

Labor Rights And Immigration Issues In Qatar

by

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DEDICATION PAGE

I dedicate this thesis, as a symbol of my newly acquired knowledge and academic achievement to God, to my country- Saudi Arabia, and to my family who supported me throughout my studies. Also, my Thesis Committee, who supported me and encouraged me to reach this point of success.

ABSTRACT

Qatar has experienced significant growth and development, which has led to population growth in the country. The influx of migrant workers in the country has been linked to the population explosion in Qatar as foreign laborers make up approximately 85.7% of the population in the country and over 94% of the employed population in the country. Estimates show that between the years 2010 and 2013, more than 1,200 migrant workers working in the construction industry in Qatar died. Projections show that another 4,000 migrant deaths are expected to happen by the time Qatar hosts the World Cup in 2022. International organizations criticize Qatar for not having in place efficient and effective laws that protect migrant workers within the country's jurisdictions. The research aims to describe the situation concerning labor rights and immigration issues present in Qatar. The focus of the study is to explore existing laws in Qatar and whether they are sufficient to make the country comply with international regulations concerning the rights of migrant workers. A case study approach is used to explore existing laws in Qatar and their compliance with international human rights and labor standards. The legal review suggests that Qatar has introduced immigration reforms that aim to improve labor and human rights observance for migrant workers in the country. However, implementation and enforcement of the laws are cited as a source of persistent migrant workers' issues in the country. Also, existing laws in Qatar may still infringe on the rights and freedoms of migrant workers working in the country. Qatar has made initial steps to address concerns that have been raised by international organizations regarding the labor and human rights of migrants working in the country. However, the country needs to focus on effectively enforcing existing laws and addressing the Kafala system.

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LIST OF ABBREVIATIONS

FIFA- Fédération Internationale de Football Association

FNV- The Netherlands Trade Union Confederation

GCC- Gulf Cooperation Council

NOC- No objection certificate

MDPS- Ministry of Development Planning and Statistics

MLSA- Qatari Ministry of Labor and Social Affairs

PEA- Private employment agencies

ILO- International Labor Organization

UDHR- Universal Declaration of Human Rights

ICERD- International Convention on the Elimination of All Forms of Racial Discrimination

ICESCR- International Covenant on Economic, Social, and Cultural Rights

ICCPR- International Covenant on Civil and Political Rights

UN- The United Nations

UNGA- The United Nations General Assembly

WPS- Wage Protection System

CEACR- Committee of Experts on the Application of Conventions and Recommendations

ILC- International Labor Conference

UNHCR- United Nations High Commissioner for Refugees

LDRC- Labor Dispute Resolution Committees

PPO- Public Prosecution Office

CHAPTER ONE: INTRODUCTION

The aim of this study is to seek a better understanding of Qatar's unclear status for honoring its international obligations concerning exploitative employment practices that target migrant workers who comprise the majority of the resident population. There is a conflict within policy, plans, and actual practice as Qatari's government struggles with trying to both reach development objectives and honor its obligations to protect human rights. The study considers the circumstances of migrants, from the Qatar-Asia migration corridor. The target of the research is to determine the steps of the legal reform that the Qatar government has made to address issues concerning the welfare of migrant workers in the country. That involves exploring existing laws and their ability to sustain the country's compliance with international standards concerning the living and working conditions of foreign workers. This study will focus on exploitative and abusive labor practices present in Qatar experienced by migrant workers and the extent to which the country has committed to implementing its international obligations. The country can show its commitment to international obligations by incorporating the different requirements into its national laws through reforms. A case-study approach is used to explore the existing laws in Qatar and their compliance with international human rights and labor standards. The sources used for the case study and literature review range from professional human rights monitors to a review of the relevant domestic and international jurisprudence, supported by evidence and examples from news articles. The review of laws considers how this phenomenon began and continues, helping to

identify areas for improvement where gains in parity can be made to better comply with international law. The human rights reports raise concerns that review violations and identify migrant workers' realities. The newspaper articles offer further support with examples of the range of issues that migrant workers have faced in the region- establishing the contemporary context of the phenomena.

The first chapter focuses on the history and background of Qatar and the problem identified concerning poor working and living conditions of migrant workers, which has contributed to rising cases of deaths of the workers. The second chapter which is the qatari migrant labor legislation and international obligations focus on Qatari national instruments that focus on combating the problem of human trafficking and the country's sponsorship laws. That discussion is followed by an exploration of how Qatar has implemented new laws to try to make gains with international obligations that are outlined in the second chapter of the study. That discussion involves the exploration of how existing domestic laws in the country mirror a commitment to international obligations. As part of this study, various provisions are translated and presented in order to depict and translated to depict actual current practices in Qatar. The third chapter which is the analysis of the Qatari labor migration policies: theory v. practice, addresses the context of the current situation of migrant workers in Qatar. The chapter starts by exploring the migrant life-cycle in Qatar, which is then followed by an exploration of existing laws, policies, and practices in the country. The other aspects that will be explored in the second section include the Kafala system, which is a visa sponsorship system, in which employers in the country exert control over their acquired foreign workforce (Ashraf, 2016; The Government of Qatar, 2009). Immigration policy reform in Qatar, and Qatar's international legal obligations with regard to migrant workers. Also, I will discuss proposed initiatives as well as others already implemented by Qatar to

address the practices that have caused an international outcry. It further explores the steps taken by FIFA to address the known concerns of migrant workers. The final chapter will involve a conclusion and a provision of recommendations that can help the country move forward.

The literature review facilitates the development of the required understanding of the complex issues of human and labor rights in Qatar by establishing the contextual realities, which include the rapidly changing economy, the population split between Qataris as a minority and foreigners being a majority, and the unusual system of outsourcing nearly all employment even with the Qatarization policies in place. The review seeks to determine whether Qatar has implemented the necessary labor reforms to successfully address the labor issues that have been identified concerning the living and working conditions of the vulnerable population of millions of migrant workers. While it is not possible for the review in this study to be totally comprehensive, it is timely given the international attention Qatar is receiving about the upcoming international sporting event- intended to be a boon for the local economy.

In 2010, the Fédération Internationale de Football Association (FIFA) announced that Qatar was awarded the bid to host its first World Cup, which was also a first for the Arab world. That made it a seminal moment because it was a representation of decades of economic and political development in Qatar. The announcement prompted Qatar to engage in an unprecedented scale of infrastructure development. The plan is that the World Cup matches will take place in eight stadiums throughout Qatar. Most of these stadiums would be newly constructed to meet the specifications of the international competition. Other developments include the construction of a team base camp village for competing athletes,

leisure, lodging, sport, recreational, and tourism venues for expected spectators are also being constructed throughout the country. Other plans being implemented include the construction of a rail network, a new airport, and a metro system (Gibson, 2014a). According to Menary (2015), Qatar estimates that it will need to invest over \$200 billion USD in infrastructure and real estate projects in preparation for the World Cup. Zegrea and Choufany (2012) suggest that for the projects to be completed, Qatar will need to engage the services of between 500,000 and 1.5 million migrant workers.

For a long time, development in Qatar has rested on the efforts of migrant workers who are imported mainly from South Asia and the Middle East. In 2012, Qatar became the focus of international criticism as the world began to take notice of the poor living and working conditions of migrant workers who were laboring on the construction projects for the upcoming FIFA event. The criticism may not be baseless- there is evidence that the poor working and living conditions carry the a real price (Ashraf, 2016; Chen, 2015; Finn, 2016; Gibson, 2017). Estimates show that between the years 2010 and 2013, more than 1,200 migrant workers working in the construction industry in Qatar have died. Projections show that another 4,000 migrant deaths are expected to happen by the time the World Cup will be hosted in the year 2022 (Chen, 2015). However, not all deaths of the 4,000 anticipated deaths will happen due to inadequate safety measures on World Cup construction sites, some injuries and illnesses may occur due to housing conditions, lack of access to medical care, transportation accidents, suicide, violent employee disputes, etc. (Finn, 2016; Menon, 2011; Saseendran, 2019; Shaban, 2019; Za, 2018). Also, it is important to understand that it is difficult to gain an accurate tally of deaths that can be attributed to construction-related incidents because of existing state restrictions on the performance of policy enforcement and even the sharing of post-mortem data. What is clear in all the chaos present in Qatar is that

migrant workers are subjected to working conditions that incorporate human trafficking, forced labor, and indefinite detention by their employers. Scholars point out that the absence of significant improvements in the observance of labor rights of workers and their welfare can lead to Qatar's World Cup to be remembered worldwide as a human rights tragedy (Ganji, 2016).

According to Amnesty International (2013), the abuses of construction workers in the construction industry are severe. The research by Amnesty International suggests that widespread exploitation of migrant workers at the hands of their employers exist in Qatar. The matter is compounded by the existing backdrop of discriminatory attitudes that Qatari citizens have against different categories of migrant workers. Issues present in the country include migrant workers finding terms and conditions of their work different from those offered to them during recruitment and salaries being lower than what was promised to them. Many migrant workers experience incidents where their pay is withheld for months or in other cases they never get paid at all. Employers leave workers undocumented and that exposes them to the risk of being detained by authorities. Like in most regional countries, if the employee's company does not apply for their work permit (something only companies and not individual workers can do for themselves), then an employee cannot file a formal complaint with the government for various labor violations, including the withholding of salary or other compensation benefits like health insurance. This means that there is no way for the trafficked workers to formally record labor law violations, human rights abuses, non-payment of salary, or try to utilize legal justice avenues. The passports of migrant workers in most cases are confiscated, which prevents them from freely leaving the country.

Also, workers are made to work for excessive and extreme hours. Additionally, many employers fail to protect the health and safety of migrant employees adequately.

It is easy to underestimate the impact of such difficult working conditions on individuals; thus the issue must be exhaustively explored to be fully understood. The practices that are present in Qatar are unacceptable on their own and when they occur simultaneously, the negative outcomes are extreme (Murray, 2012). Researchers have explained that during interviews with many migrant workers, they exhibit severe cases of psychological distress because of the treatment they endured. Migrant workers report a sense of helplessness as they are unable to address the situations that they found themselves in, particularly without Qatari government intervention (Amnesty International, 2013). Many migrant workers report the trauma that comes with not being able to send money back to their home countries to support their families for months at a time. That exposes their families to situations where they are harassed by moneylenders who have not been repaid and having to sell their possessions to sustain their expenses (Amnesty International, 2013). Further, workers may take high-risk loans they cannot repay as a stop-gap measure and without the promised salary find themselves unable to repay loans without realizing this violates local law- sometimes resulting in being subjected to prison or other asset seizure, punishment, or deportation.

The Qatari government is trying to balance its development objectives and human rights obligations, and it may be considered unsuccessful in this balancing act thus far. Therefore, it is important to explore labor rights and immigration issues present in Qatar and the role they play in the country's ability to comply with international human rights and labor standards. The question that needs to be answered and is pursued in the case of Qatar is

whether the country is living up to its international obligations, particularly those provided under International Labor Organization (ILO) Conventions and the Palermo Protocol (three UN laws that address human trafficking). It is prudent to assess whether Qatar is honoring its commitment to address the existing alleged exploitative practices towards migrant workers inside the country. The research question, in this case, is: Do existing laws in Qatar address issues of living and working conditions of migrant workers in the country as cited by findings of numerous studies?

Recent reports and investigations by various international organizations suggest that a range of problems exist that are associated with labor practices in Qatar (Amnesty International, 2011; Amnesty International, 2013; ILO Committee of Experts, 2017a). The issues cited include a significant increase in the death of migrant workers, especially in construction sites since the country won the bid to host the World Cup (Ashraf, 2016; Thorogood, 2019). Protection gaps exist in the recruitment process. For example, migrant workers are often charged high fees for “buying” their visas. Further, working conditions and working hours are often misrepresented to them, or their ability to take days off. Also, the confiscation of passports and failure to issue migrant workers with residence permits have both been identified as issues in the country, (Khan, A., & Harroff-Tavel, H. (n.d.)). Two other serious include migrant workers being subjected to forced labor without pay and the failure to issue exit visas for migrant workers wishing to leave the country, a common avenue sought by workers who have experienced non-payment of salary over extended periods (Ashraf, 2016). Given the magnitude of the issues identified by international human rights organizations and scholars, it is critical for an exploration that focuses on labor rights and

immigration issues in Qatar. That paints a picture of the problem from the perspective of migrant workers, human rights organizations, and employers in Qatar.

This study also presents scholarly predictions that suggest building infrastructure to facilitate hosting the World Cup tournament has had a significant, negative impact on the working conditions of migrant workers (Manfred, 2015). A 2014 study by the International Trade Union Confederation, a labor group, suggested that more than 4,000 migrant workers could die due to their employment and living conditions before the start of the 2022 World Cup in Qatar (Meier, 2015). The alarming nature of these findings is indicative of how critical it is to gain a clear understanding, by exploring existing laws and their compliance to required international obligations, of the extent that the country is committed to addressing the alleged problems involving migrant workers.

History And Background

Qatar, formed officially in 1971, is a small, rapidly developing, oil-rich Gulf country. The country is located within the northeastern area of the Gulf peninsula and has a population of over 2.8 million people as of 2019, of which only 300,000 are Qatari citizens (CIA, 2018; De Bel-Air, 2014). New infrastructure in the country across various sectors has attracted large migrant worker populations to Qatar. The migrant workers in the country are employed in different sectors that include chemical factories, rail networks, airports, residential and commercial facilities, construction of stadiums, and construction of highways (Gardner et al., 2013). That has seen the country experience a rapid population growth from over three hundred thousand people in 1986 to the current population estimates. The influx of migrant workers in the country has been linked to the population explosion in Qatar as they make up

approximately 85.7% of the population in the country and over 94% of the employed population in the country (Mehmood et al., 2018).

The majority of migrant workers in Qatar are from South Asian countries along with a few other nationalities like modest Egyptians (300,000) and Filipino (236,000) populations of migrants Qatar (Al-Youm, 2017; DSouza, 2019). The ratio of men to women among the migrant workers is 8 to 1, with the largest population of 39.2% employed in the construction industry. This uneven population ratio was significantly enhanced with the rapid infrastructure development requirements anticipated because of the successful bid to host the Fédération Internationale de Football Association (FIFA) 2022 World Cup event (Mehmood et al., 2018). Scholars note that ensuring the safety of the working migrants in Qatar is a significant challenge. That is because the majority of work carried out by migrants in the country are around what is referred to as the 3D sector, which incorporates the dangerous, dirty, and difficult jobs (Mehmood et al., 2018).

Fueled by the growth of the oil and gas sector, Qatar has experienced a dramatic economic transformation over the last two decades. The outcome of the economic transformation is a massive increase in construction in different parts of the country. The bid to host the 2022 FIFA World Cup has enhanced construction in the country in preparation to host the event (Heerdt, 2018). The expansion of the construction industry has contributed to unprecedented population growth in the country and that has seen the majority of the population is made up of immigrant workers. According to data provided by the government of Qatar, 71,076 of the working force in the country are Qataris with the remaining 1,199,107 workers being non-Qataris (Mehmood et al., 2018).

Ashraf (2016), underscores that despite the high economic status of Qatar in the world, the country has not been able to enforce its existing worker protection laws that protect the welfare of workers. The history of Qatar concerning labor rights and the rights of workers has been a topic of concern for international humanitarian organizations (ESPN, 2013). Studies that focus on working conditions of workers in the country have reported high death rates among migrant workers even before the country won the bid to host the FIFA World Cup (Human Rights Watch, 2019). That is because even before the country had plans to host the World Cup, global companies were involved in the country's construction industry with most of them undergoing investigations regarding the conditions of migrant workers (ESPN, 2013). Reports suggest that migrant workers in Qatar for a long time have been "treated like cattle where they work for long hours and no days off" (ESPN, 2013). A 2014 report by the firm DLA Piper (arranged at the behest of the government of Qatar) found that approximately 964 deaths of migrant workers occurred in the country's construction industry, some of which were a result of poor working conditions (Gibson, 2014; Ingraham, 2015). This estimate is difficult to verify, and other reports have reported significantly higher numbers (Ingraham, 2015). All these were reported before the announcement that the country will host the FIFA 2022 World Cup, which has enhanced amounts of development and construction that are happening in the country (Ingraham, 2015).

Issues concerning immigrant workers in Qatar have attracted widespread international attention after the country was awarded the right to host the World Cup. However, it is important to note that issues concerning labor rights of immigrant works have existed for years in the country. International organizations like Amnesty International and the International Labor Organization (ILO) for years have investigated the living and working conditions of migrant workers in Qatar. The outcomes of such investigations suggest that

migrant workers in Qatar find themselves in precarious positions because of the labor exploitation they experience as victims of labor trafficking. There have been efforts by the international human rights community to encourage Qatar to reform the existing labor laws and the Kafala system (Lens, 2017).

The Netherlands Trade Union Confederation (FNV) filed a complaint against FIFA for awarding Qatar the bid to host the 2022 World Cup despite the existing labor rights and immigration issues, in the Swiss Commercial Court of Zurich. The complaint that was forwarded to the court concerned FIFA being a party to wrongful conduct and liability for human rights violations that were taking place in the construction sites of the 2022 World Cup stadiums (Mehmood et al., 2018). The allegations fronted by Netherlands Trade Union Confederation were supported by two other trade unions from Bangladesh. The trade unions argued that FIFA had violated applicable legal standards when they made a decision assigning Qatar the hosting rights for FIFA 2022 and had not done anything to promote labor reforms in the country, which would ensure the rights of migrant workers who will work in the construction of stadiums are guaranteed (Mehmood et al., 2018).

The Swiss Commercial Court of Zurich rejected the case on the 3rd of January in 2017, on grounds of lack of jurisdiction and inadmissibility. However, scholars have pointed out that the ruling does not mean that FIFA cannot be held accountable for challenges that immigrant workers face in construction sites for stadiums and other supporting infrastructure for the 2022 World Cup. Since the court did not make a judgment on the merits of the case, it highlighted issues concerning migrant workers in Qatar and reforms that are needed to ensure labor rights are preserved and protected in the country (Amis & Morrison, 2017).

At the center of immigrant worker issues and human rights abuses in Qatar is the Kafala system. The Kafala system is a visa sponsorship system, in which employers in the country exert control over their acquired foreign workforce (Ashraf, 2016; The Government of Qatar, 2009). The Kafala system is contained in Qatar's *Law No. 4 of 2009*, which provides the legal framework supporting the system (The Government of Qatar, 2009). Features of the Kafala system create opportunities for companies and human traffickers to exploit unsuspecting foreign workers hoping to find lucrative employment in Qatar. Under the Kafala system, immigrant workers are bound to a single sponsor, a company established in Qatar or an individual citizen of Qatar (Ashraf, 2016; The Government of Qatar, 2009). According to the Global Detention Project (2016), a significant number of migrant workers in Qatar were lured into the country under false pretenses, which also sees them pay significantly huge recruitment fees. They later find the terms and conditions of their work to be different from those promised when they were being recruited (Global Detention Project, 2016). The system makes it possible for employers to confiscate the passports of migrant workers, which prevents them from freely leaving the country. In many cases, the living and working conditions of migrant workers in Qatar (and the other GCC countries) is sub-standard with requirements for them to work for long hours and live in accommodations not fit for human occupation, according to international standards (Global Detention Project, 2016). Although the complexities of the Kafala system include endemic problems and gaps that lead to human rights violations, the system doesn't need to be problematic and could be reformed to avoid the systemic violations and eliminate the human rights vulnerabilities.

There are some necessary reforms to the Kafala system that Qatar needs to immediately implement in order to comply with international laws and standards. The first and most logical reform is to improve enforcement of the current sponsorship and labor laws.

This will involve hiring more staff who are competent and motivated to improve the labor conditions inside the country. Another critical reform is that the government needs to ensure that every migrant worker is given the information about their rights and how to file complaints- and this information must not be left to the sponsors, but rather the government upon the arrival of the migrant.

Further, a translator who is a native speaker of the migrant's language must be there to explain everything as many laborers are illiterate. The migrants need the opportunity to ask questions about their laws and rights. Another reform that is obviously needed and necessary is that the government needs to improve the reporting system so employees can file cases against sponsors without being required to have their ID and labor permits. This would be very easily solved by allowing anonymous complaints. When a sponsor is suspected of labor law violations, the government needs to increase monitoring of the employees of the sponsor and look for patterns of more violations to help get workers out of bad circumstances early. This should involve compensating workers for salary non-payment with the options of being reassigned to a new sponsor in another job or cashing out their compensation and being sent home. If the Qatari government is responsible for these expenses, it will increase the pressure and expectation of sponsors to follow the law. The reforms should also involve the government holding sponsors personally accountable for violations including seizure of assets, using those assets to defray costs, banning sponsors from accepting new employees, and permanently banning the sponsor from traveling abroad to ensure that they face the consequences for their crimes.

In defense of the Kafala system, the Qatari government explains that the system is in place to ensure a balance between the rights of the employer and the rights of the worker is

achieved (Clemens, 2013). However, the reality is that the system creates an excessively unequal power relationship between employers and workers. That is because it makes it possible for employers to exploit migrant workers who are vulnerable because of the sub-standard provisions of the system (Clemens, 2013). The system provides employers with excessive powers because they can prevent workers from seeking alternative employment opportunities, they can block workers from leaving the country, they have the right to terminate the employment of their migrant workers at any time and without cause, and employers can have the residency of the migrant workers canceled by relevant authorities (Clemens, 2013). Further, employers can file visa bans on employees in retribution for filing complaints regarding non-payment of salary, poor working conditions, etc. Also, employers are responsible for furnishing medical insurance and allowing sick leave to employees, but there is no mechanism for enforcement for unregistered workers being held hostage by irresponsible employers. Thus, the possibility of worker protections exist and there are expectations in place, the issue is that these laws are not consistently enforced.

In Qatar, the law establishes that every migrant worker must have a sponsor, who also must be their employer. In the case of construction workers in Qatar, their sponsors are registered companies that are providing them with employment. These companies may not necessarily be directly managed by Qataris, as the government only requires one Qatari to be an investor or board member to sponsor a company that may be owned, in reality, by other third-country nationals (often Asians). Migrant workers in the country are not able to change jobs without the verified permission of their sponsor. The permission that is provided by a sponsor to a migrant worker to change employment is usually referred to as 'no objection certificate' (NOC). In the instance a migrant worker leaves the employment of their sponsor without the original employer's permission, they are considered to have "absconded", which

amounts to a criminal offense. The sponsor has the responsibility of reporting a migrant worker who changes employment without their permission to the “Search and Follow-up Department” of the Ministry of Interior, which has the responsibility of policing the sponsorship law. Migrant workers who abscond their employment contracts are at risk of detention, punishment (including potentially being lashed), and eventually deportation (Devi, 2014).

The other legal restriction that exists concerning the status of migrant workers in Qatar is that they cannot leave the country without the permission of their sponsor. Migrant workers are required to get an ‘exit permit’ from the relevant authorities and it has to be approved by their sponsors to get through immigration at the airport when they are leaving the country. On top of getting this document that clears the worker for departure, there is an additional problem that many workers face. The existing law requires that sponsors return to migrant workers their passports after the company has completed the residence procedures and work permit application for their workers. However, in many cases, companies may fail to return passports to their new hires which prevent them from both changing jobs and being able to exit the country (Ashraf, 2016).

Labor laws in Qatar require migrant workers to be issued with residence permits, in the form of identification cards. The residence permits demonstrate that migrant workers have the right to live and work in the country and have a chip that includes their visa details, biometric marker details, etc. The card also makes it possible for migrant workers to have access to a range of basic government services. The sponsor is given the responsibility of making arrangements with the relevant authorities to ensure the employees they are sponsoring are issued with these critical documents. However, that does not always take

place, which means that migrant employees without residence permits cannot access a range of basic services. Also, migrant workers without work permits are assumed to have absconded and are at risk of being detained for violating this law as a result. Migrant workers can be personally fined for not having valid residence permits (Amnesty International, 2013). Also, when valid work permits have expired and a worker wants to leave the country, these types of labor law fines have to be paid before the worker can exit (Amnesty International, 2013).

The Ministry of Labor in Qatar has the responsibility of overseeing and implementing labor laws in the country. The corpus of labor law and a set of other related decrees outline the rights of workers in Qatar. The rights provided for in law include limits on working hours, the acceptable minimum living conditions of workers, mandated annual leave, safety, and health requirements, and the requirement that salaries be paid on time. One of the provisions is that workers can file a complaint against their employer in instances where they perceive that their rights as provided under the labor law have been infringed. The complaints by employees are presented to the “Labor Relations Department” of the Ministry of Labor. In cases where the ministry cannot negotiate a resolution between the employee and employer (like when the employer has absconded), the case is referred and forwarded to the Labor Court where the worker can file a civil case against their employer for a potential breach of labor law (Amnesty International, 2013).

According to Murray (2012), under labor law in Qatar, migrant workers are prohibited from forming or joining trade unions. In the year 2004, Qatar passed a new labor code that allowed for the formation of a single trade union known as the General Union of Workers of Qatar. However, migrant workers and government employees are not allowed to join the

trade union (Murray, 2012). Human rights organizations, such as the Migrant Workers Protection Society, are allowed to exist in the country to protect the welfare of migrant workers (OHCHR, 1990). However, the activities and finances of such human rights organizations are closely monitored, creating an environment of uncertainty regarding how effective the organizations can be in the country. All organizations in the country are prohibited from taking part in what is referred to as “undefined political issues” (Murray, 2012).

Also, the labor law in the country is limited to construction workers. That means that domestic workers like maids and nannies or migrant workers in other sectors are excluded from the terms present in the labor law. Therefore, under Qatari law, no limits exist on the working hours that employers may impose on many migrant workers. They cannot present their complaints to the Ministry of Labor, as their rights will not have been breached when they are made to work for long hours in deplorable conditions. The government's expectation is that sponsors provide migrant workers with housing in Qatar. In the case of migrant workers in the construction sector, the housing provided is in the form of dorms that have communal kitchens and bathrooms. In 2011, Qatar passed a law that made it illegal for the large labor camps employers used to house migrant workers to be located in family residential zones. Family areas are districts where Qatari families often reside; therefore, the labor camps are located on the outskirts of such districts. Domestic workers are provided with accommodation in the same home or compound as their sponsors and employers, but there is no regulation to ensure that domestic workers are treated fairly. For example, maids may be forced to sleep on the bare floor, not have a place to keep their own possessions or have any privacy for changing their clothes (Amnesty International, 2013).

CHAPTER TWO: THE QATARI MIGRANT LABOR LEGISLATION AND INTERNATIONAL OBLIGATIONS.

Qatar's International Legal Obligations with Regard to Migrant Workers

According to Lens (2017), recent reports about the situation of migrant workers in Qatar have facilitated the need to explore whether Qatar is acting in compliance with international obligations. However, before that can be done, it is important for the legal framework to be set out. Qatar is a party to several international human rights treaties and a member state to various international organizations. That implies that there are certain obligations that Qatar needs to uphold. Qatar is a member state of the International Labor Organization (ILO) and the country has ratified several ILO Conventions. Also, on 29 May 2009, Qatar ratified the Palermo Protocol. Being a member state of the ILO, Qatar has certain obligations that it needs to uphold in the form of fundamental principles and rights of workers. In total, Qatar has ratified six ILO Conventions; however, not all of them are important in relation to the rights of migrant workers within its jurisdiction. The important ILO Conventions, in this case, are the Forced Labor Convention (C029), the Abolition of Forced Labor Convention (C105), and the Labor Inspection Convention (C081) (Lens, 2017).

Other relevant international laws include the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), and the Palermo Protocol. The

International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) outlines several core human rights that are derived from the International Covenant on Civil and Political Rights (ICCPR), the Universal Declaration of Human Rights (UDHR), and International Covenant on Economic, Social and Cultural Rights (ICESCR). The Palermo Protocol is applicable to the present situation in Qatar because of the violation of the rights of migrant workers, some of which involve human trafficking (Lens, 2017).

Forced Labor Convention (C029)

According to Lens (2017), the Forced Labor Convention, adopted in 1930, is one of the vital ILO conventions. Article 1(1) incorporates the main requirements of the Forced Labor Convention. The requirements state that states that have ratified the convention have the mandate of suppressing the use of forced and compulsory labor in all its forms in all its forms within a significantly short period as possible (ILO, 1930). The ratifying states have to ensure that laws concerning public servants and private agents that allow forced labor within their jurisdictions need to be repealed. Also, the states have the obligation of punishing the practice of forced labor as a penal offense with the penalties imposed for such an offense being strictly and adequately enforced (ILO, 1930).

Thomann (2011) points out that the main concern that ILO has involves the lack of adequate sanctions in practice. Article 2(1) provides the definition of forced labor, which is “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily” (Lens, 2017, p. 13). The definition of forced labor provided by the international organization incorporates three elements that need to be present for a situation to be considered forced labor. The first

element concerns the exaction of work or service (ILO, 1930). The second element involves the absence of consent or voluntary offer and a menace of penalty (ILO, 1930).

The ILO supervisory body has offered instances concerning migrant workers, which can be considered forced labor. The situations identified include the retention of identity documents of migrant workers, which is classified as an external constraint of a form of coercion. It interferes with the freedom of migrant workers, which makes it impossible for them to offer their services voluntarily. The migrant workers have no choice but to work under the living and working conditions because they do not have their identity documents with them. Furthermore, situations exist where migrant workers offer consent originally, but later on, they are not able to revise their consent because of restrictions on their right to leave the jobs. However, Article 2(2) outlines five exceptions to forced labor. The exceptions refer to five specific situations and require the existence of certain conditions for them to apply (Cockbain, Bowers, & Dimitrova, 2018).

Abolition of Forced Labor Convention (C105)

The Abolition of Forced Labor Convention was adopted in 1957 to supplement the Forced Labor Convention. Abolition of Forced Labor Convention prohibits engaging in forced labor; however, it is specific to what kinds of forced labor it prohibits and offers extensive details. Article 1 of the convention outlines five specific cases of forced labor, which should not be allowed. The first case provided in the convention is that forced labor should not be used as a means of political coercion, education, or punishment to individuals holding or expressing ideological or political views. In cases where a state has laws in place that restrict the freedom of its citizens to express political opinions, such restrictions always come together with a penalty of compulsory labor. In such instances, the Abolition of Forced

Labor Convention is applicable. However, Convention No. 105 agrees that some of the restrictions can be legitimate when they are imposed on individuals who have used violence, incited violence, or engaged in preparatory acts of violence (Marx & Wouters, 2017).

Convention No. 105 outlines that forced labor should not be used as a method to mobilize and use labor for purposes of economic development. However, the provision is not applicable to the situation in Qatar. The third provision of Convention No. 105 states that forced labor cannot be used as a means of labor discipline. It takes into consideration measures that ensure the due performance of an individual providing their services under compulsion of law. The fourth provision of Convention 105 concerns forced labor not being used as a means of discrimination based on social status or caste, race, national origin, or religious identity. Article 2 of Convention No. 105 explains that every country that ratified the Convention has the obligation of ensuring effective measures are in place that secures immediate and complete abolition of compulsory or forced labor (Maul, 2007).

Labor Inspection Convention (C081)

The Labor Inspection Convention also known as Convention No. 081 is a governance convention. The convention specifies that states that have ratified it need to have in place systems of labor inspection for workplaces in commerce and industries. However, exceptions can be considered in the case of the transport and mining industry as provided in the convention. The Labor Inspection Convention outlines a series of principles that are related to facilitating the determination of the fields of legislation covered by labor inspection. The other principles provided concerns the functions and organization of systems of labor inspection, and the powers and obligations that such systems need to possess. The International Labor Organization expects to receive an annual report of the outcomes of the

labor inspectorate providing the general situation and functionality of its services in several areas (Thomann, 2011).

Qatar, as a member state of ILO having, ratified the different conventions has several obligations that it needs to meet (within its jurisdiction) concerning the rights and freedoms of migrant workers. Being a member state of ILO, Qatar is expected to promote and protect human rights and respect, promote, and realize principles related to fundamental rights. Critically, Qatar is expected to promote and protect the freedoms of association and enhance recognition of the right to collective bargaining and the elimination of all forms of compulsory and forced labor. *Convention No. 29* provides certain obligations that Qatar is expected to abide by to remain in compliance with the law. As provided by the convention, Qatar is expected to suppress all forms of compulsory and forced labor within the shortest period possible, criminalize forced labor practices within its jurisdiction, and identify and prosecute cases of forced labor (Lens, 2017). Also, the country is expected to protect victims of forced labor or compulsory labor, which in the case of the country are mostly migrant workers. *Convention No. 105* expects states that have ratified it like Qatar to have in place effective measures to secure an immediate complete abolition of forced and compulsory labor. *Convention No. 81* places an obligation on states that have ratified it to introduce and maintain labor inspection systems for different workplaces present in different industries (Lens, 2017). The convention and related legislation is not the only applicable legal guidelines that apply to the labor and migrant phenomena in Qatar, there are also human rights laws and declarations that are particularly relevant.

Universal Declaration of Human Rights

The other source of legal obligation in the case of Qatar is the Universal Declaration of Human Rights (UDHR) created in Paris by the United Nations (UN) in 1948. The UDHR is considered a ground-breaking document in terms of human rights. The United Nations General Assembly (UNGA) and when the UDHR was introduced, it was the first time fundamental human rights were being internationally addressed as being universally protected for all humans on Earth. That made the UDHR the foundation of all the human rights laws that were developed afterward. All articles present in UDHR are applicable to all humans, who are fully protected by UDHR at all times, just because they are alive (UN, 1948). Thus, the articles are fully applicable to all migrant workers and situations they find themselves in while working in Qatar (Duan, 2017).

The UDHR provides different rights and freedoms to all people in the world, all the time. That includes migrant workers that migrant workers in Qatar who also need to benefit from their rights, according to the 30 articles, being fully and wholly observed. The rights provided, when translated to the situation of migrant workers in Qatar, including the right to leave any country and go back to the country of origin at any time in Article 13 (UN, 1948). The other right concerns the freedom of association, which is guaranteed (Glendon, 2004; UN, 1948). Concerning employment, the UDHR provides the right to free choice of employment, which means a worker has the right to decide whether to change employment (UN, 1948). Another relevant right concern just and fair remunerations and the right to form and join trade unions to facilitate collective bargaining (UN, 1948). Collective bargaining is the ability of workers to protest unfair wages, delays in compensation, unsafe working conditions, and a host of other issues covered by the working conditions detailed or failing to be detailed in their employment contracts. The ability to freely join labor unions would resolve many issues for employees, particularly migrant workers. Article 24 ensures that

workers have the right to leisure and rest, right to living and working environments that are conducive to their well-being, and the right to good health (Brown, 2016; UN, 1948).

The UDHR is a declaration and unlike conventions, it is not legally binding to United Nations member states. That means that the UDHR does not directly create legal obligations to countries like Qatar. The UDHR acts as an expression of all the fundamental values that the member states share and serves as a legal framework and foundation for UN security council resolutions. The standards that are incorporated in the UDHR are also included in the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR). That makes those standards legally binding, which can be enforced via economic sanctions from countries that are against the violations of any non-compliant state. The three documents combine to form the International Bill of Human Rights used to evaluate human rights standards in different parts of the world (Brown, 2016).

International Convention on the Elimination of All Forms of Racial Discrimination

The United Nations General Assembly (UNGA) adopted the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) on 21 December 1965. Member states that have ratified the convention have the obligation to condemn different forms of racial discrimination and ensure that they have in place without delay a policy that pursues to eliminate discrimination in all forms. Qatar ratified the International Convention on the Elimination of All Forms of Racial Discrimination in the year 1976, without any reservations or declarations (Buys, 2009). That means that the country accepted that it was willing to comply with the provisions of the convention. The ICERD incorporates several fundamental civil rights that are borrowed from the UDHR. The ICERD complements the

civil rights borrowed from the UDHR with several social, economic, and cultural rights. The rights outlined include the right to work, right to free choice of employment, right to just and favorable working conditions, right to form and join trade unions, and fair and just remuneration (Malaihollo, 2017).

The Protocol to Prevent, Suppress and Punish Trafficking in Persons

The *Protocol to Prevent, Suppress and Punish Trafficking in Persons*, also known as the Palermo Protocol protects the rights of the most vulnerable to trafficking, especially children and women. The Palermo Protocol was introduced to supplement the United Nations Convention against Transnational Organized Crime. The Palermo Protocol provides an internationally accepted definition of human trafficking. That means that any situation that falls within the realms of the definition is internationally recognized as a case of human trafficking. The purpose of the Palermo Protocol is to prevent and fight human trafficking, to protect and provide assistance to victims of human trafficking, and to promote cooperation between member states to ensure achievement of desired outcomes are achieved. The desired outcomes are the achievement of the first two aspects outlined (Hyland, 2001).

The internationally accepted definition of human trafficking is outlined in Article 3 of the Palermo Protocol (UNHRC, 2000). The definition of human trafficking incorporates three main elements that need to be fulfilled for an incident to be considered human trafficking. The first element involves the act, which can be in the form of recruitment, transfer, transportation, harboring, or receiving persons without their consent (UNHRC, 2000). The second element involves the means or how the actions are carried out (UNHRC, 2000). The means incorporated in the definition include threats, use of force, or other forms of coercion, fraud, abduction, deception, or the abuse of power. It can also incorporate

exploiting the position of vulnerability, or giving or receiving financial benefits to achieve the consent of a person gaining control over another individual. The third element in the definition of human trafficking involves purpose or why something is done (UNHRC, 2000). In the case of human trafficking, the purpose of exploitation is outlined to include prostitution or other forms of sexual exploitation, forced labor, slavery or practices similar to slavery, or removal of organs. However, no requirement exists for a case to be considered human trafficking. That is because individuals can be rescued before the purpose of human trafficking is achieved, but the intent of purpose has to be there (Shoaps, 2013).

Qatar has several obligations under the Palermo Protocol. The main obligation is to prevent and combat human trafficking by providing assistance and protection of victims and also promote cooperation among state parties. The country's definition of trafficking is in compliance with the definition provided in the Palermo Protocol. The definition is incorporated in Qatar's anti-trafficking law referred to as Law No. 15 of 2011. The anti-trafficking law prohibits all forms of labor and sex trafficking (Lens, 2017).

According to Seideman (2015), the Palermo Protocol obligates member states to criminalize human trafficking and also criminalize being an accomplice to the offense by organizing or directing. The protocol also requires that state parties should provide and strengthen existing training systems for immigration officers and law enforcement officers (UNHRC, 2000). Human trafficking cases that are transnational in nature fall within the scope of application of the Palermo Protocol. Also, cases that involve organized crime groups are within the scope of application of the Protocol. In addition to the international standards of the Palermo Protocol, there are applicable regional regulations and standards, as well.

Arab Charter on Human Rights

Also, there are regional obligations that Qatar needs to observe and one of them is the *Arab Charter on Human Rights*, which was first adopted in 1994. Despite the Charter being adopted, not a single state ratified it, even with increased criticism concerning practices of human exploitation present in the region. In 2003, the Council of the Arab League recommended that the Charter be revised so that it corresponds to existing international human rights standards (Arab Charter on Human Rights, 1994). That saw the introduction of a new Charter, which was adopted in the year 2004, but its implementation started in 2008. The focus of the Arab Charter on Human Rights is to place human rights as a national concern of Arab countries based on the provisions of the *International Bill of Human Rights* (Arab Charter on Human Rights, 1994). Qatar became a state party to the Charter in 2009, which means it is bound by its provisions. The Charter outlines that all human rights are indivisible, universal, interdependent, and interrelated (Arab Charter on Human Rights, 1994). That corresponds to international human rights standards. The Charter also states that no individual is to be arbitrarily and unlawfully be prevented from exiting any Arab country, including a country where they are citizens (Arab Charter on Human Rights, 1994). The treaty also guarantees freedom of choice for workers where they can choose the work they want to do and prohibits incidents of forced labor. Also, all citizens are guaranteed freedom of association and the right to form and join labor or trade unions and that is enjoined with the right to protest and strike (Arab Charter on Human Rights, 1994; Lens, 2017).

Law No. 14 of 2004

Law No. 14 of 2004 is considered the main Qatari labor law and its provisions define the existing labor laws in the country and how both Qatari and non-Qatari workers are treated in the country. *Law No. 14 of 2004* is considered to be a decent framework for the labor laws because it has provisions that prohibit certain actions by employers that would infringe on the rights and freedoms of migrant workers in the country. This law has provisions that make it illegal to solicit recruitment fees from migrant workers and also address the issues of payment of wages and also has provision for decent working conditions. However, experts assessing the law are concerned with determining whether Qatar is meeting its international obligations when it comes to the rights and freedoms of migrant workers within their jurisdiction. In sum, the compiled findings by the experts suggest that Qatar's existing 2004 labor law is not comprehensive enough to address the concerns that have been raised over the years with regards to living and working conditions of migrant workers and the powers that employers have over them.

Law No. 14 of 2004 facilitates the establishment of the Wage Protection System (WPS). The Wage Protection System ensures workers in the country receive their wages through an electronic salary transfer system. That makes it possible for employers to pay their employees through approved banks and ensure evidence exists that employees are being paid for the services rendered. The problem is that only large companies have the capacity and are willing to implement the Wage Protection System, which means that migrant workers employed by individuals and small companies still face similar problems. The protection of all migrant workers can only be achieved when the implementation of the Wage Protection System is expanded to include small and medium-sized companies, foreign-owned

companies, and joint ventures. With its implementation limited to large companies, the issues it seeks to address are limited to large companies.

Law No. 4 of 2009

This law, *Law No. 4 of 2009*, concerns regulations of the entry, exit, and residency of expatriates in Qatar and sponsorship (The Government of Qatar, 2014). The law states that a migrant worker cannot enter or leave the country without being in possession of a valid passport or travel document (The Government of Qatar, 2014). The law provides that an entry visa may not be given to a migrant worker who had previously stayed in the country for employment purposes until two years have elapsed from the date of departure (The Government of Qatar, 2014). Article 9 of *Law No. 4 of 2009* states that the sponsor has the obligation of delivering to the migrant workers their passport or travel document after finalizing the residence formalities or after the renewal process has been completed (The Government of Qatar, 2014). Despite the law providing for that, it is rarely the case in the country as employers hold on to the documents of migrant workers and only give them back when their employment contracts are completed (Law No. 4 of 2009).

Article 12 provides that the Minister of Interior may temporarily transfer a migrant employee to another employer in instances where pending legal actions exist between the employer and the migrant employee. In the case of employees who are subject to the labor law, they can request to be transferred to another employer when a legal dispute is ongoing and the request is made to the Minister of Interior for consideration. Article 13 provides that a migrant worker residing in Qatar cannot stay out of the country for six months continuously

unless under certain conditions. Article 15 provides that employers of migrant employees are not allowed to allow their employees to work for another employer or entity. However, the competent authorities can provide an exemption, but even in such instances, the migrant employee cannot work for the other person or entity for more than six months.

Article 18 of *Law No. 4 of 2009* states that:

Each Expatriate granted an entry visa to the State of Qatar shall have a sponsor. Save for women sponsored by the head of the family, minors and visitors staying thirty days or less, all Expatriates may only leave the country temporarily or permanently on submission of an exit permit granted by the residence sponsor. If such permit cannot be obtained due to the sponsor's refusal to grant, the sponsor's death, or his absence without assigning an agent to replace him, the Expatriate shall assign a departure sponsor, or present a certificate of no sentences being served or lawsuits from the court of jurisdiction after the lapse of fifteen days effective from the date of publishing once in two daily newspapers the expected date of the departure of the Expatriate pursuant to a Ministerial Decision in accordance with the procedures and regulations (Law No. 4 of 2009, p. 9).

That suggests that a migrant employee does not have the ability to exit Qatar without the approval of the employer who sponsored their entry into the country. That limits their freedom of movement, which is provided and protected by Article 13 in the universal human rights described in the UDHR (UN, 1948). *Law No. 4 of 2009* provides sponsors with significant power and authority over the persons they have sponsored. The effect of this provision is that migrant workers, who have to come to the country by being sponsored by an employer, are powerless and under the control of sponsors. The law of 2009 has been superseded generally by Law No. 15 of 2011.

Law No. 15 of 2011

Law no. 15 of 2011 prohibits human trafficking. It states that any person who deals in a transactional or coercive way with a natural person is committing a crime. It also includes the use, delivery, transport, reception, harboring individuals being trafficked whether within

the state territories or national borders. The law is broad and incorporates all the relevant concerns when it comes to human trafficking, which is one of the issues faced by migrant workers in the country, as some of the migrant workers are human trafficked into the country due to the use of coercion, fraud, deception, force, and exploitation of persons who are in a position of need or vulnerability.

Law No. 21 of 2015

Law No. 21 of 2015 was introduced to amend the sponsorship law that was in place as outlined in *Law No. 4 of 2009*. The Committee of Experts on the Application of Conventions and Recommendations (CEACR), offered the government of Qatar technical support to facilitate effective implementation of the law that would ensure the sponsorship system is abolished eventually, labor inspection is improved, and migrant workers are given a voice to report poor working and living conditions. The CEACR evaluated *Law No. 21 of 2015* and concluded that the country had to make improvements for it to be compliant with international obligations (ILO, 2015). *Law No. 21 of 2015* has various provisions that were focused on improving the conditions of migrant workers in Qatar. Article 22 of *Law No. 21 of 2015* allows the temporary transfer of migrant workers from one employer to another under certain circumstances that are considered special (Sadek, 2019). Also, Article 21(1) makes it possible for a migrant worker to transfer their services from one employer to another employer upon the approval of their current employer, the Ministry of Labor and Social Affairs, and any other competent authority (ILO, 2015). Criticism that has been leveled against the provisions is that they were present under the old sponsorship law as provided in *Law No. 4 of 2009*. That means they did not introduce any improvement to the old law (*Law No. 21 of 2015*).

Law No. 1 of 2017

Law No. 1 of 2017 was introduced as an amendment to *Law No. 21 of 2015* and addresses the problems raised concerning lack of clear guidelines with regards to the issuance of exit visas and grounds for objection. Article 1 of the law replaces Article 7 of *Law No. 21 of 2015* by stating that a migrant worker has the right to leave Qatar for holidays, for an emergency, or for any other reason after giving notification to the foreign labor recruiter, based on the employment contract they have. Also, the law provides that a migrant worker who enters Qatar for employment reasons has the right to depart the country even before their contract ends after they have notified their employer based on the labor contract (Law No. 1 of 2017).

Concerning objections, the law states that if an employer, or a foreign labor recruiter, or a competent body objects to the exit or departure of a migrant worker, they are required to raise their concerns with the Expatriates' Exit Appeals Committee. The Expatriates' Exit Appeals Committee's mandate, composition, procedures, and mode of operation is regulated by the virtue of a ministerial decision. The committee is expected to conclude the appeal within three working days and offers a way forward (Law No. 1 of 2017). The law tries to address some of the concerns raised but it still does not outline the specific grounds for appeal, which is left at the discretion of the Expatriates' Exit Appeals Committee. The law does not abolish the exit-permit system, which means that the right to free movement and the

right to leave and return to their own country of migrant workers are still interfered with and that contravenes international obligations.

Law No. 13 of 2018

Law No. 14 of 2004 is the main labor law in Qatar and has been amended over the years. *Law No. 21 of 2015* regulated the entry and exit of migrants and their residence in the country but it was amended by *Law No. 1 of 2017*. *Law No. 13 of 2018* replaces Section 7 of *Law No. 21 of 2015*. The law provides that an immigrant worker in Qatar has the right to leave the country temporarily or permanently during the period when their labor contract is still valid. It also provides that a recruiter or employer may submit a justified application to the Ministry of Administration, Labor and Social Affairs the names of the workers who want to exit the country. However, the migrant worker must receive prior approval of the recruiter or employer. Also, the migrant workers who are allowed to exit the country in the course of their employment contract must not exceed 5% of the employers' employees (Law No. 13 of 2018). The law still retains some restrictions on the ability of a migrant worker to leave the country when they have an employment contract with an employer.

Conclusion

Several aspects of the migrant's life and relevant laws have been explored in this chapter, which includes the policies, laws and regulations, and multiple obligations that Qatar

has under international law. Qatar is a signatory state to several legal frameworks like declarations, conventions, resolutions, and protocols from the United Nations and the International Labor Organization. That means the country has to uphold international human rights standards and principles. These different obligations have been explored and the various aspects of the country have to observe.

There are a number of Qatari laws that govern labor and migration issues including *Law No. 14* (of 2004) which has been amended through additional laws like *Law No. 21 of 2015* and *Law No. 1 of 2017* regulated the entry and exit of migrants and the associated visa requirements. There are also laws that prohibit human trafficking crimes, like *Law No. 15 of 2011*. There is also a complementary law, *Convention No. 081*, which regulates businesses and subjects them to inspections. This corpus of law, if enforced, could eliminate many of Qatar's migrant worker problems.

CHAPTER THREE: THE ANALYSIS OF THE QATARI LABOR MIGRATION POLICIES: THEORY V. PRACTICE.

Like most of its neighbors, the state of Qatar has long-term administrative objectives, which include transforming the small Gulf nation into an advanced country that has significant influence in the global realm. As highlighted in the *National Vision 2030*, the country launched a development plan in the year 2008, and it incorporated plans to achieve desired development outcomes through investment in social, human, economic, and environmental development (Gibson, 2017). At the heart of the development plans is the recognition that Qatar's rapid growth needs to be matched with its capabilities. Also, there is an understanding that the development of the country largely depends on the size and quality of the migrant labor force it utilizes. However, as a national interest, development at times

can be at odds with workers' welfare, forming an ethical dilemma (Zegrea & Choufany, 2012).

The tension between upholding the rights of the migrant labor force and ensuring the efficient and effective achievement of development objectives is on global display, as Qatar prepares for the World Cup in 2022. Therefore, scholars point out that it is paramount for Qatar to address this policy challenge. In reality, to do that involves actually improving the welfare of workers within its jurisdictions, a difficult thing for any developing state to enforce. That can be done by addressing existing abuses of migrant workers in the country. The country needs to gain global attention for improving the migrant worker situation and need to solve- will come back to this of international human rights organizations (Ganji, 2016).

According to Gardner (2012), the number of migrant workers who are migrating to the Arabian Gulf places the region among the world's top three most active destinations for labor migrants. Over the years, more than 25 million migrants have been employed in the Gulf Cooperation Council (GCC) countries (Gardner, 2012). The figure of migrant workers in the region makes up almost half of the total GCC population. Fargues (2011), points out that population imbalance in the GCC countries is not something new. Due to the oil boom that was experienced in the 1970s and the regional political movements and security conditions, the Gulf countries have relied on migrant workers who are mainly drawn from Asian and Arab countries. There was a large wave that also began more recently, in 2002. The work of migrant workers was to make it possible for the Gulf States to channel oil wealth into ambitious economic development projects. However, over that period, the states have increasingly begun to concentrate on short-term hiring of labor migrants drawn from Asian

countries. The trigger of that shift is attributed to concerns that Arab migrants were more likely to settle permanently in the countries through marriages, which would enable them to potentially engage in political dissent over what they would perceive as unfair labor practices (Fargues, 2011).

The limited pool of nationals available in Qatar has placed pressure on the country to import labor from abroad to fill the existing gap. The expatriate population in Qatar is six times the size of the local national population in the country (Qatar MDPS, 2016). According to statistics provided by the *Qatar Statistics Authority*, approximately 94% of the working population in the country are expatriates (World Population Review, 2020). Therefore, if existing demographics trends persist, the core of the Qatari population will be made up of younger, male, and foreigners concentrated in urban centers like Al Rayyan and Doha (Chalabi, 2013).

According to Randeree (2012), several factors are attributed to the underlying demographic trends that are present in Qatar. One of the factors identified is the ambitious development goals that are incorporated into the country's development strategy. The development goals, particularly those that involve infrastructure planning that are connected to the preparations for the FIFA World Cup construction, necessitates a large, imported workforce. What is despite the country recognizing the demographic challenges it faces because of the skewed population ratio. Another factor that has been identified is that of uneven implementation of workforce nationalization, which is often domestically referred to as 'Qatarization'. Most GCC countries are presently pursuing nationalization policies with varying rates of success. Concerning Qatar specifically, the country faces an uncompetitive national labor market where 96% of nationals are working in the public sector or mixed

public and private sectors. That creates a demand for skilled national workers that outpaces the supply of qualified workers available in the country (Randeree, 2012).

Clemens (2013), notes that the economic element of workforce supply shortages has contributed to this situation in Qatar. Most migrants from the Qatar-Asia migration corridor consider temporary jobs in the country as lucrative opportunities (Clemens, 2013). They consider them lucrative opportunities that make it possible for them to earn higher wages than what they can earn in their home countries doing the same jobs. The higher wages the workers generate from employment in Qatar enables them to remit sizable portions of their earnings to their dependents in their home countries. According to Endo and Afram (2011), in 2011, migrant workers throughout the Gulf remitted an estimated total of \$75 billion USD to their home countries. In 2009, migrant workers in Qatar remitted an estimated \$9 billion USD, with more than half of the money going to Asian countries. Remittances of Nepali workers in Qatar were estimated to be \$600 million USD, which accounted for 5% of the country's Gross Domestic Product in 2011 (Endo & Afram, 2011).

Migration Life Cycle

Push and pull factors create the value of labor migration as a development tool. In the capacity of a development tool, both Qatar and the countries of origin benefit from the system of employment of migrant workers. However, despite the existence of significant development and infrastructure benefits for Qatar, migrant workers, and their countries of origin, abuses exist that negatively characterize the labor migrant experience. The term *abuse*, when used in the context of migrant workers, incorporates a wide range of conditions that make the working experience of migrant workers problematic. The conditions range from overt human rights violations in contravention to international and national laws, to poor

working and living conditions that are not consistent with widely-shared labor norms. Other conditions include structural impediments like misinformation, which makes it possible for migrant workers to be exposed to exploitation because of unfavorable circumstances like illiteracy. Improvement of worker welfare has been cited as the remedy to the abuses that migrant workers in Qatar face (Ganji, 2016).

According to Ganji (2016), an effective way to frame abuses is through the terms of the Qatari migration life cycle of migrant workers. According to the scholar, the migration life cycle is a representation of the range of activities that mediate the relationship between the labor migration system and an individual migrant (Ganji, 2016). That is from the time a migrant worker considers working overseas to the time they are employed abroad and eventually return to their home country. The migration life cycle incorporates four phases namely recruitment, deployment, employment, and return. The abuse of workers can occur within any particular phase in the life cycle, reflecting the complexity of the problem.

Recruitment Phase

The initial phase of the migration life cycle is the recruitment phase. In the recruitment phase, a contracting or subcontracting organization operating in Qatar decides that they have an opening that they need to fill using non-Qatari worker agencies. Non-Qatari worker agencies, in most, work on behalf of a larger client like Qatar rail, Qatar Foundation, or Msheireb Properties. The first step is for the contracting organization is to seek authorization from the Qatari Ministry of Labor and Social Affairs (MLSA) to be allowed to hire a certain number of workers from a specified country. Worker quotas are determined by economic agreements and trade treaty details that are negotiated annually or every other year between the involved governments. Upon receiving the requisite

authorization from MLSA, organizations are able to subcontract the hiring process to a private recruitment organization, which may be referred to as “private employment agencies” (PEA). The private employment agencies that are engaged to recruit immigrant workers are Qatari organizations that are licensed to operate by MLSA. The private employment agencies operate purposely to identify foreign workers and help them with the visa process in their home countries (Endo & Afram, 2011).

According to Endo and Afram (2011), the next step in the recruitment phase of the model involves the private employment agencies using manpower agencies, which are recruiters based in the home country of migrant workers. The work of the manpower agencies is to identify aspiring labor migrants. Aspiring labor migrants are individuals from other countries who are interested in seeking employment in Qatar but have not initiated the process of obtaining a work visa from their home country yet. While manpower agencies are given the responsibility of locating, processing, and aiding aspiring migrant workers with visa and authorization process, most of the agencies rely on labor brokers in the foreign country to facilitate the process of identifying and locating aspiring migrants located in remote areas and villages (Endo & Afram, 2011).

Two cases of abuse are cited to be common during the recruitment phase of the migration life cycle. One potential abuse that migrant workers bound to Qatar can experience during the recruitment phase involves corruption that is present in the management and distribution of visas. Manpower agencies rely heavily on labor brokers to identify and process aspiring migrants to Qatar and that creates a type of auction. Labor brokers, prior to proceeding with any work, often demand significant amounts of money that Qatari private employment agencies have to provide for them. The amount that is paid out is later passed

on as debt to the aspiring migrant worker who is the recipient of the visa. That contributes to the debt burden that many labor migrants in Qatar have and have to pay for- sometimes even before they arrive in the country or begin employment (Amnesty International, 2011).

The other potential abuse that migrant workers can be subjected to during the recruitment phase involves misinformation given to them concerning their employment in Qatar. The two main sources of misinformation are returning migrants and labor brokers. Labor brokers, in the eyes of individuals seeking to gain employment in Qatar, are a trusted source of information. The information they provide concerns which industries are lucrative and steps that individuals need to take to secure a work visa within those sectors. Because the income of brokers is dependent on their ability to connect a job opening in Qatar with potential immigrant workers, that acts as an incentive for them to provide false information about the destination of the migrant workers, wages, working conditions, and general availability of particular jobs (Asfar, 2009).

Deployment Phase

The moment that an aspiring migrant commits to the visa authorization process, they become a deploying migrant according to the model, which initiates the deployment phase. Despite Qatar's MLSA having already given visa authorizations to the migrant workers, migrant workers may also be required to obtain authorization from relevant ministries in their home countries. For example, some countries require workers to gain approval through their domestic ministry of labor prior to exiting the country of origin for intended employment abroad. The additional layer of oversight that involves gaining authorization from the home country is an outcome of bilateral labor agreements that Qatar and other regional countries have entered into with non-regional countries that are their main source of migrant workers,

such as the Philippines. The understanding is that both the host country and the country of origin are involved in the process of managing the employment migration (Endo & Afram, 2011).

Although employers ultimately control every step of the processes involved, labor migrants have the responsibility of securing all the relevant legal documents needed to facilitate their travel, which includes passports, foreign employment permits, and visas. The next stage that is taken after that varies depending on the country of origin of migrant workers. For instance, there are cases where the deploying migrant might be required to participate in an interview with relevant ministries in their home country, and it is after that when they are given the chance to sign an employment contract. Also, deploying migrants can be subjected to pre-departure medical exams, vaccinations, or being compelled to participate in a government-mandated briefing that educates them about their rights and responsibilities as foreign workers in another country (Amnesty International, 2011).

The process of visa authorization is time-intensive and complicated. Therefore, deploying migrants seek help from labor brokers, as they are perceived to have experience and enhanced logistical support. That empowers the labor brokers as they become responsible for preparing legal documents for the migrant workers and providing updates concerning the status of their application. There are instances where labor brokers take the initiative of accompanying deploying migrants to their medical exams, interviews, and pre-departure briefings (Amnesty International, 2011). This further deepens the reliance of the worker on the broker. Brokers are not well regulated and can easily abuse employees because the employee depends on them exclusively to complete the legal hiring process. Thus, brokers can deceive employees about costs involved, length of time involved, required documents

involved, or other aspects of the process. Most migrant workers are male, but female migrant workers are also particularly vulnerable to broker abuses as most brokers are males and they have control over the success of the employment hiring process and can leverage that over female workers. Brokers may exert inappropriate control over new hires- extracting additional bribes, forcing employees to commit crimes, or by denying employees access to communication with their embassy or family. There are many opportunities for the visa authorization process to be misused by brokers.

A parallel process also takes place in Qatar that involves private employment agencies. The private employment agencies have the responsibility of collecting copies of passports and signed employment contracts from migrants who are aspiring to work in the country. The documents are then forwarded to the MLSA, after which work visas are issued by the Ministry of Interior. The job openings and contracts are also screened by the embassies of home countries of immigrants, which are based in offices in Doha, the Qatari Chamber of Commerce, and the Ministry of Foreign Affairs. Only after the screening process is successfully completed is when the migrant worker is authorized to depart their home country by the relevant ministries and that is indicated by a sticker placed on the visa page of the passports of migrants (Endo & Afram, 2011).

Deployment phase abuses include the issue of migrants usually having limited finances and that prompts labor brokers to offer their services and assistance on loan. However, the loans they offer involve, in most cases, high-interest rates- with some as high as 36% interest. That gives migrant workers little chance of paying off their hiring debt even after gaining employment in Qatar- assuming they are actually paid (Jureidini, 2014). According to Amnesty International (2013), before immigrants depart for Qatar, they are

required to have with them a “demand letter”. A demand letter is similar to an employment agreement (in essence declaring an opening that needs to be filled in a company). It guarantees them employment at the company when they arrive in Qatar. Manpower agencies and brokers impose fees on migrants for them to receive their demand letters. The fee is levied despite existing laws in Qatar prohibiting labor migrants from paying such fees. Also, laws in some countries of origin for migrant workers (going to Qatar) cap the amount that migrant workers may have to pay in the process of getting employment.

Employment Phase

The employment phase of the migration life cycle commences when the migrant arrives in Qatar. During this phase, the migrant worker becomes legal, subject to Qatari immigration laws, specifically the labor law of 2004 and the sponsorship law of 2009. A number of provisions are incorporated in the labor law that regulate the recruitment and employment of migrant workers. The provisions of the law range from setting workplace standards that involve weekly hours and paid leave, to mandating health and safety measures to protect workers against occupational hazards. Meanwhile, the sponsorship law mandates that all current migrants must at all times have a ‘sponsor,’ who, in most cases, are their employers. Sponsorship is the heart of the Kafala system. The Kafala system is a set of traditions that were derived from the Bedouin principle of hospitality that Arab countries have used in the management of guest workers (Khan & Harroff-Tavel, 2011). In practice, it means that migrant employees can only change employers if their sponsors’ consent to it and they can leave the country only by obtaining an exit visa through their sponsors (Khan & Harroff-Tavel, 2011). So, just as brokers hold disproportionate power over employees, so do employers. Employers may force employees to work illegally, deprive them of food, access

to communication with family or embassies, deny them access to lawyers or ministries, force them to work without pay, force them to work excessive hours, dock pay for issues like disagreements with colleagues, dock pay for work uniforms or equipment, deny them access to medical insurance or medical care- or force employees to bear the burden of the medical insurance which is supposed to be funded by the employer, in addition to a host of other potential abuses. Employers may discriminate against employees from certain ethnic groups, castes, or on the basis of belonging to other minority-status protected classes, such as being "third-gender". We also need to mention that many jobs go according to the migrant expectations- but because the volume of people involved is so big that abuses are frequent.

Return Phase

If migrant workers complete their job according to the terms of their contract, and they have obtained an exit visa, the worker enters the return phase of the migration life cycle. The migrant workers in the return phase of the migration life cycle are referred to as returning migrants. They have the challenge of reintegrating socially and economically into their home countries. Countries like the Philippines provide substantial reintegration services to returning migrants to help them begin small businesses (Khan & Harroff-Tavel, 2011). So, just as brokers hold disproportionate power over employees, so do employers. Employers may force employees to work illegally, deprive them of food, access to communication with family or embassies, deny them access to lawyers or ministries, force them to work without pay, force them to work excessive hours, dock pay for issues like disagreements with colleagues, dock pay for work uniforms or equipment, deny them access to medical insurance or medical care- or force employees to bear the burden of the medical insurance which is supposed to be funded by the employer, in addition to a host of other potential abuses.

Employers may discriminate against employees from certain ethnic groups, castes, or on the basis of belonging to other minority-status protected classes, such as being "third-gender". Also, many jobs go according to the migrant expectations- but because the volume of people involved is so big that abuses are frequent.

Often, migrant workers from some countries face pressure to obtain goods or medicine to take home with them, which they take high-interest loans to afford prior to their redeployment home. This can position the worker to have to return to an abusive employer or broker because of the loan taken to acquire the items their families may demand they bring home. Also, many workers may be unable to cope with reintegration, as they have had little personal responsibility regarding some aspects of their life during their employment since employers provide a bed, food services, and pay utilities for labor camp units en masse and employees are not responsible for these arrangements- nor are they involved in any part of these processes, which makes returning home stressful and difficult for many workers.

Family life in developing nations may be very unstable due to the economic, political, or cultural circumstances that motivated workers to seek employment abroad in the first place. This causes a portion of returning migrants to risk abuses again, particularly if the abuses in Qatar are less than local issues. For example, Syrians understandably don't want to go back to war conditions in Syria. They may be driven to move from one terrible employment circumstance to another just to avoid the dangers of returning to an active war zone. Less dramatically, individuals may be trying to escape the realities of arranged marriages, family oversight on personal choices such as smoking or daily pocket money spending, the stress of new babies, and other more ordinary and less dramatic deterrents. Men living in a labor camp have artificially reduced responsibilities- they do not have to

procure groceries, take sick kids to the hospital, or listen to angry in-laws. Further, individuals may be seeking refuge from their reputations at home for past issues like petty theft or religious identity persecution. Thus, there are many possible motivations for migrant workers to remain in uncertain employment conditions, ranging from personal preferences to personal safety- there are many reasons why they struggle upon returning home if the return happens against their wishes.

Laws, Policies, and Practices in Qatar

Qatar is a constitutional monarchy where leadership is hereditary based on membership in the royal family. Under the hereditary rule, males in the emir's branch of the Al Thani family, which has ruled the country since 1868, succeed each other in leading the country. Under the 2004 Constitution, Article 36 provides that personal freedom of individuals shall be guaranteed and no person is to be arbitrarily arrested, detained, or searched. Also, the Article provides that the freedom of a residence or mobility should not be restricted unless under the provisions of the law. No person is to be subjected to torture or any form of degrading treatment. The law further details that torture is a crime punishable by law (Global Detention Project, 2018).

As per law No. 4 of 2009, *Regulating the Entry and Exit of Expatriates in Qatar and Their Residence and Sponsorship*, also known informally as the sponsorship law of 2009, is the legal framework that governs immigration-related detention in Qatar. Similar to the other Gulf States, immigration-related offenses attract both criminal and administrative forms of deprivation of liberty. Chapter five of the law presents an explicit reference to administrative detentions related to immigration. Chapter five of the law is titled *Deportation and the Order to Leave the State*. Article 38 allows the Interior Minister to arrest and detain (for about

thirty days) an immigrant in Qatar who has been ordered deported or exiled (Global Detention Project, 2018). That detention order is renewable for several periods (Global Detention Project, 2018). The sponsorship law in Qatar provides several grounds for a migrant in Qatar to be deported from the country. Article 37 of the law provides for deportation of any migrant whose presence in the country poses a threat to national security. Deportation is also considered for migrants who are categorized as having the ability to damage the national economy, public health, or public morals (Global Detention Project, 2018). Of course, this gives the government-wide control over what that means and how/when this law may be deemed applicable to an accused migrant worker.

The Kafala System

According to Ashraf (2016), Qatar is among many Middle Eastern and European countries that hire migrant workers to fill up employment opportunities. Employees hired to facilitate the building of infrastructure in the country are individuals who have migrated from neighboring countries like India and Nepal who hope to get higher wages for unskilled labor jobs than they can earn for the same type of work in their own country. The visa for the employment of migrant workers in Qatar is issued based on the Kafala system. As previously noted, the Kafala system is a sponsorship program that allows migrant workers to be granted legal residence through their employers. The concept involves providing an employer with the responsibility and control over the wages, working conditions, entry, and exit of a migrant worker in Qatar.

Under the Kafala system in Qatar, the sponsorship provided by an employer is contracted for a minimum of two full calendar years. In instances where the contract is broken, a migrant worker can find themselves in a situation where they are legally obliged to

pay back their sponsor any fees they incurred during the process of facilitating sponsorship. Once a migrant worker arrives in Qatar, their sponsor is ultimately in control of the conditions the worker lives and works in during their stay in the country. The control that a sponsor is given extends to every part of the life of a migrant worker in Qatar. The full extent of the scope of responsibility and control a sponsor has over a migrant worker is evident through the rules provided in the Kafala program (Ashraf, 2016). Sometimes one sponsor is responsible for hundreds or thousands of employees and they give the brokers or supervisors within a company all the burden of responsibility, so the sponsor usually does not personally meet or interact with the employees.

Abuse of the Kafala System

Despite the control that is given to the sponsor under the Kafala system, a migrant worker still has the right to report cases of abuse or poor working and living conditions to the relevant government authorities. However, because of the significant amount of control that sponsors are given under the program, it is often impossible for migrant workers to have the opportunity to report cases of abuse and mistreatment to the relevant authorities (Agunias, 2013). According to Mendelson (2015), the problem is mainly because of the Qatari government's lack of enforcement of the rights of migrant workers in the country. The authorities that are provided with the responsibility of dealing with the issue under the system fail to enforce the laws of the country that provide protection to workers. Sponsors can easily ensure employees lack the necessary documents for legal status and deny opportunities for the imperiled workers to file complaints. Further, they can block the employee's ability to communicate with anyone without the sponsor's consent, or even intentionally fail to inform the workers of their legal rights, which is a particular problem for illiterate workers. While

skilled workers, like doctors and teachers may find themselves in questionable employment scenarios, they are often aware of their rights or can get support from those who are aware of their rights and seek remedies. Illiterate workers may not have the same type of information-behaviors and have no idea how to resolve their illegal employment status issues. This problem is made worse by the fact that if they lack salaries from non-payment and are locked in labor camps, they cannot afford transportation to go consult with lawyers for help, even if law firms offer free consultations, as many do. Therefore, the most vulnerable are the poorest and least able to rectify their circumstances as their sponsors or brokers hired by the sponsors control not only their working conditions but all aspects of their lives.

The ambassador of Nepal to Qatar described the working conditions that migrant workers were subjected to in the country as “an open jail” (Ashraf, 2016). According to findings by Amnesty International (2013), faults of the Kafala system are focused on the fact that employers are able to get away with violating the rights of migrant employees. That is because the extent of their control on migrant workers is significant and they are able to prevent migrant workers from reporting poor and abusive working conditions. The director of Anti-Slavery International explains further that because of the extensive control that sponsors have over migrant workers, the conditions that the workers are exposed to go beyond slavery and forced labor where human beings were treated as objects that could be purchased and exchanged (Ashraf, 2016). Conditions documented in this study amount to violations of migrant workers’ rights include low wages, deplorable working conditions, and oppressive working hours. Worker living conditions are variable with each labor camp and sometimes have to share beds in shifts without having clean sheets, there are insect infestations like bed bugs and cockroaches, no privacy, not clean, not safe, no air

conditioning during hot weather, lack of access to soap or regular laundry, and the inability to switch employment or exit the country without the consent of their sponsor (Ashraf, 2016).

Ashraf (2016), posits that any solutions that are introduced to address the violations that migrant workers face in Qatar must address the entire timeline of the sponsorship program. That is because the sponsorship program has been tarnished from the onset of the process when migrant workers sign up for employment opportunities in Qatar. Formal proceedings exist that workers applying for a worker's visa must go through. The process has been cited to be flawed and contributes to the subsequent violation of the rights of migrant workers (Ashraf, 2016).

One of the most obvious deceptions that are present in the Kafala system includes sponsors refusing to pay migrant workers the promised amount of wages. In some cases, some sponsors hold off payments of migrant workers for unexplained reasons and threaten the workers not to speak against their actions. That came out clearly regarding the preparation for the FIFA World Cup, where migrant workers involved in infrastructure development have been blackmailed by their employers and their wages held. Workers have been forced to sign papers in front of officials that state that they have been given their payment while in a real sense no such payments have been issued to them (Ashraf, 2016).

Immigration Policy Reforms in Qatar

The influx of migrant workers in Qatar can be traced back to the late 1960s. Over the years, the government of Qatar has sought to replace foreign workers within its jurisdiction with educated and trained Qatari citizens through Qatarization. However, the impact that has been achieved on the overall workforce has been significantly minimum because of the

extended expansion of labor needs in the country (Abraham, 2018). Increasing international and regional ambitions combined with rising state revenues have contributed to labor-intensive development in Qatar. That has resulted in the existing steady dependence on inexpensive migrant labor (Gardner, Pessoa, & Harkness, 2014). In addition, broader strategic development plans in Qatar that involve knowledge creation prompt the country to seek for a range of skilled foreign workers to enhance their higher education potential (Gibson, 2014b).

In the year 2016, the government of Qatar introduced a new labor law that was focused on establishing grievance committees that are state-run which makes it possible for workers in the country to appeal for redress. The new law that was introduced also provides workers in the country with the right to change jobs freely once they have completed their contracts. The law imposes a fine of 25,000 riyals on businesses that confiscated passports of migrant workers or deny them the opportunity to change employment once their contracts have expired (Jureidini, 2017).

According to Abraham (2018), in the year 2017, Qatar approved a draft bill that aimed at setting up a support fund for migrant workers. The bill was titled The Workers Support and Issuance Fund. Additionally, the government of Qatar also initiated preliminary discussions on the possibility of establishing a minimum wage in the country and the implementation of legal protection measures for workers. The country has introduced a domestic employment law that proposes a limitation to the work hours that domestic workers have to work. The working hours are limited to 10 hours per day and there is an extension of mandatory benefits to domestic workers. The benefits include one day off per week, provision of annual leave of three weeks, and issuance of payment at the end of each month.

Al Jazeera News (2017) reported that the Ministry of Administrative Development, Labor and Social Affairs has the responsibility of handling affairs related to labor compliance. However, increasing pressure concerning the management of migrant labor welfare has led some to argue that a need exists for the government of Qatar to establish a National Employment Bureau. The National Employment Bureau is supposed to be similar to the Labor Market Regulation Authority that is present in Bahrain. The responsibility of the bureau would incorporate coordination of all recruitment policies and procedures that are present in the country and ensure enforcement takes place.

Regularization Programs for Illegal Migrants

A major concern that acts as a barrier to Qatar's efforts to establish labor law reforms concerns absconding workers and illegal matters related to employment. Among issues identified includes visa trading by small companies, which is a major source of irregularity in the country and it remains less discussed (Jureidini, 2017). The other issue involves many national and non-national sponsors using the Kafala system as an easy way of generating income. They do that by providing multiple visas to migrant workers and recruitment agencies. The recruitment agencies in turn charge migrant workers, in many cases, unskilled and low skilled, an annual rent to facilitate residency renewal. The actions of such agencies create a corporate cover because an employer is not able to check whether the migrant employee providing them with services has been trafficked or not (Gardner, Pessoa, & Harkness, 2014).

Irregular migrants face the dilemma of terminating their contracts because they will not be in a position to prove that their employers violated their contracts. Also, irregular migrants lack access to legal and financial means to facilitate their repatriation even in

instances where they do not want to extend their term of employment in Qatar. Faced with such challenges, irregular migrant workers have no recourse but to work and live under conditions provided to them even if they are deplorable (Al Jazeera News, 2017). According to Abraham (2018), an employer or a sponsor controls the entry, transfer, and exit of all migrant employees. That is because the work visa contains the name of the sponsor as well as the employment classification. That contributes to legal restraints for migrant workers because of the nature of their status as being irregular. Therefore, obtaining an exit visa from sponsors and the requirements to leave Qatar becomes problematic for such employees, which makes it an issue that the government of Qatar should address.

Skilled-Based Citizenship

The government of Qatar has initiated efforts to reform its citizenship laws (Abraham, 2018). The citizenship law reforms focus on introducing additional provisions that involve naturalization. The country hosts a significant number of skilled and highly skilled migrant workers who offer their services in a wide range of sectors. Many of the skilled migrant employees remain within the country well beyond the two-year limit provided by law because the state has an active interest in retaining their services (Al Jazeera News, 2017). In the year 2017, the government of Qatar drafted a new residency law. The new residency law Qatar introduced gives certain non-Qataris permanent residency status (Mitchell, 2017). The non-Qataris the new law covers includes migrant workers who significantly contribute economically and socially to the welfare of the country. Others included in the new law are children of Qatari women married to men who are not citizens of the country, previously those children were not considered citizens as the older civil code only considered citizens to be children of male nationals (Mitchell, 2017). The new law that was introduced by Qatar is

the first in the region that allows non-citizens with certain qualities to gain the benefits of complete citizenship- such as free housing, medical care, and education (Mitchell, 2017).

According to Abraham (2018), in the case of skilled migrants, including university professors, doctors, engineers, lawyers, psychologists, the system has notable limitations. It facilitates easy entry into the job market and also changes in employment. However, it lacks when it comes to inclusion because of the power imbalance between sponsors and migrant workers. Also, highly skilled migrant workers are provided with few incentives compared to the citizens of Qatar, which limits the ability of migrant workers to fully contribute to the country's economic development (Hvidt, 2016). For example, university professors don't get raises, promotions, opportunities to conduct research, access to professional development, etc. Doctors may not be funded to attend conferences or to conduct research. Salaries are no longer competitive due to austerity measures. Contracts are not structured the way they are in developed countries and if employees have emergencies like illness they must get hospital officials to stamp their sick leave to enable access to the doctor for one day only- whereas in a developed country the employees may take off several days for illness without being required to pay fees for government stamps on doctor's notes. Also, in the Gulf states, employees have to get permission to be absent, whereas in developed countries skilled workers are allowed to determine their own schedules or days off for personal issues like accompanying a child on a school trip or taking a pet to the vet for surgery or similar assorted daily life demands. Skilled workers are from diverse countries and may struggle with hierarchies based on nationality or citizenship- an inherent discrimination, which may be off-putting for skilled workers. In addition to the issues skilled migrants face with the Qatari

system, there are international legal standards to consider, particularly if a country belongs to an international body, like the UN.

State parties under the UN and ILO Conventions have different obligations that they must maintain. Qatar is a member state and that means the country has to abide by certain international obligations. However, it is critical to take into consideration the fact that state parties are provided with a lot of discretion concerning the way they implement the international obligations into national laws, but certain requirements have to be met even with the wide discretion. The United Nations and ILO have in place different enforcement mechanisms that focus on monitoring if member states have implemented the obligations as provided in the different conventions. That makes it critical for an exploration of Qatar's compliance with international obligations and the specific laws that are in place that try to address the identified problems.

The ILO Committee of Experts (2017) explored *Law No. 14 of 2004* in relation to *Labor Inspection Convention No. 81*. The aim was to determine whether the law conforms to the provisions of *Labor Inspection Convention No. 81* and adequately implements the requirements of the provision. The *Labor Inspection Convention No. 81* was adopted in 1947, and in Article 1 it provides that each member of ILO has the obligation of maintaining a system of labor inspection in industrial workplaces. Article 2 of *Labor Inspection Convention No. 81* states that the system of labor inspection in industrial workplaces is required to apply to all workplaces. These are workplaces where legal provisions exist concerning the required working environment and protection of workers against abuse. The provisions should be enforceable by labor inspectors. The industries that can be excluded are the transport and mining industries. By and large, there needs to be a move towards

competent inspections and enforcement across sectors in order to make gains in meeting international standards.

The findings of the ILO Committee of Experts suggest that the obligations provided by Labor Inspection *Convention No. 81* are not effectively implemented in Qatar and improvements need to be introduced. The main issue that was identified is the lack of an adequate number of inspectors to ensure existing provisions of the law and adhered to in the different industrial workplaces (ILO Committee of Experts, 2017b). The findings of the ILO Committee of Experts indicated that in the year 2015, Qatar had 294 labor inspectors (ILO, 2015). That number was significantly low for the labor inspectors to be able to effectively control compliance in workplaces with different provisions of labor laws that target prohibiting the exploitation of migrant workers. Several international organizations and other parties made recommendations on the Qatar government concerning the need to increase the number of labor inspectors to monitor the implementation of existing laws in different workplaces (Amnesty, 2013) . In the year 2016, the number of labor inspectors in the country is reported to have increased to 397 (ILO 2017b). However, that is not a sufficient volume of inspectors to cover the over 1.7 million migrant workers in the country working in all the different industries. The labor inspectors need to ensure all foreign working conditions are up to the required domestic and international standards.

The other problem that was identified concerns the existing labor inspectors not speaking the languages that migrant workers understood. According to the ILO Committee of Experts (2017b), the Labor Inspection Department in Qatar only had employed the services of four translators. The number of translators is not adequate to help the labor inspectors to communicate with migrant workers who might be experiencing different forms

of problems in their workplace environment. Effective cooperation was also cited lacking between labor inspectorate and the justice system (ILO 2017b). That meant most of the employers who were found not to comply with existing laws were not held accountable through the justice system. The lack of cooperation between the Qatar justice system and labor inspectorate means that an effective enforcement mechanism is not present in the country and the labor inspectors lack adequate enforcement powers.

Law No. 14 of 2004 infringes on the freedom of association of migrant workers as they are not allowed to form unions or to strike. Only Qatari workers are allowed to form unions and collectively bargain for their interests while migrant workers in the country do not enjoy such rights. The ILO Declaration, the ICERD, and the Arab Charter provide for these rights, which apply to migrant workers. Therefore, when the labor law in Qatar does not cater for these provisions, then it fails to meet existing international obligations. The obligations provide that every individual has a right to strike and protest. The laws ensuring these basic rights do not discriminate whether such individuals are migrants or citizens in a particular jurisdiction (UDHR, 1948).

The International Labor Conference (ILC) filed a complaint against the government of Qatar in the year 2014. The complaint that was presented cited existing laws in the country, which violated provisions of Convention No. 29 and Convention No. 81. The complaint outlined that the issue of forced labor that was rampant in Qatar affected an estimated 1.5 million migrant workers who were present in the country. The Qatar government was accused of failing to implement and maintain a sustainable legal framework that protected the rights of migrant workers as provided by the different conventions they had ratified. Also, the Qatar government was accused of failing to effectively enforce existing

laws that would offer protection to migrant workers from being trafficked and exploited in the country (Lens, 2017).

The committee of International Labor Conference identified *Law No. 4 of 2009* as being the main source of concern. *Law No. 4 of 2009* establishes the Kafala system, which is cited to encourage exploitation of migrant workers because of the powers it gives to the employers (Law No. 4 of 2009). The complaints raised prompted CEACR to visit Qatar in 2016 and assess the measures that the country had put in place to address the complaints raised especially with regards to migrant workers in the country (ILO, 2009). Qatar reacted to the complaints by introducing *Law No. 21 of 2015* as a solution to some of the issues raised concerning migrant workers. In its mandate during the visit, CEACR was determined to assess whether there was the effective implementation of the newly adopted law because that is the only way it can positively influence existing conditions in the country (ILO Committee of Experts, 2017a).

The provisions present in *Law No. 15 of 2011* suggest that Qatar is complying with the provisions of the Palermo Protocol. However, close scrutiny has suggested that the country is still not fully compliant because of the lack of effective enforcement of existing laws. The country is cited to still be struggling to prevent incidents of human trafficking with the trafficked individuals ending up working as migrant workers within their jurisdictions. According to the United Nations High Commissioner for Refugees (UNHCR) (2019), Qatar is a Tier 2 country when it comes to efforts to address the problem of human trafficking. That is because the country has not been able to fully meet its minimum standards for the elimination of trafficking, but it is credited for making significant efforts to address the issue. The efforts that have been made include the introduction of the Domestic Worker Law that

protects migrant workers working as domestic workers in the country against incidents of human trafficking. The government of Qatar also introduced a labor law amendment that overhauled the existing labor court system that was dysfunctional and introduced the Labor Dispute Resolution Committees (LDRC). Although reforms are being implemented, it is unclear if the impact will be significant or positive.

The introduction of the electronic contracting system and establishment of a new labor dispute panel that is focused on accelerating labor dispute cases in Qatar especially between migrant workers and their employers are other positive steps taken by the government of Qatar as explained by Christenson (2018). The new reforms have increased enforcement and prosecutions in the country and that has seen increased investigations and prosecutions of cases of forced labor and cases related to human trafficking where individuals are coerced and forcefully retained in the country according to Christenson (2018). However, international minimum standards are still elusive in the case of Qatar because of the lack of effective enforcement, according to UNHCR (2019).

No cases have been reported where a Qatari employer or recruitment agency has been prosecuted for engaging or encouraging forced labor. That is strange given that international organizations have reported a significant number of incidents of forced labor in Qatar. Also, the government of Qatar has been accused of ignoring and not investigating human trafficking indicators like retention of passport and travel documents of migrants, complaints of abuse, and labor violations. The Qatari government is more likely to arrest, detain, and deport potential victims of trafficking for fleeing their employers and sponsors and for violation of immigration policies than it is to hold employers and brokers violating the law accountable. Since this is the case, it is difficult to state that the country complies with its

international obligations when it comes to the issue of human trafficking as provided in the Palermo Protocol.

Law No. 4 of 2009 criminalizes the confiscation of passports of migrant workers by sponsors with the punishment for doing that being a maximum fine of \$6,870 or 25,000 Qatari riyals (UNHCR, 2019). The United States Department of State carried out research on annual trafficking in persons in Qatar between 2015 and 2016. The government of Qatar, within that period, investigated only 24 potential cases of trafficking and convicted 11 individuals for trafficking. The numbers were criticized for not matching the high number of migrants coming to the country annually. Approximately 256,535 migrants moved to Qatar in the period between June 2015 and July 2016 with the circumstances under which they were recruited and moved to the country is questionable.

Lens (2017) supports the argument that the number of investigations and prosecutions to be significantly low compared to the number of migrant workers who entered the country. In the year 2018, the government of Qatar reported having investigated 149 potential cases of human trafficking. That was an increase from the 93 cases investigated in the year 2016 (Lens, 2017). For the same year (2018), 109 cases of potential forced labor were opened by the Public Prosecution Office (PPO), which was an increase from zero such cases in the year 2017, according to UNHCR (2019). These are not the only concerns with existing Qatari laws.

Concerning *Law No. 21 of 2015*, the CEACR was not satisfied with the provision where workers are allowed to change their employers at the end of their contract and they do not need the consent of their employer (ILO, 2015). Also, the government can implement contract law changes that for employees instances where the contract they are working under

has no specific end date by implementing a term like 5-years of service. The problem the CEACR sees with the provision is that it does not foresee a situation where a migrant worker can terminate their work contract before the expiration date. It is critical that they are allowed to do that without the approval of their current employers. The provision does not set out any reasons or conditions, which have to be met for the termination of the contract to happen (ILO, 2015). Without such provisions, then the law accepts that within the period of that contract, an employer owns the employee and migrant employees have no powers to terminate the contract even in instances where the working and living conditions are inhumane (ILO Committee of Experts, 2017a).

The government of Qatar needs to ensure that the provisions of *Law No. 21 of 2015* incorporate clear and objective grounds under which termination of employment contracts can happen. As it stands, the provisions of *Law No. 21 of 2015* are not in compliance with international obligations. That is because the provisions violate ILO Conventions No. 29 and No. 81 (ILO Committee of Experts, 2017a). The provisions also infringe on the rights of migrant workers that are provided in the ICERD and the Arab Charter. The rights infringed upon are the right to free choice concerning employment (Arab Charter on Human Rights, 2004; ILO Committee of Experts, 2017a). These concerns regarding the compliance of Qatari law with international standards do not end here.

The CEACR is also critical of *Law No. 21 of 2015* concerning its procedures for issuing exit visas to migrant workers (ILO, 2015). The provisions of the new law made changes that ensured that migrant workers no longer had to ask their employers for an exit permit because they had to get it from competent government authority. However, despite the law eliminating the direct permission, the provisions of the law still provide employers

with the power to object to migrant workers being granted an exit permit. In instances where an employer objects to a migrant worker being issued with an exit visa, the migrant worker can appeal to the Committee on Alien Departure Grievances. The problem is that no guidance exists that outlines legitimate reasons that employers can cite for their objection to the issuance of exit permits and the basis for a migrant worker to appeal against the decision of an employer.

CHAPTER FOUR: RECOMMENDATIONS AND CONCLUSION

Recommendations

Future studies should take into consideration:

- discriminations that migrants in Qatar face when it comes to their residence in Qatar compared to migrants in other countries.
- Also, an exploration of the dynamics of the different sects of Islam in Qatar and how the sectarian identities influence immigration policies and practice. There needs to be an inquiry with a focus on whether the majority of Asian migrants in the country are Shias, and if that influences the perception of the need for their labor rights by the policy-making Qatari Sunnis who are the majority sect in the country.
- Such studies can help enhance understanding of existing problems and reluctance to implement existing laws that can disadvantage Qataris who are benefiting from the status quo.
- Furthermore, Qatar must do a lot more to check into indicators of trafficking. That starts by investigating incidents of sponsors taking away passports and

travel documents of individuals they have sponsored. Also, the country needs to prosecute cases of human trafficking offenses, and punish human traffickers who are taking advantage of the sponsorship law that is present in the country.

- Qatar should not keep relying heavily on labor from outside. They have to monitor and limit the level of labor force consumption and try to solve it in Qatar.
- They must also make an easier way to receive complaints from the laborers and ensure the safety of those whistleblowers. For example, if someone crosses the lines with the laborers, there must be punishment and accountability whether a person or a company. This could include the loss of ability to sponsor, government seizure of assets, imprisonment, fines, etc.
- There are many more possible remedies for Qatar's migrant labor problem that will continue to need to be explored in the coming years, not only as the FIFA events draw nearer, but in order to comply with international law.

Conclusion

Qatar has over the years amended its laws and introduced new laws with the aim of improving the situation of migrant workers in the country. The case study explores the laws of the country and how the country complies with its obligations as provided by international standards when it comes to the labor rights of migrant workers within their jurisdictions. The study suggest that the country has legislation to address issues of immigration, human trafficking, and labor, but there are areas where the existing laws have been identified to incorporate inadequacies. Also, the country is struggling when it comes to the implementation and enforcement of existing laws and that has contributed to the situation that

migrant workers in the country find themselves in. Laws exist that make it illegal for employers to take possession of passports and travel documents of migrant workers; however, the practice is still widely present in the country.

Law No. 21 of 2015 introduced reforms with the aim of enhancing the rights of migrant workers when it comes to choosing and changing employment opportunities. However, the law only provides limited rights to workers with employers still enjoying significant power and control over migrant workers. A migrant worker in Qatar is still not able to change their employers if they have not finished the contract that they have with their current employers. The exit permit system that has been reformed and is in place still favors sponsors and employers with the rights of migrant workers being secondary to theirs. The country does not have a sufficient number of inspectors to be able to meet the requirement of international obligations as provided by ILO. The Kafala system is still entrenched in the country's labor law and that is the source of some of the problems experienced by migrant workers in the country. There are calls for the sponsorship system to be abolished and allow migrant workers to enjoy some of their universal rights like the freedom of association and choice.

The provisions of *Law No. 15 of 2011* make Qatar comply with the Palermo Protocol on issues to do with human trafficking. However, Qatar is still struggling with the aspect of implementing its laws and enforcing them. That involves identifying those whose actions contravene existing laws and holding them accountable by prosecuting them. The country has high zeal when it comes to arresting, detaining, and deporting migrant workers. However, the same effort is not mirrored when it comes to investigating claims of abuse and exploitation of migrant workers, human trafficking, and poor living and working conditions

for migrant workers. The cases that have been investigated and prosecuted do not reflect the identified high number of cases of migrant worker abuse and exploitation that is present in the country.

Qatar has existing legislation that lay the groundwork for the desired outcomes, when it comes to labor rights of migrant workers and other issues that migrant workers face in the country. The country is trying to balance development and ensuring the rights of workers within their jurisdiction are protected. When the country won the bid to host the 2022 FIFA World Cup, it brought to the forefront the concerns that international organizations have cited over the years regarding the issues that migrant workers in the country faced, which the government was accused of being reluctant to address. Since that time, the Qatar government has introduced measures that would address the raised concerns. However, skepticism exists regarding whether the achievement of desired outcomes will be achieved. That is because not all abuses and exploitation of migrant workers in the country are because laws do not exist, but rather are based on lack of the will or capacity of the government of Qatar to enforce the existing laws. Therefore, the introduction of new laws that are not enforced will see the status quo be maintained, while on paper it looks like the country is honoring its international obligations.

Now that the country has gained global recognition by being on course to hosting the 2022 FIFA World Cup, it is critical that the country complies with international standards and obligations. That is the only way it can successfully address the labor rights of migrants and other issues that migrant employees experience in the country. Qatar needs to enhance its efforts to investigate indicators of trafficking and that starts by investigating incidents of sponsors taking away passports and travel documents of individuals they have sponsored.

Also, the country needs to prosecute cases of human trafficking offenses, and punish human traffickers who are taking advantage of the sponsorship law that is present in the country. Forced labor crimes are on the rise with migrant workers being subjected to work without pay and to work for employers they no longer want to render their services to and that needs to be addressed. Importantly, Qatar needs to continue with its reform efforts that target the sponsorship system so that sponsors are not provided with excessive power concerning granting and maintaining the legal status of migrant workers in the country. Reforms need to be implemented fully that focus on protecting migrant workers from exposure to abusive and exploitative practices and working conditions. The labor law (Law No. 14 of 2004) in Qatar needs to be extended to protect domestic workers who as it stands are not afforded its protections. A significant majority of domestic workers in the country are migrants and that means a significant proportion is a discrimination from being protected by the country's labor law.

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