

The *Kafala* System in the Gulf: Reform, Reality, and Rights of Migrant Workers

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Policy Brief Series No. 204 (2026)

1. Introduction

The *Kafala* system is a way that countries in the Middle East control migration. It ties a migrant worker's ability to live and work in a country to a specific citizen or company, known as the *kafil*.¹ This system has a long history, originally based on traditions of hospitality, but it has become a strict way for the government to control labour.² In this system, the government gives private citizens the power to decide who can enter, stay and leave the country. The *kafil* has complete control over the worker, in an arrangement that treats migrant workers like commodities, rather than people with autonomy, dignity, and rights. As such, the government is essentially creating a system of dependency, where workers are completely at the mercy of their *kafil*.³

Though primarily linked to the Gulf Cooperation Council ('GCC') countries, the *Kafala* (sponsorship) system has long been in practice within several other Middle Eastern jurisdictions including Saudi Arabia, Qatar, the United Arab Emirates ('UAE'), Kuwait, Bahrain, Oman, Jordan, and Lebanon. Though all these states have witnessed labour reforms over the last 10 years, it is a known fact that there are still significant gaps in accountability, especially regarding domestic workers, passport confiscations, labour mobility, charges of 'absconding', and difficulties with exiting the host country. To cite one example, the Qatari Law No. 21 of 2015 abolished parts of the sponsorship system and was further amended by Law No. 13 of 2018 to make it easier for workers to exit their current employment situation.⁴ Similarly, Saudi Arabia launched the Labour Reform Initiative ('LRI') in 2021 which enables some migrant workers to change jobs as well as exit the country electronically without the permission of their employer.⁵ In addition to this, the UAE enacted Federal Decree-Law No. 33 of 2021 to regulate the labour relationship between employees and employers in the private sector.⁶ Critics maintain that despite these measures, labour reforms undertaken by many Middle Eastern states are only partially effective and have not done much for protecting domestic workers, who generally are not covered by standard labour laws.⁷ As seen recently, reports and

studies by human rights organizations have shed light on issues of forced labour, restrictions on movement and punitive measures taken against migrant workers trying to leave their employers.⁸ However, this brief is based on the author's first-hand experience in Saudi Arabia during February–March 2025.

The huge difference in power between *kafils* and workers in these situations creates a big problem. It turns a normal job into a situation where workers are forced to do what they are told. The main way this control is exerted is through a strict rule that does not let workers change jobs or leave the country without getting permission from their sponsor first. If a worker leaves a bad employer without this permission, they are immediately considered to be 'absconding' and can be arrested, detained and deported.⁹ This is treated as a crime, not just a labour dispute. In some places, workers cannot even leave the country without their employer's approval, due to exit visa requirements. And to make things worse, employers often take away workers' passports, which means they have no way to escape from being exploited. This trap is what turns this labour system into a form of modern slavery, which goes against international laws that prohibit forced labour.

The way things are set up is not just a problem on paper, it is something that millions of workers deal with every day. When I was doing research in the Middle East, I met with migrant workers who were living in temporary shelters and labour residencies. They told me their stories, and it was clear that there is a big gap between what the labour laws say and what really happens. The workers said that *kafils* have a lot of power over them. One worker told me he had to work really long days in very hot weather, or else he would get in trouble for trying to leave. A worker who took care of a home told me that when she got to the airport, her phone and passport were taken away, and so she was all alone.¹⁰ These stories show that the *Kafala* system is set up in a way that allows employers to treat workers badly without getting in trouble, and it essentially renders workers captive labourers.

These findings build directly upon the core arguments raised in my foundational article, "Kafala System and Migrant Workers: A Critical Analysis of Labor Exploration in the Middle East".¹¹ That study argued that the system's abuses are not isolated cases of cruel employers, but are predictable results of a legally sanctioned hierarchy. This brief ex-

March 2022.

¹ International Labour Organization ('ILO'), "Sponsorship Reform and Internal Labour Market Mobility for Migrant Workers in the Arab States", 23 July 2023.

² Human Rights Watch ('HRW'), "Abuse and Exploitation of Female Migrant Domestic Workers in the United Arab Emirates", 22 October 2014 (<https://www.legal-tools.org/doc/uhc3t6nz/>).

³ See Gulf Labour Markets and Migration and Population Programme and Gulf Research Center, "The GCC States' Blinkered View of Labour Reforms", 2024.

⁴ See Qatar, Law No. 21 of 2015 Regulating the Entry, Exit and Residence of Expatriates, 27 October 2015 (<https://www.legal-tools.org/doc/cebszq5z/>); Qatar, Law No. 13 of 2018, 4 September 2018 (<https://www.legal-tools.org/doc/lma6tzxo/>).

⁵ "Labor Reform Initiative", Pakistani Overseas Community, Facebook, 4 November 2020.

⁶ The United Arab Emirates, Federal Decree-Law No. 33 of 2021, 20 September 2021 (<https://www.legal-tools.org/doc/eia2e1qa/>).

⁷ See Saudi Info, "Good news for domestic workers in Saudi Arabia", YouTube, 4

⁸ Katie McQue, "Kenyan single mothers 'trapped' in Saudi Arabia as exit visas denied to children born outside marriage", *The Guardian*, 18 December 2024; Katie McQue, "50 women talk about life as a domestic worker under the Gulf's kafala system", *The Guardian*, 24 April 2024.

⁹ Business and Human Rights Centre ('BHRC'), "NGO launches campaign for GCC states to abolish absconding charges brought against workers by employers", 20 November 2020.

¹⁰ Author's fieldwork conducted in Saudi Arabia, February–March 2025.

¹¹ Muhammad Aslam, "Kafala System and Migrant Workers: A Critical Analysis of Labor Exploration in the Middle East", in *Journal of Applied Linguistics and TESOL*, 2025, vol. 8, no. 1, pp. 1549–1557.

pands on that analysis by examining how these structural inequalities have resisted national reform efforts. By connecting the legal mechanics of the *Kafala* system with the lived experiences gathered during my field research, this brief lays the groundwork for evaluating international accountability mechanisms capable of breaking this cycle of exploitation.

2. Systemic Excesses and Human Rights Violations

The structural imbalances inherent to the *Kafala* system manifest in everyday practices that consistently cross the threshold into severe human rights violations. These abuses are not rare or exceptional anomalies; rather, they are structural features of an architecture that strips workers of their market value and legal protections.¹² This section analyses three distinct, overlapping pillars of abuse: systemic economic coercion, severe restrictions on physical liberty, and the highly gendered exploitation of female domestic workers. Each analysis combines international human rights law frameworks with empirical data collected during my field visits and consultations with affected labourers in the region.

2.1. Wage Theft and Economic Coercion

Wage theft stands as the most widespread mechanism of economic coercion within the *Kafala* system, functioning as a deliberate strategy to restrict worker mobility and maximize employer profits.¹³

This abuse starts even before a worker gets to the country they are moving to. It happens when recruitment agencies in their home country charge them huge fees to find work. These agencies are not always regulated, so they can charge whatever they want. As a result, many migrant workers have to take out big loans with really high interest rates just to pay these fees.¹⁴

Upon arrival in the Middle East, workers find themselves in deep debt bondage. They are forced to allocate their income from the first several months, and sometimes years, entirely towards servicing these debts. This initial financial entrapment leaves them highly vulnerable, making it practically impossible to leave or challenge an employer, out of fear of immediate financial ruin.

I met many construction workers in the Gulf region who had not been paid in months, some even in four to eight months. One worker told me that his boss was using delayed payments as a way to control them. “If we stop working or complain, our boss threatens to cancel our visas and send us back home without paying us anything. We’re stuck working for free, just hoping we might get paid next month.”¹⁵ This is really tough on workers, and they have to rely on food donations from friends and the community just to get by, which means they lose all control over their own money.

This kind of pressure on workers is made worse because they cannot get help from their country’s courts. Some countries have started using electronic Wage Protection Systems (WPS) to track salary payments, but these systems have major flaws.¹⁶ Employers often find ways to get around these systems by saying they paid workers, but then taking the money back in cash, or just accepting the small fines for not following the rules. When workers seek help from local courts in the host country, they face many obstacles that make it almost impossible for them to get a fair hearing.

In February and March 2025, while doing fieldwork in Saudi Arabia, I also met various migrant workers whose stories mirrored the ongoing truths of the *Kafala* system. An interesting incident was outside Masjid al-Haram. When the time of prayers was over, I saw a Pakistani employee Ishaq Khan of Khyber Pakhtunkhwa sitting with his face in his hands and crying alone. When I asked him what happened, he told me that his *kafil* refused to renew his residency permit unless he paid 2,000 Saudi Riyals. Khan said he had already reached out to the Pakistani Embassy multiple times in the last six months, but still got no response. He told me that he was planning to surrender himself to the Saudi police as

¹² *Ibid.*

¹³ Benjamin Harkins, “The Case for an Increased Focus on Wage Theft Against Migrant Workers”, in *Anti-Trafficking Review*, 2020, no. 15, pp. 42–62.

¹⁴ HRW, 2014, see *supra* note 2.

¹⁵ Author’s fieldwork conducted in Saudi Arabia, February–March 2025.

¹⁶ See ILO, “Wage Protection Systems in the Gulf Cooperation Council Countries: A Regional Analysis”, 19 November 2025 (<https://www.legal-tools.org/doc/x1s8d54l/>).

he had no money to pay for an air ticket to return home and, without any legal status, he would be deported back to Pakistan later. His story was a testament to the vulnerability and dependency of many migrant workers even in the wake of recent reforms in the law.¹⁷

If cases are registered at all, courts often take a long time to reach resolution, sometimes months or even years. This is a big problem for workers of the *Kafala* system, since the system does not let them seek another job whilst their case is ongoing. Most workers cannot afford food or a place to live, much less the costs of going to court, and thus end up giving up their claims. Sometimes, they might get some money from an out-of-court settlement, but then are sent back home with almost nothing gained.¹⁸ Courts do not really ensure fairness or justice, but rather cause fatigue amongst complainant workers, driving them to give up. Impunity follows those supporting the *Kafala* system.

2.2. Restriction of Personal Liberty and Forced Labour

The transformation of a standard contractual relationship into a system of forced labour relies heavily on restricting personal liberty. The primary tool used to enforce this control is the widespread, illegal confiscation of passports by the *kafil* immediately upon a worker’s arrival.¹⁹ Employers view the physical possession of the workers’ passport as an absolute property right and a necessary guarantee against financial loss or unauthorized flight.

The practice remains an unabated reality, despite a number of authorities in various Gulf countries officially renouncing it. In the UAE, for instance, the Dubai Court of Cassation has twice ruled against the confiscation of workers’ passports, both confirming that passports were personal documents which could not be retained except by court order.²⁰ The UAE’s Ministry of Interior similarly pronounced the confiscation of passports illegal in an administrative decision made in 2002.²¹ Article 8 of Law No. 21 of 2015, which regulates the entry and exit of expatriates into Qatar, forbids the confiscation of workers’ passports unless the worker gives his or her consent. Kuwaiti authorities have similarly declared on many occasions that passport confiscation was prohibited by Kuwaiti law, though enforcement has been lax.²² Credible reporting continues to highlight the prevalence of this practice in Saudi Arabia, Qatar, Kuwait, and the UAE.²³

During my field visits, workers often told me that their passports were taken at the airport or the company’s main office. Without an identity document, a migrant worker cannot rent an apartment, open a bank account, access public healthcare, or walk through public spaces without the constant fear of arrest. This entrenches dependency on the employer, the only one who can sort all problems. This restriction of movement is formally reinforced by the state through the criminalization of ‘absconding’ (*khuruuj*). Under the laws of most *Kafala* jurisdictions, if a worker leaves their designated workplace without the explicit written consent of their *kafil*, the employer can file an official administrative report for absconding. The state responds to this notification not by investigating the underlying reasons for the worker’s flight – such as physical abuse or unpaid wages – but by treating the worker as a criminal fugitive.

Issuing of an absconding charge automatically cancels the legal residence of the worker and he is subject to immediate arrest, indefinite detention and eventual deportation. In informal migrant shelters, I met with many workers who were living in hiding, as a result of the employers having filed retaliatory absconding charges against them for complaining about the unsafe working conditions. In this sense, this weaponization of immigration law is a transformation of the state’s police force into an instrument for the *kafil*’s use. It has the capability to coerce workers into forced labour by putting them in jail if they do not comply,

¹⁷ Author’s fieldwork conducted in Saudi Arabia, February–March 2025.

¹⁸ See ILO, “Access to Justice for Migrant Domestic Workers in Lebanon”, 13 June 2014 (<https://www.legal-tools.org/doc/79fk8okg/>).

¹⁹ Amnesty International, “The State of the World’s Human Rights, 2022/23: Saudi Arabia”, 2023, p. 317 (<https://www.legal-tools.org/doc/106imosy/>).

²⁰ HRW, 2014, see *supra* note 2.

²¹ Amira Agarib, “Holding Employees’ Passports Illegal”, *Khaleej Times*, 4 April 2015.

²² Yasin Kakande, “Where are our passports?”, *MRRORS*, 5 January 2016.

²³ McQue, April 2024, see *supra* note 8.

potentially qualifying as human trafficking, forced labour, and practices equivalent to slavery under international law.

Increasingly, this is the position taken by legal scholars and international organizations.²⁴ According to Article 3 of the Palermo Protocol, trafficking of persons is the recruitment, harbouring, or reception of persons by means of coercion, abduction, fraud, deception, abuse of power or authority, or abuse of vulnerability, for the purpose of exploitation, which includes exploitation through forced labour, servitude, or slavery. Scholars studying the governance of migrant labour in the Gulf region have noted that the passport confiscation, limitations on movement, debt bondage, threat of detention, and the dependence of worker immigration status on employers are factors that make up the characteristics of forced labour identified by the International Labour Organization ('ILO').²⁵ More recent commentary has also noted that the system of dependency present in the *Kafala* system corresponds to that of servitude and modern forms of slavery that are explicitly prohibited in the 1926 Slavery Convention, 1956 Supplementary Convention on the Abolition of Slavery, and ILO Forced Labour Convention No. 29. I argue that, instead of instances of abusive behaviour on the part of employers, such conditions emerge as a result of an inherently imbalanced legal regime.

2.3. Gendered Dimensions and Exploitation of Female Domestic Workers

Structural violence in the *Kafala* system is most prominently felt in the way the system treats female domestic workers. There are millions of women working across the Middle East, as live-in maids, nannies and caregivers, from South Asia, Southeast Asia, and parts of Africa. They are structurally vulnerable; they work in the private, domestic domain.²⁶ A female domestic worker is mostly isolated within the private home of her employer, compared to other workers in the industry or construction sector who are accommodated in communal camps. This physical separation severs her ties from outside support networks, embassies, and the other staff members, and leaves her virtually under the absolute control of the household, all the time.

This extreme isolation often allows for extreme psychological, physical and sexual abuse. As part of my field research, I went to special crisis shelters for escaping domestic workers in the offices of civil society organizations as well as in sending state embassies. The evidence gathered there was very disturbing. Women shared stories of their cell phones being taken from them on their first day of work and how they were denied food and were forced to work 15–20 hours without a day off.²⁷

Even more seriously, the domestic sphere is one of absolute impunity in which sexual violence can occur. One young domestic worker recounted tearfully to the investigators about the systematic abuse she endured from her employer over the period of several months: "He threatened me, saying that if I cried or ran away, he would tell the police that I stole gold from the house and get me thrown in jail; I had no phone, no passport, and no one to tell".²⁸ This type of threat connecting a claim of physical or sexual abuse with a retaliatory charge of theft or absconding is a systemic ploy that is designed to silence victims and keep them fully compliant.

This weakness is even formalized in the history and practice of excluding domestic work from regular national labour laws.²⁹ Domestic worker laws have been recently enacted in specific Middle Eastern countries, but are still poorly drafted compared to regular labour laws.³⁰ They often have weak or absent monitoring and enforcement systems, and inspectors cannot typically enter homes without judicial warrants, which are hard to obtain and rarely issued. As a result, the state clearly abdi-

²⁴ See ILO, "ILO Indicators of Forced Labour", 1 October 2012 (<https://www.legal-tools.org/doc/u4r8mngg1/>).

²⁵ "Global union files complaints against Saudi with the ILO; accuses the Kingdom of complicity in forced labour", *MRRORS*, 9 June 2024.

²⁶ United Nations, Office of the High Commissioner for Human Rights, "Protecting and Promoting the Human Rights of Migrant Domestic Workers in an Irregular Situation", 2015 (<https://www.legal-tools.org/doc/7ace3f/>).

²⁷ Author's fieldwork conducted in Middle East, February–March 2025.

²⁸ *Ibid.*

²⁹ Stuart Rosewarne, "The ILO's Domestic Worker Convention (C189)", in *Global Labour Journal*, 2013, vol. 4, no. 1, pp. 1–25.

³⁰ Audrey Everist, "Working for Labor Laws to Protect Domestic Workers in the Gulf", in *International Peace Institute*, 15 March 2018.

icates its responsibility to safeguard these workers; they are not given the protection of law and are thus put at risk of being exploited by others.

3. The Current State of Domestic Reforms

In response to sustained international pressure, high-profile geopolitical scrutiny and targeted campaigns by international civil society, several Middle Eastern states have taken steps to reform the *Kafala* system in their laws in a way that is intended to modernize or at least remove its more problematic characteristics. The biggest shifts have been in members of the GCC. These changes were brought about, for example, by Qatar ahead of the 2022 FIFA World Cup, when landmark laws were introduced officially removing the requirement for migrant workers to have an employer-approved exit permit to leave the country and a No Objection Certificate ('NOC') to change employers.

Likewise, as mentioned, Saudi Arabia's LRI enabled workers to have greater labour mobility and autonomy on their exit and re-entry through digital platforms.³¹ The UAE also implemented standard five-year flexible and self-sponsored residency visa programs and concomitant changes to the federal employment laws. These legislative changes are, in principle, an unprecedented step towards detaching a worker's legal residence from the unfettered authority of a single *kafil*.

4. The Implementation Gap

These broad legislative statements, however, leave a huge implementation gap. Failures are primarily due to entrenched bureaucratic resistance, lack of independent state enforcement, and the active evasion of laws by employers. In this area, for example, I found that although a worker has the legal right to transfer occupation without the need of an NOC, this process is highly unfavourable for the worker.³²

Transferring jobs is a common target of employers' administrative evasions. One of the more frequent approaches is to promptly file bogus 'absconding' charges or theft accusations once an employee makes a transfer request on official ministry portals online. These complaints are filed with the state, and the worker's legal status thereafter becomes 'frozen' as the database is automatically processed by the state. This places the worker on the frontline of being sent away without being given a chance to check the legality of the transfer request by the labour ministry.³³

Moreover, the state system routinely fails to enforce the laws enacted. Labour ministries are still very under-resourced and labour inspectors are poorly trained and are not given sufficient resources or political backing to punish influential domestic businesses or citizens who publicly break the new legislation.³⁴ In reality, the structural and cultural force of the *kafil* has not been eradicated, but only transferred to informal and digital environments. Employers still take away passports and blackmail workers for huge sums of money for them to inform the government that they want to have their passport returned. While the legal structure has been altered, the power politics of the *Kafala* system have not, and, as a result of this, these public relations efforts are not working on behalf of the majority of vulnerable migrant workers.

5. Evaluating the Accountability Response: International Frameworks and State Responsibility

With domestic reforms being ineffective, there is a need to review frameworks of international responsibility. As mentioned above, ILO conventions and various international human rights conventions have generally been the instruments used to question the *Kafala* system in the past. The authority of international bodies related to core labour standards, such as the 1930 Forced Labour Convention, to enforce such standards is very limited, though concerned Middle East states are often signatories. The ILO's supervision is based mainly on non-binding representations, complaints and technical co-operation programmes. It promotes legislation but does not have the mechanism to effectively deter states from not enforcing their own legislation.

³¹ Saudi Arabia, "Labor Reform Initiative (LRI) Services Guidebook", 5 November 2020 (<https://www.legal-tools.org/doc/55y8hqhu/>).

³² ILO, "Four Years of Labour Reforms in Qatar", 1 November 2022.

³³ BHRC, "Migrant-Rights.org finds widespread evidence workers are still not able to change jobs, despite reform", 27 October 2021.

³⁴ HRW, "Saudi Arabia: Labor Reforms Insufficient", 25 March 2021.

Likewise, though states are subjected to regular criticism by United Nations treaty bodies (such as the Committee on the Elimination of Racial Discrimination), these do not have direct enforcement powers.³⁵ This results in the existence of structural non-compliance whereby states formally embrace international labour and human rights provisions but do not ensure their enforcement, thus allowing for exploitation of workers to continue.

An in-depth evaluation of state responsibilities is necessary as a consequence of this enforcement imbalance, not only in the receiving, but also in the sending, state. According to the international law of state responsibility, the receiving state is directly responsible for not taking adequate steps for the prevention, investigation and punishment of human rights violations by private employers (*kafils*) operating in its territory. Absconding charges have become part of state police practices and there is virtually no accountability for passport confiscation.

On the other hand, sending states have economic links with South Asian and African countries which are highly dependent on foreign remittances. This financial dependency renders them unable to wield any leverage. The response from sending states is to try to safeguard their citizens, including through unilateral travel restrictions for domestic workers. However, workers often just redirect to other less regulated labour markets. The situation undermines the collective bargaining process and calls for a move away from voluntary compliance and to legally binding accountability.

6. The Threshold of Enlistment in International Criminal Law

International criminal law is turning to increasingly be a source of inspiration for international human rights scholars and legal experts, due to the inadequacy of traditional labour regimes. One of the most pressing issues is whether the worst and most systemic abuses of the *Kafala* system amount to crimes against humanity as defined in Article 7(1)(c) of the Rome Statute of the International Criminal Court ('ICC').

International law considers enslavement to be the use of any or all of the powers inherent in the right to own a person. Importantly, in the seminal *Kunarac* case, the International Criminal Tribunal for the former Yugoslavia ('ICTY') determined that not only was chattel slavery a historical institution, but so was ownership.³⁶ It is defined by certain signs of control: restricting movement, controlling the physical environment, psychological oppression, forced labour, withholding compensation, and systematic threat or physical force.

When the illegal confiscation of a passport comes together with spatial imprisonment, economic entrapment in the form of wage withholding, and a constant fear of arrest for absconding by the state, total control over the worker is achieved.

These practices are widespread, organized and incorporated into state-sanctioned legal frameworks, such as to qualify as a systematic attack against a civilian population. There is thus a pressing need to have a specialized independent regional human rights tribunal in the Middle East, given also that international political processes have been stymied in their ability to refer cases to the ICC. Such a body would possess the distinct responsibility of settling transnational labour disputes and legally enforcing accountability among corporations and state actors for systemic exploitation.³⁷

³⁵ See Global Detention Project, "United Arab Emirates" (available on its web site).

³⁶ ICTY, *Prosecutor v. Kunarac et al.*, Trial Chamber, Judgement, 22 February 2001, IT-96-23-T& IT-96-23/1-T (<https://www.legal-tools.org/doc/fd881d/>).

³⁷ International Commission of Jurists, "The Arab Court of Human Rights: A Flawed Statute for an Ineffective Court", 2015 (<https://www.legal-tools.org/doc/kowvp1d/>).

7. Actionable Policy Recommendations: Immediate Reforms and Enforcement Mechanisms

Host states must completely uncouple the legal status of migrant workers from their individual employment contracts, in order to break down the structural architecture of the *Kafala* system. Immigration control should be brought back under the administration of the state, and the power of employers to cancel visas, prevent transfers of jobs, and to restrict a worker's movements into and out of the country should be eliminated. Most importantly, the penalty for 'absconding', applied in these circumstances, should be removed. Leaving the workplace should be viewed exclusively as a civil contract dispute and workers who leave abusive work situations should not be immediately detained and deported, but protected legally.

The legislative separation will be useless without independent, well-funded enforcement mechanisms. The host states should have specialized, independent labour inspection units with a clear law allowing them to enter industrial establishments and private homes without the permission of the employer. The units need to be supported by quick-track labour tribunals, independent of the normal immigration control. In order to make these tribunals accessible, they need to offer free legal assistance, translation in multiple languages, and the right for the employees to obtain alternative work during the pendency of the arbitration proceedings.

8. Transnational Co-operation

Another aspect of reform is changing from one-sided, weak protectionism to transnational, multilateral co-operation. Sending and receiving states should replace non-binding memoranda of understanding with bilateral enforceable agreements on labour which include harmonized minimum wage, collective employment contracts and rest periods.

Such transnational systems need to ensure that all recruitment costs are fully paid by the employer and no worker would be indebted prior to arrival. Sending state embassies can be connected to host state labour databases and allowed to actively track the conditions of the contracts, through digital consular tracking systems. A structural integration is needed to close this implementation gap and ensure that migrant workers enjoy fundamental human rights throughout the region, free from corporate impunity.

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ISBN: 978-82-8348-309-3.

TOAEP-PURL: <http://www.toaep.org/pbs-pdf/204-aslam/>.

LTD-PURL: <https://www.legal-tools.org/doc/m34861z4/>.

Date of publication: 29 May 2026.



Torkel Opsahl Academic EPublisher (TOAEP)

Via San Gallo 135r, 50129 Florence, European Union

URL: www.toaep.org



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