Coalition on Labor Justice for Migrants in the Gulf

Submission to the UN Human Rights Committee's Draft General Comment No. 38 on Article 22 (Right to Freedom of Association)

Submitted by the Coalition on Labor Justice for Migrants in the Gulf

July 2026

The Coalition on Labor Justice for Migrants in the Gulf (here after "the Coalition") appreciates the opportunity to input on the Human Rights Committee's (here after "the Committee") Draft General Comment No.38 on Article 22.

The Coalition sets out recommendations to clarify and expand on State party obligations surrounding freedom of association in the context of the rights of migrant workers. The subheadings follow the structure of the draft, and specific additional wording suggestions are highlighted in bold.

The proposed textual changes focus on clearer recognition of the role of freedom of association (FOA) as a fundamental right of migrant workers – regardless of their status – in the workplace and in both their destination and origin communities. It also focuses on the importance of FOA in preventing exploitation of migrant workers, including the explicit inclusion of groups such as undocumented migrants, trafficked persons, domestic workers, informal economy workers, and those in non-traditional or temporary employment. We also emphasise that States' obligations must extend beyond merely permitting associations to exist, requiring active measures to prevent interference, discrimination, and retaliation, and to ensure equal treatment of all workers regardless of immigration status. In particular, we highlight the misuse of retaliation, deportation and nationality-based restrictions as tools to suppress organising, the structural barriers facing seasonal and undocumented workers, the need for effective grievance mechanisms, and the continued relevance of freedom of association for migrant workers in conflict and emergency situations.

The Coalition endorses the inputs made on behalf of *Global Labour Justice*, as well as *Building and Woodworkers International (BWI)*, the *International Domestic Workers Federation (IDWF)*, *Public Services International (PSI)*, *UNI Global Union*, and *the Solidarity Center* on the Committee's Draft General Comment No.38 on Article 22.

I. General Remarks

We recommend strengthening references to how intersecting marginalised identities both heighten the restrictions to accessing the right of freedom of association and increase the need for protection under law. The identities outlined in the General Comment should be expanded to specify protections for particularly vulnerable groups, such as migrant domestic and agricultural workers,

who are often excluded from labour protections. Clarifying these inclusions, among other suggestions below, would reinforce States' obligations to protect workers, regardless of immigration or nationality status. Such obligations go beyond permitting the existence of associations, to creating an environment that promotes the work of associations.

Para 2: The Coalition supports the reference to the vital role of trade unions in protecting individuals.[1] We would recommend strengthening the following line to "In addition, their actions **are essential to preventing and protecting** against slavery, forced labour or other inhuman conditions, and trafficking in persons (art.8)."[2]

Additionally, the Coalition suggests drawing additional connections between the right to freedom of association with the following human rights:

- Freedom of movement (art. 12)[3], to account for the fact that the ability of migrant domestic workers to leave their places of work - which are often private homes - is an important prerequisite for freedom of association; moreover, migrant workers in other sectors, such as construction and agriculture, often have their movement restricted between their employer-provided housing and their workplace, limiting their ability to attend or participate in trade union meetings or activities.
- Freedom from arbitrary arrest or detention (art. 9)[4], recognising the migrant workers are often detained for days, months, or years at a time for attempting to organise collectively or participating in trade union activities.[5]
- Freedom from arbitrary deportation (art. 13)[6] as both deportation and the threat thereof negatively impact freedom of association.

Absconding cases are often used as a tactic to limit workers' ability to exercise their freedom of association. To give a concrete example, a domestic worker in Qatar was deported after attending a regional meeting of the International Domestic Workers Federation (IDWF) which took place in another country; upon her return to Qatar, she learned that her employer had filed an absconding

[1] Particularly providing protection against suppressions of the right to freedom of association such as exploitation, retaliation for reporting rights violations, failure to protect freedom of association, detention and deportation without fair trial. Equidem, '"If we Complain, we Are Fired": Discrimination and Exploitation of Migrant Construction Workers on FIFA World Cup Qatar 2022 Stadium Sites' (2022), https://equidem.org/reports/if-we-complain-we-are-fired-discrimination-and-exploitation-of-migrant-construction-workers-on-fifa-world-cup-qatar-2022-stadium-sites/, Equidem, '"We Work Like Robots": Discrimination and Exploitation of Migrant Workers in FIFA 2022 World Cup Hotels' (2022), https://equidem.org/reports/we-work-like-robots-discrimination-and-exploitation-of-migrant-workers-in-fifa-world-cup-qatar-2022-hotels/.

[2] Special Rapporteur on contemporary forms of slavery, including its causes and its consequences, 'A/79/159: Role of workers' organizations in preventing workers from being subjected to contemporary forms of slavery' (16 July 2024), https://www.ohchr.org/en/documents/thematic-reports/a79159-role-workers-organizations-preventing-workers-being-subjected.

[3] United Nations, 'International Covenant on Civil and Political Rights' (16 December 1966), https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights.

[4] United Nations, International Covenant on Civil and Political Rights.

[5] International Labour Organization - NORMLEX, 'Interim Report - Report No 413, March 2026: Case No 3268 (Bangladesh) - Complaint date: 26-FEB-17' (2026), https://normlex.ilo.org/dyn/nrmlx_en/f?p=1000:50002:0::NO:50002:P50002_COMPLAINT_TEXT_ID:4489923.

[6] United Nations, 'International Covenant on Civil and Political Rights'.

case against her, even though she had received prior consent to attend.[7] She was arrested, imprisoned, and deported within days without opportunity for recourse.

Para 7: We suggest that State responsibility should extend beyond enabling the establishment and functioning of associations, and should include the positive responsibility to ensure an environment free from arbitrary or undue interference, intimidation and harassment, discrimination and/or retaliatory actions, including from employers and their associations, investigate breaches of relevant rights, punish perpetrators and provide remedies for victims.[8]

Additionally, on the listing of particularly affected groups we recommend the inclusion of trafficked persons, and the specific mention of migrant workers or temporary migrant workers in addition to migrants more broadly, e.g. **"Particularly affected individuals include…migrants, including migrant workers, refugees, asylum seekers…".** [9]

Para 9:

The Coalition suggests an additional closing sentence to paragraph 9, addressing the laws enforced in some states, such as in the Gulf Cooperation Council region and other parts of the world, that explicitly exclude migrants from the right to freedom of association.[10] It is important to highlight here the importance of the right to form a trade union, as many countries allow migrant workers to join existing trade unions led by nationals of a country, but they do not allow migrant workers to form unions and/or hold leadership positions, or participate in collective bargaining.[11] This greatly limits freedom of association rights under the ICCPR, alongside violating ILO conventions including C087 – Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).[12]

Suggested wording (addition in bold): "…Therefore, the right to freedom of association must be interpreted and implemented by taking into consideration the structural and intersecting barriers that might hamper the concrete and effective realization of the right for these persons, groups and communities. **Any exclusion of a specific category of people, particularly any historically**

---

[7] Data held on file by Coalition partners; identifying details have been omitted for security reasons.

[8] Special Rapporteur on contemporary forms of slavery, including its causes and its consequences, 'A/79/159: Role of workers' organizations in preventing workers from being subjected to contemporary forms of slavery' para 4, (16 July 2024), https://www.ohchr.org/en/documents/thematic-reports/a79159-role-workers-organizations-preventing-workers-being-subjected.

[9] Special Rapporteur on the human rights of migrants, 'A/78/180: Protection of the labour and human rights of migrant workers – Report of the Special Rapporteur on the human rights of migrants, Felipe González Morales' para 38, (14 July 2023), https://www.ohchr.org/en/documents/thematic-reports/a78180-protection-labour-and-human-rights-migrant-workers-report-special.

[10] International Labour Organization, 'Social protection for migrant workers in countries of the Cooperation Council for the Arab States of the Gulf (GCC)' (2023), https://www.ilo.org/sites/default/files/wcmsp5/groups/public/%40arabstates/%40ro-beirut/documents/publication/wcms_903672.pdf.

[11] Special Rapporteur on contemporary forms of slavery, including its causes and its consequences, 'A/79/159: Role of workers' organizations in preventing workers from being subjected to contemporary forms of slavery' para 31 & 32, (16 July 2024), https://www.ohchr.org/en/documents/thematic-reports/a79159-role-workers-organizations-preventing-workers-being-subjected.

[12] United Nations, 'International Covenant on Civil and Political Rights'; International Labour Organization – NORMLEX 'C087 – Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)' https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C087.

marginalized, disenfranchised, or disadvantaged persons, from the ability to form or join unions or other associations would violate the right to freedom of association in article 22(1)."

II. Scope of freedom of association (art. 22 (1))

Para 12: The Coalition recommends the inclusion of informal economy workers organizations/unions when defining an association.[13]

Suggested new language for Para 12 (addition in bold): "Associations are organized, independent, non-profit entities that bring people together voluntarily to pursue common licit goals, interests or activities. They may include political parties, non-governmental organizations, international and cross-border civic organizations, religious organizations, social movements, trade unions, including federations and confederations, school- and university-based associations, professional associations, such as bar associations, **informal economy workers' organisations/unions,** legal aid organizations, foundations, and clubs."

III. Trade Unions (art. 22 (2) and (3))

The effectiveness of formal worker representation mechanisms (including trade unions) in protecting labour rights can be undermined if they fail to benefit certain groups of workers, such as due to exclusion based on immigration status. In many contexts, there are significant barriers to traditional organising for seasonal workers in agriculture, and migrants generally.[14] Particular considerations therefore need to be made to encourage collective agency from people excluded from traditional forms of collective organisation. Barriers to accessing the right to organise and exclusion from legislation on freedom of association increases the vulnerability of these groups to exploitation, and inadequate or nonexistent access to remedy.[15] Among migrant workers, those particularly vulnerable include those in non-traditional workplaces, temporary workers (such as those migrant workers in temporary labour migration schemes), and undocumented workers.

Our suggestions for this comment below aim to mitigate these vulnerabilities by explicitly including these groups' access to trade unions and the right to organise in the Comment, to extend protections afforded to national workers to migrant and non-nationals as well, ensuring that migrant workers may not only join unions but also form unions, hold leadership positions, and participate in collective bargaining. We also aim to include particular risks that are faced by migrant workers when

[13] Special Rapporteur on contemporary forms of slavery, including its causes and its consequences, 'A/79/159: Role of workers' organizations in preventing workers from being subjected to contemporary forms of slavery' para 5, (16 July 2024), https://www.ohchr.org/en/documents/thematic-reports/a79159-role-workers-organizations-preventing-workers-being-subjected.

[14] Focus on Labour Exploitation (FLEX), Assessment of the risks of human trafficking for forced labour on the UK Seasonal Workers Pilot (March 2021), p. 16; 69-70, https://labourexploitation.org/app/uploads/2021/03/FLEX_human_trafficking_for_forced_labour_VFINAL.pdf.

[15] Special Rapporteur on the human rights of migrants, 'A/78/180: Protection of the labour and human rights of migrant workers - Report of the Special Rapporteur on the human rights of migrants, Felipe González Morales' para 38, (14 July 2023), https://www.ohchr.org/en/documents/thematic-reports/a78180-protection-labour-and-human-rights-migrant-workers-report-special.

their access to trade unions are limited. In particular, workers' committees for migrants cannot replace their right to form, join and lead trade unions.[16] Governments usually control these committees, and migrant workers operate under the supervision of citizen workers, which contradicts the principles of equality, non-discrimination, independence, and non-interference.

We recommend the following:

Para 22 (additions in bold): "The interdependence between trade union rights, democracy and civil and political rights must be fully recognized and highlighted. For instance, the capacity of journalists to establish and join their own trade unions is an indispensable safeguard for their activities and their safety and a cornerstone of a pluralistic democracy. Similarly, trade union pluralism is a structural component of democratic pluralism. **In addition, migrant workers' ability to form and join trade unions is a prerequisite for their meaningful participation in civic and political life in both destination and origin countries, affording the collective means through which civil and political agency is exercised on an equal basis with other workers."**

Para 23: The Coalition suggests the inclusion of 'non-traditional workplaces' and 'informal economy workplaces' in this wording, recognising and providing a right of access to facilitate unionization in these settings.[17] Furthermore, we recommend emphasizing that freedom of association for migrant workers and non-nationals encompasses the full right to form and join unions, hold organizational leadership positions, and engage freely in collective bargaining.

Additionally, we recommend recognising that state-enforced detentions and deportations can severely undermine migrant workers' freedom of association and other fundamental rights. This risk is heightened by employer-filed 'absconding' charges, which are often used to detain and deport migrant domestic workers (and other migrant workers) to deter them from leaving their jobs or as retaliation for organising.[18]

Suggested new language (additions in bold): "The right to freedom of association as applied to the workplace has both individual and collective dimensions that are closely connected. The individual dimension means that persons have the right to create, join, participate in or leave a trade union without any fear of violence, reprisals, undue intervention by the State or restrictions that would contravene article 22 (2) of the Covenant. **Crucially, this encompasses the affirmative right of all workers, including migrant workers and non-nationals, to not only join existing structures but also to form independent trade unions of their own choosing, hold organizational leadership positions, and actively participate in collective bargaining without discrimination. Workers in non-traditional and informal economy workplaces fall equally within the scope of this right.** Harassment, arbitrary arrest and killing of trade union activists infringe not only the right to life (art. 6) and the right to liberty and security of person (art. 9) but also the right to freedom of association. A blanket ban on trade union rights for public sector workers without necessary and proportionate justification would

[16] United Nations, 'International Covenant on Civil and Political Rights' Article 22.

[17] Special Rapporteur on contemporary forms of slavery, including its causes and its consequences, 'A/79/159: Role of workers' organizations in preventing workers from being subjected to contemporary forms of slavery' para 5, (16 July 2024), https://www.ohchr.org/en/documents/thematic-reports/a79159-role-workers-organizations-preventing-workers-being-subjected.

[18] Amnesty International, 'Locked in, left out: the hidden lives of Kenyan domestic workers in Saudi Arabia' (May, 2025), https://www.amnesty.org/en/latest/news/2025/05/saudi-arabia-migrant-domestic-workers-face-severe-exploitation-racism-and-exclusion-from-labour-protections/.

be at odds with the individual dimension of article 22. In the same vein, a refusal to allow individuals who have been dismissed from their employment to be members of a trade union would not be in accordance with article 22."

Para 24 (additions in bold): "As far as the collective dimension is concerned, article 22 implies that trade unions are established, carry out their activities and exercise their mandate based on the principles of autonomy and self-governance and without any interference from the State Party that is incompatible with article 22 (2). **Furthermore, the creation of alternative 'workers committees' for migrants cannot substitute for their fundamental right to form, join, and lead independent trade unions. Because these committees are frequently state-controlled and subject migrant workers to the supervision of citizen workers, they fundamentally contradict the principles of equality, non-discrimination, independence, and non-interference.** Accordingly, legislation allowing the authorities excessive control over the creation, functioning and activities of trade unions, including surveillance and interception of trade union data, sanctions such as the deregistration of trade unions for exercising their right to strike or criminal prosecution of their members, would be contrary to article 22. The same applies to excessive restrictions on collective bargaining and collective action by public officials and teachers."

Para 26: We appreciate the Committee's reference that lack of a forum to protect and defend the interests of workers may facilitate or enable economic exploitation, trafficking and forced labour, including in the context of domestic work and migratory status. We would recommend some additions to the list of categories of workers, to include explicit mention of temporary/seasonal vs. permanent worker status, as well as subcontracted and supply chain workers.[19] This is to cover the risks and protect the rights of workers without permanent contracts or employment.

E.g. "The right to freedom of association in the field of work encompasses all categories of workers, regardless of the form of employment – **including subcontracted and supply chain arrangements** – their formal or informal status, whether they are domestic or platform workers, **their temporary, seasonal or permanent contract status**, or their migratory status."

IV. States Parties' negative and positive obligations

The General Comment should provide much needed guidance on the role of States in the amplification of the right to freedom of association. Our recommendations centre on ensuring equal access to freedom of association to all workers, regardless of immigration status. States should be prohibited from using nationality-based restrictions, detention or deportation as tools to punish or pressure workers, recognising deportation as one of the most severe possible infringements of this right. Migrant workers, including temporary, seasonal and undocumented workers, should receive the same labour protections as nationals, with particular attention to the structural barriers that

[19] Equidem, 'Free to be exploited: The abuse of platform-based food delivery riders in Saudi Arabia and the UAE' (2026), https://equidem.org/reports/free-to-be-exploited-the-abuse-of-platform-based-food-delivery-riders-in-saudi-arabia-and-the-uae/.

prevent marginalised workers from organising.[20] Finally, States have a positive obligation to ensure workers have access to effective, safe grievance mechanisms, without which fear of reprisal or immigration consequences continues to silence those most at risk. In order to be able to fully exercise their FOA rights, states must institute a firewall or separation between labor law enforcement and immigration actions. Otherwise, migrant workers will continue to fear exercising their FOA rights due to threats of nonpayment of wages, visa canceling, detention and deportation.

We recommend the following:

Para 30: The Coalition suggests the inclusion of prohibiting States' use of nationality-based limitations, detentions, deportations, or stripping workers of their visas as a measure to restrict the rights of workers. E.g.:

"...(SLAPP lawsuits). **States must equally refrain from using nationality-based measures – including immigration detention, deportation, visa cancellation or revocation, and denial of visa renewal – as instruments to suppress or punish the exercise of the right to freedom of association. Where such measures are applied to workers specifically because of their associational activities, they constitute a prohibited restriction under article 22.** Such measures impede the full realisation of the right and may have a chilling effect on its exercise."

Para 31: As above, we suggest the inclusion of deportations as one of the most severe forms of infringement as this directly undermines the right not to be arbitrarily expelled (Art. 13 ICCPR).[21]

E.g. "The most severe forms of infringements — such as arbitrary arrest and detention, **arbitrary deportation**, torture and other forms of ill-treatment, arbitrary deprivation of life or enforced disappearance of people exercising their right to freedom of association — in addition amount to a breach of other Covenant rights, such as the right to life, the prohibition of torture, the right to legal personality, **the right not to be arbitrarily expelled[22],** and the right to liberty and security of person."

Para 38: In light of the two-tiered employment system in many countries where migrant workers are excluded from key labour protections, the General Comment should include reference to States' obligation to provide equal labour protections to migrant workers as to national workers.[23]

Additionally, we suggest this paragraph address discrimination between temporary, seasonal and permanent workers and the structural barriers that temporary or seasonal workers face to enjoying their right to freedom of association, especially when they come from marginalized communities. These restrictions include residential restrictions, temporary visa status, discrimination against

---

[20] Special Rapporteur on contemporary forms of slavery, including its causes and its consequences, 'A/79/159: Role of workers' organizations in preventing workers from being subjected to contemporary forms of slavery' para 5, (16 July 2024), https://www.ohchr.org/en/documents/thematic-reports/a79159-role-workers-organizations-preventing-workers-being-subjected.

[21] United Nations, 'International Covenant on Civil and Political Rights'.

[22] Ibid.

[23] Special Rapporteur on contemporary forms of slavery, including its causes and its consequences, 'A/79/159: Role of workers' organizations in preventing workers from being subjected to contemporary forms of slavery' para 5, (16 July 2024), https://www.ohchr.org/en/documents/thematic-reports/a79159-role-workers-organizations-preventing-workers-being-subjected.

certain sectors (particularly against domestic and agricultural workers), geographic isolation and regular movement making it difficult to establish contact with existing trade unions or to try to form their own organizations.[24]

We recommend including language in this paragraph highlighting that excluding a specific category of people, particularly any historically marginalized, disenfranchised, or disadvantaged persons such as migrant workers from accessing their right to freedom of association is a violation of article 22.[25]

E.g.: "Specific measures might be required to address the de facto situation of minorities, marginalized, disenfranchised, or disadvantaged rights holders and the structural barriers that they face to enjoying and operationalizing their rights. **The deliberate exclusion of any such category of persons, including migrant workers, from the enjoyment of the right to freedom of association constitutes a violation of article 22, read together with articles 2 and 26. In this regard, States Parties are obligated to ensure that migrant workers, including those in the informal economy and in undocumented status, enjoy equal labour protections to those afforded to national workers, including equal access to the right to freedom of association, regardless of their nationality or immigration status."**

Para 39: Under the States Parties' positive obligations, we recommend the inclusion of the requirement that companies provide workers with access to an effective grievance mechanism. When using such mechanisms, workers must be enabled to feel safe reporting grievances and feel confident that they will receive remedy in a timely manner. Specifically, States must ensure that companies engage with unions in good faith negotiations on collective bargaining agreements.[26] Without adequate measures in place to protect workers, fears of reprisals, retribution, termination of employment, negative immigration-related outcomes or social isolation often stop workers, and particularly migrant workers, from raising grievances with employers.[27] E.g.:

"In addition, article 2 (3) requires that States Parties make reparation to individuals whose Covenant rights have been violated. **States Parties' positive obligations in this regard extend to requiring that companies provide workers with access to effective grievance mechanisms that are safe, accessible, and provide timely remedy, including grievance mechanisms negotiated through good faith collective bargaining with democratic unions. This is particularly critical for certain categories of workers, such as migrant workers, for whom fears of reprisal, termination of employment, or adverse immigration consequences often operate as a de facto barrier to raising grievances with employers**. Therefore, the need to fight impunity and provide access to justice in case of a violation of article 22 committed by public or private actors is a critical aspect of the

[24] International Labour Organization, 'Migrant workers' rights to freedom of association and collective bargaining' (2023), https://www.ilo.org/sites/default/files/wcmsp5/groups/public/%40ed_protect/%40protrav/%40migrant/documents/publication/wcms_883446.pdf.

[25] United Nations, 'International Covenant on Civil and Political Rights'.

[26] Special Rapporteur on contemporary forms of slavery, including its causes and its consequences, 'A/79/159: Role of workers' organizations in preventing workers from being subjected to contemporary forms of slavery' para 34&45, (16 July 2024), https://www.ohchr.org/en/documents/thematic-reports/a79159-role-workers-organizations-preventing-workers-being-subjected.

[27] International Organization for Migration, 'Handbook for Businesses on Remediation of Migrant Worker Grievances: Conceptualizing Grievance Mechanisms in the Ecosystem of Remedy' (2025) pub2025-050-r-handbook-for-businesses-on-remediation-of-migrant-worker-grievances.pdf.

enabling environment that is indispensable to the full realization of the right to freedom of association and to the avoidance of a chilling effect."

V. Freedom of association in contexts of states of emergency, armed conflicts, occupation and humanitarian assistance

Para 53: The Coalition recommends the reiteration that the right of freedom of association is interrelated and interdependent to other human rights. We further recommend emphasising in this section that criminalization of freedom of expression or using conflict as an excuse for deportation also restricts the right to freedom of association and such bans would violate Article 22.[28] This interdependence is particularly acute in the context of tied-visa or sponsorship-based migration systems, where the structural dependency of workers on individual employers becomes especially dangerous during situations of armed conflict or other emergency situations: workers may be unable to depart freely without employer permission or to organise collectively to protect themselves. This critical protection must explicitly extend to refugees and displaced persons. Despite participating in formal labor schemes established in humanitarian or emergency contexts, working refugees are routinely excluded from exercising their equal rights to freedom of association. Such systems therefore risk compounding violations not only of Article 22 but also of Article 12 of the ICCPR.[29]

[28] United Nations, 'International Covenant on Civil and Political Rights'.
[29] United Nations, 'International Covenant on Civil and Political Rights'.