

The Ethical Implications of the Kafala System

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Despite regional and culture differences, Persian Gulf countries such as Qatar, the United Arab Emirates and Saudi Arabia are bound together by their use of the kafala system.

Established in the 1930s, the kafala system came from the Bedouin custom of providing foreigners protection, or in some cases, affiliation with a tribe when passing through controlled territory.¹ It was described by Azfar Khan of the International Labour Organization in *The Guardian* as “the best tradition of Arab hospitality,” a high compliment in a culture characterized by generous people and traditions.^{2,3} However, the current incarnation of the kafala system is a bastardization of previous forms, replacing generosity with greed, and honesty with deceit.⁴

Today, migrant workers in the Middle East number some 2 million people and typically come from India, Bangladesh and Nepal. The present system requires them to obtain a sponsor, or *kafeel*, who resides in the country in which they seek employment in order to become a legal resident of their new state.⁵ A sponsor, who’s also the employer, is in theory responsible for the housing, insurance and actions of the worker. The potential dangers of the modern kafala system are made apparent by the fact that workers are oftentimes left

deprived, abused and, in some cases, worked to death.

The most widely criticized feature of the kafala system is the use of exit visas. Foreign workers need permission from their sponsors in order to return to their home countries and are prohibited from leaving until their sponsor has granted permission. The tremendous degree of control the employer has over his workers opens the gate for flagrant human rights violations, including long hours in the crushing heat of the Middle East, inadequate living conditions and a litany of other grave issues.⁶ Furthermore, employers frequently buy and sell visas — which are seized along with passports upon entry into the country — for workers, and with them the workers themselves.⁷

Due to the comprehensive control that *kafeels* exert, workers often lack a platform to speak out.

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That being said, the few accounts from workers unanimously condemn the kafala system. Mideast Youth, an organization focusing on access to information, free speech and minority rights, reports that there were more than 10,000 complaints from migrant workers in Kuwait alone in 2010.

One of the only available accounts comes from a professional athlete. Thirty-three-year-old Zahir Belounis was trapped in Qatar due to disputes with El Jaish SC, a top-level soccer club based in the Al-Duhail area of Doha. Belounis found the options for him and his family so limited that he went on a hunger strike, saying, "I will stop the food and sit there [in front of the Qatar Football Association office] and bring some documents until some important people listen to me."⁸ Belounis was finally able to leave the country in late 2013 and returned home to France.⁹

Such desperation isn't an exception. Rather, it's the norm. The chairperson of GABRIELA UAE, a Filipino women's organization, advised an unnamed migrant laborer, working as a housemaid, to "run away – straight to the Philippine Consulate in the UAE."¹⁰ Unfortunately, such an option isn't feasible for most workers.

Problems with the kafala system extend far beyond the issue of travel. Withholding pay is

rapidly becoming a widespread issue. It prevents workers from gathering the resources, such as plane tickets, that they need to escape the system. Bhupendra Malla Thakuri, a Nepalese migrant worker in Qatar, was hospitalized for three months after a truck crushed his leg on the job. He was left without adequate medical support, and was paid nothing during his time in the hospital. Thakuri was forced to take his employer to court in order to purchase a ticket home. He recounts his situation, saying, "When I was discharged ... the company only paid me for the 20-odd days I had worked that month but nothing more." He continues: "They didn't give me my salary. They didn't give me anything. It was a very critical situation. I was injured and my leg had become septic." Thakuri speaks on behalf of his fellow laborers when he says, "The failure to pay workers regularly is traumatizing."¹¹

The human rights violations found in the kafala system have tremendous ethical implications. The use of exit visas, in tandem with the harsh working conditions and long hours, places workers in a position that could easily be described as subhuman. This violates nearly every ethical convention, including the United Nations' Universal Declaration of Human Rights. The clearest example of violation in the

Declaration lies in Article 13, Part 2, which states, "Everyone has the right to leave any country, including his own, and to return to his country."¹² Moreover, Article 7 of the International Covenant on Economic, Social and Cultural Rights states, "the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular: ... safe and healthy working conditions, ... rest, leisure and reasonable limitation of working hours."¹³

Typically, countries with oppressive labor systems as severe as kafala are condemned by first-world nations. However, countries that trade with kafala-using countries implicitly support the system by buying goods and services produced within the paradigm of this system. A layer of emotional despair is added to the lives of the workers when they realize that no powerful nation is seeking to improve the situation. Labor reforms are necessary in order to bring the countries that use kafala in line with fundamental human right conventions.

Far from condemnation, the world community has chosen to reward Qatar, one of the most egregious proponents of the system, with the right to host the FIFA World Cup in 2022. Such an undertaking requires a tremendous amount of collaboration between the host country and the rest of the world.

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Issues have already arisen with the construction of stadiums in the country. Amnesty International reported that a construction manager for one of the new stadiums referred to workers as “animals,” with other reports also surfacing of workers being blackmailed.¹⁴ The severity of these accusations is so great that speculation has arisen that the United States, Australia or Japan and South Korea may take the place of Qatar as the host country.¹⁵

However, a seemingly progressive step was taken in May 2014. The Qatari Ministry of the Interior and Ministry of Labor and Social Affairs held a press conference to release “wide-ranging labor reforms.”¹⁶ Unfortunately, the proposal lacks the ability to affect any meaningful change. It only applies to expatriates, not migrant workers.¹⁷

Though they talk of change, the government falls short of solving any real issues. But this is still a step up from other countries that use the kafala system. Saudi Arabia, Kuwait, UAE, Jordan and Oman haven’t even proposed reforms to their respective labor systems.¹⁸

The international political impact of the system also merits examination. Through only one degree of separation, American consumers of Qatari and Emirati goods, among others, are connected to people such as Belounis and Thakuri. This obligates consumers, as well as other nations, to examine their relationship with Middle Eastern countries and determine whether they can continue to financially, politically and ideologically support a system responsible for the death and abuse of countless workers.¹⁹

Influential countries need to consider this ethical dilemma. The U.S. has a history of severing diplomatic ties with countries they disagree with ideologically. Two such examples were China and Cuba, where the U.S. halted relations in opposition to communist governments.^{20 21} Looking to this precedent, the U.S. could justify cutting ties with the kafala countries. Doing so would send a clear message. Naturally, this will prompt questions of morality versus economic practicality, but one thing is without question: The kafala system and its egregious treatment of migrant workers needs to be addressed by the government and people of the U.S.

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³ "The Extra Mile," *The Markkula Center for Applied Ethics*, n.d., <http://www.scu.edu/ethics/publications>

/iie/v11n1/hospitality.html (accessed September 16, 2014).

⁴ “Advancing the rights of migrant workers throughout the Middle East,” Migrant Rights Website, n.d., <http://www.migrant-rights.org/> (accessed September 27, 2014).

⁵ “Advancing the rights of migrant workers throughout the Middle East,” Migrant Rights Website, n.d., <http://www.migrant-rights.org/> (accessed September 27, 2014).

⁶ N.a., “UN urges labor reform in Qatar,” *Al Jazeera America*, November 10, 2013, <http://america.aljazeera.com/articles/2013/11/10/un-urges-labor-reformingqatar.html> (accessed September 8, 2014).

⁷ “Policy Brief No. 2: Reform of the Kafala (Sponsorship) System,” Migrant Forum in Asia Website, n.d., <http://www.mfasia.org/component/simpledownload/?task=download&fileid=MjAxMi9yZWZvcmlpbmdrYWZhbGFfZmluYWwucGRm> (accessed September 9, 2014).

⁸ James Montague, “Desert heat: World Cup hosts Qatar face scrutiny over ‘slavery’ accusations,” *CNN*, May 1, 2013, http://edition.cnn.com/2013/04/30/sports/football/football-qatar-world-cup-2022-worker-rights/index.html?hpt=isp_c1 (accessed September 16, 2014).

⁹ James Montague, “Abrupt End to Player’s Misery in Qatar,” *The New York Times*, November 29, 2013, http://www.nytimes.com/2013/11/30/sports/soccer/zahir-belounis-recounts-race-to-the-airport-in-qatar.html?_r=0 (accessed October 7, 2014).

¹⁰ Cecily Hilleary, “Modern Slaves: Domestic Migrant Workers in Kuwait,

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¹¹ Robert Booth, Owen Gibson and Pete Pattison, “Qatar under growing pressure over workers’ deaths as Fifa is urged to act,” *The Guardian*, October 2, 2013, <http://www.theguardian.com/world/2013/oct/02/qatar-workers-deaths-fifa-world-cup-2022> (accessed September 16, 2014).

¹² “The Universal Declaration of Human Rights,” United Nations Website, n.d., <http://www.un.org/en/documents/udhr/index.shtml#a9> (accessed September 27, 2014).

¹³ “International Covenant on Economic, Social and Cultural Rights,” Georgetown Law Website, <https://www.law.georgetown.edu/rossrights/chapters/documents/originalICCPROP.pdf> (accessed October 14, 2014).

¹⁴ Amrutha Gayathri, “In Qatar, Workers Treated Like ‘Animals’ Amid Construction Boom Ahead Of FIFA World Cup 2022: Amnesty International,” *International Business Times*, November 18, 2013, <http://www.ibtimes.com/qatar-workers-treated-animals-amid-construction-boom-ahead-fifa-world-cup-2022-amnesty-international> (accessed October 14, 2014).

¹⁵ Jason Le Miere, “Qatar 2022 World Cup: Could The US Or Australia Replace Qatar As The Host Nation?” *International Business Times*, October 3, 2014, <http://www.ibtimes.com/qatar-2022-world-cup-could-us-or-australia-replace-qatar-host-nation-1699108>

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¹⁶ Peter Kovessy, “Qatar officials propose changes to kafala system,” Doha News, May 14, 2014, <http://dohanews.co/qatar-officials-propose-changes-kafala-system/> (accessed September 8, 2014).

¹⁷ Peter Kovessy, “Qatar officials propose changes to kafala system,” Doha News, May 14, 2014, <http://dohanews.co/qatar-officials-propose-changes-kafala-system/> (accessed September 27, 2014).

¹⁸ N.a., “A comparison of ‘kafala’ system in GCC; Qatar lags behind on reforms,” November 17, 2013, <http://www.justhere.qa/2013/11/comparison-kafala-system-gcc-qatar-lags-behind-reforms/> (accessed September 27, 2014).

¹⁹ Owen Gibson, “The hundreds of migrant workers dying as a brand new Qatar is built,” May 14, 2014, <http://www.theguardian.com/world/2014/may/14/migrant-workers-dying-qatar-world-cup> (accessed September 16, 2014).

²⁰ “U.S.-China Relations Since 1949,” Columbia University’s Asia for Educators Website, n.d., http://afe.easia.columbia.edu/special/china_1950_us_china.htm (accessed September 16, 2014).

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