

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

M. Hanaan Alfarizi^{1*}, Kirthie Rubini Morgan², Manuel Campos Lago³

¹ Faculty of Law, Universitas Muhammadiyah Yogyakarta, Jl. Brawijaya, Yogyakarta, Indonesia

² Faculty of Law and International Relations, Universiti Sultan Zainal Abidin, Terengganu Darul Iman, Malaysia

³ Universitat Pompeu Fabra, Carrer de Ramon Trias Fargas, Barcelona, Spain

* Corresponding E-mail: m.hanaan.law20@mail.umy.ac.id

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Abstract

FIFA World Cup Largest Event, 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 a source of problems. This research aims to determine who should be responsible for this case and what should be done. The research method used was 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. In this case, FIFA and Qatar must immediately carry out investigative efforts and preventative measures.

Keywords: FIFA; kafala; migrant; Qatar

1. Introduction

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

“Everyone has the right to life, liberty and the security of person”.

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

Health Convention of 1981. Part II of the ILO Convention No. 155 discusses the Principles of National Policy. Article 4 reads:

- 1) *“Each Member shall, in the light of national conditions and practice, and consultation with the most representative organizations of employers and workers, formulate, implement and periodically review a coherent national policy on occupational safety, occupational health and the working environment.”*
- 2) *“The policy shall aim to prevent accidents and injury to health arising out of, linked with or occurring in the course of work by minimizing, 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 earlier Act. However, until now, Qatar has not ratified the Convention. Qatar uses one system to guarantee the rights of the safety of these migrant workers, namely the Kafala system. According to the Kafala System (Law No. 4 of 2009), the employer, usually called Kafail, is responsible for migrant workers’ protection and safety (Al Hammadi, Bayouomi, & Rosman, 2022). Despite this, the Kafala system believed to fulfill workers’ rights, actually burdens workers in Qatar.

There are at least 3 parties who should be aware that holding 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 strive to promote the protection of these rights.”

Some points in FIFA’s Policy discussed FIFA’s commitment to upholding and promoting international human rights. FIFA should be a place where people worldwide can enjoy the beauty of playing football in the same forum to provide a sense of security and fun. Therefore, football must be a means not connected with actions violating human rights (Bunk, 2021). Therefore, something must be wrong if FIFA and related parties cannot comply with this. From what has been described previously, questions arise that underlie this research. What is the view of international law, especially regarding human rights, in the case of human rights abuse which caused the death of as many as 6500 migrant workers that occurred in Qatar? Then, who should be responsible for the deaths of these migrant workers in Qatar? Based on their policies, what should Qatar, as a host country, and FIFA, as the event organizer, do to fix and prevent such things?

2. Research Method

The method used in this research was the normative legal research method which combines data from secondary sources derived from related research articles, policies and laws from applicable international law. All data was then analyzed to answer the research’s fundamental questions. The research approach was carried out by studying the problem, analyzing and then interpreting theoretical things (Fuady, 2018).

3. Results and Discussions

3.1. Migrant Workers in Qatar

FIFA officially announced Qatar as the host on December 2, 2010. Qatar’s population is expected to increase by up to 40% after the World Cup announcement 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 (Rochmaedah, Basrowi, & Suseno, 2022).

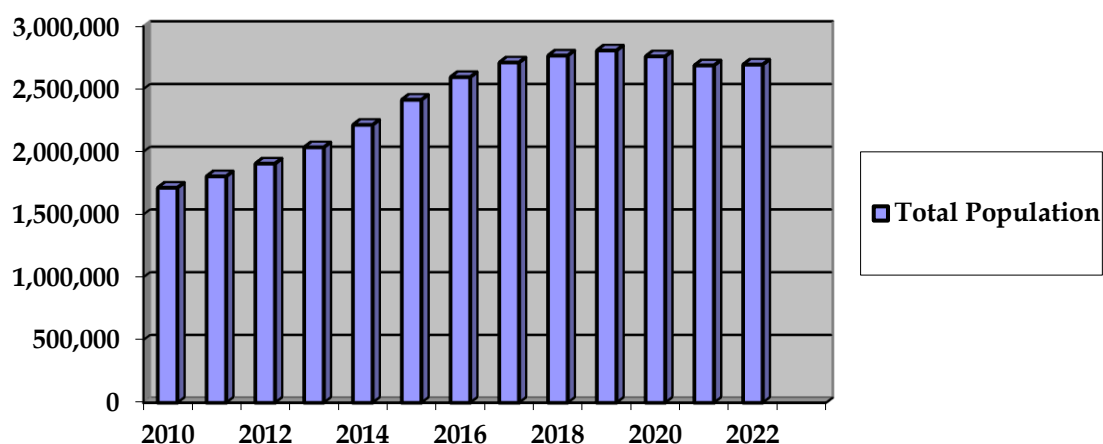


Figure 1. Population of Qatar 2010-2022
 Source: United Nations Population Fund [UNFPA] (2022)

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 in Brazil. The population figure in 2015 reached 2,414,573, with a growth rate of 9.04%. The Government of Qatar was intensively preparing for the 2022 World Cup (Al-Emadi et al., 2016).

There was a substantial increase in 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) (Khaled & Gray, 2019). In contrast, the working age group (15 to 64 years) comprises 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. It gives the new form a “semblance of legitimacy,” or a *kafila* 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, 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 in Article 2 of this Convention applies to 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, rising labor demand and pay and a shortage of work with low wages in the country of origin (Nuraeny, 2017). 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. Globalization and rising progress in all spheres of life are consistent with these objectives (Marpi & Erlangga, 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). 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 (International Labour Organization [ILO], 2021).

The 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 the 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 to be employed other than on his account and includes any individual normally regarded as a migrant for employment." The Convention does not apply to border personnel, artists, or sailors with short-term visas (Koldinská, 2019).

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which the United Nations General Assembly adopted 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" (Larsen & Gilbert, 2020). According to this concept, a migrant worker's citizenship differs from the host nation's. 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 does not refer to the requirement that they be legally present on the territory of the receiving state (Koliev, 2022). The phrase “migrant worker” is bolstered by some 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 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 all citizens. The preceding idea, which considers “legal” work in the host nation, enables us to assume the role of state authorization only indirectly (Jakovleski, Jerbi, & Biersteker, 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). *Kafala* aims to ensure that the assured individual performs a task and 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 wajah*), 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 owed 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 (Diop, Johnston, & Le, 2015).

Consequently, *kafala* contracts established the patronage of a prominent local who provided 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* (Damir-Geilsdorf & Pelican, 2019). Although non-Muslim foreign labor was taken advantage of similarly 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 informal agreements may have dated back to the 1940s (AlShehabi, 2021). For instance, the *kafil* who owned the used dhow vessels was accountable for the pearl divers. Usually, it 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 broken the law since any payments made to the guarantor for delivering *kafala* would have been *riba* (*usury*), which Islam prohibits.

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 the condition that the worker signs a contract to work for him or others in exchange for 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 their labor while presumably benefiting from it, and the *makful* now ensures the fulfillment of a labor contract with the *kafil*.

3.4. 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 is more responsible for reaching 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 affected by its actions. It performs frequent evaluations of its policies and procedures and its organizational and event management systems to ensure that risks to human rights posed by its activities are adequately addressed. Human rights risks related to 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 ball 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.

Before 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 due to criticism of FIFA for awarding the World Cups to Russia and Qatar and the UNGPs, which compelled FIFA to reevaluate its policies. Before establishing its human rights policy, FIFA was unaware it had any responsibility for building stadiums in the host nations.

Notwithstanding this, FIFA has a considerable distance to travel before it is entirely compliant with human rights standards. FIFA has not investigated Qatar 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.

3.5. The Responsibility of FIFA and the Government of Qatar

Both FIFA and the Qatari government share responsibility for the human rights abuses in Qatar in connection with the FIFA World Cup. (Thuer, 2017) While FIFA is in charge of organizing the World Cup and overseeing the selection process, the Qatari government is in charge of making sure that labor laws are upheld and protected within its boundaries. FIFA, which oversees international football, has come under fire for giving Qatar the World Cup while failing to address the issues around human rights effectively. It is asserted that FIFA should have carefully evaluated any threats to human rights throughout the bidding process and taken action to guarantee that employees' rights would be safeguarded.

FIFA could have pressured the Qatari government to enact labor reforms and enhance working conditions. Critics brought this issue up. Concerns have also been raised regarding FIFA's oversight and implementation of labor laws throughout the building of World Cup infrastructure. The Qatari government is primarily responsible for defending the rights of workers involved in World Cup preparations because it is the host nation. Secure working conditions and acceptable living standards ensure fair treatment. It entails putting labor laws and regulations into place and upholding them. (Brannagan & Rookwood, 2016). According to critics, the Qatari government has come under fire for not doing enough to confront and stop the human rights violations connected to the World Cup. There have been complaints about scant inspections, loose enforcement, and insufficient fines for breaking labor laws. The *Kafala* sponsorship system links employees to their employers and has also come under fire for encouraging abuse and exploitation. The International Labor Organization (ILO) is a specialized UN organization that develops global labor standards and advocates for fair employment practices. The ILO has been actively addressing labor rights concerns and working

toward improvements in the context of Qatar's human rights violations. As a member state of the ILO, Qatar must adhere to several global labor norms. These include agreements concerning the rights of migrant workers to be protected and the freedom of association, collective bargaining, and forced labor. These requirements must be followed, and Qatar must ensure they are effectively implemented. The ILO has collaborated with Qatar to address issues with worker rights and forward required reforms. The "Doha Declaration," a three-year technical collaboration agreement, was signed by Qatar and the ILO in November 2017. Through governmental and regulatory changes, this agreement sought to enhance the rights of all employees, especially migratory workers (Brannagan & Grix, 2023).

The ILO has actively tracked the development of these changes and given Qatar technical support. To foster communication and address labor rights issues, it has conducted field missions and had conversations with the Qatari government, workers' organizations, and employers.

Hiring migrant workers is governed by the Kafala system, common in various Gulf nations, including Qatar. In this arrangement, employees cannot leave the nation or change occupations without their sponsors (employers') permission. The Kafala system has come under fire for enabling violations of human rights and labor laws. The Kafala system has been connected to several violations of human rights. Because of restrictions on movement, wage withholding, and a lack of proper legal protections, the system's fundamental power imbalance between employers and workers encourages exploitation. Due to this circumstance, migrant employees risk being mistreated and used by dishonest employers. To allay worries, Qatar has made certain changes to the Kafala system. Implementing minimum wage regulations, creating labor dispute settlement bodies, and increasing accommodation standards are examples of reforms. However, some contend that these changes fall short of offering full protection and need additional adjustments to abolish the *Kafala* system completely. The Qatari human rights infractions give rise to several issues and possible violations of global labor standards from the standpoint of international law. International labor norms may be broken by the claimed abuses in Qatar, which include exploitation, bad working conditions, and travel limitations. Among these are the ILO conventions on the protection of migratory workers' rights (Convention No. 143), freedom of association (Convention No. 87), and forced labor (Convention No. 29). States are required by international law to defend and advance all forms of human rights, including labor rights. It includes ensuring that labor rules are followed, offering effective redress in the event of infringement, and encouraging social interaction between employers, employees, and pertinent parties.

In conclusion, from the standpoint of international law, the human rights violations in Qatar, notably regarding the *Kafala* system and working conditions, raise questions about possible violations of global labor norms. Although reforms have been started due to the ILO's direct engagement with Qatar to address these problems, more advancements are required. The ongoing efforts and lobbying of the international community are crucial in ensuring that workers' rights are upheld and protected in Qatar and other comparable situations.

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, and 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 appropriately as of yet. It has not yet been determined whether or not there have been any human rights abuses. Both sides must immediately launch investigations into these alleged human rights violations to ascertain the steps needed to remedy this situation and forestall future incidents comparable to those that have already occurred.

Reform or Abolish the *Kafala* System: To remedy the shortcomings of the *Kafala* system, Qatar should implement extensive reforms. It might entail doing away with the need for worker sponsorship, allowing employees to change employment without employer permission, and giving them channels to report mistreatment without worrying about retaliation. As an alternative, Qatar should consider eliminating the *Kafala* system and implementing a fair and open labor system.

Strengthen Labor Laws and Enforcement: To ensure that workers’ rights are adequately protected, Qatar should enhance its labor laws and bring them into compliance with international labor norms. It covers working conditions, pay, safety requirements, associational freedom, and collective bargaining guidelines. Additionally, efficient enforcement methods and inspections should be implemented to monitor compliance and hold employers accountable for infractions.

Strengthen International Collaboration: To ensure continuous collaboration and support for labor reforms, Qatar should continue cooperating closely with international organizations, including the International Labor Organization (ILO) and human rights organizations. Technical support, capacity building, and monitoring to make sure that international labor standards are being followed can all be included in this collaboration.

Increase Transparency and Reporting: Qatar should increase transparency by informing the public regularly on the status of labor reforms, including advancements in working conditions, enforcement actions, and actions taken to remedy human rights violations. As a result, confidence will increase, and progress may be independently verified.

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