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EXPLORING THE OXYMORON:
Migrants, Minorities, and Human Rights in the Gulf States

Eleni Polymenopoulou

Abstract

The oil-driven monarchies of the Persian Gulf maintain diversity and accommodation frameworks that are radically different from European or other liberal States. Firstly, in the member States of the Gulf Cooperation Council (GCC) governance is assumed by the ruling families and follows tribal patterns and elite-based dynamics, excluding representation of social and ethnic groups that are alien to the prevailing tribal framework. Secondly, there are generalized distinctions between citizens and non-citizens, including in the legal sphere and the enjoyment of socio-economic rights. Even so, populations throughout the GCC are becoming increasingly diverse, in terms of ethnicities and nationalities, and a 'second home' to a number of expatriates of different religions, traditions, languages, identities, and ways of life. This *de facto* diversity is precisely the oxymoron that this paper aims at exploring: the fact that GCC States, while still in many respects restrictive in terms of fundamental rights, they are also in other respects flexible and extremely accommodating.

Key Words

GCC; Migrants; Sponsorship; Minorities; Diversity; Discrimination; Expatriate communities; Equality; Accommodation; Islamic law

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I. Introduction

GCC States are dependent on migrant workers and expatriates who largely exceed in number local populations.[1] According to statistics released by the Gulf Labour Markets and Migration in February 2025, foreigners outnumber nationals throughout the GCC. In Qatar and the UAE in particular they amount to 87.9% and 87.1% respectively of those countries' populations.[2] It is only in Oman and Saudi Arabia that nationals outnumber foreigners, with percentages reaching 40.1% and 41.6% respectively, while Kuwait and Bahrain stand somewhere in between (67.3% and 53.2%).[3]

As a result, GCC States are increasingly becoming *de facto* multicultural and diverse, as well as adopting policies aimed precisely at preserving that diversity, developing "new pathways to permanent residency and citizenship in the region."[4] This is directly related to economy diversification. At least since the drop in oil prices in 2008 there have been efforts for economy diversification in order to reduce oil dependency and amass monetary reserves.[5] GCC states have subsequently passed policy documents entitled "Visions" aiming at building

1. *See generally* Ray Juraidini, *Global Governance and Labour Migration in the GCC*, *in* Global Governance and Muslim Organizations 339, 342–346 (Leslie A. Pal & M. Evren Tok eds., Palgrave Macmillan 2018). *See also* Abdulhadi Khalaf, *The Politics of Migration*, in Transit States: Labour, Migration and Citizenship in the Gulf 39, 39–56 (Abdulhadi Khalaf, Omar Al Shehabi, & Adam Hanieh eds., Pluto Press 2014).

2. Françoise De Bel-Air, *National and Foreign Populations in GCC Countries*, Gulf Labour Markets, Migration, and Population Programme (2025); Attiya Ahmad, *Beyond Labour: Foreign Residents in the Persian Gulf*, *in* Migrant Labor in the Persian Gulf 21, 21 (Mehran Kamrava & Zahra Babar eds., Columbia University Press 2012); *See generally* Andrew M. Gardner, *Why do they keep coming? Labour Migrants in Persian Gulf States*, *in* Migrant Labour in the Persian Gulf 41–58 (Mehran Kamrava & Zahra Babar eds., Columbia University Press 2012).

3. De Bel-Air, *supra* note 2, at 1. *Cf.* IMF, *Economic Diversification in the GCC: The Past, the Present, and the Future*, IMF Staff Discussion Note December 2014.

4. Abdulaziz Ali & Logan Cochrane, *Residency and citizenship in the Gulf: recent policy changes and future implications for the region*, 12 Comparative Migration Studies 16, at 25 (2024). Magdalena Karolak, *Long-Term Residence: GCC Countries Making a Shift Toward Inclusive Social Policies*, 8 Gulf Labour Markets, Migration, and Population Programme, at 2 (2024).

5. Kristian Coates Ulrichsen, *Economic Diversification in Gulf Cooperation Council (GCC) States*, at 3 (2017); *Kevin Stolarick & Loulia Kouchaji, Can Oil Generate Creativity? A Look* at *Qatar* and the *United Arab Emirates*, *in* Higher Education in the Global Age 226 (Daniel Araya and Peter Marber eds., Routledge 2013).

capacity and facilitating rapid legislative reforms.[6] These reforms have been visible not only in the field of construction and labor, but also culture, sports, and education, and in view of building knowledge-based societies in the GCC.[7] Subsequently, the number of migrants and expats has been steadily increasing in various sectors of the economy, ranging from construction to hospitality, health care and the cultural sector.[8] Gulf States therefore and in particular Qatar, the UAE, and Saudi Arabia have gradually become home to foreigners of different nationalities, ethnicities, languages, religions and ways of life.[9]

At the same time, however, general distinction between foreigners and citizens are still part of the very fabric of GCC countries.[10] Citizenship is generally associated with varieties of privileges and financial benefits, including ownership rights. Most constitutional guarantees are guaranteed to all persons,[11] yet specific guarantees including personal liberty and socio-economic rights in some

6. State of Qatar Government Communications Office, *Qatar National Vision 2030*, https://www.gco.gov.qa/en/state-of-qatar/qatar-national-vision-2030/programs-projects/ (last visited Jan. 15, 2026); *See also* Ilias Bantekas, *Legislating Through Policy Statements: The Authority of National Visions in the Arabian Gulf*, 44 Statute L. Rev 1 (2023) (arguing that "while these Visions are not meant as legislative instruments and have no value for private merchants as soft law, they set out the goals of the states in question and hence the entire machinery of the state is geared towards fulfilling these goals").

7. *E.g.*, Martin Hvidt, *Economic diversification in GCC countries: Past record and future trends*, Kuwait Programme on Development, Governance and Globalisation in the Gulf States 27 (2013), https://eprints.lse.ac.uk/55252/1/Hvidt%20final%20paper%2020.11.17_v0.2.pdf. The goal to create knowledge-based societies has been especially visible in Qatar; *id.* at 27 (arguing that 'Qatar has an explicit focus on creating a knowledge economy as a means to create a regional hub for knowledge and high-value industrial and service activities).

8. Juraidini, *supra* note 1, at 349.

9. Angel Tesorero, *UAE: Where cultures* meet, Khaleej Times 4 (Dubai 2019); *Cf.* Ryan Harrison, *GCC Citizenship Debate: A Place to Call Home*, Gulf Business (2014), https://gulfbusiness.com/gcc-citizenship-debate-a-place-to-call-home/.

10. Badria Abdullah Al-Awadhi, *Citizenship Rights in Selected Arab Constitutions* 559, 567, *in* Constitutionalism, Human Rights and Islam after the Arab Spring (Rainer Grote & Tilmann Röder eds., 2016); Jane Kinninmont, *Citizenship in the Gulf*, *in* The Gulf States and the Arab Uprisings 47, 50; Zahra Babar, *Economic Migrants and Citizenship in the GCC* 410–21, *in* Routledge Handbook of Citizenship in the Middle East and North Africa (2020); See also Zahra Babar, *The cost of belonging: citizenship construction in the state of Qatar*, 68 The Middle East J. 403, 410–421 (2014) ("at the broadest level, citizenship is legally consolidated along highly selective lines"). On the use of the particular term "citizens," see Soraya Altorki, *The Concept and Practice of Citizenship in Saudi Arabia*, *in* Gender and Citizenship in the Middle East 218, 218–19 (Suad Joseph ed., 2000) (stating that in Saudi Arabia, "citizen" has entered the vocabulary of the rulers, yet it is used in the same sense as "subjects").

11. The Permanent Const. of the State of Qatar June 8, 2004, art. 35 ("All persons are equal before the Law and there shall be no discrimination whatsoever on grounds of gender, race, language or religion."); The Permanent Const. of the State of Qatar June 8, 2004, art. 37 ("The sanctity of the individual's privacy shall be inviolable."); The Const. of the Kingdom of Bahr. Feb 14, 2002, art. 28 ("Individuals are entitled to assemble privately without a need for permission or prior notice.").

GCC Constitutions seem to be reserved only for citizens.[12] Foreign residents are exceptionally granted constitutional rights. For instance, the Qatari Constitution refers to foreigners' right to inviolability of property;[13] and the Saudi Basic law refers to the right to litigation;[14] and the Bahraini to exceptional access posts of public administration.[15] GCC Constitutions also mention certain obligations for foreigners, such as the obligation to preserve public property and observe public morality rules.[16] Given the demographics and citizenship construction across the GCC, restrictions to naturalization also exist in domestic nationality laws.[17] Women typically lose the right to confer nationality to their children if married to husbands of different nationality, even if from the GCC.[18] This follows, the differential role of women accorded by religion across the region in relation, for example, to children's custody, guardianship, and inheritance.[19]

The article studies precisely this oxymoron from a legal perspective: the fact that it is now possible for GCC States to promote diversity in some respects, while maintaining discriminatory structures and policies in other respects. Would

12. *E.g.*, The Permanent Const. of the State of Qatar June 8, 2004, art. 34 ("[C]itizens shall be equal in terms of public rights and duties."); The Const. of the U.A.E. July 1996, art. 26, ("Personal freedom is guaranteed to all citizens."); The Const. of the Kingdom of Bahr. Feb 14, 2002, art. 8 ("Every citizen is entitled to health care.");Basic Statute of the State [Constitution] Nov. 6, 1996, art. 12 ("Every Citizen has the right to engage in the work of his choice within the limits of the Law.") (Oman).

13. *E.g.*, The Permanent Const. of the State of Qatar June 8, 2004, art. 52 ("Every person who is a legal resident of the State of Qatar shall enjoy the protection of his person and property in accordance with the provisions of the Law.").

14. *E.g.*, Basic Law of Governance art. 47 ("All people, either citizens or residents in the Kingdom, are entitled to file suit on an equal basis.") (Saudi Arabia).

15. *E.g.*, The Const. of the Kingdom of Bahr. Feb 14, 2002, art. 16(a) ("Foreigners shall not be entrusted with public posts except in those cases specified by law.").

16. Basic Law of Governance art. 16 ("Public funds are inviolable. They shall be protected by the State and safeguarded by all citizens and residents.") (Saudi Arabia); Basic Statute of the State [Constitution] Nov. 6, 1996, art. 11 ("Public property is inviolable, the State shall protect it, and Citizens and residents shall preserve it." (Oman); *Id. at art.* 40 ("[R]especting public morals is a duty incumbent upon all residents of the Sultanate.").

17. *E.g.*, Law No. 38 of 2005 (on the acquisition of Qatari nationality) 30 October 2005 (Qatar); Federal Law No. 17 for 1972 (Concerning Nationality, Passports and Amendments Thereof) 18 November 1922 (U.A.E.); *Cf.* Babar, *supra* note 10, at 403; Kinninmont, *supra* note 10, at 54.

18. This is inviolation of Convention on the Elimination of All Forms of Discrimination Against Women art. 9, ¶ 2, Dec. 18, 1979, 1249 U.N.T.S. 13 ("States Parties shall grant women equal rights with men with respect to the nationality of their children.").

19. *E.g.*, Lena-Maria Möller, *Law: Modern Family Law, 1800-Present: Gulf States, in* Encyclopedia of Women & Islamic Cultures (2018); Saleh Alessa, *Sex Discrimination within Kuwaiti Laws. Part 2*, 24 Arab L. Quarterly 225, 241–43 (2010). *See generally* Kristen A. Stilt, Salma Waheedi & Swathi Gandhavadi Griffin, *The Ambitions of Muslim Family Law Reform*, 41 Harv. J. L. and Gender 301, 306–7; Shaheen Sardar Ali, Modern Challenges to Islamic Law 81–85 (2016) (discussing the wilaya-qiwama nexus and the "paradox of equality").

this imply that it is possible to promote diversity in "non-orthodox" ways (i.e. the traditional minority framework accommodation) without at the same time promoting equality? And would it be possible to maintain non-democratic structures of governance, while at the same time promoting diversity as a social and cultural value within societies in the Gulf setting? In other words, can diversity survive without equality and broader human rights guarantees? And what is the role of religion in the equation—if present at all?

In terms of structure, the Article is mapped as follows. Section 2 outlines the legal framework governing diversity under international human rights law, with particular emphasis on non-discrimination guarantees and the recent efforts to reform the sponsorship system. In this respect, the section examines GCC States' obligations under international law in relation to migrants, exploring the way that the regulation of migration through the sponsorship system impacts fundamental rights. It further examines the legal framework applicable to minorities, and stateless persons (*bidoons*). Section 3 examines in more detail the argument related to policy-based accommodation—rather than legal accommodation in the Western sense. Section 4 questions the relevance of the Islamic legal tradition—if relevant at all. The Article concludes that accommodation of diversity in the Gulf setting is primarily policy based, lacking essential human rights law guarantees related to non-discrimination and equality. In this respect, accommodation of diversity in these States is a *de facto* accommodation, which may only incidentally bring some fruits in the future.

II. The legal framework governing migration and sponsorship

A. Migrants, expats, and sponsorship rules

Sponsorship rules

Foreigners are present in the Gulf under sponsorship rules (*kafala*).[20] As a result of these rules, entry visas and residence—and consequently also certain rights—of workers and employees are dependent directly on either government or private employers.[21] It is almost impossible to enter or reside in the country without such prior arrangements and dependence on a sponsor,[22] while the

20. Babar, *supra* note 10, at 413–414; Juraidani, *supra* note 1, at 346–47; Majed Alzahrani, *The System of Kafala and the Rights of Migrant Workers in GCC Countries – With Specific Reference to Saudi* Arabia, *in* 16(2) European Journal of Law Reform 377, 382ff (2014); Maysa Zahra, *The Legal Framework of the Sponsorship Systems of the Gulf Cooperation Council Countries: A Comparative Examination*, Gulf Labour Markets and Migration (2019), https://gulfmigration.grc.net/media/pubs/exno/GLMM_EN_2019_04.pdf.

21. Interview with Ryszard Cholewinski, Senior Migration Specialist, International Labor Organization, Beirut Regional Office for Arab States (Feb. 1, 2023), https://gjia.georgetown.edu/2023/02/01/the-kafala-system-a-conversation-with-ryszard-cholewinski/.

22. *But see* Law No. 11 of 2018 (on the Regulation of the Political Asylum) 4 September 2018 (Qatar) (accepting asylum seekers in Qatar, the only GCC State that has introduced a law

exercise of all types of freedoms is subject to employers' approval.[23] Restrictions on migrant workers' rights such as freedom of movement, privacy and family life are therefore unavoidable. Restrictions affect to greater or lesser extent both unskilled migrant workers (manual laborers) and highly skilled tertiary graduates (expatriates), despite the fact the obvious inequalities between them.[24]

Violations of these rights persist not just in the GCC but also globally, including in Western liberal States that rank overall better in human rights compliance and have been cooperating with institutions such as the International Organization for Migration (IOM) and the International Labor Organization (ILO) for longer. In Europe for instance, the regulation of migration has become gradually rigid—and cruel—through draconian border controls and administrative detention,[25] and migrants are largely used in informal economies and structures[26]—or at best suffering from lack of integration policies.[27] In the United States too, income plays a decisive role in accessing services of quality.[28] Migrants are commonly subject to "restrictions on access to public health insurance programs" and the targets of "aggressive immigration enforcement activities" or even intimidation within health-care settings.[29]

Other restrictions associated with sponsorship encompass limitations to labor rights, not only in relation to wages, but also to other labor rights (such as employment transfer), and even personal autonomy. By way of illustration, the sponsor's prior consent might be needed in order to transfer one's employment elsewhere, or open a bank account, placing sponsored individuals in a position

on asylum).

23. *E.g.*, Alzahrani, *supra* note 20 at 383. *The System of Kafala and the Rights of Migrant Workers in GCC Countries – With Specific Reference to Saudi Arabia*, 16 European J. L. Reform 377, 397 (2014); *See also Policy Brief No. 2: Reform of the Kafala (Sponsorship) System*, Migrant Forum in Asia (2012), https://mfasia.org/policy-brief-no-2-reform-of-the-kafala-sponsorship-system/.

24. Zahra Babar, Michael Ewers & Nabil Khattab, *Im/mobile highly skilled migrants in Qatar*, J. of Ethnic and Migration Stud., July 9, 2018, at 1553, 1555.

25. Tazeena Sajjad, *Strategic Cruelty: Legitimizing Violence in the European Union's Border Regime* 2 Global Studies Quarterly 1, 3 (2022).

26. *See* Heikki S. Mattila, *Protection of Migrants' Human Rights: Principles and Practice*, 38 Int'l. Migration 53, 61 (2002); *Cf.* U.N. Comm'n on Hum. Rts., Working Grp. of Intergovernmental Experts on the Hum. Rts. of Migrants, Report of the working group of intergovernmental experts on the human rights of migrants, submitted in accordance with Commission on Human Rights resolution 1998/16, U.N. Doc. E/CN.4/1999/80 (Mar. 9, 1999).

27. Varun Aggarwal, Federica La China & Lucia Vaculova, *Irregular Migration, Refugees and Informal Labour Markets in the EU: The rise of European Sweatshops?*, European Inst. for Asian Stud. (2016), https://www.eias.org/wp-content/uploads/2016/04/Irregular_Migration_Website-1.pdf.

28. Sukanta Bhattacharya, Sarani Saha & Sarmila Banerjee, *Income inequality and the quality of public services: A developing country perspective*, 123 J. Development Economics, 1 (2016).

29. Dhruv Khullar & Dave A Chokshi, *Challenges for immigrant health in the USA—the road to crisis*, 393 The Lancet 2168, 2168 (2019).

of disadvantage compared to foreigners working under their own visas.[30] Also, foreigners can generally be expelled at any time if their employer decides that their contract is terminated. This is also reflected on labor laws, which maintain clauses according to which employment might be terminated without justification,[31] leading migrants to a "permanent state of temporariness."[32]

It is also evident that save for the occasional mediatised exceptions (in football for instance), migrant workers and expatriates are excluded from naturalization processes. Inequalities therefore are equally obvious in the case of older, and more settled Arab communities, whose members are unable to obtain citizenship through naturalization, despite their presence in the Gulf for two or three generations.[33]

Precisely because of its nature as tying the employee to the employer, however, the sponsorship system is very difficult to regulate and has potential for abuse. This is especially true for certain sectors of migrants—such as domestic workers for example. It is undisputable that across the GCC unskilled migrants—taken as a whole—live in precarious circumstances in stark comparison not only with citizens but also with other expatriates.[34] As a result, they enjoy a much narrower range of access to socio-economic and cultural rights,[35] amounting to labor exploitation.[36]

At the same time, migration to the GCC, appears to be beneficial in terms of development, since it allows migrants to send remittances back home—and therefore climb the social status ladder faster than local populations in their own

30. Alzahrani, *supra* note 20, at 383–384; *Saudi private schools exploit migrant women on dependent visas*, Migrant Rts. Rsch. Open Repository (Dec. 21, 2021), https://www.mrrors.org/2021/12/saudi-private-schools-exploit-migrant-women-on-dependent-visas/.

31. *E.g.*, Law No. 14 of 2004 (on the promulgation of Labour Law) art. 25, 65, 19 May 2004 (Qatar) (granting broad powers to the employer, such as dismissal of employees without notice as a matter of disciplinary action); *Cf.* Federal Decree by Law No. 33 of 2021 (Regulating Labour Relations) 20 September 2021 (U.A.E.).

32. Babar, *supra* note 10, at 418.

33. *Id.* at 412; *E.g.* Manal Jamal, *The other "Arab" and Gulf citizens: Mutual Accommodation of Palestinians in the UAE*, Arab Migrant Communities in the GCC 111, 111 (Zahra Babar ed., 2025).

34. Ali & Cochrane, *supra* note 4, at 30; *For a Better Life: Migrant Worker Abuse in Bahrain and the Government Reform Agenda*, Human Rights Watch (Sep. 30, 2012), https://www.hrw.org/report/2012/09/30/better-life/migrant-worker-abuse-bahrain-and-government-reform-agenda.

35. Int'l Lab. Org. [ILO], *Review of National Social Protection Legislation and Legal Frameworks for Migrant Workers in the Gulf Countries*, 1 Beirut: International Labour Office 2023, at 71–98, https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@arabstates/@ro-beirut/documents/publication/wcms_886063.pdf.

36. Babar, *supra* note 10, at 411–12; *E.g.*, Rima Kalush & Vani Saraswathi, *Reforms without Rights: The GCC states' blinkered view of labour reforms*, Gulf Labour Markets and Migration (2024), https://gulfmigration.grc.net/wp-content/uploads/2024/09/Kalush-Saraswathi-Reforms-without-Rights-Published-2024–09–09.pdf.

home countries.[37] Indicatively, remittances from GCC to other States counted for over one hundred billion USD in 2024, which means that "as a share of GDP or on a per capita basis, the GCC region is by far the top source region for outward remittances worldwide."[38] Furthermore, there has been a visible trend to reform legislation related to sponsorship, especially in Qatar, Saudi Arabia and the Emirates.[39] The amendments to the Qatari legal framework for example, contribute to improving working conditions to a certain extent.[40] Taken as a whole however, the reforms have not addressed the problems of migrants' exclusion and exploitation as a whole nor have they addressed the limitations to family reunification.[41] This is especially true with respect to the most vulnerable ones (such as domestic workers).[42] There are also clearly varieties in the extent of these reforms and their implications in the six GCC countries, and it might be early to come to definite conclusions.[43]

Human rights available to migrants and the principle of non-discrimination

It makes sense in this part to examine how distinct rights are affected by sponsorship rules. The first question that arises is the applicability of human rights to migrant workers as part of State obligations to safeguard human rights within its territory and within its jurisdiction.

37. Juraidini, *supra* note 1, at 342 (noting that "Asian origin countries . . . have come to rely so heavily on migrant worker remittances as one of their most important sources of foreign currency earnings").

38. Dilip Ratha, Sonia Plaza, & Eung Ju Kim, *Bilateral Remittance Matrix (new)*, World Bank Blogs (Dec. 19, 2022), https://blogs.worldbank.org/en/peoplemove/bilateral-remittance-matrix-new (noting that "[t]he six Gulf Cooperation Council countries accounted for about $134 billion in outward remittance flows in 2021").

39. Law No. 19 of 2020 (amending certain provisions of Qatar Law No. 21/2015 related to organizing the entry and exit of expatriates and their residence) 30 August 2020 (Qatar); Law No. 17 of 2020 (Determining the National Minimum Wage for Workers and Domestic Workers) 30 August 2020 (Qatar); *See* International Labour Organization, *Regulatory framework governing migrant workers*, https://www.ilo.org/publications/qatar-regulatory-framework-governing-migrant-workers-0 (December 14, 2023).

40. Ahmed Aref, *Social Inclusion and Exclusion in GCC Labour Policy Transformations: Evidence from Qatar and Saudi Arabia*, 14 J. Pol. & L. 124, 134–5 (2021).

41. Aref, *supra* note 40, at 137 (noting that family reunification is dependent on income).

42. Juraidini, *supra* note 1, at 349; Nadine El-Dekmak, *Reforming the Kafala System: Persistent Violations of the Rights of Migrant Domestic Workers and the Role of Private Recruitment Agencies*, Georgetown J. of Int'l Affairs (March 21, 2025).

43. *Id.* (finding for example, that so far the policy transformations have led to a "social inclusion trend in Qatar and exclusion in Saudi Arabia"); Ali & Cochrane, *supra* note 4 at 32 (concluding that "future implications of changing citizenship and residency laws in the UAE, Qatar, and Saudi Arabia are complex and multifaceted" and that "the full extent of their impact will depend on how they are managed"); *See also* Hamdullah Baycar, *Promoting multiculturalism and tolerance: Expanding the meaning of "unity through diversity" in the United Arab Emirates*, Digest of Middle East Studies 1, 40–41 (2022) (arguing that, it is unlikely that the reforms in the Emirati citizenship law which allow naturalization will have real implications).

There is still no general international law rule compelling States not to regulate migration within their territory or not to safeguard their borders. States are in principle free to regulate entry and exit requirements for specific types of work, with certain safeguards, "taking into account only the characteristics of the productive activity and the individual capability of the workers."[44] The principle of non-discrimination is arguably the greatest limitation to State practice, given its centrality in human rights law—noting also that it has been argued that it maintains customary law status and that it has "entered the domain of *jus cogens*."[45] Non discrimination obligations permeate international human rights law. The latter imply that any differentiated treatment is prohibited only insofar as there is no objective and reasonable justification.[46] According to the principles and guidelines issued by the Office of the High Commissioner for Human Rights ('OHCHR'),[47] States should align their legislation with human rights law, and ensure that 'human rights are at the centre of the governance of migration at international border'.[48] They should guarantee in particular the presence of procedural safeguards, for example, against arbitrary detention of migrants.[49] Differential treatment at the borders, for instance, shall be legitimate in exceptional circumstances, provided it is non-discriminatory, and assuming it pursues legitimate and proportionate aims.[50]

All remaining core international human rights law guarantees apply in principle to migrants, including equal protection before the law. In its interpretation of the nature of obligations stemming from the International Covenant on Civil and Political Rights (ICCPR), for instance, the UN Human Rights Committee emphasized that civil and political rights should be available not just to citizens, but also to all those within the territory and within the jurisdiction of all States. In particular, the Committee found that:

> ". . . the enjoyment of Covenant rights is not limited to citizens of States Parties but must also be available to all individuals, regardless of nationality or statelessness, such as asylum seekers, refugees, migrant workers and other persons,

44. Juridicial Condition and Rights of the Undocumented Migrants, Mexico, Advisory Opinion OC-18/03, Inter-Am. Ct. H.R. (ser. A) No. 18, at 112, ¶ 169 (Sept. 17, 2003).

45. *Id.* at 113, ¶ 3, 4.

46. Daniel Moeckli, *Equality and Non-Discrimination*, *in* International Human Rights Law 153 (Daniel Moeckli, Sangeeta Shah & Sandesh Sivakumaran eds., Oxford University Press 2020).

47. U.N. Secretary-General, *Promotion and protection of human rights, including ways and means to promote the human rights of migrants*, ¶ 72–74, U.N. Doc.A/69/277 (Aug. 7, 2014).

48. U.N. Hum. Rts. Office of the High Comm'r, Recommended Principles and Guidelines on Human rights at International Borders, at 14 (Oct. 23, 2014), https://www.ohchr.org/en/documents/tools-and-resources/recommended-principles-and-guidelines-human-rights-international.

49. *Id.* at 33.

50. *Id.*

> who may find themselves in the territory or subject to the jurisdiction of the State Party."[51]

Likewise, the International Convention on Economic, Social and Cultural Rights (ICESCR) should be available, in principle, to all human beings—regardless of nationality. The Committee on Economic, Social and Cultural Rights (CESCR) in its General Comment regarding the interpretation of the ICESCR, pointed out that:

> "the principle of non-discrimination extends to all persons of school age residing in the territory of a State party, including non-nationals, and irrespective of their legal status."[52]

In the Gulf setting, socioeconomic rights—particularly the right to an adequate standard of living, the right to the highest attainable standard of health, and the right to social security—seem to be affected by sponsorship rules. These rights are afforded protection at the international level by relevant ILO conventions,[53] but also the ICESCR, and the Convention on the Rights of Migrants.[54] A particularly relevant provision in the ICESCR is the right to enjoyment of just and favourable conditions of work and the right to equal pay for equal work.[55] This is because of lack of fairness in wages (since the latter can be determined by bilateral agreements depending on nationality) and the absence of a "wage floor."[56] Liability of Gulf States could also be triggered by lack of access to effective remedies, the mechanisms of redress against discriminatory policies, and more generally the lack of appropriate legal remedies. This is even more true in the case of unskilled migrants, who may be unable to reach out to legal assistance

51. U.N. Hum. Rts. Comm., General Comment No. 31 [80]: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (May 26, 2004).

52. U.N. Comm. On Econ., Soc. and Cultural Rts., Implementation of the International Covenant on Economic, Social and Cultural Rights, General Comment No. 13 (Twenty-first Session, 1999): The right to education (article 13 of the Covenant), U.N. Doc. E/C.12/1999/10 (Dec. 8, 1999)

53. *E.g.*, Int'l Lab. Org. [ILO], *Convention concerning Migration for Employment (Revised 1949)* (Jul. 1, 1949), https://www.refworld.org/legal/agreements/ilo/1949/17672.

54. U.N. Comm. On Migrant Workers, Joint Guidance Note on the Impacts of the COVID-19 Pandemic on the Human Rights of Migrants, UN Committee on the Protection of the Rights of all Migrant Workers and Members of their Families and UN Special Rapporteur on the human rights of migrants (May 26, 2020), https://www.ohchr.org/sites/default/files/Documents/Issues/Migration/CMWSPMJointGuidanceNoteCOVID-19Migrants.pdf.

55. G.A. Res. 2200A (XXI), *International Covenant on Economic, Social, and Cultural Rights*, art. 7 ("The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular: (a) Remuneration which provides all workers, as a minimum, with (i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work.") (December 16, 1966).

56. Kalush & Saraswathi, *supra* note 36, at 8–9.

because of the complexity and high costs involved as well as the lack of judicial independence.[57] Non-Gulf States that sanction similar practices should also be held liable. This is the case of the British laws on "overseas domestic workers," for example, which ties employee to employer, without giving them the option to freely change their employer.[58] Last, liability for non-discrimination could incur under the International Convention on Elimination of Racial Discrimination (ICERD) in case of accepting, for example, only certain nationalities as expatriates and migrant workers.[59] This is because discrimination on the grounds of race, nationality, or ethnicity may well constitute a violation of international human rights law and the law of non-discrimination insofar reasonable and objective grounds are not suggested by the State.[60]

In addition, protection to undocumented migrants is afforded by customary international law, which lays down minimum standards of treatment of aliens and lays forth several obligations through which States must make such rights accessible without discrimination.[61] All States must, therefore, avoid falling below the minimum standard of treatment that should be accorded to undocumented migrants as a matter of human dignity. Such standards and obligations include for example, *habeas corpus,* the protection of the right to life, liberty, legal hearing etc[62] and apply to both mixed flows upon reception, as well as undocumented migrants, especially the most vulnerable among them.[63] This is also the spirit of the ILO principles which associate labor practices with human rights, stating for instance that:

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57. Salma Waheedi, *Guarantees and Challenges of Judicial Independence: The Constitutional Courts of Kuwait and Bahrain as Case Studies, in* Constitutional Review in the Middle East and North Africa (Anja Schoeller-Schletter ed., 2021).

58. *See e.g.*, Kalayaan et. al., *Submission from UK organizations to the call of the UN Special Rapporteur on trafficking in persons, especially women and children*, Kalayaan 2 (Mar. 2, 2025), https://www.kalayaan.org.uk/wp-content/uploads/2025/03/Kalayaan_et_al_UNSR_Trafficking_call_migrant_domestic_workers_2025.pdf; *See also*, Virginia Mantouvalou, *"Am I Free Now?" Overseas Domestic Workers in Slavery,* 42 J. L. and Society 329, 329 (2015).

59. G.A. Res. 2106 (XX), *International Convention on the Elimination of all Forms of Racial Discrimination*, art. 1 (Dec. 21, 1965).

60. *See e.g.*, Comm. On the Elimination of Racial Discrimination, Opinion adopted by the Committee under article 14 of the Convention, concerning communication No. 53/2013, U.N. Doc. CERD/C/91/D/53/2013 (Jan. 23, 2017).

61. *See* Lung-chu Chen, *Protection of Persons (Natural and Juridical),* 14 Yale J. of Int'l. L. 542 (1989); Patrick Thornberry, *Is There a Phoenix in the Ashes?-International Law and Minority Rights*, 15 Texas Int'l L. J. 421, 423 (1980).

62. *See also*, Eibe Riedel, Gilles Giacca and Christophe Golay, *The Development of Economic, Social, and Cultural Rights in International Law*, Economic, Social, and Cultural Rights in International Law: Contemporary Issues and Challenges 3, 21 (Eibe Riedel, Gilles Giacca and Christophe Golay eds., OUP 2014).

63. Khlaifia v. Italy, App. No. 16483/12, ¶ 157 (Dec. 15, 2016), https://hudoc.echr.coe.int/fre?i=001–170054; *Cf*., E.T. and N.T. against Switzerland and Italy, App. No. 79480/13 (May 30, 2017), https://hudoc.echr.coe.int/fre?i=001–174975.

> "Recruitment should take place in a way that respects, protects and fulfils internationally recognized human rights, including those expressed in international labour standards, and in particular the right to freedom of association and collective bargaining, and prevention and elimination of forced labour, child labour and discrimination in respect of employment and occupation." [64]

At the international level, cases regarding the interpretation of the non-discrimination principle appear only sporadically. Interestingly, Qatar itself has brought forward such as complaint before both the ICJ[65] and the CERD Committee, [66] complaining about discrimination and expulsion of Qatari citizens from the UAE and Saudi Arabia respectively. The two bodies came to different outcomes—given the lack of express reference to nationality in the ICERD.[67] Guidance with respect to the interpretation of non-discrimination more generally and specifically in relation to migrant workers, could be sought in the regional systems' jurisprudence, and in particular, the European and Inter-American systems of human rights. These bodies place non-discrimination at the heart of human rights law. According to the European Court of Human Rights, non-discrimination is a core value of human rights law, and "as a general rule, very weighty reasons would have to be put forward before the Court could regard a difference in treatment based exclusively on the grounds of nationality as compatible with the Convention."[68] Moreover, the Inter-American Declaration on the Rights of Immigrants states that:

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64. Int'l Lab. Org. [ILO], *General principles and operational guidelines for fair recruitment and Definition of recruitment fees and related costs*, 12 (2019), https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@ed_protect/@protrav/@migrant/documents/publication/wcms_703485.pdf.

65. Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Qatar v. U.A.E.), Judgment, 2021 I.C.J. 1221, ¶ 27, 54 (Feb. 4) (In its submissions, Qatar requested the jurisdiction of the Court for discrimination based on "national origin," not nationality, without, clearly addressing the differentiation between origin and nationality.).

66. Comm. on the Elimination of Racial Discrimination, Admissibility of the inter-state communication submitted by Qatar against the Kingdom of Saudi Arabia, U.N. Doc. CERD/C/99/6 (Aug. 30, 2019); Comm. on the Elimination of Racial Discrimination, Decision on the jurisdiction of the Committee in respect of the inter-state communication submitted by Qatar against the Kingdom of Saudi Arabia, U.N. Doc. CERD/C/99/3 (June 18, 2020); *See generally* David Keane, *CERD Reaches Historic Decisions in Inter-State Communications*, EJIL: Talk! (Sept. 6, 2019), https://www.ejiltalk.org/cerd-reaches-historic-decisions-in-inter-state-communications.

67. *See generally* David Keane, *Application of the CERD Convention (Qatar v UAE) and "Parallel Proceedings" before the CERD Committee and the ICJ*, EJIL: Talk! (May 17, 2019), https://www.ejiltalk.org/application-of-the-cerd-convention-qatar-v-uae-and-parallel-proceedings-before-the-cerd-committee-and-the-icj/.

68. *E.g.*, Gaygusuz v. Austria, App. No. 17371/90 (Sept. 16, 1996), https://hudoc.echr.coe.int/eng?i=001–58060; Ribać v. Slovenia, App. No. 57101/10 (Mar. 5, 2018), https://hudoc.echr.coe.int/fre?i=001–179215.

> "it is not admissible for a State of employment to protect its national production, in one or several sectors by encouraging or tolerating the employment of undocumented migrant workers in order to exploit them, taking advantage of their condition of vulnerability in relation to the employer in the State or considering them an offer of cheaper labor, either by paying them lower wages, denying or limiting their enjoyment or exercise of one or more of their labor rights, or denying them the possibility of filing a complaint about the violation of their rights before the competent authority."[69]

This level of protection is also proclaimed in the 1985 Declaration on the Human rights of individuals who are not nationals of the country in which they live. This document extends human rights guarantees to aliens, including therefore all types of foreigners, expatriates, skilled and unskilled labor workers, as well as stateless persons.[70]

B. Bidoons (stateless persons), minorities and tribes

Bidoons

Bidoons are stateless persons who are willfully denied of nationality and documentation.[71] The exact origin of the term has been associated to Bedouins, however, *bidoon* also means 'without'—hence is associated with lack of recognition. In Kuwait, in particular, the *bidoon* issue is a defining aspect of identity politics and parliamentary debates.[72] In most cases *bidoons* are still excluded from a number of services[73] and characterized as illegal residents.[74] In other GCC

69. Inter-American Principles on the Human Rights of all Migrants, Refugees, Stateless Persons and Victims of Human Trafficking, Resolution 04/19, Inter-Am. Comm'n H.R., Principle 13, ¶ 1 (Dec. 7, 2019), https://www.oas.org/en/iachr/decisions/pdf/Resolution-4–19-en.pdf.

70. Rep. of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action: Road map to commemorate the twenty-fifth anniversary of the adoption of the Durban Declaration and Programme of Action, U.N. Doc. A/HRC/60/76 (Jul. 24, 2025); Hum. Rts. Council Intergovernmental Working Group on the effective implementation of the Durban Declaration and Programme of Action, Complementary International Standards: Report on the study by the five experts on the content and scope of substantive gaps in the existing international instruments to combat racism, racial discrimination, xenophobia and related intolerance, U.N. Doc. A/HRC/4/WG.3/6, ¶ 130 (Aug. 27, 2007).

71. Al-Awadhi, *supra* note 10, at 559; *See* Claire Beaugrand, Stateless in the Gulf: Migration, Nationality, and Society in Kuwait (Bloomsbury 2018).

72. Ghanim Alnajjar, *The Challenges Facing Kuwaiti Democracy*, 54(2) Middle East Journal 240, 242–258 (2000). Also, Ghanim Alnajjar, *Citizenship, Identity and Human rights in Kuwait*, The Making of Contemporary Kuwait: Identity, politics and its survival strategy 241, 249 (Sinem Cengiz & Mahjoob Zweiri eds., 2024).

73. Minority Rights Group, *Bidoon in Kuwait*, https://minorityrights.org/communities/bidoon/ (last visited Aug. 8, 2025).

74. U.N. International Covenant on Civil and Political Rights, Hum. Rts. Comm., Concluding observations on the fourth periodic report of Kuwait, U.N. Doc. CCPR/C/KWT/CO/4, at 3, ¶ 12–13, (Nov. 22, 2023); *See also*, MENA Rights Group, Joint submission ahead of Kuwait's review by the UN Committee on the Rights of the Child, https://www.menarights.

countries, *bidoons* may not be enjoy the same range of benefits as citizens, or may be denied certain types of employment.[75] When outside the country of residence they may not be entitled to return to it; hence, they are arbitrarily denied the right either to return to their own countries or denied re-entry. This has been evidenced in the case law of refugee tribunals around the world, which have heard cases of *bidoon* unable to return to their countries of residence.[76] State practice on the matter, however, indicates that not all stateless persons may be immediately characterized as "refugees."[77] *Bidoons* unable to return to their countries of habitual residence,= may be offered refugee status in those countries—as long as they prove that denial of nationality amounts to persecution. In the UK, in particular, since *BA and other Bidoons* are characterized as a particular social group under the grounds of the 1951 Refugee Convention.[78]

Developments in the region indicate progress on civil liberties in the early 2010, and a decline in the new decade. Despite participation in human rights treaties, there are no steady developments in the region that support the postulate of a definite 'human rights trend'.[79] By way of example, with respect to the *bidoon* issue, some *bidoons* were naturalized in 2011 and 2013 in Kuwait.[80] Following this move, however, nationality laws became gradually more restrictive, while recently at least forty thousand Kuwaiti-*bidoons* were stripped of their nationality.[81] Furthermore, according to various UN reports, discrimination persists in

org/en/documents/mena-rights-group-submits-joint-submission-committee-rights-child-rights-bidoon-children (last visited Aug. 4, 2025); *See generally*, Mary Ann Tetreault & Haya al-Mughni, *Gender, Citizenship and Nationalism in Kuwait*, 22 Brit. J. of Middle Eastern Stud. 64, 71–72 (1995).

75. *See* Laura van Waas, The situation of stateless persons in the Middle East and North Africa (October 2010), https://www.unhcr.org/media/situation-stateless-persons-middle-east-and-north-africa-laura-van-waas; Eleni Polymenopoulou, *Human Rights in the Six Arab States of the Gulf Cooperation Council (GCC): From Vision to Reality*, 3 Cardozo Int'l & Compar. L. Rev. 929, 941 (2020).

76. Hélène Lambert, U.N. Hum. Rts. Comm'r. for Refugees, *Refugee Status, Arbitrary Deprivation of Nationality, and Statelessness within the Context of Article 1A(2) of the 1951 Convention and its 1967 Protocol relating to the Status of Refugees*, U.N. Doc. PPLA/2014/01 (Oct. 2014).

77. *Id.* at 43–44.

78. *Id.*

79. Başak Çalı, Nazila Ghanea & Benjamin Jones, *Big Promises, Small Gains: Domestic Effects of Human Rights Treaty Ratification in the Member States of the Gulf Cooperation Council*, 28 Hum. Rts. Quarterly 21, 52–3 (2016); Eleni Polymenopoulou, *Sharia and Human Rights Law in the Constitutional Framework of Gulf States*, 46 Hum. Rts. Quarterly 1, 11 (2024).

80. Arab News, *Kuwait to naturalize 4,000 stateless people* (Mar. 21, 2013), https://www.arabnews.com/news/445514 (last visited Aug. 8, 2025).

81. *E.g.*, MENA Rights Group, Kuwaiti government must end campaign of mass citizenship stripping and repeal recent amendments to Nationality Law (Feb. 11, 2025), https://www.menarights.org/en/articles/kuwaiti-government-must-end-campaign-mass-citizenship-stripping-and-repeal-recent (last visited Jul. 26, 2025); Khitam Al Amir, *Kuwait to review legal*

relation to *bidoon* children who cannot have access to the same type of schooling facilities as nationals.[82] Such exclusion is certainly not aligned with human rights standards. The ICERD, in particular, has highlighted that all Gulf countries are parties to the Convention, and as a result: "States Parties undertake to [. . .] guarantee the right of everyone to [. . .] equality before the law, notably in the enjoyment of [. . .] the right to nationality".[83] Precisely because of the gap between citizens and non-citizens and the lack of guarantees related to accessible justice and the right to a nationality, stateless persons such as the Bidoons are frequently—and in fact are in practice—excluded from most services and privileges. Also, in *Zhao,* concerning the 13,000 unknown children of the Netherlands, the UN HRC Committee found that a child cannot remain registered as possessing an undefined nationality for a period over five years.[84]

Tribes

Minorities enjoy certain characteristics such as different religion or language, identity, and self-identify as such. This is not true of tribe members in the GCC, given that these populations are generally both Arab and Muslim. Discriminating against tribes therefore is usually accompanied by a claim for equality in access to governance.

Under international human rights law, persons belonging to ethnic, religious, or linguistic minorities "shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language."[85] This provision does not grant collective rights to minorities—it implies rather parsimonious protection to minority rights. Human rights bodies have only recognized a "collective dimension" to these rights—without ever denying their individual nature.[86] Ethnic and racial minorities in particular are additionally afforded protection through the ICERD.[87]

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status of foreign wives of citizens stripped of citizenship, Gulf News (Jun. 14, 2025), https://gulfnews.com/world/gulf/kuwait/kuwait-to-review-legal-status-of-foreign-wives-of-citizens-stripped-of-citizenship-1.500197420 (last visited Jul. 25, 2025).

82. Press Release from Catalina Devandas-Aguilar (Special Rapporteur on the rights of persons with disabilities), Kuwait: UN expert calls for the full social inclusion of people disabilities by 2035 (Dec. 5, 2018) (on file with the U.N. Human Rights Office of the High Commissioner).

83. G.A. Res. 2106 (XX), *supra* note 59, at 5.

84. Ann Skelton, Access to justice and remedy for Denny Zhao, one of the Netherlands' 13 000 'unknown' children', Leiden Children's Rights Observatory, (2018), https://www.childrensrightsobservatory.org/case-notes/casenote2021–8 (last visited Aug. 5, 2025).

85. G.A. Res. 2200A (XXI), *supra* note 55, art. 27.

86. *See* Andrzej Jakubovsky, Cultural Rights as Collective Rights: An International Law Perspective (Andrzej Jakubovsky ed., Brill 2016).

87. *See generally*, David Keane, Caste-based Discrimination in International Human Rights Law (Ashgate 2007); David Keane & Annapurna Waughray, Fifty Years of the International Convention on the Elimination of All Forms of Racial Discrimination

In the context of the Arabian Gulf, a case that acquired some publicity during the UPR review of Oman is that of an Omani tribe deprived of its name and labelled by the Omani government with the name of a different tribe, hence implying the tribe members' role as servants of that other tribe.[88] Such treatment constitutes a prima facie violation of the ICERD to which Oman is a party to. The ICERD states precisely that "States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, color, or national or ethnic origin, to equality before the law in the enjoyment of all human rights" (art 2). In equal measure, electoral laws that exclude certain tribes either directly or indirectly amount to violations of the ICERD and specifically political rights—namely, the "right to participate in elections-to vote and to stand for election-on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service."[89] In the case of Qatar, for example, Law No 38 of 2005 (known as the Nationality Law)[90] distinguished between citizens with "original' nationality" (i.e. descendants of Qataris that were citizens in 1930) and those considered "naturalized." Persons that underwent naturalization did not receive the full gamut of citizens' rights, but only the right to vote and only if their grandfathers were Qatari and born in Qatar. This distinction was incorporated in the later electoral Law No 6 of 2021.[91] Sometimes however members of certain tribes may be discriminated against because of exclusion based on descent and ethnic origin.[92]

Religious minorities

Gulf states are predominantly Sunni. Saudi Arabia and Qatar follow the Hanbali school, although the former is also largely influenced by Wahhabism as well as the so-called 'scripturalists' (hence the 'strict version' of the Sharia). Omanis follow the Ibadi school of thought; Emiratis and Kuwaitis follow various schools but primarily Maliki; while Bahrainis are predominantly Shia—in their majority belonging to the Ashriya sect of Islam and following the Ja'fari school of thought.[93] A question that naturally arises therefore is that concerning the

(Manchester University Press 2017).

88. *E.g.*, Report on Violations of the Minority Rights of the Al Tuwaiya people in Oman, UPR Info, (2010), https://upr-info.org/sites/default/files/documents/2013–09/tdftamkeendevelopmentfoundationeng.pdf; *See also* Hum. Rts. Council, Report of the Working Group on the Universal Periodic Review, U.N. Doc. A/HRC/17/3 (Mar. 8, 2011).

89. G.A. Res. 2106 (XX), *supra* note 59, art. 5.

90. Law No. 38 of 2005, *supra* note 17.

91. Law No. 6 of 2021 (Law on the Election System of the Shura Council) art. 2(1), 29 July 2021 (Qatar).

92. *E.g.*, Middle East Eye, Protests erupt in Qatar over new electoral law that 'excludes' local tribe (Aug. 10, 2021), https://www.middleeasteye.net/news/qatar-tribe-protests-new-electoral-law-it-says-excludes-them (last visited Apr. 22, 2026).

93. See generally, Helen Chapin Metz, Persian Gulf States (Library of Congress 1994).

protection of religious minorities—whether there are any policies of accommodation, and whether remedies against religious discrimination are effective.

Freedom not to have or to change one's belief and the practice of proselytism are generally not acceptable in the Arab world. Muslim States generally penalize apostasy,[94] which is one of the most serious crimes under Islamic law.[95] The Gulf setting is no exception to this. Religious discrimination is present in relation to Shia Muslims. Shia populations however are a particularly diverse group, not only ethnically but also religiously.[96] Sectarian power dynamics have shifted following the Iranian Revolution of 1979, and the fall of Saddam Hussein. According to Shanneik:

> "after the collapse of the Ottoman Empire [. . .] the Shiʿi population in the Arab Gulf had to construct new identities and to redefine their relations with newly emerging states, and to non-Shiʿi ruling elites backed by Western powers [. . . .] and [. . .] the degree of the new Arab nation-states' accommodation and acceptance of their Shiʿi populations has varied according to geopolitical changes in the region."[97]

In Saudi Arabia, 20% of the population is Shia. To this day, however, it is not possible to build Shia mosques and openly practice Shiism,[98] and Shiites are not permitted to work for the government.[99] In Bahrain too, allegations of persecution of Shias and targeting of religious clerics and Shia dissidents, appear to be common.[100] This is despite the large number of Shia Muslims in the Bahraini population and the fact that the 1973 Bahraini Constitution includes safeguards

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94. Kamran Hashemi, *Religious Legal Traditions, International Human Rights Law and Muslim States*, 26(2) Jour. of L. and Religion 701 (2010).

95. *E.g.*, Intisar A Rabb, *Negotiating Speech in Islamic Law and Politics: Flipped Traditions of Expression*, *in* Islamic Law and International Human Rights Law 144 (Oxford University Press 2012); Abdullah Saeed, *Pre–modern Islamic Legal Restrictions on Freedom of Religion*, *in* Islamic Law and International Human Rights Law 226 (Oxford University Press 2012).

96. Yafa Shanneik, The Art of Resistance in Islam 39 (Cambridge University Press 2022) (on the Trajectories of Shiʿis in the Gulf).

97. *Id.* at 36. *See generally*, Frederic M Wehrey, Sectarian Politics in the Gulf: From the Iraq War to the Arab Uprisings 16 (Columbia University Press 2014).

98. *See* Human Rights Watch, https://www.hrw.org/news/2023/07/20/submission-universal-periodic-review-kingdom-saudi-arabia (last visited Apr. 22, 2026).

99. Safaa Abdel Qader, Second-Class Citizenship: Discrimination Against Shia Communities in the Gulf, Muwatin (Sep. 26, 2024), https://muwatin.net/en/67036/second-class-citizenship-discrimination-against-shia-communities-in-the-gulf/ (last visited Aug. 5, 2025); U.S. Department of State, Kuwait 2023 Human Rights Report Executive Summary (2023), https://www.state.gov/wp-content/uploads/2024/02/528267-KUWAIT-2023-HUMAN-RIGHTS-REPORT.pdf.

100. Press Release, Heiner Bielefeldt (Special Rapporteur on freedom of religion or belief), Bahrain should stop persecution of Shi'a Muslims and return its citizenship to their spiritual leader (Apr. 24, 2014), https://www.ohchr.org/en/press-releases/2014/04/bahrain-should-stop-persecution-shia-muslims-and-return-its-citizenship (last visited Apr. 22, 2026).

against religious discrimination,[101] and the fact that Ashura celebrations constitute a public holiday.[102] Muslim sects such as the Bah'ais—whose size is unknown—are also typically targeted. An example is the refusal to grant 'certificates of good conduct' to Bahais by public authorities.[103]

III. Is the Islamic legal tradition relevant?

A. Non-Muslim minorities in the classical Islamic tradition

In the pre-modern era, Muslim minorities on the contrary were organised primarily as *Madhabs* and sufi orders.[104] The question of minority management therefore arose particularly in relation to non-Muslims. Following the Islamic conquests of Europe and Northern Africa by the companions of the Prophet and the rightly guided Caliphs that led to the spread of Islam, the question of integration of non-Muslim populations arose. Non-Muslims minorities had an inferior status compared to Muslims.[105] Coulson suggests that the status of non-Muslims during the Umayyads was modelled on the Eastern Roman empire—with the contract of *dhimma* (embodying the concept of *fides* in Roman law).[106]

Furthermore, a difference was made between the People of the book (ahl il-kitab or *dhimmis*), and unbelievers (who did not believe in any scriptures). *Dhimmis* were the followers of all Abrahamic religions pre-existing Islam, and therefore, not only Christians and Jews, but also Zoroastrians and Sabi. The unbelievers were to be killed on sight, unless they enjoyed a security treaty granting them temporary protection (*amman*).[107] The *dhimmis* were also able to maintain their own laws of personal status.[108] This was required by the feasibility of the empire—and the "imperial enterprise of governance" of the Muslim polity.[109] *Dhimmis* were allowed accommodations in order to ensure good

101. Constitution of the Kingdom of Bahrain, art. 18.

102. HRH the Crown Prince and Prime Minister Issues Ashura Holiday Circular (Jun. 30, 2025), https://www.pmo.gov.bh/en/article/hrh-the-crown-prince-and-prime-minister-issues-ashura-holiday-circular-1447 (last visited Apr. 22, 2026); Samid Darawsheh, *Human Rights in the Constitutions of the Gulf Cooperation Council Countries (GCC): Texts and Realities* 11(2) Beijing L. Rev. 519, 528.

103. Human Rights Watch, *Qatar: Authorities' Religious Discrimination Against Baha'is Members Unlawfully Detained, Deported Due to Their Faith* (May 25, 2025), https://www.hrw.org/news/2025/05/25/qatar-authorities-religious-discrimination-against-bahais.

104. Recep Senturk, *Minority Rights in Islam: From Dhimmi to Citizen*, *in* Islam and Human Rights: Advancing a US-Muslim Dialogue 67, 81 (Shireen T. Hunter and Huma Malik eds., Center for International and Strategic Studies 2005).

105. Abdullahi An-Naim, *Religious Minorities under Islamic Law and the Limits of Cultural Relativism* 9 Human Rights Quarterly 1 (1997); Abdullah Saeed, Freedom of Religion, Apostasy and Islam (Ashgate 2004). *See also* Hashemi, *supra* note 94.

106. Noel Coulson, A History of Islamic law 27 (1st ed. 2011)

107. An-Naim, *supra* note 105, at 12; Senturk, *supra* note 104, at 76.

108. Coulson, *supra* note 106, at 12.

109. Anver M. Emon, Religious Pluralism and Islamic Law: Dhimmis and Others in the

governance within the Muslim State while also enjoying certain immunities from Sharia obligations.[110] This was in exchange of payment of a poll tax—the *jizya*. There are disagreements about the exact scope of the *jizya*, although it does seem that it was not meant to be unbearable and could be also paid in instalments.[111] Its purpose was multi-fold. Firstly, it imposed on Muslims to protect the lives and property of non-Muslims, while also reminding them of their status as subordinate to Muslims (although Muslims were also required to pay various other taxes as part of Muslim duties, such as the *zakat*). [112] Secondly, it constituted an incentive to convert, once witnessing the benefits and virtues of the Sharia (which is also why *jizya* liability would end at the moment of conversion).[113] *Dhimmis* would be granted rights and citizenship only once they submitted to Muslim sovereignty.[114] As long as they maintained their *dhimmi* status, they were excluded from positions in the public administration or governance—such as holding political or judicial office.[115]

As Emon highlights, however, there was some agreement among early Islamic jurists that the *dhimmi* contract was also a mechanism of inclusion. Al Ghazali for example believed that Muslims and *dhimmis* were entitled and burdened alike, simply by virtue of the contract, while other writers, such as al-Shirazi thought that the Islamic enterprise of governance imposed the "respect of the dhimmis' distinct traditions" to the extent that they coincided—or at least did not conflict—with the Sharia.[116] Non-Muslim minorities therefore were able to practice their faith privately. Since Muslim law was not applicable directly to them, it also seems that they enjoyed some independence from the administration of justice in preserving their lifestyles. An example is the consumption of alcohol. The Quranic reference to wine (*khamr*) makes the consumption of alcohol a punishable offence under the classical Islamic tradition because of its intoxication effect.[117] Regardless of the debates on the exact scope of the prohibition or the exact punishment (typically on the number of lashes),[118] the prohibition applied to Muslims alone. Dhimmis were exempted from such restrictions and were therefore able to consume both alcohol and pork, as long as this was done

Empire of Law 76, 95–96 (Oxford University Press 2012).

110. *Id.* at 81, 98.

111. Senturk, *supra* note 104, at 77.

112. *Id.* at 78–79, 100.

113. *Id.* at 106; Senturk, *supra* note 104, at 77.

114. An-Naim, *supra* note 105, at 11; Senturk, *supra* note 104, at 76.

115. An-Naim, *supra* note 105, at 12.

116. Senturk, *supra* note 104 at 108.

117. *The Quran*, Surah al-Ma'idah 5:90; *See generally*, Louay M. *Safi*, *Islamic Law* and *Society, 7(2) Am. J. of* Islamic Soc. Sci. 177, 183 *(1990)*.

118. *See generally* Najam Haider, *Contesting Intoxication: Early Juristic Debates over the Lawfulness of Alcoholic Beverages*, 1(20) Islamic L. and Society 48 (2013). *See generally* Rudi Matthee, Angels Tapping at the Wine-shop's Door: A History of Alcohol in the Islamic World (Oxford University Press 2023).

privately. In other words, a Muslim State would refrain from undertaking "positive obligations" to promote the consumption of these goods. For instance, as Emon points out, there would be no expectation in the Islamic polity that the police force would intervene in case of stealing of the *dhimmi*'s wine or pork.[119] Also, in the same way that *dhimmis* were not allowed to profess their religion in public, consumption of pork and alcohol in the public space (let alone public display) was also prohibited.[120]

B. Tolerance and the private/public dichotomy in modern Muslim States

In modern Muslim States however—as is the case in the Gulf—the Islamic legal tradition is not relevant to rights of minorities and expats. Reference to *dhimmis* in particular as a model of pluralistic society could be misleading.[121] The legal framework concerning the *dhimmis* was based on an imperialist approach to Islam.[122] It is true that GCC States are Muslim majority and generally Sharia compliant, with the Sharia being proclaimed as a source of law in all GCC Constitutions.[123] Still, these States are not set up in a fictitious pure version of the classical Sharia. Nor is it possible to govern effectively a modern Muslim country in accordance with purely Islamic principles. In practice the Sharia is confined to family matters (noting also that GCC States, with the exception of Saudi Arabia, have drafted family codes in the early 2000s), aspects of criminal law and laws related to personal status.

Informal divisions between the public and private space could still be pertinent, however. Faith-based accommodation is evidenced in Gulf States' family laws—and extends also to Muslim minorities. The "school of thought" (*madhab*) that a State follows is a decisive in matters related to personal status, as in most GCC States, family matters will be dealt with in accordance with one's school of thought. In Qatar for instance, acceptance of one predominant school of thought as prevailing one in family matters does not preclude application of other schools if the judge finds it appropriate.[124]

It also seems that GCC policies embrace cultural varieties to the extent that they do not clash with public order and morality considerations. This includes lack of accommodation in the public space. For example, there are legally

119. Emon, *supra* note 109, at 109–111 (noting also that the Quranic punishment for theft here would not apply, since the property was not right-conferring because it was not considered to be *mutaqawwam*).

120. *Id.*

121. Anver Emon, *Religious Minorities and Islamic Law: Accommodation and the Limits of Tolerance*, *in* Islamic Law and International Human Rights Law 340–41 (Oxford University Press 2012) (referring to Eleanor Doumato, who mentions teaching classes about *dhimmi* as a model of religious pluralism).

122. An-Naim, *supra* note 105, at 14.

123. *Cf.* Polymenopoulou, *supra* note 79, at 4; Çalı, Ghanea & Jones, *supra* note 79.

124. Law No. 22 of 2006 (Promulgating The Family Law), art. 4, 29 June 2006 (Qatar).

licensed shops that import[125] and sell alcohol, pork, and pork products available to foreigners, despite them being *haram*. It is however generally considered a crime to consume such items in the public space. Another illustration is the prohibition of eating or drinking during Ramadan. Kuwaiti Law No. 44 of 1968, for instance, punishes eating and drinking during fasting hours with a fine or a one month imprisonment.[126] In December 2019, this law was challenged as unconstitutional but the plea was rejected, on the basis of the need to respect people's feelings and respect for religious rites, and, following the judgment, there was official guidance that punishments will be applied.[127]

IV. Promoting diversity and accommodation through policy and informal action

A. Amplifying accommodation efforts and its implications

In the past five years, Gulf States have been amplifying its efforts to accommodate expats and foreigners. This is especially true in the Emirates, and in particular Dubai, where the rise of diversity in urban cultural and market economies is evident.[128] Since 2020 in particular, the UAE has been acknowledging expats as part of that "society's fabric" and has been promoting the motto "Unity through Diversity" as the "Spirit of the Union."[129] The "United Global Emirates" campaign was also launched in 2021,[130] and more recently another motto that "the impossible is possible in the UAE" was promoted.[131] Furthermore, it has initiated a policy of residence permit extensions, to the point of allowing businessmen, investors, scientists, and even certain categories of academics to receive "long-term residence visas which enable foreign talents to live, work, or study in the UAE," formally eliminating the need for sponsorship for certain elitist categories

125. Raj Bhala & Shannon B. Keating, *Diversity within Unity: Import laws of Islamic countries on Haram (Forbidden) Products*, 47 Int'l L. 343 (2013).

126. Arab Times, *Kuwait: Penalties enforced for public breaking of fast* (Feb. 15, 2026), https://www.lexismiddleeast.com/news/2026–02–17_11/en.

127. Polymenopoulou, *supra* note 79, at 22.

128. *See generally* Benjamin Smith, Market Orientalism: Cultural Economy and the Arab Gulf States 253ff (Syracuse University Press 2015).

129. Baycar, *supra* note 43, at 41–43. *Cf.* Hamdullah Baycar, *Emirati expats in social media: a new arena for involvement and political expression?* 31 Identities 238 (2024).

130. *UAE Government launches "United Global Emirates" campaign*, Emirates News Agency-WAM (Sep. 6, 2021, 5:06 PM), https://www.wam.ae/en/article/hszrczwg-uae-government-launches-united-global-emirates.

131. *UAE launches its ambitious "Invest in the Emirates" campaign*, Emirates News Agency-WAM (Sep. 16, 2024, 4:38 PM), https://www.wam.ae/en/article/b57sghq-uae-launches-its-ambitious-invest-the-emirates; Anup Oommen, *Idris Elba voices UAE's invite to the Earth's best: "Bring Your Impossible"*, Campaign Middle East (Sep. 27, 2024), https://campaignme.com/idris-elba-voices-uaes-invite-to-the-earths-best-bring-your-impossible/.

of persons.[132] Qatar[133] and Oman[134] have also followed suit, launching similar campaigns in view of expanding investment, and KSA too opened up for tourist visas in 2019.[135] The opening of the first casino in Abu Dhabi and the rise in availability of online gambling platforms has also sparked debate given the relevant prohibitions in Islamic law.[136] Even more strikingly, a civil law system (and court) for family disputes has been established in the UAE.[137]

This extra-legal accommodation of diversity and the extreme opening-up to expats and foreigners has not come without counter-reactions. This is evident in relation to policy measures aiming at reinforcing the local—national—workforce through nationalization (Qatarisation, Emiratisation, Kuwaitisation, Saudisation, etc.). Such measures and recruitment policies are specific to the region and have been necessary to preserve demographic stability, reducing GCC nationals' unemployment rates and boosting national economy.[138] As a result, quotas have been inserted in favor of nationals in certain types of employment in the public domain.[139] Another illustration of such reactions would be the newly added policies to preserve the Arabic language. The fear of loss of language has been particularly acute in the UAE,[140] but also Qatar and other GCC States, where there has been evidence that the use of Arabic language has been increasingly degrading among the youth.[141] From the mushrooming of schools following British

132. *Golden Visa*, UAE Government Portal Jul. 15, 2024), https://u.ae/en/information-and-services/visa-and-emirates-id/residence-visas/golden-visa (last visited Aug. 5, 2025).

133. *Qatar Residency Investment*, Investment Visa, https://www.investmentvisa.com/residency-by-investment/qatar (last visited Aug. 5, 2025).

134. *Oman launches long-term residency program for expat investors*, Foreign Ministry of Oman (Sep. 29, 2021), https://www.fm.gov.om/oman-launches-long-term-residency-program-for-expat-investors/. ,

135. Peter Beaumont, *Saudi Arabia to open itself up to foreign tourists for first time*, The Guardian (Sep. 27, 2019), https://www.theguardian.com/world/2019/sep/27/saudi-arabia-offer-tourist-visas-for-first-time; *Making the impossible, possible*, Middle East Business Intelligence (Jul. 24, 2024), https://www.meed.com/making-the-impossible-possible.

136. Alestiklal, *After Casinos and Gambling Halls, Why Did the UAE Legalize Betting?*, (Feb. 2026), https://www.alestiklal.net/en/article/after-casinos-and-gambling-halls-why-did-the-uae-legalize-betting.

137. *See* Lena-Maria Möller, *One Year of Civil Family Law in the United Arab Emirates: A Preliminary Assessment*, 37 Arab Law Quarterly 219 (2023).

138. Kasim Randeree, *Workforce Nationalization in the Gulf Cooperation Council States*, CIRS Occasional PAPER, no. 9, at 6.

139. *Id.*

140. Rana Raddawi & Doha Meslem, *Loss of Arabic in the UAE: Is Bilingual Education the Solution?*, 3(2) Int'l J. of Bilingual & Multilingual Teachers of Eng. 85 (2015).

141. *See* Khulod Aljehani & Marco Modiano, *The impact of English medium instruction in the Gulf: a comparative study of KSA and UAE*, 12(1) Cogent Education 1 (2025). In Qatar for example, courses on Arabic and Qatari history re-started being taught at schools in 2012. *See* Mohammed Iqbal, *Schools welcome Qatar's history into curriculum*, The Peninsula (Oct. 13, 2012), https://thepeninsulaqatar.com/article/13/10/2012/schools-welcome-qatars-history-into-curriculum; *See generally* Hira Amin & Logan Cochrane, *The development of the education system in Qatar: assessing the intended and unintended impacts of privatization policy shifts*,

and American curricula and the establishment of American Universities' branch campuses in the region, one also sees the re-insertion of Arabic language at both School and University level.[142]

Along the same lines, there have been extensive efforts to promote policies safeguarding and promoting (or even re-discovering and re-constructing) *national* cultural identities. Such policies have been sponsored by the ruling families and the elites[143] in view of reinforcing the national identity narrative. This has been evident in display choices in museums and the revisitation and invention of cultural objects and symbols.[144] The Zayed National Museum in Abu Dhabi was designed in the shape of the feathers of a falcon, and the new Qatari National Museum using John Nouvel's architectural design of the "Desert Rose," which has since embodied Qatari cultural heritage.[145] Other cultural symbols were re-discovered in Qatar, and sports such as falconry and camel races were promoted 'as national sports with deep historical roots'.[146]

B. Informal, local and tribal political participation

A second point that could be raised as extra-legal accommodation of diversity is informal networks of political participation. Unlike Western democracies, where citizenship is associated with constitutionalism and democratic participation in governance,[147] governance in the member States of the GCC is assumed primarily by the ruling families.[148] Participatory structures in the Western sense are nonexistent or at best loose.[149] This is not confined to migrants, who are generally excluded from political participation even in Western liberal

51(5) Brit. J. of Middle Eastern Stud. 1091 (2024).

142. *E.g.*, Hessa Al-Attiyah, *Reviving the Local Dialect in Qatar: an Issue of Linguistic Concern or Identity Politics?*, Arab Center for Research and Policy Studies, https://www.dohainstitute.org/en/ResearchAndStudies/Pages/Reviving_the_Local_Dialect_in_Qatar_An_Issue_of_Linguistic_Concern_or_Identity_Politics.aspx.

143. Suzi Mirgani, Investments in Cultural Infrastructure in the Gulf Countries, IEMed Mediterranean Yearbook 322 (2021).

144. Mehran Kamrava, Qatar: Small State, Big Politics 123 (Cornell University Press 2015).

145. Karen Exell, Modernity and the Museum (Routledge 2016); Alexandra Bounia, *The Desert Rose as a New Symbol for the Nation: Materiality, Heritage and the Architecture of the New National Museum of Qatar*, 11(3) Heritage & Society 211 (2019); Jocelyn Sage Mitchell, *Transnational identity and the Gulf crisis: changing narratives of belonging in Qatar*, 97(4) International Affairs 929 (2021).

146. Kamrava, *supra* note 144, at 124.

147. *See* Asem Khalil, *From Constitution to Constitutionalism in Arab States: Beyond Paradox to Opportunity*, 1(3) Transitional Legal Theory 421 (2010) (arguing that constitutionalism is not necessarily confined to Western democracies).

148. Gianluca Parolin, *Winter is Coming: Authoritarian Constitutionalism Under Strain in the Gulf*, *in* Constitutionalism, Human Rights and Islam after the Arab Spring 149 (Rainer Grote & Tilmann Röder eds., Oxford University Press 2016).

149. Scott Weiner, Kinship, State Formation and Governance in the Arab Gulf States 6 (2022).

democracies, such as the United States.[150] In the GCC, society organization is generally based on tribal patterns, kinship, and family ties,[151] which is understood according to Weiner as "genuine belief in common familial descent from a real ancestor between group members" and is different in the sense that it refers also to governance organization.[152] The value of the family constitutionally sanctioned in all GCC Constitutions, which all contain a similar provision according to which the "family is the basis of society."[153]

Tribal dynamics have an impact on the way that couples are formed, serving as connecting points between houses and tribes. As mentioned earlier, GCC Societies are tribal and organized through kinship dynamics. GCC citizens therefore have not only a "national identity" as citizens but also have a "tribal identity" as members of certain tribe. Even within the tribe, there are subsequent divisions to clans, subclans, and houses. Each GCC citizens naturally therefore belongs to a tribe, and tribes in turn may enjoy some representations in the parliament (Shura).[154] Also, tribal groups leaders may select candidates who run for elections and enjoy other privileges.[155] Tribes may also participate in governance in a variety of informal ways, such as for instance, the institution of *diwan* in Kuwait and *majlis* in Qatar. These are essentially spaces of informal gatherings, which allow exchange of ideas and networking. At times they are also evidence of political participation, providing a mechanism for the governments in GCC States to "to gauge public reaction to [their] policies."[156]

V. Conclusion

Accommodation in Gulf countries today is a *de facto* accommodation, which does not fit the orthodox minority rights model. The diversity model is radically different from the West. The Islamic legal tradition has arguably

150. *Cf.* Geoffrey Heeren, *Persons Who are Not the People: The Changing Rights of Immigrants in the United States*, 44 Colum. Hum. Rts. L. Rev 367, 436 (2013) ("Immigrants have always been liminal figures in American constitutionalism: persons, for purposes of core due process . . . , but only partly members of "the People" when it comes to public benefits or political participation.").

151. Weiner, *supra* note 149, at 15 (stating that "kinship refers not only to a type of group but also a modality of organization").

152. *Id.*

153. Basic Law of Governance art. 9 ("The family is the nucleus of Saudi society") (Saudi Arabia); The Permanent Const. of the State of Qatar June 8, 2004, art. 21 ("The family shall be the basis of society."); The Const. of the U.A.E. July 1996, art. 15 ("The family is the cornerstone of the community."); Basic Statute of the State Nov. 6, 1996, art. 12 ("The family is the basis of the society.") (Oman); The Const. of the Kingdom of Bahr. Feb 14, 2002, art. 5a ("The family is the cornerstone of society."); Const. of Kuwait Nov. 11, 1962, art. 9 ("The family is the foundation of society.").

154. Weiner, *supra* note 149, at 154.

155. *Id.* at 153 (For example, in Qatar they may directly complaint to the Emir.).

156. *Id.* at 148.

influenced the perceptions of tolerance and the public/ private dichotomy. In this respect, it is worth noting that accommodation of diversity takes place largely at policy level. Accommodation is not driven by the will to integrate communities (let alone participation in governance). Rather, it is driven by the will of GCC States to ensure a smooth functioning of social and financial structures, as well as to attract foreign investment and tourism.

There is one caveat: diversity without equality could amount to a highly selective diversity, open and friendly towards expats and migrants and less friendly towards others. Discriminatory treatment is unavoidable in many respects, entailing income-based segregation. This affects primarily unskilled migrants, whose human rights can be easily negated and abused. Such discrimination may also affect, for example, minority groups, tribes, sects, stateless persons, and second generations migrants who are unable to obtain naturalization, as well all those who do not fit the GCC development-driven agendas.

Still, policy-based accommodation, with all its pitfalls, could bring some long-term fruits. This is because, regardless of the reasons for this drive, *de facto* accommodation policies lead to these States becoming *de facto* more accommodating—enabling the future generations of Gulf citizens to be more open and more accepting. This could in turn pave the way for future Gulf societies that promote not only diversity but also equality. More attention should be therefore paid to monitoring compliance with international human rights law standards, particularly the non-discrimination principle, which should serve as the yardstick for all law and policy efforts managing diversity.