to the facility, undermining its effectiveness as a measure of protection. Roseanne Wyatt, an American expatriate who visits domestic workers at the Indonesian embassy and provides them with basic supplies on a weekly basis, told Human Rights Watch that she had never heard of the shelter.<sup>154</sup> “I don’t think workers know about the [government] shelter,” said C.N., a civil society activist who provides counseling to domestic workers and longtime resident of Kuwait. “It’s not accessible. The only option is to go to the embassy.”<sup>155</sup>

Instead of providing emergency refuge, shelter policy requires that women be referred by their local embassies, which can send a quota of twenty domestic workers to stay there for a maximum of two weeks before repatriation.<sup>156</sup> The major labor-sending countries send groups of workers to the shelter on a rotating schedule, meaning once a particular embassy has sent a group of workers to the shelter, they cannot do so again for several weeks, after the rest have taken their turns. Shelter policy also restricts access to women who have been cleared of any “cases,”—whose employers or others have not reported them as “absconding” or filed charges of theft or similar, often spurious charges.<sup>157</sup> An official from a labor-sending embassy asked, “Until we prove that she has no case, where to keep her, who will feed her?”<sup>158</sup> This policy in fact encourages workers to seek shelter at embassies where possible, despite the official government stance that its own shelter facilities meet international standards for worker protection.

Despite the shortage of space for hundreds of domestic workers who may need shelter on any given day, the government shelter often operated well under capacity due to these restrictions. “We visited the government shelter four weeks ago,” Amer al-Tamimi of the Kuwait Human Rights Society told Human Rights Watch on November 8, 2009. “There were five or six ladies there. There are beds for about 50 people.”<sup>159</sup>

While cases filed by employers must be cleared before workers enter the Khaitan shelter, responsible authorities fail to give domestic workers’ claims of unpaid wages similarly high

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<sup>154</sup> Human Rights Watch interview with Roseanne Wyatt, hotel café, Salmiya, Kuwait, November 23, 2009.

<sup>155</sup> Human Rights Watch interview with C.N., November 10, 2009.

<sup>156</sup> Human Rights Watch interview with ambassador of labor-sending country, November 11, 2009; interview with ambassador of labor-sending country November 11, 2009.

<sup>157</sup> Ibid.

<sup>158</sup> Human Rights Watch interview with ambassador of labor-sending country, November 11, 2009.

<sup>159</sup> Human Rights Watch with Amer al-Tamimi, Secretary-General of the Kuwait Human Rights Society, KHRS offices, Shuwaikh, Kuwait, November 8, 2009.

priority. Human Rights Watch found 24 residents, mostly Sri Lankan, in the shelter on the day of our visit. Thirteen workers stated that their employers still owed them wages. Though the center offered legal counseling, none indicated any hope of collecting their lost wages before leaving Kuwait.

Instead of improving the process, the facility often served only as another required stopping point that further delayed workers' exit from the country.<sup>160</sup> While some embassies could arrange to take their workers directly from their shelters to the airport for repatriation, others told Human Rights Watch that Kuwaiti authorities required them to send workers to the government shelter first, causing significant delays.<sup>161</sup> One sending-country ambassador told Human Rights Watch, "Even if you have cleared every legal hurdle, you have to take them [there]. You can only send batches of twenty."<sup>162</sup>

### *Embassy Shelters*

Domestic workers who seek refuge at embassy shelters found themselves waiting for weeks or months while overtaxed embassy staff tried to resolve their cases. While staying at embassy shelters, workers had access to legal services as well as dispute resolution or mediation services through embassy staff. Embassies also took workers to hospitals when necessary. However, staffing levels, expertise, and the readiness to address domestic workers' problems varied widely from one embassy to another. Some countries whose nationals provided domestic labor in Kuwait, such as Nepal and Ghana, failed to maintain any shelter facilities as they had no embassy presence in the country. Officials from two different labor-sending countries told Human Rights Watch that their governments refused to fund shelters, food, and other basic necessities for domestic workers seeking refuge.<sup>163</sup> Instead, their embassies had to channel money intended for other embassy functions towards supporting workers who needed assistance. Overcrowding and strained resources leave domestic workers waiting in harsh conditions: in three out of four embassies, staff said workers had to sleep on the floor of offices or waiting rooms due to lack of space.

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<sup>160</sup> Ibid.

<sup>161</sup> Human Rights Watch interview with ambassador of labor-sending country, November 11, 2009; interview with ambassador of labor-sending country, November 11, 2009.

<sup>162</sup> Human Rights Watch interview with ambassador of labor-sending country, November 11, 2009.

<sup>163</sup> Human Rights Watch interview with political officers from labor-sending country, Kuwait, November 23, 2009; Human Rights Watch interview with sending-country labor attaché, Kuwait, January 25, 2010.

Embassy shelters are typically overcrowded and underfunded. According to data collected from all of the sending-country embassies that Human Rights Watch visited, between 150 to 600 workers lived at each embassy shelter at any given time during 2009.

The Indonesian embassy maintained the most egregiously overcrowded shelter, with approximately 600 domestic workers residing there in September 2009 in extremely cramped and difficult conditions. Indonesia has around 62,000 nationals working in Kuwait's domestic labor sector. The Philippines embassy had ten staff and between 150 and 200 women in its shelter on average, compared to a total population of 140,000 Filipina domestic workers in Kuwait. The Sri Lankan embassy in Kuwait had 20 staff and over 200 women in its shelter in late 2009 from a population of over 120,000 Sri Lankan domestic workers.

In September 2009, a government delegation from Jakarta visited the Indonesian embassy in Kuwait, in part due to growing concern over the number of migrant domestic workers stuck in the embassy shelter.<sup>164</sup> In October, the Indonesian Ambassador to Kuwait, Faisal Esmail, defended the September decision by the Indonesian Ministry of Labor to ban recruitment of Indonesian domestic workers to Kuwait: "We currently have around 600 runaway housemaids at our embassy. They have issues that need to be resolved."<sup>165</sup>

Two local activists who help Indian expatriate workers in distress navigate embassy procedures told Human Rights Watch that the Indian embassy operates a shelter for domestic workers with the capacity to house only 40 workers.<sup>166</sup> Over 225,000 Indian domestic workers—the largest number among all sending countries—currently live in Kuwait. While other major sending-countries regularly house over 100 workers in their shelters, the Indian shelter's capacity remains significantly smaller, while activists report that it remains difficult for workers to access. Several Kuwaiti employers and local activists reported that the government of India offered little effective assistance to Indian domestic workers who had faced abuse.<sup>167</sup> Instead, Indian workers more frequently sought help from relatives or friends, or via informal community networks that provide assistance on an ongoing basis.

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<sup>164</sup> Habib Toumi, "Kuwait and Indonesia to ink worker pact," *Gulf News*, January 6, 2010, <http://gulfnews.com/news/gulf/kuwait/kuwait-and-indonesia-to-ink-worker-pact-1.564006> (accessed March 16, 2010).

<sup>165</sup> Ben Garcia, "Indonesia bans maids recruitment to Kuwait," *Kuwait Times*, October 15, 2009, [http://www.kuwaittimes.net/read\\_news.php?newsid=NzAyNzQoNjU3](http://www.kuwaittimes.net/read_news.php?newsid=NzAyNzQoNjU3) (accessed March 16, 2010).

<sup>166</sup> The Embassy of India failed to respond to repeated requests from Human Rights Watch, submitted over a period of six months, for meetings, interviews, or complaint statistics. See footnote 1.

<sup>167</sup> Human Rights Watch interview with C.N., civil society activist, Kuwait, November 10, 2009; Human Rights Watch interview with Amani al-Bedah, Kuwait, November 24, 2009; and Human Rights Watch interview with Indian civil society activist, January 27, 2010.

## VI. Punishing Escape

It shouldn't be against the law to run away from an abusive employer. Sometimes these girls, they say 'do you know what happened to me in that house? They hit me, spat on me...how can there be a case against me? —C.N., civil society activist, Kuwait City, November 10, 2009.

Domestic workers who leave their employment prior to completing their contract without their sponsor's consent can be fined, arbitrarily detained, or sentenced to jail time under Kuwaiti law. Though "absconding" appears in Kuwait's immigration regulations, rather than its criminal code, the punishment attached gives it the effect of a criminal offense. Thus, current law treats domestic workers who seek to exercise their right to freely terminate employment as criminals.

As previously detailed, Immigration regulations require employers to report domestic workers' absence from their homes. The police have broad discretion whether to help or detain a worker, depending on whether her employer had filed a notice of absconding. What happened in each case that Human Rights Watch documented also depended on the individual police officer the worker met, and how he chose to address her situation.

### Absconding

The majority of workers who said they had left abusive employment told Human Rights Watch that their sponsors had reported them to the police as absconding cases. Article 20 of Kuwait's Aliens' Residence Law obliges employers to report a domestic worker to the Interior Ministry if she has been absent from work without permission for more than one week.<sup>168</sup> Police officers may check a worker's name or civil ID number, for example, by stopping her on the street to see if there is an absconding registration under her name in the police database. If so, they detain the worker for investigation.<sup>169</sup> Absconding registers as an immigration violation under the worker's name and civil ID number. Any workers lacking appropriate documentation and registered as absconding with the police authorities may be

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<sup>168</sup> The employer shall notify the Ministry of Interior if the servant absconds or leaves his/her services within one week from the date of such act." Article 20, Ministerial Resolution No.640 of 1987 Promulgating the By-law of the Aliens' Residence Law, issued on November 14, 1987 by publication in *Kuwait al-Yaum*.

<sup>169</sup> Human Rights Watch interview with unidentified police officer, Rumaithiyya police station, Kuwait, November 20, 2009.

imprisoned for a period of six months and/or fined between KD200 (US\$692) and KD600 (\$2077).<sup>170</sup>

The Ministry of Interior fingerprints workers whom police have arrested for absconding and, in the majority of cases, deports them rather than trying them on absconding charges.<sup>171</sup> Deportation department director Col. Ahmad al-Rajaiba told Human Rights Watch that “Everyone who is caught without a valid residency permit is brought to the deportation center right away.”<sup>172</sup> An official from a labor-sending country said, “If they are convicted of absconding, [this] usually takes a maximum of six months’ punishment. But because of jail congestion, [the workers] must be deported.”<sup>173</sup>

Workers interviewed whose sponsors have reported them as absconding faced lengthy and arbitrary periods in detention, anywhere between a few days to several months.<sup>174</sup> The labor attaché of a sending country, who has worked in Kuwait for one-and-a-half years overseeing more than 4000 cases, told Human Rights Watch: “Once absconding cases are filed against workers, they are presumed to be guilty. There is an investigation by the police or CID [the Criminal Investigations Department]. Until they are cleared, they cannot go [home].”<sup>175</sup> During this time, the workers remained in police detention centers or Kuwait’s investigative detention facilities, commonly referred to as “Investigations” (*tahqiqaat*) or the “Salmiya Camp.”

While the government places domestic workers in detention under the premise of investigating charges filed against them, interviews with workers indicated that authorities failed to obtain their testimony relevant to any charges filed and neglected to ensure that they understood any criminal charges filed against them. Makeda T., a 19-year-old domestic worker from Ethiopia, told Human Rights Watch that she had been in Kuwait for a year and two months, and had worked in five houses during that time. At each house, she said that she had been refused pay, denied adequate rest, or beaten by her employer. She left her last employer’s home to live with a relative without a valid residency permit. Makeda told us that she had spent over three months in various police detention centers, but was not provided

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<sup>170</sup> Law Decree No.41 of 1987 amending certain provisions of Law No.17 of 1959 (Aliens’ Residence Law).

<sup>171</sup> Human Rights Watch interview with deportation department head Ahmad Rajaiba, Talha deportation center, Kuwait, November 18, 2009.

<sup>172</sup> Ibid.

<sup>173</sup> Human Rights Watch interview with sending-country labor attaché, Kuwait, November 11, 2009.

<sup>174</sup> Human Rights Watch interview with Tilkumari P., Khaitan government shelter, Kuwait, November 17, 2009.

<sup>175</sup> Human Rights Watch interview with sending-country labor attaché, Kuwait, November 11, 2009.

with legal assistance or informed of any opportunity to contest her detention. “I spent one month in the ‘Umariyya police station after being arrested,” she said. “They called [my] *kafil* [sponsor] but I did not get to see him or know whether he came. Then I spent two months in Jahra, from where they took me to Salmiya for fingerprinting. The police never asked me any questions.”<sup>176</sup>

Article 9 of the ICCPR prohibits arbitrary arrest and detention, including arrest and detention based on the application of national laws that are themselves arbitrary or unjust.<sup>177</sup> It further requires that “anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall promptly be informed of any charges against him,” and that “anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within reasonable time or release.”<sup>178</sup> However, three workers that Human Rights Watch interviewed at the government deportation center who were scheduled to depart that very evening remained unaware of their absconding registrations.<sup>179</sup> By deporting domestic workers on criminal charges without informing them of the charges against them and without providing an opportunity for reviewing their detention, Kuwait violates their right to freedom from arbitrary arrest and detention and their right to be promptly informed of criminal charges filed against them.<sup>180</sup>

Kuwait residents who frequently assisted domestic workers in distress described how employers misused absconding reports to exert control, and that regardless of employers’ intent, these registrations penalized workers unfairly, providing no exceptions for reasonably leaving an employer. Amanda D., from the Philippines, said that her female employer of seven months told her she must move with the family to Africa, where her male employer would take up a new post. After Amanda refused, she said, “They filed an absconding case against me. [My employer] doesn’t want to surrender my passport.” Amanda said she had health problems and could no longer work. “What I want is [for her] to give back my passport so I can go back [to the Philippines] soon,” she told us.<sup>181</sup>

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<sup>176</sup> Human Rights Watch interview with Makeda T., Talha deportation center, Kuwait, November 18, 2009.

<sup>177</sup> Sarah Joseph et al., *The International Covenant on Civil and Political Rights: Cases, Materials and Commentary, Second Edition*, Oxford University Press (Oxford:2004), p.310, and ICCPR art 9.

<sup>178</sup> ICCPR art 9.

<sup>179</sup> Human Rights Watch interviews with eight domestic workers, al-Talha deportation center, Kuwait, November 18, 2009.

<sup>180</sup> ICCPR art 9.

<sup>181</sup> Human Rights Watch interview with Amanda D., Kuwait, November 11, 2009.

Some workers reported that employers terminated their employment with no notice and filed false absconding charges to ensure their deportation as violators of Kuwait's immigration laws. Thus, absconding regulations, in combination with workers' poor access to labor complaint mechanisms, allowed employers to send workers home and to terminate their sponsorship, even in cases where they owed a worker wages. In cases where the two-year contract term had not ended, employers effectively prevented workers from obtaining new employment.

Reverend Andy Thompson, who regularly interacts with expatriate workers through his role at St. Paul's Anglican church in Kuwait, spoke out about the abuse of absconding provisions in a Kuwaiti newspaper column:

The reality is that the charge of absconding has become the standard ploy whenever an employer decides that they have had enough of their workers. The police are unable to make a distinction between a genuine grievance and an employer who simply marches into a station and hands his employees over for arrest.<sup>182</sup>

"When I was a lawyer [for] the Philippines embassy, we constantly had absconding cases," Abd al-Majid Khuraibet told Human Rights Watch. "Some sponsors used these cases, and the threats thereof, to assault domestic workers. The absconding provision needs urgent reform."<sup>183</sup>

## **Criminal Charges against Domestic Workers**

Employers also filed allegedly retaliatory criminal charges against domestic workers trying to secure their rights, or threatened them with charges should they try to flee abusive situations. Human Rights Watch investigated two cases in which workers said that their employers threatened them with criminal charges of theft should they try to leave abusive situations, while six workers said that employers or recruitment agents had threatened them with, or filed, spurious charges of theft or assault.

Mary P., a Filipina domestic worker who said her employer forced her to dig through the trash for food, called her a "dog," and refused to give her any time off, told Human Rights

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<sup>182</sup> Reverend Andy Thompson, "Is 'Absconding' Really a Crime?" *Arab Times*, <http://www.arabtimesonline.com/NewsDetails/tabid/96/smId/414/ArticleID/144113/reftab/69/t/Is--absconding--really-a-crime/Default.aspx> (accessed March 16, 2010).

<sup>183</sup> Human Rights Watch interview with Abd al-Majid Khuraibet, Kuwait City, November 23, 2009.

Watch that she and her co-workers had asked their employers to return them to their agency.<sup>184</sup> She said that her employers began physically abusing her after this request, and threatened to charge her with theft if she left their home.<sup>185</sup> Because of the threat of theft charges, Mary said that she left her employers' home without taking even her personal belongings.<sup>186</sup>

Sanju R., from Sri Lanka, also told Human Rights Watch that her male employer threatened her with theft should she escape after he caught her trying to run away. “[Sir] caught me at the gate. He told me, ‘Sanju, I have a watch that cost 2000 KD [\$6,900]. If you run away, I’ll say you took it.’ I was very afraid.”<sup>187</sup> Though Sanju later escaped to her embassy, she told Human Rights Watch, “I took [only] my uniform I was wearing. I did not want to [be accused] of taking anything.”

In January, the *Kuwait Times* reported that Elena, a domestic worker from the Philippines, found that her employers had charged her with stealing valuables when they visited her in the al-Razi orthopedic hospital.<sup>188</sup> Elena was recovering from injuries sustained after she fell from a second floor window. She told the *Kuwait Times* that she had tried to escape after her employer hit her on the head multiple times, and that she only had taken what items her employers had given her in a suitcase they packed. “My madam told me that I took valuable things from their house and that she has filed a case with the police against me. I'm not worried because I don't do such things. There is a [security] camera inside their house anyway, so how could I steal valuables?”<sup>189</sup>

Even workers seeking assistance and protection from government authorities may instead be detained on criminal charges, while the police fail to inform them of the nature of such charges. After working for two-and-a half years, Tilkumari Pun, a 23-year-old domestic worker from Nepal, asked for her wages and to return to Nepal where her father needed a heart operation. After waiting ten months for her employers to make these arrangements, Tilkumari went to the Bayan area police station for assistance. From the police station, she said, “I had to go to the CID [Criminal Investigations Department.] Baba and Mama [had]

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<sup>184</sup> Human Rights Watch interview with Mary P., Kuwait, November 11, 2009.

<sup>185</sup> Ibid.

<sup>186</sup> Ibid.

<sup>187</sup> Human Rights Watch interview with Sanju R., government deportation center, Khaitan, Kuwait, November 17, 2009.

<sup>188</sup> Ben Garcia, “Dying to Escape: the Desperation of Kuwait’s Abused Maids,” *Kuwait Times*, January 5, 2010, [http://www.kuwaittimes.net/read\\_news.php?newsid=ODY2NjAoMjA5](http://www.kuwaittimes.net/read_news.php?newsid=ODY2NjAoMjA5) (accessed April 22, 2010).

<sup>189</sup> Ibid.

filed a police case against me.”<sup>190</sup> Criminal Investigations cleared Tilkumari of suspicion after she spent two days in detention, she said. However, she had yet to recover the thirteen months’ of wages her employers owed her at the time of her interview with Human Rights Watch. Fayrouza A., a Sri Lankan worker, also turned to the police after she said her employers chased her out of the house. “They owed me two months’ salary,” she told Human Rights Watch. “Baba and Mama didn’t pick up the phone. Mama said I had stolen from her, that I was a thief. [The police] put a travel ban on me.”<sup>191</sup>

C.N., who provided regular advice and assistance to domestic workers, said that employers sometimes filed these charges as a means of protection. “Employers [are] afraid the domestic workers would sue them so they file a case.”<sup>192</sup> A Kuwaiti lawyer who handles thousands of domestic worker claims each year suggested that in some cases employers filed theft charges to avoid paying for a worker’s ticket home. Employers who do not pay for a worker’s ticket are flagged in the Ministry of Interior’s records and prohibited from sponsoring new workers, renewing their drivers’ licenses, and accessing any other civil services provided through the Ministry.<sup>193</sup> However, when a worker is charged with theft or other crimes, responsibility to pay her deportation expenses passes to the government.

### *Failed Escapes and Suicide Attempts*

Though attempted suicide is not listed as a crime under Kuwait’s Criminal Code, Undersecretary for Legal Affairs in the Ministry of Social Affairs and Labor Mansour al-Mansour told Human Rights Watch that attempting suicide is a crime in Kuwait. He added that individuals who attempt suicide are rarely punished.<sup>194</sup> Lawyers, domestic workers, embassy officials, and civil society participants interviewed by Human Rights Watch reported that individuals deemed to have attempted suicide could face criminal charges.<sup>195</sup>

Kuwaiti media regularly describes cases of migrant workers who fall from tall buildings and sustain severe injuries as “suicide attempts,” and write in these reports that “a case was

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<sup>190</sup> Human Rights Watch interview with Tilkumari P., government shelter, Khaitan, Kuwait, November 17, 2009.

<sup>191</sup> Human Rights Watch interview with Fayrouza A., government shelter, Khaitan, Kuwait, November 17, 2009.

<sup>192</sup> Human Rights Watch interview with C.N., Kuwait City, November 10, 2009.

<sup>193</sup> Human Rights Watch interview with deportation department head Ahmad al-Rajaiba, Talha deportation center, Kuwait, November 18, 2009.

<sup>194</sup> Human Rights Watch interview with Mansour al-Mansour, undersecretary for legal affairs in the Ministry of Labor and Social Affairs, Geneva, June 10, 2010.

<sup>195</sup> Article 158 of Kuwait’s Criminal Code states that “Whoever abets, assists or conspires with a person to commit suicide, and he does commit suicide, is punished under this title by no more than three years in prison and up to a KD225 fine, or either of these two penalties. Law No. 16 of 1960 issuing the Criminal Code of Kuwait.

registered against [the worker]” by police authorities.<sup>196</sup> The media reported between one and three cases of alleged suicide or suicide attempts by migrant workers, the majority of whom are domestic workers, each week in 2009 and early 2010.<sup>197</sup> In November 2009 alone, local newspapers reported thirteen different cases of suicide or attempted suicide.<sup>198</sup>

Human Rights Watch visited Al-Razi Hospital and Farwaniya Hospital—both public hospitals in Kuwait—and interviewed eight domestic workers who were recovering after alleged suicide attempts. Six of the eight told us that they had fallen while trying to escape, while the others said that they had fallen or that employers had pushed them. The *Kuwait Times* also described the phenomenon of workers facing legal charges after failed escape attempts. A local reporter interviewed two Filipina domestic workers recovering at a hospital from injuries they said they incurred by falling while trying to escape. They added that their employers had filed charges against them.<sup>199</sup>

Alida, another Filipina domestic worker, said that her female employer pushed her from a balcony after she had worked only a month in her home.<sup>200</sup> She told a local volunteer, who recorded her interview, that her employer forced her to work excessively long hours while denying her food for over a month.<sup>201</sup> Alida had to ask her neighbors for food in secret. When she sought assistance from her agency, her employer came to the agency and took her back against her will.<sup>202</sup> After returning home, the employer hit Alida in the face and said, “I’ll let you die first before you go.”<sup>203</sup> Alida continued:

After that, she [dragged me by] my blouse in her two hands and pushed me.  
She threw me out of the window from the third floor. Baba came downstairs

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<sup>196</sup> An April 2010 article in the *Arab Times*, for example, stated that “an Ethiopian maid...allegedly tried in vain to end her life by drinking a potion of detergent....She was rushed to the Farwaniya Hospital in an ambulance and given stomach wash. A case of attempted suicide has been registered against her.” “Maid attempts suicide,” *Arab Times*, April 9, 2010, <http://www.arabtimesonline.com/NewsDetails/tabid/96/smld/414/ArticleID/152164/reftab/96/Default.aspx> (accessed May 24, 2010).

<sup>197</sup> Migrant Rights, “Every Two Days A Migrant Worker Attempts or Commits Suicide in Kuwait,” post to Migrant Rights (blog), March 28, 2010, <http://www.migrant-rights.org/2010/03/28/every-two-days-a-migrant-worker-attempts-or-commits-suicide-in-kuwait/> (accessed May 24, 2010).

<sup>198</sup> Migrant Rights, “Kuwait: Two Asian Workers Found Dead; Maid Injured Trying to Escape Abuse,” post to Migrant Rights (blog), March 28, 2010, <http://www.migrant-rights.org/2009/11/28/kuwait-two-asian-workers-found-dead-maid-injured-trying-to-escape-abuse/> (accessed May 24, 2010).

<sup>199</sup> Ben Garcia, “Dying to Escape,” *Kuwait Times*, January 5, 2010.

<sup>200</sup> Human Rights Watch interview with Alida A., Kuwait, November 11, 2009.

<sup>201</sup> Interview with Alida A. recorded by a local volunteer, August 2009, on file with Human Rights Watch.

<sup>202</sup> *Ibid.*

<sup>203</sup> *Ibid.*

and [grabbed] my left hand. He turned me around on the ground. When he put my hand down, I fainted. The next thing I remembered I was in hospital. It was one week before I woke up because I was in a lot of pain.<sup>204</sup>

As Alida recovered, she said that she learned that her employers had described the incident as attempted suicide and that they had filed charges against her. “Why would I try to kill myself?” she asked Human Rights Watch angrily. “I have only been here a few weeks! I came here to work, not to kill myself.”<sup>205</sup>

Confusion exists around the legal and practical consequences for domestic workers who have fallen from a height or otherwise endangered their life—either by accident, attempting to escape abusive employment, by being pushed, or in a genuine suicide attempt. Fahad al-Ajmi, the head of the Kuwaiti Lawyers’ Association, told Human Rights Watch that attempting suicide was a crime under Kuwaiti law.<sup>206</sup> However, Kuwait’s Criminal Code fails to explicitly criminalize suicide attempts.

Confusion around the legal and practical consequences for domestic workers who have fallen from a height or otherwise endangered their life demonstrates that responsible authorities tend to treat workers as they would other immigration law violators rather than providing them with the assistance and counseling merited by their circumstances. The prevalence of these incidents also reflects the more widespread problem whereby employers forcibly confine workers in their homes, depriving them of recourse to community support or government assistance.

## Deportation

Administrative deportation remains the Kuwaiti government’s primary method for dealing with the thousands of domestic workers who leave their employers each year before completing their employment contract.<sup>207</sup> At present, the Kuwaiti government does not offer alternative exit procedures for workers who have completed their two-year contracts but whose employers have refused to return their passports or for those who have escaped

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<sup>204</sup> Ibid.

<sup>205</sup> Human Rights Watch interview with Alida A., Kuwait, November 11, 2009.

<sup>206</sup> Human Rights Watch interview with Fahad al-Ajmi, Bneid al-Gar, Kuwait, January 22, 2010; Human Rights Watch interview with Mohammad Khuraibet, Jabriya, Kuwait, November 19, 2009. In addition, in 1992 Human Rights Watch received an official letter from the Ministry of Interior stating that suicide is a felony under Kuwaiti law. The letter is published in a 1992 report *“Punishing the Victim: Rape and Mistreatment of Asian Maids in Kuwait,”* Vol. 4, Issue 8, August 1992.

<sup>207</sup> Four sending-country embassies recorded over 10,000 worker complaints and over 1000 workers housed in embassy shelters in 2009.

abusive employers. Nor does the government provide judicial review of administrative deportations. Even women who completed their two-year contract terms heard from embassy officials or lawyers that deportation provided the easiest and fastest route home when employers refused to return passports or lift absconding reports in their names.

Marsit, an Ethiopian domestic worker, stated that because she did not have her passport with her when she escaped abusive employers, she had been unable to return to her country. Marsit said that her employers repeatedly deprived her of food over a six-month period, paid her only half the wages they owed her, and allowed their son to beat her on several occasions.<sup>208</sup> “I have [waited] for four weeks now for my employer to deliver my passport and my salary, [so that I can] go home,” she said.<sup>209</sup> Nur W., an Indonesian worker at a government deportation detention center, said that her employer denied her permission to return home at the end of her two-year contract and also refused to return her passport when she ran away.<sup>210</sup> “I went to my embassy; they called Mama [my employer] from there. Mama still said no [to returning my passport.] I had to go to deportation,” she said.<sup>211</sup> Indefinite periods of waiting for their passport, or for authorities to complete deportation procedures, meant that Marsit and Nur had to shoulder further costs of foregone income, extended family separation, and confinement at temporary shelters or deportation detention centers, unduly burdening their right to freely exit the country under international law.

Ratih L., another Indonesian worker in deportation detention, said she had a good relationship with her employers and worked for them for over two years.<sup>212</sup> However, they had forgotten to renew her residency visa for four-and-a-half months after it expired, and decided that the easiest solution was for Ratih to leave the country through deportation proceedings.<sup>213</sup> Kuwaiti government officials confirmed that deportation remains a commonly-used channel to repatriate workers whose sponsors refuse their consent to terminate employment. Ahmad al-Rajaiba, head of Kuwait’s Deportation Detention Department, told Human Rights Watch that “if a domestic worker wants to leave a sponsor, she should go through conciliation channels. If the sponsor remains non-responsive, we have some cases [that] go through deportation.”<sup>214</sup> Mohammed Khoreibet, a lawyer for the

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<sup>208</sup> Human Rights Watch interview with Marsit T., Kuwait, November 17, 2009.

<sup>209</sup> Ibid.

<sup>210</sup> Human Rights Watch interview with Nur W., government deportation center, Kuwait, November 18, 2009.

<sup>211</sup> Ibid.

<sup>212</sup> Human Rights Watch interview with Ratih L., government deportation center, Kuwait, November 18, 2009.

<sup>213</sup> Ibid.

<sup>214</sup> Human Rights Watch interview with Ahmad Rajaiba, Kuwait, November 18, 2009.

Indonesian embassy, said, “sometimes, it’s easier for [the workers] to go [home] through deportation.”<sup>215</sup>

While principles of sovereignty allow Kuwait to deport individuals who have “no visible means of living,” international law prohibits the government from arbitrarily depriving individuals of legitimate claims to property, under Article 17 of the Universal Declaration on Human Rights, and from depriving them of the right to a fair hearing in the determination of a civil claim, under Article 14 of the ICCPR, including claims to compensation or redress.<sup>216</sup> Four out of six domestic workers interviewed in deportation, as well as 13 women in the government shelter, made claims for unpaid wages or alleged criminal assault against employers or agents in Kuwait. Embassy officials or lawyers we spoke to conveyed advice based on their experience with the current system, suggesting that some workers’ claims would take a long time to pursue and would be unlikely to succeed given the narrow legal avenues for recourse. One embassy lawyer told Human Rights Watch that he wins only 60 percent of his unpaid wage cases because women—as a consequence of working in private homes where no independent witnesses or documentation can confirm their testimony—lack evidence to prove their claims.<sup>217</sup>

Interviews with domestic workers awaiting repatriation and deportation, as well as with civil society organization members, embassy officials, and recruitment agents, suggest that many women have claims for unpaid wages, physical abuse, or rape, yet leave the country without relief, or decide not to pursue these claims in the face of obstacles to redress (discussed further in the following chapter).

Deportation policies further violate international law protections against arbitrary expulsion, and the right of an alien to “submit reasons against his expulsion.”<sup>218</sup> Kuwait’s deportation policies, described in Section II (covering the legal framework) of this report, provide no opportunity for workers to contest the deportation decisions issued by state police authorities. In particular, workers charged with absconding lack a guaranteed opportunity to contest this charge—or their deportation—by registering their reason for leaving an employer. While workers charged with criminal offenses may be deported pursuant to a judicial order,

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<sup>215</sup> Human Rights Watch interview with Mohammad Khoreibet, Jabriya, Kuwait, November 19, 2009.

<sup>216</sup> Aliens Residence Law, art.16 (2).

<sup>217</sup> Human Rights Watch interview with sending-country embassy lawyer, November 22, 2009.

<sup>218</sup> ICCPR, art.13. General Comment 15 goes on to say that “an alien must be given full facilities for pursuing his remedy against expulsion so that this right will in all the circumstances of his case be an effective one...discrimination may not be made between different categories of aliens in the application of article 13. UN Committee on Civil and Political Rights, General Comment No. 15, The position of aliens under the Covenant, U.N. Doc. E/C.15/1986/10 (1986), para. 10.

those charged with immigration offenses can be deported at police orders with no requirement for judicial review.<sup>219</sup> Abd al-Majid Khureibet, former lawyer for the Philippines embassy, told Human Rights Watch, “[Kuwait] need[s] reform in the deportation procedures.... All deportations should be under judicial supervision.”<sup>220</sup>

Regardless of what brings them to deportation, Kuwaiti government representatives and sending-country embassy officials agree that domestic workers waiting to be sent home often spend lengthy and arbitrary periods in deportation detention facilities. According to deportation director al-Rajaiba, individuals should spend only between 48 and 72 hours in deportation before leaving the country.<sup>221</sup> Three major obstacles keep deportees in detention for longer periods, he said.<sup>222</sup> First, many awaiting deportation did not have travel documents. Their sponsors had confiscated their passports and refused to provide them, he said, and embassies did not always cooperate in issuing replacement documents.<sup>223</sup> Second, some deportees still needed an airline ticket, but their employers failed to pay. Deportation authorities could register a fine of KD352 (\$1221) to cover airfare under the nonpaying employer’s name, preventing him from accessing government-administered services, including the ability to sponsor a new worker, until he paid.<sup>224</sup> Al-Rajaiba told Human Rights Watch that the department had a list of between 500 and 700 employers with blocks registered in their names at the time of Human Rights Watch’s interview.<sup>225</sup> Third, about half of all detainees in the deportation detention center still faced unfinished civil or criminal lawsuits. “Persons with ongoing court cases,” he said, “spend a lot of time in deportation [detention].”<sup>226</sup>

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<sup>219</sup> Human Rights Watch interview with deportation department director Ahmad al-Rajaiba, Kuwait, November 18, 2009.

<sup>220</sup> Human Rights Watch interview with Abd al-Majid Khuraibet, Kuwait City, November 23, 2009.

<sup>221</sup> Human Rights Watch interview with deportation department director Ahmad al-Rajaiba, Kuwait, November 18, 2009.

<sup>222</sup> Ibid.

<sup>223</sup> Ibid.

<sup>224</sup> Ibid.

<sup>225</sup> Ibid.

<sup>226</sup> Ibid.

## VII. Barriers to Redress

I did not come here to kill myself. I came here to work. I thought I would work as a nurse here, but they lied to me. I need my case. My problem is time, [but] I want justice.

—Alida A., 21, a Filipina domestic worker who sustained severe spinal injuries after her employer allegedly pushed her from a balcony, Kuwait, November 11, 2009.

Workers who seek redress for claims ranging from unpaid wages to physical or sexual assault must overcome a host of legal and practical obstacles to file or pursue a complaint. Kuwait's current complaint resolution offices for migrant domestic workers provide limited assistance and lack the authority to ensure employer participation in resolving disputes. Workers received inconsistent responses when seeking police assistance; while some could register complaints and get help, others were detained and later deported. Workers contemplating legal claims against employers or agents had to weigh pressing practical and financial concerns. Other obstacles included the threat of absconding charges and deportation, threats of theft charges, difficulty in gathering evidence to prove domestic employment-related claims, court fees that outstrip the amounts in question, and time delays which mean waiting in poor shelter conditions while forgoing the opportunity to hold legal employment in the interim.

### Inadequate Complaint Registration and Resolution

Domestic workers seeking to register complaints of unpaid wages or breach of contract must navigate a complicated administrative structure. The Domestic Workers' Department, an administrative division of the Interior Ministry, mediates disputes between domestic workers and sponsor-employers, providing a voluntary complaint resolution process. Government officials also told Human Rights Watch that workers should report all problems to local police stations.<sup>227</sup> Finally, workers seeking to enforce their rights absent employer compliance must turn to the courts for redress.

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<sup>227</sup> Human Rights Watch interview with Undersecretary of Labor and Social Affairs Mohammed al-Kandari at his office, Ministries Complex, Kuwait, November 23, 2009.

### *Domestic Workers Department*

Kuwait's Domestic Workers' Department, an administrative division of the Interior Ministry, mediates disputes between domestic workers and sponsor-employers, providing a voluntary complaint resolution process.<sup>228</sup> However, the department works only through embassy officials and does not compel employer cooperation. Without authority to compel employers' participation and to reach binding, enforceable remedies to workers' complaints—return of passports and identity documents, transfer of employment without a sponsor's consent, payment of back wages as well as late payment penalties, and mandatory extension of residence visas for workers with valid legal claims—Kuwait's Domestic Workers' Department provides little more than a governmental nod to due diligence as required by international law.

Colonel Abd al'Awwadh al-Ali, head of the department, told Human Rights Watch, "We have one day a week reserved for each embassy, who bring us their concerns." On these days, embassy officials may present the claims of domestic worker nationals, and department officials will respond by seeking employers' participation in dispute resolution proceedings. However, al-Ali said, "We do not receive individual complaints here at the Domestic Workers' Department," meaning that workers themselves could not seek assistance from this institution without going through their local embassies.<sup>229</sup> This arrangement fails to protect workers whose home governments do not maintain diplomatic missions in Kuwait. Under its current policies, the department lacks the resources necessary to investigate—and the authority to resolve—domestic worker complaints.

One labor-sending country's ambassador told Human Rights Watch:

There is no enforcement measure on the part of responsible government institutions. They call sponsors. If the sponsor says no, no one can enforce. We go every week; the employer may not turn up. Some will come, some will turn up, but others, no.

"They can't do anything," another embassy's labor attaché told Human Rights Watch. "They just say, 'please, please, please,' but they can't make [the employer] come. I don't know if they can't or they just won't."

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<sup>228</sup> *Ibid.*

<sup>229</sup> Human Rights Watch interview with Col. Abd al-Awwadh al-Ali, head of the Domestic Workers' Department, Interior Ministry, Kuwait, November 17, 2009.

Employers' ability to participate or absent themselves from dispute resolution without consequences, combined with the obstacles workers face to achieving legal redress, create negotiations in which employers maintain disproportionate bargaining power. When sponsors did participate in complaint resolution, they sometimes bargained to have some of the recruitment fees they had paid restituted in exchange for acceding to the demands of the worker, according to local civil society members and embassy personnel.<sup>230</sup> According to one labor-sending country's ambassador, "[Some] sponsors ask for money. Others will ask her to go somewhere else"—to another employer who can reimburse him the fees he paid to recruit her.<sup>231</sup>

The office also employs insufficient staff to oversee its multiple mandates. Established in 1993 as part of the Interior Ministry, the department oversees domestic recruitment agencies, inspects agency offices to monitor compliance with regulations, and hears domestic worker complaints presented to them by embassy staff.<sup>232</sup> According to one ambassador, "there is only one person to handle all of the cases. The official hours are between 9 a.m. and 12.30 p.m., but really you can only go between 10.30 a.m. and 12.30 p.m.; they won't be there until that time." Mudhaffar al-Rashid, a prominent Kuwaiti media professional, told Human Rights Watch that while Kuwait hosts over 650,000 domestic workers, "this huge number of housemaids is administered by a tiny office [with] maybe ten to twenty people."<sup>233</sup>

Khaled al-Azmy, head of the Kuwait Trade Union Federation, described the limitations of the department, telling Human Rights Watch:

Recently, I met the Minister of the Interior. He said, "No, Khaled, there is no problem with domestic workers; there is a special office for domestic workers in Bayan [district]." But if I go to that department, as a sponsor, if we [a domestic worker and sponsor-employer] reach a solution, ok. If we don't, then I get a paper and go to the nearest police station [to file a charge against her]. Our law is a law of the employer.<sup>234</sup>

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<sup>230</sup> Human Rights Watch interview with Bibi al-Sabah, chair of the Kuwait Social Work Society, Kuwait, November 9, 2009; Human Rights Watch interview with sending-country ambassador, Kuwait, November 11, 2009; and Human Rights Watch interview with Khalid al-Azmy, president of the Kuwait Trade Union Federation, November 22, 2009.

<sup>231</sup> Human Rights Watch interview with sending-country ambassador, Kuwait, November 11, 2009.

<sup>232</sup> Human Rights Watch interview with Col. Abdullah 'Awwadh al-'Ali, November 17, 2009.

<sup>233</sup> Human Rights Watch interview with Mudhaffar al-Rashid, Kuwait City, November 15, 2009.

<sup>234</sup> Human Rights Watch interview with Khalid al-Azmy, November 22, 2009.

Al-Azmy cited the lack of an effective complaints mechanism as a major shortcoming in Kuwait's ability to assist domestic workers in distress.<sup>235</sup>

### *Police Stations*

Government officials told Human Rights Watch that workers should immediately turn to the police if leaving an employer's house because of nonpayment or abuse. Undersecretary of Labor and Social Affairs Mohammad al-Kandari told Human Rights Watch that while "the Domestic Workers Department doesn't have the ability to arrest, the worker can go to the police and make a complaint. The police will enter houses directly."<sup>236</sup> The head of Kuwait's deportation department also said that workers should take complaints directly to the police.<sup>237</sup> However, the labor attaché at a local embassy told Human Rights Watch that "even if [workers] go to the police ... they will say 'what happened?' 'I ran away,' a worker might say. Sometimes they will say 'so what?' If there is clear, visible abuse, then they act, but otherwise ... [shaking his head]. They try to avoid the police."<sup>238</sup>

Kuwaiti police stations provide an inconsistent array of responses to domestic worker complaints. Some officers provide immediate assistance, while others respond by detaining a domestic worker and calling her employer or simply telling her that she cannot register a complaint. An activist and volunteer said, "Some police will ask where you want to go. But there are also cases where they are sent back [to the employer.] It depends on the police officer."<sup>239</sup>

During investigations of complaints and possible abuse, workers we interviewed said that police officers failed to inform them of their purpose for questioning them, the steps they would take to investigate a complaint, and what rights and options they had to press charges. While visiting the orthopedic ward in Farwaniya hospital, where workers recovered from injuries sustained during attempted escapes, severe accidents, or suicide attempts, Human Rights Watch observed two police officers questioning a domestic worker.<sup>240</sup> The worker had fallen from the top floor of an apartment building. The police spoke only in Arabic, wore civilian clothes, and at no point explained their role or authority. The officer

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<sup>235</sup> Ibid.

<sup>236</sup> Human Rights Watch interview with Mohammad al-Kandari, Ministries Complex, Safaat, Kuwait, November 23, 2009.

<sup>237</sup> Human Rights Watch interview with Ahmad al-Rajaiba, November 18, 2009.

<sup>238</sup> Human Rights Watch interview with sending-country labor attaché, Kuwait, January 25, 2010.

<sup>239</sup> Human Rights Watch interview with C.N., November 10, 2009.

<sup>240</sup> Human Rights Watch visit to public hospital, Farwaniya, Kuwait, January 27, 2010.

conducting the interview repeatedly asked the young woman for her employer's address, telephone number, and full name. When she could not answer all of his questions, he told her did not believe her.<sup>241</sup> Upon his departure, the young woman said she had no idea who he was or what authority he represented.<sup>242</sup>

In some cases, domestic workers may be sexually abused while in police or immigration detention. In November 2009, the *Arab Times*, a Kuwaiti daily newspaper, reported the criminal trial and conviction of two police officers for raping three foreign workers in their custody.<sup>243</sup> The women were in detention at the Immigration Investigations Department, held for residency violations.<sup>244</sup> In January 2010, the *Times* reported that a first sergeant working in the Immigration Department, under the Ministry of Interior, admitted to raping 15 domestic workers in his custody. The sergeant was responsible for transporting female inmates from the police station to immigration detention facilities. Before doing so, he took them to a private apartment, where both he and another man sexually assaulted them.<sup>245</sup> In February 2010, another article reported that a lance corporal working at the Jleeb al-Shyukh police station was arrested "for abusing his authority and raping Asian women and then selling them to pimps to be pushed into prostitution."<sup>246</sup> The corporal allegedly also took bribes from detainees in exchange for their release. Because the victims were allegedly residence law violators, they said that they feared the consequences of pressing charges against their attacker.<sup>247</sup>

Though the perpetrators were referred to public prosecution authorities for their crimes, in the first case the official in question had abused domestic workers in his custody for over 15

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<sup>241</sup> Ibid.

<sup>242</sup> Human Rights Watch interview with Tasneem P., public hospital, Farwaniya, Kuwait, January 27, 2010.

<sup>243</sup> Moamen al-Masri, "Kuwaiti police jailed for rape," *Arab Times*, November 9, 2009.

<sup>244</sup> Ibid.

<sup>245</sup> Shebli Al-Rashid, "Cop, Friend Held for Raping 15 Asian Women in Salmiya," *Arab Times*, January 20, 2010, <http://www.arabtimesonline.com/NewsDetails/tabid/96/smId/414/ArticleID/148451/reftab/99/t/Cop-friend-held-for-raping-15-Asian-women-in-Salmiya/Default.aspx> (accessed March 11, 2010); "Officer admits rape," *Arab Times*, January 23, 2010, <http://www.arabtimesonline.com/NewsDetails/tabid/96/smId/414/ArticleID/148558/reftab/99/t/Officer-admits-raping-girls-to-be-deported-for-over-15-years/Default.aspx> (accessed March 11, 2010).

<sup>246</sup> "Women kidnapped, raped, sold—Cop nabbed as police bust huge prostitution network," *Arab Times*, February 2, 2010, <http://www.arabtimesonline.com/NewsDetails/tabid/96/smId/414/ArticleID/145836/reftab/96/t/Women-kidnapped-raped-sold---Cop-nabbed-as-police-bust-huge-prostitution-network/Default.aspx> (accessed March 27, 2010).

<sup>247</sup> Ibid.

years with impunity.<sup>248</sup> Such incidents of abuse provide additional support for domestic workers' fears of individually approaching the police for assistance.

## Judicial Redress

Domestic workers with credible nonpayment claims unresolved through the Domestic Workers Department, and those with criminal claims, which remain outside the department's competence, told Human Rights Watch they chose not to pursue legal action because of the length of time involved in doing so, high filing fees and limited access to legal services, lack of accommodation and employment opportunities during the review period, and doubts that the legal system would provide just solutions.

Kuwait provides no expedited legal mechanisms for domestic workers seeking back wages, redress in cases of abuse, or clearance to return home. "If they have a court case, they can be here for six to seven months, one year," said Roshini T., an expatriate who distributes donations to migrant domestic workers in shelters and offers religious counseling.<sup>249</sup> Women like Alida, who pursued criminal claims against their employer, stayed in embassy shelters unless they could find an individual willing to shelter them despite possible legal repercussions including criminal penalties. Embassies do not permit women who choose to stay in their shelters to leave the embassy premises. These women therefore lead extremely restricted lives in cramped conditions for months on end, unable to earn any income. Lina, a Filipina domestic worker who said she sustained severe injuries after her employer repeatedly raped and physically assaulted her, remained "in the protective custody of the Philippine Embassy" while embassy lawyers pursued her case.<sup>250</sup> Mohammed Khoraiabet, the Kuwaiti lawyer who takes cases referred by the Indonesian embassy, suggested that in order to solve the problem of long waits workers endure, whether filing cases against employers or defending themselves against criminal charges, the government should establish "a small court ... that solves complaints quickly."<sup>251</sup>

Lawyers' fees and court filing fees also prevented workers from obtaining redress in cases when these costs outstripped the amount of unpaid wages they were due or the cost of a

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<sup>248</sup> "Officer admits rape," *Arab Times*, January 23, 2010.

<http://www.arabtimesonline.com/NewsDetails/tabid/96/smId/414/ArticleID/148558/reftab/99/t/Officer-admits-raping-girls-to-be-deported-for-over-15-years/Default.aspx> (accessed March 11, 2010).

<sup>249</sup> Human Rights Watch interview with Roshini T., Salmiya, Kuwait, November 11, 2009.

<sup>250</sup> Boie Conrad Dublin, "Manila Maid Cries Sponsor Abuse," *Arab Times*,

<http://www.arabtimesonline.com/NewsDetails/tabid/96/smId/414/ArticleID/144359/reftab/73/t/Manila-maid-cries-sponsor-abuse---Incessant-rape-sodomy-beatings/Default.aspx> (accessed March 24, 2010).

<sup>251</sup> Human Rights Watch interview with Mohammad Khuraiabet, November 19, 2009.

ticket home. Bibi al-Sabah, chair of the Kuwait Social Work Society, has provided legal assistance to domestic workers for over seven years. According to al-Sabah, her organization found no Kuwaiti lawyers willing to offer free legal assistance to domestic workers. “We only have Egyptian lawyers working for us,” she told Human Rights Watch. “They take KD200 to KD300 [US\$694 to \$1040] per case,” an amount that equals between five and seven months of the minimum monthly wage for domestic workers. “Eighty percent or more of the cases are successful, but you must have a backer,” she said, indicating that financial resources and commitment to prepare litigation are necessary resources to protecting domestic workers’ rights. Most of her organization’s cases did not go to court, she said, as sponsor-employers typically agreed to out-of-court settlements to pay back wages or took steps to resolve the matter once it became clear that the worker had the means and intention to go to court and was represented by experienced lawyers.<sup>252</sup>

According to an embassy lawyer, litigants initiating a civil suit must pay additional court fees of 2.5 percent of the litigated amount.<sup>253</sup> While some embassies provided limited legal services, lawyers prioritized claims according to the severity of abuse and the likelihood of success. Workers who leave Kuwait without obtaining unpaid wages, however, face additional obstacles to restitution after leaving the country.<sup>254</sup>

Al-Sabah, as well as four other lawyers or legal service providers who worked with domestic workers in Kuwait, told Human Rights Watch that the biggest challenge for workers pursuing claims of labor or criminal abuse was gathering evidence that could convince a court. Al-Sabah said that many employers forced domestic workers to sign receipts falsely attesting that they had received their wages, making it harder to prove the opposite.<sup>255</sup> Mohammad Khuraibet, a local lawyer, confirmed this practice. “If she signs that she received her pay,” he said, “she doesn’t have a good case within the law.”<sup>256</sup> Officials of one sending-country embassy told Human Rights Watch that they received over 800 complaints per year of nonpayment of salaries due domestic workers from their country.<sup>257</sup>

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<sup>252</sup> Human Rights Watch interview with Bibi al-Sabah, Chair of the Kuwait Social Work Society, Salmiya, Kuwait, November 10, 2009.

<sup>253</sup> Human Rights Watch interview with labor-sending country embassy lawyer, November 22, 2009.

<sup>254</sup> *Exported and Exposed*, a 2007 Human Rights Watch report, described how Sri Lankan domestic workers returning from working in the Middle East received little information from the government about how to pursue legal action against labor agents or employers. In the few cases where women did pursue complaints, they faced obstacles to redress including unsupportive government officials, lengthy travel time to the appropriate government offices, and burdensome travel expenses. Human Rights Watch, *Exported and Exposed*, pp. 108-110.

<sup>255</sup> Human Rights Watch interview with Bibi al-Sabah, Salmiya, Kuwait, November 10, 2009.

<sup>256</sup> Human Rights Watch interview with Mohammad Khuraibet, Kuwait, November 19, 2009.

<sup>257</sup> Human Rights Watch interview with sending-country labor attaché, Kuwait, November 17, 2009.

Finally, most domestic workers we interviewed with claims against their employers simply wanted to put the matter behind them and return home as quickly as possible, or to find new employment so they could continue supporting their families. Many women became discouraged following traumatic experiences and chose not to pursue claims. After facing what they said was sustained hostility, non-cooperation, or abuse from their employers, they expressed their disillusionment by asking only for small, easily-realizable elements of restitution. Mary P., from the Philippines, told Human Rights Watch that while her employers had forced her to work 18 hours each day, refused to provide food, and physically abused her on multiple occasions, she only wanted them to return her belongings.<sup>258</sup> “[I] brought nothing [when I ran away.] The only thing I want her to give [me] is my bag!” she said. “I worked for my kids; I bought things for them that are in that bag.”<sup>259</sup>

Other workers could not depart immediately because their employers retained their passports or had registered immigration or criminal charges against them. In the face of these barriers, the workers limited their requests for redress to expedite their return. Sofia W., who said her employer’s son raped and hit her, said, “I need only my salary [and my] passport. [I am] willing to work again.”<sup>260</sup> Most workers interviewed by Human Rights Watch, including those who described incidents of physical or sexual abuse or long periods of nonpayment, said that they would forego their claims to avoid lengthy waits in Kuwait.

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<sup>258</sup> Human Rights Watch interview with Mary P., Kuwait, November 11, 2009.

<sup>259</sup> *Ibid.*

<sup>260</sup> Human Rights Watch interview with Sofia W., Kuwait, November 17, 2009.

## VIII. Recommendations

### To Kuwait's Parliament

- Reform Kuwait's sponsorship system.
  - Repeal or amend all articles and regulations under the Aliens' Residence Law that give individual employers control over workers' immigration status, freedom of movement, and freedom to terminate employment.
  - Create legal bases for workers to transfer or terminate employment at will and without employer consent. Allow workers a grace period in which to seek new employment after terminating an employment relationship.
  - Expedite repatriation of workers who terminate employment and wish to return to their home countries, or in cases where repatriation is unavoidable.
- Repeal absconding provisions contained in Kuwait's residency laws.
  - Remove provisions setting criminal penalties for absconding.
  - Monitor non-resident workers and immigration status through government mechanisms rather than assigning this duty to private employers.
- Include domestic workers under Kuwait's labor laws.
  - Set out and enforce standard labor rights protected by the ILO conventions that Kuwait has ratified, including limits to working hours, freedom to take a weekly day off without employer supervision, and just and equitable employment conditions including regular payment of wages.
  - Ensure that such legislation includes no mention of the *kafala* system and eliminates delegation of unchecked power to individual sponsors.
  - Cease wage discrimination against domestic workers by including them under Kuwait's standard private sector minimum wage legislation. Supplement minimum salaries based upon experience, skills, and qualifications, rather than through discriminating in payment based upon nationality, ethnicity, or religion.

### To the Ministries of Labor and Interior

- Enforce current regulations that prohibit employers and agents from seeking reimbursement of recruitment fees from domestic workers. Rigorously investigate allegations of this violation, and penalize those deemed violators.
- Create a domestic work inspection task force to monitor working conditions and legal compliance for this sector—in the short term, with regards to the standard contract's protections, and in the longer term, for any domestic labor legislation passed.

- Investigate places of work where domestic workers have alleged violations. Inspections may be conducted with employers' consent, or, where warranted, through judicial decree.
- Implement telephone or SMS hotlines to allow workers who are confined to employers' homes to safely report abuse.
- Consider a regular monitoring mechanism of calling domestic workers for private interviews with local labor authorities or embassy officials to check on their working conditions.
- Investigate all allegations of criminal conduct by employers or others against domestic workers, and refer suspects to public prosecution authorities.
- Empower the Ministry of Labor to resolve migrant domestic workers' employment-related complaints through expedited dispute-resolution or arbitration mechanisms.
  - Refer all complaints that do not reach fair resolution to the courts system.
  - Create a labor-complaints court that can resolve domestic worker complaints within a timebound period, allowing workers who have faced abuse to return home or transfer employment as soon as possible.
  - Compel employer participation and impose penalties on those who fail to comply.
  - Provide interpretation for workers in their native languages during proceedings, and permit workers to seek alternate employment while pursuing legal claims.
- Prohibit employers from confiscating domestic workers' passports either by extending the protections of Ministerial Decree No. 166 or by issuing a new decree that covers domestic workers specifically. Monitor compliance and penalize employers and recruiters who violate this prohibition.
- Collect and publish statistics on a yearly basis regarding the number and type of complaints filed with both courts of law and Domestic Workers' Department (or any authority that assumes supervision of migrant domestic workers) as well as on how these complaints are resolved.
- Improve provision of emergency and temporary shelters:
  - Expand government-provided shelters or provide financial support for civil society and embassy shelters.
  - Publicize the existence and contact information of shelters among domestic workers when they arrive in Kuwait, and among taxi drivers who may be assisting domestic workers fleeing abuse.
  - Ensure shelters provide immediate refuge to workers in distress and meet international standards.

- Increase recruitment agency monitoring by devoting greater resources towards this mandate and by hiring more staff for the Domestic Workers Department, or any alternate government monitoring authority created. Ensure accountability for agency abuses.
- Inform domestic workers of their rights and responsibilities under Kuwaiti law, and offer them information on all sources of assistance and contact details.
  - Make this information available in languages spoken fluently by the largest numbers of domestic workers in Kuwait.
  - Provide printed materials at Kuwait's International Airport, through recruitment agencies, and at public locations frequented by domestic workers such as local churches and shopping centers.
  - Institute an airport helpdesk with staff who can provide information and assistance.
- Clarify current national law on attempting suicide to all embassy personnel, lawyers' associations, and civil society groups that assist domestic workers.
  - Instruct police who question hospitalized workers and register their cases to instruct workers of any and all charges filed against them, and to clarify any charges relating to escape or suicide attempts.
  - Provide counseling and rehabilitative services to any workers who exhibit symptoms of trauma, severe physical injury, or who seek social counseling services in their native languages.
- Initiate national and sustained public education efforts regarding employment practices required by domestic law and humane treatment of workers.
- Prosecute employers and agents who abuse the criminal justice system by registering criminal charges where evidence or police investigation suggests that these are spurious allegations.
- Support the creation of a binding international convention and recommendation on decent work for domestic workers at the International Labor Organization and ratify.

### **To the Ministry of the Interior**

- Streamline and speed up current deportation procedures that require workers to spend lengthy periods in deportation detention before returning home.
- Screen migrant domestic workers for pending or unresolved claims against their employer, employment agent, or others, and ensure they understand their rights and entitlements and have a practicable opportunity to pursue claims before departure. Those with pending complaints should be housed in the government or embassy shelters instead of deportation detention.

- Increase female staffing in police stations and provide appropriate training to receive and follow-up on domestic worker complaints. Create a standard complaints registration procedure that recognizes domestic workers' rights. Train both male and female officers to receive domestic worker complaints in an unbiased, nonthreatening manner. Instruct officers to thoroughly investigate and collect evidence pertaining to claims alleged by domestic workers.
- Increase availability of interpreters in police stations, prisons, and deportation centers in the languages spoken by the largest numbers of migrant workers in Kuwait.
- Reform criminal investigation proceedings involving domestic workers. Separate detainees under criminal investigation from alleged violators of residency and immigration regulations.
- Dispatch female investigations officers, with appropriate training, to interview domestic workers who have been hospitalized. Enable severely injured workers to return home directly from the hospital, rather than sending them through deportation centers where conditions may exacerbate their injuries.

### **To Governments of Labor-Sending Countries, including India, Indonesia, Sri Lanka, Ethiopia, Ghana, the Philippines, and Nepal**

- Ratify the Convention on the Rights of all Migrant Workers and Members of their Families.
- Strictly monitor recruitment practices in workers' home countries. Prosecute and punish agents or recruiting personnel who charge recruitment fees that contravene national laws or violate international standards.
- Ensure that workers understand and sign any standardized contract required under the destination country's domestic law, and that workers and their families have the name and contact details of the recruitment agency in Kuwait that will handle their employment.
- Enhance capacity of embassies in Kuwait to assist migrant domestic workers by:
  - Improving physical capacity of embassy shelters to relieve overcrowding.
  - Increasing trained staff able to address psycho-social needs of shelter residents and who provide them with information about their rights and updates on their cases.
  - Facilitating speedy provision of temporary travel documents when domestic workers cannot recover their passports.
  - Providing trained staff able to assist in the mediation of labor disputes and navigating Kuwaiti complaint mechanisms.

- Arranging legal representation, when not provided by the Kuwaiti government, for domestic workers pursuing redress for abuse or for those accused of being in conflict with the law.
- Inform all domestic workers before they travel abroad of their contractual rights as well as their rights under the laws of their home country, Kuwait, and international law. Provide information on means of support and legal assistance, as well as contact information for embassy officials and other resources in Kuwait.
- Raise at the diplomatic and, if necessary, public level, cases of nationals who have suffered abuse. Advocate for increased legal protection and assistance to domestic workers in Kuwait.
- Support the creation of a binding international convention and recommendation on decent work for domestic workers at the International Labor Organization and ratify.
- Prioritize protection of domestic workers abroad in budget allocations and political dialogue.
- Support domestic worker reintegration into local job markets and society.

**To Members of the Gulf Cooperation Council (GCC), including Kuwait, Saudi Arabia, Bahrain, Oman, Qatar, and the United Arab Emirates (UAE)**

- Promote regional resolutions and uniform standards that protect domestic workers' rights in accordance with international human rights and labor standards.

**To the International Labor Organization (ILO) and the International Organization for Migration (IOM)**

- Continue providing technical assistance to the governments of Kuwait and labor-sending countries to provide domestic workers comprehensive labor protections and monitoring and enforcement mechanisms.
- Conduct a public awareness campaign on labor rights of domestic workers, the responsibilities of employment agents, and the responsibilities of employers.
- Continue to work with the Kuwaiti government to implement its existing obligations under international labor agreements to protect workers' rights.

## IX. Appendix

New York, May 10, 2010  
Minister of Foreign Affairs Mohammad Sabah al-Salim al-Sabah  
Ministry Complex, Safat  
Kuwait City, Kuwait 13001

Your Excellency Minister al-Sabah,

Human Rights Watch is an international human rights organization that conducts investigations into human rights violations in more than 90 countries globally. We have published several reports on the treatment of foreign workers in the Gulf, including in the United Arab Emirates and Saudi Arabia. *Slow Reform: Protection of Migrant Domestic Workers in Asia and the Middle East*, released in April 2010, addresses the situation of migrant domestic workers in countries across these regions, including Kuwait.

We are currently preparing a report focused on female migrant domestic workers in Kuwait, focused on the experiences of those who leave allegedly abusive employment situations. We would like to offer you an opportunity to respond to our findings so that we may include the Kuwaiti government's information and point of view in our report.

We look forward to your comments and explanations and can reflect all pertinent information received by June 20, 2010 in our public findings. We would also welcome the opportunity to meet with you to discuss these matters in person.

Below we share our main findings and submit questions about the Kuwaiti government's institutions and policies that govern domestic workers who have attempted to terminate their employment relationships.

### **FINDINGS**

During two research trips to Kuwait, in November 2009 and January 2010, a Human Rights Watch research team spoke to more than 45 female domestic workers currently or formerly employed in the homes of Kuwaiti citizens or residents, and collected complaints data from sending country embassies in Kuwait. We interviewed several employers, sending-country embassy staff, civil society activists, Kuwaiti lawyers, and international organization staff working in Kuwait, and met with representatives of your government, including the undersecretary at the Ministry of Social Affairs and Labor, the head of the Immigration Authority, the head of the Domestic Workers' Department, and the head of the Deportation Department.

Domestic work is an important form of employment for migrant women, and we are aware that many workers have positive experiences in Kuwait and are able to help their families at home financially. However, our research also found many incidences where workers alleged abuse by their employer. Workers from all of the major countries that send domestic labor to Kuwait reported over 10,000 complaints that include claims of unpaid wages; imprisonment in employers' homes; passport confiscation; denial of family communication; physical and sexual abuse; verbal harassment and psychological abuse; denial of adequate food; and denial of medical care despite Kuwait's mandatory insurance scheme for all foreign workers. Our own interviews yielded similar accounts from domestic workers in Kuwait.

The sponsorship system, through which Kuwait currently regulates domestic labor migration, prevents workers from changing employers without sponsor consent and criminalizes workers for leaving their workplace without employer permission. These restrictions make it very difficult for a worker to terminate her employment with an employer, and effectively pressure workers to remain in the employment of even abusive employers. In particular, the "absconding provision" in the implementing regulations of the Aliens' Residence Law penalizes workers whose employers report them as "absconding" with up to six months in prison, or KD 400 in fines, or both of these punishments.

Human Rights Watch also found that workers leaving employers because of allegations of abuse find few options for safe shelter, turning either to overcrowded embassy offices or returning to agencies where some workers said they faced further abuse. It also appears that workers face major obstacles to pursuing credible complaints within Kuwait's designated complaints resolution proceedings at the Domestic Workers' Department, as well as within the court system, as they may lack evidence to prove that employers owe wages or denied them food, given the private setting of their work, and cannot afford to spend lengthy periods awaiting resolution of their claims. Finally, workers appear to frequently face deportation without any official investigation into the reasons for their decision to leave their employer or outstanding complaints they may have against him. We also found that workers spent lengthy and arbitrary periods of time in investigative detention and immigration deportation detention facilities. In numerous cases, migrant domestic workers faced criminal charges of absconding that authorities failed to explain in a language and manner they could understand, and had no opportunity to seek an impartial review.

#### **REQUEST FOR INFORMATION**

We present for your review questions regarding government policy in five major areas: criminal charges frequently faced by workers; shelter for domestic workers; complaint reporting mechanisms provided through the current Domestic Workers Department and through police stations; legal redress currently provided under Kuwaiti law; deportation procedures; and passport confiscation.

**1. Criminalization of "absconding":** Over half of the domestic workers we interviewed reported that employers had filed charges of "absconding" (التغيب) against them after they had left their jobs. These

**charges carry possible fines of up to KD 400 and jail terms of up to six months, and subject workers to deportation.**

- 1) Can workers contest charges of absconding filed against them in cases where they allege that their employer has breached the terms of their employment contract? If so, what procedures must they follow?
- 2) How many cases of absconding were filed against migrant domestic workers in 2009 and the first four months of 2010? How many were prosecuted? What sentences were issued in any cases that were prosecuted? Please provide any data available.
- 3) Is deportation of migrant domestic workers who “abscond” automatic? Can the head of police grant three-month grace periods of valid residency for the worker to seek a new sponsor or pursue legal complaints? How many such grace periods were issued in 2009 and the first four months of 2010?

**2. Criminalization of suicide: Several embassy staff members and lawyers we interviewed stated that attempted suicide constitutes a crime under Kuwaiti law.** Human Rights Watch met and interviewed eight workers recovering from serious injuries after falling from a height in their employers’ homes. Embassy officials and lawyers who oversee hospitalized workers’ cases told us that women are frequently charged with attempting suicide, even when the women said they were attempting to escape abusive homes rather than to commit suicide.

- 1) Please explain the legal basis for the charge of “attempted suicide,” and whether and where the charge exists, as it does not appear in Kuwait’s penal code.
- 2) If attempted suicide is a cognizable criminal charge under Kuwaiti law, please provide information on how many cases of attempted suicide were filed against domestic workers in 2009 and the first four months of 2010. How many workers were tried and sentenced under this charge? How were the remaining cases resolved?

**3. Khaitan Government Shelter: Human Rights Watch found that shelter policy prevents workers from seeking immediate and emergency refuge at the shelter maintained by the Government of Kuwait.** In 2007, the government opened a 50-60 person shelter for domestic workers who had left their employers or agencies and needed temporary housing. However, during our 2009 visit, we found that the government shelter does not accept workers in urgent need of shelter. Instead, only embassies may refer workers after determining that no charges have been filed against them. Under current shelter policy, embassies can refer no more than twenty workers at a time, and workers can stay in the facility for a maximum of two weeks. No workers with charges registered against them, including a charge for “absconding,” can stay in the shelter.

Can a domestic worker in distress directly seek emergency refuge at the Kuwaiti government shelter when leaving an employer's home? If so, how many workers has the shelter directly admitted, rather than received from embassy shelters, since opening in 2007? If not, why does shelter policy limit access to workers referred by embassies?

How can workers from countries that do not maintain embassies in Kuwait access the shelter? Otherwise, where should these workers seek assistance and emergency shelter if leaving a workplace where they have faced abuse, or otherwise no longer wish to be employed by their employer?

What is the government's official policy regarding shelters maintained by sending-country embassies?

**4. Domestic Workers Department: Human Rights Watch found that this department lacks authority to compel employer participation or enforce its decisions with respect to complaints about breaches of Kuwait's standard contract for domestic labor.** In 1993 Kuwait established a complaints resolution mechanism under the authority of the Interior Ministry specifically to address disputes pertaining to domestic labor contracts in Kuwait. In 2010, Human Rights Watch spoke to the head of the Domestic Workers' Department, Col. Abdullah Awwadh al-'Ali, who informed us that this institution only hears complaints presented to the responsible officials by embassy personnel, but does not hear complaints directly from workers. Each of the major domestic labor-sending countries is assigned a particular weekday, and may bring domestic workers with complaints before an official during the assigned morning.

Members of civil society and staff at local embassies told us that department officials attempted to resolve complaints by summoning workers' employers and requesting their presence at the department for a hearing. If employers chose not to participate in dispute resolution, the department took no further action. If employers agreed to participate, department officials sometimes allowed them to bargain with embassy officials to reduce the amount of money owed to a worker in back wages, in exchange for their agreement to allow the worker to return home, and to provide her with her passport and return ticket. The department head stated that the department does not receive individual workers' complaints.

Please clarify the official mandate of the Domestic Workers Department, and provide us with a copy of the statutes regulating its authority. How many staff does the department employ, and approximately how many complaints are received each day?

Does the Domestic Workers Department have the authority to receive complaints from individual domestic workers? If not, what reason does the government provide for this policy?

How can workers whose countries do not have an embassy in Kuwait file a complaint with the Domestic Workers Department?

What official protocol, if any, do officials receiving complaints follow?

What training do officials hearing disputes receive? Are they judges or lawyers with particular experience in contractual disputes?

Does the Domestic Workers Department have the authority to compel employers to participate in complaints resolution proceedings? If so, does it exercise this authority?

If an employer refuses to participate in a proceeding, does the department have the authority to impose any penalty on the employer?

Does the department have discretion to permit workers to transfer employers without sponsor consent? If so, how many such transfers were authorized in 2009 and the first four months of 2010? If not, does any other governmental agency have such authority?

Please also provide statistical data on the number of complaints received at the Domestic Workers' Department. Please provide a breakdown of complaints by nationality and type of complaint, and by nature of resolution achieved in 2009 and the first four months of 2010. If the government does not record information precisely as requested, please offer whatever pertinent data is collected.

**5. Police force response to complaints: Domestic workers reported that when they sought police assistance, officers sometimes detained them rather than assisting them.** Fahad al-'Ajmi, president of the Kuwaiti Lawyers' Association's Human Rights Committee, as well as Col. Ahmad al-Rajaiba, head of the deportation department, told Human Rights Watch that only domestic workers who reached the police before their employer registered a complaint could pre-empt absconding charges and police detention. Local newspapers have reported multiple incidents in which police officers raped or sexually abused domestic workers in their custody.

What official procedure, if any, must police officers follow when receiving complaints of a criminal nature from foreign domestic workers, including sexual and physical assault, ongoing harassment or verbal abuse, forced confinement, or food deprivation? What procedure must they follow for complaints of a contractual nature, such as failure to pay agreed salaries, failure to grant weekly days off work, and making the domestic worker work for long hours each day? What steps must officers take when investigating severe injuries incurred by domestic workers fleeing abuse, including alleged "suicide attempts"? Do oversight mechanisms exist to ensure that all officers follow these procedures?

If a domestic worker flees to her embassy instead of first approaching the police, would a later complaint she files with police authorities overturn any absconding charges against her? What type of investigation would occur?

We also request updates on the legal status of the following cases:

On January 23, 2010, the *Arab Times* reported that an officer ranked first sergeant admitted to raping female migrant workers in his custody, and said that he had done so multiple times over 15 years. The officer held responsibility for transporting detainees from investigative detention to deportation facilities.

On February 2, 2010, the *Arab Times* reported that a lance corporal working at the Jleeb al-Shyoukh police station was arrested “for abusing his authority and raping Asian women and then selling them to pimps to be pushed into prostitution.” The corporal allegedly also took bribes from detainees, in exchange for their release.

Have these officers been prosecuted? If so, what sentence did each receive? In each incident, what happened to the victims of these crimes? Where are these women now?

**6. Legal Redress: Human Rights Watch found that domestic workers face numerous obstacles to pursuing legal redress, for example court filing fees that exceed the contested amount in wage disputes, lengthy processes required to resolve claims, and lack of evidence due to high evidentiary burdens or unmonitored forms of payment.**

How many complaints by domestic workers did Kuwaiti civil courts receive in 2009 and the first four months of 2010 about labor disputes, including unpaid salaries? How were these cases typically resolved?

What filing fees does the government require to file civil claims on behalf of domestic workers seeking restitution of unpaid wages?

How long, on average, do expatriate domestic workers’ civil claims take to resolve? Does the government currently offer any expedited processes to workers who have faced abuse and prefer to return home as soon as possible?

What legal standard of proof must a claimant meet when alleging sexual assault or rape?

What legal standard of proof must she meet in claims of unpaid wages or breach of contract?

Does the government provide any form of free legal assistance to domestic workers in either contractual or criminal cases? Does the government provide translators who can provide information in workers’ native languages? What dates and times are courts available to hear domestic worker complaints?

Please also provide any statistical data collected on legal claims filed by migrant domestic workers in Kuwait in 2009 and the first four months of 2010, including information on how these cases were resolved.

**7. Detention and Deportation: According to our research, workers who faced absconding charges, unprosecuted criminal charges, and who could not obtain their passports frequently had to leave Kuwait through deportation proceedings.**

1) What measures does the Interior Ministry take to ensure that workers deported from Kuwait receive just resolution to claims of unpaid wages and abuse? Please provide data from 2009 and the first four months of 2010 on claims filed by workers either prior to, or while they were in, deportation proceedings, and how these claims were resolved.

2) Must workers who have been cleared of all charges filed against them exit Kuwait through deportation proceedings, or do alternate exit procedures exist?

3) Please provide any data on deportation of domestic workers from Kuwait. How many workers were deported on a monthly basis in 2009 and the first four months of 2010? How many exited through administrative versus judicial deportation? May workers return to Kuwait, and if so, how much time must pass before they can legally return?

**8. Passport Confiscation: It is widely reported that employers in Kuwait routinely confiscate domestic workers' passports, and our own research bears this out.** This practice persists despite a 1972 Superior Court Case that deemed passport confiscation illegal under Kuwaiti law. The case stated:

“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.”

Is this ruling still in effect? Does the Kuwaiti government investigate and prosecute employers for passport confiscation? What official position does the government currently take regarding passport confiscation?

What legal or procedural mechanisms can a domestic worker take to regain her passport from an employer's possession?

What measures is the Kuwaiti government taking to prevent confiscation of the passports of migrant domestic workers by their Kuwaiti sponsors?

We look forward to receiving your comments on the above issues, any additional comments you wish to provide, and information on any reforms the Kuwaiti government is considering.

We appreciate your consideration and review of this information request. As noted above, we will reflect among our findings all pertinent information you provide to us by June 20, 2010. We also reiterate our interest in arranging a meeting to discuss these issues in person.

Thank you for your consideration.  
Sincerely yours,

A handwritten signature in black ink, consisting of a large, stylized initial 'S' followed by a long, horizontal, slightly wavy line that tapers to the right.

Sarah Leah Whitson

Cc: Minister of the Interior Jaber al-Khalid al-Sabah  
Minister of Justice Rashid Al-Hammad  
Minister of Social Affairs and Labor Mohammad al-Afasi

## **X. Acknowledgements**

This report was written by Priyanka Motaparthy, Leonard H. Sandler fellow for 2009-2010 in the Middle East and North Africa and Women's Rights Divisions of Human Rights Watch. It is based on research conducted by the author; Nisha Varia, senior researcher in the Women's Rights Division; and Christoph Wilcke, senior researcher in the Middle East and North Africa Division. Research was conducted in November 2009 and January 2010.

The report was edited by Nisha Varia and Christoph Wilcke, and by Sarah Leah Whitson, director of the Middle East and North Africa Division; Clive Baldwin, senior legal advisor; and Danielle Haas, consultant to the Program Office.

Adam Coogle, associate in the Middle East and North Africa division provided editing and production assistance. Anna Lopriore, Grace Choi, and Fitzroy Hepkins also provided production assistance. Shereen al-Mulla and Mariam bin Ghaith, interns in the Middle East and North Africa division, provided valuable research assistance.

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## Walls at Every Turn

### Abuse of Migrant Domestic Workers through Kuwait's Sponsorship System

More than 660,000 mostly female migrant domestic workers from Asia and Africa work in Kuwait, a small Gulf country of only 1.3 million citizens. Some employers develop a close bond with the women who care for their households. Others, however, take advantage of weak legal protections and an isolated home environment to exploit domestic workers' vulnerability. In 2009, four embassies of labor-sending countries in Kuwait City received more than 10,000 complaints from domestic workers, including nonpayment of wages, lengthy working hours with no days off, food deprivation, and in some cases, physical or sexual abuse. Many more abuses likely remain unreported.

This report documents how current laws and practices in Kuwait punish, rather than protect, workers who face exploitation or abuse in employers' homes. A new labor law passed in February 2010 continued to exclude domestic workers from basic worker protections. Kuwait's *kafala* (sponsorship) system gives employers near-total control over workers, making it difficult for them to seek redress. Domestic workers may not change jobs without their initial employer's consent. Employers routinely confiscate workers' passports upon their arrival, and in some cases lock them inside homes.

These practices present serious obstacles for workers seeking assistance and redress. Those who leave abusive employment conditions risk arrest and deportation for "absconding," a criminal offense.

*Walls at Every Turn* urges the Kuwaiti government to revise its labor law to include domestic workers under its provisions and to abolish repressive immigration provisions under the *kafala* system. The report includes detailed recommendations to protect migrant domestic workers' rights.

#### Photographs by Moises Saman/Magnum

*Gyanu, 21, came from Nepal to work as a domestic worker in Kuwait. After leaving her employers, she sought refuge inside a makeshift shelter operated from a private house on the outskirts of Kuwait City.*

