

VICTORIA SHANGHAI ACADEMY MODEL UNITED NATIONS



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Human Rights Council Chair Report

Topic 1: Addressing the practices of the Kafala System
in the Gulf States

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Message from the Chairs

Greetings delegates,

Welcome to the Human Rights Council! We are Juliette Deiss (Y11 from FIS) and Jasper Wong (Y11 from CDNIS), and we are delighted to be serving as your chairs in the 12th iteration of VSAMUN.

The Human Rights Council was founded in 2006, replacing the former United Nations Commission on Human Rights. Today, its role consists of strengthening the protection of human rights across the globe through responding to emergencies, improving education and addressing human rights violations and making recommendations on them.

We would like to remind delegates that this chair report merely serves as a starting point for you to conduct extensive research on your country's stance as well as other issues that may have not been discussed through this guide.

The Human Rights Council is largely considered a beginner committee in the MUN circuit, accommodating delegates who are new to MUN. Considering this, feel free to contact either of us with any questions you may have regarding topics, procedure and more.

Good luck with preparations and we look forward to seeing you all in April!

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Background Information

The 2022 FIFA World Cup in Qatar has shed light on the abuses of migrant workers' rights in the Gulf, amplifying calls for reform of the employment system – also known as the Kafala system. Many migrants have suffered human rights abuses under their employers, ranging from poor working conditions, underpayment, sexual abuses, and many dying as a result. This all stems from the flawed Kafala system, which traps migrants in inescapable employment that is dictated by individual employers rather than in accordance with international law.

How it originated

The Kafala system is a legal framework dictating the relationship between employers and migrant workers, granting them near complete control over migrant rights and their immigration status. The practice originated in the 1950s due to high demand for cheap labour in Gulf states along with the desire to accelerate development following the discovery of oil. Due to their relatively small populations, additional labour was increasingly needed. Thus, in order to control the large influx of migrants, regulations were necessary - hence the creation of the Kafala system placing responsibility of migrant workers from the government to individual employers.

Many migrants come to work on one to two-year work visas, the majority from South Asia seeking work opportunities to send money back to their families. Migration has increased with the rise of large infrastructure projects in attempts to boost economic growth, such as the Qatar 2022 FIFA World Cup (with construction beginning almost a decade prior) and others working as domestic workers in families.

Structure

The system requires an in-country employer or *sponsor (kafeel)*, under which a migrant worker's immigration status is legally bound to their sponsor throughout their contract period. This denies the migrant worker the right to enter the host country, transfer jobs or leave the country without explicit written authorization by their respective employer.

If an employee attempts to leave their sponsor, such as during cases of abuse or poor working conditions, they may be considered illegal and charged for 'absconding' potentially leading to imprisonment, deportation and fines. Consequently, the majority of workers are unable to escape their employers and can face harsh conditions. This ties the worker to





their employer, rendering them completely powerless over the direction of their future, and making them extremely vulnerable to exploitation.

Figure 1: Gambian migrant workers protest in front of the consulate of Gambia in Beirut on August 20, 2020 asking to be evacuated from Lebanon and repatriated to their country. (AFP)

The reason for the lack of protection of migrant rights is largely tied to the fact that when one a worker enters a Gulf country, they are not under the jurisdiction of the Ministry of Labour but instead are handled by the Ministry of Interior, denying them protection that is offered through domestic labour laws and restricting their ability to make complaints against employers, leading them to be very vulnerable to exploitation.

Methods of Exploitation

Visa trading

This lucrative practice involves citizens selling their visa quotas to other individuals or companies. Many migrants may find themselves putting up high costs for such illegal visas only to find themselves in their host country without a job and then being forced to work for unscrupulous workers, face sanctions or remain stranded without a way back to their respective country.

Underpayment

Many people working under the Kafala System are in need of financial resources, and work in a host country in order to receive such remuneration. However, migrant workers are often exploited for their labour and being excluded from domestic labour laws and minimum wages they are often not paid enough or sometimes not even paid at all. This directly harms the workers' rights, decreasing their living standards and access to basic necessities such as nutrition, healthcare and clothing. Their families are also directly impacted as they rely on migrant workers' income.

Forced Labour

Given the employer is solely responsible for the migrant worker under the Kafala System, and they are not allowed to change employment without employers' consent, it creates a harmful and lucrative method for employers to force labour upon workers.

Sexual abuse

Especially due to the restrictive nature of womens' rights in the Middle East, there have been many documented cases of sexual abuse, the large majority concerning female workers. Given most female migrant work in domestic households, many have been barred from leaving their residences and have been victims to sexual abuse and harrassment inflicting long-term trauma and mental illnesses.

Many countries have claimed to abolish the system, however with weak and often vague legislation in place. The system's most critical vulnerabilities still remain as migrant workers are excluded from domestic labour laws and are still subject to abuse.



Key Terms

Kafala	Kafala, meaning ‘sponsorship’ in Arabic, is a system granting private citizens and companies almost total control over migrant workers’ employment and immigration status.
Migrant worker	A person who moves to another country or area with the purpose of finding employment.
Gulf Cooperation Council (GCC)	A political and economic alliance of six Middle Eastern countries: Saudi Arabia, Qatar, Bahrain, Kuwait, Oman, and UAE. The kafala system is adopted by the members of the GCC as well as Jordan and Lebanon.
Host country	The destination of a migrant and the location they will work in. Host countries are required to comply with internationally set laws regarding migrants.
Origin country	A country of nationality or former habitual residence of a person who has migrated abroad.
Absconding	To go away suddenly and secretly to escape from somewhere.
Ministry of Interior	A government department that is responsible for the domestic affairs of a country, notably law and order.
Ministry of Labour	A government department responsible for setting labour laws in the interest of workers and the minorities of society.
Minimum wage	The minimum amount of money that an employer is required to pay wage earners for their work performed, which cannot be reduced by collective agreement or individual contract.



Key Clashes

Reform - to what extent?

Many Gulf States already claim to have abolished the system itself or to have introduced significant reforms, albeit migrant workers still facing human rights abuses and labour exploitation (although not as bad as they were a decade prior). Pressure both from the West and from origin countries, who were sending their workers, was required to see some change and reform in the system demonstrating a clear lack of concern for migrant workers' rights in Gulf Countries. Such countries may also not be willing to include migrant workers in domestic labour laws, given exploitation through visa trading, for example, is very lucrative for many employers. Thus, it will be evident that delegates will clash on the necessity or extent to reform the labour system in place for migrant workers.

Should compensation be given - in what form?

Many migrant workers have faced severe trauma and have been neglected, abused and some even killed as a result of the harsh treatment by their employers. Delegates may clash on the necessity to give compensation to such groups, whether through financial resources or through mental support. The question may also arise of the nature of this compensation and who it should be provided by - the government who is responsible for implementing exploitative laws, the employer for their treatment of migrant workers or even a third-party such as a humanitarian organisation.

International conventions - how effective are they?

The Kafala System goes against both the basic human rights of workers employed under it as well as the many International Conventions (such as the CMW) dictating migrant workers rights in respective host countries. Thus, delegates may question whether it is necessary to better enforce the already existing conventions, considering no Gulf State country has ratified or signed any, or if creating new policies would be more effective.



Key Actors

Qatar

Qatar is a key stakeholder, relying heavily on its 2 million migrant workforce which makes up 95% of its labour force. It claims to have abolished the system, through implementing a contract based system in its place. However, such reforms are poorly enforced and do not amount to abolition. Workers still face human rights abuses with many reports of unexpected or unexplained deaths of young and healthy migrant workers. Migrants have been subject to poor working conditions due to long working hours in extreme heat and humidity, especially in recent preparations for the 2022 FIFA World Cup.

Saudi Arabia

Saudi Arabia has announced reforms to its sponsorship system, allowing migrants to change jobs and exit the country without requiring their employer's consent. However many have raised concerns over the reforms being insufficient and not addressing the entirety of the issue, such as working conditions which remain exploitative in nature for migrant workers.

Bahrain

Bahrain's Labour Law includes migrant workers but excludes them from its protections which range from minimum wages, weekly rest days and limits on the number of working hours. Instead, workers are still dictated by the Kafala System and can face charges for "absconding". Bahrain announced a new visa system in 2017 allowing foreign workers to change jobs and have multiple employers. However, they were expected to pay their own fees during the two-year work permit, becoming too onerous for many causing them not to take it.

Kuwait

Around 200,000 Filipino workers make up a great majority of the migrant worker population in Kuwait, and there have been many reported abuse cases. Recently, on January 21st the death of Jubilee Ranara uncovered a greater picture of the gruesome treatment of migrants. Following a similar case in 2018, Kuwait passed several laws to prevent losing its Filippino workforce including granting workers the right to possess their own passport, to have one day off per week and to have a 12 hour day. Despite this, there is still much going on under the authorities' noses such as the death of Jubilee Ranara.

Oman

Oman is the only country to not have any legislation in place protecting domestic workers. Employers confiscate workers' passports, underpay them and force them to work long hours without breaks and denying them adequate food and living conditions. Many workers have reported both physical and sexual abuse.



- United Arab Emirates** 90% of the UAE's 9 million population are foreign workers, counting for a large percentage of its labour force. Thus, the UAE government has passed a range of reforms to modernise its labour force whilst respecting international conventions. It has abolished several of the most restrictive laws including the requirement for employer's permission to change jobs or exit the country as well as facilitating labour complaint mechanisms. Those working in Free Zones, however, are not under the legislation of UAE Labour Law and thus more vulnerable to exploitation.
- Jordan** The Kafala System along with wage disparities between migrant workers and Jordan citizens creates a power imbalance, disadvantageous to foreign workers. Jordan has passed laws protecting migrant workers, however the Ministry of Labour does not conduct inspections for such violations, undermining the laws and making them hard to enforce.
- Lebanon** Foreign employees are excluded from the Lebanese Labour Law that offer protections for minimum wage and overtime pay and are rather dictated by the kafala system. This has resulted in countless abuse cases, intensified by the devastating economic situation in Lebanon and due to the impacts of Covid-19.
- United States** The United States has a key role in evaluating human rights abuses across the globe having labelled the Kafala System as a form of slavery. Thus, it will be imperative for the United States to work with other countries to promote improved labour laws and rights for migrant workers in Gulf States and surrounding countries.



Timeline

- 1950s** The Kafala sponsorship system emerges in the Gulf States as a means to regulate the large inflow of migrant workers as a result of the discovery of oil.
- 1990** The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families is adopted.
- June 1998** The 86th International Labour Conference is held by the ILO and the Declaration on Fundamental Principles and Rights At Work is adopted.
- 2006** The ILO publishes the ILO Multilateral Framework on Labour Migrations.
- 2017** A new visa scheme is put in place in Bahrain, called the FlexiPermit, and allows workers to ‘self-sponsor’ themselves.
- January 2020** Qatar announces reforms to the Kafala System, no longer requiring entry and exit documents and allowing migrants to change jobs freely without requiring their employer’s permission.
- March 2021** As part of its 2030 Vision, Saudi Arabia announced reforms to its labour system, granting migrant workers the ability to change jobs and exit the country without requiring their employer’s permission.
- 2022** The World Cup in Qatar sheds light on the human rights abuses under the Kafala system occurring in GCC countries.
- Jan 21 2023** The death of migrant worker Jubilee Ranara in Kuwait.



Past Actions by the Council

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

The United Nations holds a high regard for the rights of migrant workers, passing the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, otherwise known as CMRW. Signed in 1990 and having been ratified by 56 countries to date, largely LEDCs, it sets out the fundamental framework dictating migrant rights across the globe. Article 8 states that migrant workers shall be “free to leave any state, including their State of Origin” and Article 10 decrees that no migrant shall be subjected to “cruel, inhuman or degrading treatment or punishment”. This is undermined by the practices of the Kafala System which exploit workers and bars them from leaving their host country.

ILO Multilateral Framework on Labour Migrations

The United Nations Agency, International Labour Organization established the ILO Multilateral Framework on Labour Migration, a ‘non-binding rights approach to labour migration’. Clause 8.1 entails that “governments should ensure that national laws and practices that promote and protect human rights apply to all migrant workers”, which does not occur in GCC Countries as migrant workers are excluded from domestic labour laws.

ILO Declaration on Fundamental Principles and Rights At Work

Adopted in 1998 and amended in 2022, the ILO Declaration on Fundamental Principles and Rights at Work establishes a global metric for workers’ rights obliging countries to eliminate all forms of forced labour, work to provide a safe and healthy working environment and eliminate discrimination from employers.

Such policies, although detailing the international framework for migrant rights, have not been signed or ratified by a majority of the countries who adopt the Kafala System. Thus, delegates may question their effectiveness and the need to either create more effective policies or enforce the existing ones, and thereby ensure their guidelines are respected within host countries.



Possible Solutions

Reform

A solution is reform of the Kafala System - but to what extent? Should the system be completely abolished, or should only the most exploitative parts be reformed? Delegates should work together to remove the dependence on employers to control immigration status, and should push for reform especially in countries that have not had any reforms to date. It is imperative to remove exit and entry permits such as through implementing legislation regarding workers visas stating they are explicitly theirs and thus allowing workers to exercise their right to freedom of movement. The greater issue equally involves improving working conditions throughout the region, because although some GCC countries have claimed to abolish the Kafala System there are still human rights abuses occurring everyday.

Addressing domestic and international labour laws

Having unified laws that govern an entire country, and do not exclude migrant workers from domestic labour laws is a key solution to reducing the exploitation and abuse of migrant workers. This could be achieved through ensuring that workers are granted rights under international conventions and are placed under the same jurisdiction as citizens of that country.

Providing support

Despite the system having evolved, it has left many of those abused, tortured and even killed in the dark. Thus, it remains important to recognise those who have been worst affected by the system, and offer them compensation - whether this be financially or even through mental support. Although this does not remove the actual trauma inflicted by some, it may help alleviate the strain on them and their families especially by allowing them to gain financial independence. Such support could be provided by humanitarian organisations, employers or even local governments.

Introducing a monitoring system

An often key issue within GCC countries is that measures are taken to abolish terms of the Kafala System, however there is no proper enforcement allowing employers to continually exploit migrant workers with no repercussions. Having a UN body or organisation within the host country monitor the treatment of workers would allow for stricter enforcement with respect to the reforms and International Conventions in place.



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