

SAUDI ARABIA'S HUMAN TRAFFICKING MECHANISMS

REPORT
AUGUST 2023

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Executive Summary

Saudi Arabia has a vast and varied track record of human rights violations. As an absolute monarchy, the Kingdom has established laws and practices that serve to maintain the ruling family's hold on power. Beyond the vast implications these policies have on civil liberties and political freedom, these policies have enabled human trafficking to run rampant in the Kingdom. Particularly, the Saudi Labor Law, the kafala system (or system of foreign sponsorship), and male guardianship system remain major facilitators driving the Kingdom's egregious human trafficking-related issues. Through the Human Rights Foundation's (HRF) analysis of legal amendments, testimonies from victims, and international scrutiny, it is evident that the Saudi regime's recent efforts to reform these repressive systems are merely cosmetic and fail to shield the victims most in need of protection. This is, in part, because these systems are also used as a measure to maintain political dominance.

In the following brief, HRF: (1) examines the international parameters that define human trafficking; (2) provides an overview of Saudi Arabia's Labor Law, the kafala system, and male guardianship system; (3) analyzes the ways in which they contribute to human trafficking violations; (4) identifies victims of human trafficking and sheds light on their stories; (5) outlines the main failures of the Saudi government's implementation of meaningful reform; and (6) provides a conclusion on the findings and policy recommendations.

In its analysis of both international and Saudi legal frameworks, HRF concluded that the Saudi regime fails to uphold its commitments pledged as a signatory of the 1926 Slavery Convention and on the 1956 Supplementary Convention on the Abolition of Slavery by failing to codify innate labor protections to the tens of millions of foreign workers who have migrated to the country. HRF found that the most prominent victims of human trafficking were migrants hailing from developing nations and engaging in service-based or manual work. The Kingdom's systematic denial of legal protections to its most vulnerable demographic of foreign workers perpetuates their exploitation by employers, exacerbating their socio-economic vulnerabilities and making them increasingly susceptible to human trafficking.

Through its engagement with victims of human trafficking, HRF has also discovered a distressing reality: foreign women residing in Saudi Arabia or married to Saudi men can fall victim to egregious instances of sexual abuse and violence, alongside various other forms of cruel, inhumane, and degrading treatment. These women are often deprived of essential resources such as food and medical care and are coerced into labor under exploitative conditions where their wages are either insufficient or entirely withheld. Furthermore, the children of foreign mothers face the alarming prospect of encountering unjust custody laws that unfairly favor their Saudi fathers or that are used to coerce their mothers to remain or return to the Kingdom. These personal testimonies vividly highlight the extent to which the Saudi regime unreasonably consolidates power in the hands of its male citizens through its Labor Law and the kafala system and male guardianship systems.

The interplay between Saudi Arabia's Labor Law, the kafala system, and male guardianship system reveals a deep-rooted and interconnected web of oppressive practices that facilitate human trafficking. The Labor Law, which fails to adequately protect the rights of foreign workers, combined with the kafala system that ties an indi-

vidual's residency and employment to a sponsor, creates a power dynamic that enables exploitation and abuse. Furthermore, the male guardianship system, which grants disproportionate power to male relatives over women's lives, further exacerbates the vulnerability of foreign women, making them easy targets for human traffickers. As a result, this report calls for the complete abolition of these practices and to codify labor protections to end this cycle of vulnerability and protect the rights of millions in the Kingdom.

Introduction

The Human Rights Foundation finds authoritarianism to be one of the structural problems at the root of human trafficking. Although trafficking is present throughout the world, HRF's research has indicated that human trafficking is more pervasive in countries with authoritarian regimes than in those with democracies.¹ Democracies have higher levels of political competition and transparency in comparison to authoritarian regimes. As a result of a robust civil society and a free press, democracies generally recognize trafficking as a pressing global issue. Democracies also generally seek to comply with international standards, so they better prevent and prosecute instances of human trafficking. Authoritarian regimes, on the other hand, generally fail to implement the legal mechanisms and institutions that can prevent trafficking, protect victims, and prosecute perpetrators.² In Saudi Arabia, the regime not only fails to implement protections against trafficking risks, but it has political and legal frameworks that enable its practice.

THE ROLE OF AUTHORITARIANISM IN HUMAN TRAFFICKING

Although human trafficking can take many forms, it is often divided into two broad categories: sexual exploitation and forced labor. The United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons Especially Women and Children 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."³ The Protocol also defines human trafficking as "prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery [or] servitude."⁴ The purpose of these actions is to "achieve the consent of a person having control over another person, for the purpose of exploitation."⁵ The U.S. Trafficking Victims Protection Act defines involuntary servitude as a "condition of servitude induced

1 Kristen Anna, "Authoritarianism and Trafficking in Persons: Annual Policy Brief," Human Rights Foundation, January 5, 2023, 17, https://hrf.org/wp-content/uploads/2023/01/final-AUTHORITARIANISM-AND-TRAFFICKING-IN-PERSONS_REPORT_singlepages.pdf.

2 Ibid., 16-17.

3 U.N. General Assembly, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, Article 3a, November 15, 2000, <https://www.refworld.org/docid/4720706c0.html>.

4 Ibid.

5 Ibid., Article 3c.

by means of any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such condition, that person or another person would suffer serious harm or physical restraint; or the abuse or threatened abuse of the legal process.”⁶

Authoritarian regimes tend to disregard international human rights law, actively target civil society and advocacy groups working in the human trafficking space and engage in corruption as a means to preserve state authority.⁷ They carry out arbitrary arrests, detentions, convictions, and harsh sentences to those who challenge their hold on power.⁸ Without democratic accountability, respect for international human rights and rule of law, trafficking victims lack an avenue to hold their abusers accountable, and victims cannot depend on state intervention to protect their rights. Hence, traffickers are able to commit crimes with impunity. Under these circumstances, workers may find themselves falling victim to repressive and largely ambiguous laws; instead of holding the individuals carrying out the trafficking accountable for their abuses, these laws end up punishing vulnerable migrants. Additionally, police and politicians are routinely bribed to intentionally ignore trafficking, which suggests that state institutions, particularly the judiciary and law enforcement, under authoritarian regimes, are likely to prosecute fewer trafficking cases as it would go against regime interests.⁹

In contrast, in democratic states, civil society groups can operate freely and provide services to victims and lobby representatives to improve anti-trafficking policies. Likewise, free and fair elections and equal representation of the population can ensure that policymakers account for the needs of society’s most vulnerable and lower the likelihood of state corruption and negligence. As a result, victims are empowered and more likely to seek assistance from government institutions and pursue justice through the state’s judicial system.¹⁰

Overall, the correlation between authoritarianism and increased trafficking cases suggests that expanding civil and political rights will increase victim protection and hold abusers accountable, effectively tackling the root causes of trafficking.¹¹

⁶ “Severe Forms of Trafficking in Persons,” U.S. Department of State, last modified January 20, 2009, <https://2001-2009.state.gov/g/tip/c16507.htm>.

⁷ Prachi Vidwans and Malaak Jamal, “Authoritarianism and Trafficking in Persons,” Human Rights Foundation, July 27, 2018, 4, <https://hrf.org/wp-content/uploads/2020/07/HRF-policy-memo-2.pdf>.

⁸ Ibid.

⁹ Ibid.

¹⁰ Hung-En Sung, “Police Effectiveness and Democracy: Shape and Direction of the Relationship,” *Policing: An International Journal of Police Strategies*, no. 2 (2006): 347–67, <https://doi.org/10.1108/13639510610667709>.

¹¹ Vidwans and Jamal, “Authoritarianism and Trafficking in Persons,” 2–3.

HUMAN TRAFFICKING WITHIN THE SAUDI CONTEXT

Saudi Arabia has been rated one of the world's most repressive states, ranking 8 out of 100 on Freedom House's 2023 Global Freedom Score.¹² Moreover, the United States Department of State's Trafficking in Persons (TIP) 2023 report classified Saudi Arabia as Tier 2, signifying that the country has not met the minimum standards for the elimination of trafficking.¹³

Saudi Arabia is an absolute monarchy, and according to Saudi Arabia's Basic Law of Governance, the King serves as the Prime Minister and has ultimate authority over all Sharia law in addition to state and military policies.¹⁴ Given his authority, the King can intervene in any judicial ruling as he sees fit.¹⁵ The King also has a Council of Ministers or cabinet to assist him, all of whom are appointed directly by the King and can be dissolved at any time via royal decree.¹⁶ The cabinet is in charge of passing laws subject to ratification by royal decree. The Shura Council, an additional advisory body, can suggest amendments to laws or suggest new laws to the King. Similarly, all members of the Shura Council are appointed by the King, and it is subject to dissolution by the King at any moment, ensuring his authority over the judicial and legislative branches of government. The King's constitutional and religious mandate to ensure the full cooperation of those under his authority paves the way for the regime's unjust crackdown on those speaking out against federal policies through the press or civil society organizations. Therefore, the King's absolute power limits the possible opportunities for trafficking victims to speak out on their experiences with abuse and find avenues to implement anti-trafficking policies.

According to the 2020 U.S. Department of State Country Human Rights Report on Saudi Arabia, the judiciary "maintained broad authority to arrest and detain persons indefinitely without judicial oversight, notification of charges, or effective access to legal counsel or family" and Saudi Arabia's "judiciary...[was] not [an] independent entit[y]."¹⁷ As a result, individuals living in Saudi Arabia criticizing or calling for a representative government have faced criminal charges and lengthy prison sentences for their actions. The lack of protections for freedom of expression and of the press can endanger women, religious minorities, members of the LGBTQ+ community, and migrants by cracking down on their abilities to exercise their rights to free speech.

12 "Saudi Arabia: Freedom in the World 2023 Country Report," Freedom House, accessed July 7, 2023, <https://freedomhouse.org/country/saudi-arabia/freedom-world/2023>.

13 "2023 Trafficking in Persons Report," U.S. Department of State, June 2023, <https://www.state.gov/reports/2023-trafficking-in-persons-report/>.

14 "Basic Law of Governance," (No: A/90, 1 March 1992), Article 55.

15 Ibid., Article 50

16 Freedom House, "Saudi Arabia: Freedom in the World 2023 Country Report."

17 "Saudi Arabia Human Rights Report," U.S. Department of State, accessed July 7, 2023, <https://www.state.gov/report/custom/a8f6ad7143/>.

In addition, Saudi Arabia has some of the world's strictest exit procedures, and the obstacles these procedures pose facilitate trafficking. For instance, every citizen and resident over six years old as well as visitors over 15 years of age are required to register their fingerprints in the government's automated central system.¹⁸ At customs, individuals scan their fingerprints, which links to the government's online portal and grants the regime information on the entrance of visitors and residents. In order for foreign nationals to exit the country, they must present their passport, a valid residence iqama or permit, and an exit visa issued by their sponsor.¹⁹ This unique system makes it nearly impossible for the tens of millions of foreigners in Saudi Arabia to exit the country if their sponsor lets their residency expire or refuses to issue an exit visa.

Forced marriage or the entrapment in a marriage of a non-consenting party, a practice that is a reality for countless Saudi nationals, falls under the definition of human trafficking. As outlined previously by the United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons Especially Women and Children, human trafficking is predicated on the act of coercion, exploitation, and abuse of inherently ill-protected individuals regardless of the victim or perpetrator's domicile and if international travel was involved.²⁰ As a result, most trafficking flows in Saudi Arabia are intra-regional and occur within the same larger subregion, which enables perpetrators to operate untracked. Through the ambiguities of forced marriages, the United Nations Office on Drugs and Crime has found that Middle Eastern countries seldom report victims of domestic trafficking, though several instances of intra-regional and cross-border trafficking within the Gulf Cooperation Council countries, including Saudi Arabia, have been detected.²¹ This partly explains why domestic trafficking in Saudi Arabia is harder to detect, and why addressing it is very challenging.

In Saudi Arabia, the three primary conduits of human trafficking are the discriminatory Labor Law, the "kafala" system, and the male guardianship system. Beyond bolstering human trafficking violations, they serve the regime by instilling in employers or sponsors (the "kafeel" in the case of the kafala system) as well as male members of society a sense of power – particularly over migrants and women – that fundamentally serves to maintain the monarch's authority. Through these exploitative policies, authoritarianism in Saudi Arabia can continue to exist unchecked.

The Labor Law has been disproportionately applied to vulnerable individuals, which further exacerbates the challenges of mitigating growing cases of human trafficking. Individuals from developing nations are more likely to be subject to forced labor, human trafficking, and other abuses.²² This is primarily due to the lower socio-economic and political status individuals from developing countries typically have alongside

18 "Fingerprints Mandatory for Expat Children Aged 6 or Above in Saudi Arabia," ZAWYA, March 18, 2021, <https://www.zawya.com/en/legal/finger-printing-mandatory-for-expat-children-aged-6-or-above-in-saudi-arabia-qgm4y67x>; Tyler Choi, "Saudi Arabia Launches Biometrics Enrollment App for Pilgrims," Biometric Update, March 30, 2022, <https://www.biometricupdate.com/202203/saudi-arabia-launches-biometrics-enrollment-app-for-pilgrim-visas>.

19 "SAU105398.E," Immigration and Refugee Board of Canada, June 1, 2020, <https://irb.gc.ca/en/country-information/irir/Pages/index.aspx-?doc=456323>.

20 U.N. General Assembly, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime.

21 United Nations Office on Drugs and Crime, Global Report on Trafficking in Persons 2020, Sales No.E.20.IV.3, January 15, 2021, https://www.unodc.org/documents/data-and-analysis/tip/2021/GlobalReport_2020_15jan_web.pdf.

22 "2022 Trafficking in Persons Report, Saudi Arabia," U.S. Department of State, accessed July 14, 2023, <https://www.state.gov/reports/2022-trafficking-in-persons-report/saudi-arabia/>.

their lack of equal access to legal remedies. Western expatriates from Australia, Canada, Europe, and the U.S. have been placed in prison or tortured; however, unlike workers from developing African, Asian or Arab countries, “beheading is not so readily inflicted upon” Westerners.²³ The way laws are selectively applied to Western nationals under the *kafala* system as opposed to African, Asian, and Arab immigrants from developing nations indicates systematic discrimination based on national origin.

In 2019, 185 executions were documented in Saudi Arabia, of which about half were foreign nationals.²⁴ Pakistani nationals suffered the highest number of executions and other victims came from developing Arab states such as Egypt, Jordan, Syria, and Yemen as well as from developing African nations such as Chad, Ethiopia, Nigeria, and Somalia.²⁵ The majority of executions were for minor drug-related crimes, “murder and other crimes,” as well as for politically-motivated reasons, which were mandated under vague terrorism charges.²⁶ Convicted individuals who do not commit violent crimes are typically permitted to exit the country. However, the *kafala* system renders workers charged with non-violent crimes incapable of leaving the country. This institutional obstacle prohibits repatriation for those seeking access to a free and fair trial before facing the death penalty even for a crime that would be considered venial elsewhere.²⁷ Given that the *kafala* system particularly attracts nationals from developing countries, the stringency of exit procedures for those charged with crimes makes it especially difficult for underprivileged foreigners to gain the legal support they require. In addition to the increased potential of wrongful executions migrants face, the combination of repatriation challenges and the origin of charged individuals from disadvantaged nations particularly exposes these migrants to human trafficking. As will be further explained below, ongoing systematic discrimination against foreign workers is further evident in their exclusion from the safeguards provided by the Saudi Labor Law.

23 Madawi Al-Rasheed, *The Son King: Reform and Repression in Saudi Arabia* (New York, NY: Oxford University Press, 2021), 226.

24 “List of Executions in Saudi Arabia in 2019,” ALQST For Human Rights, January 20, 2020, <https://www.alqst.org/ar/posts/400>.

25 Ibid.

26 Ibid.

27 Max Daly, “Saudi Arabia Executes 15 People in 12 Days For Non-Violent Drug Offences,” VICE News, November 21, 2022, <https://www.vice.com/en/article/dy7enw/saudi-arabia-drug-executions>.

The Saudi Arabian Political and Legal Systems

SAUDI LABOR LAW AND HUMAN TRAFFICKING

Saudi Arabia's Labor Law was passed in 2005 and contains provisions on recruitment, employment of Saudi and non-Saudi nationals, contracts, termination of employment, resignation, working conditions, and dispute resolution. Notably, it does not explicitly criminalize all forms of forced or compulsory labor; punishments for violations of the Labor Law are either absent or not proportionate to those for other similar severe offenses, such as kidnapping.²⁸ Additionally, no articles in the Saudi Labor Law prohibit discrimination on the basis of religion, political view, national origin, or gender identity; Article 7 of the Labor Law states that "citizens are equal in the right to work without any discrimination on the basis of sex, disability, age or any other form of discrimination, whether during the performance of the work or when hiring or advertising it."

The Labor Law provisions are stated as if they were applicable to all employees. However, they explicitly exclude the most vulnerable workers in Saudi Arabia – namely domestic house workers and family members – through the exclusion of individuals falling under its Article 7 "exemption" categories. Article 7 of the law defines those "exempt" from the Labor Law protections as the following: (1) family members and dependents, (2) domestic workers, (3) sea workers, (4) agricultural workers, and (5) non-Saudi workers on contracts under two months.²⁹ This excludes the most vulnerable population of workers in the country from the protection of the Labor Law.³⁰ For example, domestic workers make up the majority of the female foreign work force in the country.³¹ In addition, migrant workers from developing nations often lack the professional skills to work beyond the aforementioned occupations.

28 "2021 Country Report on Human Rights Practices: Saudi Arabia," U.S. Department of State, accessed July 14, 2023, <https://www.state.gov/reports/2021-country-reports-on-human-rights-practices/saudi-arabia/>.

29 "Labor Law," Royal Decree No. M/51, 27 September 2005, Article 7.

30 "Saudi Arabia: Labor Reforms Insufficient," Human Rights Watch, March 25, 2021, <https://www.hrw.org/news/2021/03/25/saudi-arabia-labor-reforms-insufficient>.

31 U.S. Department of State, "2021 Country Report on Human Rights Practices: Saudi Arabia."

Article 33 establishes that “non-Saudi” employees employed under the kafala system are the “responsibility” of their employer.³² As of 2018, non-citizens made up 76% of the employed population.³³ In practice, the codification of the Labor Law in Saudi Arabia created a large division of rights by nationality and socioeconomic status. The exclusion of domestic workers from these protections has left approximately 2,410,381 migrants vulnerable to the complete discretion of their employers in households.³⁴ Individuals within the private sector covered by the protections of the Labor Law are often from developed nations and of higher socioeconomic status. Saudi officials conceal data on the nationality of foreign residents in official publications to avoid fueling sociopolitical claims against them, though it could be argued that the majority of workers falling under the Article 7 exemptions come from developing nations. Given that the three largest non-national workers come from South Asian countries, with the largest populations coming from Bangladesh, India, and Pakistan, it can be stated that Article 7 will inevitably disproportionately target impact migrants from these countries.³⁵ Thus, this indicates a potential bias toward South Asian workers in the implementation of Saudi policies.

In March 2021, as a result of increased public criticism from Saudi nationals, migrants, and the international community, national reforms took place. These reforms, also referred to as the Labor Reform Initiative (LRI), eased the stringency of exit visa procedures for foreign workers that fall under the jurisdiction of Saudi Arabia’s Labor Law, enabling foreign workers to independently request an exit permit.³⁶ Prior to this, employers were able to dictate when their employees were able to leave their job and remain in the country. This previous condition left employees especially vulnerable to situations of forced labor or trafficking by their employers. Though these reforms did not overhaul the Kingdom’s system of complete abuse towards foreign workers, it was celebrated nationally. Much like the majority of the Kingdom’s actions, however, the reform was largely cosmetic. The migrant workers who were excluded from these labor law reforms comprise 80% of the workforce.³⁷ The majority of this percentage also come from impoverished nations, rendering them especially vulnerable to human trafficking, which further exacerbates the socioeconomic and national divisions implemented by the Kingdom’s current labor system.³⁸ Hence, this is further evidence of the Kingdom’s continued discrimination and exploitation toward its most vulnerable migrant class.

Article 7 of the Labor Law establishes an environment that is extremely conducive to manipulation and exploitation. As discussed earlier, it is highly apparent that the Saudi regime institutes policies that systematically target poor and under skilled migrants. Furthermore, the superficial protections provided by the March 2021 reforms magnifies the vulnerability of these migrants by essentially entrapping them within the country, creating a situation in which migrants are subjected to exploitation and are highly unlikely to leave. This issue is further compounded by the Saudi regime’s lack of transparency surrounding the nationality of domestic workers, making it easier for traffickers to operate under the radar, as vulnerable individuals are less likely to receive adequate protection and support from their national governments or from non-governmental organizations.

32 “Labor Law,” Article 33.

33 Françoise De Bel-Air, “Demography, Migration and Labour Market in Saudi Arabia,” *Gulf Labour Markets, Migration and Population*, 2018, 3, https://gulfmigration.grc.net/media/pubs/exno/GLMM_EN_2018_05.pdf.

34 *Ibid.*, 10.

35 *Ibid.*

36 Human Rights Watch, “Saudi Arabia: Labor Reforms Insufficient.”

37 *Ibid.*

38 Bethany Alhaidari, “Dissidents and Dictators: Trapped in Saudi Arabia, The Kafala System,” Human Rights Foundation, November 21, 2020, <https://podcasts.apple.com/us/podcast/trapped-in-saudi-arabia-the-kafala-system/id1472594832?i=1000499719149>.

THE KAFALA SYSTEM AND HUMAN TRAFFICKING

Background

The kafala system is a migrant sponsorship system that applies to all foreign nationals residing in Saudi Arabia. The kafala system emerged in Saudi Arabia during the 1950s as a way for employers to regulate the legal status of their workers or dependent family members. This long established system has increased the vulnerability of migrant workers' and foreign wives to forced labor and trafficking.³⁹ Under the kafala system, an employee's or foreigner's immigration status is bound to an individual employer or sponsor, who, as mentioned in the previous section, is referred to as the *kafeel*. In 2020, migrants comprised roughly 38.4% of the Kingdom's population of 36 million people.⁴⁰

The *kafeel* has the sole right to let the dependent exit or enter the country and maintains the immigration status of their "dependent" to ensure it is up to date. Should a sponsor allow their dependent's residency to expire, the dependent's bank accounts will subsequently be frozen, and their signatory rights revoked. The dependent will be unable to access health care and file certain lawsuits or police reports. The dependent may be arrested or deported at any time. Hence, the ease of sponsors to entrap individuals within the country has been one of the most heavily criticized aspects of the kafala system. Furthermore, the *kafeel* has the power to grant their dependent permission to work or change jobs, sign them out of prison if they are detained for any reason, and register their dependent as a runaway if they "leave without permission," subjecting them to arrest or deportation.⁴¹ This resulting power has prompted the exploitative potential of the *kafeel* to overtake their ethical "responsibility" and exert a level of coercion over their dependents.⁴²

Moreover, the kafala system does not fall under the labor ministry, but rather, it is regulated under the interior ministry's jurisdiction. Thus, this prevents workers from unionizing or submitting labor dispute grievances. Given that kafala workers cannot unionize, are often in states of extreme financial hardship, have limited legal resources, and live under constant threat of deportation, it is extremely difficult for workers to access remedies to violations against them. Thus, the kafala system enables human exploitation for economic gains while additionally using divide and conquer tactics which benefit those in power. As a result of these compounding factors, several policymakers and experts refer to Saudi Arabia's kafala system as a "modern form of slavery."⁴³

39 Robert Vitalis, *America's Kingdom: Mythmaking on the Saudi Oil Frontier* (Stanford: Stanford University Press, 2006).

40 "Saudi Arabia Country Profile," Integral Human Development, accessed July 10, 2023, <https://migrants-refugees.va/country-profile/saudi-arabia/>.

41 Alhaidari, "Dissidents and Dictators: Trapped in Saudi Arabia, The Kafala System."

42 Ray Jureidini and Said Fares Hassan, "The Islamic Principle of Kafala as Applied to Migrant Workers: Traditional Continuity and Reform," *Migration and Islamic Ethics*, 2019, 92–109, https://doi.org/10.1163/9789004417342_007.

43 "Schakowsky Leads 45 Members of Congress in Calling on Sec. Pompeo to Withdraw United States from G20," The Office of Congresswoman Jan Schakowsky, October 21, 2020, <https://schakowsky.house.gov/media/press-releases/schakowsky-leads-45-members-congress-calling-sec-pompeo-withdraw-united-states>.

Experts classify the kafala system as a strategic system to serve state purposes and to maintain the monarch's unwavering rule over the state.⁴⁴ By implementing a system that enables Saudi nationals to mimic the same power dynamics that the state enforces on its people, the Kingdom maintains its authoritarianism through the guise of empowerment that the kafala system brings the *kafeel*. Moreover, the Kingdom's ability to shut down all dissenting civil society or media groups covering this topic makes it especially easier for the Kingdom to conceal the abuses caused by the kafala system. Through this system of silence and unchecked authority, the exploiting class within the kafala system is both the state and the *kafeel* who benefit from the system and its inexpensive labor.⁴⁵

The Kafala System and Human Trafficking

Though proponents of the kafala system claim that it is a modern form of international labor arbitrage with a basis in the colonial administration of immigration in the Gulf, Saudi Arabia's practice of this system, as previously stated, is a modern form of slavery. The international legal definitions of slavery under the Slavery Convention of 1927 define slavery as "the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised."⁴⁶ The kafala system normalizes the practices of entrapment, forced labor, withholding of payments, and physical or psychological abuse, further demonstrating the extent to which the *kafeel* can exercise full ownership over their workers.⁴⁷ In line with the aforementioned definitions, human trafficking has also been defined by the United Nations as a form of modern slavery.⁴⁸ In the kafala system, the sponsor's control over the dependent's ability to exit the country places several individuals in a cycle of enforced work or servitude, exposing migrants to dangerous situations and limiting their access to legal remedies or protections.

44 Faisal Hamadah, "COVID and Kafala," Monthly Review Foundation Online, August 17, 2020, <https://mronline.org/2020/08/17/covid-and-kafala/>.

45 Ibid.

46 League of Nations, Convention to Suppress the Slave Trade and Slavery, Article 1.1, September 25, 1926, <https://www.ohchr.org/en/instruments-mechanisms/instruments/slavery-convention>.

47 "Is Saudi Arabia's Kafala System Really Reformed?" The Human Rights Foundation, January 14, 2021, <https://hrf.org/is-saudi-arabias-kafala-system-truly-reformed/>.

48 U.N. General Assembly, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, Article 3a. Also see Section 1(a).

Global Responses to the Kafala System

Due to the risks associated with criticizing the Saudi regime, demands to abolish the kafala system have come predominantly from activists and policymakers outside of the country. In most cases, victims are only able to come forward to explain abuses under the kafala system after returning to their home countries.⁴⁹

In 2019, the U.S. government called on Saudi Arabia to “reform the sponsorship system” and stated that sponsorship “exacerbated trafficking risks.”⁵⁰ The United States Department of State further documented in the 2022 Country Report on Human Rights Practices that individuals under sponsorship are reluctant to report abuse.⁵¹ The United Nations Committee on the Elimination of Racial Discrimination called for the end of the sponsorship system in 2018 and expressed concern over the disproportionate rate of foreign workers who were abused, arbitrarily detained, or executed compared to Saudi nationals.⁵² These numbers were substantial, as recent reports found that at least 2,800 housemaids holding Sri Lankan citizenship ran away from their Saudi sponsors claiming they had been overworked and sexually abused.⁵³ Following reports of financial violations, abuse, and sexual assault of workers, the government of the Philippines suspended the deployment of workers from the Philippines to Saudi Arabia in December of 2021.⁵⁴ However, due to financial pressures imposed by Filipinos seeking work abroad, the ban was lifted in November 2022.⁵⁵ This reality highlights the complex interplay between the demands of job-seeking workers from labor exporting countries and their governments seeking to mitigate the risks associated with working in states with the kafala system. These challenges pose significant obstacles for policymakers in effectively establishing comprehensive measures to combat human trafficking in these areas, necessitating a fundamental overhaul of the system.

In 2021, the Freedom Initiative reported on at least 1,242 foreign nationals who were entrapped or wrongfully detained in Saudi Arabia due to “discriminatory kafala and male guardianship policies.”⁵⁶ In recent

49 William Davison, “Ethiopia Returns Migrant Workers from Saudi Arabia, Telling of Abuse,” Bloomberg News, December 13, 2013, <https://www.bloomberg.com/news/articles/2013-12-12/ethiopian-migrant-workers-return-from-saudi-with-tales-of-abuse>.

50 “2019 Trafficking in Persons Report: Saudi Arabia,” U.S. Department of State, accessed July 22, 2022, <https://www.state.gov/reports/2019-trafficking-in-persons-report-2/saudi-arabia/>.

51 “2022 Country Reports on Human Rights Practices: Saudi Arabia,” U.S. Department of State, accessed July 11, 2023, <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/saudi-arabia/>.

52 “Concluding Observations of the Combined Fourth to Ninth Periodic Reports on Saudi Arabia,” United Nations Committee on the Elimination of Racial Discrimination, June 8, 2018, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD/C/SAU/CO/4-9&Lang=En.

53 Karim Tahir, The Kafala System in Saudi Arabia as a Form of Modern Slavery, December 15, 2019, <https://doi.org/10.13140/RG.2.2.15248.15361>

54 “Philippines Suspends Recruitment of Domestic Workers in Saudi Arabia,” Middle East Monitor, December 6, 2021, <https://www.middleeastmonitor.com/20211206-philippines-suspends-recruitment-of-domestic-workers-in-saudi-arabia/>.

55 “Philippines Lifts Ban on Sending Workers to Saudi Arabia,” Associated Press, November 7, 2022, <https://apnews.com/article/health-business-covid-saudi-arabia-philippines-6e7a87e906d30cb8836a2987ecf52393>.

56 “Friend or Foe: Saudi Arabian Government Repression in the US and Worldwide,” The Freedom Initiative, October 2021, 21, <https://thefreedomi.org/reports/friend-or-foe-saudi-arabian-government-repression-in-the-us-and-worldwide/>.

years, several legislators, including members of the U.S. Congress and the European Parliament have called on Saudi Arabia to abolish the kafala system because of its contribution to labor rights violations, human trafficking, and “increased level of discrimination and hostility towards [migrants].”⁵⁷ In December 2020, 29 members of the U.S. Congress called upon former Secretary of State Mike Pompeo to urge Saudi Arabia to abolish the kafala system, which they identified as a measure to “trap millions of migrant workers into working and living conditions that border modern-day slavery.”⁵⁸

Though many efforts are needed to effectively dismantle the systematic exploitation of migrant workers under the kafala system, external pressure and calls for abolishing the system have been crucial in raising awareness of the issues surrounding the system on a global level. Therefore, only through continued international pressure to overhaul the kafala system in its entirety can Saudi Arabia’s most vulnerable communities avoid this perpetual cycle of abuse.

THE MALE GUARDIANSHIP SYSTEM

Background

Historically, the male guardianship system was an uncodified practice that enabled courts to leave matters of family law in the hands of male heads of households and individual judges. However, this changed in June 2022 with the adoption of the Personal Status Law. This law codified that a female’s guardian is her father, or exceptionally, someone the father or court appoints.⁵⁹

Judges in Personal Status courts enforce the male guardianship system through the interpretation of family law, which is based on the State’s interpretation of Sharia (Islamic) law; every female holding Saudi citizenship is automatically subject to the legal decision-making of a male relative, generally her biological father. These inherited powers and decision-making authority are given to fathers regardless of their abilities to parent their children, and authority can be granted to other male members if deemed appropriate by the court.⁶⁰ In certain cases, a son may hold the power to deny his adult mother’s right to remarry.⁶¹

57 “Joint Motion for a Resolution on the Situation of Ethiopian Migrants in Detention Centres in Saudi Arabia,” European Parliament, October 7, 2020, Article 9, https://www.europarl.europa.eu/doceo/document/RC-9-2020-0325_EN.html.

58 “Representative Grijalva Marks Human Rights Day by Urging End to Human Trafficking and Labor Abuses in Gulf Countries,” Official website of Congressman Raúl Grijalva, December 14, 2020, <https://grijalva.house.gov/rep-grijalva-marks-human-rights-day-urging-end-human-trafficking-and-labor-abuses/>.

59 Personal Status Law, Saudi Arabian Royal Decree No. M/73, 6/8/1443 Hijri <https://laws.boe.gov.sa/BoeLaws/Laws/LawDetails/4d72d829-947b-45d5-b9b5-ae5800d6bac2/1>

60 Jeremy D. Morley, “Child Custody Law in Saudi Arabia” The Law Office of Jeremy D. Morley International Family Law, accessed July 22, 2022, https://www.international-divorce.com/saudi_child_abduction.htm.

61 Alhaidari v. Alhaidari (Superior Court for Chelan County, Washington, February 8, 2021).

In cases where the children of Saudi fathers have been kidnapped abroad and transported back to Saudi Arabia, notably with “laissez passer” temporary documents (which will be discussed in the following sections of this brief), male guardianship laws have shielded fathers from facing legal accountability in the country, trapping the children and prohibiting them from reuniting with their mothers.⁶²

Due to the necessity of the male guardian’s approval for marriage, women are often unable to marry the man of their choice and are forced to marry suitors arranged by their family.⁶³ Payments made by the man marrying to the family of the woman upon marriage (*dowries*) are required by law.⁶⁴ Many times, the money goes to the father directly and the daughter cannot access it. As a result, marriages are often frequently seen as economic transactions that benefit the financial requests of the father. If the woman wants to leave her marriage, she is forced to pay back the dowry. Economic realities may prevent her from doing so, thus providing an additional obstacle for women to overcome.⁶⁵ A male guardian also holds the power to dissolve a marriage based on incompatibility; several courts have annulled marriages against the will of women arguing incompatibility between spouses based on their tribal lineage. Once married, women are required by law to obey their husband and may “not withhold” from him.⁶⁶

In March 2022, it was reported that Saudi Arabia had approved a draft personal status law, which was subsequently put into effect 90 days later in June 2022. Although several state-aligned media outlets reported that the new personal status law was a major reform for women’s rights and that it could change male guardianship laws, the announcement was also met with criticism by women who had experienced injustices with the Kingdom’s court system.⁶⁷ These women feared that the proposed personal status law would be a performative gesture, existing to appease and silence international criticisms.⁶⁸

In effect, the Personal Status Law, which was reviewed by HRF, appeared to merely codify discriminatory precedents that previously were not written. It upheld the problematic aspects of the male guardianship system, which contributed to forced marriage and other violations.⁶⁹ Articles 13 and 15 of the law require

62 U.S. Congress, House, Committee on Government Reform, Investigations into Abductions of American Children to Saudi Arabia, 107th Cong., 2nd Session, June 12, October 2 -3, December 4 and 11, 2002, Section 3 Clause b, <https://www.govinfo.gov/content/pkg/CHRG-107hhrg80882/pdf/CHRG-107hhrg80882.pdf>.

63 Sorcha Pollak, “Forced Marriage: ‘That Man had More Rights over my Body than I did,’” The Irish Times, January 9, 2019, <https://www.irishtimes.com/life-and-style/people/forced-marriage-that-man-had-more-rights-over-my-body-than-i-did-1.3742275>.

64 Jeddah Court Allows Divorce after Ordering Bride to Return Dowry and Gold to Groom,” Saudi Gazette, February 28, 2022, <https://saudigazette.com.sa/article/617577>.

65 Ibid.

66 Megan K. Stack, “The West is Kidding itself About Women’s Freedom in Saudi Arabia,” The New York Times, August 19, 2022, <https://www.nytimes.com/2022/08/19/opinion/saudi-arabia-women-rights.html>.

67 Mariam Nihal, “Women Welcome Saudi Arabia’s New Personal Status Laws,” The National, March 9, 2022, <https://www.thenationalnews.com/gulf-news/2022/03/09/women-welcome-saudi-arabias-new-personal-status-laws/>.

68 “Saudi Arabia: Proposed Reforms Neglect Basic Rights,” Human Rights Watch, February 25, 2021, <https://www.hrw.org/news/2021/02/25/saudi-arabia-proposed-reforms-neglect-basic-rights>.

69 Ismael Naar, “Saudi Arabia’s New Personal Status Law to Come into Effect in 90 Days,” The National News, March 8, 2022, <https://www.thenationalnews.com/gulf-news/saudi-arabia/2022/03/08/saudi-arabias-new-personal-status-law-to-come-into-effect-in-90-days-crown-prince/>.

the consent of the guardian for entry into a marriage.⁷⁰ According to Article 137 of the Personal Status Law, the “fathers are the guardians” of children, unless he or the court appoints someone else, and the guardian’s decision-making authority extends over a female until she is an adult.⁷¹ Within the context of marriage, the husband is granted guardianship over his wife. Article 42 of the Personal Status Law requires women to obey their husbands and to reside with them, as well as prohibits the refusal of sexual relations.⁷² As such, women who disobey their husbands may face legal consequences mandated under this article. According to Article 57, upon divorce, a woman loses the right to custody of her children if she remarries, though this is not the case for men. The testimony of women in Saudi Arabian courts still is considered half of that of a man, hindering victims of abuse and other violations to access the justice they deserve.⁷³ Women previously could not travel outside of Saudi Arabia without the permission of their male guardian, but this changed in 2019 when Saudi women were permitted for the first time to obtain their own passport and control their own exit procedures at the age of 21.⁷⁴ However, in some cases male guardians were able to overcome these reforms by filing a disobedience case against the female family member, placing obstacles on their freedom of movement, which further complicates the already strenuous exit procedures in the Kingdom. Thus, this reveals the limitations placed upon these cosmetic reforms and the relative ease with which men can abuse them.

One Saudi woman highlighted her failed experience granting her son, who was stateless, Saudi citizenship. According to written law, this woman had the right to transfer Saudi citizenship to her son. However, her application was routinely denied. In response, officials working on her case stated that these laws were not “applicable,” but were “written down to protect the Kingdom internationally.”⁷⁵ This demonstrates that not only is the male guardianship system a powerful mechanism to entrap, and exploit women and children, but its codification under the Personal Status Law serves to merely whitewash the regime’s reputation. It fails to live up to its promise of protecting its women, leaving them innately vulnerable to trafficking by their guardians.

70 “Saudi Arabian Personal Status Law,” Bureau of Expert Council of Ministers, <https://laws.boe.gov.sa/BoeLaws/Laws/LawDetails/4d72d829-947b-45d5-b9b5-ae5800d6bac2/1>.

71 “Male Guardianship System in Saudi Arabia,” Ohio State University Comparative, March 24, 2021, <https://u.osu.edu/cs1100sp21finver/2021/03/24/male-guardianship-system-in-saudi-arabia/>.

72 Bureau of Expert Council of Ministers, “Saudi Arabian Personal Status Law.”

73 U.S. Department of State, “2021 Country Report on Human Rights Practices: Saudi Arabia.”

74 “Saudi Guardianship Reform ‘a Charade for Women’s Rights,’” The New Arab, August 23, 2019, <https://english.alaraby.co.uk/news/saudi-guardianship-reforms-charade-says-hrw>.

75 HRF Interview with Interviewee B on April 3, 2022.

The Male Guardianship System and Human Trafficking

The power a male guardian has over a female dependent can lead to situations of abuse, entrapment, coercion to get someone into the country, and often forced marriage or involuntary servitude. Forced marriage and being forced to remain in an unwanted marriage fit under the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, as it results in one person having control over another person which may amount to sexual exploitation, forced labor or services. Reports of Saudi women and children being entrapped in the country by male relatives, forced into marriages, or forced to remain in marriages against their will following the new personal status law further exemplify the amounting instances of human trafficking or involuntary servitude prevalent in the Kingdom.⁷⁶ As of 2020, Saudi Arabian law also has provided exceptions to punishing the crime of trafficking if the court chooses as long as the perpetrator is a family member. In an effort to appear to be tackling human trafficking issues in the country and responding to international criticism, the Saudi Ministry of Justice issued a law criminalizing trafficking in persons entitled “Sanctioning Against the Crime of Trafficking in Persons.”⁷⁷ The law stated that “the court may exclude parents, children, spouses, brothers, and sisters from the provisions of this article.” What this code did, however, was establish a structural loophole, paving the way for perpetrators of trafficking to have impunity by being an immediate family member.

In one recent case, a Saudi woman, now living in exile in the United States, traveled back to Saudi Arabia while pregnant from her American husband. When her father suddenly passed away while she was in Saudi Arabia, her brother used his privilege as her new male guardian to entrap her in Saudi Arabia and force her to give birth to the child in Saudi Arabia, withholding her from her foreign husband and home in the United States.⁷⁸ In other reported cases, estranged Saudi spouses would abuse visitation rights to children in the custody of their mothers, falsely telling enforcement courts that visitations were not occurring with their children. By fabricating this narrative, spouses can get travel bans issued against the mother, rendering them unable to travel and freezing access to their bank accounts and government services.⁷⁹ The ease at which male guardians are able to abuse their authority over their female spouses or relatives infringes on their mobility and autonomy. This case in particular highlights the challenges entrapped women face in attempting to return to their homes and reclaim their rights; it provides the context to understand how individuals fall victim to human trafficking under the male guardianship system.

76 “Ending Male Guardianship in Saudi Arabia,” Equality Now, accessed July 22, 2022, https://www.equalitynow.org/ending_male_guardianship_in_saudi_arabia/.

77 “2021 Trafficking in Persons Report: Saudi Arabia,” U.S. Department of State, July 5, 2021, <https://www.state.gov/reports/2021-trafficking-in-persons-report/saudi-arabia/>.

78 HRF Interview, interviewee A on September, 10, 2021.

79 U.S. Department of State, “Saudi Arabia Human Rights Report.”

Global Responses to the Male Guardianship System

Even before its official codification in 2022, Saudi Arabia's male guardianship system had been under significant criticism for many decades for its treatment of Saudi women as second-class citizens. For example, reports from Human Rights Watch referred to the male guardianship system as making Saudi women "perpetual minors," and unable to realize their most basic rights.⁸⁰

In the November 2018 Universal Periodic Review of Saudi Arabia, the United Nations called on the Saudi government to abolish the male guardianship system.⁸¹ In 2016, Saudi women – including prominent women's rights activists Aziza al-Yousef, Loujain al-Hathloul and others – organized to call for the end of the male guardianship system, getting thousands of signatures on an online petition from Saudi nationals who also wanted its end.⁸² These women would later on themselves be detained and tortured in May 2018, facing subsequent criminal charges for their activism. One of the criminal charges Loujain al-Hathloul faced in Saudi Arabia's Specialized Criminal Court (the court for alleged terrorism cases) specifically stated, "demanding the abolition of the male guardianship system."⁸³ In 2019, the U.S. House of Representatives agreed to a resolution condemning the Saudi government's continued detention and alleged abuse of women's rights activists.⁸⁴ In the same year, a resolution from the European Parliament that called for Saudi Arabia to abolish the male guardianship system passed with more than two-thirds approval.⁸⁵

These domestic and international responses ultimately led Saudi Arabia to reform the most criticized aspects of the male guardianship law. In late 2019, the Kingdom expanded women's right to travel, granting women a semblance of independence.⁸⁶ Yet, many of the women who advocated for this right within Saudi Arabia remain in prison, and others are trapped in the country under travel bans.⁸⁷ The expansion served as a facade of progress, as the Personal Status Law was later enacted in June 2022, enabling the male guardianship system to remain intact. Thus, the Personal Status Law continues to give Saudi men the tools

80 "Boxed In: Women and Saudi Arabia's Male Guardianship System," Human Rights Watch, July 16, 2016, <https://www.hrw.org/report/2016/07/16/boxed/women-and-saudi-arabias-male-guardianship-system>.

81 Swagata Sen, "Male guardianship in Saudi Arabia," Rights of Equality: Promoting Gender Equality and Women Empowerment, April 6, 2019, <https://www.rightsofequality.com/male-guardianship-in-saudi-arabia/>.

82 Dominique Rowe, "Thousands of Saudi Women Are Calling for the End of Male Guardianship," TIME, September 27, 2016, <https://time.com/4508920/saudi-arabia-women-male-guardianship/>.

83 "Loujain's Charges," Loujain Al-Hathloul, accessed July 14, 2023, <https://www.loujainalhathloul.org/arrest-torture-charges#charges>.

84 U.S. Congress, House, Foreign Affairs Committee, H. Res. 129, Condemning the Government of Saudi Arabia's Continued Detention and Alleged Abuse of Women's Rights Activists, 116th Cong., 1st Session, May 22, 2019, <https://www.congress.gov/bill/116th-congress/house-resolution/129/actions>.

85 "E.U. Lawmakers Urge Saudi Arabia to End Women's Guardianship System," Reuters, February 14, 2019, <https://www.reuters.com/article/uk-eu-saudi-women-idUKKCN1Q327I>.

86 Human Rights Watch, "Saudi Arabia: Proposed Reforms Neglect Basic Rights."

87 Stephanie Nebehay, "U.S. Urges Saudis to Review Cases of 'Prisoner of Conscience,'" Reuters, March 8, 2022, <https://www.reuters.com/world/middle-east/us-calls-saudi-arabia-lift-travel-bans-released-women-activists-2022-03-08/>.

to stifle, abuse, and control women. This allows the state to relinquish and attribute any fault or culpability to a more abstract figurehead: the men that use it.

Ultimately, the combination of the Personal Status Law, the kafala system, and Article 7 of the Labor Law constructs a reality that systematically subjects women and migrants to the unchecked authority of male nationals. The connections between the abuse of these laws and human trafficking will be further illustrated through the subsequent discussion of victims' stories and experiences in the Kingdom. By vesting Saudi men with domestic authority to abuse women under these practices, the regime establishes a cycle of oppression that serves to preserve its power. The regime is partly able to operate as a totalitarian dictatorship because the power bestowed upon male nationals mimics the very power structures the ruling family imposes on its people. Therefore, these systems cannot be comprehensively abolished without dismantling the authoritarianism that exists in Saudi Arabia.

Victims of Human Trafficking in Saudi Arabia

WHO ARE VICTIMS OF HUMAN TRAFFICKING IN SAUDI ARABIA?

Trafficking victims in Saudi Arabia do not fit one profile. They stem from all socioeconomic, national, and professional backgrounds. However, factors such as being female, facing poverty, belonging to a religious minority, or coming from a developing nation substantially raises the risk of being trafficked in Saudi Arabia. As previously discussed, the fact that Saudi Arabia is ruled by an absolute monarchy increases the likelihood of trafficking and further impedes victims' access to necessary legal aid. The analysis of reported trafficking cases in Saudi Arabia highlights the role played by the kafala system in establishing power dynamics that enable kafeels to abuse migrants who lack protection under the country's Labor Law. Additionally, the lack of legal remedies and accountability mechanisms for dependents further exacerbates the problem, making a substantial contribution to human trafficking in the country.

Category One: Article 7 Exception Cases

The most common category of trafficking victims in the Kingdom are those excluded from the protection of the Saudi Labor Law. As mentioned earlier, these include domestic workers, family members, sea workers, farmers, and temporary workers, as outlined by Article 7. This category of workers depends on their sponsor to permit them to exit the country. Given the restrictive nature of Saudi Arabia's exit procedures, the majority of individuals trapped in the country come from developing nations in Asia, Africa, and the Middle East. In the event that they find themselves in compromising circumstances with their employer, they are easily controlled, entrapped, and forced into dangerous situations by their sponsors and lack safe paths to legal assistance.⁸⁸

Category Two: Employees Protected Under Labor Law

Foreign workers in Saudi Arabia's private sector fall under the protection of the Saudi Labor Law and are classified as Category Two. Many of these migrants are skilled workers who are employed by international companies, or in the medical and educational sectors.⁸⁹ In this category, many employers who work for international companies may be subject to their companies' home country laws, and, therefore, will be afforded a higher level of protection than the workers subjected to the Saudi Labor Law. Many of the workers in this category also come from higher socioeconomic backgrounds where financial sacrifices could be made if they found themselves in unfavorable labor conditions.

As described earlier, there are significantly less human trafficking cases under this category than any other category. Trafficking cases under this category have been rare, but some have reported being forced to remain in unfair working situations or prohibited from terminating the contract and returning home when requested, which was documented in the U.S. Department of State's 2021 human rights country report on Saudi Arabia.⁹⁰

88 Human Rights Watch, "Saudi Arabia: Labor Reforms Insufficient."

89 "Labor Force with Advanced Education, Male," The World Bank, June 2022, <https://data.worldbank.org/indicator/SL.TLF.ADVN.MA.ZS?locations=SA>

90 U.S. Department of State, "2021 Trafficking in Persons Report: Saudi Arabia."

Category Three: Undocumented Workers

Category Three or undocumented workers remain the most at risk for human trafficking. Examples of undocumented workers are migrants who have had their documents confiscated by their employers. Given that Saudi Arabia's customs procedures require a fingerprint, access to an online system with a registered exit visa, and permission from the employer, undocumented workers that wish to leave their abusive employers are often incapable of doing so.⁹¹ Within this context, employers may refuse to renew their employees' documents leaving the employees without a status. If an employee has left the job, the employer may also classify the employee as a runaway or simply refuse to grant the employee permission to exit the country. Consequently, individuals are then trapped in the country under dire conditions, forced to engage in illegal work for survival, becoming victims of human trafficking. Restricted from opening bank accounts and facing strict exit procedures, many resort to unauthorized cash work, leading to situations of forced labor.⁹²

An estimated 758,570 foreign residents from 140 nationalities reportedly exited Saudi Arabia in 2017 when the regime announced an amnesty for illegal workers – notably those working for an employer other than their sponsor or operating in a trade that differed in their permit – to leave without consequence.⁹³ At the end of August 2018, an additional 1.6 million foreign residents were arrested, mostly under charges related to residency (1,238,046), labor laws (263,205), and illegal border crossing (123,767). Most of the last group were from Yemen.⁹⁴ However, the Saudi regime's efforts to crackdown on the volume of undocumented workers has been subject to enormous controversy as the regime frequently engages in arbitrary detention in inhumane detention centers.⁹⁵

Category Four: Family Members

Another category of victims that are extremely vulnerable to trafficking, and outside of the framework protections of the March 2021 reforms to exit visa procedures, are family members of citizens or residents in Saudi Arabia. This may include Saudi or non-Saudi dependents who fall under the male guardianship system, foreign nationals who are spouses or dependents of residents or citizens, as well as stateless individuals. Foreign nationals who marry Saudi citizens fall under their sponsorship, and must seek their permission to work, exit the country, get access to bank accounts, and other basic rights.

91 Immigration and Refugee Board of Canada, "SAU105398.E."

92 Alhaidari, "Dissidents and Dictators: Trapped in Saudi Arabia, The Kafala System."

93 De Bel-Air, "Demography, Migration and Labour Market in Saudi Arabia," 7.

94 Ibid.

95 "It's like we are not human: Forced Returns, Abhorrent Detention Conditions of Ethiopian Migrants in Saudi Arabia," Amnesty International, December 16, 2022, 6, <https://www.amnesty.org/en/documents/mde23/5826/2022/en/>.

This category is often overlooked by international governments. For instance, the U.S. Department of State's Trafficking in Persons report have regularly addressed the kafala system's prominent role in human trafficking and pointed to the exploitation "large migrant worker communities" have faced.⁹⁶ However, the 2020 TIP report fails to acknowledge the status of foreign spouses who are also classified as "employees" of their partners by this system. Women can be forcibly confined in Saudi Arabia within their marriages, risking deportation if they sought to leave. Women have faced the potential loss of child custody rights and legal consequences for disobedience, which is a felony, under Saudi law.⁹⁷ In the past, Saudi husbands have also registered their wives as runaways for leaving the household and had them arrested, purposely allowing their residency to expire in order to block their access to financial resources and even took the children from their mother during the proceedings. In order to avoid these consequences, women have experienced forced domestic servitude and sexual slavery by their husbands.⁹⁸ Seeing as husbands still hold the right to refuse foreign wives to work, foreign mothers risk being trapped in Saudi Arabia and in a state of complete financial dependency on their Saudi husbands. This status is further exacerbated as foreigners are not entitled to state assistance.

Several foreign women told HRF they feared the power their husbands have over them and could do nothing but accept abuse in silence. The only way out of such a system is through divorce, which can be extremely difficult and dangerous for a foreign wife to obtain. The male guardianship system in Saudi Arabia creates similar legal obstacles where male family members can easily entrap women into marriages and coerce them to remain in marriages.⁹⁹ After Category One workers who are not protected by the Labor Law, family members are those with the most reports of entrapment and trafficking in the country as determined by HRF.

⁹⁶ "2020 Trafficking in Persons Report: Saudi Arabia," U.S. Department of State, June 2020, 428, <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>.

⁹⁷ "Saudi Arabian Male Guardianship and Foreign Sponsorship Laws are Trapping American Mothers and their Children in Saudi Arabia," Freedom Forward, Center for International Policy, September 2020, 2, <https://freedomforward.org/wp-content/uploads/2020/09/Brief-FF-Kafala-Guardianship-Brief-2020-08.pdf>.

⁹⁸ "Human Rights in Saudi Arabia: An Update," Human Rights Commission, United States Congress, November 10, 2020, <https://humanrightscommission.house.gov/events/hearings/human-rights-saudi-arabia-update>.

⁹⁹ Anya Van Wagtenonk, "Saudi Arabia changed its Guardianship Laws, but Activists who Fought them Remain Imprisoned," Vox Media, August 2, 2019, <https://www.vox.com/world/2019/8/3/20752864/saudi-arabia-guardianship-laws-women-travel-employment-mbs>.

VICTIMS' STORIES

In October 2021, several U.N. Rapporteurs issued a joint communication to the government of Saudi Arabia. The communication concerned the livelihoods of 30 Vietnamese women who had been trafficked in Saudi Arabia.¹⁰⁰ These women had been reportedly beaten, tortured, and subjected to degrading treatment, including sexual abuse, denied access to food and medical care, and forced into labor under conditions in which they were underpaid, or their wages were denied or withheld.¹⁰¹ Many of the victims described in the communication were detained by Saudi officials after escaping their abusive employers.¹⁰² They reported that Saudi officials did not launch any investigations against the victims' Saudi employers.¹⁰³ Saudi officials placed many of these women at a national Social Services Centre (SAKAN). At the facility, their identity documents were confiscated, and they were not permitted to exit – a common practice often done by the *kafeel* to their dependents.¹⁰⁴ The communication also highlighted the case of a minor girl, who suffered from chronic headaches due to incessant beatings to her head. Her efforts to plead with her recruitment company, VINACO, were futile as they demanded she work harder. After pleading with a VINACO representative to arrange for her return as she felt that she couldn't survive any longer, she was given a flight home.¹⁰⁵ Before she was able to return home, however, she fell ill and passed away. VINACO provided different explanations of her death to her family.¹⁰⁶

According to Americans for Democracy and Human Rights in Bahrain, Yemeni workers in Saudi Arabia are subject to several labor rights violations, including discriminatory practices, work without pay, and arbitrary detention. Over the course of a week in March 2022, 15,000 migrants, predominantly Yemeni, were arrested arbitrarily and detained in overcrowded cells prior to being deported. The prison environment was so poor that Saudi officials conducted mass searches in detention centers to confiscate phones and other devices that could relay images of the prisons to the outside world.¹⁰⁷ The extensive measures taken by Saudi authorities to suppress information about the deplorable prison conditions exemplify a systemic targeting of migrants from developing nations, revealing a disregard for genuine reforms aimed at safeguarding the well-being of their vulnerable migrant population.

100 U.N. Communication, UA SAU 12/2021, October 25, 2021, 1, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunication-File?gld=26747>.

101 Ibid.

102 Ibid.

103 Ibid., 3.

104 Ibid., 1.

105 Ibid., 3.

106 Ibid., 4.

107 "Human Rights Violations of Yemeni Migrant Workers in Saudi Arabia," Americans for Democracy and Human Rights in Bahrain, June 6, 2022, <https://www.adhrb.org/2022/06/human-rights-violations-of-yemeni-migrant-workers-in-saudi-arabia/#:~:text=Yemeni%20migrant%20workers%20in%20Saudi%20Arabia%20have%20been%20subjected%20to,unjustified%20termination%20of%20employment%20contracts>.

Women, notably domestic workers, persistently report being trapped in situations of sexual and physical violence, with perpetrators enjoying complete impunity. In a 2020 testimony before the U.S. Congress, a woman recounted witnessing the abuse of domestic workers in Riyadh:

In 2018, I met a Filipina woman at her embassy in Riyadh. She came to Saudi Arabia as a domestic helper. She had been repeatedly raped by her sponsor's 16-year-old son. When she went to the police to report it, they called her sponsor to pick her up, and she was beaten when she returned home. When she became pregnant, due to her faith, she declined to have an illegal abortion when her sponsor asked her to. They [her sponsors] forced her and held her down while a coat hanger was shoved violently inside her body. When that failed to cause an abortion, the family decided to lock her up inside the house until she gave birth, take the child, and have her deported. She didn't know if her baby was killed, or if it was taken and raised as someone else's.¹⁰⁸

At the time of the report, the Saudi sponsors perpetrators, who have committed clear felonies under the provisions of Saudi law, had not been convicted for the crimes committed against the woman.

In February 2022, while collecting independent data on trafficking victims in the Kingdom, HRF noted how the use of temporary travel documents – known as “laissez passer” – are often used in kidnapping cases to bring children from the U.S. to Saudi Arabia, impeding the exit of children from Saudi Arabia even if they have a foreign passport. This is due to the fact that the children of Saudi nationals are not permitted to enter Saudi Arabia on anything other than a Saudi Arabian passport or a laissez passer.¹⁰⁹ One U.S. citizen, Carly Morris, reported she and her child were coerced into traveling to Saudi Arabia from the United States by Morris' ex-husband in order for her daughter Tala to meet her father's side of the family. The mother entered Saudi Arabia on a tourist visa in 2019, and the child was issued a laissez passer by the Saudi Arabian Embassy in the United States. Once in the country, the child's father confiscated their travel documents, entrapped the child and the mother in the country, and filed a case for custody of the child and criminal charges against the mother.¹¹⁰ Morris' ex-husband filed Tala for Saudi citizenship, which subjected her to the restrictive male guardianship system and prevented her from leaving the country without her Saudi father's consent.¹¹¹ The former spouse locked the mother in an apartment where she remains entrapped, only occasionally receiving food and water. Her status as a tourist in the country rendered her unable to work and unable to get legal representation or file cases. In August 2022, Morris reported that “she was about to be thrown on the street” with her child, as her former spouse stopped paying the rent or bringing

108 U.S. Congress, House, Tom Lantos Human Rights Commission, Human Rights in Saudi Arabia: An Update, 116th Cong., 2nd Session, 2020.

109 “Mother Uses International Connections to Bring Kids Home from Saudi Arabia,” Fox 2 News Detroit, July 26, 2020, <https://www.fox2detroit.com/news/mother-works-with-international-connections-to-bring-kids-home-from-saudi-arabia>.

110 Alex Marquardt and Jennifer Hansler, “Human Rights Organizations Express Concern about American They say is trapped in Saudi Arabia,” CNN, November 10, 2022, <https://www.cnn.com/2022/11/10/politics/carly-morris-american-saudi-arabia>.

111 Mike Thomson, “Trapped in Saudi Arabia: A Mother's Fight to Free Her Daughter,” BBC News, October 28, 2022, <https://www.bbc.com/news/world-62903758>.

food and groceries in retaliation for her trying to keep her child. Morris took to social media to call for help in their situation and was later placed under investigation for “disrupting public order.” She was detained for two days in October 2022, put into shackles, and her child was taken from her and given to the father.¹¹²

Similarly, a Canadian citizen reported being tricked by her spouse into traveling to Saudi Arabia on a tourist visa with her four children from Canada. Once in the country, her spouse prohibited them from leaving. In May 2022, another Canadian citizen reported being entrapped by her spouse in Saudi Arabia. It was reported that the Saudi spouse used his powers as a kafeel to prohibit his wife from exiting the country, and purposely allowed the wife’s residence permit to expire, rendering her unable to work, exit, or get access to medical care.

In July 2022, an American woman from California reported to HRF that her daughter, a U.S. citizen, and her two granddaughters, also U.S. citizens, were unable to exit Saudi Arabia. Her daughter and granddaughters were authorized to exit Saudi Arabia on one occasion in 2017. They were permitted to return to the United States after the daughter’s father, a U.S. Navy veteran, passed away without having met his granddaughters. Subsequently, the daughter divorced her husband in 2018. In 2019, the ex-spouse, who acted as the daughter’s kafeel, deported her from Saudi Arabia and retained custody of their two children. These violations were a clear result of the ex-husband exploiting his authority under the kafala system, while the discriminatory practices in Saudi courts further perpetuated these injustices, ultimately favoring him. Since the daughter’s return to the Kingdom that same year, she has been involved in a custody battle, consistently citing the gender-based discrimination she has faced in court as clear hinderance to her pursuit of justice and accountability. According to court documents reviewed by HRF in June 2022, women who remarry are prohibited from retaining custody of their children. However, both parents have since remarried. By institutionally denying women the ability to fairly maintain custody of their children, the Saudi regime is placing women into a vulnerable position. This vulnerability enables women to be coerced to remain in the Kingdom out of fear of losing all access to their children, putting their children’s and their own well-being and safety at risk.

In July 2022, HRF received the testimony of an Indian national, Ahmed Abdul Majeed, who was fired in March 2020 in Saudi Arabia after decades of service in a company owned by Saudi Arabia’s Crown Prince, Mohammed bin Salman (MBS). After he was terminated, Abdul Majeed was forced to work without pay for six months and forced by the company to recover dues that were owed by the company’s clients. At this time, Abdul Majeed was under the company’s sponsorship and was prohibited by the company from exiting Saudi Arabia until he could recover these dues, which he reported he was not responsible for. During the time of his entrapment and forced labor in Saudi Arabia, his wife’s health deteriorated rapidly. Despite

¹¹² Marquardt and Hansler, “Human Rights Organizations Express concern about American they say is trapped in Saudi Arabia.”

multiple urgent requests to his employer to be released to exit the country, the employer refused. In the end, he was forced by the company to pay the dues the clients owed to the company out of his own pocket. This resulted in Abdul Majeed selling his own home in India and other assets in order to purchase his own return ticket home.¹¹³ Though previous arguments illustrated how the Saudi regime inadvertently benefits from exploitative migrant and labor policies, Abdul Majeed's case exemplifies how the regime is explicitly complicit in committing the same egregious acts and profiting from them.

These cases are part of a larger, systematic pattern of entrapment and trafficking that impacts no single nationality or background. According to the Freedom Initiative, over 1,242 foreign nationals have been entrapped in Saudi Arabia in 2020 and 2021.¹¹⁴ As put best by one trafficking victim to HRF, "these stories are only a fraction of the systemic abuse of labor and migrants [in Saudi Arabia]."¹¹⁵

The Role of the State and Limitations of the Law

POLITICAL DYNAMICS CONTRIBUTING TO HUMAN TRAFFICKING

Given the intersection of the Saudi Labor Law, kafala system, and male guardianship system, it is essential to link them with the rampant authoritarianism in the Kingdom.

A doctoral dissertation published by The National University of Ireland Galway identified the tactic of "delegating repression" through systems of migrant labor in Saudi Arabia. It was argued that systems such as the kafala and male guardianship systems are legal tactics of authoritarian regimes, under which dictatorships effectively delegate responsibility for human rights violations to individuals. Doing so would relieve the regime of accountability for rights violations despite it being a product of the legal system the

¹¹³ Human Rights Foundation, Communication with Victim, July 2022.

¹¹⁴ The Freedom Initiative, "Friend or Foe: Saudi Arabian Government Repression in the US and Worldwide," 21.

¹¹⁵ Human Rights Foundation, Communication with Victim, November 22, 2022.

regime created, enforced, and protected.¹¹⁶ By claiming that violations against workers were individual cases, and that abuse of the system was caused by citizens rather than a product of the system that the regime created, the state is able to avoid accountability for such violations.

Additional studies authored by Kristian Ulrichsen as well as by Ingo Forstenlechner and Emilie Rutledge have all supported this conclusion.¹¹⁷ For political reasons, Asian migrant workers appear to be the preferred type of worker by the Gulf's authoritarian regimes. Ulrichsen argues that this is due to the lack of linguistic, religious or cultural affinity, as well as an unlikelihood to get involved in class politics and Arab nationalist movements that may threaten the regime's rule.¹¹⁸ This supports the previously mentioned argument that each legal tactic of power is carefully crafted with the purpose of stifling political responses from within society, both among Saudi and non-Saudi people alike. While the kafala system is a system reliant upon the perpetuation of exploitation to vulnerable communities, the political benefits it gives to a select number of nationals have made ruling regimes less willing to dismantle the system. The priority of authoritarian regimes is to maintain their rule, rather than dismantling the systems that contribute to human rights violations and human trafficking. This further supports the theory that authoritarianism is a root cause of human trafficking.¹¹⁹

GOVERNMENT RESPONSES TO INTERNATIONAL LEGAL MECHANISMS ON HUMAN TRAFFICKING

In response to the October 2021 U.N. Special Rapporteurs' report on the 30 Vietnamese women mentioned earlier, the Saudi regime refused all responsibility and rejected all abuses.¹²⁰ It denied the reports of the taking of identity documents and claimed that the women were guests who were free to come and go "as they wish[ed]."¹²¹ The regime also appeared to blame the victims, alleging that in some of the cases the victims did not wish to remain in Saudi Arabia nor return home. The Saudi regime alleged that some victims

116 Bethany AlHaidari, "No Compulsion in Religion: Perceptions of Freedom and Legal Rights Amongst Saudi Arabian Citizens," (PhD diss. The National University of Ireland Galway, 2022).

117 Kristian Coates Ulrichsen, "Migrant Labour in the Gulf," *The Gulf States in International Political Economy*, 2016, 167–86, https://doi.org/10.1057/9781137385611_9; Ingo Forstenlechner and Emilie Jane Rutledge, "The GCC's 'Demographic Imbalance': Perceptions, Realities and Policy Options," *Middle East Policy*, December 2011, 25–43, <https://doi.org/10.1111/j.1475-4967.2011.00508.x>.

118 Shaikha Al-Hashem, "Marginalized Foreign Labor in Kuwait: An Ethical Perspective," *London School of Economics Blog*, August 26, 2020, <https://blogs.lse.ac.uk/mec/2020/08/26/marginalised-foreign-labour-in-kuwait-an-ethical-perspective/>.

119 Prachi Vidwans and Malaak Jamal, "Human Trafficking Has a Root Cause – and It's on the Rise Worldwide," *TIME*, July 30, 2019, <https://time.com/5638667/human-trafficking-cause/>.

120 Siobhán Mullally et al., "U.N. Communication UA SAU 12/2021," *Office of the United Nations High Commissioner for Human Rights*, October 25, 2021, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26747>.

121 "Response Ref. 413/532," *Saudi Arabian Permanent Mission to the United Nations in Geneva*, October 25, 2021, 2, <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=36748>.

were offered lawyers free of charge, but the victims rejected them. Concerning U.N. allegations that violence by the employers was not investigated, Saudi officials responded that “coordination was made by the competent authorities regarding what was done with the worker and measures taken.”¹²² Allegations of torture, the Saudi regime simply stated that “torture is illegal in the country and victims have the right to have recourse through legal means such as the Bureau of Public Prosecution, the Human Rights Commission, the National Society for Human Rights, and others.”¹²³ The regime, thus, deflected state accountability for these instances of human rights violations and revealed the state’s inability to cooperate with the international community on establishing methods to combat these issues. The Saudi regime’s response, shifting responsibility onto victims and institutions affiliated with the regime, not only demonstrates a strategy to evade accountability for human rights violations but also highlights its entrenched culture of impunity, as it fails to engage constructively with the international community in addressing these issues. Similarly, when international legal bodies pressed for reform to the male guardianship system, the Saudi regime denied the existence of the system entirely. The concluding remarks on Saudi Arabia, issued by the U.N. Committee on the Elimination of Discrimination against Women, focused on legal discrimination between men and women in the law, particularly the male guardianship system and its dangers to women and children. In its response, the Saudi regime denied the existence of the male guardianship system stating, “[t]he Kingdom has no laws featuring guardianship over women, guardianship or tutorship in their title...”¹²⁴ These claims were significantly undermined when Saudi regime officials and state media outlets later cited and celebrated reforms to the male guardianship system to the international community.¹²⁵

122 Ibid., 3.

123 Ibid., 9.

124 Committee on the Elimination of Discrimination against Women, List of issues and questions in relation to the combined third and fourth periodic reports of Saudi Arabia, Replies of Saudi Arabia, CEDAW/C/SAU/Q/3-4/Add.1, November 2017, 7, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N17/372/43/PDF/N1737243.pdf?OpenElement>.

125 Lojien Ben Gasseem, “Saudi Arabia set to scrap male guardian rule for Saudi females studying abroad: Senior diplomat,” Arab News, August 9, 2019, <https://www.arabnews.com/node/1537656/saudi-arabia>.

Conclusions and Recommendations

CONCLUSIONS

The Saudi regime has significantly invested in providing the semblance of tackling human trafficking to the international community, while failing to reform in practice the Saudi Labor Law, kafala system, and male guardianship system, which are all inherently contributing to the issue. The Saudi Labor Law provides basic provisions to only protect a small and privileged class of workers in Saudi Arabia, and the kafala and male guardianship systems place foreign residents and Saudi women at the mercy of their sponsors or guardians. The *kafeel* exercises significant control over their dependent's life. This is often misunderstood to be limited within the context of an employer–employee relationship, but also exists in familial relationships when foreign nationals marry either Saudi nationals or residents; they and their children come under their spouse's sponsorship. The ownership aspects of the kafala and male guardianship systems which delegate significant decision-making authority and responsibility over the basic necessities for living to the sponsor or guardian often amount to modern forms of slavery by granting the *kafeel* the authority to coerce victims into forced labor, marriage, and entrapment in Saudi Arabia.

The Saudi regime announced recent reforms to the kafala system. However, these do not apply to categories of workers excluded by the protections of the Saudi Labor Law, which make up millions of the foreign labor force in Saudi Arabia and have traditionally been the most vulnerable to trafficking and forced labor in the country.¹²⁶ The reforms instead provided more privileged employees in the private sector the ability to request their own exit visas, rather than requiring permission from their employers to exit the country – one of the primary criticisms of the kafala system. Ultimately, there is no reason to exclude Article 7 categories of workers or immediate family members from the protections of the Labor Law, especially considering that domestic workers are most subject to abuse and trafficking.

As previously discussed, the male guardianship system, which the Saudi regime had denied existed, was officially codified in the personal status laws in 2022. Several of the most problematic practices of the male guardianship system remain in law. Permitting women over 21 years old to travel internationally without

¹²⁶ See Section 3(a)(i).

CONCLUSIONS AND RECOMMENDATIONS

their male guardian's permission was a long overdue change that was welcomed worldwide. Up until 2022, international criticism primarily targeted the ban on women's ability to drive and international travel restrictions in Saudi Arabia, without fully grasping how systemic policies, such as the male guardianship or kafala systems, also impacted women's daily lives. While the Saudi regime addressed these initial issues, the gender-discriminating practices still remain at the Kingdom's foundation. Achieving gender equality requires transcending surface-level reforms and addressing these aforementioned systemic challenges.

The lack of equality for millions of vulnerable people in Saudi Arabia under the kafala and male guardianship systems and the alleged protections provided by the Saudi Labor Law have contributed to human trafficking. Beyond this, it has also upheld modern forms of slavery, torture, abuse, entrapment, servitude, and other cruel, inhuman, or degrading treatment. The case studies in this report demonstrate that these issues are prevalent in Saudi Arabia and are unlikely to be fixed without the complete elimination of these systems. The Saudi regime's failure to reform the power dynamics within businesses and households and its interest in maintaining power has resulted in countless violent and otherwise avoidable cases of trafficking of individuals from all around the world. Simple protective measures that have been recommended by international actors should be implemented in Saudi Arabia to easily prevent these cases. The repeated failure to hold perpetrators accountable for their abuses has led individuals in positions of power to violate workers' and family members' rights with impunity. Rather than making significant and meaningful reforms, the Saudi regime prioritizes cosmetic reforms that can be presented to the international community as change, but remain no more than a façade that withhold protection or justice to victims.

The kafala and male guardianship systems continue to be modern forms of slavery, and as such, merit abolition, not reform. Women should be freely permitted to enter and exit marriages without permission from a male guardian or a Saudi judicial officer, and women must be considered equal to men under the law. To address the root cause of human trafficking and forced labor, Saudi Arabia's authoritarian political system needs to be addressed. This means creating a space for civil society organizations to operate, allowing popular participation in legislation and governance through free and fair elections, establishing an independent judiciary, and protecting the freedom of dissent. It is by first and foremost promoting genuine democratic reform in Saudi Arabia followed by the complete abolition of the kafala and male guardianship systems and the exception categories in the Saudi Labor Law that efforts to eliminate human trafficking, forced labor, abuse, and entrapment will be most effective.

RECOMMENDATIONS

Domestic Policy Recommendations

Legal Reform

- **Expand the protections of Article 7 of Saudi Arabia's Labor Law to all members of Saudi Arabia's working population through the following measures:**
 - Allow all foreigners to acquire exit visas without the supervision of their employers by implementing routine amnesty periods and collaborating with the embassies of migrant workers, specifically those from South and Southeast Asia and the Middle East to provide temporary travel documents for migrant workers who have had their documents confiscated.
 - Allow migrant workers the ability to unionize; and
 - Ensure that the definitions of enforced and involuntary servitude or work are in line with international standards.
- **Reform the following articles of Saudi Arabia's personal status laws:**
 - Articles 13 and 15: Allow women to exercise autonomy in choosing their husbands without the permission of their male guardian.
 - Article 42: Ban the obligation of women to categorically obey their husbands.
 - Article 57: Allow women the right to gain custody over their children in cases of divorce and remarriage.
 - Article 137: Remove the definition of fathers being the sole "guardians" of their children.

On Migrant Workers and Foreigners

- Provide financial safeguards to enable foreigner workers to access their bank accounts and assets in the case that their documents expire to facilitate repatriation.
- Grant foreign nationals who have children with Saudi citizens the ability to move freely in and out of Saudi Arabia and extend those rights to their children.
- Institutionalize legal avenues that focus specifically on providing legal aid and counsel to foreign migrants and collaborate with international bodies such as the UN Human Rights Council, to ensure there is accountability for violations and to safeguard the rights of victims of human trafficking and forced labor.
- Remove the power of a kafeel to authorize the movement of foreigners in Saudi Arabia whether it be their employee or their spouse and children.
- Reform legislation that mandates female visitors and residents to have a sponsor in order to enter the country.
- Amend the provisions relating to runaways to better protect the livelihoods of migrants escaping abusive employers.

Recommendations for International Policymakers

- **Call on the Saudi regime to:**
 - Abolish the male guardianship and kafala systems, and to bring home victims who are entrapped in Saudi Arabia due to these systems of repression; and
 - Prohibit the use of “laissez-passer” temporary travel documents issued by the Saudi Arabian government to exit countries outside of Saudi Arabia for children who hold citizenship of another country.
- Hold the regime accountable to its signed commitment on the 1926 Slavery Convention and 1956 Supplementary Convention on the Abolition of Slavery.
- Lobby governments to regulate the deployment of workers to Saudi Arabia who are not protected under Article 7 of the Labor Law until the regime expands legislation outlining inclusive legal measures to prevent and end abuse.
- Support civil society and grassroots organizations that are advocating on behalf of trafficked victims and for democratic reform in Saudi Arabia.
- Establish independent investigations into grave instances of migrant worker abuse from employers and from labor recruitment agencies by creating dedicated spaces at consulates and embassies to hear and support victims of trafficking, ensuring their stories are heard at the international level and facilitating access to necessary assistance.
- Advocate for gender equality by applying the same principles used in campaigns promoting female international travel and driving rights to implement gender-neutral custody laws to safeguard women and children from male abuse.

Recommendations for Global Corporations, Celebrities, and Public Figures

- Do not engage in entertainment, sportswashing, or business deals with sponsors who are facilitating the human rights abuses being inflicted on vulnerable workers in Saudi Arabia. Most businesses in Saudi Arabia have been dependent on the kafala system and Article 7 excluded migrants for labor.
- Promote the abolishment of the kafala and male guardianship systems, and the end of discrimination workers from developing countries in Asia and Africa and women both in law and practice by leveraging business or entertainment prospects and by spotlighting the issue.
- Support grassroots and civil society organizations that provide safe platforms for human trafficking and forced labor victims to speak out and advance campaigns to end the male guardianship and kafala systems and put pressure on the government to end these discriminatory systems.

Recommendations for the Wider Public

- Refrain from attending government-sponsored entertainment or sportswashing events when visiting Saudi Arabia. Engagements sponsored by the ruling family divert attention away from their egregious human rights record, including human trafficking and forced labor.
- Support local community-based groups and civil society efforts to create secure spaces for survivors of human trafficking and forced labor to voice their experiences and initiatives aimed at terminating the kafala and male guardianship systems.