

# The Kafala System: State-Sanctioned Violence Against Migrant Workers

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Hidden behind a structure of work sponsorship for foreign nationals, many Gulf and other Middle Eastern countries practice a form of state-sanctioned violence against migrant workers. The Kafala system, derived from the Arabic word for sponsor, *kafeel*, is the regulation of labor migrants by private sponsorship in Middle Eastern and Gulf Cooperation Council (GCC) states. Under this structure, an individual's work visa and residency permit are bound to an employer who has almost complete control over their workers.

The history of the Kafala system traces back to the 1950s, when Gulf countries needed a large supply of workers to support their infrastructure projects relating to the oil industry. Since migrant workers could be paid less and had little agency under the Kafala system, the Gulf countries were able to adjust their workforce according to economic fluctuations. This system has remained in place in most Gulf countries today.<sup>1</sup>

Over the past few decades, there have been numerous cases of abuse and exploitation under the Kafala system. Workers under the Kafala system face poor working conditions with restricted movement and occupational mobility. For example, workers must have their

sponsors' permission to switch jobs or enter and exit the country. When migrant workers are treated poorly, they often abscond, leaving hurriedly and secretly and causing them to be considered of illegal and undocumented status. When employees are accused of absconding, they face severe repercussions in losing their legal status and visa as a foreign worker. Workers are frequently trapped in the host country since their passports are often confiscated by their employers. An Amnesty International report found that out of every 32 migrant workers that were interviewed, only five were allowed to keep their passports.<sup>2</sup> The lack of employee mobility and agency is a serious human rights concern that can only be tackled by dismantling the Kafala system.

The exploitation faced by migrant workers is also laced with racial and gender-based violence. Darker-skinned South Asian and African workers face a higher level of discrimination by employers. For example, one migrant worker in Lebanon, Ms. Nyambura, reported that her employers called her "slave" because [she was] African<sup>3</sup> and deprived her of payment for months.<sup>3</sup> The majority of domestic workers who perform household duties are women. Amnesty

International revealed that female domestic migrant workers reported physical abuse by their employers in the form of choking, hair pulling, and having their heads slammed against the wall.<sup>2</sup> Furthermore, female domestic migrant workers who are sexually abused risk facing imprisonment under zina laws in countries such as Kuwait and Qatar.<sup>4</sup> Zina laws punish victims of sexual assault or those practicing premarital sex. As a result of this law, female domestic migrant workers who are sexually assaulted by their employers are less likely to report incidents to authorities.

Despite dismal working conditions under the Kafala system, many migrant workers choose to remain with their employers because pay in these countries is typically higher than pay in their home countries. A large portion of migrant workers' pay under the Kafala system is sent home as remittance. The Council on Foreign Relations (CFR) reported that the majority of remittance from countries employing the Kafala system goes to India, Egypt, and Pakistan, with an estimated amount of \$50 billion, \$20 billion, and \$14 billion respectively.<sup>1</sup> Such a high volume of remittance suggests that the majority of migrant workers send their wages home to support their families in their home countries.

In recent years, a few countries have attempted to reform labor laws, but these changes have lacked accountability. In March 2021, Saudi Arabia introduced a law allowing employees under the Kafala system to change their jobs without their current employer's consent if they had already adhered to one year of contractual work. This is only a minor improvement in the bigger picture of the Kafala system, however. The reforms still exclude workers on short-term visas, and migrant workers still face the prospect of fake absconding charges by their employers.<sup>5</sup> In 2015, the Lebanese Ministry of Labor created a hotline for migrant workers to report abuse; however, there is no research suggesting that the hotline has been a safe and/or reliable option for survivors of abuse.<sup>2</sup>

The Kafala system is a decades-old institution that must be delegitimized. The poor working conditions, lack of worker agency, and domestic abuse suffered by migrant workers under the system essentially constitutes it as a form of modern slavery. Though certain countries such as Saudi Arabia and Lebanon have attempted to reform labor laws to protect migrant workers' rights, the steps taken are not drastic enough to provide migrant workers with the freedom and basic human rights they deserve.