

Kafala Sponsorship Reforms in Saudi Arabia: Converging Toward International Labor Standards

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In recent decades, the Gulf states' *kafala*⁽¹⁾ sponsorship system (henceforth “*kafala*”) has been systematically scrutinized due to widespread violations of international labor and human rights conventions and norms.⁽²⁾ While some Gulf states have previously attempted to reform their *kafala*, Saudi Arabia has boldly announced comprehensive labor reforms in October 2020 by rigorously imposing strict and clear Islamic rules, which are principally rooted in fair and just treatment of migrant labor.⁽³⁾ These particular *kafala* reforms are in line with Saudi Arabia's economic and political interests, as well as complementary to its Islamic religious principles, which broadly outline moral,

(1) The *kafala* system or sponsorship system is used to monitor migrant laborers, working primarily in the Gulf Cooperation Council member states' construction and domestic sectors. It ties migrant workers' employment visas to their employers. Under this system, an employer assumes responsibility for a hired migrant worker and must grant explicit permission before the worker can enter Saudi Arabia, transfer employment, or leave the country.

(2) Andrew M. Gardner, *City of Strangers: Gulf Migration and the Indian Community in Bahrain* (Ithaca: Cornell University Press, 2010).

(3) Maqbool R. al-Rayes, *huquq al-'ummal bayn al-Islam wa-l-ma'ayir ad-dawliyyah wa-l-mal* (Riyadh: King Saud University Press, 2003).

religious, and ethical laws and norms related to contractual labor relations for workers.⁽⁴⁾ In light of the impact of the COVID-19 pandemic, these labor reforms are not only integral to the Saudi Vision 2030 but also are related to the Saudi state's overall domestic and foreign policy objectives in the long run. This commentary examines those reforms, considering their domestic logic, local resistance, the consequences to its long-term economic growth and development, and Saudi's international labor commitments.

Elements of *Kafala* Reforms in Saudi Arabia

Saudi Arabia's Ministry of Human Resources and Social Development published its Labor Reform Initiative on November 4, 2020, under the National Transformation Program to organize the labor market. The new state initiative is intended to "enhance the contractual relationship between workers and employers, and aims to support the Ministry's vision of establishing an attractive job market, empowering and developing labor competencies and developing the work environment in the Kingdom."⁽⁵⁾ In practice, this amounts to a comprehensive institutional reform of the country's *kafala* system. The Labor Reform Initiative fundamentally addresses specific labor mobility policy elements of the system. First, foreign workers will now have the ability to change jobs without having to seek their employer's consent once they have completed their contractual agreement. This new reform promotes labor mobility and rights of foreign workers across sectors but it is also in line with the Saudi state's attempt to increase labor market competitiveness in the long run. Second, similar to most Gulf countries, the Saudi state now allows foreign workers to travel outside the country without their employer's permission (often known as the issuance of exit and re-entry visas) which most rights groups heavily criticize the Saudi state. This new reform signals Saudi Arabia's convergence with both Gulf and international standards, and further promotes foreign workers' labor mobility and rights. These key elements of the Saudi Labor Reform Initiative will positively impact millions of foreign workers living and working in Saudi Arabia, but also have the capacity to increase Saudi labor market's competitiveness, productivity, and attractiveness in line with Saudi Vision 2030.

Domestic Logic

Saudi Arabia's domestic labor reforms, are a crucial step toward achieving economic diversification and aligning with international standards and constitute the government's growing attempt to reform the 'old traditional way' of governing the *kafala* systems and engage in a more contemporary way rooted in meaningful, multilateral cooperation with international partners in a globalized context. These *kafala* reforms highlight its growing attempt to enhance its local labor governance and foreign policy image. They also reflect the country's increasing zeal to modernize its labor market mobility systems.

(4) al-Rayes, *huquq al-'ummal*.

(5) Saudi Gazette, "Executive Regulations on Labor Reform Initiative in the Offing," December 3, 2020, <https://saudigazette.com.sa/article/601006>.

Saudi Arabia's domestic logic regarding these reforms is not only based on its Vision 2030 agenda and other strategic economic goals; it is also part of a broader attempt to signal the country's growing democratic opening to the multilateralism necessary for engaging in a hyper-globalized world. Strong local opposition (for example, from employers and native citizens) to these domestic labor reforms has intensified, partly due to the potential burden and perceived or actual costs being shifted to employers at a time when the COVID-19 pandemic has strongly disrupted the local economy.

Local Resistance to the Reforms

While these domestic labor reforms confer social, economic, and political benefits on the Saudi state, local resistance to the labor reforms, particularly in the private sector, is particularly strong. Local Saudis acting as sponsors believe that the reform to the *kafala* system is detrimental to the private domestic sector, given the strong negative impact of COVID-19 on the business community. Many Saudi private companies felt uncomfortable with the new restriction on the number of expatriates they can employ; they believed that the recent reforms failed to consider the current labor market context shaped by the COVID19 pandemic. The new contract arrangement of work hours, the right to find a different job once the contract end or if they were not paid their salaries, give excessive rights to expatriate workers, weakening their overall control over the employer-employee relationship in the labor market. In short, while local Saudi employers are not opposing the system itself, they contend that the recent reforms have diminished their control and exerted more expenses on their businesses. They assert that the *kafala* reforms' political timing and context appear to support the state's long-term strategic objectives to increase its regional political, economic, and social status and legitimacy across the Middle East and beyond. They also maintain that the short-term perceived or actual implications of domestic labor reforms could generate higher costs and disorder in the Saudi labor market. Other local Saudi Arabian nationals have publicly expressed their opposition to these reforms, mentioning their adverse consequences, specifically in the worsening context of the COVID-19 pandemic.

The competing domestic logics of various stakeholders—the state, private-sector employers, and nationals—reflect domestic legislative politics' complexity in Saudi Arabia. Saudi Arabia's large expatriate population, which is estimated at around 12 million people, means that the country has to deal with constant labor market reform and, at the same time, ongoing sociopolitical pressure from the international community.⁽⁶⁾ Moreover, the countries from which its migrants originate are seeking more excellent legal protection for their nationals, especially during the pandemic, that would further impact Saudi Arabia's labor migration governance approach, inevitably forcing it to choose between maintaining the status quo and embracing recent labor reforms linked to its long-term economic development and security.

(6) Clemens Chay, "The Post-Pandemic Era in the Gulf: Rethinking Migration and Spatial Policies," *KFCRIS Special Report*, November 2020, 7-8. <https://kfcris.com/en/view/post/315>.

Conclusion

As the *kafala* reforms are scheduled to be enforced in March 2021, Saudi Arabian authorities will have to consider their domestic interests, constraints, and tensions and develop long-term domestic approaches that can effectively balance both labor migration governance agendas and human rights responsibilities. A more evidence-based analysis of Saudi Arabia's *kafala* labor reforms, combined with constructive policy dialogue and engagement, is vital to understanding the multiple long-term effects of such legislative changes on the foreign worker population, local institutions, and Saudi Arabia's diplomatic engagement with countries across the globe.