



WORKERS NOT SLAVES: human rights violations under the Kafala system

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The Arab states of the Persian Gulf (including the United Arab Emirates, Oman, Saudi Arabia, Qatar, Kuwait and Bahrain) have one of the highest proportions of migrant workers in the world. An estimated number of 23 million workers, most of them coming from Africa and Asia, are hosted in those countries.² In the past decades, those countries have experienced an increasing influx of migrant workers, contributing significantly to the countries' economies and development plans. Given the upcoming 2022 FIFA World Cup in Qatar, the need for workforces in the construction sector has been exceptionally high lately. By now, migrant workers in Qatar make up almost 80% of the population.³ They are responsible for constructing eight new stadia, hotels, infrastructure improvement and a new airport in Qatar until 2022.

The appointment of Qatar as the host country was already controversial during the bidding phase. Three FIFA officials were accused of receiving money in return for their votes in favour of Qatar.⁴ What is more, the issue of oppressive heat during the Qatari summer requires that the World Cup be held in winter, logistically challenging to reconcile with national football competitions.

However, the biggest concern related to the hosting of the World Cup in Qatar is the violation of the rights of the workers preparing the event. It was not until 2015 that the international community became aware of reports about migrant worker's poor working conditions in Qatar. Amnesty International was among the first to report migrant workers' working conditions in unsafe and hot environments, long working hours with little rest, inadequate basic services and small, overcrowded dormitories. As published in the Guardian in February this year, at least 6500 workers died since Qatar was designated in 2008.⁶ Numerous other international and non-governmental organisations (NGOs), including the United Nations (UN), the ILO and Human Rights Watch (HRW), have equally reported severe cases of abuse.⁷

The exploitation of migrant workers is known to be facilitated by the Kafala system that currently operates in all Arab countries earlier mentioned. Hence, before delving deeper into the alleged violation of human rights, it is first necessary to explain this labour system.

2. International Labour Organization (ILO), 'Labour Migration - Arab States' <<https://www.ilo.org/beirut/areasofwork/labour-migration/lang--en/index.htm>>.

3. *ibid.*

4. Conn, David. 'World Cup likely to stay in Qatar despite new bribery accusations in US' The Guardian (April 2020) <<https://www.theguardian.com/football/2020/apr/07/world-cup-likely-to-stay-in-qatar-despite-new-bribery-accusations-in-us>> accessed 30th March 2021.

5. Amnesty International, 'Promising little, delivering less: Qatar and migrant labour abuse ahead of the 2022 Football World Cup' [2015] MDE 22/1570/2015.

6. The Guardian, 'Revealed: 6,500 migrant workers have died in Qatar since World Cup awarded' (23 February 2021) <<https://www.theguardian.com/global-development/2021/feb/23/revealed-migrant-worker-deaths-qatar-fifa-world-cup-2022>> accessed 30th March 2021.

7. John Holmes, 'How can we work without wages? Salary abuses facing migrant workers ahead of Qatar's FIFA World Cup 2022' Human Rights Watch (24 August 2020) <<https://www.hrw.org/report/2020/08/24/how-can-we-work-without-wages/salary-abuses-facing-migrant-workers-ahead-qatars>> accessed 24th February 2021; Amnesty International, 'Reality Check 2020: Countdown to the 2022 World Cup' [2020] MDE 22/3297/2020.

The Kafala system

The Kafala system is a controversial sponsorship system in the Middle East under which the legal and residential status of the workers are tied to the contract with the employer. Consequently, when the employment relationship ends, employees lose their residence status. Additionally, permission from the employer is required to leave the workplace or the country; if migrant workers leave without permission, imprisonment or deportation could follow. As a result, the Kafala system creates a strong imbalance of power that fosters coercion and dependency.⁸

Human Rights violations against migrant workers

Some argue that under the Kafala sponsorship system, several rights concerning migrant workers are violated. Although abuses vary from country to country, reports show that they generally revolve around forced labour, restrictions on freedom of movement, racial discrimination, inhuman or degrading treatment, health threats and privacy.⁹ This report focuses on migrant workers in the construction industry; however, domestic migrant workers suffer from such abuses in a similar way. The Arab states of the Persian Gulf are member states of the UN and have agreed to the Universal Declaration of Human Rights (UDHR).¹⁰ Although the declaration is not legally binding, it is the basis and guiding document of international human rights law.

Forced Labour- Extensive research by organisations such as the ILO, Amnesty International and HRW provides evidence that many migrant workers are subject to forced labour.¹¹ The ILO in Doha (Qatar) documented 9,000 workers exposed to forced labour conditions in 2020.¹² The reported forced labour conditions include grave wage abuses, long working hours, low or unpaid wages, unpaid overtime and arbitrary deductions.¹³ In direct interviews by HRW with 93 migrant workers from 60 different employers and companies between 2019 and 2020, all of them reported some form of wage abuse by their employer.¹⁴

8. Kali Robinson, 'What is the Kafala System?' Council on Foreign Relations (20 November 2020) <<https://www.cfr.org/backgrounder/what-kafala-system>> accessed 24th of February 2021.

9. *ibid* 4.

10. United Nations, 'Member States' <<https://www.un.org/en/member-states/#gotoS>> accessed 24th February 2021.

11. Amnesty International, 'Reality Check 2020: Countdown to the 2022 World Cup' [2020] MDE 22/3297/2020; John Holmes, 'How can we work without wages? Salary abuses facing migrant workers ahead of Qatar's FIFA World Cup 2022' Human Rights Watch (24 August 2020) <<https://www.hrw.org/report/2020/08/24/how-can-we-work-without-wages/salary-abuses-facing-migrant-workers-ahead-qatars>> accessed 24th February 2021.

12. International Labour Organization, 'Progress report on the technical cooperation programme agreed between the Government of Qatar and the ILO' [09 October 2020] GB.340/INS/11.

13. John Holmes, 'How can we work without wages? Salary abuses facing migrant workers ahead of Qatar's FIFA World Cup 2022' Human Rights Watch (24 August 2020) <<https://www.hrw.org/report/2020/08/24/how-can-we-work-without-wages/salary-abuses-facing-migrant-workers-ahead-qatars>> accessed 24th February 2021.

14. *ibid*. 8

The ILO Convention No.29 defines forced labour as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily”.¹⁵ Forced labour, therefore, entails the threat of penalty and the lack of consent to work. In addition, Art. 23 UDHR enshrines “the free choice of employment, to just and favourable conditions of work”¹⁶ and protects against “any discrimination ensuring the right to equal pay for equal work.”¹⁷ Art. 24 UDHR guarantees “the right to rest and leisure, including reasonable limitations of working hours and periodic holidays with pay.”¹⁸ Given that workers have no option of leaving the workplace without fear of punishment or losing their legal status, they are often forced to work under harsh conditions against their will. The working conditions they find themselves in therefore constitute forced labour and contravene Arts. 23 and 24 UDHR.

Restriction of freedom of movement- Moreover, it is not uncommon for migrant workers to have their passports confiscated upon their arrival.¹⁹ Many workers report having been lured into the Middle East under fraudulent conditions. Deceived about their work conditions, they signed contracts in their native languages, which differed from the Arabic versions.²⁰ The ILO found that most workers whose passport got withheld believed that it was lawful under their contract for the employer to do so.²¹ What is more, employers often use their power to prevent workers from communicating their suffering to the outside world. The risk of losing their residency or being detained also inhibits them from seeking help.²² According to the UN Special Rapporteur, those restrictions constitute a significant barrier to accessing justice.²³

The freedom of movement is guaranteed under Art. 13 UDHR. It stipulates that “everyone has the freedom of movement within the border of each State”²⁴ and “the right to leave any country”.²⁵ Yet, the current Kafala system prevents workers from leaving the country or changing their workplace. Moreover, the common practice of confiscating passports restricts workers' freedom of movement. Therefore, the practices are in conflict with Art. 13 UDHR.

15. ILO Convention No. 29 on Forced Labour, 1930, Art. 2.

16. Art. 23(1) UDHR.

17. Ibid, (2) UDHR.

18. Art. 24 UDHR.

19. Amnesty International, 'Reality Check 2020: Countdown to the 2022 World Cup' [2020] MDE 22/3297/2020; John Holmes, 'How can we work without wages? Salary abuses facing migrant workers ahead of Qatar's FIFA World Cup 2022' Human Rights Watch (24 August 2020)

20. UN Human Rights Council, 'Visit to Qatar: Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance' (27 April 2020), p.5.

21. ILO, 'Intertwined: A study of employers of migrant domestic workers in Lebanon' [2016], p. 36.

22. Amnesty International, 'Their house is my prison: Exploitation of migrant domestic workers in Lebanon' [2019] MDE 18/0022/2019, p. 28.

23. UN Human Rights Council, 'Visit to Qatar: Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance' (27 April 2020); Amnesty International, 'Their house is my prison: Exploitation of migrant domestic workers in Lebanon' [2019] MDE 18/0022/2019, p. 19.

24. Art. 13(1) UDHR.

25. Art. 13(2) UDHR

Discrimination - According to the 2020 UN report on racism in Qatar, migrant workers commonly experience racial stereotyping and profiling.²⁶ Respectively, workers from specific ethnic backgrounds are usually assigned to low-income jobs despite qualifications and degrees, and their salaries typically depend on their country of origin. Especially, Sub-saharan workers, Bangladeshis, Nepalis and Sri Lankans face bigger obstacles to obtaining higher-paying jobs.²⁷ Certain types of jobs, such as construction, are therefore associated with workers from Africa and Asia and consequently have been racialised to the extent that Gulf nationals refuse to work in those sectors.²⁸

Art. 2 UDHR enshrines the right to freedom from discrimination and states the following:

Everyone is entitled to all the rights and freedoms outlined in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinions, national or social origin, property, birth or another status.²⁹

Thus, the abovementioned racial- and gender-based discrimination that migrant workers are subjected to goes against Art. 2 UDHR.

Inhuman and degrading treatment - The lack of legal protection combined with the isolation that migrant workers face at their workplace makes them more susceptible to exploitation.³⁰ Art. 5 UDHR stipulates the prohibition of “cruel, inhuman or degrading treatment”.³¹ Yet, numerous reports reveal that verbal abuse and aggressively delivered orders are commonplace, and hundreds of cases of physical and psychological abuse have been documented. According to Amnesty International, abusive employers usually face no consequences.³² Therefore, the protection for migrant workers dictated under Art. 5 UDHR is currently not guaranteed.

26. UN Human Rights Council, 'Visit to Qatar: Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance' (27 April 2020).

27. *ibid.*

28. Ray Jureidini, 'Migrant Workers and Xenophobia in the Middle East' (United Nations Research Institute for Social Development, 2 December 2003), p. 3.

29. Art. 2 UDHR.

30. Amnesty International, 'Why do you want to rest? Ongoing abuse of domestic workers in Qatar' [2020] MDE.22/3297/20203, p.13.

31. Art. 5 UDHR.

32. *ibid* 30.

Health threats - In times of a pandemic, living conditions in overcrowded labour camp dormitories with a lack of medical care and appropriate food put workers at heightened health risks. Although migrant workers were offered free testing and health care, they were nevertheless exposed to the infection due to unsanitary living conditions.³³ Art. 25 UDHR declares the right of everyone “to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services”.³⁴ Yet, the current COVID19 pandemic has exposed and worsened how the Kafala system threatens migrant workers' right to health guaranteed under Art. 25 UDHR.

Privacy threats - Similarly, a common concern is the lack of privacy. Art. 12 UDHR prohibits “arbitrary interference” with privacy.³⁵ However, migrant workers typically have no room of their own, making them feel unsafe and exposed.³⁶ This can have devastating impacts on their mental health, in some cases leading to suicide. Thus, privacy-related abuses under the Kafala system are in conflict with the right to privacy under Art. 12 UDHR.

The role of FIFA

With the growing awareness of human rights being neglected during the World Cup preparations in Qatar, the question arises as to the responsibility of FIFA and the international community to protect migrant workers. Should countries cancel their participation in the game in 2022? What position should FIFA as a football association take in a sociopolitical issue? It is also worth taking a look at future mega-events, not only in football. The World Cup in Qatar is not the first controversial event, looking at the Beijing Olympics in 2008 and 2022 and China's repression of minorities.³⁸ How can future tournaments not only serve public amusement but also have an impact on more pressing social issues in a country?

33. Amnesty International, 'Reality Check 2020: Countdown to the 2022 World Cup' [2020] MDE 22/3297/2020; Amnesty International, 'COVID-19 makes Gulf countries' abuse of migrant workers impossible to ignore' (30 April 2020) <<https://www.amnesty.org/en/latest/campaigns/2020/04/covid19-makes-gulf-countries-abuse-of-migrant-workers-impossible-to-ignore/>> accessed 30th March 2021.

34. Art. 25 UDHR.

35. Art. 12 UDHR.

36. ILO, 'A study of working and living conditions of migrant domestic workers in Lebanon: "Intertwined: The workers' side"' [2016], p. 27.

37. Amnesty International, 'Their house is my prison: Exploitation of migrant domestic workers in Lebanon' [2019] MDE 18/0022/2019, p. 22.

38. Human Rights Watch, 'China: Repression threatens Winter Olympics' <<https://www.hrw.org/news/2020/12/22/china-repression-threatens-winter-olympics>> accessed 01. April 2021.

FIFA has been involved in pushing Qatar to improve working conditions and ensure human rights. Together with the Organisation for Economic Co-operation and Development (OECD), FIFA conducted investigations and negotiated with Qatari officials on the ground between 2015 and 2017. It promised to live up to its responsibility to protect worker's rights and welfare and comply with the international labour standards enshrined in the ILO Convention.³⁹ In its official report, FIFA stated that: "Whoever ends up hosting the FIFA World Cup must formally commit to conducting their activities based on sustainable event management principles and to respecting international human rights and labour standards according to the United Nations Guiding Principles."⁴⁰ This gives hope for future World Championships as countries will be encouraged to reconsider their standards under the observation of international norms.

39. FIFA, 'FIFA World Cup Qatar 2022: "Sustainability strategy' [2019].

40. FIFA, 'Guide to the Bidding Process for the 2026 FIFA World Cup' [2018].

Conclusion

This report has pointed to the specific human rights violations suffered by migrants workers under the Kafala system. Not all migrant workers are mistreated, but the extensive evidence presented in this report so far suggests that many of them are. Activists and organisations have repeatedly called for abolishing the Kafala system and the expansion of labour protections.

The ILO has made numerous recommendations, and increasing pressure from international attention appears to have influenced Qatar in amending its domestic laws. In 2020, Qatar made efforts to bring its practices in line with international standards and abolish the current Kafala system. Two laws were passed that partially repealed the system: Law No. 19 allows workers to change jobs before the end of their contracts without the employer's permission. Law No. 17 guarantees a minimum wage for all workers.⁴²

Yet, Amnesty International warns that migrant workers continue to be left vulnerable to systematic abuse, despite expressed efforts.⁴³ The lack of labour protection allows for abusive elements of the Kafala system to remain in place, fostering a culture of impunity.⁴⁴ For instance, none of the employers/ abusers of migrant workers that Amnesty International has spoken to in the past years have been held accountable for their actions, and most of the abuses are not investigated.⁴⁵ Therefore, to date, human rights abuses against migrant workers in the Middle East constitute a sad reality. Implementation practices must be strengthened to achieve significant change and maximal results. In light of the abovementioned argumentation, the need for full enforcement of human rights is more urgent than ever. The international community should keep an eye on Qatar, even more so after 2022.

41. Amnesty International, 'New laws to protect migrant workers are a step in the right direction' (30 August 2020) <<https://www.amnesty.org/en/latest/news/2020/08/qatar-announcement-kafala-reforms>> accessed 24th February 2021; Technical cooperation programme agreed between the Government of Qatar and the ILO (2018–20), p. 31.

42. ILO, 'Dismantling the Kafala-system and introducing a minimum wage mark a new era for Qatar labor market' (August 2020) <https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_754391/lang-en/index.htm> accessed 20th March 2021.

43. Amnesty International, 'Qatar World Cup of Shame' (March 2016) <<https://www.amnesty.org/en/latest/campaigns/2016/03/qatar-world-cup-of-shame/>> accessed 24th February 2021.

44. Amnesty International, 'End Kafala: Justice for Migrant Domestic Workers in Lebanon' [April 2019].

45. Amnesty International, 'Why do you want to rest? Ongoing abuse of domestic workers in Qatar' [2020] MDE.22/3297/20203, p.62.

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