Migration Governance Overview: The State of Kuwait

May 2018

Introduction

This is an era of unprecedented mobility, and the need to facilitate orderly, safe, regular and responsible migration and mobility is becoming increasingly relevant.\(^1\) The necessity to face the challenges and to maximize the opportunities that this mobility brings has been recognized with the inclusion of migration in the 2030 Agenda for Sustainable Development, which highlights the positive contribution of migrants to inclusive growth and development.\(^2\) Migration is integrated in a number of Sustainable Development Goals (SDG) targets, such as ending modern slavery and addressing the vulnerability of migrant workers. However, the central reference to migration in the SDGs is Target 10.7 on facilitating “orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies”.\(^3\)

The incorporation of Target 10.7 into the 2030 Agenda created the need to define “planned and well-managed migration policies”. This is why, in 2015, the International Organization for Migration (IOM) developed the Migration Governance Framework (MiGOF). The Framework offers a concise view of an ideal approach that allows a State to determine what it might need to govern migration well and in a way that suits its circumstances.\(^4\) The Framework was welcomed by IOM Member States in the same year.

In an effort to operationalize the MiGOF, IOM worked with The Economist Intelligence Unit to develop the Migration Governance Indicators (MGI), a standard set of approximately 90 indicators to assist countries in assessing their migration policies and advance the conversation on what well-governed migration might look like in practice.

In this sense, the MGI helps countries identify good practices as well as areas with potential for further development and can offer insights on the policy levers that countries can use to develop their migration governance structures. However, the MGI recognizes that all countries have different realities, challenges and opportunities that relate to migration. Therefore, the MGI does not rank countries on the design or implementation of their migration policies. Finally, the MGI does not measure migration policy outcomes or institutional effectiveness. Instead, it takes stock of the migration-related policies in place and operates as a...
benchmarking framework that offers insights on policy measures that countries might want to consider as they progress towards good migration governance.

This country profile presents a summary of the well-developed areas of the State of Kuwait’s (hereinafter referred to as Kuwait) migration governance structures, as well as the areas with potential for further development, as assessed by the MGI.5

Key findings

I. Adherence to international standards and fulfilment of migrants’ rights

1. International conventions ratified

<table>
<thead>
<tr>
<th>Convention name</th>
<th>Ratified</th>
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<tbody>
<tr>
<td>International Labour Organization (ILO) Migration for Employment Convention (Revised), 1949 (No. 97)</td>
<td>No</td>
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<tr>
<td>United Nations Convention relating to the Status of Refugees, 1951</td>
<td>No</td>
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<tr>
<td>United Nations Convention relating to the Status of Stateless Persons, 1954</td>
<td>No</td>
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<tr>
<td>ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)</td>
<td>No</td>
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<tr>
<td>International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW), 1990</td>
<td>No</td>
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1.2. Migration governance: examples of well-developed areas

Kuwait’s visa regulations are based on a labour mobility system. The country issues eight types of residence permits / visas (iqama) to its Temporary Contractual Workers (TCWs), under Residency Articles 17-24 that outline the scope of labour mobility for government employees (17), private sector employees (18), the self-employed (19), domestic servants (20), dependents (22), overseas students (23), and the self-sponsored (24). Within a complex and variable labour mobility system in Kuwait, spouses, and children of TCWs that are of working age, have full access to the labour market. Except for domestic workers, the labour laws of the country apply equally to nationals and TCWs giving TCWs access to benefits such as maternity leave, severance pay, indemnities and more.

Kuwait along with the Gulf Cooperation Council (GCC) countries have established the “Security Protection for GCC”; achieved through the implementation of a unified system that allows GCC nationals to contribute to their own country’s pension insurance while working in any GCC member state.

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5 The MGI initiative is a policy-benchmarking programme led by IOM and implemented with the assistance of the Economist Intelligence Unit. Funding is provided by the Government of Sweden.

The opinions expressed in this report are those of the authors and do not necessarily reflect the views of IOM Member States or IOM. The designations employed and the presentation of material throughout the report do not imply the expression of any opinion whatsoever on the part of IOM concerning the legal status of any country, territory, city or area, or of its authorities, or concerning its frontiers or boundaries.

6 Migrants are termed as Temporary Contractual Workers (TCWs) in Kuwait, and this term is used throughout this document.

7 Please see State of Kuwait Ministry of Interior’s website;[www.moi.gov.kw/portal/vEnglish/showpage.aspx?objectID=%7B8B61CB61-EDDC-42A9-81CC-BE30D7E0F8CB%7D#Dependant_Residence](http://www.moi.gov.kw/portal/vEnglish/showpage.aspx?objectID=%7B8B61CB61-EDDC-42A9-81CC-BE30D7E0F8CB%7D#Dependant_Residence)
1.3. Areas with potential for further development

All TCWs are tied to an employer that sponsors them, through the ‘Kafala’ system. The Kafala system, especially for domestic workers prevents them from changing jobs or leaving the country without their employer’s permission. The worker’s contract and working conditions do not mention this, resulting in the worker’s restricted mobility, with no possibility in terminating their employment contracts. The Kafala system leaves gaps for exploitative practices to occur.

TCWs in Kuwait are protected under the labour laws. In the case of domestic workers’ (residency article 20), legal residence and valid immigration status are tied to an employer. Kuwait was the first country in the GCC to pass a law in 2015 protecting domestic workers’ rights yet there are no clear indications as to the effectiveness of monitoring mechanisms to ensure the protection of domestic workers’ rights.

TCWs have equal first-time access to employment in the private sector as nationals; they are however restricted in transfers between jobs. For example, those who are first employed through a SME (Small and Medium Enterprise) can only move to another SME. They are also further forbidden to assume leadership and middle management positions in state owned companies (Public Sector). The same restrictions apply to TCWs working in the industrial, fishing, grazing and agricultural sectors: they are only allowed to move within the same sector, after they work for a minimum of three years and with permission from the previous employer.

TCWs are further restricted by law to take up self-employed activity; they are not allowed to own more than 49 per cent equity on any business and can only own do so with the approval of the sponsor. TCWs who are Government employees are also not allowed to open any business.

Kuwait does not offer permanent residence pathways to TCWs. While the 1959 Nationality Law stipulates that after 15 years of residence (and additional conditions) TCWs may obtain citizenship, many individuals born and raised in Kuwait have not obtained citizenship. Citizenship is granted on an ad hoc basis. TCWs are further not allowed to vote in national or local elections.

In the absence of a permanent residence pathway in Kuwait, family reunification is only possible under certain circumstances. Independent female TCWs are not permitted to sponsor their spouses or children in Kuwait while male TCWs with a minimum monthly salary can sponsor their spouses and children. Furthermore, male children above the age of 21 cannot be sponsored by their parents but female children above the age of 21 can.

TCWs are not covered by the comprehensive national social security system.

Law no. 1 of 1999 on Alien Health Insurance and the Imposition of Fees against Medical Services discontinued free healthcare for TCWs and stateless migrants. Since then, the employer is obligated to pay for the employee’s health insurance fees and the TCW has to bear the fees for accessing medical facilities and the health insurance fees for the dependants of his family, a fee that is set to increase as stated by the Minister of Health in 2017.

With regards to government funded education, the majority of TCWs’ children do not have access to public schools but TCWs can enrol their children in private educational institutions. The government however has allowed children of TCWs faculty members at the Ministry of Education and Kuwait University to attend public schools.

2. Formulates policy using evidence and “whole-of-government” approach

2.1. Migration governance: examples of well-developed areas

In recent years, Kuwait has adopted a number of laws to protect the rights of TCWs. In 2007 and 2009, the Ministry of Labour issued two decrees prohibiting employers from confiscating the passports of TCWs. In 2010, Kuwait adopted a labour law for the private sector, which added new measures to the existing law to protect
foreign workers such as increasing minimum wage, setting overtime pay rates, and increasing the holiday credit for annual leaves and official national holidays.

In 2013, the country adopted Law No. 91 of 2013 on Trafficking in Persons and Smuggling of Migrants. In June 2015, Kuwaiti legislators adopted a new law (a first of its kind in the GCC) giving domestic workers enforceable labour rights (a weekly day off, 30 days of annual paid leave, a 12-hour working day with rest, and an end of service benefit among other rights).

Kuwait’s Central Statistics Bureau (CSB) publishes migration data periodically. For instance, labour force statistics for 2015 and 2016 are available on the CSB website and include among other information, the number of TCWs living in the country, their nationalities, as well as the yearly growth rate. In the last general population census published by the CSB(2005), data on migration, TCWs and their nationalities were also included. The Kuwait Public Authority for Civil Information (PACI) also publishes relevant statistical data.

Although there is no specific inter-ministerial body that promotes horizontal policy coherence between different ministries, ad-hoc ministerial committees and coordination mechanisms on migration take place. The Kuwaiti government along with IOM and other international organisations are working towards horizontal policy coherence.

Kuwait’s diaspora remains small but with access to 122 embassies around the world.

2.2. Areas with potential for further development

Kuwait’s legal framework for migration dates back to the 1959 Aliens Residence Law, which continues to govern the residence and employment of TCWs through the sponsorship system. The Ministry of Social affairs and Labour (MOSAL) and the Public Authority for Manpower (PAM) are responsible for formulating and regulating inward labour mobility. Migration policies however are handled mainly by the Ministry of Interior. Within the Ministry of Interior lies the Domestic Workers Department responsible for policies towards domestic labour.

Kuwait’s migration policy is derived from “Kuwaitization”10. In addition, among other areas, the Kuwait Public Policy Centre (KPPC) is mandated to provide policy suggestions for the formulation of migration policy to the government.

In light of “Kuwaitization”, the country’s frequent change in rules and regulations governing migration have become less transparent. For transparency, the PAM has created the ‘Tazeez’ social media account, but it is only in Arabic.

There are only some ad-hoc inter-ministerial coordination mechanisms that look at the restructuring of the demographics of Kuwait. There is no strategy or mechanism to enhance vertical policy coherence.

3. Engages with partners to address migration and related issues

3.1. Migration governance: examples of well-developed areas

Kuwait is an active state in terms of cooperation on migration-related issues. As a member state of the Gulf Cooperation Council (GCC), Kuwait benefits from Article three of the Unified Economic Agreement of 1981 as well as the new Economic Agreement of 2001, which gives the right to all GCC nationals to participate in all spheres of economic activity within member-states’ territories. The specific rights stated in the Agreement of

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8 https://www.csb.gov.kw/Socan_Statistic_EN.aspx?ID=56
9 For more details please see www.e.gov.kw/sites/kgoenglish/Pages/Visitors/InfoSubPages/AboutKuwait.aspx.
10 A policy that targets the replacement of TCWs with native-born nationals in the labour market through various incentives, regulations, policies and educational reforms.
2001, include, amongst other things, the rights to movement and residence for GCC citizens in other member states.

Beside its GCC membership, Kuwait has signed a number of bilateral agreements (BAs) with Asian and African countries. For instance, in 1997 Kuwait signed a technical cooperation agreement with the Arab Republic of Egypt on the movement of migrant workers and in 1999, the country signed an agreement on workers’ rights with the Democratic Socialist Republic of Sri Lanka’s labour union. Kuwait has also signed a wide range of Memorandums of Understanding (MOUs) with Asian countries to regulate the movement and working conditions of TCWs in Kuwait. For example, in 1996 Kuwait signed a MOU on the placement of manpower with the Republic of Indonesia and in April 2007, the country signed a MOU on Labour, Employment and Manpower with the Republic of India.

The country has held consultations with various NGOs on issues ranging from migrant rights to access to health care. Kuwait has also collaborated with civil society organisations to collect data on human trafficking and to ensure the safe return of trafficked victims to their countries of origin. Furthermore, the government holds consultations with private sector representatives about labour market demand and the recruitment of TCWs. The Kuwaiti private sector is further contributing to the 17 Sustainable Development Goals.

The country is also a member of the Abu Dhabi Dialogue Ministerial Consultation (ADD), established in 2008, as a non-binding inter-government consultative process engaging Asian countries of labour destination (CoD) and eleven countries of origin (CoO). The aim of ADD is to better administer the TCWs cycle and maximizing benefits to the workers, employers and the CoO and CoD economies.

Kuwait is an Observer State at the IOM Council since 2017.

3.2. Areas with potential for further development

While Kuwait has ratified 19 International Labour Organization (ILO) conventions, including seven of the eight core conventions, signature and ratification of further conventions, protocols and treaties for efficient migration governance would re-emphasise the country’s willingness and progressive efforts to adhere to international standards relating to effective migration management.

4. Advances the socio-economic well-being of migrants and society

4.1. Migration governance: examples of well-developed areas

Kuwait accepts international students at tertiary educational institutions provided they fulfil the visa requirements.

The BAs and MoUs signed with countries such as the Republic Indonesia, the Democratic Socialist Republic of Sri Lanka, the Republic of India, and the Arab Republic of Egypt regulate the movement and working conditions of foreign workers in Kuwait. Besides the improvement of rules and regulations pertaining to the movement and employment of foreign workers, these agreements also aim to prevent human trafficking and the exploitation of temporary contractual workers.

The establishment of various units, such as those dedicated to recruitment and labour inspection, as well as efforts to enhance cooperation with international organisations such as the International Labour Organization (ILO), the International Organization for Migration (IOM) and the United Nations Development Programme (UNDP), are among the measures undertaken by the government to promote the ethical recruitment of migrant workers. The government of Kuwait has also announced its intention to establish a government-run


12 To obtain a student visa, usually issued at Kuwaiti embassies, international students need, among other requirements, proof of sufficient financial resources to cover their living expenses in Kuwait. Applicants also need a health certificate and police clearance stating that the admitted student is in good health and has no criminal record.
recruitment agency to prevent trafficking of domestic workers. The Public Authority of Manpower has also been actively engaged in combatting trafficking through its regularly revised labour laws and regulations (see more information under Dimension 6).

**4.2. Areas with potential for further development**

Kuwait lacks a formal assessment mechanism to monitor labour market demand in Kuwait and the government has not implemented a specific programme to manage labour mobility. However, Kuwaiti authorities, in collaboration with the World Bank, are working on a system to monitor labour market demand for inward TCWs. The government has implemented private sector employment quotas to raise the share of nationals in the private sector labour force. The Kuwaiti Civil Service Bureau, which is governed by private sector laws, aims to reduce the number of TCWs in government agencies within the next five years, and to increase the percentage of Kuwaiti employees to between 70 and 100 per cent of the total public-sector workforce. Under this new plan, government agencies will still be able to sub-contract private sector companies, which will not have the same restrictions on foreign workers.

Recruiting companies are usually responsible for selecting and verifying the suitability and qualifications of TWCs. The only verification of skills and qualification performed by the government is done during the visa application process. The Public Authority for Manpower plans to activate a unit to assess the vocational skills of prospective TCWs for some specific occupations. Activating this unit is an objective anchored in the National Development Strategy of 2030.

**5. Effectively addresses the mobility dimensions of crises**

**5.1. Migration governance: examples of well-developed areas**

Kuwait is a key actor in the GCC Regional Emergency Response plan. The country hosted several events on the plan, and the GCC Emergency Management Centre (EMC) is based in Kuwait. In May 2017, the country also hosted the fifth session of the Global Platform for Disaster Risk Reduction. The EMC aims to enhance regional risk management, support regional incident response and promote regional integration and interoperability. This centre also conducts outreach activities to increase awareness among locals and migrants.

Kuwait has a public communication system operated by the Kuwait Civil Defence, which warns the population using sirens and announcements. Announcements through the public emergency communication system are repeated in several languages. There is also a regional communications system being developed at the GCC level.

Embassies of the State of Kuwait are responsible for assisting Kuwaiti citizens living abroad in times of crises. IOM has organised workshops with Migrants in Countries in Crisis initiative (MiCiC) to assist embassies in developing disaster risk action plans for their nationals living in Kuwait.

In 2013, the Kuwait Government Initiative for ICT Disaster Response was launched with the aim of ensuring communication across government agencies and the development of an emergency response plan to be used during and after crises. The Crisis Decision Support Program that is currently being developed by the Kuwaiti Institute for Scientific Research (KISR) is another initiative that aims to establish a database of information about potential threats that the country might face and organise clear channels of communication among stakeholders.
5.2. Areas with potential for further development

The country’s migration policy does not address issues related to natural disasters, post-crisis recovery or the return of TCWs who fled the country as a consequence of a natural disaster. Moreover, the government of Kuwait has not implemented a specific strategy to provide assistance to TCWs in the event of a crisis situation.

Kuwait’s national development plan mainly focuses on the diversification of the economy and reforming the public and private sectors. The development plan does not specifically address displacement issues or humanitarian crises. As for climate change adaptation, the government has no programme or strategy in place to deal with the movement of TCWs or displaced persons due to the adverse effects of climate change.

6. Ensures that migration takes place in a safe, orderly and dignified manner

6.1. Migration governance: examples of well-developed areas

The Kuwait General Department for Border security, a sub-administration of the national police, which itself falls under the Ministry of Interior, is responsible for securing and protecting Kuwait’s land and sea borders. Kuwait’s border police take part in IOM’s annual capacity building training on migrant protection.

Kuwait has been actively engaged in combating trafficking of TCWs through a variety of laws and regulations, such as the Trafficking Law 91/2013, which aims to eradicate trafficking in Kuwait; the Domestic Workers Law 68/2015; the Government Recruitment Agency Law 69/2015; and Cyber Criminal Law 63 of 2015. In 2015, the Ministry of Interior established an anti-human trafficking department to act as the national coordinating body on human trafficking issues. Furthermore, in 2016 the Ministry of Justice developed a Counter-trafficking strategy, which has been submitted to the Cabinet of Ministers for approval. In addition, Government Shelters for foreign workers have been established, which provide victims of trafficking (VoT) and exploitation with accommodation, food, medical assistance, legal assistance, and voluntary return services.

Kuwait has a system to monitor visa overstays. The Ministry of Interior monitors the number of overstays through their information system, which is regularly updated. Kuwait grants periodical amnesty to migrants who have overstayed their visa limit (with the last amnesty programme taking place in 2011).

6.2. Areas with potential for further development

The government of Kuwait, through the Ministry of Social Affairs and Labour, has created a website with instructions on how to apply for a work permit in Kuwait. Nevertheless, the website is incomplete with minimal information published. Most of the key information about the visa application process is published on other websites, mainly managed by private recruitment companies or foreign workers living in Kuwait.

Kuwait’s Ministry of Interior does not publish official information about counter-trafficking activities. National newspapers and media outlets usually publish reports and information about police interventions or activities conducted by the government to fight human trafficking and irregular migration.

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13 https://www.e.gov.kw/sites/kgoEnglish/Pages/Services/MOSAL/WorkPermit.aspx
Key sources

De Bel-Air, F.


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2001 Kuwait: A copy of the laws pertaining to the permanent residency and exit requirements of foreigners in Kuwait; consequences of lapse in residency status due to prolonged absence from Kuwait; how status can be re-acquired. Available from www.refworld.org/docid/3df4be5918.html.


The Government of Kuwait


The Public Institution for Social Security


Zahra, M.