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Bahrain's Legal Framework of Migration

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Bahrain's Legal Framework of Migration*

Maysa Zahra

Abstract: This overview of Bahrain's regulatory framework of migration is intended to serve as a guide for researchers looking to navigate the set of laws and implementing regulations covering a broad range of migration-related issues from entry and exit conditions to rights and settlement, citizenship, and asylum.

Keywords: Bahrain; Laws and Regulations; Irregularity; Migration; Citizenship; Trafficking; Sponsorship; Labour Rights.

Introduction

The major shift in Bahrain's legal framework of migration took place in 2009 when the Labour Market Regulatory Authority (LMRA) enacted a law permitting foreign workers to transfer their employment to a new employer at any time and without the consent of the current employer. Moreover, a foreign worker is granted a suitable notice period upon the expiry or cancellation of their work permit to enable them to transfer to another employer.¹ However, in 2011, the LMRA promulgated a decision amending the aforementioned article and allowing transfer without the permission of the current employer only after spending at least one year with him,² thus rendering the previous changes less effective in loosening the stranglehold of employers over their employees.

Nevertheless, Bahrain's efforts to introduce meaningful changes continued with the enactment of the new labour law for the private sector in 2012, which expanded its scope of applicability to include domestic workers who are now employed under clear contractual terms, similarly to other private sector employees. The new law entitles workers to better annual and sick leave conditions, protects against

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discriminatory practices in the payment of wages, and imposes higher penalties on violations of provisions of the law.³

The Anti-trafficking in Persons Law was enacted in 2008, prohibiting all forms of trafficking in persons and prescribing penalties that range from three to fifteen years of imprisonment. The practice of confiscating the passports of workers is criminalized under this law as well as article 389 of the penal code.⁴ Moreover, article 19(b) of the Bahraini Constitution guarantees the freedom of movement of all persons within Bahraini territory.

The Aliens Act (Immigration and Residence) of 1965 continues to govern the entry, exit, and stay of foreigners in the country, as well as the conditions for their deportation if it is determined to be in the public interest or a court, as punishment for committing a crime, mandates it.

Legal Framework	Outward Migration	Inward Migration
<p>General Legal References</p>	<ul style="list-style-type: none"> • 1963, Bahraini Citizenship Act.⁵ • 2000, Law No. 9 of 2000 Amending Certain Provisions of Law No. 11 of 1975 Regarding Passports.⁶ • 2002, Constitution of the Kingdom of Bahrain⁷ • 2008, Law No. 1 of 2008 Issuing the Anti-Trafficking Law⁸ 	<ul style="list-style-type: none"> • 1963, Bahraini Citizenship Act.⁹ • 1965, Aliens Immigration and Residence Act of 1965¹⁰ • 1976, Decree No. 24 of 1976 Issuing the Social Insurance Law¹¹ • 1980, Law No. 21 of 1980 Amending Article 29 of the Aliens (Residence & Immigration) Act of 1965¹² • 2002, Constitution of the Kingdom of Bahrain¹³ • 2006, Law No. 19 of 2006 Regulating the Labour Market¹⁴ • 2007, Decision No. 121 of 2007 Regarding the Entry Visa and Residence Permit of Dependents of Foreign Workers and Business Owners¹⁵ • 2008, Law No. 1 of 2008 Issuing the Anti-Trafficking Law¹⁶ • 2011, Decision No. 15 of 2011 Amending Paragraph A of Article 25 of Law No. 19 of 2006 Regulating the Labour Market¹⁷ • 2012, Law No. 36 of 2012 Issuing the Labour Law for the Private Sector¹⁸

Legal Framework	Outward Migration	Inward Migration
		<ul style="list-style-type: none"> • 2017, Decision No. 30 of 2017 Regulating the Medical Examination of Expatriates¹⁹ • 2017, Decision No. 167 of 2017 Regarding the Imposition of an Entry Visa to the Kingdom of Bahrain²⁰ • 2018, Decision No. 8 of 2018 Replacing Article 3(c) of Decision No. 121 of 2007 Regarding the Entry Visa and Residence Permit of Dependents of Foreign Workers and Business Owners²¹
<p>Entry and Exit</p>	<p style="text-align: center;">Visas</p> <p>Bahraini citizens do not need a visa to enter other Gulf Cooperation Council (GCC) countries (Art. 2, Law No. 9 of 2000).</p>	<p style="text-align: center;">Visas</p> <p>The requirements for entering Bahrain for foreigners include holding a valid passport or travel document and a valid entry visa [Article 5(1), Aliens Immigration and Residence Act of 1965].</p> <p>A foreigner may not stay in Bahrain after the expiry of the validity date of his visa [Art. 7(5), Aliens Immigration and Residence Act, 1965].</p> <p>Foreigners entering the country for any reason may be required to pay a deposit of no more than one thousand Rubies that may be used for their deportation. For those entering Bahrain for employment purposes, the employer may be required to pay the deposit or submit an undertaking to the Director of Immigration to bear all deportation costs [Art. 8(1(B), Aliens Immigration and Residence Act, 1965].</p> <p>An entry visa to the Kingdom of Bahrain has been imposed on citizens and residents of the State of Qatar [Art. 1, Decision No. 167 of 2017 Regarding the Imposition of an Entry Visa]to the Kingdom of Bahrain]</p>

Legal Framework	Outward Migration	Inward Migration
Irregular Migration		Any person who enters Bahrain illegally shall be imprisoned for no less than six months and so shall anyone who has aided him or encouraged him to commit this crime. The vehicle used to commit this crime shall be confiscated as well. The judge may not order the suspension of the sentence [Art. 29 (1), Law No. 21 of 1980].
	<p style="text-align: center;">Human Trafficking</p> <p>Penalizations: Any person found guilty of trafficking in persons shall be subject to imprisonment and a fine ranging from BD2,000 to 10,000. The offender will also be charged the costs of the trial, including repatriation expenses when the victim is a foreigner and must be returned to his or her home country. It is specified that the provisions apply without prejudice to any harsher penalty prescribed by the penal code (Art. 2, Law No. 1 of 2008 Issuing the Anti-Trafficking Law).</p>	
	<p style="text-align: center;">International Agreements Regarding Irregular Migration</p> <ul style="list-style-type: none"> ● United Nations Convention against Transnational Organized Crime (acceded to on June 07, 2004) ● Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons (acceded to on June 07, 2004). ● Palermo Protocol against the Smuggling of Migrants by Land, Sea and Air (acceded to on June 07, 2004) 	
Rights and Settlement		<p>Equality and Non-discrimination: The Bahraini Constitution guarantees the equality of people in human dignity and citizens in public rights and duties before the law, without distinction as to sex, origin, language, or religion [Art. 18].</p>

Legal Framework	Outward Migration	Inward Migration
Rights and Settlement		<p>Residence: Foreigners aged sixteen and above may not reside in Bahrain unless they hold a residence permit issued by the immigration director [Art. 15, Aliens Immigration and Residence Act, 1965]. Once the permit expires, s/he must leave the country, unless a request to renew the permit was submitted [Art. 17, of Act cited previously in this para]. A foreigner whose residence permit has been cancelled may not apply for another one for a period of 52 weeks from the date he received notice of its cancellation (Art. 23(4), of Act cited previously in this para).</p> <p>Participation in Social Insurance Schemes is available to all employees without discrimination based on gender, nationality or age (Art. 2, Decree No. 24 of 1976).</p> <p>Family Reunification may be granted to the dependents (spouse and minor children) of a foreign worker or business owner. Adult children above the age of 18 may be granted an entry visa and a residence permit if they are studying in the Kingdom, if the foreign worker holds a work permit and his monthly income is no less than BD400 This should be: [Articles 2 & 3, Decision No. 121/2007 as amended by Decision No. 8 of 2018].</p> <p>Access to Healthcare: The employer is required to display in a prominent location at the workplace, in both English and Arabic, an announcement about the entity responsible for treating his workers and the procedures that must be followed by the latter in cases of injury at work or outside it [Article 65, Law No. 24 of 1976].</p>

Legal Framework	Outward Migration	Inward Migration
Rights and Settlement		<p>An employer is required to send his expatriate employee to an authorized health institution for a medical examination within two weeks of his arrival in the Kingdom. The authorized health institution is required to send the final results of the medical examination to the Ministry within one week of its performance [Art. 8, Decision No. 30 of 2017 Regulating the Medical Examination of Expatriates].</p> <p>Freedom of Movement: The Constitution protects the right of persons to move freely and without restrictions [Article 19(b), of the Constitution].</p>
Labour	<p align="center">Agreements regarding Labour Migration</p> <p>Bilateral Agreements: Memorandum of Understanding between the Republic of the Philippines and the Kingdom of Bahrain on Health Services Cooperation; Memorandum of Understanding between India and Bahrain.</p> <p>International Agreements: 10 ILO Conventions ratified¹⁹</p>	
Citizenship	<p>Citizens acquiring a foreign nationality voluntarily or renouncing his nationality may lose their Bahraini nationality by an order from His Majesty [Article 9, Bahraini Citizenship Act, 1963].</p> <p>Bahrainis may not be deported from Bahrain or prevented from returning to it [Article 17 (2), of the Constitution].</p> <p>Bahraini nationality is determined by law. A person inherently enjoying his Bahraini nationality cannot be stripped of his nationality except in case of treason, and such other cases as prescribed by law [Article 17 (1), of the Constitution].</p>	<p>Naturalization: Cases that lead to withdrawal of Bahraini nationality from persons who acquired it through naturalization include the acquisition of citizenship through deception, false statements or hiding of information and being found guilty in a case connected with honour and honesty within five years of acquiring citizenship [Art. 8, Bahraini Citizenship Act, 1963].</p> <p>Acquisition of Bahraini Citizenship: Bahraini citizenship may be granted upon request to a foreigner who meets the following requirements: legally residing in Bahrain for at least 25 consecutive years</p>

Legal Framework	Outward Migration	Inward Migration
Citizenship		<p>(15 for Arab nationals) from the date of this law; good conduct; fluency in Arabic; having a registered real estate in Bahrain.</p> <p>However, a foreigner granted citizenship under this article shall not be entitled to voting rights, representation, nomination or appointment in local councils for 10 years. His wife and children shall be regarded as Bahraini by naturalization [Art. 6, Ibid.].</p>
International Protection		<p>The extradition of political refugees is prohibited under article 21 of the Constitution.</p> <p>International agreements Related to International Protection: Bahrain has not acceded to the 1951 Convention relating to the status of refugees.</p>

Endnotes

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About the Author



Maysa Zahra holds a Master's degree in the Theory & Practice of Human Rights from the University of Essex (Human Rights Centre) in the United Kingdom. She previously studied International Relations at the Hebrew University of Jerusalem.

She worked as a legal researcher with the MATTIN Group, a voluntary human rights-based partnership in Palestine, researching provisions of third state and European Union legislation that create obligations corresponding to those that result from the customary international law on third state responsibility. She also participated in several lobbying interventions with the European Union aimed at promoting greater consistency between its contractual relations with Israel on the one hand and its human rights obligations on the other.

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