

Dynamics of The Labor System (Kafala) in Qatar

Wawan^{1*}, Muhammad Sya'roni Rofii²

¹²Sekolah Pascasarjana Kajian Strategik dan Global, Universitas Indonesia

Email: wawanwawan06@gmail.com ; rofii_daun@yahoo.com

Abstract. Although the kafala system remains in place in most GCC countries, Qatar has undertaken significant reforms and ratified a number of conventions related to human rights, such as those on the prevention of human trafficking and the protection of children. The purpose of this study is to describe the labor system (Kafala) that has long been adopted by GCC countries, including Qatar. Qatar is the only country that is progressive enough to reform its migrant worker policy. This research is qualitative because the instrument used is a document study. The results of this study indicate that the number of high dependence on migrant workers is quite high and vulnerable to labor scandals. This is further exacerbated by the mobilization of migrant workers to welcome the grand event of the four years, the 2022 World Cup. The phenomenon is growing massively, including reports from the International Human Rights Institute, Amnesty International and the International Labor Organization (ILO) forcing the Qatari government to make adjustments

Keywords: Kafala; Migrant Workers; World Cup; ILO

Received:15-10-2022 **Revised:**26-11-2022 **Accepted:**28-12-2022

INTRODUCTION

Qatar is one of the Gulf countries in the Middle East region which is blessed with the potential of abundant oil and gas resources in addition to revenues from hydrocarbons. Not surprisingly, this makes a country of approximately 2.7 million people with the highest GDP in the world. Although geographically and demographically Qatar is only a small country, but it has the capability of large enough economic resources. Of the Qatari population, 90% of them are foreign workers (migrants) engaged in various sectors, both industry, construction, communication, services, households, and so on. The wave of foreign migrants began after the emergence of large-scale and extensive management of oil resources. In order to support and turn the wheels of the economy and industrial development in various sectors, there is a high demand and need for labor. Since the 1970s, the Gulf countries, including Qatar, have relied heavily on foreign workers coming from various countries in Asia, such as India, Bangladesh, Sri Lanka, Pakistan, Nepal, and the Maldives. These foreign workers are bound by a single rule and law in force in Qatar known as sponsorship, or the kafala system.

The Kafala system when viewed from the history of its emergence in the 1920s when the British colonial government introduced a sponsorship and guarantee system in the Bahrain region was followed and followed in other Gulf countries. This system is said to be a cheap and easy

Email Correspondence*:

wawanwawan06@gmail.com

way to control foreigners and hold local residents accountable for them (Hasan, 2020). The next development when the GCC countries were still implementing this system, Qatar, which is also one of the GCC countries, turned out to have carried out significant reforms. Qatar has even ratified a number of conventions related to human trafficking and child abuse. Of course this is a step forward for Qatar in improving the new regulation of migrant workers. It is undeniable that this is the impact of the appointment of Qatar as the host of the 2022 World Cup which has resulted in the need for manpower to complete all preparations for the grand celebration. Recently, several international institutions have also highlighted how the labor problem in Qatar is handled. Even one of the main newspapers in Britain released a news report that was quite striking, namely the large number of deaths of migrant workers as many as 6500 people, which was allegedly due to the poor treatment of Qatari workers.

Various reports and international pressure forced the Government of Qatar to respond with adjustments and integrated steps with supervision and synergy with the International Labor Organization (ILO). It is interesting to observe what is the cause of significant policy changes in Qatar when compared to other GCC countries which seem far from the international spotlight. Therefore, the author will try to unravel what and how the Kafala system is in Qatar and identify the factors that lead to policy changes in the Labor system (Kafala) in Qatar.

Citing the contemporary theory of social change put forward by Hermann Strasser and Susan C Randall, that social change is becoming more general in order to explain the process of change in the past and the present. They identified several aspects that became derivatives of change, namely the magnitude of the change, the time span, direction, rate of change, and the amount of violence that emerged (Hans Haferkamp and Neil J. Smelser, 1992). Furthermore, the theory of change requires three main elements that must remain in a definite relationship to one another. First, the structural determinants of social change such as population changes, dislocation due to war, or tensions and contradictions. Second, the process and mechanism of social change, which includes sedimentation mechanisms, social movements, political conflicts and entrepreneurial activities. Third, is the direction of social change, including the structure of change, its effects and impacts. In the context of changes in the Kafala system, if we examine more deeply, there are changes that take place in time and distance by adjusting the conditions and changes of the era, starting from the Ottoman period, British colonialism, to the contemporary era today.

Another view is expressed by Fukuyama (2003), that the politics of international relations is a matter of historical evolution. In which direction the winds of history move, there we will find

contradictory and dialectical historical puzzles (Azwar Asrudin, 2014) The realism that occurs is that Qatar must be able to show itself as a role model in the Arab region due to the consequences of being appointed as the host of the world cup, forcing reform several laws due to alleged violations of workers' rights during the preparation for the World Cup. In the world economy, at any time the actors will use power to influence each other in order to achieve their respective goals, which makes the international economy loaded with political content (Keohane, 1984). The favorable economic situation in Qatar and with the World Cup stimulus was influenced by the decisions of FIFA and other International Institutions. Policy as a direction of action proposed by a person or group of government in a certain environment, which provides obstacles and opportunities for the proposed policy to use and overcome a goal, or realize certain goals or purposes (Budi Winarno, 2002).

METHODS

In this paper, the discussion uses qualitative methods because the object under study is not related to statistics and mathematical calculations (Kothari, 2004). Qualitative studies have a non-numeric approach, leaving data in variations that are not standardized, and observing the behavior of people in a certain environment, seeing what is happening also including through documents (Bryman, 2012).

The collected data were analyzed using a qualitative descriptive analysis approach. Data were analyzed using content analysis techniques to identify patterns, themes, and interrelationships between data. Relevant data is then used to formulate findings and conclusions. To ensure the validity of the data, data verification was carried out using data triangulation techniques. This technique is done by comparing the data obtained from different sources. This is done to minimize bias and ensure data validity. After the data is verified, data interpretation is carried out to formulate findings and conclusions. Data interpretation is carried out using relevant theories to develop strong and credible arguments.

RESULTS AND DISCUSSION

The kafala system consists of two main parts, namely the sponsor (employer) and the sponsored person (employee). In Arabic the sponsor is called kafil which means responsible. The term sponsor (kafil) means a person who bears responsibility for some person or thing. The definition of sponsor according to Qatari Law Number 4 of 2009 provides an explanation of residency and exit sponsors, namely, Residence sponsor means employer, father, or anyone who invites visitors in his sponsor. The sponsorship must include giving the sponsored person permission to leave the country. Meanwhile, exit sponsor means a person who undertakes to

fulfill all obligations imposed on the expatriate to leave the country. Outgoing sponsorship responsibilities will end upon the expatriate's re-entry into the country. Exit sponsors may not be the same as Residence sponsors.

From an economic point of view, Islamic jurists expanded the meaning of kafala into a contract business where one person formally guarantees another in terms of delivering goods or assuming financial responsibilities. It can also be interpreted in order to provide a framework of solidarity based on trust and cooperation between people in various fields (Hasan, 2020). Thus Kafala originally referred to a contract in which the guarantor combines the person who is guaranteed (makful) and is responsible for that person. Kafala is intended to guarantee the fulfillment of the obligations of the guaranteed person. This can be to guarantee the payment of the guaranteed person's financial obligations (kafala bi al-mal). It can also guarantee the presence of certain people at a certain time and place (kafala bi-al-nafs) or it can be a guarantee for the delivery of goods (kafala bi-al-taslim). In short, the guarantor bears responsibility for a certain obligation that must be borne by the guarantor who will include the kafil as a representative of the guaranteed (makful) before the state and other government institutions and be responsible for any violations of the law committed.

Under the kafala system, migrant workers are categorized as "guest workers" but are often treated as disposable economic commodities at the mercy of their sponsors. At the heart of the Kafala system is the imbalance in power relations between the kafeel and migrant workers. Kafeel has the power to change terms of employment contracts and compel migrant workers to submit to unfair working conditions. Substitution contracts forced migrant workers to accept lower wages and worse living and working conditions than originally promised. Kafeel can exercise further control by forced confinement, confiscation of workers' passports, limiting communication channels and withholding wages. There is no accountability in this situation because of the power imbalance, where the sponsor has more control. Migrant workers are often forced to accept the conditions and situations that corner them. The main motivation of migrant workers is good wages for their families. But the practice of exploitation and manipulation ruined all their dreams. Most migrant workers experience verbal, physical, sexual and psychological violence under the Kafala system. They are also vulnerable to being locked up in houses or buildings under the supervision of their sponsor.

Migrant workers are often faced with penalties if brands report abuse, protest or question terms and conditions related to their work. Kafeel will retaliate with harsher treatment including lower wages, non-renewal of contracts, false accusations such as theft or deportation. Kafeel can

avoid legal responsibility for charges under the Kafala system, as they can petition the authorities to cancel a worker's residency leading to forced deportation before a case can be filed. Some workers are desperate for money for fear of retaliation and will continue to suffer and sometimes prefer to remain silent. Another case is for those who leave without securing the written consent of the sponsor, lose their rights and thus can face possibilities ranging from immigration status to criminal charges and charges. This has led to the criminalization of workers in the absence of accessible and credible legal institutions.

Employers control the mobility of workers under the sponsorship system, through withholding their passports and legal control over their ability to change jobs and leave the country. Kafeel has the power to transfer sponsors to other employers without the worker's consent. Sponsorship transactions for workers' legal rights can be carried out because they are profitable. They can also repatriate workers without notice and bar workers from re-entering. Sponsors justify this practice because they have paid fees up front and are concerned that the migrant workers leave and they will lose their investment. However, they use this justification even though the Kafala system implies control over the presence of migrant workers in the destination country, not just for a few months when they have paid off their payments. Recruitment agencies benefit from this pattern of relationships. Detained passports can be used to extort migrant workers and intimidate them into not exercising their right to complain and in some cases, sponsors exchange passports for a declaration that the worker has received wages as due, before changing jobs or leaving the country. Although employers do not have the right to keep passports, workers' ability to complain is limited by reliance on their passports for their livelihood and accommodation, as well as fear of reprisals and deportation. If a worker leaves without Kafeel's permission, even while responding to harassment, they can face immigration prosecution with criminal penalties, indefinite detention and deportation.

One of the reports that caught the world's attention and forced the Qatari government to react was a report from the British daily The Guardian that more than 6500 migrant workers from India, Pakistan, Nepal, Bangladesh and Sri Lanka have died since Qatar's determination to host the World Cup in 2010. The data was compiled from various sources including the Government, but this was denied by the relevant ministries in Qatar. Data from India, Bangladesh, Nepal, Sri Lanka shows that 5,927 migrant workers died in the period 2011-2022 (The Guardian, 2021). Furthermore, from the Pakistani embassy, it is estimated that more than 824 deaths occurred during the same period.

(The deaths of 6,750 migrant workers from South Asia since Qatar was appointed to host the World Cup in 2010)

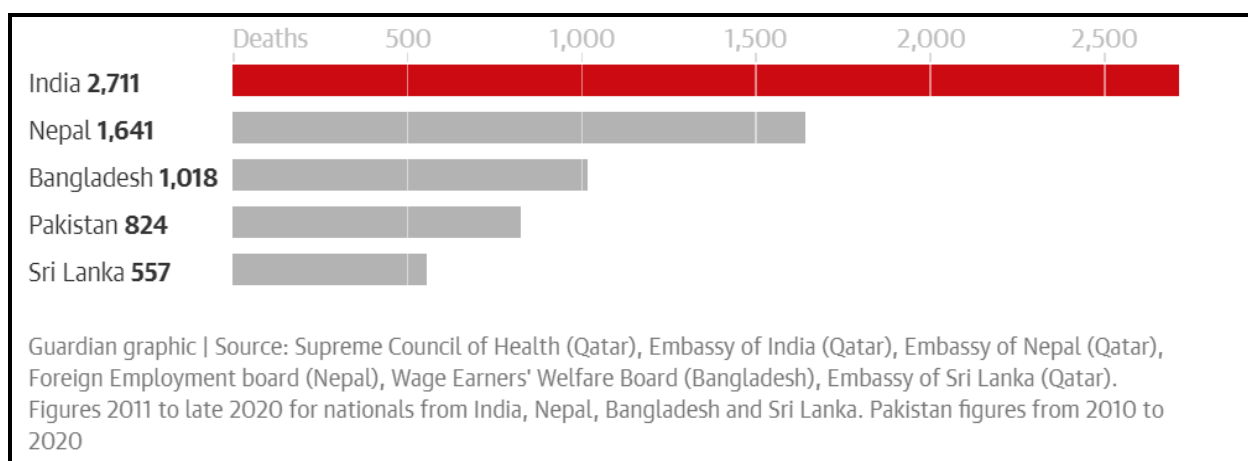


Figure 1. The deaths of 6,750 migrant workers from South Asia since Qatar was appointed to host the World Cup in 2010

Sources: The Guardian

Migration of residents to Qatar gives birth to a hope and opportunity to earn income for survival and as a source of income for migrant workers' families. However, the sponsorship system (Kafala) does not provide complete protection for the welfare of migrant workers which should be their right. The labor agents always fulfill and maintain the stability of workers from Southeast Asia to be supplied in the Gulf countries. This is very beneficial for various parties, for sending countries they will get large foreign exchange reserves and for receiving countries they will get workers who are quite cheap (Rooper, Steven D and Lilian Barria, 2014). For example, under standard contractual agreements, domestic workers are legally required to work for two years and are often subject to a three-month probationary period with their respective employers. During the contract period, workers are required to comply with all employer regulations and collect all documents related to immigration (Human Rights Watch, 2014)

The Qatari government rejected the allegations from The Guardian newspaper. Some Western media often discredit Qatar for hosting the World Cup without confirmation from Qatar. After much international pressure, Qatar signed an agreement with the International Labor Organization in 2017, to tackle widespread labor exploitation and harmonize its laws and practices with international labor standards.

Amnesty International identifies some of the problems of migrant workers in Qatar as:

1. The Kafala system binds and restricts foreign workers with their employers from changing jobs and prevents leaving the country without permission
2. Late and even unpaid wages

3. The right to obtain justice in their rights as workers
4. Poor protection for domestic workers and weak implementation of the law
5. Prohibition for migrant workers from association

To respond to the spotlight from the international community and pressure on the Government which is suspected to be negligent in paying attention to and implementing policies that favor migrant workers, the Government of Qatar has issued a Law on non-discriminatory wages which will take effect from March 20, 2021. The application of wages will apply to all migrant workers. all workers from all countries in all occupational sectors, including domestic assistants (KSBSI, 2021). Minimum monthly basic wage of 1,000 Qatari Riyals (US\$ 275). Workers get a breath of fresh air with the issuance of this new law as a follow-up to reforms in the employment sector that have been exploited by the sponsorship or kafala system.

There have been at least four pillars of Cooperation between the Government of Qatar and the ILO since 2017. The first pillar is about how to manage the labor market and labor migration, the second is law enforcement and access to justice, the three channels of dialogue with workers, and the fourth is International Cooperation and exchange of experiences. These four pillars were released in December 2021 by the International Labor Organization. The International Labor Organization (ILO) and the Qatar Ministry of Manpower (MDLSA) collaborated with the ILO International training center in Turin to develop two independent online courses on discrimination (Employment and occupation) ILO Convention, 1958 (Number 111) and the Violence and Harassment Convention, 2019 (Number 190). Starting in December 2021 the online course will target staff of non-governmental and government organizations, including officials at the Ministry of Manpower (MDLSA) as well as the private sector.

On September 8, 2020, a law reforming key elements of the Kafala system regarding the right of workers to change jobs without the employer's permission came into effect. Law No. 19 of 2020 is complemented by Ministerial Decree No. 51 of 2020, removing the legal requirement for migrant workers to obtain a certificate of no objection from the employer to change jobs. In addition, Law No. 18 of 2020 was adopted, introducing legal provisions governing termination of employment. Please note that between 2020 and 2021 more than 242,870 workers changed jobs (Report of ILO and Government of Qatar Meeting).

The Ministry of Administrative Development, Labor and Social Affairs (MADLSA), the Ministry of Administrative Development, Labor and Social Affairs of the Government of Qatar also introduced changes to procedures to increase the effectiveness and efficiency of the process of changing jobs. Processing times were shortened, although some workers still experienced

delays. In addition, new features have been added to the electronic system. For example, workers can check the status of their application for a job change and can cancel it themselves.

In March 2021, Qatar's first non-discriminatory minimum wage came into force after a six-month transitional period that applies to all workers in Qatar regardless of their nationality and occupation, including domestic workers. In addition to the minimum basic monthly wage of 1,000 Qatari Riyals (QAR), the Act also stipulates that employers must provide adequate accommodation and food, or a monthly allowance of at least 500 Riyals, for housing and 300 Riyals for food. The next effort by the ILO and MDLSA is to encourage all registered companies in Qatar to make adjustments that are sent through a series of materials in communication in various languages and reminder messages via SMS. Through the Wage Protection System (WPS) violations of wages can be monitored. With the new version of the Salary Information that employers must provide includes a more detailed breakdown of wages, including specific fields for benefits and deductions.

In 2021, the Government will also establish an online platform for workers, including domestic workers, to submit complaints online. For the first time, anonymous whistleblower complaints can also be submitted to the Ministry, including for some workers. Between October 2020 and October 2021, the Ministry of Manpower (MDLSA) received more than 24,650 complaints both online and in person. Nearly 75 percent of complaints are resolved, another 24 percent are sent to the Dispute Resolution Committee and the remainder are still under review. The three main complaints were non-payment of wages, period of benefits, annual leave not granted or paid. Despite the efforts of the Government of Qatar and the International Labor Organization in reforming the rules and policies of protection for workers, in reality, there are still discrepancies with the expectations that occur in the field based on data and research by Amnesty International. Dangerous elements of the Kafala persist, including employer control over the legal status of migrant workers and a range of abusive sponsorship countermeasures with no legal consequences.

The Qatari government promised that the law governing domestic helpers would soon be implemented, reviewed and the wage protection system (WPS) would also include domestic helpers without exception. In August 2017 the Government of Qatar enacted the Domestic Workers Act. In this case, it is promised that there will be restrictions on working hours for more than 173 domestic workers, weekly rest periods, and other protections. In reality, however, domestic workers are often the target of horrendous harassment, including serious crimes and sexual violence. Findings from Amnesty International of 105 women who communicated, 85 % or

89 of them did not get weekly rest periods, 90 of whom worked more than 14 hours per day without adequate rest, and 87 of whom had their passports confiscated by their employer

The reason behind Qatar's willingness to carry out reforms in the Labor system, is because it carries out the mission to be successful in organizing the World Cup, and all eyes are on Qatar. The Qatari government will not be able to escape the spotlight of international observers, the Amnesty Institute and the International Labor Protection Agency. According to the theory of contemporary social change put forward by Hermann Strasser and Susan C Randall, that social change in the past and present is influenced by how much change, time span, direction, rate of change, and emerging phenomena. This is also related to the pattern of international relations in the face of various pressures. In analyzing this, it can also be used environmental models (environmental models) proposed, among others, by Papadakis, Star, and Sprouts (Hadatun D, 2005). This model puts forward the concept of the state as an entity in an environment. The environment determines the choice of actions to be taken by the country, as well as how concrete actions are taken by the country to respond to its environment, taking into account various factors. According to Papadakis and Starr, the environment consists of several levels, one of which is the International System. This thinking is in line with the theory put forward by Kegley and Wittkopf, which among other things state that there are five factors that influence a country's policy, one of which is the external (global) source category. The influence of factors from the international system or the external (global) source category is what the author uses to analyze changes in labor policy in Qatar. The characteristics of the world that are constantly changing, social changes in the form of structure, direction and processes of social change will always follow and are interconnected with each other. The business potential and the dignity of the Qatari nation, which also brought the big Arab names, are more or less a psychological burden for Qatar. Every effort and effort is being made, including one of reducing international reactions regarding the readiness to organize the World Cup. The second reason, actually judging from the history and origin of Kafala itself, is not even in line with the principles and values adopted by the state of Qatar itself. The tendency of human exploitation and physical violence is actually contrary to the basic principles of Islam which upholds equal rights and human values. Several observers in the GCC countries themselves admit that the current kafala system is actually an insult to Islamic values (Kakande, 2015). At least this has influenced policy makers in Qatar to make changes in the system and legislation.

CONCLUSION

Qatar, although initially still resistant to international pressure, finally softened by signing a Cooperation agreement with the International Labor Organization in dealing with the problems of migrant workers in their country. Considerations of realism and demands from international human rights institutions, and labor protection have forced the Qatari government to carry out reforms in the labor sector by trying to replace the kafala system or by adapting the provisions that apply to international labor regulations. Another thing that is considered by the Government of Qatar, is that the World Cup Event is not only a pride for the Qatari nation, but also brings together many Arab and Middle Eastern nations so that all pressures and obstacles are tried to be muted. On the other hand, value considerations, that the system that has been running for decades has crashed into Islamic norms and values. As a country that adheres to the basic principles of Islam, of course this is a paradox that becomes a reality. Finally, adjustments and changes became the solution and the right way out, without even holding a World Cup.

REFERENCE

- Asrudin, Azwar (2014) Thomas Kuhn dan Teori Hubungan Internasional: Realisme sebagai Paradigma
- Amnesty International (2020) Reality Check: Countdown to the 2022 World Cup/Migrant Worker's Rights in Qatar. Amnesty International Ltd.
- Center for International and Regional Studies. (2021). Kafala Labor System Reform and the 2022 World Cup. <https://cirs.qatar.georgetown.edu/kafala-labor-system-reform-and-the-2022-world-cup/>
- Gil Feiler, Hayim Zeev (2017) Understanding Qatar. Begin-Sadat Center for Strategic Studies
- Hanan N Malaeb. (2015) The "Kafala" System and Human Rights: Time for Decision. Brill,
- Hans Haferkamp, Neil J. Smelser, (1992) Social Change and Modernity. University of California Press.
- International Labour Organization Report (2021) Technical cooperation programme between the Government of Qatar and the ILO. International Labour Organization Project Office for the State of Qatar
- Konferendasi Serikat Buruh Seluruh Indonesia. (2021). Sejarah Baru, Negara Qatar Terapkan Regulasi Upah Non Diskriminasi. <https://www.ksbsi.org/home/read/1446/Sejarah-Baru--Negara-Qatar-Terapkan-Regulasi-Upah-Non-Diskriminasi>

- Menatalla Ibrahim. (2021). Misleading: Critics slam 'deceptive' Guardian report on migrant worker deaths. Doha News.
- Ray Jureidini, Hasan Said Fares. (2020) The Islamic Principle of Kafala as Applied to migrant Workers: Traditional Continuity Reform. Brill
- Rooper, Steven D and Lilian Barria (2014) Understanding Variation In Gulf Migration And Labor Practice.
- The Free Press Journal. (2022). Qatar is ready for World Cup 2022 with key migrant workers reforms. <https://www.freepressjournal.in/world/qatar-is-ready-for-world-cup-2022-with-key-migrant-workers-reforms>