



African Migrant Labourers in The Middle East: A Need for Right-Based Humanitarian Intervention

Summary

The recent calls for human rights intervention for migrant labourers in the Middle East have been noted by the African Union Commission with dismay. The Union pointed out that the adverse media reports regarding the plight of African migrant workers in different parts of the world, especially the Middle East, are challenging. Some of the challenges faced by African migrants in this region include poor health care services, human trafficking, abrupt termination of their jobs and outstanding salary payments, amongst other problems. One of the enablers of these practices against migrant workers in the Middle East is what is known as the Kafala system, which is prevalent in places like Jordan, Lebanon and most of the Arab Gulf. This system gives private citizens and companies almost total control over migrant worker's employment and immigration status. The Kafala system in the Arab Gulf makes employees tied to their employers, resulting in terrible health and work conditions for these migrant workers (McAuliffe, 2022).

While there have been efforts from the host state as well as other non-governmental institutions like the United Nations and the International Organization for Migration to address issues of human rights violations metered out to migrant labourers in the Middle East, the continued existence of systems like the Kafala system, and the lack of comprehensive framework by the government of the host state to tackle issues bordering on human right violation relating to African migrant labourers, reflects the need for concrete steps on this subject matter.



Background

"In the land of my dreams, every day feels like a nightmare." This was a statement made by an anonymous Kenyan reporter to Human Rights Watch on his experiences as a migrant labourer in Qatar. He expressed displeasure with the living and working conditions of migrant workers in the country (Human Rights Watch, 2020).

The Middle East is plagued with many political and social issues, such as years of conflicts, the rise of Islamic extremism, challenges of internally displaced persons and refugees throughout the region, etc. These have resulted in a weakened health system, substandard conditions of living, and an unprecedented rise in human rights violations (Hargreaves, 2020). But in spite of these socio-religious/political challenges faced by this region, migrating to the Middle East has been said to have tremendous opportunities (McAuliffe, 2022). Many Africans who migrate to the Middle East for greener pastures find themselves working in low-paid labour and are continuously subjected to inhumane conditions. According to Amnesty International, the governments of some of the host states in this region have failed to protect low-paid workers from labour abuses (Amnesty International, 2022). For example, it was noted that in Iran and Lebanon, workers who formed or joined trade unions or workers who partook in industrial actions such as strikes and protests were unfairly penalized through dismissal, arrest and prosecution (Amnesty International 2022). In the Gulf States, the majority of the workforce is made up of low-paid migrant labourers. However, these low paid workers are made up of African migrants who are subject to extreme intimidation and exploitation, inadequate housing and poor housing conditions, underpayment of wages, inadequate health care facilities, work-related discrimination and unfair/summary dismissal.

According to the International Migration Organization Report 2022, 77% of Qatar's population comprises migrant workers (McAuliffe, 2022). Although the economy of Qatar depends mainly on its migrant workers, in practice, these migrant workers are subjected to inhumane treatment. The 2022 World Cup bid by Qatar saw the death and inhumane treatment of many migrant workers. For example, an anonymous reporter identified by the fictitious name "Henry", expressed the difficulties he faced at the hands of his employers in Qatar (Human Rights Watch, 2020). "Henry" who left Kenya in search of greener pastures due to the soaring unemployment rate in his home country, stated that;

"I had imagined that once here, I could sneak a peek at gliAzzuri, the Italian national team and my favourite, but seeing the way Qatar treats workers like me preparing for the 2022 FIFA World Cup, my excitement dwindled. In the land of my dreams, every day feels like a nightmare." (Human Rights Watch, 2020).

When asked about the living conditions he met in Qatar, "Henry" had this to say; "Ten of us were stacked in a stuffy room. About 15 people shared a toilet, and about 60 shared the communal kitchen, which was built for a handful of people."

Also, when "Henry" was about the working conditions he stated that; "The four hours of overtime I put in daily are ignored in my pay slips, I work seven days a week without a day off, wages are delayed for up to three months, and during this time they don't even provide us with a food allowance. My March salary arrived in June; April's salary came in July. I have not been paid for May, June, and July. Every day my wages are delayed, I go deeper into debt." "Henry" also claimed that the Qatar company he worked for had cheated 13 Kenyans, including himself.

Another anonymous reporter who fictitiously went by "Yoofi", a 33-year-old from Ghana, stated that since he began working in

Qatar in June 2019, he and others have not been paid 11 months' salary. (Human Rights Watch, 2020).

From the above, it is evident that the Kafala system is still practised in the Middle East. Hence, it is against this backdrop that this document discusses the situation of African Migrant labourers in the Middle East. This socio-political system encourages such treatment of migrant workers and concludes by advocating for right-based humanitarian intervention from the host state and international organizations.

Key Facts

There are relevant data that reveal the impact these inhumane working and living conditions have had on the lives of migrant labourers in the Middle East, mainly the migrants from Africa. Qatar won the bid to host the 2022 FIFA World Cup, but it came with a lot of demands, including the construction of stadiums and hotels at a speedy rate. There were many work casualties due to the extreme work conditions (The Guardian, 2020). It is estimated that since Qatar got the right to host the FIFA World Cup, more than 6,500 migrant workers have died from Sri Lanka, Nepal, Bangladesh, India and Pakistan (Wesley Stephenson, 2015). The main reason for this death was cited as appalling long hours of work in the blazing heat, living conditions and inability to exit the country without an exit visa, amongst others. The 6,500 figure excludes other migrant workers from Africa, especially from Kenya. Additionally, The Labour Cabinet Secretary of Kenya, Simon Chelugui, while querying the circumstances that led to the death of Melvin Kang'ereha in Saudi Arabia in the year 2020, said that from 2019 to 2021, Kenya has had about 93 cases of death from the Gulf region (Edwin Mutai, 2021).

In Lebanon, Human Rights Watch has raised alarm on the need for improved working conditions for migrant labourers (Human Rights Watch 2008). Many of these labourers are Africans, mainly from Ethiopia. In 2020, 60 young Ethiopian women protested at Ethiopia's consulate in Beirut (Zecharias Zelalem, 2020). They complained about the suffering they were going through and wanted to return to their home country.

Data reveal that migrant domestic workers in Lebanon die every week. According to the Lebanese embassy in Abuja, Nigeria, an estimated 5,000 Nigerians live in Lebanon, most of whom are migrant domestic workers and often report mistreatment from employers and have been exposed to further vulnerabilities following this tragic incident (IOM 2020).

The primary factor influencing the movements of Africans to these nations is the hope of greener pastures. The unemployment rate in many African countries is skyrocketing, and migration to the Gulf countries has provided countless jobs and generated billions of dollars in remittances for migrant workers and their families (ILO, n.d.).



Situation Address: What are Countries in the Middle East, as well as African Nations, doing to address this Situation

A couple of reforms have taken place to address the status and well-being of migrant workers and the Kafala system in the Middle East. For example, the ILO has said that Qatar has carried out "significant" reforms that have "improved the working and living conditions for hundreds of thousands of workers" (Le Monde 2022). Additionally, in Qatar, it has been estimated that about 300,000 workers have been able to change jobs, and the government of Qatar has made substantial efforts to enforce labour laws and access to justice. Also, since 2018, Qatar and the ILO entered into a technical cooperation programme to carry out extensive labour reforms; the second phase of the reform runs till the end of 2023 (ILO n.d.). Similarly, in 2018, Qatar removed the exit permit requirement, allowing workers to leave the country without securing an exit permit from employers (ILO, 2020). This reduced the power of employers over employees there by dismantling the influence of the Kafala system.

In both Jordan and Lebanon, in a bid to address the issues of withheld or delayed salaries, the government has proposed the adoption of the wage protection system (WPS) to address frequent reports of non-payment of wages by ensuring workers are paid their salaries on time and in full (Samantha, 2015). Also, in 2020, Lebanon launched a Revised Standard Unified Contract for the Employment of Domestic Workers (ILO, 2020). This contract marked a partial dismantling of the Kafala system because its provisions, amongst other things, prohibits employers from confiscating passports or other documents of employees and withholding wages.

In the UAE, various labour reforms have been introduced to address the challenges of the Kafala system. For example, the UAE has passed laws that removed the requirement to seek a permit to leave the country and regulations that allow free change of jobs (UAE 2009).

Aside from the efforts taken by these host nations, some African countries have carried out specific steps to help protect migrating citizens to the Middle East. For example, the Kenyan government is training its citizens who accept to be a domestic worker in the Middle East about their rights so as to create labour rights awareness (Victoria Amunga, 2022).

Additionally, the Ethiopian government in 2008 placed a ban on all labour migration to Lebanon because of the Kafala-enabled abuses to its citizens (Zecharias Zelalem 2023). However, this ban was lifted on 11 April 2023 after Lebanon and Ethiopia entered into a labour agreement to address the poor treatment of migrant workers.

The major problem with all of the steps that the host nations have taken to address the Kafala system and the ill-treatment of African migrant workers is the problem of enforcement. In Qatar, just as in Lebanon, the Kafala system still exists, and most of the laws enacted to address the rights of migrant workers are not properly administered by the government (Migrant Right 2021). The law that was signed between Ethiopia and Lebanon to help guide Ethiopian migrants from the Kafala system has been described as though a "love letter", because it does not cover several peculiar rights of migrant workers, such as the inclusion of minimum wage (Zecharias Zelalem, 2023).

Status of key elements of the Kafala system, by country

Country	Employer must sponsor entry into country	Employer controls residency / work permit	Employer must grant permission for workers to change / leave job	Employer can report worker for absconding	Employer must grant permission for worker to exit country
Bahrain	● Under reforms introduced in December 2022, visit visas can no longer be converted into a work permits, meaning migrants cannot obtain a work permit without exiting Bahrain.	● The vocational work permit allows workers to self-sponsor in designated professions. It is unclear if domestic workers are eligible.	● Vocational work permit holders can transfer labour registration centres after a minimum of 30 days from initial registration. Excluding domestic workers, other migrants can transfer after one year with three months' notice.	● Before the Flexi-Permit was cancelled in October 2022, permit holders could not have absconding cases filed against them. It is unclear whether the new permit allows absconding charges to be filed. Other migrant workers can be punished for absconding.	○
Oman	● Visit visas may be converted into a work visa without the worker having to exit Oman, however granting of the work visa depends on the employer.	●	● Migrant workers can transfer jobs without permission after completion of their contract.	●	○
United Arab Emirates	● Free zone workers are sponsored by the free zone authority rather than an employer. Visit visas may also be converted without the worker having to exit the UAE.	●	● Requirement for permission is waived in certain circumstances, such as contract expiry or non-payment of wages. Domestic workers may end their contract without consent if their employer violates legal obligations. They can transfer employers upon expiry of the contract.	●	○
Kuwait	●	●	● Migrants can change jobs after three years and 90 days' notice without permission. Excludes domestic workers, who require approval from the Ministry of Interior and Labour Court to transfer jobs without consent from their employer.	●	○
Lebanon	●	●	●	●	○
Qatar	●	●	● Migrant workers can transfer jobs under certain conditions and at least one or two month's notice.	●	● Almost all migrant workers can depart without permission; however, employers can apply to have up to 5 per cent of certain employees to require prior approval. Domestic workers must give 72 hours' notice.
Saudi Arabia	●	●	● Migrants can transfer employers upon completion of their contract, or after one year under certain conditions. Domestic workers can transfer in some cases such as abuse.	●	● Migrant workers can apply to exit the country without their employer's permission. This does not apply to domestic workers.
Jordan	●	●	● Migrants can terminate unlimited term contracts with one month's notice; However, they may be required to compensate the employer. Limited term contracts can be terminated under certain conditions without permission or upon expiry. Excludes certain categories such as agricultural workers.	●	●

Rating scale: ● = In force ● = partially in force ○ = not in force

Conclusion and Issues for Policy Consideration

From the above findings, it is evident that African migrant labourers in the Middle East still find themselves in precarious situations with their employers despite the laws enacted to address these anomalies. It is time for these countries in the Middle East to move beyond mere rhetoric and begin to carry out proactive steps to see to the dismantling of the Kafala system. The laws enacted ought to be adequately enforced and monitored. Strengthening the monitoring and enforcement procedure of the laws in the host countries is a must for this issue to be put to rest. Additionally, the criminal justice responses in these host countries need to be strengthened. Penal sections should be metered out as punishment for those who violate these laws because the proper treatment of migrant workers essentially touches on their fundamental human rights. Also, instead of introducing bans, African countries should pursue comprehensive bilateral agreements to protect their citizens who migrate to these regions.

There are intersections between human rights and labour rights, and the violation of one ultimately leads to the breach of the other. Thus, for the situation faced by African migrant labourers in the Middle East to change positively, the intervention by stakeholders must be right-based.

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