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Human Rights Abused in Qatar: FIFA Puts World Cup More Than Lives?

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ABSTRACT

The implementation of the FIFA World Cup Largest Event which will be held in Qatar in 2022 is considered to have violated the human rights of many migrant workers, most of whom come from South Asia. As many as 6500 workers died because of the lack of security and supplies for workers. The Kafala Sponsorship System is also considered to have been a source of problems in this case. The purpose of this research is to find out who should be responsible for this case, and what should be done. The research method used is normative juridical using various secondary sources such as books, journals and legislation. FIFA and Qatar are the ones who should be held responsible for this case because they pay little attention to the condition of migrant workers. FIFA and Qatar must immediately carry out investigative efforts and preventative measures in this case.

Keywords: FIFA; Kafala; Migrant; Qatar

1. Introduction

The right of migrant workers has allegedly been seriously abused since the construction for the 2022 World Cup began. Quoting from The Guardian media, a number of 6500 migrant workers died in Qatar in preparation for the most prestigious football event, the FIFA World Cup. The migrant workers come from countries such as India, Pakistan, Nepal, Bangladesh and Sri Lanka since the announcement that Qatar won the right to host the World Cup 10 years ago. These low-cost workers, who are temporarily placed in the Qatari labor market, are placed in abusive employment situations. The workplace conditions are also very dangerous, workers are also exposed to extreme temperatures of up to 50 degrees Celsius, often without rest and difficult access to drinking water (Heerdt, 2018). This is, of course, violates what has been regulated in the Universal Declaration of Human Rights, specifically in Article 3 which reads that,

"Everyone has the right to life, liberty and the security of person"

Security guarantees for migrant workers are also regulated specifically in the ⁷International Labour Organization Convention (ILO Convention) convention No. 155 concerning the Occupational Safety and Health Convention, 1981. The Convention contains of Principles of National Policy, Actions at the National Level and Action at the Level of the Enterprise. There is also the Protocol of 2002 to the Occupational Safety and Health Convention, 1981. In the Part II of the ILO Convention No. 155 talks about the Principles of National Policy, article 4 stated that,

1. *"Each Member shall, in the light of national conditions and practice, and in consultation with the most representative organisations of employers and workers, formulate, implement and periodically review a coherent national policy on occupational safety, occupational health and the working environment."*
2. *"The aim of the policy shall be to prevent accidents and injury to health arising out of, linked with or occurring in the course of work, by minimising, so far as is reasonably practicable, the causes of hazards inherent in the working environment"*.

What is certain is that international legislation guaranteeing human rights, especially the right to safety, for migrant workers, has been specifically discussed and regulated by the Act mentioned earlier. However, Qatar until now, has not ratified the Convention, to serve as national law. But there is one system used by Qatar in an effort to guarantee the rights of safety of these migrant workers, namely the Kafala system. According to the Kafala System (Law No. 4 of 2009), the employer, or usually called as Kafiil, is in charge of migrant workers protection and safety (Hind Mohammed Al Hammadi, et., al., 2022). Despite this, in fact, the Kafala system, which is believed to aim at fulfilling workers rights, actually burdens workers in Qatar.

There are at least 3 parties who should be aware that the holding of the FIFA World Cup 2022 this time violates the human rights of these workers namely, Qatar as the host, the ILO as the organization for Labour's rights and FIFA as the event organizer. FIFA, in FIFA's Human Rights Policy 2017, stated explicitly that,

"FIFA is committed to respecting all internationally recognized human rights and shall be strive to promote the protection of these rights."

There are also some points that discussed in the FIFA's Policy that talked about the FIFA's commitment on upholding and promoting international human rights. Based on Brian, the presence of FIFA should actually be a place where people all avoer the world can enjoy the beauty of playing football in the same forum so that it can provide a sense of security and fun. Therefore, football must be a means that is not connected with actions that violate human rights (Bunk, 2022). Therefore, if FIFA and related parties cannot comply with this, of course something must be wrong. From what has been described previously, questions arises that underlies this research to be carried out. What is the view of international law, especially regarding the human rights, in the case of human rights abuse that occurred in Qatar? Then, who should be responsible for the deaths of these migrant workers in Qatar? Based on their policies,

what Qatar, as a host country, and FIFA, as the event organizer, should do to fix and prevent such things?

2. Methodology

The method used in this research is the normative legal research method which combines data from secondary sources derived from related research articles, policies and also laws from applicable international law. All data is then analyzed in order to answer the fundamental questions for the research. The research approach is carried out by studying the problem, analyzing and then interpreting things that are theoretical in nature.

3. Result and Discussion

3.1. Migrant Workers in Qatar

Qatar was officially announced by FIFA as the host on December 2nd, 2010. Qatar's population is expected to increase by up to 40% after the announcement of the World Cup was announced. This happened because of the soaring demand in the construction industry. Thus, most of them are of South Asia descent, flocking to Qatar to fill the job vacancies that are quite high. Quoted from Boundless.com, Migrant workers in Qatar are estimated at 2 million. That is nearly 95% of the workforce in a country of just 3 million people.

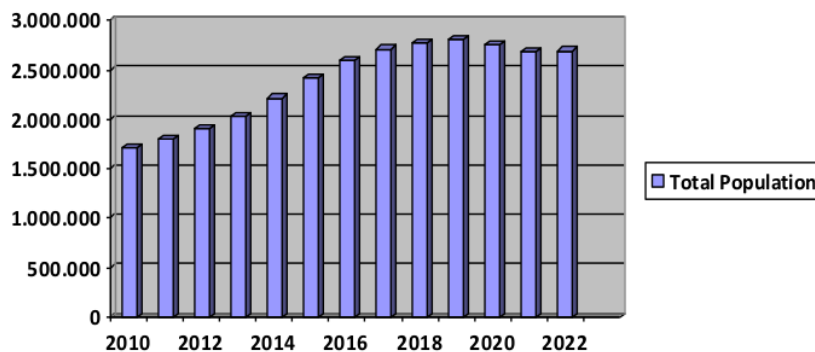


Figure 1. Population of Qatar 2010-2022

Source: United Nations

The high spike in population increase in 2011 after the announcement of the 2022 World Cup with a growth rate of 5.29%. The highest number of spikes occurred between 2014 and 2015 after the implementation of the 2014 FIFA World Cup which was held in Brazil. The population figure in 2015 reached 2,414,573 with a growth rate

of 9.04%. This is because the Government of Qatar is intensively preparing for the 2022 World Cup (A. Al-Emadi, 2016).

There was a substantial increase in the number of foreign workers in Qatar after 2014. In demographic terms, the foreign population of Qatar is highly skewed. Men outnumber women by nearly a factor of five (the sex ratio for residents aged 15 and older was 483 men to 100 women at the beginning of 2017) (Salma M Khaled, 2019), whereas the working age group (15 to 64 years) is composed of 74.4% and 92.3% foreigners, respectively. These residents have a lower level of education than Qatari citizens (62% have less than a high school diploma; 33% have the same level of education). However, in 2015, only 16% of non-citizens held a bachelor's degree, compared to 33% of Qataris. As a result, it has been assumed that the similarities between the new form of handling foreign workers and the traditional Islamic use of kafala are purely verbal. This gives the new form a "semblance of legitimacy," or the presence of a kafil as guarantor (now sponsor), who would ensure the foreigner's legal residency and adherence to the terms of a contract and local laws.

Analyzing the various definitions of "migrant worker," one can conclude that the provisions of the aforementioned international accords are intended for the group of migrant workers who legally reside and work in the host country. In addition, it should be emphasized that the 1990 international convention of the United Nations contains no criteria regarding the legality of the migrant worker's stay in the host country. Consequently, the term specified in Article 2 of this Convention is applicable to both legal and unauthorized migrant workers.

3.2. The Right to Security for Migrant Workers in the ILO Convention

According to the International Labor Organization (ILO), there are 244 million migrants worldwide (Koh, 2020). The two pull and push drivers in labor migration have been strong economic expansion in certain Asian countries accompanied by rising labor demand and pay, and a shortage of work with low wages in the country of origin (Nuraeny, 2017). Indonesia is an example of a country that sends the majority of its citizens abroad to work, either at the request of the receiving country or as part of a conscious effort to engage in work placements abroad. Following the function and position of the workforce, it is essential to develop manpower in order to increase the quality and involvement of the workforce in development. Additionally, it is essential to have trustworthy and competent human resources. In addition, it strengthens the protection of employees and their families for the sake of human dignity. In an age of globalization and rising progress in all spheres of life, it is consistent with these objectives (Marpi, 2021).

The international legal regulation of migration is complex and takes place on the territory of the receiving nations, ensuring that it is implemented within the national legal framework. There is no standard agreement codifying the norms and principles regulating diverse types of migration in contemporary international law. International human rights and economic law are inextricably entwined with migration control

(Arif, 2020).¹ International human rights law governs the international legal status of migrants, which consists of a set of rights, duties, and assurances, as well as the regime of stay in the country for asylum seekers, refugees, and labor migrants. And international economic law controls connections inside international economic organizations, such as labor resource exchange (ILO, 2021).

Adoption of the ILO Migration for Employment Convention (Revised), 1949 (No. 97) was the initial step in laying the groundwork for international legal control of labor movement (entered into force in 1952). Article 11 of this Convention defines "migrant for work" as "a person who migrates from one country to another with the intention of being employed other than on his own account and includes any individual who is normally regarded as a migrant for employment." The Convention does not apply to border personnel, artists, or sailors with short-term visas. (Koldinska, 2019).

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which was adopted by the United Nations General Assembly on December 18, 1990, enlarges the definition of "migrant worker." Article 2 of the Convention defines a "migrant worker" as "any individual who will engage, is engaging, or has engaged in a remunerated activity in a State in which he or she is not a national" (Gilbert, 2019). According to this concept, a migrant worker's citizenship is distinct from that of the host nation. In addition, it has been shown that migratory workers include people who have previously worked in the host country. In contrast to ILO Convention No. 97, it is plainly stated here that migrant workers perform compensated labor. In addition, the United Nations International Convention of 1990 specifies the terms "frontier worker," "seasonal worker," "project-tied worker," and "specified-employment worker."

Notably, the definition of "migrant worker" in the Convention makes no reference of the requirement that they be legally present on the territory of the receiving state (Kolev, 2021). The phrase "migrant worker" is bolstered by a number of internationally recognized regional accords. The European Convention on the Legal Status of Migrant Workers was ratified on November 24, 1977, by the Council of Europe. This Convention's Article 1 defines a "migrant worker" as a national of one Contracting Party who has been granted authorization to work on the territory of another Contracting Party. Noteworthy is the fact that the definition of "migrant worker" in the European Convention of 1977 differs from that of universal international agreements. The graphic below illustrates the many components of this Convention. First, the European Convention stipulates that migrant workers must be nationals of one of the Convention's member nations. Second, without underlining the fact that these persons are engaged in paid activities in the receiving country, the primary focus of this agreement is whether or not this country will authorize the worker-migrant to reside and work on its territory. Article 2 of the Agreement on Cooperation in the Field of Labor Migration and Social Protection of Workers-Migrants defines a worker-migrant as a person who continuously resides in the country of

arrival and is legally engaged in paid work in the country of employment. This standard does not define whether this term applies exclusively to state residents or to all citizens. The preceding idea, which considers "legal" work in the host nation, enables us to assume the role of state authorisation only indirectly (Velibar Jakovleski, 2019).

3.3. The Kafala System for Migrant Workers in Qatar

Hence, "kafala" originally referred to a contract in which a surety assumed responsibility for a guaranteed person (makful) under particular terms (Garrett, 2020). The goal of kafala is to ensure that the assured individual performs a task. This can serve as a guarantee for the repayment of a debt or the payment of the assured's financial obligation (kafala bil-al-mal) (Aref, 2021). As in the case of a lawsuit (kafala bil al nafs), it can also be used to guarantee a person's attendance or appearance (kafala bi al wajh), similar to posting bail. It could be a guarantee that items will be delivered or a promise to pay for items that have been sold (kafala bi al darak). In other words, the guarantor bears responsibility for a specific debt owing by the guaranteed, including acting as the guaranteed's agent (makful) before the state and other governmental institutions and assuming culpability for any legal infractions committed by the guaranteed (Abdoulaye Diop, 2015).

Consequently, kafala contracts established the patronage of a prominent local who provided any essential protection as a means of common responsibility for financial, legal, or political representation. These kafala variations and uses remain significant today. Although the majella (Ottoman Sharia law made into law) contains kafala contracts of the many varieties mentioned above, neither the law nor the employment of labor includes kafala (Pelican, 2017). Although non-Muslim foreign labor was taken advantage of in a similar way in the port of Istanbul as early as the late sixteenth century, kafala contracts are not discussed in analyses of Ottoman slavery. Early kafala records on operations in the Arabian Gulf indicate that there may have been informal agreements dating back to the 1940s (Alshehabi, 2019). For instance, the kafil who owned the used dhow vessels was accountable for the pearl divers. Usually, this is referred to as a "cultural legacy." No specific legislative mention of kafala existed until 1975, when the Aliens Residence Law was passed, despite requirements from the 1950s and 1960s that foreign businesses have a local Kuwaiti partner with 51 percent ownership and that migrants be "backed by a recognized resident of Kuwait."

One of the aspects of the present kafala that has drawn the greatest criticism is the kafil's power over foreign labor and commercial enterprises. It also controls them and exploits them. The majority of criticisms have been supported by international legislation and labor conventions. One of the aspects of the present kafala that has drawn the greatest criticism is the kafil's power over foreign labor and commercial enterprises. It also controls them and exploits them. The majority of criticisms have been supported by international legislation and labor conventions. A technical analysis of the ancient Islamic kafala system's implementation and technological application

reveals that one of its distinctive characteristics is that it is regarded as a contract without benefits for the guarantor. In other words, there is no price for the guarantor's (kafil) services. Nothing in the Ottoman or fiqh settings would have actually broken the law since any payments made to the guarantor for delivering kafala would have been *riba* (usury), which is prohibited in Islam.

In this sense, the new kafala would seem to go against a fundamental Islamic ideal and might be seen as a business-oriented system rather than one built on trust and protection. On condition that the worker sign a contract to work for him or others in exchange for particular advantages, a kafil acts as the worker's representative and sponsors them on behalf of the state. There are some good parts of the system. It is a sponsorship-cum-employment arrangement known as kafala-cum-yara, which inverts the kafala-makful relationship (Fernandez, 2021). The kafil now pays the makful for his or her labor while presumably benefiting from it, and the makful now ensures the fulfillment of a labor contract with the kafil.

3.4. FIFA World Cup 2018 in Russia Controversies

Putin's participation in Russia's quest to host the 2018 World Cup and 2014 Winter Olympics in Sochi illustrates the country's emphasis on mass sports marketing. The 2018 World Cup was considered as a second chance to demonstrate Russia's status as a great power and promote national pride after the Sochi Olympics did not go as planned. In reality, the World Cup was intended to bolster Putin's domestic legitimacy, provide economic opportunities for Russia's domestic electorates, improve Russia's international reputation, revive the concept of "sport diplomacy as a 'two-level game,' simultaneously targeting international and domestic audiences," and highlight a particular aspect of the country.

MacFarquhar observes that, on the one hand, Vladimir Putin has attempted to create a feeling of national togetherness and purpose based on nostalgia for Soviet accomplishments. "The Soviet sports machine also plays a role, as sports are a noncontroversial venue where a varied populace may celebrate together" (MacFarquhar, 2018). Despite losing to Croatia in the World Cup quarterfinals, the Russian team's performance and advancement provided the nation reason to celebrate and, more significantly, created national pride. In the meantime, Russia attempted to dispel the perception that international sanctions and diplomatic expulsions by the West have isolated the country by demonstrating that it is still a member of the club of large states (Ludvigsen, 2019). Substantial expenditures are made to ensure that the host nation can meet all standards. States strive to secure bids for the events, and candidates compete for every vote to be elected, utilizing soft power and hard labor as techniques.

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standards. States strive to secure bids for the events, and candidates compete for every vote to be elected, utilizing soft power and hard labor as techniques. Black and Peacock argue that "lobbying by a nation's highest-ranking politician may now be a virtual 'necessity' for winning the right to host mega-events, but it is no longer sufficient," citing FIFA's selection of Russia over England despite the ardent advocacy of then-prime minister David Cameron and Prince William (Black, 2013).

The World Cup was an undeniable public relations win for Vladimir Putin, notwithstanding the controversy surrounding Russia's selection as host due to discrimination, hooliganism, corruption, and labor breaches, as well as Russia's role in the current conflict in Ukraine. According to Rosenberg (2018), "modern stadiums, convenient train access to venues, and the lack of crowd violence have thrilled visiting fans. Russia has been cordial and pleasant, in sharp contrast to the country's reputation for totalitarianism. Since 2014, on the verge of the Ukrainian conflict and the annexation of Crimea, Russia has capitalized on a highly advantageous international position, catching the world's attention for a month for the right reasons. In other words, Russia's successful World Cup hosting does not reverse the trend: democracy, human rights, and free speech have all been under threat over the past few years. According to Kolesnikov, "as a result of the World Cup, neither the police nor the administration will become less authoritarian."

Human Rights Watch (2018) asserts that when the 2018 FIFA World Cup kicks off on June 14, Russia will be dealing with its biggest human rights crisis since the fall of the Soviet Union. Human Rights Watch (2018) The group expressed its concerns about Russia's World Cup preparations and broader human rights issues in the nation in a 44-page handbook titled "Russia: FIFA World Cup 2018 - Human Rights Guide for Media." Thus, sports and politics are intertwined. Activists and social movements use the increased media attention to protest against and draw attention to political issues in the hosting countries, such as censorship, labor violations during the construction of stadiums and sporting facilities, and corruption, violence, and repression (Muller, 2015).

Moreover, according to some observers, the 2018 World Cup will serve as a diversion from the country's various socioeconomic issues, particularly for regular Russians who have battled economically in recent years. As a result, they lack faith that the competition can "promote Russia's international investment or commerce, develop its tourism industry, or strengthen its inhabitants' dedication to physical fitness." Cultural (and sport) diplomacy is an integral aspect of a long-term strategy whose effectiveness, benefits, and consequences are difficult to assess. It may be stated that the plan's benefits and consequences have not yet been observed.

3.5. FIFA on Guaranteeing the Right to Safety for Migrant Workers in Qatar

FIFA acknowledges in its mission statement that it has obligations outside football: "Despite the abundance of natural beauty and cultural diversity in the world, many people continue to be denied fundamental human rights. FIFA has a bigger

responsibility to reach out to the globe through football, a symbol of optimism and integration." Article 3 of FIFA's statutes states, "FIFA is committed to respecting all internationally recognized human rights and shall strive to promote the protection of these rights." This new item was approved in February 2016 at a special FIFA Congress. FIFA acknowledges the responsibility to defend the inherent dignity and equal rights of all individuals whose lives are affected by its actions. It performs frequent evaluations of its policies and procedures, as well as its organizational and event management systems, to ensure that risks to human rights posed by its activities are adequately addressed. Human rights risks related with its tournaments and programs are continuously managed in partnership with partners. In 1997, FIFA and the ILO worked to design a due diligence program to prevent child labor in the ball-manufacturing sector, which resulted in ballas and artificial turf licensees being legally obligated to maintain fair labor practices and prohibit child labor.

All FIFA members must abide by the FIFA Code of Conduct, which lays out the core values and standards for conduct both inside FIFA and with other organizations. Prior to its recent decision to embrace the UNGPs, add Article 3 to its statutes, and release a human rights policy, FIFA did not have a stated commitment to upholding human rights. FIFA's Human Rights Manager claims that 2011 saw a paradigm shift in human rights as a result of criticism of FIFA for awarding the World Cups to Russia and Qatar and the UNGPs, which compelled FIFA to reevaluate its policies. Prior to the establishment of its human rights policy, FIFA was not aware that it had any responsibility for the building of stadiums in the host nations. But things have changed. Notwithstanding this, FIFA has a considerable distance to travel before it is entirely compliant with human rights standards. Qatar has not been investigated by FIFA for any accidents or violations of human rights. Nonetheless, FIFA is partnering with the SC and BWI to monitor conditions at stadium construction sites. In the event of an accident, FIFA investigates what transpired and what actions would be taken; in other words, FIFA is primarily concerned with fundamental questions, while the SC is responsible for additional investigation. The SC has developed an effective and uniform procedure for investigating incidents, including incident notification, investigation, and reporting across all SC activities. Amnesty International and Human Rights Watch have probed various human rights breaches, including forced labor.

4. Conclusion

There are already in place and have been regulated in numerous conventions and policies all of the "ingredients" necessary to guarantee the enforcement of all human rights for migrant workers working in Qatar in preparation for the 2022 FIFA World Cup Qatar. These "ingredients" include the International Labor Organization convention and FIFA's policy on upholding human rights. Man. The country of Qatar, in its capacity as the tournament's host, as well as FIFA, in its capacity as the competition's organizer, bear the responsibility for this incident. However, unequivocal accountability on the part of Qatar and FIFA has not been carried out in the appropriate manner as of yet. It has not yet been determined whether or not there have been any abuses of human rights. Both sides are required to immediately launch investigations

into these alleged violations of human rights in order to ascertain the steps that need to be taken in order to remedy this situation and, of course, to forestall future occurrences of incidents that are comparable to those that have already taken place.

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