

# The Kafala System: A System Theory Approach to Understanding Nigerian Migrant Workers' Plight in the Gulf States

*Olawale Iskil Lawal PhD<sup>1</sup>, Wasiu A. Balogun, PhD<sup>2</sup> & Adewale Ajumobi<sup>3</sup>*

## Abstract

*The Kafala system is an enduring theme in global migration scholarship. Initially conceived as a migrant labour governance instrument, Kafala's operational mechanisms have evolved into control measures which heighten dependency, exploitation, and abuse. Within this existing order of disorderliness, using structuralism and decision-making theories, this study interrogates the plights of Nigerian migrant workers in the Gulf States. The study submitted that systemic issues embedded in the Kafala worsen the plights of Nigerian migrant workers, exacerbating their vulnerability and limiting their ability to seek redress. The findings of the study underline the urgent need to institute region-wide, comprehensive and systemic reform of Kafala to address its inadequacies.*

---

<sup>1</sup> Professor of Migrations Refugees and Diaspora Studies, Department of History and International Studies, Lagos State University. Email: olawale.lawal@lasu.edu.ng. ORCID 0000-0003-1989-3569

<sup>2</sup> Department of History & International Studies, Lagos State University, Ojo, Lagos, Nigeria. Email: wasiu.balogun@lasu.edu.ng. ORCID: 0000-0001-8519-2053

<sup>3</sup> Department of History and International Studies, Lagos State University.

*Keywords: Kafala System, Gulf States, Nigerian Migrant Workers, System Theory*

## Introduction

The term “Gulf States” has been used more in the economic analysis of Arabian countries. Once the term quips, it is around the parameters of distribution, production and trade as well as consumption of goods and services etc. But to the extent that it has its other geopolitical and cultural foundations, other matters not directly economic, still use the term when it is expedient to do so. The establishment of the Gulf Cooperation Council (GCC) on 25 May 1981 formally brings together Kuwait, Saudi Arabia, Qatar, Oman, Bahrain and the United Arab Emirate (UAE) for regional cooperation and economic integration. The term “Gulf States” is a contextual and convenient reference to the GCC and it is less controversial than Persian Gulf and Arabian Gulf which have expanded connotations.

The resources in oil and gas in the region have made the region featured in the analysis of importance of wealth in foreign policy strategy and in-expendable influencer of domestic affairs, to the extent that the Washington Institute recently observes, “it is hardly surprising that these fabulously oil-rich countries and, in the case of Qatar, natural gas-rich, have now emerged on the world stage. Dubai, Abu Dhabi, Doha and Manama (Bahrain) are now iconic city-states, joining countries like Singapore and Hong Kong” (The Washington Institute for Near East Policy 2024).



Source bpb: Map showing the Gulf States

Until recently the Gulf states were neither destinations for migrants nor refugees. But now, both migrations navigate the Arabian Peninsula in an order contexted by the region's challenges and prospects. The festering and chaotic political atmosphere created by both the Arab spring and resurgence of insurgents have continued to weaken functional governments given the waning of political authority in that region. This context, which by the way, is less than two decades, admits the argument that the Gulf States have also played host to refugees. For migrants, the movements into the region predates refugees and also are contemporaneous. Migration experts have often differentiated between migrants and refugees both in concept and context, namely that a migrant is a person who leaves his country, on his own volition, in spite of enjoying the protection of his government, or in another phrase, the presence, of a functional government. A refugee on the other hand does not enjoy the protection of his government, herein lies the normative description that a refugee is stateless and it is this statelessness that

necessitates the legal frame under which refugee is administered in what is often called international protection law that transcends municipal limits.

The Gulf States interactions with both refugees and migrants almost happened about the same time but economic migrants found their ways to the region slightly before refugees. There is no doubt that migrants' attraction to the Gulf States is primarily because of the riches of the region which afford them the opportunities to embark on projects and other adventures that require external labour force. The external supply of labour force creates an ambiance where both the immigration policy and labour law become operationally coterminous. While immigration policy of the Gulf States (as elsewhere) places premium on the control of entry and exit, the labour law attends to conditions of employments in the region. It is at this point that the Gulf States adopt Kafala system as means of employment which inheres within their immigration provisions.

The best approach to understanding the kafala system in the Gulf States is to analyse it from migration and international labour law perspectives. This approach has snowballing effect potentials where all vagaries of the system would be captured. With respect to migration system in the Gulf States, Olawale Lawal, (2020) explains that the Gulf States are not signatories to international protection laws which deal with treatment of refugees or strangers. This corroborates Ahmed Abu Al-Wafa's - a Cairo University law Professor and Dean of faculty of Law, position that Islamic States or any states under Islamic influence already have a clear ordained injunction on how to treat strangers. According to Al-Wafa (2009) in his work titled "The Right to Asylum Between Islamic Shari'ah and Refugee Law: A Comparative Study", all the principles embodied in modern international refugee law are to be found in the Shari'ah and protection of refugees, their property and

families, the *non-refoulement* principle, the civilian character of asylum, voluntary repatriation – all are referred to in the Holy Qur’an (Al-Wafa 2009:45). In plain text, the Gulf States, in matters of migrants treatment, are not regulated by the norms of international protection laws – a context that allows municipal application of treatment of refugees and migrants without any international legal encumbrances.

The other approach to understanding the Kafala system in the Gulf States is to examine how it stands with international labour laws, this approach is inevitable since the Kafala system is primarily a labour policy with specific application to migrants in the Gulf States. International labour law refers to the body of rules which the International Labour Organisation (ILO) has created, governing the rights of employees and duties of employers across public and private international law. These rules come with differing degrees of obligation for member countries, meaning that by the time they are distilled down to the level of local law they may look quite different from country to country. Although international labour law is an aspect of customary international law, member states are expected to domesticate its tenets at the municipal levels without eroding its basic legal obligations (Tsogas, George: January 1, 1999).

With regards to the supranational footing of the international labour law in 1998, at that year’s ILO International Labour Conference, there was a declaration on fundamental principles and rights at work wherein the following were established as the inalienable rights of all people at work:

- Right to association and collective bargaining (in effect, trade unionism)
- Prohibition of all forced and compulsory labour
- Prohibition of all child labour (before the end of compulsory schooling)
- Prohibition of discrimination with regards to employment and occupation

At that 1998 conference, the ILO agreed that all 187 nation members should be obligated to comply with these rights, and commit them to local law, regardless of whether or not they had ratified the associated Conventions (29, 87, 98, 100, 105, 111, 138 and 182). (Tsogas, George: January 1, 1999).

### **The Kafala System and International Labour Law**

The Kafala system is in many respects counterpointed to the ILO declaration or the international labour law by its creation of middlemen who act as contractors and suppliers of labour, thus shielding employers from the obligations required by the ILO's declaration. International Labour Law like most international laws, needs regulatory body to ensure compliance at the national level because states act largely in contraventions of international laws, except if such laws are imbued with enforcement mechanism. The International Labour Law and the International Labour Organisation in general have come under some criticism specific to lack of considerations of national peculiarities in the drafting period. In spite of the criticism however, it is generally agreed that the world labour force needs some protection from inhumane practices.

The Kafala system is initially conceived as migration instrument designed to assist migrant workers to mitigate the barriers that migrants experienced with regard to language and availability of job opportunities. Introduction of the Kafala system coincided with the period of oil boom in the Gulf States at which time construction workers needed cheap labour. The Gulf States witnessed large influx of migrant workers and consequent upon the aforementioned challenge, countries in the region rely on the kafala (sponsorship) system "which is based on historical and Islamic principles of hospitality governing the treatment and protection of foreign guests" (Al-Wafa 2009:45).

The Kafala system placed premium on intermediaries who act to ease both the immigration status and employment placement of migrants. Under the kafala system employers are refer to as *kafeels* which literally means sponsors, intermediaries, contractors etc. The interwoven between work permit and migration status enables the *Kafeels* to have strong grip on the handles of the Kafala operations. This grip however opens floodgate of contours between the kafala system and international labour laws where the latter often detects series of infractions on its obligations. Major area of disagreement with the system is when a migrant worker's immigration status (their entry, residence, and exit) is tied to the apron string of the *Kafeel* who often develops sufficient capacity to abuse the fundamental provisions of international labour laws.

The relationship between the Gulf States and the International Labour Organisation, a la the international labour law, is largely frosty because the Gulf States are yet to prohibit many of the infractions the ILO and its laws have strongly opposed. The ILO has called for the abolition of the Kafala system which does not allow migrant workers to change jobs without facing deportation, however, the Gulf States have insisted that the Kafala is the only method of monitoring migrant workers. Other strong area of disaffection is the Kafeel's right to confiscate travel passport of migrant workers. Although the ILO has called for law prohibiting this practice, sanctions or arrests have not been made even where such law is passed, thus, confirming that the practice enjoys government and official support.

## **THEORETICAL FRAMEWORK**

This study relies on two of its theoretical frameworks namely: structuralism and the decision-making theory.

### ***Structuralism and Structuration***

This approach is a variant of the system theory. System, together with agents and structures, form the three concepts composing what is

termed structurationist ontology. According to John Gerard Ruggie, the study of change is necessarily and by definition the study of structure (Ruggie 1989). It is structure that establishes interactive patterns, which change as structure changes. Wendt Alexander and Raymond Duvall (1989) describe the relationship between structure and agents as one of “codetermined irreducibility”. The systems of interaction among agents are made possible by the structure in which they exist. While agents/actors appear to act independent of the aggregate, Little Richard (1985) provides the link between structure and agents when he opines that the actors have limitless structures from which they take their cue, and this he refers to as *structurationist ontology*.

This theoretical approach is suitable for this study because this work recognizes the defects in the Kafala instruments under which migrants’ employment operates. This, in the main, is the structure which provides the framework within which actors operate. The failure of Kafala system to protect employees’ rights is located in the provisions of the International Labour Laws which the Gulf States (actors) find unattainable.

The benefit of this approach is seen in the interactions between the agent and the consequence of the immutable nature of structure. The permanent and immanent qualities of structure require that structure alone can bring change and condition governing system. The Kafala system does not seem to benefit migrant workers in the Gulf States; at least in the manner it is currently practiced. This study explores the theoretical connection in the defects noticeable in the Kafala System and the application of the international labour law in the Gulf States.

### **Decision Making Process**

Understanding decision making processes and systems it is essential to understanding interaction among the national units of the international

system. This provides a structural realist view of the behavioural patterns of system structure, and agents of international (labour) law. The system theory is fundamentally relevant to this study in two ways. First is that it focuses on actors and interaction that take place between them, whether they are individuals, groups of people such as nations, or bureaucratic units. With respect to this study, it is at this level that states and their agents consider the interest of the state rather than the international system. The implication here is that the impact of international expectation on the application of International labour law is fundamentally reduced (reductionist) as states have always set limit and tend to determine the extent, they are prepared for the application of international law albeit, the international labour law. As Cox (2009) observes; this approach seeks explanation for the motivations and for the consequences of such interactions.

The decision-making approach has become an appropriate framework for articulating the political, economic, cultural and social implications of the application of the Kafala system in the Gulf States. The approach which is a variant of system theory is a useful method of getting behind the surface of announced policies by nation-states in an attempt to explain them. (Palmer&Perkins 2005).

The decision-making approach explains the dynamic situations (Varma 1996) the drafters of the international labour laws found themselves which necessitated the need for protection of workers, whether migrants or those in their domains. It explains also the circumstances that trail the means to applying these laws and conditions for change and the reasons for the change (Varma, 1996). This approach is particularly succinct to this research as it is an analytical combination of time and change. The decision makers here are identified as the states in the Gulf, the various institutes charged with application of the laws and the immigration officials.

## **A SYSTEMIC ANALYSIS OF *KAFALA* AND ITS IMPACT ON NIGERIAN MIGRANTS**

### **Nature and Structural Components of *Kafala***

The *Kafala* is a legal and social framework that regulates labor migration in several countries of the Middle East, with roughly 30 million migrants affected in 2017 (International Labour Organization, ILO, 2019). In countries like Saudi Arabia, the United Arab Emirates, and Qatar, migrant workers comprise a significant portion of the labor force, with over 80% of the population in some Gulf Cooperation Council (GCC) countries consisting of foreign workers (ILO, 2017). Nigeria accounts for 1.5 million migrant workers across the GGC countries, with a substantial presence in Saudi Arabia and the United Arab Emirates (UAE) (Menon, 2023). These migrant workers find their ways to the GGC countries through a sponsorship mechanism where the workers' immigration status and ability to seek employment are tied to their sponsor, known as the "kafeel". Hence, the *Kafala* imposes all legal and economic responsibilities for workers during their contractual period on the sponsors (Alzahrani, 2014). While this tied-employment system helps meet labor demands in host countries, its inherent structural asymmetries create a segmented and prohibitive occupational hierarchy. This hierarchy is sustained by hegemonic practices of deprivation, intimidation, and state complicity, further exacerbating the vulnerabilities of migrant workers (Fernandez, 2021). The *Kafala*, despite its critical role in global migration, has not been extensively examined in academic scholarship, especially its impact on Nigerian migrant workers in the Gulf countries. With its origin in the customs of Bedouin tribes in the Arabian Peninsula (Beague, 1986, Nelson, 2017, Zaky, 2021), *Kafala* has evolved significantly over time, particularly during the British colonialism in the Gulf region. The Bedouin's custom was built on personal relationships, guardianship,

and hospitality, where a host (kafeel) would offer protection and meet the needs of guests or visitors. With the emergence and consolidation of British colonial rule in the Middle East from the 1920s, Kafala evolved into a formalized sponsorship mechanism, with the development of laws and procedures to regulate worker flows, particularly in the pearling industry. This sponsorship model became more widespread with the advent of oil exploration and production (Fernandez, 2021). In its current state, the Kafala allows Gulf States to attract a large workforce to support their booming economies, especially in sectors like construction, domestic work, and services. Migrant workers, including Nigerians, are brought in under sponsorship agreements, enabling employers to meet labor demands. However, with growing international criticism and pressure from human rights organizations, several countries across the Middle East have initiated reforms to the Kafala system, though with significant variations (Human Rights Watch, 2020). Such reforms, as seen in Qatar, Saudi Arabia, and Bahrain, enable workers to change employers or change jobs without prior notice, in some cases, and abolished the exit permit requirement (International Labour Organization, 2021). While these reforms are steps in the right direction, they seem to be insufficient and inadequately enforced. The deep-rooted issues of exploitation and abuse persist, and many workers remain vulnerable due to limited enforcement of new regulations and the enduring power dynamics of the Kafala system (Amnesty International, 2019).

The Kafala system is anchored on the interactions of several key structural components, forming an elaborate body of bureaucratic procedures and legal requirements that sustain and regulate the intricate relationship between the stakeholders. Although the system is defined by nuances in applicability across the Middle East, the main crux of this bureaucratic-legal mechanism includes the kafeel (sponsor), migrant worker, and the state. Each of these components plays a pivotal role in shaping the dynamics of Kafala and its implications for labor migration in the Middle East. First, the sponsor.

The sponsor is responsible for facilitating the migrant worker's entry into the host country by providing a visa, offering employment, and overseeing the worker's residency. This includes ensuring that the worker abides by the laws and regulations of the host country. The sponsor holds several rights under the Kafala system, including the authority to grant or deny permission for the worker to switch jobs or leave the country. The kafeel can also terminate the worker's employment and sponsorship, which can result in the worker's deportation if they cannot secure another sponsor. Second, the migrant worker. The legal residency of the migrant worker is tied to the sponsor, making it difficult to change employers or leave the country without the sponsor's permission. Migrant workers are often in a vulnerable position, with limited ability to negotiate employment terms or challenge unfair practices. Third, the state. The state plays a critical role in the Kafala, instituting a legal-institutional framework that regulates the activities of both the sponsor and migrant workers. The state's roles include promulgation of visa and residency laws, and employment laws. States' intervention also includes developing legal frameworks for resolving labor disputes (World Bank, 2020).

## **IMPACT OF KAFALA ON NIGERIAN MIGRANTS IN THE GGC COUNTRIES**

### **Kafala's Sponsorship as Instrument of Power and Control**

Given its structural asymmetries, the Kafala system is an instrument of power and social control. Nigerian migrant workers in the GGC countries, like other migrant groups from Africa and Asia, grapple with a system that bestows significant power upon employers (kafeel) over migrant workers, manifesting primarily through control over their

mobility. The dynamics of visa and residency regulations, coupled with the necessity of exit permits, create a scenario where the autonomy and freedom of Nigerian migrant workers are severely constrained. This dependency has several profound implications. The restriction limits their ability to seek better employment opportunities, negotiate fair wages, or escape abusive work environments. The fear of deportation or becoming undocumented often forces a good number of them to endure exploitative conditions (Amnesty International, 2019). The visa and residency status of migrant workers are tied to their employment. Losing a job means losing the legal right to stay in the country, which can result in immediate deportation. This precarious situation undermines the bargaining power of workers, making them susceptible to exploitation, wage theft, and other forms of abuse (Human Rights Watch, 2020).

In addition to visa and residency control, the requirement of an exit permit exacerbates the power imbalance between the sponsor and the worker, manifesting in several critical ways. The need for an exit permit effectively places the personal freedom of migrant workers in the hands of their employers. Workers cannot leave the country for emergencies, vacations, or even to escape abusive conditions without the employer's consent. The exit permit requirement gives employers substantial leverage over workers, which can lead to situations where workers are coerced into accepting unfavourable terms or conditions out of fear of being trapped in the country (International Labour Organization, 2020). The exit permit system also has significant human rights implications. It restricts the freedom of movement and can lead to situations akin to forced labor (United Nations, 2019).

The Kafala system reflects broader issues of inequality and exploitation in the age of economic liberalism. Several critical perspectives shed light on these dynamics. Fernandez (2021), for instance, amplifies the reality of a rentier system a political-economy perspective in the operation of the Kafala, which, though creating economic opportunities for all stakeholders, ensures that such benefits

are biased in favour of nationals and sponsors because of the structural lopsidedness inherent in the social institution. This argument is further corroborated by the neo-colonial economic paradigm. Neo-colonialism is sustained by a global production process that ensures wealthier nations exert control over migrant workers from poorer countries. In *Disposable People: New Slavery in the Global Economy* and *The Global Slump: The Economics and Politics of Crisis and Resistance*, Kevin Bales (1999) and David McNally (2010), respectively, capture this contemporary global reality in different manifestations across the world. This dynamic perpetuates economic dependence and reinforces global inequalities, as workers from developing countries are subjected to exploitative labor practices in more affluent nations (Bales, 1999; McNally, 2010).

### **Authority and Exploitation in Employment**

Beyond mobility control, Kafala extends its influence into the workplace, severely impacting employment conditions. Nigerian migrant workers, for instance, are severely exploited because the power dynamics within Kafala enable eligible sponsors in the GGC countries to dictate their working conditions, wages, and benefits, often leading to exploitation and abuse. Although labor laws in many countries ostensibly offer protections for workers, these laws are frequently under-enforced, allowing sponsors to exploit Nigerians and other migrant workers. The lack of effective enforcement mechanisms means that workers have limited avenues to report violations or seek redress. Consequently, sponsors can operate with relative impunity, reinforcing their dominance and the subjugation of workers (Human Rights Watch, 2020; Amnesty International, 2019). The power imbalance is stark: workers, fearing deportation or job loss, may be reluctant to challenge their sponsors, thus perpetuating a cycle of

financial exploitation and dependency. The control over employment conditions under the Kafala exemplifies the broader power dynamics that facilitate exploitation and abuse of migrant workers. By dictating working conditions and controlling wages and benefits, sponsors can maintain a dominant position, while workers remain in a state of dependency and vulnerability (International Labour Organization, 2020). However, the impact of these power dynamics is not uniform across all migrant workers; it is often gendered and intersects with other forms of social inequality. Female domestic workers, for example, may face unique forms of exploitation, including sexual harassment and violence, which are exacerbated by their isolation and the lack of effective legal protections (Human Rights Watch, 2020; International Labour Organization, 2021).

### **Justice Denied: The Legal Challenges of Nigerian Migrant Workers**

The Kafala grants employers' considerable power over Nigerian migrant workers, not only through employment conditions and mobility controls but also through the legal barriers that hinder workers' access to justice and representation. These legal dynamics serve as significant instruments of power and control, perpetuating the exploitation and vulnerability of Nigerian migrant workers. Access to justice for migrant workers is fraught with numerous obstacles. Language barriers are a major impediment, as many workers do not speak the local language fluently, making it difficult for them to navigate legal processes or understand their rights. This linguistic disadvantage is compounded by a general lack of awareness about legal rights and protections. Most Nigerian migrant workers often arrive in host countries with limited knowledge of the local legal system and their entitlements under it, leaving them ill-equipped to challenge abusive practices or seek redress for grievances. The financial aspect is another critical barrier. Pursuing legal action requires financial resources that many migrant workers simply do not have. Legal fees,

court costs, and the potential loss of income while engaged in lengthy legal battles are prohibitive for workers who are already in precarious economic situations. This financial burden serves as a deterrent, discouraging workers from seeking justice and reinforcing their dependence on their employers. This imbalance is exacerbated by the fact that migrant workers often lack effective representation. While some non-governmental organizations (NGOs) and international organizations provide legal assistance and advocacy, these resources are limited and not always accessible to those in need. The sporadic availability of such support means that many workers remain without independent representation, further entrenching their vulnerability. The lack of independent representation and support networks is a crucial element of the power dynamics in the Kafala system. Without effective advocacy, migrant workers are often left to confront powerful employers and a complex legal system on their own. This isolation from legal and social support mechanisms diminishes their ability to assert their rights and seek fair treatment. Employers, aware of this power disparity, can exploit it to maintain control over their workers, knowing that the likelihood of legal repercussions is minimal.

Additionally, the psychological impact of these barriers cannot be overlooked. The stress and fear associated with the prospect of confronting powerful employers in an unfamiliar legal system can be overwhelming. This psychological burden further dissuades workers from seeking justice, thereby perpetuating their exploitation. The awareness that legal avenues are inaccessible or ineffective reinforces feelings of powerlessness and resignation among migrant workers, cementing their subjugation.

## **Dependency and Vulnerability of Nigerian Migrant Workers Under Kafala**

The Kafala system grants employers considerable power over Nigerian migrant workers, not only through employment conditions and mobility controls but also through legal barriers that hinder workers' access to justice and representation. These legal dynamics serve as significant instruments of power and control, perpetuating the exploitation and vulnerability of Nigerian migrant workers (Human Rights Watch, 2020; Amnesty International, 2019). Access to justice for migrant workers is fraught with numerous obstacles. Language barriers are a major impediment, as many workers do not speak the local language fluently, making it difficult for them to navigate legal processes or understand their rights (International Labour Organization, 2021). This linguistic disadvantage is compounded by a general lack of awareness about legal rights and protections. Most Nigerian migrant workers often arrive in host countries with limited knowledge of the local legal system and their entitlements under it, leaving them ill-equipped to challenge abusive practices or seek redress for grievances (Amnesty International, 2019). The financial aspect is another critical barrier. Pursuing legal action requires financial resources that many migrant workers simply do not have. Legal fees, court costs, and the potential loss of income while engaged in lengthy legal battles are prohibitive for workers who are already in precarious economic situations. This financial burden serves as a deterrent, discouraging workers from seeking justice and reinforcing their dependence on their employers (Human Rights Watch, 2020). This imbalance is exacerbated by the fact that migrant workers often lack effective representation. While some non-governmental organizations (NGOs) and international organizations provide legal assistance and advocacy, these resources are limited and not always accessible to those in need (International Labour Organization, 2021). The sporadic availability of such support means that many workers remain without independent representation, further entrenching their

vulnerability. The lack of independent representation and support networks is a crucial element of the power dynamics in the Kafala system. Without effective advocacy, migrant workers are often left to confront powerful employers and a complex legal system on their own. This isolation from legal and social support mechanisms diminishes their ability to assert their rights and seek fair treatment. Employers, aware of this power disparity, can exploit it to maintain control over their workers, knowing that the likelihood of legal repercussions is minimal.

Additionally, the psychological impact of these barriers cannot be overlooked. The stress and fear associated with the prospect of confronting powerful employers in an unfamiliar legal system can be overwhelming. This psychological burden further dissuades workers from seeking justice, thereby perpetuating their exploitation. The awareness that legal avenues are inaccessible or ineffective reinforces feelings of powerlessness and resignation among migrant workers, cementing their subjugation (Amnesty International, 2019; Human Rights Watch, 2020).

## **CHALLENGES & OPPORTUNITIES FOR IMPROVING THE PLIGHT OF NIGERIAN MIGRANTS IN GULF COUNTRIES**

The Kafala system presents a myriad of challenges that severely undermine the rights and well-being of migrant workers. At the forefront is the rampant exploitation and abuse that workers face. The imbalance of power between sponsors and workers facilitates labor exploitation, characterized by long working hours, non-payment or underpayment of wages, and substandard working conditions. The lack of bargaining power and fear of job loss prevent workers from challenging these exploitative practices. Moreover, the dependency on

sponsors for legal status fosters an environment ripe for abuse—physical, emotional, and sexual. The pervasive fear of retaliation or deportation silences many victims, allowing abuse to continue unchecked (Human Rights Watch, 2020).

Legal and regulatory issues exacerbate these challenges. Although labor laws exist in some regions, enforcement is notoriously weak. Sponsors frequently flout regulations without facing significant consequences, perpetuating a cycle of impunity. Workers' access to legal recourse is hindered by numerous barriers, including language differences, ignorance of their rights, and limited financial resources. The legal system often skews in favour of employers, making it difficult for workers to secure justice. This lack of effective legal protection leaves migrant workers vulnerable and without means to contest unfair treatment or seek redress for grievances (Zahra, 2019).

The social and psychological impacts of the Kafala system are profound. Workers frequently experience social isolation, living in employer-provided accommodations that limit their interaction with the broader community. This isolation intensifies feelings of helplessness and vulnerability. The mental health of workers is further strained by the constant fear of losing their job and legal status, compounded by poor working and living conditions. Economic dependence, fueled by debt bondage from recruitment fees and the obligation to send remittances home, forces workers to endure exploitative conditions (Amnesty International, 2019; Lian et al, 2019). These challenges collectively amount to significant human rights violations, as workers' freedom of movement and autonomy are severely restricted, tethering their livelihoods and personal agency to the whims of their sponsors.

While the Kafala system is widely criticized for its exploitative aspects, it also presents certain opportunities that can be leveraged for economic development and labor market benefits. One significant advantage is the steady labor supply it provides to Gulf countries, facilitating economic growth and infrastructure projects (Babar, 2020). Migrant

workers' remittances play a crucial role in alleviating poverty and fostering economic development in their home countries. These financial flows support families, enhance living standards, and contribute to national economies (World Bank Group, 2016). Additionally, the Kafala system creates job opportunities for millions of workers who might otherwise struggle to find employment, allowing them to earn livelihoods and support their families while acquiring valuable skills and experience that can be useful for future employment.

The potential for reform within the Kafala system is another critical opportunity. Growing international pressure and advocacy for migrant workers' rights are driving reforms aimed at improving labor conditions and reducing the dependency on sponsors. Some Gulf countries have already taken steps to implement changes, such as legal reforms that protect workers' rights and introduce mechanisms for job mobility and independent exit from the country. Technological solutions, such as digital platforms for wage payments and information dissemination, can further ensure compliance with labor laws and empower workers by providing them with essential resources and knowledge about their rights (ILO, 2021).

Social and economic integration of migrant workers offers additional potential benefits. Programs that promote community engagement and support networks, including legal aid, counseling services, and worker associations, can significantly improve the quality of life for migrant workers and reduce social isolation (International Labour Organization, 2021). Skill development programs not only enhance workers' employability but also contribute to economic diversification in host countries. Moreover, the transfer of skills and knowledge back to the workers' home countries can drive economic development and capacity building (United Nations Development Programme, 2020).

By addressing these opportunities through comprehensive reforms and supportive measures, the potential positive impacts of the Kafala system can be realized, contributing to both host and home countries' economic and social progress.

## **RECOMMENDATIONS FOR REFORMING THE KAFALA**

Reforming the Kafala requires a multifaceted approach that addresses its legal, institutional, economic, social, and international dimensions.

- Legal reforms are crucial for dismantling the inherent power imbalance in the system. Abolishing tied-employment by decoupling residency from employment would significantly reduce workers' dependency on their sponsors, allowing for greater job mobility and improved working conditions.
- Strengthening labor laws to ensure comprehensive protections, including fair wages, reasonable working hours, and safe conditions, is imperative. Additionally, implementing wage protection systems and accessible legal aid services would enhance workers' ability to claim their rights and seek justice.
- It is imperative to establish labor courts and provide language and cultural training to further ensure that migrant workers have fair access to legal recourse and can effectively communicate their grievances.
- Institutional and administrative reforms are essential to enhance the regulatory oversight of labor practices and ensure transparency in recruitment and employment processes. Strengthening the capacity of labor ministries and regulatory bodies to monitor and enforce labor laws, conduct inspections, and penalize violators would help curb exploitative practices.
- Creating independent worker welfare committees and setting up confidential hotlines and reporting mechanisms would provide workers with platforms to address grievances and report abuse. These measures would not only improve

compliance with labor laws but also foster a more supportive environment for migrant workers.

- Promoting ethical recruitment standards and strengthening bilateral agreements between sending and receiving countries would further protect workers' rights and ensure fair treatment throughout the recruitment and employment process.
- Economic and social reforms, combined with awareness and education initiatives, can significantly enhance the well-being and empowerment of Nigerian migrant workers. Ensuring access to adequate health care, safety measures, and social security benefits, along with enforcing standards for worker accommodations, would address the fundamental needs of workers and improve their quality of life.
- Educating employers on their legal responsibilities and promoting cultural sensitivity can reduce discrimination and improve employer-employee relationships.
- Empowering workers through rights awareness programs and skill development initiatives can enhance their ability to advocate for themselves and improve their career prospects.
- International collaboration and advocacy are also vital, as aligning national labor laws with International Labour Organization standards and fostering regional cooperation among Gulf Cooperation Council countries can promote global standards for fair treatment and share best practices for effective reforms.

By adopting these comprehensive and coordinated efforts, the Kafala system can be reformed to ensure a more just and equitable environment for migrant workers in the GGC countries.

## SUMMARY AND CONCLUSION

This study presents an interesting yet challenging theme in global migration studies. The migrant labour governance mechanism of the GGC countries, popularly known as the Kafala has been a subject of intense scholarly interrogation, and this study, uncharacteristically, discusses the Nigerian dimension to the issue. Traditionally, the Gulf States were not primary destinations for migrants or refugees. However, recent political instability and conflicts, such as the Arab Spring, have led to increased migration to the region. Economic opportunities have also attracted migrants to the Gulf States, leading to a reinforcement of the labour governance regime. Nigeria's dynamic migratory culture, characterized by a historical pattern of emigration driven by various factors such as economic prospects, ethnicity, political stability, and social mobility, has seen, in recent years, significant orientation towards the GGC countries, with cartels and their networks facilitating illegal migration through established corridors.

Meanwhile, as shown in the study, the Kafala's operational mechanisms, including its lopsided control and regulatory frameworks perpetuate cycles of dependency and abuse. The analysis highlights the systemic issues embedded within the Kafala system, such as the lack of legal protections for workers, restricted mobility, and the overall power disequilibrium between sponsors and migrant workers. These factors collectively contribute to the plight of Nigerian migrant workers, exacerbating their vulnerability and limiting their ability to seek redress or improve their working conditions.

In conclusion, this study provides valuable insights into the operations of the Kafala and its impact on Nigerian migrant workers, revealing how constructed, deeply entrenched and nourished structural issues within evolving political and economic landscapes across the GGC countries perpetuate their vulnerability and exploitation. The findings underline the urgent need to institute region-wide, comprehensive and systemic reform of Kafala to address the power imbalances and legal

deficiencies inherent in the labour governance mechanism. Efforts to improve the social conditions under which Nigerian migrant workers operate in most GGC countries should involve a comprehensive re-evaluation of Kafala, including enhanced legal protections, better enforcement of labor rights, and more equitable regulatory frameworks. Addressing these systemic issues would alleviate the living conditions of Nigerian migrant workers and ensure a fairer and more humane labor migration system. The study also recommends enhanced international cooperation and advocacy to drive the reforms and ensure that the rights and well-being of migrant workers are not sacrificed at the altar of economic growth and development of GGC countries.

## NOTES

Adejumoke, A., Ikwuyatum, G., & Abejide, O. (2008). *Dynamics of International Migration in Nigeria*. Ibadan: African Perspectives on Human Mobility Programme, University of Ibadan

Alzharani, M. M. (2014). The System of Kafala and the Rights of Migrant Workers in GCC Countries - With Specific Reference to Saudi Arabia. *European Journal of Law Reform* (16), 2

Amnesty International. (2019). *Qatar: All Work, No Pay: The Struggle of Qatar's Migrant Workers for Justice*. Qatar: All work, no pay: The struggle of Qatar's migrant workers for justice - Amnesty International

Babar, Z.R. (2020). Understanding Labour Migration Policies in the Gulf Cooperation Council Countries. In: Rajan, S.I., Oommen, G.Z. (eds) *Asianization of Migrant Workers in the Gulf Countries*. Springer,

Singapore. [https://doi.org/10.1007/978-981-32-9287-1\\_3](https://doi.org/10.1007/978-981-32-9287-1_3)

Bales, K. (1999). *Disposable People: New Slavery in the Global Economy*. University of California Press.

Banulescu-Bogdan, N., & Fratzke, S. (2015). *Europe's Migration Crisis in Context: Why Now and What Next?* Migration Policy Institute. Retrieved August 21, 2017

from <http://www.migrationpolicy.org/article/europe%E2%80%99s-migration-crisis-context-why-now-and-what-next>

Beaugé, G. 'La kafala: unsystème de gestion transitoire', *Revue européenne des migrations internationales* 2, no. 1 (1986): 109–22.

Cox, R.W. (1989). Production, The state and changes in the world. In Ernst-Otto C. & .Rosenaueds, N. (eds) *Global changes and theoretical challenges: Approaches to world politics for the 1990s*. Lexington Books. (pp 200-223).

El-Wafa, Prof Ahmed. (2009) "the Rights to Asylum between Islamic Shari'ah and International Refugee Law: A Comparative. UNHCR

Fernandez, B. (2021). Racialised institutional humiliation through the Kafala. *Journal of Ethnic and Migration Studies*, 47(19), 4344–4361. <https://doi.org/10.1080/1369183X.2021.1876555>

Human Rights Watch. (2014). I Already Bought You: Abuse and Exploitation of Female Migrant Domestic Workers in the United Arab Emirates. "I Already Bought You": Abuse and Exploitation of Female Migrant Domestic Workers in the United Arab Emirates | HRW

Human Rights Watch. (2020). I Already Bought You: Abuse and Exploitation of Female Migrant Domestic Workers in the United Arab Emirates. Retrieved from Human Rights Watch.

International Labour Organization. (2020). Labour migration in the Arab States: Issues of inclusion and exclusion.

International Labour Organization.(2021). Digitalization to Promote Decent Work for Migrant Workers.

International Labour Organization.(2021). Gendered impacts of COVID-19 on migrant workers in Asia and the Pacific.

IOM Migration Reports on Nigeria, 2022

LAWAL Olawale, (2020), "The roles of tradition and culture in the application of refugee and asylum laws In Germany And Saudi Arabia", *International Journal of Social Science and Economic Research*, Vol. 5, Issue 4,Pp. 960-970

Lian, K.F., Hosoda, N., Ishii, M. (2019). Introduction: Migrants in the Middle East and Asia. In: Lian, K., Hosoda, N., Ishii, M. (eds) *International Labour Migration in the Middle East and Asia*. Asia in Transition, vol 8.Springer, Singapore.[https://doi.org/10.1007/978-981-13-6899-8\\_1](https://doi.org/10.1007/978-981-13-6899-8_1)

Little, R.. (1985). Structuralism and neo-realism..in Margot L. & Groom A.J.R. ,eds, *International relations:;A handbook of current theory* London : France Pinter (p.76) .see also Olson, W.C. & Groom, A.J.R. (1991). *International relations then and now: Origin and trends in interpretation*.London : Harper Collins Academic (pp 222-225).

Longva, A. *Walls Built on Sand: Migration, Exclusion, and Society in Kuwait* (Boulder: Westview Press, 1999), 78.

McNally, D. (2010). *Global Slump: The Economics and Politics of Crisis and Resistance*. PM Press.

NAPTIP (2021). *Data Analysis by Research and Programme Development Department pdf*

Omar HeshamAlShehabi (2019): *Policing labour in empire: the modern origins of the Kafala sponsorship system in the Gulf Arab States*, *British Journal of Middle Eastern Studies*, doi: 10.1080/13530194.2019.1580183

Palmer, D. & Perkins, C. (2005.) *International relations*. (3rd ed.). Delhi A.I.T.B.S Publishers

Pax-List, VIE-LOS-BJL, 2019.

The Washington Institute for Near East Policy (2024, March 31) "Understanding the Gulf State" <https://www.washingtoninstitute.org/policy-analysis/understanding-gulf-states>

Tsogas, George (January 1, 1999). "Labour standards in international trade agreements: an assessment of the arguments". *The International Journal of Human Resource Management*. 10 (2): 351–375. doi:10.1080/095851999340594. ISSN 0958-5192. S2CID 154317237, Retrieved June 4, 2024

United Nations Development Programme.(2020). *Human Development Report 2020*.

United Nations.(2019). *International Migration Report 2019*.

Varma S.P (1996). *Modern Political Theory*. New Delhi :Vikas Publishing House.

Wendt, A. & Duvall, R. (1989) *Institution and international order*. In Ernst-Otto C. & .Rosenaueds, N. (eds) *Global changes and theoretical challenges: Approaches to world politics for the 1990s*. Lexington Books. (pp 414-439)

World Bank Group (2016). *Migration and Remittances: Recent Developments and Outlook*. Migration and Development Brief 26. April. World Bank Document

World Bank. (2020). *Migrant Workers in the Middle East and North Africa: Regional Dimensions and Strategic Responses*.

Zahra M. (2019). *The Legal Framework of the Sponsorship Systems of the Gulf Cooperation Council Countries: A Comparative Examination*. *Gulf Labour Markets and Migration (GLMM)*, No. 4.GLMM\_EN\_2019\_04.pdf (grc.net)