

**Exclusive
Report**

The Kafala System in the Gulf Modern-Day Slavery or Economic Necessity



STRASBOURG
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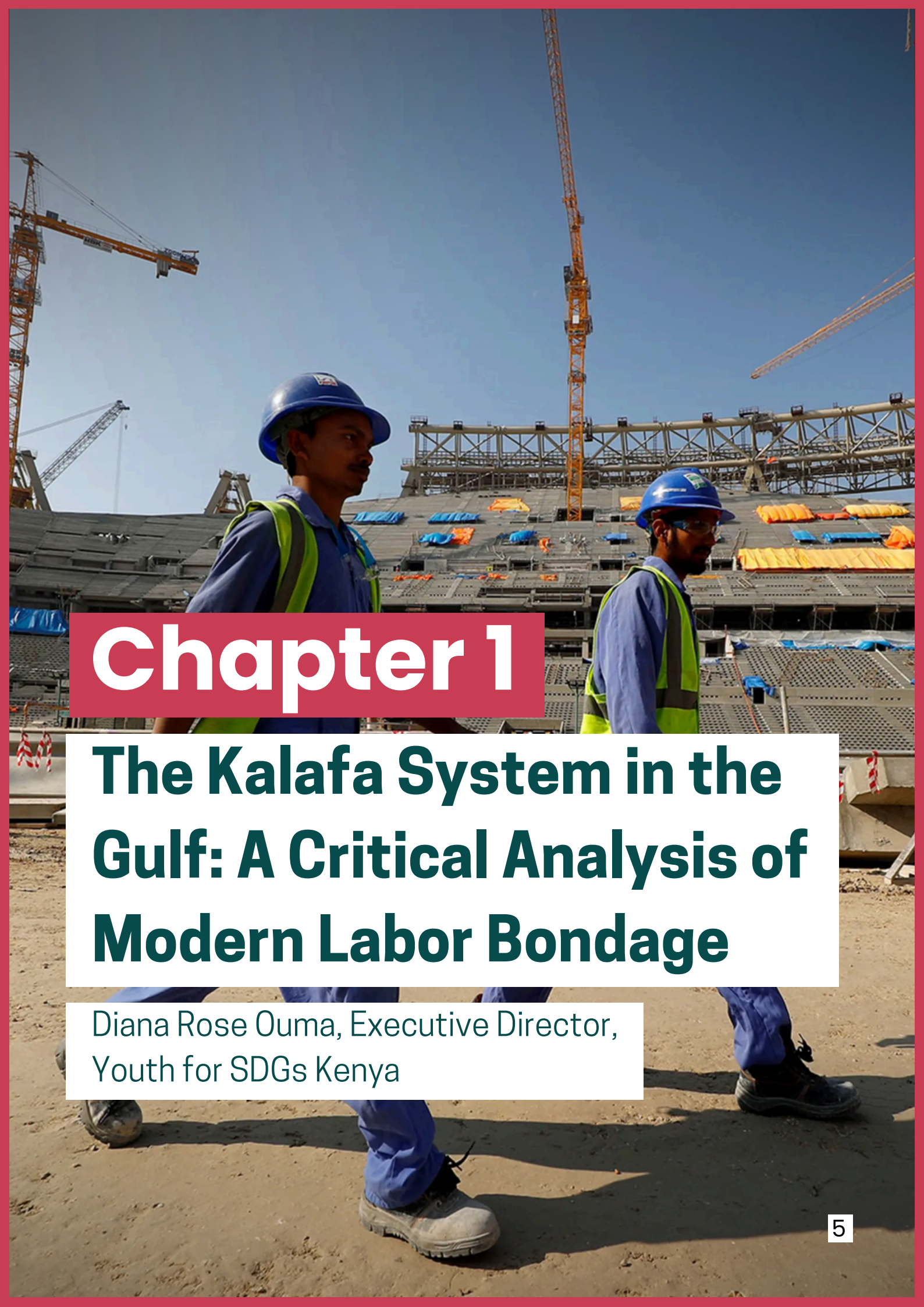
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A photograph of a large construction site under a clear blue sky. In the foreground, two construction workers wearing blue hard hats, blue long-sleeved shirts, and high-visibility yellow-green vests are walking. The worker on the left is looking towards the right. In the background, there are several tall yellow tower cranes and a large, complex steel framework for a building, possibly a stadium or arena, with some yellow and blue tarps covering parts of the structure.

Chapter 1

The Kalafa System in the Gulf: A Critical Analysis of Modern Labor Bondage

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Abstract:

The kafala (sponsorship) system, which governs labor migration across the Gulf Cooperation Council states, represents one of the most systematic forms of labor exploitation in the contemporary global economy. Despite modest reforms announced by several Gulf states in recent years, this legal framework continues to enable widespread abuses that human rights organizations have characterized as modern slavery. This paper critically examines the kafala system's structural mechanisms, its impact on migrant workers, country-specific implementations, and the inadequacy of recent reform efforts. Drawing on recent documentation of abuses, including those associated with Saudi Arabia's mega-projects and Qatar's World Cup preparations, this analysis argues that superficial reforms have failed to address the fundamental power imbalances inherent in the system. The paper concludes that only complete abolition of employer-tied sponsorship, coupled with robust labor protections and enforcement mechanisms, can end the systematic exploitation of millions of migrant workers in the Gulf region.

I. Introduction: Understanding the Kafala Architecture

The kafala system emerged in the Gulf Cooperation Council countries during the 1950s as a mechanism to facilitate the rapid importation of foreign labor needed for the region's oil-driven economic expansion. The system binds migrant workers' legal residency status to their employer (the kafeel or sponsor), creating a relationship of profound dependency that grants employers extraordinary control over workers' lives. Under this framework, employers possess the power to determine whether workers can change jobs, leave the country, or in some cases, even access basic legal protections.

The kafala system operates across Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates, as well as in the non-Gulf states of Jordan and Lebanon. Iraq remains the only Arab Gulf state that does not employ this system. The framework affects an estimated 2.4 million migrant workers, though the actual number may be significantly higher when accounting for undocumented workers and those in informal sectors.

What distinguishes kafala from standard employment contracts in other countries is the comprehensive control it grants employers over workers' immigration status, physical mobility, and access to legal recourse. This structural power imbalance creates conditions ripe for exploitation, as

workers face deportation, detention, or loss of legal status if they attempt to escape abusive situations or assert their rights. The system effectively transforms labor disputes into immigration violations, criminalizing workers who flee abusive employers. The economic rationale behind kafala centers on providing Gulf states with a flexible, cheap, and controllable labor force that can be quickly imported during boom periods and deported during downturns, without creating permanent settlement or granting workers meaningful rights. This approach reflects a broader vision of citizenship in Gulf states that sharply distinguishes between nationals and non-nationals, with the latter viewed as temporary economic inputs rather than as rights-bearing individuals.

Critics argue that kafala represents a deliberate choice to construct a two-tier system that privileges economic efficiency for employers and host countries while systematically denying fundamental rights to workers. The persistence of this system despite decades of international criticism reveals the extent to which Gulf states prioritize maintaining control over their labor forces over complying with international human rights standards.

II. Mechanisms of Control and Exploitation

The kafala system operates through several interlocking mechanisms that collectively strip workers of autonomy and make them vulnerable to severe exploitation. Understanding these mechanisms is essential to grasping why reform efforts have proven so ineffective.

Exit Permit Requirements

Many Gulf states require workers to obtain permission from their employer to leave the country. This exit permit system effectively traps workers in situations of abuse, as employers can refuse to grant permission to workers who complain about conditions or attempt to escape. Workers who leave without permission face criminal charges, detention, and deportation with bans on future entry. This mechanism transforms what should be a fundamental right of movement into a privilege granted at employer discretion.

Passport Confiscation

Despite being illegal in most Gulf states, passport confiscation remains endemic. Employers routinely seize workers' passports upon arrival, ostensibly for safekeeping or to prevent workers from absconding. This practice leaves workers without identification documents, unable to access legal

services, change employment, or flee abusive situations. Human rights organizations have documented widespread passport confiscation across all Gulf states, with little evidence of meaningful enforcement against employers who engage in this practice.

Restrictions on Job Mobility

Under kafala, workers cannot change employers without their current sponsor's permission, which is frequently denied. This restriction eliminates workers' ability to escape exploitative conditions through market mechanisms. Even in countries that have formally abolished the requirement for employer permission to change jobs, bureaucratic obstacles, fees, and informal pressure from employers continue to restrict mobility. Workers who change jobs without permission face charges of "absconding," leading to detention and deportation.

Wage Theft and Contract Substitution

Systematic wage theft represents one of the most common abuses under kafala. Workers recruited in their home countries are promised certain wages and conditions, only to have their contracts substituted upon arrival for ones with significantly lower wages, longer hours, and worse conditions. With their passports confiscated and their legal status tied to accepting whatever terms the employer offers, workers have little choice but to accept these substituted contracts. Recent documentation reveals that wage theft affects workers across sectors, from construction to domestic work, with employers routinely withholding months or even years of wages.

Criminalization of Worker Organizing

Gulf states prohibit migrant workers from forming unions or engaging in collective bargaining. Workers who attempt to organize protests or strikes face immediate deportation. This prohibition eliminates workers' ability to collectively advocate for better conditions and ensures that each worker faces their employer's power as an isolated individual. The criminalization of organizing represents a fundamental denial of rights recognized in international labor conventions.

Recruitment Debt Bondage

Workers pay enormous recruitment fees to labor brokers in their home countries, often taking on

crushing debts to secure employment in the Gulf. These fees, which can equal years of wages, create a form of debt bondage that makes workers desperate to remain in employment regardless of conditions. Even when Gulf states have laws prohibiting recruitment fees, enforcement is virtually nonexistent, and the burden of debt continues to trap workers in exploitative situations.

III. Human Cost: Documentation of Systematic Abuse

The human cost of the kafala system extends far beyond abstract violations of labor rights. Documentation from human rights organizations, journalists, and academic researchers reveals patterns of abuse that amount to forced labor and, in some cases, modern slavery.

Physical Abuse and Death

Recent investigations have documented alarming rates of unexplained deaths among migrant workers in Gulf states. In Saudi Arabia alone, hundreds of migrant worker deaths were recorded between March 2022 and June 2023, with many deaths occurring under suspicious circumstances. Workers on Saudi Arabia's high-profile mega-projects have reported deaths from heat exposure, workplace accidents, and violent abuse by security personnel. Investigations following Qatar's World Cup preparations similarly revealed thousands of deaths among migrant workers, with many attributed to "natural causes" despite occurring among young, healthy men working in extreme heat.

The failure of Gulf authorities to properly investigate worker deaths or provide families with adequate information reflects the broader devaluation of migrant workers' lives under kafala. Death becomes simply another cost of doing business, with employers and governments facing minimal consequences for unsafe working conditions.

Sexual Violence and Domestic Worker Abuse

Female domestic workers face particularly severe abuses under kafala. Confined to private homes with no legal protections or ability to leave, domestic workers experience high rates of physical and sexual violence, forced labor, and starvation. Lebanon's kafala system, which specifically governs domestic workers, has been described by Human Rights Watch as trapping tens of thousands in conditions amounting to modern slavery. Workers report being locked in homes for years, beaten, sexually assaulted, and denied food or medical care, with no ability to escape or seek help.

The exclusion of domestic workers from labor law protections in most Gulf states means they have no legal working hour limits, minimum wages, or rest days. Combined with the isolation of private homes and the complete control employers exercise over their movement, domestic workers under kafala exist in conditions that closely resemble chattel slavery.

Heat-Related Illness and Death

Gulf states experience some of the highest temperatures on Earth, with summer temperatures regularly exceeding 45°C (113°F). Despite this, construction and outdoor work continues year-round with inadequate protections for workers. Heat stress, dehydration, and heat stroke are common, yet many countries lack meaningful protections such as mandatory work breaks during peak heat hours or access to shaded rest areas. Workers report being forced to work through midday heat without adequate water or rest, leading to preventable illnesses and deaths.

Climate change is intensifying these risks, with temperatures in the Gulf rising faster than the global average. Yet labor protections have not adapted to this reality, and workers continue to face lethal heat exposure as a routine condition of employment.

Psychological Trauma

The psychological toll of kafala is profound yet often overlooked. Workers describe feelings of complete powerlessness, desperation, and fear that characterize their daily existence. Separated from families for years, trapped in exploitative conditions with no clear path to escape, and facing the prospect of returning home with enormous debts if they flee, workers experience severe mental health consequences. Suicide rates among migrant workers in Gulf states are significantly elevated compared to similar populations elsewhere, reflecting the devastating psychological impact of systematic exploitation and loss of autonomy.

IV. Saudi Arabia: Mega-Projects Built on Exploitation

Saudi Arabia, the largest economy in the Gulf region and home to Islam's holiest sites, has positioned itself as a regional leader while simultaneously operating one of the most abusive kafala systems. The kingdom's Vision 2030 initiative, which aims to diversify the economy beyond oil, has spawned massive construction projects that depend entirely on exploited migrant labor.

The Giga-Projects Scandal

Saudi Arabia's ambitious "giga-projects," including the futuristic city of NEOM, the Red Sea tourism development, and the Qiddiya entertainment city, have become symbols of the kingdom's ambitions. However, investigations published in 2024 revealed that these projects are built on systematic labor abuses. A comprehensive Human Rights Watch report documented widespread exploitation including exorbitant recruitment fees, rampant wage theft, inadequate heat protections, restricted job mobility, and uninvestigated worker deaths at projects financed by Saudi Arabia's sovereign wealth fund.

Workers interviewed for these investigations described being promised good wages and conditions, only to arrive in Saudi Arabia to find their contracts had been changed to dramatically reduce pay.

Many reported working for months without wages, living in overcrowded and unsanitary housing, and facing threats and physical violence when they complained. The scale of abuse documented at these high-profile projects, which were meant to showcase Saudi Arabia's modernization, instead reveals the kingdom's continued reliance on systematic exploitation.

Border Violence Against Migrants

Beyond the kafala system itself, Saudi Arabia has engaged in extreme violence against migrants attempting to enter or remain in the kingdom. Between 2022 and 2023, Amnesty International and Human Rights Watch documented Saudi border guards using explosive weapons against Ethiopian migrants attempting to cross from Yemen, killing hundreds including children. These killings, combined with the systematic exploitation of those who do make it into the country, reveal the profound dehumanization of migrant workers that underpins Saudi Arabia's economic model.

Inadequate Reforms

Saudi Arabia has announced reforms to its kafala system, including measures that supposedly allow workers to change jobs without employer permission. However, implementation has been severely limited. Workers report that employers still control job mobility through various mechanisms, including refusing to provide necessary documentation, threatening deportation, or filing false absconding charges. The reforms create the appearance of change while preserving employers' fundamental power over workers.

Furthermore, Saudi labor law explicitly excludes domestic workers, agricultural workers, and others from basic protections, leaving millions vulnerable to the worst abuses. The kingdom's selective and superficial reform approach suggests that its goal is to manage international criticism rather than genuinely protect workers' rights.

The 2034 World Cup Concerns

Saudi Arabia's successful bid to host the 2034 FIFA World Cup has raised alarm among human rights advocates, who point to the kingdom's failure to protect workers despite promises made during the bidding process. Given the documented abuses at current mega-projects and the inadequacy of reforms, there is justified concern that World Cup preparations will lead to further exploitation and deaths, mirroring the situation in Qatar.

V. Qatar: World Cup Legacy and Positive Reform Progress

Qatar's hosting of the 2022 FIFA World Cup marked a historic milestone, showcasing the country's commitment to substantial reform in labor and worker conditions under intense international attention. The spotlight on the kafala system accelerated meaningful changes that reflect Qatar's dedication to modernizing its labor framework in line with global standards.

Proactive Worker Reforms Ahead of the World Cup

In preparation for the World Cup, Qatar took significant steps to improve worker rights and protections. These included abolishing exit permits for most workers, implementing the region's first minimum wage, and establishing streamlined processes allowing workers greater freedom to change jobs. These reforms represent landmark achievements in labor rights within the Gulf region and illustrate Qatar's resolve to enhance the welfare of migrant workers.

Genuine Improvements and Institutional Innovations

Qatar introduced innovative wage protection mechanisms designed to guarantee prompt payment, strengthening workers' financial security. The government set up new complaint channels

empowering workers to raise concerns without fear of retaliation. Additionally, steps were taken to extend protections gradually to domestic workers, underlining a long-term commitment to inclusive reform.

Continued Commitment to Reform and Sustainability

Post-World Cup, Qatar remains dedicated to building on this foundation by strengthening enforcement and expanding worker protections. Authorities continue to collaborate with international partners, civil society, and labor advocates, reflecting transparency and evolving governance standards. The reforms signify Qatar's broader vision for sustainable development and enhanced human rights within its labor market.

Leadership in Regional Labor Reform

Qatar's experience demonstrates that meaningful reform is both achievable and effective when pursued with genuine intent and international cooperation. The improvements under the World Cup legacy position Qatar as a regional leader in progressive labor policy.

VI. United Arab Emirates: Exploitation Behind the Glitter

The United Arab Emirates, particularly Dubai and Abu Dhabi, markets itself as a global hub of luxury, innovation, and cosmopolitan sophistication. Behind the gleaming skyscrapers and luxury hotels, however, lies a kafala system that enables systematic exploitation of the migrant workers who comprise 88% of the UAE's population—the highest proportion of international migrants of any country in the world.



The Construction Industry

The UAE's construction boom, which has produced some of the world's most iconic buildings including the Burj Khalifa, has relied entirely on migrant workers laboring under kafala. Workers in the construction sector report routine wage theft, excessive working hours in dangerous heat, overcrowded and unsanitary housing, and passport confiscation. The juxtaposition of extreme wealth displayed in Dubai's architecture and the poverty and exploitation of the workers who built it reveals the moral bankruptcy of the kafala system.

Despite the UAE's wealth, which could easily support adequate worker protections and fair wages, the government has chosen to maintain a system that maximizes profits for developers and sponsors at workers' expense. This choice reflects a deliberate policy of treating migrant workers as disposable inputs rather than as human beings with rights.

Domestic Workers and Sexual Exploitation

The UAE hosts hundreds of thousands of domestic workers, predominantly women from South and Southeast Asia and East Africa, who work under conditions that frequently amount to forced labor. Excluded from UAE labor law, domestic workers have no legal limits on working hours, no mandated rest days, and no minimum wage. Confined to private homes with their passports confiscated, these workers are completely at their employers' mercy.

Reports of sexual assault, physical abuse, starvation, and forced labor are common. Workers who escape to report abuse frequently find themselves charged with "absconding" rather than receiving protection. The UAE's laws regarding sexual assault also disadvantage migrant women, who may face prosecution for "extramarital sex" if they report rape but cannot prove their claims, creating an environment where sexual violence against domestic workers occurs with near impunity.

Inadequate Reform Implementation

The UAE has announced reforms including ending the requirement for employer permission to change jobs and improving wage protections. However, implementation has been limited and enforcement weak. Workers report that employers continue to restrict mobility through various tactics, and wage theft remains endemic. The reforms appear designed more to manage

international criticism than to fundamentally alter power dynamics.

The UAE's failure to extend basic labor law protections to domestic workers, despite repeated international calls to do so, reveals the limits of its reform commitments. As long as hundreds of thousands of workers remain explicitly excluded from legal protections, the UAE's kafala system will continue to enable severe exploitation.

VII. Kuwait, Bahrain, and Oman: Smaller States, Similar Abuses

While Saudi Arabia, Qatar, and the UAE receive the most international attention, the smaller Gulf states of Kuwait, Bahrain, and Oman operate kafala systems with similarly severe impacts on migrant workers.

Kuwait's Resistance to Reform

Kuwait has been particularly resistant to substantive reforms, maintaining one of the most restrictive kafala systems in the Gulf. The country requires exit permits for workers to leave, severely restricts job mobility, and excludes domestic workers from labor law protections. Kuwait hosts approximately 700,000 domestic workers, predominantly women, who work in complete legal limbo with no protections against abuse.

High-profile cases of domestic worker abuse in Kuwait have periodically sparked outrage, including instances of workers being killed by employers or dying from abuse-related injuries. Yet Kuwait has consistently failed to implement meaningful protections or hold employers accountable. The country's domestic worker visa system remains tied to individual employers, and workers report widespread passport confiscation, wage theft, and physical abuse.

Kuwait's resistance to reform reflects both the influence of domestic constituencies that benefit from cheap exploitable labor and a political culture that views comprehensive control over migrant workers as essential to maintaining social order and national identity.

Bahrain's Partial Reforms

Bahrain has implemented some reforms including abolishing exit permits and establishing a Labor Market Regulatory Authority to manage work permits. These changes have given workers somewhat

more mobility compared to other Gulf states. However, significant problems remain. Wage theft is common, enforcement is weak, and domestic workers remain excluded from key protections.

Bahrain's small size and economic challenges have made it somewhat more responsive to international pressure than its wealthier neighbors. However, the fundamental structure of employer sponsorship remains, and workers continue to face significant vulnerabilities despite reforms.

Oman's Gradual Approach

Oman has taken gradual steps toward reform, including allowing workers to change employers after completing one year with their initial sponsor and implementing a unified contract system. However, implementation has been slow and uneven. Workers report that employers continue to obstruct job changes, and the one-year restriction means workers must endure abusive conditions for a full year before having any option to leave.

Oman's reforms reflect a cautious approach that seeks to maintain the essential features of kafala while making minimal adjustments to address international criticism. The result is a system that remains fundamentally exploitative despite cosmetic changes.



VIII. The Reform Illusion: Why Modest Changes Fail

Multiple Gulf states have announced reforms to their kafala systems in recent years, leading some observers to suggest that the system is evolving toward greater worker protections. However, a critical examination reveals that these reforms are largely cosmetic, designed to manage international criticism while preserving the fundamental power imbalances that enable exploitation.

The Preservation of Employer Sponsorship

The most significant limitation of reform efforts is that they preserve the basic structure of employer sponsorship. Even in countries that have abolished the requirement for employer permission to change jobs, workers' legal status remains tied to employment sponsorship. This means that workers who cannot find new sponsors, or who face employer obstruction in the transfer process, still risk losing legal status and facing deportation.

As long as a worker's right to remain in the country depends on maintaining an employment relationship, employers retain enormous leverage. Workers know that complaining about conditions or asserting rights may result in job loss and consequently deportation, creating a powerful disincentive to challenge abuses.

Weak Enforcement Mechanisms

Even where protective laws exist on paper, enforcement is typically weak or nonexistent. Gulf states lack independent labor inspectorates with adequate resources to monitor working conditions, investigate complaints, and sanction violators. Domestic workers, who work in private homes, are nearly impossible to monitor even in principle.

Workers who attempt to use official complaint mechanisms face enormous obstacles including language barriers, lack of legal knowledge, fear of retaliation, and skepticism that complaints will be taken seriously. Even when complaints are filed, investigations are often perfunctory, and sanctions against employers are minimal. The weakness of enforcement mechanisms means that many employers rationally conclude that violating worker rights carries little risk.

Continued Exclusion of Vulnerable Groups

Most Gulf states continue to explicitly exclude domestic workers from labor law protections, despite domestic workers being among the most vulnerable to exploitation. This exclusion is not an oversight but a deliberate policy choice that reflects the low value placed on work performed predominantly by women of color in private homes. As long as hundreds of thousands of workers remain outside legal protections, claims of meaningful reform ring hollow.

The Informal Power of Employers

Even when legal restrictions on worker mobility are removed, employers retain enormous informal power. They can file false charges of theft or absconding, refuse to provide workers with documents needed for job transfers, threaten workers with deportation, or use physical intimidation.

The imbalance of power and resources between individual workers and employers, combined with weak rule of law and bias in favor of employers, means that legal rights on paper often prove meaningless in practice.

Economic Incentives Against Real Reform

Gulf states and their domestic constituencies benefit enormously from cheap, controllable migrant labor. Real reform—including strong enforcement, meaningful worker mobility, rights to organize, and an end to employer control over legal status—would increase labor costs and shift power toward workers. These changes would threaten the economic model that has driven Gulf development for decades. The lack of political will for substantive reform reflects this economic reality.

Announced reforms serve primarily to manage international criticism and maintain access to global events and institutions, not to fundamentally alter the exploitation that underpins Gulf economies.

IX. International Complicity and the Failure of Accountability

While Gulf states bear primary responsibility for the kafala system, international actors have been complicit in enabling its continuation. Multinational corporations, international organizations,

Western governments, and global sporting bodies have all contributed to legitimizing and perpetuating a system that violates fundamental human rights.



Corporate Complicity

Major multinational corporations operating in Gulf states benefit directly from kafala's suppression of labor costs. Construction firms building stadiums, hotels, and infrastructure; hospitality companies operating luxury hotels; technology companies establishing regional headquarters—all rely on workers whose rights are systematically violated. Yet these corporations have largely failed to use their leverage to demand reforms or ensure that their operations do not contribute to abuses.

Some corporations have adopted supplier codes of conduct or sustainability commitments, but these are often poorly enforced and fail to address systemic issues. The gap between corporate rhetoric about human rights and actual practices in the Gulf reveals the hollowness of many corporate social responsibility initiatives when they conflict with profit maximization.

The FIFA Precedent

FIFA's decision to award World Cup Saudi Arabia (2034) despite well documented labor rights abuses demonstrates how international organizations prioritize commercial considerations over human rights. While FIFA imposed some conditions on Qatar regarding worker protections, these proved largely ineffective, and FIFA has faced criticism for failing to use its leverage to demand stronger reforms. The decision to award the 2034 World Cup to Saudi Arabia despite ongoing abuses at the kingdom's mega-projects suggests FIFA prioritizes commercial considerations. FIFA's actions send a message that systematic exploitation of workers is compatible with hosting prestigious international events, undermining efforts to hold Gulf states accountable



Western Government Hypocrisy

Western governments, particularly the United States and European nations, maintain close economic and security relationships with Gulf states while offering only mild criticism of labor rights violations. Arms sales, trade agreements, and diplomatic support continue despite documented abuses. The gap between stated commitments to human rights and actual policy reveals that strategic and economic interests consistently trump human rights concerns.

Some governments have taken limited steps such as issuing travel advisories or funding civil society organizations working on migrant rights. However, these actions have minimal impact compared to the legitimacy and support these governments provide to Gulf regimes through ongoing partnerships.

The Failure of International Labor Standards

Despite the International Labour Organization's conventions on forced labor, freedom of association, and other fundamental rights, Gulf states face minimal consequences for systematic violations. The ILO's complaint mechanisms are slow and lack enforcement power, and Gulf states have failed to ratify key conventions. The weakness of international labor governance allows states to violate workers' rights with impunity, particularly when those workers are migrants with little political power.

X. Toward Abolition: What Real Reform Would Require

Modest adjustments to the kafala system cannot address its fundamental nature as a mechanism of control and exploitation. Meaningful protection of migrant workers' rights requires abolition of employer-tied sponsorship and implementation of comprehensive alternative frameworks.

Severing Residency from Employment

The foundational reform necessary is fully decoupling workers' legal status from their relationship with any particular employer. Workers should receive residency permits that allow them to live and

work in the country, independent of any specific employment relationship. This change would eliminate employers' primary source of leverage over workers and enable workers to leave abusive situations without risking deportation.

Several migration scholars and human rights organizations have proposed alternative models, including government-managed work permits, sector-based visas, or portable sponsorships that allow workers to transfer between employers without penalty. Any viable alternative must ensure that workers can change employers freely and that losing a job does not immediately result in loss of legal status.

Comprehensive Labor Law Coverage

All workers, including domestic workers, agricultural workers, and others currently excluded, must be covered by comprehensive labor law protections. This includes minimum wages, maximum working hours, mandatory rest periods and days off, workplace safety requirements, and protection against discrimination and abuse. The current practice of excluding categories of workers from legal protections is indefensible and must end.

Robust Enforcement Mechanisms

Legal protections are meaningless without effective enforcement. Gulf states must establish independent labor inspectorates with adequate resources, training, and authority to monitor conditions, investigate complaints, and impose meaningful sanctions on violators. Special attention must be paid to domestic workers and others in hard-to-monitor sectors.

Workers must have accessible channels to report abuses without fear of retaliation, including hotlines in multiple languages, legal aid services, and protection against deportation for workers who file complaints. Employers who violate workers' rights must face serious consequences including substantial fines, loss of ability to sponsor workers, and criminal prosecution in severe cases.



Freedom of Association

Migrant workers must be granted rights to form unions, engage in collective bargaining, and strike. The prohibition on worker organizing is a fundamental violation of international labor standards and eliminates workers' primary tool for improving their conditions collectively. Allowing workers to organize would shift power dynamics and create countervailing pressure against exploitation.

Addressing Recruitment Abuses

The exploitation begins before workers even arrive in Gulf states, with recruitment fees creating debt bondage. Gulf states must prohibit and enforce laws against charging recruitment fees, ensure that employers bear all costs of recruitment, and work with labor-sending countries to crack down on predatory recruitment agencies. Workers who have paid illegal fees should be entitled to reimbursement.

Pathways to Permanent Residency

The treatment of migrant workers as permanently temporary, with no pathway to citizenship or permanent residency regardless of how many years they work in Gulf states, contributes to their exploitation. While Gulf states are unlikely to grant citizenship to millions of migrants, creating pathways to permanent residency for long-term workers would acknowledge their contributions and provide incentives for better treatment.

The current approach treats workers as disposable commodities rather than as people with stakes in the societies they help build.

Accountability for Past Abuses

Real reform must include accountability for documented abuses, including proper investigation of worker deaths, compensation for victims and families, and prosecution of those responsible for severe violations. The culture of impunity that currently exists will only be broken if there are real consequences for past actions.

XI. Conclusion: The Moral Imperative for Change

The kafala system represents one of the most systematic denials of human rights in the contemporary world. Millions of people, predominantly from poor countries in South Asia, Southeast Asia, and Africa, live under conditions that international human rights organizations have characterized as forced labor and modern slavery. They build the infrastructure, staff the households, and provide the services that sustain Gulf societies, yet they are denied basic rights, subjected to abuse, and treated as subhuman by legal systems designed to enable their exploitation.

The modest reforms announced by some Gulf states in recent years do not change this fundamental reality. As long as workers' legal status depends on employer sponsorship, as long as enforcement remains weak, as long as vulnerable groups remain excluded from protections, and as long as workers cannot organize collectively, the power imbalance that enables exploitation will persist.

The persistence of kafala despite decades of international criticism reveals the extent to which Gulf states prioritize maintaining cheap, controllable labor over compliance with human rights standards. It also reveals the complicity of international actors—corporations, sporting organizations, and Western governments—that continue to legitimize and profit from these regimes despite their systematic violations of workers' rights.



From a moral standpoint, the kafala system is indefensible. No economic benefit can justify the systematic denial of human dignity and fundamental rights. The deaths, the abuse, the exploitation that characterize this system represent a moral stain on Gulf states and on the international community that enables it through its silence and complicity.

Real change will require abolition of employer-tied sponsorship, comprehensive legal protections for all workers, robust enforcement, and accountability for past abuses. It will also require sustained international pressure from governments, international organizations, corporations, and civil society.

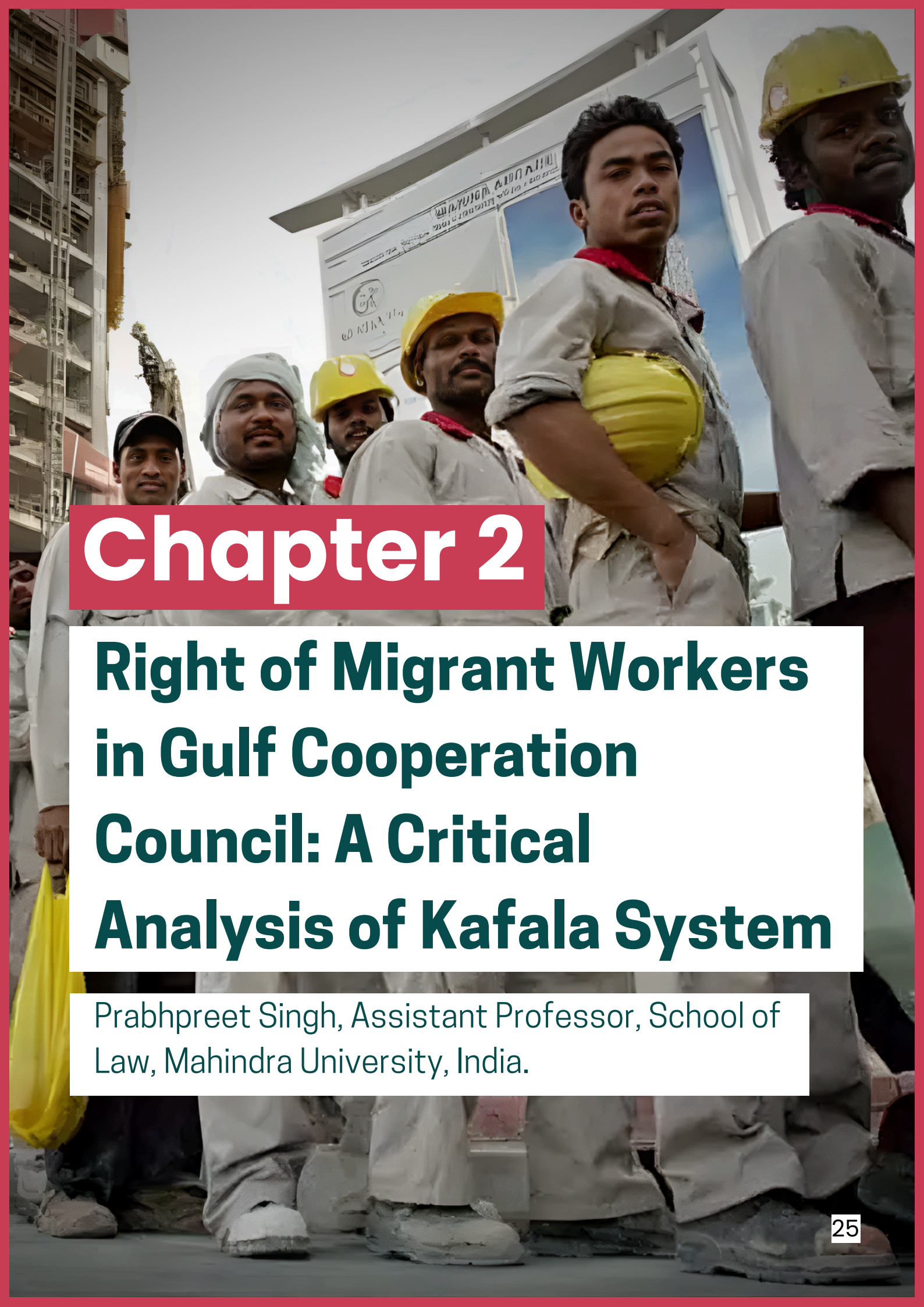
The modest reforms to date demonstrate that Gulf states will not voluntarily dismantle a system from which they benefit so greatly. Only sustained pressure that imposes real costs for continued abuses will create incentives for meaningful change.

The workers laboring under kafala are not asking for special treatment. They are asking for basic rights recognized in international law: the right to change employers without permission, the right to leave the country freely, the right to organize collectively, the right to work in safe conditions for fair wages, the right to legal recourse when their rights are violated. These are minimal standards that should be universal, yet under kafala they are systematically denied.

As climate change intensifies heat in the Gulf region and as global attention periodically focuses on the region through events like the World Cup, the urgency of reform grows. Workers will continue to die, to be abused, and to be exploited until the kafala system is abolished. The question is whether the international community will continue to enable this system through its complicity, or whether it will use the leverage it possesses to demand real change. The moral imperative is clear; what remains uncertain is whether there exists the political will to act on it.

References

This analysis draws on documentation from Human Rights Watch, Amnesty International, the International Labour Organization, the Council on Foreign Relations, and investigative journalism from multiple outlets. Specific reports include: "Die First, and I'll Pay You Later: Saudi Arabia's Giga-Projects Built on Widespread Labor Abuses" (Human Rights Watch, 2024); "Lebanon's Abusive Kafala System" (Human Rights Watch, 2022); "Life Under the Kafala System" (Walk Free, 2023); and numerous academic articles and policy papers examining labor migration in the Gulf region. Recent investigations into worker deaths, conditions at World Cup sites, and ongoing abuses at mega-projects have been drawn from reporting in The Guardian, Middle East Eye, and regional news outlets.

A group of migrant workers, mostly men of South Asian descent, are standing in a line. They are wearing white long-sleeved shirts and yellow hard hats. Some are holding yellow hard hats. In the background, there is a building under construction with visible scaffolding and a crane. The sky is overcast.

Chapter 2

Right of Migrant Workers in Gulf Cooperation Council: A Critical Analysis of Kafala System

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Abstract

This paper critically examines the rights of expatriate migrants (foreign migrants) working in Gulf Cooperation Council (GCC) nations including UAE, Saudi Arabia, Kuwait, Bahrain, and Oman. The study examines and analyzes the legal framework regulating employment of migrant workers, their access to basic human rights conditions and the influence of international safeguards, including ILO (International Labour Organization) conventions. The study is based on doctrinal methodology and uses analytical and descriptive methods. The findings emphasize that the legal framework regarding the kafala system, exclusion of labour welfare legislations in GCC countries, and inadequate enforcement of labour welfare laws continuously erode migrant worker's fundamental human rights. The study recommends specific reforms in the kafala system to provide dignity and secure justice for migrant workers in the GCC nations.

Keywords: Gulf Cooperation Council, Migrant Workers, Wages, Justice, Kafala System, Human Rights.

Introduction

Migration is a social phenomenon that has been in existence since the inception of human society. One of the primary factors for migration has been economic. People migrate from one location to another in search of better opportunities and sources of income. Today, there are numerous additional causes of human migration. It encompasses not only economic but also political and sociocultural aspects. Expatriate labourers are individuals who have been employed in a foreign country for a period exceeding one year (Richardson and McKenna 2002). Expatriates are temporary employees who are employed in a foreign country under contracts that have a limited duration (McGinley 2008). The stay of the expatriate worker in a foreign country may be extended by the renewal of these work contracts on multiple occasions (Shah 2009). The migrants not only face the challenges of workplace adjustment but also there is a struggle for their children and spouses (Haslberger and Brewster 2008).

The maximum number of migrant workers in the Gulf Cooperation Council (GCC) consists of expatriates from diverse nationalities (Al-Waqfi and Forstenlechner 2010). The Gulf Cooperation Council (GCC) countries experienced its initial population increase during the oil boom of the 1970s, and since then its economy is structurally dependent on migrant labour. The indigenous population lacks the requisite capabilities to execute the intended large-scale development projects. Consequently, the objectives of swift socio-economic advancement necessitated an augmentation of the labour force, leading to the recruitment of both skilled and unskilled migrants from neighbouring Arab nations and South Asian countries to meet workforce demands (Jain and

Oommen 2016). Therefore, in the 20th century South Asian community succeeded in comprising fifty per cent of the workforce in each of the GCC states, a condition which persists. The GCC states constitute one of the foremost migrants receiving regions in the world, employing 35 million international migrants in 2019. In 1990, South Asian migrants in GCC countries numbered 4.2 million, increasing to 8 million in 2005, 12 million in 2010, and 17.6 million in 2019 (Vereinte Nationen 2020).

A notable feature of GCC States is their migration management system. The employer-tied visa system, referred to as the “kafala system” or sponsorship, exhibits similarities to temporary or circular migration schemes in other global locations (Ewers et al. 2023). The paper will first analyse the migration overview from South Asian countries to the GCC. The second section lays emphasis on the human rights of migrants in the context of International Labour Organisation guidelines and framework. The third section deals with the critical analysis of the existing kafala system and recent reforms introduced in GCC countries. The fourth part of the paper examines the wages, employment mobility, authorisation for departure and self-sponsorship for migrants in reference to the kafala system. The final part suggests specific reforms in the existing kafala system.

Literature Review

The present analysis is fundamentally grounded in five significant contributions that form the basis of the literature on migrant labour in the Gulf Cooperation Council (GCC) region, notwithstanding the existence of wide range of research that exists on it. This paper analyses the convergence of legal frameworks, labour migration policies, socio-political dynamics, and human rights regimes affecting migrant workers in the Gulf States.

The initial foundational piece is “Reflections on the Role of Law in the Gulf Migration System” by Andrew Gardner (2018), which highlights the symbolic function of law within the Gulf migration frameworks. Gardner critiques the performative legalism that frequently announces advances while failing to effectuate meaningful change in the conditions of migrant workers. This research is crucial for situating legislative reform within broader socio-political constraints and emphasising the enduring aspects of the kafala system despite seemingly progressive developments (A. Gardner 2018).

The second significant addition is the explanatory note titled “Reforms without Rights” by Rima Kalush and Vani Saraswathi (2024), which offers a critical assessment of labour and immigration policy reforms in the GCC from 2012 to 2022. It contends that numerous alleged kafala reforms were regressive, fragmented, and ultimately sustained the existing power disparity between employers and migrant workers. The paper emphasises that structural factors such as sponsor control, limited labour

mobility, and inadequate complaint mechanisms undermine protection for migrants (Kalush and Saraswathi 2024).

The third key source is Noha Aboueldahab's "Social Protection, Not Just Legal Protection" (2021), which analyses Qatar's legislative modifications in light of international criticism about the 2022 FIFA World Cup. This policy brief emphasises the imperative for enforceable social security systems and localised accountability mechanisms, arguing that without effective enforcement and tripartite transformation (worker-employer-state), legal improvements are merely superficial (Aboueldahab 2021).

The fourth cornerstone is "The Price is Rights" by Janae C. Cummings (2018), which critically examines the UAE's inadequacy in aligning its labour laws with international human rights standards. Cummings elucidates institutional exploitation through recruiting fraud, wage theft, and legal inaccessibility via case studies, illustrating how the lack of judicial access perpetuates migrant plight despite the UAE's modern economic façade (Cummings 2018).

The study by Mrutuyanjoya Sahu (2022), titled "Contemporary Labour Migration from South Asia to the GCC States," provides an empirical analysis of the economic incentives, historical phases, and demographic patterns related to South Asian migration. It clarifies how geopolitical and economic strategies such as "Asianization" of the workforce intentionally sustain a supply of low-cost, temporary labour while denying migrants citizenship or access to basic facilities (Sahu 2022).

Methodology

This research utilises a normative juridical methodology, concentrating on the examination of legal norms and institutional structures that govern the rights of migrant labourers within the member States of the Gulf Cooperation Council.

The normative approach enables a focused analysis of existing international commitments, national labour laws, and bilateral agreements relevant to the safeguarding of migrant workers within the region. The study utilises a descriptive-analytical approach to strengthen this normative framework. It systematically examines legislative instruments, policy initiatives, and human rights to clarify the true circumstances of migrant labour in the GCC region.

The concluding assessment embraces a perspective centred on rights, emphasising the interconnection between labour rights and human dignity, while advocating for fundamental enhancements that go beyond mere superficial legal changes.

Migration From South Asia To Gcc Countries

South Asian migrants are considered the most mobile demographic worldwide, with the region accounting for more than 70 per cent of inter-regional migration. Individuals from South Asia have traversed the region in search of enhanced living conditions and greater economic prospects. Following the attainment of independence from colonial dominion, governments in South Asia systematically arranged for indentured labour, facilitating the migration of individuals from Asia across the globe. Since the 1950s, various nations in South Asia have experienced significant international migration, primarily characterised by the movement of highly skilled professionals and students to region such as the Middle East, United States of America, United Kingdom, Europe, Australia, and New Zealand. India and Bangladesh hold the first and second positions, respectively, in the global rankings of nations for international immigration, while Pakistan and Nepal are placed fourth and fifth. The narrative of labour migration from South Asia to the Gulf region lacks the antiquity and allure that characterises the tales of traders. This phenomenon, which has persisted for a century, traces its origins to the early 20th century, coinciding with the discovery and exploration of oil in the region. Following the rise of the oil export economy in the 1970s, Gulf nations have emerged as the foremost hub for migrant labour worldwide, with South Asian migrants representing the largest demographic group (Sahu 2022).

South Asian worker migration to the GCC States has evolved through several phases. Labour need was mostly met before 1970 with immigrants from Arab countries. The estimated foreign population of the GCC nations in the early 1970s ranged from 800,000 to 1.25 million; by 1975, this figure had risen to 2.76 million, including 1.4 million labourers. It was suggested to rely on short-term foreign labour migration instead of training the local workers in order to meet the personnel needs in construction, government, and services (Winckler 1997). Labour migration also underwent diversification in the post-1970s period, with more people from South Asian countries arriving. Still, the decline in oil prices in the latter half of the 1980s somewhat reduced the flood of migrant workers. Bahrain and Oman have the lowest migrant populations; Saudi Arabia and the UAE control migratory patterns among Gulf countries. Apart from economic reasons, cultural and historical aspects, as well as State influence, define and shape migration trends according to a thorough analysis. The flow of people from India to the Gulf States is not new. From Malabar port to trade rice, textiles, goods, and spices with the Gulf States, Indian traders crossed the Indian Ocean in the sixteenth century (A. M. Gardner 2010).

Beginning in 1820, the British rule of the Gulf encouraged Indian officials, bankers, financiers, and government contractors to flood the region. Together with the subsequent labour migration, the change in the nature of the State in many Gulf countries into a rentier State economy has changed the scale and character of Indian immigrants to the region. Following the 1970s oil boom, people from

India began to flood the Gulf countries. Moreover, the GCC States have carried out vital infrastructure and economic initiatives, attracting Indian migrant workers, especially from the southern part of Kerala. The Indian population in the region grew from 50,000 in 1970-71 to 150,000 in 1975, then to 1.9 million in 1991, and finally to over 9.3 million in the GCC States. Forty per cent of South Asian migrants and more than fifty per cent of Indian migrants live in the Gulf. Among the most crucial worldwide migration routes are the India-United Arab Emirates (UAE) corridor, with 3.4 million migrants, and the India-Saudi Arabia corridor, with 2.4 million migrants.

The British occupation of the Gulf, commencing in 1820, facilitated the influx of Indian bureaucrats, bankers, financiers, and government contractors. The transformation of the State's nature in numerous Gulf countries into a rentier State economy, together with the consequent labour migration, has altered both the scale and character of Indian migrants to the region. The influx of immigrants from India to the Gulf nations ensued after the oil boom of the 1970s. Furthermore, the GCC States have executed critical economic and infrastructure projects, drawing Indian migrant workers, particularly from the southern region of Kerala. As a result, the Indian population in the region increased from 50,000 in 1970-71 to 150,000 in 1975, then to 1.9 million in 1991, and reached over 9.3 million by 2019 in the GCC States. More than fifty percent of migrants from India and forty percent of migrants from South Asia inhabit the Gulf region. The India-United Arab Emirates (UAE) corridor, with 3.4 million migrants, and the India-Saudi Arabia corridor, with 2.4 million migrants, rank among the foremost worldwide migration pathways (Vereinte Nationen 2020).

The Pakistani economy now revolves mostly on labour migration. Over the past twenty years, labour migration from Pakistan to the GCC States has sharply increased. Every year, Pakistani migrant workers travel overseas mostly to Middle Eastern countries. Worker migration from Pakistan to the Gulf runs in several periods. Many push and pull factors including economic collapse, political unrest, unemployment, poverty, and proximity in terms of religion and geography led to a considerable migration from Pakistan to the GCC countries in the early 1970s (Khan and Mingyi, 2018). With Saudi Arabia hosting 1.4 million migrants in 2019 and the UAE housing about one million, Pakistani labourers are scattered all over the GCC states. Many others also live in Kuwait, Oman, Bahrain, and Qatar. From 17.6% to 29.6% the percentage of Pakistani labour migrants in the GCC States has increased over the previous two decades (Vereinte Nationen 2020).

The number of formally registered overseas migrant workers in Bangladesh has increased dramatically throughout the past thirty years. Beginning in Bangladesh in the 1970s, labour migration from there has steadily increased since then, accelerating in the 1980s. Given Bangladesh's ranking among the top receivers of remittance inflows worldwide, the current human capital has been crucial in the country's economic development. Bangladesh found that the GCC nations were the main destination for its workers when it first entered the global contract labour market (Rahman 2012).

Bangladesh's relations with the GCC States suffered from its 1971 split from Pakistan and proximity to India. As such, temporary migration started later than in other South Asian nations. Economic disparity, poverty, cultural and religious proximity, and family networks are the major reasons for the migration of workers from Bangladesh to the Gulf States.

For almost thirty years, Sri Lanka, an island nation in South Asia, has gone through violent upheaval and racial strife. Since Sri Lanka gained its freedom in 1948, temporary migration has occurred in that



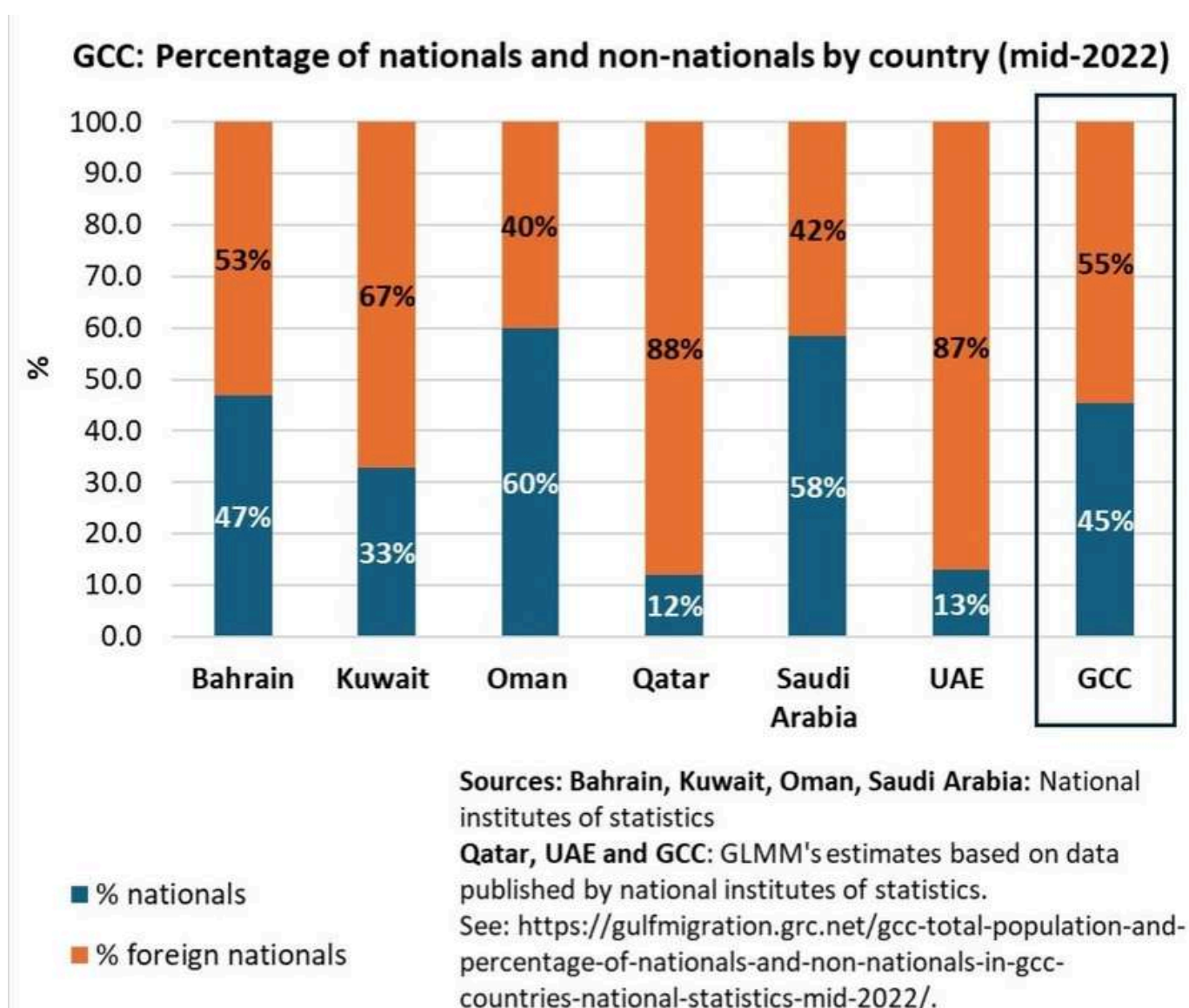
country. At first, educated English-speaking Sri Lankans preferred to leave for Commonwealth countries like Australia and the United Kingdom. Most of the workers come from low-income backgrounds and travel primarily for financial reasons. While Saudi Arabia became the most preferred destination for Sri Lankan migrants, mostly involving women. Sri Lanka's migration to the GCC countries notably accelerated in the late 1990s, especially in Qatar (from 0.31 per cent in 1990 to 17.94 per cent in 2019). In GCC countries, about half of female migrants come from South Asia. With women significantly contributing as primary earners and heavily entering the GCC States' care sector, Sri Lanka has seen the most noticeable 'feminisation' of labour migration to the Gulf States (Brochmann 2019).

One of the main elements of Nepal's socio-economic structure is still labour migration. The history of migration from Nepal begins in the colonial era when many Nepalese labourers were hired by the British army to protect the tea farms under colonial control. Temporary labour migration outside of India is a recent phenomenon in Nepal. Labour migrants were few before 1980, mostly heading for the UK, Hong Kong, Singapore, and Brunei Darussalam. One notable feature of the early 2000s temporary labour migration in Nepal has been the astonishing increase in the number of workers heading to Malaysia and the GCC States. Political unrest, left-wing violence, natural disasters, poverty, and unemployment are blamed for the recent foreign migration of Nepalese workers to other countries worldwide. Nepalese migrant female labourers were hired in low-skilled roles, including cleaning and household chores (Wadhawan 2017).

Table 1.

GCC: Percentage of nationals and non-nationals by country (mid-2022) (Source: Bahrain, Kuwait, Oman, Saudi Arabia, UAE and Qatar, National Institute of Statistics, 2022)

<https://gulfmigration.grc.net/gcc-total-population-and-percentage-of-nationals-and-non-nationals-in-gcc-countries-nationals-statistics-mid-2022/>.



Right of Migrant Workers

The most vital feature of human rights is their universality. 'Universality' means human rights are applicable universally and to all irrespective of their nationality, religion, gender and caste. Therefore, the migrants also enjoy the same protection of human rights as anyone else in the world would enjoy. Human rights can neither be revoked nor relinquished voluntarily. The protection of human rights originates from the inherent dignity of each individual rather than from the status of citizenship (Ruhs 2012). An individual is considered a 'migrant worker' by the International Labour Organization (ILO) if they move from one nation to another for the purpose of finding a job, regardless of whether they are self-employed or not.

In the present society, it is rightly highlighted that migrant workers often seek better living conditions. International workers should be treated with the same respect as local people by the host country. The three most essential international legal instruments concerning the rights of migrant workers are:

1. United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW), 1990

2. ILO's Migration for Employment Convention, No. 97, 1949

3. ILO's Convention No. 143 on Migrant Workers (Supplementary Provisions), 1975

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families has emerged as an essential component of the rights-based framework for migration, with numerous international and non-governmental organizations to promote and ensure the safety of migrant workers globally (Ruhs, 2012).

The ICMW was established after a decade of deliberations. It elaborates on ILO Conventions 97 and 143. It gives various rights to migrants, those who are residing or employed illegally in a foreign nation. The ICMW comprises 93 articles, whereas ILO Conventions 97 and 143 have only 23 and 24 articles, respectively. The ICMW provides fundamental human rights to all migrant workers, irrespective of their status, and also provides rights to migrant worker's families. The CMW conceive that migrants and natives ought to be treated equally, rather than being subjected to 'minimum standards,' as is the case with numerous other international regulations (Lönnroth 1994). The ICMW provides a comprehensive perspective on the human rights of migrant workers throughout the entire migration process, encompassing the recruitment phase and the entitlements of migrants upon their admission (Piguet, Pécoud, and Guchteneire 2011)

The number of state parties which have ratified the International Convention on the Protection of the

Rights of All Migrant Workers and Members of Their Families concerning migrant workers is around 60, which makes it challenging to implement the convention and bind the states. The data also shows that most developed nations that advocate for the human rights of migrants do not extend these rights to migrants residing within their territories (Ruhs, 2012). All six GCC States are members of International Labour Organization. Still, none of them is a signatory to International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990. Even none of the six GCC States are signatories to the Migration for Employment Convention, 1949 and the Migrant Workers Convention (Supplemental Provisions), 1975. However, all the six GCC States have endorsed the Forced Labour Convention of 1930 and the Abolition of Forced Labour Convention of 1957.

Apart from abusive and dishonest recruitment policies and the high costs associated with labour migration. Migrant workers in the region deal with other problems and challenges, including poor working conditions, inadequate safety and health precautions on the job, and weak labour inspection in sectors with a high migrant presence, like construction and domestic work. Some groups of migrant workers, including domestic workers, are either merely partially covered by labour laws or excluded from them altogether. While several of the countries in the area have passed specific laws to control the domestic employment market, the protections given are usually less than those provided by labour law. There is little access to justice, procedures for conflict settlement are weak and ineffective, and reparation systems are absent. Some countries show very little or no freedom of association, therefore hindering collective bargaining among migratory workers.



Kafala System: A Critical Analysis

The primary structure controlling migrant worker treatment in GCC countries is the kafala system. This system offers migrant workers a legal way to live and work in GCC nations. The hiring of migrant labourers is conditioned upon an individual or entity in a GCC nation, known as a 'kafeel', (sponsor). Through 'kafeel' only the migrant worker can obtain a residence permit, an entry visa, and a work permit. Under the kafala system, the person who pays migrant workers takes legal and financial liability. The System ties a migrant worker to a company, allowing them to work just for the kafeel and only for the contracted period.

The kafala system is still a fundamental part of the legal system controlling migrant labour across all Gulf States, notwithstanding legislative changes implemented in Arab Gulf governments during the past 15 years. Understanding the Kafala as a nexus of legal, economic, and social relations, as articulated by scholars Nicolas Blarel and Crystal Ennis (2022) in their analysis of migration governance in the Gulf corridors, elucidates the inherent constraints of individual reforms, particularly those aimed at core aspects of the Kafala. The essential traits of codified Kafala practices are based on the significant authority wielded by the employer or sponsor over foreign labourers. This encompasses the employer's authority to limit the employee's capacity to change jobs, thus binding the worker to a sole sponsor. Furthermore, the employer has the authority to initiate absconding or 'runaway' cases against the employee, potentially resulting in legal and financial repercussions for the latter. The sponsor additionally manages the renewal of the worker's resident identity and work permits, thereby reinforcing the worker's dependency. Furthermore, the employer possesses the authority to restrict the employee's departure from the country, substantially curtailing their freedom of movement and autonomy (Ennis and Blarel 2022). These constraints are reinforced by other legal, social, and economic barriers that restrict migrant mobility and confer disproportionate power to employers and sponsors. These include wage disparity related to nationality, linguistic barriers, limited access to permanent citizenship, insufficient time to secure alternative employment upon contract termination, inadequate affordable housing, and ineffective complaint mechanism, among others.

The kafala system enables Gulf countries to fulfil economic goals and accommodate the needs and lifestyles of their residents by delegating control over the legal and economic status of foreign labourers to sponsors. This arrangement offers numerous advantages, such as affordable labour for households and businesses. The impact locals have on the migrant population mitigates local apprehensions about the demographic imbalance between immigrants and citizens. The gender disparity is paradoxically caused by regulations that inhibit lower-income migrants from reuniting with their families in the Gulf, leading to the severe marginalisation of substantial male populations often mischaracterised as bachelors who are frequently confined to labour camps distant from

'family' areas within the nation. Certain GCC governments, particularly those with lower GDP and higher populations (Saudi Arabia, Oman) and those exhibiting some degree of representative governance (Bahrain, Kuwait), manipulate these concerns by shifting responsibility for declining economic conditions and ineffective public policies onto migrants. Similarly, national security issues are invoked to justify the resistance to reform, with assertions that foreign workers require stringent oversight due to their population size and that granting them any semblance of permanence would jeopardise the state's identity (Shah 2009).

Recent Reforms in Kafala System in GCC Nations

Gulf countries have started to remove some basic elements of the Kafala system recently. Qatar became the first country in 2020 to let migrant workers leave or switch jobs. Later on, Kuwait and Saudi Arabia followed the same approach, but only once the employee had served one year. Except for Saudi Arabia, all GCC countries' migrant workers by 2021 will be able to leave without permission from their company. Gulf officials say these policies have eliminated the Kafala system. Nonetheless, obstacles continue to impede foreigners from obtaining equivalent rights in the workplace. Almost every modification to labour or immigration legislation has been celebrated as a significant reform and progress towards the abolition of the Kafala system, notwithstanding their inadequacy in enhancing protections or securing more rights for workers.

Baldwin-Edwards (2011) and Diop et al. (2018) observe that assessing the effects of reforms in the Gulf is hindered by a lack of transparent official data and the underreporting of grievances. The current situation is best depicted by analysing documented instances of labour exploitation in conjunction with a review of statutory provisions. Our assessment is additionally guided by previous discussions with affected migrant workers and representatives from diverse countries of origin. The selected reforms for analysis are not exhaustive (for example, alterations to occupational health and safety legislations are excluded). Our analysis suggests that kafala must be perceived as a 'complex' system. To bring clarity in the kafala system, there must be interconnections among laws and between laws and society. Only by surpassing isolated reforms and scrutinising them within their 'lived-in' contexts we can assess the authentic impact of reform on the rights of migrant workers. Recent reforms have effectively reduced or eradicated one locus of control, only to replace it in another domain. Notably, most reforms focus on labour laws while concurrently maintaining or exacerbating regulation over migration workers through immigration and criminal laws that prevail within the government hierarchy (Ewers et al. 2023).

Restricted access to social protection and economic rights exacerbates the power imbalance between migrant workers and employers/sponsors, especially in the context of fragile legal systems (Ennis and Blarel 2022).

LIVING WAGES

The absence of minimum wages legislation in most of the GCC States and obstacles in job mobility consistently suppress income for migrant workers. In certain GCC countries, minimum wages for specific nationals and professions may be determined bilaterally with the country of origin. Kuwait and Qatar are the only nations that have established a minimum wage for all migrant workers. Minimum wage for domestic workers is fixed at KWD 75 per month and QR1800/USD 490 in Qatar.

While a wage floor signifies a great impact in creating a fair labour market, these earnings often fail to meet the criteria for living wages in numerous countries (WorldData.Info, 2022).

Allowing wages to remain too low increases workers' dependency on their companies or sponsors. This strengthens sponsor's whole control over the migrant worker. Most of the migrant population in these countries cannot find independent housing, relocate their families, or afford transport and healthcare. Therefore, wages that are drastically low than the living wages cause social marginalisation of most migrant workers. One of the problems also includes wage theft or withholding the wages by sponsors. Every GCC country has established a Wage Protection System (WPS), a mandatory electronic pay transfer system for all workers under control of labour laws in response to general labour exploitation. The WPS set extra monitoring mechanisms and penalties, including fines on the employer.

The UAE initiated the implementation of the WPS in 2009 and Bahrain was the last country in the region to adopt it in 2019. Each nation implements the WPS with distinctions. The approach typically requires the submission of employment contracts to the system and stipulates that a minimum percentage of the agreed income be distributed via a financial institution throughout the monthly payroll cycle. Domestic workers are excluded from the Wage Protection System across the Gulf, although employers in the UAE have the option to engage with the system. The evidential standards for compensating domestic workers are minimal, even though these workers are especially susceptible to wage theft. Current cases of wage theft demonstrate that WPS fail to safeguard the interest of migrant workers. The weakness of WPS derive from widespread oversight and inadequate mechanism in enforcement. WPS does not ensures that there is full payment of wages as agreed by employer and employee. (Saraswathi, 2017).

The UAE allows WPS payments through many financial institutions, including money exchanges. In Saudi Arabia and Qatar, WPS is limited to banks alone. In Qatar, workers may own a salary card independent of any banking institution. The employer holds both cards and PINs, enabling them to deposit into and withdraw funds from employee's accounts independently. The efficacy of the WPS is fundamentally limited without comprehensive economic rights for migrants, encompassing the right to living wages.

Employment Mobility

One of the unique features of the Kafala system is putting restrictions on employment mobility. Previous legislation may have restricted employees from modifying their employment status until the end of their contracts or even post-expiration. The capacity of employees to transition to other positions without the consent of their former employer or sponsor referred to as a “No Objection Certificate” or NOC has expired over the past decade, except domestic workers. Nonetheless, a notable gap often arises between NOC reforms, their actual implementation, and the ensuring decline.

The reforms in Qatar in 2020 ostensible abolished NOC requirements and were presented as the end of the kafala system. However, a ‘de facto’ NOC remerged, which was evident through signed resignation letters and delayed approvals from the Ministry of Labour (Migrant-Rights.org, 2021a). In Oman, the abolition of the NOC in January 2021 received initial praise. However, soon workers faced challenges in changing jobs. In July, Ministry of Labour implemented additional restrictions requiring workers to complete their contracts before changing jobs without their sponsors consent. Workers fulfilling this requirement faced difficulties in job transitions stemming from misalignment between Royal Oman Police, which oversees immigration, and the Ministry of Labour (Pannu et al., 2021). Similarly, Saudi Arabia characterised its 2021 labour law as ‘major reform’ of the sponsorship system, which it had previously claimed to have eliminated in 2000. Employees are permitted to change jobs without the consent of their previous sponsor only after completing one year of employment, unless they can provide evidence of specific violations by their employer (Deloitte, 2021).



The employment reform initiatives in the UAE for 2022 are currently experiencing an initial contraction, following the Federal National Council's approval of a plan that allows workers to change occupation after one year (Al Qaidi, 2023). In Qatar, domestic workers theoretically have the legal right to change employers freely, similarly to other workers under labour legislation. Workers pursuing changes in employment face the risk of visa cancellation or being classified as absconding, stemming from inconsistencies in probation terms between domestic workers, employers, and recruiting agencies. (Migrant-Rights.org, 2022a).

In various Gulf regions, domestic worker's right to change employment have expanded. It now depends on the fulfilment of their contracts, the death of their employers, or evidence of severe abuses, along with obtaining approval from relevant authorities. The profound seclusion of domestic workers in employer's residences results in a significant lack of expertise and resources for filing or pursuing complaints, compounded by the absence of adequate infrastructure in most GCC nations to support them. Domestic workers attempting to flee adverse working conditions are often sent back to their employers or are designated as 'absconding' (Migrant-Rights.org, 2020c).

Table 2: Employer Mobility without employer's permission. Source: (Migrant-Rights.org, 2023d)

Country	Law
UAE	Anytime, with undefined 'legitimate reason'
Qatar	Anytime
Saudi Arabia	After completion of 1 year
Oman	Termination of contract with conditions
Kuwait	After Completion of 3 year
Bahrain	After 1 year, or specific contract violation

One of the most deleterious strategies perpetuating employer control is the absconding charge. Employers possess both the legal right and duty to classify employees as 'absconded' if they do not report for work within a specified timeframe. This provision is often misused to punish or coerce employees attempting to escape exploitative circumstances. The repercussions of being classified as absconded are grave and may encompass incarceration, deportation, substantial penalties, and prolonged prohibitions on re-entry into the nation. The imminent fear of punitive measures effectively traps workers in exploitative working situations, with no avenues for justice or movement. Although certain GCC governments have implemented measures including increased penalties for fraudulent absconding claims and administrative procedures for disputing such allegations, these protections are nonetheless restricted in both extent and effectiveness. The procedure for contesting an absconding claim is sometimes arduous and biased against employers, particularly when law enforcement, instead of labour officials, instigates the complaint. Furthermore, structural dependencies exacerbate the challenges associated with altering employment. Low-income migrant labourers frequently depend exclusively on their employers for accommodation, sustenance, and transportation. This reliance makes any effort to exit an abusive or unsatisfactory work perilous, since it may lead to instant homelessness, food insecurity, and social isolation. The feasibility of reforms is closely linked to legislative frameworks and the wider socio-economic marginalisation of migrant groups. In situations where employees lack social capital or institutional support, even seemingly progressive legal reforms do not result in significant enhancements in mobility or autonomy (Khan 2023).

In summary, the official abolition of the Kafala system in certain GCC regions has not adequately addressed the fundamental power imbalances characterising the migrant worker environment. The continuation of absconding laws, employer retaliation, and socio-economic dependencies underscores the imperative for structural reform that transcends mere legal amendments, focussing on worker agency, ensuring institutional accountability, and tackling the overarching political economy of labour migration in the region.

Sponsorship

The unique occurrence of self-sponsorship for economically disadvantaged migrant workers in the region transpired in 2017. The Labour Market Regulatory Authority (LMRA) of Bahrain has unveiled the Flexi-Permit, an innovative initiative that allows specific migrants with irregular residency status to self-sponsor and participate in legitimate employment across a range of employers (LMRA, 2017a). The programme notably excluded domestic workers. Although lauded by various international entities, such as the US Department of State, as a model for Kafala reform in the region, the initiative ultimately sustained the marginalisation of workers by simply substituting one form of vulnerability for another. While employees were no longer tethered to a singular employer, they found themselves

obligated to remit considerable monthly fees to the government in order to maintain their visa status. In the absence of minimum wage regulations, employees faced significant challenges in financing the program while striving to uphold a reasonable quality of life, especially in light of the scarcity of affordable housing options for economically disadvantaged migrants. Individuals holding flexi-permits were excluded from the provisions of labour law and were not mandated to engage in contractual agreements. One of the underlying motivations for the programme was, indeed, to redirect funds from the illicit free visa market, which a 2012 LMRA study estimated to be worth BD70 million (approximately USD 185 million), into government revenue (LMRA, 2017a).

Despite the fact that Flexi-Permit holders constituted a modest fraction (less than 5%) of the total migrant workforce in 2022 (Migrant-Rights.org, 2020b), the business sector expressed concerns regarding the erosion of its leverage over employees, while the initiative faced ongoing scrutiny from parliamentary members (Migrant-Rights.org, 2020b). The Flexi-Permit was annulled in 2022 and substituted with a more constrained program in collaboration with the Bahrain Chamber of Commerce and Industry (Migrant-Rights.org, 2022d). Numerous experts perceive the deficiencies of the Flexi-Permit plan as reflective of a more extensive structural constraint intrinsic to efforts aimed at reforming the Kafala system. The inadequacy of these schemes to offer significant protection against exploitation indicates that adjustments confined to sponsoring legislation are improbable to result in substantial enhancements in the rights of migrant workers. The Flexi-Permit, with its limited scope, illustrates the shortcomings of reform initiatives pursued in isolation. Focussing exclusively on modifying employer sponsorship parameters while disregarding the interconnected areas of labour protections, social security, and economic entitlements preserves the fundamental conditions that enable the commodification and precariousness of migrant labour. As a result, rather than eliminating established systems of inequality, they frequently replicate and validate them under the pretence of legal reform. The Flexi-Permit exemplifies superficial advancement concealing more profound systemic issues. It ultimately fails to examine or alter the fundamental mechanisms of labour control inherent in the existing migratory governance framework in the Gulf.

Migrants Exit Mechanism

Except for Saudi Arabia, the majority of Gulf Cooperation Council (GCC) member states have officially eliminated the necessity for sponsor-issued exit permits for migrant workers wishing to depart the host nation. In 2021, Saudi Arabia enacted a reform permitting workers to directly obtain exit authorisation from government authorities, circumventing the necessity of employer consent. Employers are nonetheless informed of such demands and maintain the ability to challenge them, therefore retaining an indirect kind of control. Notably, these improvements omit crucial vulnerable groups: domestic workers and dependents typically remain beyond the protective purview of these

legislative changes.

Conversely, Qatar has embraced a more comprehensive strategy for reform. In 2018, it abolished the exit permission requirement for employees subject to the labour law. In 2020, this policy was expanded to encompass domestic workers, agricultural labourers, naval personnel, and anyone employed in public and quasi-public sectors. Employers may classify up to 5% of their workers as 'essential,' necessitating exit consent before departing (International Labour Organisation, 2020). Notwithstanding these gains, misunderstandings remain especially about domestic workers. Although Qatar officially revoked the exit authorisation for this group, the Ministry of Interior first declared that domestic workers departing the country without informing their employers would incur a four-year re-entry prohibition. Although this statement was subsequently retracted and clarified by the ILO, which underscored that domestic workers are only expected but not legally obligated to notify their employers prior to departure (presumably to aid in the resolution of wages and end-of-service benefits), the ambiguity has instigated considerable confusion and apprehension among migrant workers.

These events exemplify a wider conflict between nominal legislative improvements and persistent systems of employer dominance. Despite statutory modifications indicating a decline of the conventional Kafala system, concurrent practices such as employer's power to report workers for 'absconding' endure and perpetuate the restriction of worker's movement and autonomy. This disjunction is particularly pronounced in the realm of exit permit reforms, where the seeming liberalisation of mobility is offset by lingering punitive authorities that may be invoked against non-compliant workers. The elimination of exit permits, although symbolically important, does not completely shield migrant workers from coercive tactics inherent in the overarching migration governance systems of the GCC.



Remedies for Migrants

The genuine measure of reforms lies in the capacity of workers to articulate their concerns freely and without fear of repercussions when their rights are infringed upon. The mechanisms for lodging complaints vary significantly from one country to another. Workers who have been interviewed by Migrant-Rights.org and other advocacy organisations have reported encountering analogous challenges throughout the region (Migrant-Rights.org, 2023b). The processes for lodging complaints necessitate a certain degree of digital proficiency, a familiarity with the Arabic language, the freedom to allocate time away from professional obligations or domestic responsibilities, and financial resources to facilitate translation and transportation expenses. The duration required for authorities to address a complaint or case frequently surpasses initial projections, and there exists a notable lack of assistance for migrant workers who have faced wage denial or other forms of exploitation by their employers. Workers may inadvertently find themselves in a precarious situation, as the onus of renewing and cancelling their documentation lies with their employers, thereby complicating their capacity to address grievances effectively. Safe havens for workers seeking to escape exploitative circumstances or fearing retaliation from their employers for lodging complaints are conspicuously absent. While certain embassies may provide unofficial shelters, these facilities typically cater exclusively to women and impose stringent criteria for entry. The provision of consular support exhibits considerable variability across nations, influenced by their capabilities, institutional directives, and the dedication of personnel involved. For instance, the Philippines delineates a distinct mandate regarding the function of the Migrant Workers Office, formerly known as the Philippines Overseas Labour Office, along with the assistance extended to its citizens residing overseas (POLO Migrant Workers Office, 2023).

The influence wielded by sponsors facilitates manipulation, even within digitised frameworks, as illustrated by the aforementioned instances of wage protection, job transitions, and exit permits (Migrant-Rights.org, 2022b). Conversely, migrant workers find themselves in a position of disempowerment, lacking the personal freedoms essential for reaping the benefits of reforms.

Conclusion

While most GCC nations are relaxing their kafala rules to meet their needs, the effect on the ground is negligible. Although there have been reforms in the past few years in the existing policy, there are still problems in the kafala system due to more discretion vested in the hands of the sponsors/employer. A possible solution in that case remains to make changes in the kafala system that limits the power and control of the employer/sponsors, provide minimum wages, support through providing

unemployment insurance to migrants, and also ensure strict action and accountability of sponsors/employers in situations where they have abused their discretion. Gulf Cooperation Council countries should also develop a system that is more welcoming to migrants by allowing them social cohesion in the society. Migrants should be given basic freedom to get themselves integrated into the society. These measures will provide a vibrant labour market, thereby enhancing the entry of enthusiastic migrants in the GCC countries.

The paradigm must transition from perpetually praising a location that is considered a paradise for the wealthy to actively advocating for the preservation of rights and the development of additional legal remedies for migrant workers.



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A photograph of two construction workers on a site. They are wearing yellow hard hats and high-visibility yellow safety vests over blue and green shirts. One worker is leaning forward, possibly writing or measuring, while the other stands nearby. The background shows a construction site with rebar and concrete structures.

Chapter 3

The implications of Kafala to the African migrants in the Middle East

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Introduction

For the last decade, there have been increasing debates and arguments within Africa's political spectrum regarding the abuse and exploitation of African migrants working in the Middle East. Central to these debates is the use of the Kafala system which has been blamed for perpetuating exploitation and human rights abuses. The Kafala, or sponsorship system defines the relationship between foreign workers and their local sponsor, or Kafeel, which is usually their employer (Robinson, 2021). For Pande (2013), the Kafala system has been compared to modern slavery because of its excessive power and domination over the migrant worker. There has been growing concern among policymakers in Africa that despite the reported abuses and exploitation of Africans in the Middle East, Africans are still migrating en masse in search of economic opportunities. Subscribing to this view, the International Labour Organization (ILO) revealed that there has been an upward increase in the migration of Africans to the Middle East and this has been buoyed by the rapid economic development of Gulf countries (Flahaux, & De Haas, 2016). As a result, the hospitality sector in countries such as Lebanon and the Gulf Cooperation Council (GCC) countries (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates) has seen an increase in the number of Africans (majority women) seeking employment.

The population division of the United Nations Department of Economic and Social Affairs (UNDESA) estimated that there were 3.6 million migrants from African countries living and working in GCC countries in 2019 (UNDESA, 2019). Several documented cases of abuse and violence endured by African migrants have surfaced over the years under the Kafala system. The African Union has been criticized for its failure to protect African migrants by not forging cooperation with GCC countries (through enacting binding bilateral agreements to protect migrants) to fight the recruitment, transportation and abuse of African migrants. The Kafala system has been heavily criticized and condemned by international organizations and civil society in general, and there have been increasing calls for the system to be abolished and replaced with an alternate labor mechanism (Khan & Harroff-Tavel, 2011). This paper, however, argues that reforming the Kafala system will not necessarily stop the abuse of African migrants in the Middle East as private actors profit from the exploitative system of moving workers. Moreover, Africans are seen as cheap labour and their vulnerability and economic desperation makes their recruitment very easy. Secondly, the reforming of the Kafala system will not happen overnight, and during this time, the region will continue to witness an increase in African migration, hence leaving room for their exploitation and abuse. Finally, Africa's diplomatic efforts to protect African migrants trapped in the Kafala system's cycle of abuse will be hindered by the continental body's lack of binding agreements with GCC countries on migration and labor protection. Within the premise of this paper, the Middle East refers to GCC countries. This paper seeks to examine how African migrants are exploited and abused in the Middle East under the Kafala system. It seeks to examine how employers abuse migrant workers from

Africa, often with little accountability or fear of prosecution. Finally, this paper seeks to understand how the African Union (AU), from a diplomatic perspective, has failed to ensure that African migrants are protected from abuse and exploitation in the Middle East.

Theorising African Migration to the Middle East

This paper employs Lee's push-pull theory of migration to explain why Africans migrate to the Middle East. Subsequently, Orlando Patterson's Slavery and Social Death approach is employed to explain the suffering and abuse experienced by African migrants in the Middle East. Everest Lee (1996) reformed

Ravenstein's laws of migration (Ravenstein, 1885) and argued that other often ignored factors drive migration and need to be taken into consideration. Subsequently, Lee argued that factors that make people move should be categorized into push and pull (Hoffmann et al., 2019).

Lee explained that if one is not settled in his or her place of origin, there are elements that will push him/her to migrate. Unemployment, poor governance and security related issues are factors Lee categorized as push factors. Pull factors, on the other hand, are elements that encourage people to migrate, such elements are often not available in one's place of origin, and these include better healthcare, jobs and security.

However, Lee also argued that migration was not a simple process; rather there were intervening factors that were at play in-between the place of origin and destination (Hoffmann et al., 2019). In Africa, there are a plethora of factors that entice one to migrate to the Middle East, notably conflict, employment opportunities, political instability and governance issues.

This paper argues that conflict and political instability are two of the major contributors to continental migration, through increased refugee flows and population displacement. However, it is the search for economic prosperity which is key to driving people to migrate to the Middle East. In support of this, Mlambo (2018) and King & Collyer (2016) contend that the economic benefits of migration are often borne out in wage gains for migrants, a process that has been extensively explored in the literature.

The Middle East, with its rapid economic development, has attracted thousands of migrants from Africa seeking employment in different sectors aiming to earn an income and maximise economic opportunities. Nonetheless, there are additional intervening factors that ought to be considered, e.g., the distance, possible abuse by smugglers and traffickers, and the costs associated with migrating that can stop one from migrating.

Social Death

Historians have argued that human trafficking is linked to slavery, and thus it is useful to understand the concept of slavery as a point of departure. Okoye (1980) argued that historically, the concept of slavery can be traced back to the origin of chattel slavery in the ancient world, where enemy captives would lose all their independence and become the property of their captors.

Orlando Patterson, in "Slavery and Social Death" (2018), argued that slavery cannot be observed from an economic perspective only, rather there is a great need to understand the concept within the context of the dynamics in human societies, power and socio-political relationships.

For Patterson, relations between humans are underpinned by the relative power of the interacting persons, with the quest to dominate another human being at the centre of the slavery process. Patterson suggested that economics was not at the centre of slavery, even though it was a major factor, there being three other forms of relationships supporting oppression and constituting what Patterson termed social death.

This then allowed for the services of the slave to be employed in a new system of control (Patterson, 2018). The first of these relations is the suppression of slaves through violence, which is facilitated by the ability of their owners to physically coerce them into taking a particular course of action. Secondly, slavery thrives on isolation and because slaves are usually kept away from family and friends, they thus lack support structures and social protection.

Finally, slaves are seen as people with no value (dishonoured) while their owners are seen as social elites (honourable). The plight of African migrants in the Middle East can therefore be explained by Patterson's Social Death approach. Firstly, they are abused by their captors (employers).

Their passports are confiscated, and they do not have any legal rights or representation in the host country as a result of the Kafala system and hence are dominated by their employer.

Secondly, they are away from family, which is a vital support structure; this increases their vulnerability which can then affect their thinking and actions. Coupled with abuse and violence, African migrants become enslaved and trapped in an unforgiving system.

Finally, because the Kafala system favors the employer, the lives of African migrants are seen as mere commodities that can be sold. Employers get away with the abuse and maltreatment of migrants; migrants can be loaned out and bought like a commodity. To entrench fear and control, coercion becomes key.

Methodological Issues

This chapter employed a qualitative research approach where a review of the literature was undertaken. This was done to allow the research to explore previous and current narratives that have contributed to shaping this highly politicised issue. The purpose of this approach was to contextualise the understanding of African migrants in the Middle East within the context of the Kafala system. The slave-like conditions that African migrants have been exposed to have been well documented and have heightened criticism of the Kafala system and argued for its immediate reform. Moreover, taking into account the historical and current literature relating to migratory patterns of Africans to the Middle East (especially since the oil boom) there is significant data to ensure that the paper reaches a meaningful conclusion.



Literature Review

The Kafala System and its criticism

Much of the criticism concerning how African migrants (especially domestic workers) have been abused in the Middle East lies in how the Kafala System grants employers total control over migrants. The Kafala System, which emerged in the 1950s, was meant to regulate the working relationship between the employer and employee (migrant workers) in several countries in the West Asia region (Damir-Geilsdorf & Pelican, 2019). The system has since become widely utilised in GCC countries. Incorporating the system into the GCC was meant to ensure that during the region's economic boom, migrant workers would be brought in as additional labor (on a seasonal basis) which would be regulated and once the economic boom slowed down, they could be dismissed. The modus operandi of the Kafala System centres on the worker's immigration status of being legally bound to an individual employer or sponsor (Kafeel) for their contract period (Damir-Geilsdorf & Pelican, 2019). Additionally, restrictions that required explicit written permission were placed on their employment transfers and their movement both within and outside the country, thus tying their freedom to the Kafeel throughout their stay (Egbunike, 2019). The system, with its exploitative ways, has come under scrutiny from governments not only from Asia and Africa but also from within the GCC countries. Pande (2013) describes some of the exploitative practices that are known to take place under the

Kafala system, including the fact that, at times, migrants are not paid their salaries, their passports are confiscated, they have no say or opinion on anything, and they are beaten, and even murdered.

The rush to build world-class stadiums to host the 2022 soccer World Cup in Qatar has brought new light to bear on the exploitative ways of the Kafala system. Migrants work in extreme heat for long hours with limited breaks and this has contributed to the death of workers mainly from Asia (India, the Philippines, Indonesia and Bangladesh) (Hartnett, 2018). In the United Arab Emirates (UAE), the University of New York in 2014 was criticised for exploitative labor practices in the building of its Abu Dhabi campus where migrant workers were reported to be receiving significantly lower wages than originally promised (Hartnett, 2018). They were being housed in overcrowded accommodation which was poorly maintained and had their passports confiscated. In Kuwait, when a Filipino domestic worker was murdered by her employers in December 2019 a diplomatic row ensued between Kuwait and the Philippines (Hartnett, 2018). Even though there have been calls to reform the system, these reforms have been slow and have not addressed the abuse of migrants working in the Middle East.

The increase in African migration to the EU coincided with the Middle East becoming a very attractive destination for African migrants in search of economic opportunities. However, unlike the EU, the Middle East observes Africa as a source of cheap labor, and sectors such as construction and hospitality are driving the demand for African migrants. Of concern is the appearance of numerous videos on social media where African migrants (mainly domestic workers) have pleaded for help. These videos have focused on the abuse and exploitation they have endured at the hands of their employers, who are rarely prosecuted under the Kafala system (Pande, 2013). It is important therefore to understand what drives Africans to migrate to the Middle East despite evidence of abuse and maltreatment. This paper argues that for one to understand the migration of Africans to the Middle East, one ought to examine the growth of human smuggling and trafficking in Africa.

Smuggling and human trafficking of African migrants to the Middle East

Human trafficking involves the use of force, fraud, or coercion to obtain some type of labor or commercial sex act (Jahic & Finckenauer, 2005). While the drivers of the trafficking of women, children and men are multifaceted, they can be reduced to purposes such as forced and exploitative labor in factories, farms and private households, sexual exploitation, and forced marriage. Human smuggling relates to aiding a person to enter into a country illegally for financial or other material benefits (Aronowitz, 2001). While these concepts have in the past been used interchangeably, their distinct difference lies in how they are carried out. With smuggling, migrants agree to be smuggled, while a

trafficked person is forced against their will to undertake a certain activity. Secondly, once the migrants reach their destination, smugglers complete their interaction whereas traffickers continue to exploit the victim for economic gain. Smuggling takes place across borders, while trafficking can also occur internally within a country or community (Campana & Varese, 2016).

In Africa, while smuggling is rampant, it is predominantly a characteristic of irregular African migration to the EU. African migration to the Middle East is mostly characterized by human trafficking undertaken by traffickers operating as employment agencies. Daghar (2020) notes that trafficking from East Africa to the Middle East is being run entirely by East African syndicates. Tinti (2017) observes that, despite receiving less media attention, records show that the number of African migrants travelling from the Peninsula in Northeast Africa to Yemen and Saudi Arabia is becoming a serious security issue. In 2016, Yemen recorded 117 107 irregular arrivals, with Ethiopians making up 83%, and Somalis making up the remaining 17%. Noteworthy is the reported decrease in movement along this

route in 2017, close to 55 000 lower compared to 2016 as a result of more efforts by North African countries to stem the outflow of irregular migration (Tinti, 2017). Even though the numbers have decreased, the increasing outflow of people from Africa has raised several questions relating to human security, cross-border crime and the abuse and exploitation of migrants in the Middle East. In 2019, the Gulf of Aden saw 138 000 people cross in boats. A considerable number of them were Ethiopian nationals who were destined for Saudi Arabia in search of employment (Middle East Monitor, 2020).

This paper argues that human trafficking and smuggling have become well entrenched within African society owing to their sophistication, lack of effective law enforcement policies, and profits derived from their operations. En route to the UAE for employment opportunities in January 2020, ninety-six Ugandan women were stopped from leaving Kenya by security personnel at Nairobi's international airport (Daghar, 2020). These women lacked proper documentation and it became clear that they were victims of human trafficking. It has become cumbersome for governments in Africa to identify trafficking syndicates because most are operating out of large cities under the guise of employment agencies. Kenya is observed as an enabler of, and a destination for most of East Africa's trafficking activities. The trafficking of migrants to the Middle East is carried out in three separate processes. Firstly, regional recruitment agents transport people from their respective countries to Kenya. Secondly, under the guise of employment agencies, these bogus agencies receive and move them from Kenya to the destination country. Finally, traffickers stationed in the destination country also disguise themselves as employment agencies (Daghar, 2020). East African countries, through the AU, have prioritized negotiating with Middle Eastern countries on trafficking issues and how cooperation can be fostered through policy-related agreements. Daghar (2020) also argues that in East Africa, policing smuggling and human trafficking crime is hampered by poor intelligence and lack of regional cooperation.

Women and children from the rural parts of Mali, Benin, Burkina Faso, Togo, and Ghana are trafficked to work in the cocoa plantations in Urban Cote D'Ivoire (Bello & Olutola, 2018).

A report by the United Nations International Children's Emergency Fund (UNICEF) revealed that children make up a quarter of those identified as trafficked victims in the world. Of this number, 64% are from sub-Saharan Africa. Human smuggling in the region is mostly concentrated towards the EU. 9% of irregular migrants detected in Europe came from West Africa (Bello & Olutola, 2018).

The US Department of State revealed that Ghanaian women and children are recruited and sent to the Middle East for forced labor and sex trafficking. In Nigeria, men and women are trafficked to Western Europe and the Middle East for various sex-related activities.

In Southern Africa, South Africa is seen as the main destination for trafficked victims in the region. However, this not to say that the country is not a source or transit country for human trafficking in certain instances, but as the economic hub of the region, South Africa is the main destination point for Southern African sub-regional and extraregional flows (Bello & Olutola, 2018).

Children and women are trafficked from the region to cities such as Johannesburg, Pretoria, Bloemfontein, Cape Town and Durban, for exploitation. However, not all trafficked persons are destined for South Africa; in many cases, victims are trafficked from the Southern African Development Community (SADC) into forced domestic labor in Ireland and the Middle-East (Wynn, 2007).

North Africa serves as an important transit zone for migrants attempting to reach Europe. North Africa attracts migrants from all over the continent; however, the region has been described as the Middle East of Africa. African migrants attempting to reach the EU and the Middle East are arbitrarily detained, sold as mere commodities in

Libya and suffer unlawful expulsion (Kah, 2019). Amnesty International argued that governments across the Middle East and North Africa (MENA) are failing abysmally to protect migrants living in or passing through their countries, fueling shocking levels of abuse. The African Union, for its part, acknowledges that African labor migrants working in low- skilled jobs are among the victims of frequent human rights violations and abuse, and are often exposed to violence.

The AU argues that scenes of abuse and exploitation of Africans in the Middle East should rally a global movement to pressure the region to promote the rights of migrants and ensure that working and living conditions are of an international standard (African Union, 2020). However, addressing the problem requires one to understand who is being smuggled or trafficked to the Middle East and what creates this demand for African migrants.

Who is being smuggled or trafficked to the Middle East

The composition of the victims of smuggling and trafficking includes a majority of lowskilled African workers who migrate to the Middle East in search of economic opportunities, with women making up a considerable number of migrants seeking work in the hospitality sector. Long working hours, poor access to health care, nonpayment or delays in payment, and the confiscation of travel documents are some of the challenges African migrants experience in the Middle East (ILO Policy Advisory Committee, 2018). The demand for African migrants in the Middle East is driven by the growth of the domestic, construction and sex industries which have opened up employment opportunities. The desperation of African migrants increases the prospects of them being trafficked (Flahaux & De Haas, 2016). Under the Kafala system, workers cannot change jobs without the employer's consent, something which then creates room for abuse and exploitation. The Gulf has always been depicted as a hotspot for human trafficking and with 2.5 million migrants making up the domestic workforce; they are very likely to suffer abuse at the hands of their employer.

A Ugandan parliamentary committee revealed that 35 Ugandans committed suicide in the UAE in 2017, mostly because of non-payment and abuse (Palet, 2018). While many Asian nations have been able to draw up bilateral agreements with GCC countries on the protection of migrant workers, Africa lacks such agreements, and this has resulted in traffickers disguised as recruitment agencies targeting African migrants. The United Nations Department of Economic and Social Affairs suggest that there are more than 636,000 Sudanese migrants in the Gulf, as well as up to 300,000 Kenyans (Palet, 2018). Numerous migrants working in the construction sector in the Middle East are from Somalia, Ethiopia or Uganda, countries which have little capacity to guarantee the fair treatment of their citizens abroad.



Factors that driving the smuggling and trafficking of African migrants

Human trafficking and smuggling in Africa can be attributed to a plethora of reasons such as border corruption, stagnant socio-economic development, conflicts and violence and the lack of regional cooperation in the continent. This has greatly reduced the ability of governments to stop their citizens from falling prey to trafficking gangs. In Africa, 422 million people live below the global poverty line. They represent more than 70% of the world's poorest people (Hamel, Tong & Hofer, 2019). Therefore, with the lack of economic opportunities, Africans see migration as a necessity. Weak border controls and corruption are other driving factors. Corruption undermines the building of formal state institutions in fragile states; it can also be understood as a means of containing violence in the absence of effective formal institutions (Mlambo et al., 2019). Additionally, corrupt law enforcers may help traffickers to recruit, transport and exploit their victims, while corrupt justice authorities may prevent the proper investigation and prosecution of trafficking cases. Corruption damages the attractiveness of a country, making migration more likely (United Nations Office on Drugs and Crime, 2011).

The plight of African migrants in the Middle East and reforming the Kafala system

Global news networks have continuously reported on the plight of African migrants in the Middle East. The abuse and violence they experience from their employers, sexual exploitation, debt bondage and lack of rights and representation are challenges that compound the plight of Africans in the Middle East. The Kafala system gives powers to the employer, with migrants being trapped in a cycle of exploitation with little prospect of obtaining justice (Khan & Harroff-Tavel, 2011). The Kafala system disregards human rights. For example, during the peak of the Covid-19 epidemic in Lebanon, thousands of domestic workers were abandoned without any form of assistance (Zelalem, 2020). While the abuse of African migrants in the Middle East is appalling, it also reflects the need for Africa to consolidate socio-economic development anchored in job creation, eliminating corruption and improving good governance to reduce outward migration (Mlambo & Adetiba, 2019). The overwhelming condemnation of the Kafala system has made it clear that nations are required to provide safety, security and access to fundamental rights to the most vulnerable of migrants. This is evidenced by the approval of a bill in 2017 by the United Arab Emirates Federal National Council that would for the first time in history guarantee a weekly day of rest, 30 days of paid annual leave, paid and unpaid sick leave, and 12-hours of rest a day. In Qatar, on the 31st of May 2017, a similar bill was adopted that would ensure 30-days of paid leave, a weekly rest day and an end-of-service payment.

In Saudi Arabia, reforms associated with the Kafala system would see some 7 million low-income workers allowed to exit the country or change sponsors, without asking their boss's permission, to be rolled out in March 2021. Countries such as Kuwait, Bahrain, Jordan, and Oman have also responded positively, with Oman introducing a law in 2003 which makes it illegal to loan workers to other employers.

In 2009, Jordan passed a law that criminalized forced labor for exploitation, while in 2009; Bahrain also announced that it would dismantle the Kafala system. In 2011, Kuwait announced that it too would abolish the Kafala system (International Labour Organization, 2012). However, reforms are not binding and are not carried out collectively. While individual countries have committed to reforming the system and ensuring the protection of migrant workers, their failure to do so does not come with sanctions or consequences, hence the increasing calls for a more binding agreement within the GCC countries (Jureidini & Hassan, 2019). For example, Oman's domestic worker regulations have not been adequate as a mitigating instrument – they place no penalties upon the employers for breaches of regulations. Also, Africa's lack of negotiation with GCC countries is partly responsible for the abuse of migrants. In contrast, Asian countries now make the effort to ensure progress on the matter of labor relations, through binding agreements that safeguard payment agreements, and the working conditions of the immigrants before their arrival. In Sri Lanka and India, sponsors are required to provide security deposits that are refunded once the worker has safely returned home (Rabiya, 2018). However, Human Rights Watch argues that because Asia has exerted pressure on GCC countries to safeguard their citizens in the Middle East, recruiters have shifted their focus towards more susceptible migrants, particularly, those who come from poverty-stricken countries from East Africa.

Protecting African migrants in the Middle East: the role of the African Union

The African Union acknowledges that loopholes exist diplomatically about addressing the abuse of African migrants in the Middle East. Available data shows that the Middle East region is the second-largest region of destination for African migrant workers, due to cultural, religious and historical factors (African Union, 2020). The flow of African migrants to the Middle East warrants systematic interventions, such as policy adjustment, coupled with structural reforms in various areas including training and ethical recruitment, decent jobs, skills recognition, and legal and consular services as well as protection of human rights in line with international standards. To address this, the AU invited Sri-lanka, which was the Chair of the Colombo Process, to share its experiences in managing Asian labour migrant workers (African Union, 2020). Subsequently, the AU argued for the establishment of a multidimensional framework that was anchored in the need for Africa and the Middle East to address issues of common interests, especially concerning migration. Amongst the important points of the

framework were the promotion of migrant rights, the ensuring of ethical labour practices, the provision of fair jobs and safeguarding the recruitment process (African Union, 2020). The GCC countries are willing to engage Africa to ensure a collective solution can be reached and is ready to provide all necessary cooperation to make this a success. There have already been some efforts directed towards addressing the problem. For example, the Labour Migration Advisory Committee (LMAC) now appreciates the need to have an improved understanding of, and an approach towards issues around migration in the Middle East (African Union, 2020). These efforts mirror the Colombo Process of 2003 which aimed at addressing issues faced by migrant workers from Asia in the Middle East.

Literature Findings

While the Kafala system has been and continues to be criticised for its apparent disregard for the rights of migrants, nations from Asia have heavily invested in having policies with Gulf countries that regulate the employment of migrant laborers. These policies have been anchored in the need to ensure that migrants, and their rights and civil liberties are protected. Africa has lagged in forging such policies and the protection of African migrants in the Middle East often falls to the migrant's home country. However, even though the AU acknowledges that there are many factors driving migration to the Middle East, little has been done to address them as yet. For example, governance-related issues in Africa give rise to political instability which results in violence and population displacement. However, rather than addressing these root causes, every day, more conflicts and governance-related issues compound Africa's development. The African Union acknowledges that it has little influence in protecting either illegal migrant in the Middle East. While the continental body has begun to call for cooperative frameworks with GCC countries to ensure the protection of African migrants, their illegal status in the Middle East will make it difficult to find a common solution supported by all parties. This will be made more difficult by the unwillingness of GCC countries to completely do away with the Kafala system and the slow pace at which the system is being overhauled.



Recommendations and concluding remarks

This paper acknowledges that migration, whether legal or illegal, will not stop, owing to its evolving nature. Therefore, to address the abuse and exploitation of African migrants in the Middle East, the paper recommends the following:

- Establish binding bilateral agreements which protect African migrants against abuse and maltreatment by their employers.
- Strengthen continental laws and protocols against smuggling and trafficking through international cooperation.
- Ensure bilateral agreements are anchored in international labour standards.
- Dismantle trafficking and smuggling syndicates disguised as recruitment agencies through legislation.
- Improve border legislation and impose harsh penalties for corruption.
- Improve the monitoring of migration patterns to better understand who is migrating and to where

The Kafala system is exploitative, abusive and has total disregard for African migrants, their rights and their civil liberties. The need to reform the Kafala system is long overdue. The fact that countries in the Middle East have committed to reforming the system can be observed as a positive development. However, from an African perspective, the reform of the Kafala system needs to coincide with reforms in Africa itself, centred on robust economic policies to spur development, improving good governance, eradicating corruption, improving the management and monitoring of borders and dismantling the consolidation of trafficking syndicates.

The increase in the number of incidents of abuse directed towards African migrants in the Middle East is partly because Africa does not have operational and binding bilateral agreements that ought to protect migrants and safeguard their rights. Moreover, African governments have seemingly not identified irregular migration to the Middle East as a key priority issue; therefore, it will be difficult to observe how African states will respond to growing reports of Africans being abused in the Middle East. For Africa, undoubtedly, dismantling the networks of smuggling and trafficking syndicates that have entrenched themselves in the continent is the biggest problem. These syndicates have infiltrated every level of society through their financial power which has allowed them to operate in sophisticated ways.

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