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Labour Laws and Overseas Workers in Gulf Countries: An Overview

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Abstract

The Gulf countries have a significant number of overseas workers. These workers face a range of challenges related to their working conditions, wages, and legal protections. In this article, the researcher will look at the labour regulations that apply to migrant workers in Gulf nations and how they affect human rights. By evaluating a wide range of research on migration, overseas workers, and human rights from all over the world, This study's objective is to provide a comprehensive picture of the obstacles to migration to Gulf countries and the actions taken so far to recognise and address them.

Keywords

Migration, Gulf, Human rights, Labour laws

Introduction

The age of globalisation is the twenty-first century. Today's world is characterised by globalisation to a great extent. It impacts people everywhere on the planet. It also has an effect on human rights. Globalisation also influences international mobility, the migration of labour, and the growth of international travel.¹

An overseas worker is a person who is currently out of the country due to overseas employment. They are spread out all across the world. One of the top countries in the world for hiring foreign labourers is the "Gulf cooperation council (GCC)" region, and this number has grown dramatically in recent years. The "Gulf Cooperation Council (GCC)" consist of six countries- "Bahrain," "Qatar," "Saudi Arabia," "Oman," "Kuwait," and the "United Arab

¹ Pandhe, M.K, "Migrant Workers in Globalised Economy." *People's Democracy XXXII*, no. 2 (May 25, 2008): 1.

Emirates." Many nations rely on these States as a source of labour, gas, crude oil, and petroleum. Oil and gas reserves and hydrocarbons, in general, are still mostly sourced from the Gulf States. When workers from different countries want to improve their employment prospects, they often travel to the Gulf States.² One of the greatest ratios of immigrant workers to native workers is seen in this country. Most of these migrant workers are unskilled labourers working in **industries** like cleaning, hospitality, and construction. Despite the fact that migrant workers significantly boost the economies of the countries where they settle and send important donations to their communities and families at home, many of them have numerous difficulties in locating acceptable jobs.

Data of overseas workers in Gulf countries- "International Labor Organization (ILO)" estimates that there were 24.1 million migrant workers in the Gulf States in 2019, accounting for 14% of all **migrant** workers worldwide. In contrast to the global average of 5%, the region has the highest percentage of migrant workers as a percentage of the whole workforce, reaching 41.4% in 2019. Due to a number of circumstances, including the exceptionally high levels of labour participation among migrants compared to natives, especially women, about half of all workers are migrants. (ILO 2021).³

According to the 2020 version of the "International Migrant Stock" database of the "Population Division" of the "United Nations Department of Economic and Social Affairs (UNDESA)," Arab **countries** housed around 15% of the world's international migrants and refugees in 2020. Specifically, the GCC sub-region housed nearly "three-quarters of all migrants and refugees in the Arab States region, with migrant labourers being the majority" (UNDESA 2020).⁴

The GCC employs a huge number of migrants, yet many of them have experienced discrimination and mistreatment at the hands of their employers. The majority of GCC nations' legal systems, which exempt migrant domestic employees from regular labour law and operate a sponsorship system (kafala) that gives employers and the government significant control over migrant workers, aid in this abuse.

According to Albert Hourani (1991), migrant workers in oil-producing countries may make more money than they could in their home countries, but they have no job security and no way to improve their lot through collective action. They were interchangeable, and replacements were always on standby.⁵ Fargues (2017) and Jarallah (2009) see the absence of protection by law as a factor deepening the vulnerability of female domestic workers, especially when they are victims of exploitation by their employers.⁶ Also, Madani brought up the issue of the rights of migrant workers, which not all Gulf families are aware of. He also emphasised that the employment agencies and related institutions in exporting and importing countries bear some of the responsibility for global labour concerns rather than GCC labour laws or their **application**.⁷

² Ahmad, Ishtiyag and Bilal Khan. "Indian Migrants in Gulf States: Issues and Problems." *The Indian Journal of Political Science* 72, no. 4 (Oct.-Dec. 2011): 1143-1164.

³ International labour organization, "Labour Migration" <https://tinyurl.com/mr4axk69> (last acc. on 5th April, 2023)

⁴ *Supra* note 3

⁵ Hourani. *A History of the Arab Peoples*. London: Faber and Faber Ltd., 1991.

⁶ Abdulkhaleq, 2010, "Contemporary Sociopolitical Issues of the Arab Gulf Moment." CSGG. London: <https://tinyurl.com/2esdzhdc>. (last accessed on 5th April, 2023)

Factors Affecting Overseas Workers

Kafala

Gulf nations in the area use the "kafala" (sponsorship) system to control this enormous stream of migrant workers. The "kafala" system, which has been enshrined in national legal frameworks controlling their employment and stay, is used by the majority of migrant workers from the Gulf. Under the "kafala" system, employers, known as kafeels (sponsors), analyse their labour needs and fill them directly or through intermediaries such as private recruitment agencies (PEAs). A contract **sponsor** regulates the entry, residence, and exit of migrant workers. Due to the fact that their employers control their legal status in the country, these employees are susceptible to abuse and exploitation.⁸ The "international community and human rights organisations" have gradually increased their pressure on GCC States that use the Kafala system due to human rights concerns. According to human rights organisations and specialised international entities like the "International Labour Organization (ILO)" and the "International Organization for Migration (IOM)," the "Kafala" system is fundamentally incompatible with basic human rights and established economic systems.⁹

Working environment

The following worker-related facts demonstrate that a significant proportion of GCC employers do not comply with existing labour laws:

- Inadequate dwelling circumstances
- Forced outdoor employment throughout the day
- Workplaces with inadequate safety measures
- Passport confiscation without consent

Disparities in migration based on Gender- Several Asian women who have immigrated to the GCC work as domestic maids (Malecki & Ewers, 2007). This exemplifies the discrimination and lack of **advancement** chances faced by female professionals in the GCC. Certain nations in the GCC do not readily issue work permits to single women or married women who are not accompanied by their husbands.¹⁰

Salary disparities by gender in the GCC - Women in the Gulf confront prejudice at work in the form of salary discrepancies and societal perceptions of women in leadership roles. Female employees frequently agree to work for less money than their male counterparts for the same job with equivalent duties and work content.¹¹

International Conventions and Gulf Countries

⁸ Aarathi, S. V., Sahu, "Migration policy in the gulf cooperation Council (GCC) states: A critical analysis." *Contemporary Review of the Middle East* 8, no. 4 (2021): 410-434.

⁹ Murray, "Hope for Reform Springs Eternal: How the Sponsorship System, Domestic Laws and Traditional Customs Fail to Protect Migrant Domestic Workers in GCC Countries," *Cornell International Law Journal* 45, no. 2 (Spring 2012): 476

¹⁰ Naithani, Pranav, and Jha. "Challenges Faced by Expatriate Workers in Gulf Cooperation Council Countries." *International Journal of Business and Management* 5, no. 1 (2009): 98.

¹¹ Ibid.

The “United Nations General Assembly” ratified the “International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families” on 18 December 1990; it went into effect in July 2003. Even though all GCC countries would benefit greatly from implementing the provisions of this Convention, none of them has ratified it so far.¹² The ILO advocates for workers and develops migrant worker protections. Thus, the “International Labour Organization’s” 1975 General Conference adopted the Convention on “Migration for Employment and the Convention on Migration in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers.” These two Conventions, which govern the rights and obligations of state workers and foreign labour, have not been ratified by the GCC States. On the same note, the International Labor Organization (ILO) adopted a new groundbreaking treaty in 2011 called “The Convention Concerning Decent Work for Domestic Workers”. This treaty will provide essential labour protections for millions of domestic workers who previously lacked such protections. There has been no ratification of this Convention by GCC states.¹³ From the aforementioned, it can be concluded that the GCC States have not always been interested in ratifying international labour conventions, which has led to a lack of full implementation of the standards outlined in international accords where the great majority of migrants actually live and work.

International conventions ratified by GCC states

There are many international conventions which are though ratified but not implemented in their true sense by GCC states. The 1966 “Convention against Racial Discrimination,” the 1979 “Convention on the Elimination of All Forms of Discrimination against Women,” and the 1993 “Declaration on the Elimination of Violence against Women” are examples. Most Member States also ratified the “Convention on the Abolition of Forced Labour,” the “Convention on Discrimination in Employment and Occupation,” and the “ILO Convention No. 182” on the “Worst Forms of Child Labour.”¹⁴ Yet, we have begun to observe new tendencies for the change of the “Kafala system” in many states.

Improving Migrant Workers’ Conditions: The Government’s Role in GCC Countries

Bahrain

Bahrain previously utilised the Kafala system, along with other GCC nations. Foreign workers in the Kingdom of Bahrain were given permission to change jobs in 2009 to safeguard the rights of both **employers** and employees. Changes to Bahrain’s visa sponsorship legislation have resulted in a loosening of limitations on workers who desire to change their place of employment. This is an important and welcomed change since it reduces the inherent

¹² UN. 1990, “International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.” OHCHR. 1990. <https://tinyurl.com/4eprx459> (last accessed on 3rd April, 2023)

¹³ Domestic workers convention, C-189 (2011) no.189

¹⁴ Malaeb, Hanan N, “The ‘Kafala’ System: Time for a Decision.” *Arab Law Quarterly* 29” (2015): 323.

susceptibility and insecurity of the employer. These modifications were viewed as a start towards changing Bahrain's Kafala system.¹⁵ While the process to abolish the kafala system in Bahrain began in 2009, the government declared that it would go into effect in 2016. Then the 'Flexi-Permit' came along, which made it possible for migrants with undocumented status to act as their own sponsors, freed them from having to work for a single company, and made the system available to the freelance sector. The new programme has been hailed as a significant improvement in workers' rights by a number of human rights organisations. Nonetheless, despite **government** promises to do so in 2009, kafala still exists.¹⁶

Kuwait

International organisations have regularly criticised the State of Kuwait for using the Kafala system. As a result, on the eighty-fifth anniversary of Kuwait's liberation, the State of Kuwait declared its intention to abolish the Kafala system in an effort to replace it with a law that adheres to generally recognised norms. Kuwait has adopted a number of reforms: for instance, the government published a new standard contract for migrant employees, and an administrative decision the following year permitted individuals to change employers after three years of service without their approval. These revisions excluded domestic migrant labour. Yet, in 2015 a law was passed that granted employees several fundamental rights, such as a weekly day off, 30 days of yearly paid vacation, a 12-hour workday with rest, a retirement pension, and overtime compensation. In addition, a minimum wage was instituted. Nonetheless, human rights organisations have emphasised that these safeguards are still inferior to national labour regulations and still lack enforcement mechanisms.¹⁷

United Arab Emirates (UAE)

The UAE heavily depends on migrant labour, especially in Dubai, where about 90% of the 3.1 million emirate residents are foreign nationals. Most of their jobs are in the building and service sectors. The UAE prides itself on being progressive, although it has been criticised for its foundation on mistreated and exploited labour. UAE migrant workers received unemployment insurance in 2022. The scheme excludes domestic and temporary workers. However, the policy will "run into contradictions" until the kafala system is scrapped.¹⁸

Qatar

In Qatar, migrant labour exploitation and forced labour have been reported for a decade. Qatar and the ILO started a substantial labour reform programme after protracted discussions. Qatar abolished kafala in 2019. In March 2021, The first country to establish equal minimum pay for all workers, including domestic workers, was Qatar. Exit permits and "No Objection Certificates (NOC)," which permitted workers to switch employment or leave the country without sponsor approval, were also abolished.

¹⁵ *Supra* note 10 at 24

¹⁶ *Ibid*

¹⁷ "Kafala System Continues to Entrap Workers Despite Reforms." *Fanack*, January, 2023. <https://tinyurl.com/mrx5dws2> (last accessed on 5th April, 2023)

¹⁸ *Ibid*

Conclusion & Recommendations

The success of kafala reforms, the breadth of which varies from nation to country, hinges on their actual implementation and enforcement. While some nations have relaxed their policies to make it easier for employees to leave their jobs without their employers' consent, others still require them. Workers who choose to resign should be afforded greater safeguards to prevent their employers from taking punitive action against them. A study from the Gulf Research Center in 2022 claims that the kafala system has remained in place due to the entrenched interests of several parties. Locals may charge workers for visas to lawfully enter the nation. Expanding labour mobility will empower workers and encourage companies to treat them decently. If nations like Qatar and Saudi Arabia continue to create megaprojects like the World Cup, **they** will rely heavily on migrant labour for the foreseeable future. Even though the GCC governments have implemented certain measures to aid immigrants in adjusting, more has to be done. The following needs to be made sure of

- The kafala reforms on labour mobility can benefit all employees and companies.
- Stricter labour rules safeguard expatriate workers from forced overtime, poor living circumstances, and dangerous jobs.
- Simplifying work visa rules to allow migrants to switch employers.
- The law protecting domestic workers is fully implemented.

Hence, GCC governments must do more to create a professional and social climate that attracts a higher-quality workforce that can boost regional economic growth.

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