



"Combating" Trafficking in Persons: An Examination of the Role of the United States in Qatar's Exploitative Guestworker Program

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Mallory O'Malley

“Combating” Trafficking in Persons: An Examination of the Role of the United States in Qatar’s
Exploitative Guestworker Program

A Thesis in the Field of International Relations
for the Degree of Master of Liberal Arts in Extension Studies

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Abstract

Contemporary scholarship contends that guestworker programs are structurally exploitative enabling labor trafficking of vulnerable migrant communities. Such programs are common throughout the globe, though none are as infamous as those with roots in the Persian Gulf. Most notable of the Gulf countries, Qatar imports over 80% of their labor force through their guestworker program known as the Kafala system; a system notoriously beset with human rights abuses. The United States has tapped into this massive labor pool, employing thousands of migrant workers on Department of Defense contracts at Al Udeid Air Base, Qatar, a post they have held since the aftermath of the 9/11 attacks. Through an examination of DoD labor trafficking policy over time, a trend was discovered which unveiled that policy, in most cases, made no mention of the vulnerabilities unique to guestworkers. Therefore, this thesis argues for a shift in policymaking from reactively responding to labor trafficking incidents to proactively combating the sources of labor trafficking, which starts with an understanding of the host country, in this case, Qatar.

Author's Biographical Sketch

Mallory O'Malley is a U.S. Air Force Veteran and 2014 graduate of the United States Air Force Academy. While active duty, Mallory served as a Contracting Officer, deploying to the Middle East, and achieving the rank of Captain before her honorable discharge in 2022. The thoughts and opinions expressed in this paper are her own and do not represent the views of the United States or the United States Air Force.

Dedication

For Nam

Acknowledgments

I want to thank Dr. Asher Orkaby and Dr. Doug Bond for their unwavering support and guidance throughout the thesis process. Their availability to meet, both in person and virtually, was sincerely appreciated and crucial to the success of this research.

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Chapter I.

Introduction

The policy of the United States is to attack vigorously the worldwide problems of trafficking in persons, using law enforcement efforts, diplomacy, and all other appropriate tools. Trafficking in persons is a transnational threat, involves grave violations of human rights, and is an affront to human dignity and the principles for which this country stands. We must combat this trafficking and protect and assist its victims both domestically and globally. It is important that all relevant agencies in the United States Government work together to address this worldwide problem.... Our commitment to eradicate trafficking in persons reflects our values and our responsibility to defend human rights; it is, therefore, a critical element of the foreign policy of the United States.

- President George W. Bush
Presidential Directive/NSPD-22, December 16, 2002

I first met Nam while standing in line at the dining facility at Al Udeid Air Base in Qatar. I held my ID card out while he scanned it from behind a black foldable table. This was a process I, along with approximately 10,000 other U.S. troops deployed here, repeated day after day before meals. There was a certain monotony to it which encouraged robotic interaction with others. But Nam broke through that.

He smiled, greeting me with an overly enthusiastic, “Good Morning Ooo-mall-ee!”, squinting to read the name tag on my camouflage uniform.

Startled into reality, I replied, “Good Morning...and what is your name?”

“Nam,” he replied. Realizing I was holding up the line of hungry troops, I quickly responded, “I’ll remember that, nice to meet you!”. He waved goodbye.

The next time I would see him was later that day, while inspecting one of the migrant labor camps in Doha's industrial area. The industrial area, notorious for its dilapidated buildings, which stand in stark contrast to the city's luxurious skyline, sits just northeast of the base. I was tasked with routine inspection of migrant housing and welfare checks, in line with the U.S.'s attempts to combat trafficking in persons.

Trash lined the dirt roads as we pulled up to one of the migrant housing quarters. Laundry lines were strewn across nearly every window. Stray dogs roamed the streets.

Once inside, Nam showed me his room, shared with three others, their bunk beds lined the walls. A dusty box fan sat in the corner on high. Two of his roommates had hung blankets across their beds in an attempt to block the sunlight which streamed in from the drape-less window. They were asleep in preparation for night shifts.

The bathroom stalls had been locked. As it was explained to me and my team, it was to ensure they were clean for our tour. I asked for them to be unlocked so they could be accessed by the workers.

The showers had holes directly underneath the showerheads, which served as squatting toilets. The kitchen area housed their water purification system. The filters were a bright orange color and didn't appear to have been changed for months. Flies infiltrated every room.

I went from room to room using language cards to determine if the workers had access to their passports and received their paychecks. All of them replied affirmatively, though the housing manager was never out of ear shot.

Over the next six months, I conversed with Nam and learned about his life. Originally hailing from Sri Lanka, he had taken the job to send remittances back to his

family. He wasn't sure how long he would be in Qatar, nor when he could visit home. He was hopeful about the future and proud to be providing for his family.

As the months went by, what were intolerable conditions to me were downplayed by others. I heard phrases like, "in comparison to their home country, these accommodations are like five-star resorts."

Upon return to the United States, I couldn't shake the images and callous attitudes I had witnessed. I began to wonder, "are we doing enough?"

The U.S. has a history of failing to respond to human rights violations of all kinds. Former U.S. Ambassador to the UN and now Administrator of USAID, Samantha Power famously wrote about the U.S.'s failure to respond to genocide,

No U.S. president has ever made genocide prevention a priority, and no U.S. president has ever suffered politically for his indifference to its occurrence. It is thus no coincidence that genocide rages on¹

While Presidential decrees and executive orders have been authored to address labor trafficking, have they measured up? To investigate this question, I've chosen to focus on DoD participation in Qatar's guestworker program as a case study. Qatar serves as a suitable case study given that the U.S. has held a military presence at Qatari air base, Al Udeid, since 2001. This presents a relatively long period of time of which to study the actions and effects of U.S. policy. Over the last 21 years, the U.S. has utilized migrant workers to supplement support operations at Al Udeid, employing them to perform custodial and food service tasks. Qatar's ill-famed guestworker program supplies and

¹ Samantha Power, *A Problem from Hell: America and the Age of Genocide*. (New York: Basic Books, 2002), p. xxi).

regulates the migrant labor pool and has been widely criticized for its exploitative policies.

Over the last decade, Qatar's guestworker program has made headlines due to allegations of labor trafficking and poor working conditions of contracted migrant workers constructing stadiums to support Qatar's hosting of the FIFA 2022 World Cup. This has drawn global attention given the FIFA World Cup is the most watched international sporting event in the world. An investigation by Amnesty International sparked international outrage when it revealed systemic forced labor conditions.² Calls from activist organizations to boycott the games and for FIFA to pay reparations multiplied across the globe.³ Though issues with Qatar's guestworker program pre-date 2010 when they won World Cup hosting rights.⁴ Qatar's labor trafficking woes can be traced back to the importation of workers in response to oil discovery in the 1940s.⁵

For purposes of this thesis, the scope is limited to examining labor trafficking of guestworkers associated with DoD contracts in Qatar. To note, workers on these contracts enter Qatar via its guestworker program and are therefore referred to as guestworkers, an important distinction, which confers a status unlike that afforded to other types of

² Associated Press. "Qatar World Cup Organizers Admit Workers Were Exploited." ESPN. ESPN, April 6, 2022. <https://www.espn.com/soccer/fifa-world-cup/story/4635658/qatar-world-cup-organizers-admit-workers-were-exploited>.

³ "FIFA: Pay for Harm to Qatar's Migrant Workers." Human Rights Watch, May 18, 2022. <https://www.hrw.org/news/2022/05/18/fifa-pay-harm-qatars-migrant-workers>.

⁴ "Profile of the FIFA World Cup Qatar 2022™." FIFA Publications. Accessed August 4, 2022. <https://publications.fifa.com/en/sustainability-report/sustainability-at-the-fifa-world-cup/profile-of-the-fifa-world-cup-qatar-2022/>.

⁵ Abdulhadi Khalaf, Adam Hanieh, and Omar Al-Shehabi. *Transit States: Labour, Migration and Citizenship in the Gulf*. (London: Pluto Press), 2015, p.6).

migrants. Structurally, this thesis examines the extent to which U.S. policy adequately addresses labor trafficking of guestworkers. Adequacy will be determined utilizing the work of Dr. Lea Ypi, Professor at the London School of Economics and Political Science. In Ypi's book entitled, *Migration in Political Theory: The Ethics of Movement and Membership*, she outlined four approaches to refocus the discussion of exploitative guestworker programs:

1. Focus on the status of workers as a class,
2. The circumstances in which they are forced to accept certain wages,
3. The incentives that reward employers and firms seeking to hire cheap labor, and
4. The institutional arrangements that govern the trade of labor and the accumulation of capital in the global market.⁶

I examined each U.S. trafficking in persons law and relevant DoD policy to determine whether they address the recommendations, in whole or in part, listed above.⁷

After examination, I summarize the findings, offer policy recommendations, and suggest areas of future research.

The personal anecdote at the onset of this paper reflects one of many encounters I had while on deployment to Qatar as an U.S. Air Force Contracting Officer and only represents a small subset of what trafficking can look like.

⁶Sarah Fine and Lea Ypi. *Migration in Political Theory: The Ethics of Movement and Membership*. Oxford: Oxford University Press, 2019. <https://oxford-universitypressscholarship-com.ezp-prod1.hul.harvard.edu/view/10.1093/acprof:oso/9780199676606.001.0001/acprof-9780199676606>.

⁷As provided by the combating Trafficking in Persons (CTIP) program office website

As previously dictated, I will be focusing on labor trafficking, which falls under the umbrella term “trafficking in persons”. “Trafficking in persons” is the term used by the U.S. government to encompass the myriad of ways humans are trafficked. The U.S. Department of State formally defines the term as:

Trafficking in persons, “human trafficking,” and “modern slavery” are umbrella terms – often used interchangeably – to refer to a crime whereby traffickers exploit and profit at the expense of adults or children by compelling them to perform labor or engage in commercial sex.⁸

Under this umbrella, the U.S. further defines labor trafficking or what they also refer to as forced labor:

Forced Labor, sometimes also referred to as labor trafficking, encompasses the range of activities involved when a person uses force, fraud, or coercion to exploit the labor or services of another person.

The “acts” element of forced labor is met when the trafficker recruits, harbors, transports, provides, or obtains a person for labor or services.

The “means” element of forced labor includes a trafficker’s use of force, fraud, or coercion. The coercive scheme can include threats of force, debt manipulation, withholding of pay, confiscation of identity documents, psychological coercion, reputational harm, manipulation of the use of addictive substances, threats to other people, or other forms of coercion.

The “purpose” element focuses on the perpetrator’s goal to exploit a person’s labor or services. There is no limit on the location or type of industry. Traffickers can commit this crime in any sector or setting, whether legal or illicit, including but not limited to agricultural fields, factories, restaurants, hotels, massage parlors, retail stores, fishing vessels, mines, private homes, or drug trafficking operations.⁹

All three elements are essential to constitute the crime of forced labor.

⁸ “2020 Report on U.S. Government Efforts to Combat Trafficking in Persons - United States Department of State.” U.S. Department of State. U.S. Department of State, January 9, 2021. <https://www.state.gov/2020-report-on-u-s-government-efforts-to-combat-trafficking-in-persons/>.

⁹ “2020 Report on U.S. Government Efforts to Combat Trafficking in Persons - United States Department of State.” U.S. Department of State. U.S. Department of State, January 9, 2021. <https://www.state.gov/2020-report-on-u-s-government-efforts-to-combat-trafficking-in-persons/>.

The following case offers the reader an expanded view of the diversity of ways in which labor trafficking can and does present itself.

In 2016, Jiban, a young Nepalese man, boarded a plane headed to Doha, Qatar with 19 other recent hires of Shaji Al Makhaldas General Cleaning Company. Their excitement to work for the company was dashed shortly after landing, when their passports were taken and told the cleaning company had been sold.

The new owner of the cleaning company offered the men 700 Riyal with 10 hour workdays compared to their previously agreed upon 900 Riyal with 8 hour workdays. Refusing to accept the decrease in pay and increased hours, the 20 men walked 7 hours from the labor camp to the city to seek recourse. They were arrested and jailed along the way for not having passports or the forms of documentation for being in-country.

The Qatari courts ruled that the men couldn't seek recourse for wages nor for the confiscation of their passports against Sjami Al Makhaldas General Cleaning Company as the company no longer existed. They were stranded. This is the work of the Kafala system, which enables employers to restrict the movement of their employees, either from leaving the country or switching jobs.¹⁰

This is reality for many of the 2 million+ migrant workers in Qatar. Human Rights Watch captured similar stories from migrant workers like Henry, a Kenyan man, who was already in debt upon arrival in Qatar due to the steep recruitment fees, estimated between \$693 and \$2,613 U.S. Dollars, he paid to secure the job.

¹⁰ Manandhar, Shilu, and Yam Kumari Kandel. "Nepalese Migrant Workers Stranded, Duped in Qatar Due to Shady Practices, Lax Laws." Pulitzer Center, September 29, 2016. <https://pulitzercenter.org/stories/nepalese-migrant-workers-stranded-duped-qatar-due-shady-practices-lax-laws>.

Ultimately, they found themselves compelled to work for months without pay, because they have no choice but to stay with only the promise of being paid. This indebtedness increases the ‘power’ of companies and employers over employees, making them even more likely to get away with abusing employees without accountability¹¹

It is widely accepted that guestworker programs enable such exploitative practices like those detailed above.¹² As it stands, U.S. policy has been inadequate in squelching instances of labor trafficking in Qatar as illustrated by its perpetuation over the last 21 years. In fact, the Department of Defense found personnel reports of trafficking in persons incidents have increased over the last 6 years, from 41 reported cases in 2016 to 108 cases in 2021.¹³ Regardless of whether this increase may be due to more effective reporting methods, the incidents continue.¹⁴ Ostensibly, from an optics or moral perspective, the U.S. can’t simply recuse itself of responsibility when labor trafficking offenses abound in a program in which they partake. Though it seems hollow policies have replaced blatant U.S. inaction. In both cases, the outcome is the same, labor

¹¹ Javaid, M. (2021, February 9). "How can we work without wages?". Human Rights Watch. Retrieved March 7, 2022, from <https://www.hrw.org/report/2020/08/24/how-can-we-work-without-wages/salary-abuses-facing-migrant-workers-ahead-qatars#>

¹² Sarah Fine and Lea Ypi. *Migration in Political Theory: The Ethics of Movement and Membership*.

¹³ Location and nature of offenses were not specified

¹⁴ Cronk, Terri Moon. "DOD Is Making Significant Strides in Combating Human Trafficking, Official Says." U.S. Department of Defense, January 24, 2022. <https://www.defense.gov/News/News-Stories/Article/Article/2909695/dod-is-making-significant-strides-in-combating-human-trafficking-official-says/>.

trafficking “rages on”.¹⁵ The atrocities continue despite calls for "never again" or implementation of "zero-tolerance"¹⁶ policies.

¹⁵ Samantha Power, *A Problem from Hell: America and the Age of Genocide*. (New York: Basic Books, 2002), p. xxi)

¹⁶ “2020 Report on U.S. Government Efforts to Combat Trafficking in Persons - United States Department of State.”

Chapter II.

History of Labor Migration

This chapter offers a summary of the labor migration in the Gulf Region and in Qatar.

Labor Migration in the Gulf Region

The Persian Gulf has been described by some scholars as “a collection of scattered ‘labour camps,’ rather than a set of cohesive and integrated societies”.¹⁷ The origins of this characterization can be tied to a series of oil booms and the rise of capitalism ushered in by British colonialism beginning in the 1930s. During this time,

The Arabian Peninsula was transformed from a desperately poor area on the margins of the global economy, supporting its sparse population through pearling, entrepot trade, and agricultural and herding activities, into an integral link in the global economic system.¹⁸

With the discovery of oil, the region required a labor force capable of ushering in this new industry upon which the world would soon rely. Initially, Gulf sheikhdoms imposed conditions on oil companies, requiring them to hire from the local populations, but as commercial oil exportation rose, the number of migrant workers grew exponentially. By 1950, the population of foreign migrant workers in the oil sector increased eight times what it was just ten years prior. By 1975, foreign workers would

¹⁷ Abdulhadi Khalaf, Adam Hanieh, and Omar Al- Shehabi. *Transit States: Labour, Migration and Citizenship in the Gulf*. (London: Pluto Press), 2015, p. 5.

¹⁸ Abdulhadi Khalaf, Adam Hanieh, and Omar Al- Shehabi. *Transit States: Labour, Migration and Citizenship in the Gulf*. (London: Pluto Press), 2015, p. 6.

number over one million, largely hailing from Asian countries such as India, Sri Lanka, etc. This change in the migrant demographic pool was a direct result of elite insecurity. Elites could more easily control and impose restrictions on foreign (non-Arab) migrant workers, than their own citizens.

The oil sector was not the only industry exploding with success in the Gulf. Tangential industries such as construction and the importation of goods skyrocketed in tandem. With this increase, millions of migrants were now flooding the region in hopes of capitalizing on the Gulf's newfound success in the global economy. In coordination with rapid urban growth and rising oil prices, western consultants were flown in to the Gulf to establish modern cities. For instance, in Doha, Qatar, strict grid and road systems were established, as well as zoning plans for sprawling commercial areas and residential housing. These roots of modernity would expand to mega-projects as well as an influx of vast foreign investment at the turn of the century.¹⁹

“By 1971, all GCC states had achieved formal independence” At this point, all the oil rents were flowing directly into the pockets of the ruling families.²⁰ In an effort to maintain control and capitalize on their successes, the sheikhdoms sought foreign labor to build their “petro-modernist” states.²¹ This realization materialized after growing concern among elites of emerging nationalist and populist movements to demand “greater say in

¹⁹ Wiedmann, F., & Salama, A. M. (2019). Building migrant cities in the Gulf: Urban transformation in the Middle East. I.B. Tauris. p. 14.

²⁰ Abdulhadi Khalaf, Adam Hanieh, and Omar Al- Shehabi. Transit States: Labour, Migration and Citizenship in the Gulf. (London: Pluto Press), 2015, p. 10.

²¹ Ibid p. 10.

the distribution of oil revenues and participation in the economic and political decision-making process”.²²

Migrant labor benefitted the elites as the costs were low and it was relatively easy to attract workers because of push factors at home such as high unemployment, low wages, not enough jobs, etc. More importantly, reliance on migrant labor “ended the state’s dependence on local labour.”²³ In their minds, an overreliance on local labor provided the opportunity for locals to increase their economic and political influence. The more elites relied on locals to power the economy, the more leverage they had in political matters, something elites wanted to keep close.

Though reliance on migrant labor was not without its risks. The optics of massive inflows of foreign workers had the potential to give the impression that the local workforce was being displaced in favor of migrants. Elites were also worried that foreign workers would gain too much influence economically and politically as their population skyrocketed.²⁴

The solution for these concerns created what Khalaf describes as the Gulf’s “demographic imbalance.”²⁵ Out of fear of increasing foreign worker influence in the region, elites limited welfare benefits to citizens only. They also restricted political and economic rights for foreign workers, or, non-citizens. These solutions proved to be the

²² Ibid p. 15.

²³ Ibid p. 15.

²⁴ Ibid p. 15.

²⁵ Ibid p. 15.

building blocks of the notorious sponsorship system employed throughout the Gulf, known as, the Kafala system.

The Kafala system is a specific type of guestworker program which “defines the relationship between foreign workers and their local sponsor, or kafeel, which is usually their employer”.²⁶ In this system found throughout the Gulf, the sponsor or employer wields absolute control over the employee or migrant worker. This system, emerging during the initial oil booms in the Gulf, is largely seen as a byproduct of British colonialism, as the British did not want to manage the large influx of migrant workers so they delegated that power to the oil companies. Employers would serve as migrant sponsors, in which they could prevent workers from switching employers using a non-objection certificate (NOC) and/or leaving the country as they controlled worker’s visas. For this reason, “many experts argue that the system facilitates modern slavery.”²⁷ Though, in August 2020, Qatar officially abolished the requirement for a NOC; however, there are many aspects of the system still in place which place disproportionate leverage in the hands of sponsors, making migrant workers vulnerable to trafficking and debt bondage.²⁸

Labor Migration in Qatar

In 1940 the British Political Resident provided a glimpse of Doha, capital of Qatar: ‘[Doha is] little more than a miserable fishing village straggling

²⁶ Robinson, Kali. “What Is the Kafala System?” Council on Foreign Relations. Council on Foreign Relations, 2021. <https://www.cfr.org/backgrounder/what-kafala-system>.

²⁷ Robinson, Kali. “What Is the Kafala System?”

²⁸ Nguyen, Ngoc. “Kafala Labor System Reform and the 2022 World Cup.” Center for International and Regional Studies, December 20, 2021. <https://cirs.qatar.georgetown.edu/kafala-labor-system-reform-and-the-2022-world-cup/>.

along the coast for several miles and more than half in ruins. The suq consisted of mean fly-infested hovels, the roads were dusty tracks, there was no electricity, and the people had to fetch their water in skins and cans from wells two or three miles outside the town.²⁹

This image of Qatar is difficult to believe today given its emergence as one of the richest countries in the world. Far from the bleak images described above, modern day Doha consists of mesmerizing skyscrapers and luxurious malls, museums, and marketplaces.

The small Gulf country made this transition thanks to its discovery of the world's third largest natural gas reserves located just off its shore, its substantial oil reserves, and its ability to produce and export liquified natural gas.³⁰ The first oil concession was conferred to Iraq Petroleum Company, owned by a variety of American and European firms. In accordance with colonial rule, control of the oil industry and its revenues were largely regulated by the British. In the 1970s, after obtaining independence, Qatar nationalized oil production, forming Qatar General Petroleum Corporation, later known as Qatar Petroleum.³¹ Oil rents began to flow directly into the pockets of the ruling family and consequently the state. This was the onset of a vast expansion of economic opportunities ranging from infrastructure improvement to education, to health services, even in the private sectors of construction and goods importation.³²

²⁹ Allen James Fromherz. *Qatar: A Modern History*. (Washington: Georgetown University Press), 2017, p. 1.

³⁰ Bel-Air, Françoise D. "Demography, Migration, and the Labour Market in Qatar." Gulf Research Center, 2017. https://gulfmigration.grc.net/media/pubs/exno/GLMM_EN_2017_03.pdf.

³¹ "Economy of Qatar." *Encyclopedia Britannica*. Encyclopedia Britannica, inc. Accessed April 8, 2022. <https://www.britannica.com/place/Qatar/Economy>.

³² Abdulhadi Khalaf, Adam Hanieh, and Omar Al-Shehabi. *Transit States: Labour, Migration and Citizenship in the Gulf*, p. 8.

“When the exploitation of Qatari oil fields started in 1949, the country had hardly 16,000 inhabitants, down from about 27,000 as recorded half a century earlier in 1908.”³³ This was mainly due to the collapse of the pearl trade industry in the 1920s. Once oil sourcing began, the lack of a local population provided the opportunity for a substantial flood of foreign workers. “In 1970...the first census was conducted. It estimated the total population at 111,113, of which 45,039 were Qataris and 66,094 foreigners. This was the first and last time that population estimates for nationals and non-nationals would be disclosed in the country.”³⁴ Demographic population data is notoriously difficult to obtain in Qatar given their population imbalance. Qatar’s population is consistently ranked among the wealthiest in the world with recent estimates suggesting the average income of Qatari citizens is \$129,000 USD.³⁵ This becomes troublesome in comparison to Qatar’s migrant income of which was only recently set at a minimum of \$275 USD per month/\$3,300 per annum.³⁶ Given the sensitivity of such figures, officials tend to keep close hold of population estimates and demographic data in general.

Today, most estimates suggest Qatar’s population hovers around 2.8 million people of which 90% are foreign and 10% Qatari citizens.³⁷ In order to regulate this

³³ Bel-Air, Françoise D. “Demography, Migration, and the Labour Market in Qatar.” Gulf Research Center, 2017. https://gulfmigration.grc.net/media/pubs/exno/GLMM_EN_2017_03.pdf.

³⁴ Bel-Air, Françoise D. “Demography, Migration, and the Labour Market in Qatar.” Gulf Research Center, 2017. https://gulfmigration.grc.net/media/pubs/exno/GLMM_EN_2017_03.pdf.

³⁵ “Qatar's \$129,000 Income Is Double Saudi Arabia's.” Bloomberg.com. Bloomberg, 2017. <https://www.bloomberg.com/news/articles/2017-06-08/qatar-s-129-000-average-income-is-double-saudi-arabia-s-chart>.

³⁶ Al Jazeera. “Qatar's Landmark Minimum Wage Comes into Force.” Labour Rights News | Al Jazeera. Al Jazeera, March 20, 2021. <https://www.aljazeera.com/news/2021/3/19/qatars-enforces-new-minimum-wage-legislation>.

enormous foreign population, Qatar employs their guestworker program known as the Kafala system. Even with recent substantial reform, the system is beset with inequities, allowing “companies in Qatar [to] increase their competitiveness by outsourcing the payment of recruitment fees to contractors and subcontractors, who eventually pass the buck to workers who end up paying their recruitment fees themselves.”³⁸

³⁷ “Qatar.” Data Commons, 2020.
https://datacommons.org/place/country/QAT?utm_medium=explore&mprop=count&popt=Person&hl=en.

³⁸ “FIFA: Pay for Harm to Qatar's Migrant Workers.” Human Rights Watch, May 18, 2022.
<https://www.hrw.org/news/2022/05/18/fifa-pay-harm-qatars-migrant-workers>.

Chapter III.

Global History of Guestworker Programs

Our fight against human trafficking is one of the great human rights causes of our time, and the United States will continue to lead it — in partnership with you. The change we seek will not come easy, but we can draw strength from the movements of the past. For we know that every life saved — in the words of that great Proclamation — is 'an act of justice'; worthy of 'the considerate judgment of mankind, and the gracious favor of Almighty God'.³⁹

President Barack Obama, Speech
at the Clinton Global Initiative, 25 Sep 2012

In 2015, Dr. Leila Talani, Professor of International Political Economy at King's College in London and Dr. Simon McMahon, Research Fellow at Coventry University in the UK compiled a book of theoretical approaches to migration studies entitled, Handbook of the International Political Economy of Migration, with topics ranging from the impact of globalization on international migration to the economic and regional dimensions of migration. In it, scholars describe evolution of guestworker programs. For instance, in 1995 the World Bank “suggested that international migration was a force that could potentially bridge global inequality, by enabling workers in poorer countries to move in order to benefit from global integration.”⁴⁰ This, of course, did not materialize.

³⁹ “Remarks by the President to the Clinton Global Initiative.” National Archives and Records Administration. National Archives and Records Administration, 2012.
<https://obamawhitehouse.archives.gov/the-press-office/2012/09/25/remarks-president-clinton-global-initiative>.

⁴⁰ Leila Simona Talani, and Simon McMahon. *Handbook of the International Political Economy of Migration*. (Cheltenham, UK: Edward Elgar Publishing), 2017, p. 148.

As Helene Pellerin argued in her chapter within Talani and McMahon’s handbook, that the World Bank’s prophesy was oversimplistic and likely only to occur in some sort of utopia.⁴¹ The fact is, that the world has never seen a guestworker program that did not exploit workers. American Historian, Dr. Cindy Hahamovitch, dubbed guestworkers as the “perfect immigrant” in her 2003 article entitled, “Creating Perfect Immigrants: Guestworkers of the World in Historical Perspective”.

They offered employers foreign workers who could still be bound like indentured servants but who could also be disciplined by the threat of deportation. They placated trade unionists who feared foreign competition by promising to restrict guestworkers to the most onerous work and to expel them during economic downturns. And they assuaged nativists by isolating guestworkers from the general population. Finally, states got development aid from poor countries in the form of ready workers, without the responsibility of having to integrate those workers or provide for their welfare.⁴²

Scholars often debate what constitutes exploitation, though the consensus remains that the programs are structurally exploitative. This is to say, that while not each and every guestworker is exploited, the system itself enables the manipulation of these vulnerable migrant communities. One chapter, entitled, “Guestworker regimes globally: a historical comparison”, proved to be particularly relevant for understanding the evolution, variance, and prevalence of guestworker programs on a global scale. In this chapter, Dr. Kristin Surak detailed the evolution of state control of guestworker programs beginning

⁴¹ Leila Simona Talani, and Simon McMahon. Handbook of the International Political Economy of Migration, 2017, p. 148.

⁴² Hahamovitch, C. Creating Perfect Immigrants: Guestworkers of the World in Historical Perspective 1. Labor History, 44(1), 69. 2003. <https://doi-org.ezp-prod1.hul.harvard.edu/10.1080/0023656032000057010>

in 19th century Europe, followed by expansion in the mid-20th century to North America, the Middle East, and East Asia.⁴³

Surak detailed the United States' troubling history with guestworker programs. From 1942 to 1964, the U.S. implemented the Bracero Program, which imported thousands of temporary Mexican laborers to work in the agriculture industry to supplement the dwindling U.S. workforce caused by World War II. The offer to participate in the program enticed the Mexican government for two reasons: one, it boasted that it would educate Mexicans in new agricultural processes of which they could bring back to employ in their home country, and two, the money they would earn in the U.S. would help stimulate the Mexican economy.⁴⁴ In reality, these promises were hollow. Specifically,

The [U.S.] government guaranteed that the braceros would be protected from discrimination and substandard wages. The pay for Mexican citizens would be the same as for U.S. citizens working the same job in the same area (although in most cases the pay was still not enough to make a decent living). In addition, Mexican workers would receive free housing, health care, and transportation back to Mexico when their contracts expired.⁴⁵

Workers were often subjects of discrimination, substandard wages and poor housing accommodations. In concert with widespread discrimination and the belief that Mexican workers were taking American jobs, the U.S. government eventually employed the militaristic deportation of illegal Mexican workers under Operation Wetback, “voluntarily” sending upwards of 1.1 million illegal workers back to Mexico. This mass

⁴³ Leila Simona Talani, and Simon McMahon. Handbook of the International Political Economy of Migration.

⁴⁴ “Operation Wetback.” Encyclopedia Britannica. Encyclopedia Britannica, inc. Accessed July 10, 2022. <https://www.britannica.com/topic/Operation-Wetback>.

⁴⁵ “Operation Wetback.” Encyclopedia Britannica.

exodus was not without precedent as a similar event marked the 1930s during the Great Depression. It was during this time that thousands of Mexican workers were ousted from the U.S. due to popular opinion that they were taking American jobs, a theme which has endured into the 21st century.⁴⁶

In comparison, Germany's guestworker program in the post-World War II era took on nearly twenty times more workers than the U.S. Bracero Program.⁴⁷ "The U.S. bracero program at its height never amounted to more than 0.6 percent of the labor force," meanwhile "West Germany's Gastarbeiter [had] at its peak...11 percent" by "recruiting workers through offices it ran in the sending countries."⁴⁸ This all came to a halt during the first Gulf oil crisis in 1973 when Saudi Arabia proclaimed an oil embargo against all countries who supported Israel during the Yom Kippur War.⁴⁹ Though "as oil revenues tripled over the course of a decade, guestworkers would become not a complementary labor force, but the primary labor force in the [Gulf] region."⁵⁰

As Gulf countries began to source more and more from non-Arab countries in an attempt by elites to monopolize power and prevent citizens from having an increasing amount of influence, Asian migration to the region skyrocketed.⁵¹ Elites were then able

⁴⁶ Ibid

⁴⁷ Leila Simona Talani, and Simon McMahon. *Handbook of the International Political Economy of Migration*. 2017, p. 174.

⁴⁸ Leila Simona Talani, and Simon McMahon. *Handbook of the International Political Economy of Migration*. 2017, p. 171.

⁴⁹ Corbett, Michael. "Oil Shock of 1973–74." *Federal Reserve History*. Accessed July 10, 2022. <https://www.federalreservehistory.org/essays/oil-shock-of-1973-74>.

⁵⁰ Leila Simona Talani, and Simon McMahon. *Handbook of the International Political Economy of Migration*. 2017, p. 176.

to enforce policies on non-citizens by restricting their political and economic rights, a feat they could not very well inflict on their own citizens.⁵² Simultaneously, countries like Singapore and Malaysia were recruiting workers themselves. There was a massive fall in wages during the 1980s and 1990s experienced by migrants working in the Gulf largely due to the Gulf War. During this period, millions of migrant workers from Kuwait to Saudi Arabia fled or were expelled from the Persian Gulf. In particular, Yemenis were expelled from Saudi Arabia by the hundreds of thousands where previously they “enjoyed several privileges” such as no requirement for visas or work permits and the freedom to “operate shops and businesses without having to have a Saudi sponsor”.⁵³ “In a span of only a few weeks, much of the Yemeni migrant community built up in Saudi Arabia over the preceding decades simply disappeared.”⁵⁴ Of course, these expulsions were due to political differences, not by direct conflict like in Kuwait and Iraq. The massive exodus of migrants during this time led to enormous refugee populations for those unable to return home. In totality, the Gulf War affected migrant populations differently. Arab migrants were dramatically more affected than Asian migrants as the preponderance of Asian migrants worked away from conflict zones in Saudi Arabia and UAE. Those most displaced were the Jordanians and Palestinians in Kuwait and the

⁵¹ Leila Simona Talani, and Simon McMahon. *Handbook of the International Political Economy of Migration*. 2017, p. 177.

⁵² Leila Simona Talani, and Simon McMahon. *Handbook of the International Political Economy of Migration*. 2017, p. 176.

⁵³ Addleton J. The impact of the Gulf war on migration and remittances in Asia and the Middle East. *International migration* (Geneva, Switzerland), 29(4), 509–526. 1991. <https://doi.org/10.1111/j.1468-2435.1991.tb01037.x>

⁵⁴ Addleton J. The impact of the Gulf war on migration and remittances in Asia and the Middle East.

Egyptians in Iraq.⁵⁵ This “subsequent polarization”... gave “Asian labor-exporting countries an unexpected opportunity to increase their share of Gulf labor markets” on top of the existing bias by elites to import labor as opposed to hiring Arab citizens.⁵⁶ Singapore’s guestworker program was able to weather the Gulf War aftermath through a levy scheme. According to the levy, employers had to pay the government up to 30% of a worker’s salary to secure permission to hire foreign workers.⁵⁷ Over time, Singapore also instituted measures to prevent “run aways” or migrants who fail to repatriate to their home countries. For instance, employers paid security deposits on all guestworkers, while licensed recruiting agencies similarly placed bonds with the government. Though Singapore is known for these innovative stop gap measures, the disparity in opportunity and benefits between high and low skilled workers is quite large. While high skilled workers have a path to citizenship, low skilled workers are blocked from permanent settlement, pregnancy, and marrying Singapore citizens, among other restrictions.⁵⁸

Qatar’s guestworker system is not wholly unique, sharing similar features to its Gulf neighbors and beyond. Though the hallmark feature of Qatar’s guestworker program, the kafala system, has undergone sweeping reforms over the past few years. According to the Government of Qatar Communication Office, in recent years, Qatar has

introduced new laws that mean the majority of workers no longer need exit permits to leave the country, announced procedures allowing workers to change employment freely, without requiring a No-Objection

⁵⁵ “Operation Wetback.” Encyclopædia Britannica. Encyclopædia Britannica, inc. Accessed July 10, 2022. <https://www.britannica.com/topic/Operation-Wetback>.

⁵⁶ “Operation Wetback.” Encyclopædia Britannica

⁵⁷ Addleton J. The impact of the Gulf war on migration and remittances in Asia and the Middle East.

⁵⁸ Ibid

Certificate (NOC) from their previous employer, introduced a non-discriminatory minimum wage, announced the establishment of 20 Qatar Visa Centres (QVCs) in India, Sri Lanka, Indonesia, Nepal, Bangladesh, Pakistan, Philippines and Tunisia, which will expedite the recruitment process and ensure workers do not get exploited in their home countries, established a Workers' Support and Insurance Fund which will ensure and provide care for workers, guarantee their rights and provide a healthy and safe working environment.⁵⁹

The minimum wage, instituted in March 2021, requires employers to pay workers QAR 1,000 or approximately 274 USD which applies to all employees across all sectors, including domestic workers. Additionally, employers are now required to provide QAR 500 (approximately 137 USD) per month for accommodations and QAR 300 (approximately 82 USD) per month for food if not provided by the employer.⁶⁰

Comparatively, Qatar offers its citizens substantial benefits including: free healthcare, free education, tax free income, etc. Qatar even awards its citizens retirement pensions starting at QAR 15,000 or \$4,120 USD and a housing allowance of QAR 4,000 or \$1,098 USD.⁶¹ The country consistently ranks among the highest GDP per capita countries in the world. As of 2021, Qatar's per capita GDP at 93,508 PPP, ranking 4th in the world.⁶² For a country which can provide one of the most robust welfare systems for its own citizens, it provides so little in comparison for the guestworkers for whom its economy depends.

⁵⁹ Labour reform. Government Communications Office. (2021, December 14). Retrieved July 10, 2022, from <https://www.gco.gov.qa/en/focus/labour-reform/>

⁶⁰ Al Jazeera. "Qatar's Landmark Minimum Wage Comes into Force." Labour Rights News | Al Jazeera. Al Jazeera, March 20, 2021. [Qatar's landmark minimum wage comes into force | Labour Rights News | Al Jazeera](#).

⁶¹ Kilani, H. (2022, April 20). Qatar announces New Retirement Pension Plan. Doha News | Qatar. Retrieved August 5, 2022, from <https://dohanews.co/qatar-announces-new-retirement-pension-plan/#:~:text=Qatar%20nationals%20who%20have%20worked,have%20worked%20for%2015%20years>

⁶² "GDP per Capita, PPP (Current International \$) - Qatar." World Bank, 2021. <https://data.worldbank.org/indicator/NY.GDP.PCAP.PP.CD?locations=QA>.

Contemporary Arguments on the Exploitative Nature of Guestworker Programs

Since their inception, guestworker programs have been at the centers of debate at the highest levels of government and academia. Some tout guestworker programs as a “triple win’, whereby employers benefit from cheap labor, sending states profit from remittances, and migrants collect larger paychecks than they would receive at home” though this analysis fails to recognize the inherent exploitative practices which these programs empower.⁶³ The primary debate amongst scholars centers not so much around whether guestworker programs are exploitative by nature, rather, they differ in their analysis of how these programs exploit workers. Many superficial analyses claim that the causes of labor trafficking are rooted in poverty, though this explanation pins the root of the crime on a common characterization of its victims. Labor trafficking is enabled by a much more nuanced system and set of factors inherent to guestworker programs. There are generally three conventional arguments on the exploitative nature of guestworker programs which come to the foreground for debate: the domination, egalitarian, and sufficientarian theories of exploitation, each of which attempts to pin the exploitative nature of guestworker programs on different aspects of the program. Dr. Lea Ypi, Professor of Political Theory at the London School of Economics and Political Science is a leading scholar on issues of migration and offers novel insight on these arguments in her book, Migration in Political Theory: The Ethics of Movement and Membership.

⁶³ Addleton J. The impact of the Gulf war on migration and remittances in Asia and the Middle East.

In Migration in Political Theory: The Ethics of Movement and Membership, Ypi outlines the three arguments which have been used to conclude that guestworker programs are, by their nature, exploitative.⁶⁴ Ypi doesn't align with any of the three theories outright and instead calls for a shift in thinking. Specifically, she argues that the question policymakers should be asking should shift from "are guestworkers exploited?" to "are guestworker programs exploitative?" Ultimately, after consideration of each of the theories, she concludes that guestworker programs are structurally exploitative and offers recommendations for refocusing the narrative so policy can adequately address the nature of guestworker programs. It is important to acknowledge each of the three arguments to appreciate the paradigm shift which Ypi endorses. Each of the arguments attempt to identify where exploitation occurs in guestworker programs. The egalitarian argument suggests that guestworkers are exploited as they receive less than their fair share when "compared to that of workers operating in similar market conditions", while the domination argument suggests that guestworkers are exploited due to the political disenfranchisement from which they suffer, and the sufficientarian argument suggests that guestworkers are exploited due to an insufficient market which "fails to reward their labor with sufficient access to the resources they need to lead a decent life."⁶⁵ Ypi suggests that these arguments are too narrow in their explanations and instead contends that exploitation occurs because of the unique status of guestworkers, the circumstances in which they are forced to accept certain wages, the sort of incentives that reward

⁶⁴ Sarah Fine and Lea Ypi. *Migration in Political Theory: The Ethics of Movement and Membership*. Oxford: Oxford University Press, 2019. <https://oxford-universitypressscholarship-com.ezp-prod1.hul.harvard.edu/view/10.1093/acprof:oso/9780199676606.001.0001/acprof-9780199676606>.

⁶⁵ Sarah Fine and Lea Ypi. *Migration in Political Theory: The Ethics of Movement and Membership*.

employers and firms seeking to hire cheap labor, and the institutional arrangements that govern the trade of labor and the accumulation of capital in the global market.⁶⁶ This wider explanation addresses workers as a class of people, not as individuals. Those who argue against the exploitative nature of guestworker programs cite the fact that not all workers are exploited. Ypi's suggestion to examine guestworkers as a class overcomes this common contention. Ypi's reframed argument by contends that guestworker programs exploit workers collectively (as a class), rather than distributively (as individuals divided by citizenship).⁶⁷ This theoretical reframing has the potential to significantly impact policy development. What Ypi is suggesting is that the problem with guestworker programs is "not so much the condition of individual guestworkers but the way in which such programs narrow the options of workers in general, the fact that workers happen to be separated by boundaries and that they belong to different states is a matter of secondary importance."⁶⁸ Authoring policy which addresses the restrictive operations of guestworker programs, as opposed to focusing solely on confronting the conditions which make individual workers more vulnerable is a radical departure in the practice of combating trafficking in persons.

⁶⁶ Ibid

⁶⁷ Ibid

⁶⁸ Ibid

Chapter IV.

History of DoD presence & contracts in Qatar and the larger Persian Gulf

When a number of persons engage in a mutually advantageous cooperative venture according to rules, and thus restrict their liberty in ways necessary to yield advantages for all, those who have submitted to these restrictions have a right to a similar acquiescence on the part of those who have benefited from their submission. We are not to gain from the cooperative labors of others without doing our fair share.”

- John Rawls, A Theory of Justice⁶⁹

The U.S. and Qatar have enjoyed positive diplomatic, economic, and military relations since their independence from Britain in 1971.⁷⁰ Though the U.S. provides no aid to Qatar, they do participate in a robust Foreign Military Sales (FMS) program. As of 2021, Qatar stands as the U.S.’s second largest FMS partner in the world, with a portfolio of weapon systems and force protection infrastructure totaling over \$26 Billion. Similarly, the U.S. is Qatar’s “largest foreign direct investor and its single largest source of imports.”⁷¹ Thanks to their history of positive relations, the U.S. secured Qatar’s tactical central location in the Middle East to post a substantial military presence.

⁶⁹ John Rawls, cited from Attas, Daniel. “The Case of Guest Workers: Exploitation, Citizenship and Economic Rights.” SpringerLink. Kluwer Academic Publishers, 2000. 10.1023/A:1009692722806, p. 88.

⁷⁰ “U.S. Relations with Qatar - United States Department of State.” U.S. Department of State. U.S. Department of State, April 15, 2021. <https://www.state.gov/u-s-relations-with-qatar/>.

⁷¹ “U.S. Security Cooperation with Qatar - United States Department of State.” U.S. Department of State. U.S. Department of State, July 31, 2021. https://www.state.gov/u-s-security-cooperation-with-qatar#:~:text=The%20U.S.%20has%20over%20%2426,to%20Congress%20are%20listed%20here.)).

Since the aftermath of the 9/11 attacks, the DoD has housed U.S. service members at Qatari-owned, Al Udeid Air Base. Serving as a strategic center for air campaigns in the Middle East, the base has ballooned in importance and population size since 2001. In order to support growing populations of U.S. service members and those of coalition countries, the DoD has contracted thousands of migrant workers to supplement operations at the base. Traditionally, these operations have included custodial services, dining facility management, and construction support.

Contemporaneous with the Presidential decree to thwart instances of trafficking in persons was the expansion of Al Udeid Air Base, which transitioned from a minimally manned operating base to annually housing upwards of 11,000 troops and approximately 18 coalition partners.⁷² With increasing needs, the Department of Defense turned to contractors to support base services for the troops routinely deployed to AUAB, prompting the incorporation of the Air Force Contract Augmentation Program or AFCAP. AFCAP is a contingency contracting program operated out of Tyndall Air Force Base, Florida. Multi-million dollar task orders are awarded to U.S. owned contractors for various services including custodial services, engineering support, construction management, dining facility services, etc. In turn, these U.S. contractors subcontract for hundreds of migrant workers to perform services in country. Since 1997, the AFCAP program has awarded \$4.6B to contractors supporting emergency efforts throughout the world. The most recent AFCAP contract, AFCAP V, was awarded in April 2020 and extends for eight years for a total of \$6.4B.⁷³

⁷² Mbwpadmin. "Al Udeid Air Force Base in Doha, Qatar." Military Bases, March 21, 2022. <https://militarybases.com/overseas/qatar/al-udeid/>.

Similarly, the U.S. military has upheld a presence in several other Gulf countries and in the greater Middle East: namely Kuwait, Saudi Arabia, Oman, United Arab Emirates, Jordan, Iraq, and Afghanistan. AFCAP contracts are in place at several of these locations, though none have as extensive operations as the services rendered at Al Udeid in Qatar. U.S. and contractor forces at Al Udeid operate the largest fuel and lodging operations in the Department of Defense. Similarly, they lead Air Force Central Command in largest operations in civil engineering, food services, communications network, K9 operations, and sensor fields.⁷⁴

Since the 1990s, the Department of Defense has “relied extensively on logistics support contractors to provide many of the supplies and services needed by deployed U.S. forces.”⁷⁵ The primary logistic support contracts include the Army’s Logistic Civil Augmentation Program (LOGCAP) and the Air Force’s Contract Augmentation Program (AFCAP). These rapid response contract tools serve to provide commands with a dedicated pool of contractors, generally within a 72-hour response time, with the “scalability and flexibility that aligns with the military operational tempo”.⁷⁶ In 2019, the Army awarded the LOGCAP V contract to five contractors with a 10 year spending cap of \$82 Billion.⁷⁷ Similarly, in 2020, the Air Force awarded AFCAP V to 8 contractors

⁷³ Ford, David. “AFCAP v Increases Field Assistance.” Air Force, 2020. <https://www.af.mil/News/Article-Display/Article/2162920/afcap-v-increases-field-assistance/>.

⁷⁴ “379th Air Expeditionary Wing Fact Sheet.” U.S. Air Forces Central, 2019. <https://www.afcent.af.mil/Units/379th-Air-Expeditionary-Wing/Fact-Sheets/Display/Article/501479/379th-air-expeditionary-wing-fact-sheet/>.

⁷⁵ “GAO-04-854.” Government Accountability Office, 2004. <https://www.gao.gov/assets/gao-04-854.pdf>.

⁷⁶ “Logcap V Performance Contractors Selected.” www.army.mil, 2019. https://www.army.mil/article/220353/logcap_v_performance_contractors_selected.

with a 8 year spending cap of \$6.4 Billion.⁷⁸ Both AFCAP and LOGCAP contractors operate worldwide, providing responsive solutions to urgent needs.⁷⁹

Over the last 30 years, LOGCAP and AFCAP contracts have provided timely support in contingency environments, though the Government Accountability Office (GAO) has identified an extensive history of mismanagement. In 2004, GAO found on two separate occasions that the Army failed to properly plan for the implementation of LOGCAP operations in Iraq and Kuwait. Once operations were in place, oversight processes were missing, contracting personnel failed to exhibit concerns of cost, and there was a shortage of trained Army personnel to administer the contracts.⁸⁰ In 2008, GAO found the DoD to be struggling to effectively manage, plan, and train contract personnel. GAO interviewed commanders at numerous deployed locations and found them “surprised by the substantial number of personnel they had to allocate to provide on-base escorts, convoy security, and other force protection support to contractors.”⁸¹ In 2015, at Al Udeid Air Base, the 379th Expeditionary Contracting Squadron who administers the AFCAP contracts for the base was inspected by the DoD Inspector General’s (DoD IG) office. DoD IG found that contracting officers failed to verify

⁷⁷ “Logcap V Performance Contractors Selected.” [www.army.mil](https://www.army.mil/article/220353/logcap_v_performance_contractors_selected), 2019. https://www.army.mil/article/220353/logcap_v_performance_contractors_selected.

⁷⁸ Ford, David. “AFCAP v Increases Field Assistance.” Air Force, 2020. <https://www.af.mil/News/Article-Display/Article/2162920/afcap-v-increases-field-assistance/>.

⁷⁹ “Air Force Contract Augmentation Program (AFCAP) .” Air Force Civil Engineer Center, 2014. <https://www.afcec.af.mil/Portals/17/documents/Readiness/AFD-140227-020.pdf>.

⁸⁰ “GAO-04-869T.” Government Accountability Office, 2004. <https://www.gao.gov/pdf/product/111029>.

⁸¹ “GAO-08-572T.” GAO, March 11, 2008. <https://www.gao.gov/assets/a119340.html>.

satisfactory performance before paying 50% of invoices between 2012 and 2014.⁸²

Nearly 15 years after AFCAP inception at Al Udeid, officers had yet to establish procedures to ensure “payments were based on documented acceptance of contractor performance.”⁸³ Furthermore, they found that contracting officers administering AFCAP contracts at Al Udeid failed to follow certain Federal Acquisition Regulation procedures amounting to the “Air Force paying over \$5.0 million for services that may not have met contract requirements.”⁸⁴

After reaching out to the DoD CTIP office, I was unable to obtain access to DoD data explicitly tying trafficking in persons violations to contracts at Al Udeid, though I still think it is a justifiable case for investigation. The history of mismanagement spanning two decades and the use of a notoriously corrupt guestworker program, makes DoD’s role in Qatar’s exploitative guestworker program a worthy case study.

⁸² “Report No. Dodig-2015-075.” DoD Inspector General, 2015.
<https://media.defense.gov/2015/Jan/28/2001713464/-1/-1/1/DODIG-2015-075.pdf>.

⁸³ “Report No. Dodig-2015-075.” DoD Inspector General, 2015.

⁸⁴ Ibid

Chapter V.

Intersection of U.S. and Qatari Labor Laws

Human trafficking is an unconscionable attack on the dignity of the most vulnerable among us. Action can't wait.

- President Joseph R. Biden Jr⁸⁵

U.S. contractors operating in Qatar on DoD contracts, such as those participating in the AFCAP program, must comply both with the Federal Acquisition Regulations or the FAR, the prevailing acquisition laws in the United States, and with local labor laws and standards. According to FAR Clause 52.222-50 Combating Trafficking in Persons (3)(iv):, which is prescribed to be in every DoD contract: “if the Contractor or subcontractor intends to provide or arrange housing, that ensures that the housing meets host-country housing and safety standards.”⁸⁶ Additionally, (5)(ii): contractors must not “use recruiters that do not comply with local labor laws of the country in which the recruitment takes place”.⁸⁷

Given contractors must comply with local labor laws, the argument can be made that there isn't a U.S. only solution to labor trafficking associated with DoD contracts in Qatar. And that's true, the host country has its own laws and regulations. What this paper

⁸⁵ “U.S. Department of State - United States Department of State.” U.S. State Department, 2022. <https://www.state.gov/wp-content/uploads/2022/04/337308-2022-TIP-REPORT-inaccessible.pdf>.

⁸⁶ “Federal Acquisition Regulation.” 52.222-50 Combating Trafficking in Persons. | Acquisition.GOV. Accessed July 10, 2022. <https://www.acquisition.gov/far/52.222-50>.

⁸⁷ “Federal Acquisition Regulation.” 52.222-50 Combating Trafficking in Persons.

is arguing is that the U.S., to the extent allowed by law, should better address labor trafficking via its own policies. And should consider, if habitual violations continue, engagement via diplomatic channels with the Government of Qatar. A certain level of accountability is required given the U.S. benefits from sourcing migrant labor from Qatar's guestworker program. And if the morality argument is not enough to sway American policymakers, U.S. resources, both monetary and in personnel, are spent in droves to combat labor trafficking abroad. Any efficiencies which can be gained through introspection and analysis of current policies will pay dividends for the U.S. Government.

So what about Qatar and the structure of its guest worker program makes tailoring U.S. CTIP laws to uniquely respond to the Gulf state necessary? "More than anywhere else in the world, the countries of the Arabian Gulf are dependent on foreign labour to sustain their economic growth and development."⁸⁸ Qatar's workforce, estimated to be over 80% foreign, presents a scenario whereby the potential for exploitation is nearly unrivaled.⁸⁹ The sheer magnitude of the guestworker population warrants close analysis of policy to ensure the U.S. doesn't blindly participate in Qatar's guestworker program. The overdependence of Qatar's economy on cheap labor to fill low-skilled sectors such as construction, custodial, and food services has created a system primed to seek out the vulnerable and poor. When the U.S. military took up residence in Qatar, they added to the demand for labor in these sectors and became willing participants in a program which places too much power in the hands of employers.

⁸⁸ Diop, A., Li, Y., Al-Ansari, M., & Le, K. Social Capital and Citizens' Attitudes towards Migrant Workers. *Social Inclusion*, 5(1), 66-79. 2017. doi:<https://doi.org/10.17645/si.v5i1.798>

⁸⁹ Allen James Fromherz, *Qatar: A Modern History*. (Washington: Georgetown University Press), 2017, p. 2.

Chapter VI.

Methodology

Commanders need to be vigilant to the terms and conditions of employment for individuals employed by DoD contractors in their Areas of Operations. Trafficking includes involuntary servitude and debt bondage. These trafficking practices will not be tolerated in DoD contractor organizations or their subcontractors in supporting DoD operations.

– Donald Rumsfeld, Secretary of Defense,
in a memo to the Department of Defense, 16 September 2004⁹⁰

Efficacy is difficult to determine with any research endeavor. It was the original intent of this study to analyze the number of trafficking violations over time in comparison to the implementation of DoD policy. Due to DoD data access limitations, the focus of the study evolved to understanding the intent of DoD policy, rather than attempting to find a quantitative correlation between policies and outcomes.

Thus, the guiding question transformed from, “is it possible to find a correlation between implementation of DoD policy and number of trafficking violations?” to “are DoD policies addressing the root cause of trafficking violations?”

In other words, even if the DoD is following all of the U.S. laws and regulations concerning CTIP, are those policies adequate? Are they addressing the sources of TIP?

Initial research suggests DoD regulations are only superficially addressing TIP (i.e. how to recognize it, promoting zero tolerance, etc) as violations persist. In fact, the

⁹⁰ “GAO-08-572T.” GAO, March 11, 2008. <https://www.gao.gov/assets/a119340.html>.

Government Accountability Office (GAO) has performed studies in this fashion on DoD practices in the Middle East analyzing if personnel were following procedure, not if said procedure was effective.⁹¹ This points to reactive, rather than preventative policymaking. The U.S. can test and retest to confirm government personnel are following set procedures, but if those procedures are ineffective to begin with, for lack of a better phrase, “what is the point?”

The fact is that the U.S. is no longer temporarily in the Gulf. The DoD has been housed at Al Udeid Air Base for over 20 years and are transitioning the base from expeditionary (read temporary) to enduring (read permanent), signifying their intent to hold a lasting presence in the Gulf. Accordingly, the Qataris have invested millions of dollars into beefing up U.S. living quarters on base to support the sustained strategy.⁹² With all signs pointing to the DoD perpetually taking up residence in the Gulf, this begs the question, why implement policy which will never get at the source of the problem, especially given their apparent intent to remain in place in perpetuity?

Some may argue that the intent of these policies is not to be a cure-all for trafficking in persons. Some hold that the U.S. isn’t responsible for the “x” number of third variables which contribute to the phenomenon known as trafficking in persons. Yet, this paper argues, as beneficiaries of the fruits of “modern slavery-like” practices, the U.S. doesn’t have the luxury to sit back and simply say, “we don’t condone it” and continue to operate as normal. The U.S. must actively try to prevent it, rather than react to its many ugly

⁹¹ “GAO-21-546, Human Trafficking: DOD Should Address Weaknesses in ...” Government Accountability Office, August 4, 2021. <https://www.gao.gov/assets/gao-21-546.pdf>.

⁹² Gardner, Kylee. “Qatar Ministry of Defense Presents New Dorms to Auab.” U.S. Air Forces Central, August 4, 2021. <https://www.afcent.af.mil/Units/379th-Air-Expeditionary-Wing/News/Display/Article/2717145/qatar-ministry-of-defense-presents-new-dorms-to-auab/>.

heads with hollow policies. In fact, President Joe Biden in the National Action Plan to Combat Human Trafficking published in December of 2021 stated, “any form of trafficking in people—from forced labor to sex trafficking—must not be tolerated, in the United States or anywhere around the world.”⁹³

Prior to analysis, important definitions and distinctions need to be made. First, references to TIP refer to labor trafficking specific to migrant workers participating in Qatar’s guestworker program. Guestworkers, for purposes of this paper, are defined as “international migrants who are admitted on state-run programs for the purpose of labor on a temporary basis, and granted limited or no options for changing this status.”⁹⁴ The systems which create these guestworkers “nearly always funnel the laborers into low-skilled jobs.”⁹⁵ The guestworkers which are employed on DoD contracts at AUAB fall within what institutional narratives have deemed “low skilled” or “unskilled” labor categories as opposed to “high skilled” or “skilled” labor classes. “Low” or “unskilled” labor classes are generally associated with manual labor such as in construction and custodial industries, while “high” or “skilled” labor is associated with professional positions and university degrees such as doctors. Despite the troubling labels reflective of “the views of institutions, politicians, and other interest groups with specific agendas and vested interest in determining who does and does not have skills”, the two groups have

⁹³ Biden, Joseph, White House § (2021). <https://www.whitehouse.gov/wp-content/uploads/2021/12/National-Action-Plan-to-Combat-Human-Trafficking.pdf>.

⁹⁴ Leila Simona Talani, and Simon McMahon. Handbook of the International Political Economy of Migration. 2017, p. 167.

⁹⁵ Addleton J. The impact of the Gulf war on migration and remittances in Asia and the Middle East. *International migration* (Geneva, Switzerland), 29(4), 509–526. 1991. <https://doi.org/10.1111/j.1468-2435.1991.tb01037.x>

been treated very differently from an immigration policy perspective.⁹⁶ “High” or “skilled” workers often have pathways to permanent citizenship, while “low” or “unskilled” workers typically have strict temporary visas tied to specific employers. For purposes of this paper, the guestworkers to which I refer are all considered to be in the “low” or “unskilled” category.

Accordingly, I utilized the research of Dr. Ypi to assess DoD trafficking policy. As previously established, Dr. Ypi is a leading expert in the fields of migration and labor. Her work has shifted the way scholars approach the ways in which guestworker programs exploit workers. Using her work, I analyzed how DoD policies address each of the foci outlined by Ypi to be key in properly addressing the exploitative nature of guestworker programs: focus should be on the status of workers in general, the circumstances in which they are forced to accept certain wages, the sort of incentives that reward employers and firms seeking to hire cheap labor, and the institutional arrangements that govern the trade of labor and the accumulation of capital in the global market.⁹⁷

For each of the foci, I examined DoD policies in search of language related to it. For status of workers in general, I searched for terms such as “guestworker”, “migrant”, and “temporary worker”. For circumstances in which they are forced to accept certain wages, I searched for terms such as “forced labor”, “peonage”, “poor”, “disadvantaged”. For the sort of incentives that reward employers and firms seeking to hire cheap labor, I

⁹⁶ Cepla, Zuzana, and Helen Dempster. “There's No Such Thing as a ‘Low’-Skill Worker.” Center for Global Development | Ideas to Action, 2021. <https://www.cgdev.org/blog/theres-no-such-thing-low-skill-worker>.

⁹⁷ Sarah and Lea Ypi. *Migration in Political Theory: The Ethics of Movement and Membership*. Oxford: Oxford University Press, 2019. <https://oxford-universitypressscholarship-com.ezp-prod1.hul.harvard.edu/view/10.1093/acprof:oso/9780199676606.001.0001/acprof-9780199676606>.

searched for “kafala”, “guestworker program”, “recruitment fees”, “incentives”, “kickbacks”. For institutional arrangements that govern the trade of labor and the accumulation of capital in the global market, I searched for “trade”, “agreement”, “global market”, “labor”, “economy”. The policies offered for analysis in this paper come from a list of U.S. laws and policies on Trafficking in Persons compiled by the Department of Defense CTIP office.⁹⁸

⁹⁸ “U.S. Laws and Policies on Trafficking in Persons.” CTIP DoD. Accessed July 10, 2022. <https://ctip.defense.gov/Resources/US-Laws-and-Policies-on-Trafficking-in-Persons/>.

Chapter VII.

Analysis

The Commander in Chief has decreed that all departments of the United States Government will take a ‘zero tolerance’ approach to trafficking in persons. It is the policy of the Department of Defense that trafficking in persons will not be facilitated in any way by the activities of our Service members, civilian employees, indirect hires, or DoD contract personnel.⁹⁹

– Paul Wolfowitz, Deputy Secretary of Defense
CTIP memo to the Department of Defense, 30 Jan 2004

A poignant example of the U.S. attitude toward CTIP policy examination can be found in the 2011 Congressional Hearing before the Subcommittee on Technology, Information Policy, Intergovernmental Relations and Procurement Reform, Committee on Oversight and Government Reform to discuss whether government contractors were exploiting workers overseas. The title of the hearing read, “Are Government Contractors Exploiting Workers Overseas? Examining Enforcement of the Trafficking Victims Protection Act”. Nick Schwellenback, Director of Investigations with the Project on Government Oversight stated,

The United States has been a global leader in combating trafficking in persons, yet our tax dollars are inadvertently fueling this human rights tragedy through our overseas contract labor supply chain. Not only is trafficking and exploitation of laborers a moral wrong, but it can spark a backlash from the laborers and their home countries, and could undermine the U.S. mission abroad. There have been some oversight improvements over the last several years, but there is a lack of enforcement.¹⁰⁰

⁹⁹ “U.S. Laws and Policies on Trafficking in Persons.” CTIP DoD.

Much of the hearing centered around whether government contracting personnel were following the Trafficking Victims Protection Act (TVPA), reporting incidents, and debarring contractors in violation. The conclusion by the chairman was, “at this point it is moving from we have great rules and regulations to we are enforcing them and we are accomplishing that.”¹⁰¹ The focus here, much like the GAO reports, is on enforcement, not adequacy of existing regulations.

The following list of laws and policies was procured from the CTIP program office and analyzed to determine the extent to which they address the unique vulnerabilities of guestworkers and the programs which exploit them as recommended by Dr. Lea Ypi. They are categorized below as either national policies or Department of Defense policies.

National Policies

This section examines national level policies including the Trafficking Victims Protection Act, Executive Order 13257, National Security Presidential Directive 22, Executive Order 13333, U.S. Code, Title 18, the National Defense Authorization Act to End Trafficking in Government Contracting, and the Justice for Victims of Trafficking Act.

¹⁰⁰ Committee on Oversight and Government Reform. Report, ARE GOVERNMENT CONTRACTORS EXPLOITING WORKERS OVERSEAS? EXAMINING ENFORCEMENT OF THE TRAFFICKING VICTIMS’ PROTECTION ACT §. 112-93 (2011). <https://www.govinfo.gov/content/pkg/CHRG-112hhrg71964/html/CHRG-112hhrg71964.htm>.

¹⁰¹ “U.S. Laws and Policies on Trafficking in Persons.” CTIP DoD. Accessed July 10, 2022. <https://ctip.defense.gov/Resources/US-Laws-and-Policies-on-Trafficking-in-Persons/>.

The Trafficking Victims Protection Act (TVPA)

The Trafficking Victims Protection Act (TVPA) enacted in 2000 and subsequently reauthorized in 2003, 2005, 2008, 2013, and 2018 claims to “provide the tools to combat trafficking in persons both worldwide and domestically”¹⁰² and is even touted by human rights NGOs as “the most important anti-trafficking law ever passed” and “comprehensive , though it seemingly falls short when measured against Ypi’s recommendations.”¹⁰³

The TVPA established the State Department’s Trafficking in Persons office as well as the President’s Interagency Task Force to Monitor and Combat Trafficking in Persons (PITF) whose primary responsibility is to coordinate “efforts across 20 Federal agencies to combat trafficking in persons.”¹⁰⁴ Additionally, the Act established methods of prosecuting traffickers, steps towards prevention, and protection of victims. It established trafficking in persons as a federal crime. Each of the reauthorizations expanded strategies and protections for victims as well as called for certain Federal agencies to respond to particularly susceptible areas of trafficking. It outlined standards for the elimination of trafficking applicable to governments worldwide. These standards are utilized by the State Department to author their annual Trafficking in Persons Report

¹⁰² “International and Domestic Law - United States Department of State.” U.S. Department of State. U.S. Department of State, January 9, 2021. <https://www.state.gov/international-and-domestic-law/>.

¹⁰³ “Trafficking Victims Protection Act.” Fight Slavery Now, March 4, 2017. <https://fightslaverynow.org/why-fight-there-are-27-million-reasons/the-law-and-trafficking/trafficking-victims-protection-act/trafficking-victims-protection-act/>.

¹⁰⁴ “Fact Sheet: President’s Interagency Task Force to Monitor and Combat Trafficking in Persons.” The White House. The United States Government, January 25, 2022. <https://www.whitehouse.gov/briefing-room/statements-releases/2022/01/25/fact-sheet-presidents-interagency-task-force-to-monitor-and-combat-trafficking-in-persons/>.

where countries are ranked in a tier system indicative of their adherence to the standards outlined in the TVPA.¹⁰⁵

In relation to Ypi's recommendations, the TVPA did not especially focus on the status of workers as compared to other non-citizens. Throughout Ypi's various works, including in her article entitled, "Borders of Class: Migration and Citizenship in the Capitalist State", she calls for a renewed focus on the "connection between migration and social class."¹⁰⁶ The fact is that not all migrants are equal. Guestworkers,

are entitled to fewer benefits of membership even compared to other immigrant workers, for example, compared to students who have decided to settle and work in the receiving state, compared to refugees or compared to immigrants who have gained entrance as a result of practices of family reunification (to mention but some of the most prominent categories).¹⁰⁷

Ypi notes, guestworkers are "typically tied to one particular work sector or the terms of their visas prevent them from changing employers", a hallmark feature of the pre-reformed Kafala system. Furthermore, they "often cannot apply for permanent residence and eventually citizenship, denied right to apply for family reunification, subject to deportation if they lose their job".¹⁰⁸ This differentiation in relation to other migrants is important to underscore. While not every guestworker is exploited,

¹⁰⁵ "American Bar Association." Americanbar.org. Accessed July 10, 2022. https://www.americanbar.org/groups/human_rights/human-trafficking/trafficking-legislation/#:~:text=The%20Trafficking%20Victims%20Protection%20Act,related%20offenses%20as%20federal%20crimes.

¹⁰⁶ Ypi, L. Borders of Class: Migration and Citizenship in the Capitalist State. *Ethics & International Affairs*, 32(2), 141-152. 2018. doi:10.1017/S0892679418000278

¹⁰⁷ Fine, Sarah, and Lea Ypi. *Migration in Political Theory: The Ethics of Movement and Membership*. Oxford: Oxford University Press, 2019. [https://oxford-universitypressscholarship-com.ezp-prod1.hul.harvard.edu/view/10.1093/acprof:oso/9780199676606.001.0001/acprof-9780199676606.](https://oxford-universitypressscholarship-com.ezp-prod1.hul.harvard.edu/view/10.1093/acprof:oso/9780199676606.001.0001/acprof-9780199676606)

¹⁰⁸ Sarah Fine and Lea Ypi. *Migration in Political Theory: The Ethics of Movement and Membership*.

guestworkers as a class are uniquely vulnerable. Understanding these vulnerabilities enables policymakers to tailor laws to better address the inequities experienced by this class of people. For instance, in Qatar, guestworkers were previously tied to their employer or sponsor via the constraints of the Kafala system. Despite reform and revocation of the non-objection certificate, many guestworkers find sponsors continue to threaten deportation and withholding of visas if they attempt to change jobs. One such worker, identified as “Shayne” from the Philippines worked at a food stall for seven years in Doha. She attempted to resign and seek other employment under the reformed Kafala system but received threats of deportation from her sponsor. In retaliation for attempting to change jobs, her sponsor accused her of holding multiple jobs and cancelled her ID and filed an abscondment case against her. She then was told she would be sent home without her due salary and benefits. A number of similar cases of sponsor harassment exist, according to Aljazeera, Qatar’s state-owned media conglomerate. Evidently, the reformed system has not dampened the exploitative power which sponsors hold over migrant workers.¹⁰⁹ Noha Aboueldahab of the Brookings Institution notes, that while these reforms are encouraging and have even been hailed as historic in “dismantling” the kafala system, the lack of enforcement is pervasive, and impunity remains endemic” as clearly illustrated in the Aljazeera accounts.¹¹⁰ The TVPA doesn’t adequately address the vulnerabilities of guestworkers in host countries. In fact, it doesn’t even mention

¹⁰⁹ Ghani, Faras. “Labour Law Changes: Are Qatar's Migrant Workers Better Off?” Labour Rights | Al Jazeera. Al Jazeera, March 15, 2021. <https://www.aljazeera.com/features/2021/3/15/labour-law-changes-are-qatars-migrant-workers-better-off>.

¹¹⁰ Aboueldahab, Noha. “Social Protection, Not Just Legal Protection: Migrant Laborers in the Gulf.” Brookings. Brookings, March 9, 2022. <https://www.brookings.edu/research/social-protection-not-just-legal-protection-migrant-laborers-in-the-gulf/>.

guestworkers. While the Act does address instances of forced labor, debt bondage, and peonage, it fails to mention the specific vulnerabilities of guestworkers in particular. The TVPA consistently mentions women and children as especially vulnerable categories, yet fails to distinguish guestworkers. Without a focus on the vulnerabilities of guestworkers as a class, the TVPA misses the mark in increasing protections for workers and, similarly, in the prevention of future instances of exploitation.

Furthermore, the Act fails to comment on the circumstances in which guestworkers are forced to accept certain wages. It also fails to outline the incentives which reward employers and firms seeking to hire cheap labor. Finally, the TVPA does not address the institutional arrangements that govern the trade of labor and the accumulation of capital in the global market.

Paradoxically, despite these omissions, the Act includes a section entitled, Sec 134. Assistance to Foreign Countries to Meet Minimum Standards for the Elimination of Trafficking. In this section, the President authorizes assistance to foreign countries to meet minimum standards for the elimination of trafficking via assistance in drafting of laws to prohibit and punish acts of trafficking, the investigation and prosecution of traffickers, among other support mechanisms.¹¹¹

Executive Order 13257, Presidential Interagency Task Force

Executive Order 13257 codified the Presidential Interagency Task Force (PITF) to Monitor and Combat Trafficking in Persons whose role is to coordinate the

¹¹¹ “U.S. Laws and Policies on Trafficking in Persons.” CTIP DoD. Accessed July 10, 2022. <https://ctip.defense.gov/Resources/US-Laws-and-Policies-on-Trafficking-in-Persons/>.

implementation of the TVPA, measure and evaluate the progress of the U.S. and other countries in the elimination of trafficking, expand interagency procedures to collect and organize data, and facilitate cooperation among countries to prevent and prosecute traffickers. While this executive order largely lays out the roles and responsibilities of the PITF, it does place special emphasis on sex trafficking as opposed to other forms of trafficking. With no mention of guestworkers, the order fails to address the status of workers as a class, nor does it comment on the circumstances in which guestworkers are forced to accept certain wages, the incentives which reward employers and firms seeking to hire cheap labor, or the institutional arrangements that govern the trade of labor and the accumulation of capital in the global market.¹¹²

National Security Presidential Directive 22

This directive instructed federal agencies to strengthen their collective efforts, capabilities, and coordination to support the policy to combat trafficking in persons. Specifically, the directive outlines elements which must be included in U.S. policy: enforcing the law against all those who traffic, raising awareness at home and abroad about trafficking in persons and how it can be eradicated, identifying/protecting/assisting those exploited, reducing vulnerability of individuals to trafficking through education, economic opportunity, and protection of human rights, and employing diplomacy and foreign policy tools to encourage cooperation and accountability with other countries.

¹¹² “U.S. Laws and Policies on Trafficking in Persons.” CTIP DoD. Accessed July 10, 2022. <https://ctip.defense.gov/Resources/US-Laws-and-Policies-on-Trafficking-in-Persons/>.

With regard to Ypi's recommendations, this directive fails in all categories as it does not mention guestworkers in any capacity.¹¹³

Executive Order 13333, Amending Executive Order 13257

Executive Order 13333, amended Executive Order 13257 to include changes to the TVPA due to reauthorization in 2003. Specifically, the Order added guidelines, policies, and regulations for the Senior Policy Operating Group (SPOG) to coordinate the Executive Branch's trafficking in persons policies. Additionally, the order authorized the U.S. Secretary of State to determine foreign destinations where sex tourism is significant. It also dictated that research initiatives via grants be established in order to learn more about trafficking in persons.¹¹⁴ Unsurprisingly, the Order failed to mention guestworkers, instead focusing on the sex trafficking. Due to this omission, the order failed to meet all of the recommendations put forth by Ypi.

U.S. Code, Title 18, Chapter 77

Chapter 77 of U.S. Code, Title 18, outlined prosecution standards for peonage, slavery, and trafficking in persons.¹¹⁵ While the code mentioned peonage, a common manifestation of labor trafficking of guestworkers, it did not specifically mention guestworkers. Peonage is not an exclusive phenomenon belonging to guestworkers.

¹¹³ "U.S. Laws and Policies on Trafficking in Persons." CTIP DoD.

¹¹⁴ Ibid

¹¹⁵ Ibid

Without mention of guestworkers, this code does not measure up to Ypi's recommendations.

National Defense Authorization Act (NDAA)

The NDAA to end trafficking in government contracting established the requirement for contractors of service contracts greater than \$500,000 to be performed outside of the U.S. to author a trafficking in persons compliance plan, which requires the contractor to monitor, detect, and terminate any employee or subcontractor if they engage in activities of trafficking in persons. Furthermore, the NDAA requires contracting officers to report any suspected trafficking amongst contractors to the Office of the Inspector General for investigation. This NDAA also provides revisions for improving DoD accountability for reporting trafficking claims and violations.¹¹⁶ With regard to Ypi's recommendations, guestworkers were not mentioned.

Justice for Victims of Trafficking Act

The Justice for Victims of Trafficking Act of 2015 increased

compensation and restitution under the federal criminal code for victims of human trafficking and classifies producers of child pornography as engaged in illicit sexual conduct involving human trafficking.¹¹⁷

It did not mention guestworkers, therefore fails to address Ypi's recommendations.

¹¹⁶ Ibid

¹¹⁷ An act to provide justice for the victims of trafficking. Bill, Congress § (2015). <https://www.congress.gov/bill/114th-congress/house-bill/296#:~:text=The%20bill%20increases%20compensation%20and,sexual%20conduct%20involving%20human%20trafficking.>

Department of Defense Policies

By their own analysis, the Department of Defense has “made strides over the years” in improving their CTIP program. In a January 2022 article, Linda Dixon, CTIP program manager, contended that while the total number of DoD trafficking cases has increased, this suggests greater understanding and watchfulness over CTIP offenses by DoD professionals.¹¹⁸ Ostensibly, this greater understanding and watchfulness is thanks to the DoD’s laundry list of advancements in the fight against human trafficking provided by the CTIP program office.

The Department of Defense was the first Federal agency to require CTIP training for personnel, beginning first with military members in 2005.¹¹⁹ Similarly, in 2006, the DoD was the first Federal agency to mandate the inclusion of TIP clauses in contracts, a practice still in place today. In 2007, the Department authored the Combating Trafficking in Persons DoD Instruction (2200.01), which formally implemented National Security Presidential Directive 22, established CTIP policy and prescribed training requirements for the force. In 2010, CTIP training was expanded to civilian personnel and the CTIP Program Office established their website with anti-trafficking resources. In 2011, the Department again led the Federal government in creating Worker’s Rights reference cards in multiple languages used by DoD personnel to ensure workers understand their labor rights. In 2012 and 2013, a formal CTIP task force and strategic plan was

¹¹⁸ Cronk, Terri Moon. “DOD Is Making Significant Strides in Combating Human Trafficking, Official Says.” U.S. Department of Defense, January 24, 2022. <https://www.defense.gov/News/News-Stories/Article/Article/2909695/dod-is-making-significant-strides-in-combating-human-trafficking-official-says/>.

¹¹⁹ “U.S. Laws and Policies on Trafficking in Persons.” CTIP DoD. Accessed July 10, 2022. <https://ctip.defense.gov/Resources/US-Laws-and-Policies-on-Trafficking-in-Persons/>.

established. In 2014, the Department tailored training to combat trafficking in Afghanistan and staffed a CTIP program manager in country. In 2016, Defense Advanced Research Projects Agency (DARPA) created an anti-trafficking web-based tool called Memex, which received the Presidential Award for Extraordinary Efforts to Combat Trafficking in Persons. Memex is a software program which enables more efficient investigations of human trafficking incidents on the dark web via machine learning algorithms.¹²⁰ In 2017, 94% of active-duty members surveyed understood the U.S. Government’s “zero tolerance” policy. In 2018, the CTIP program office in partnership with the DoD Education Activity (DoDEA) launched CTIP training for DODEA personnel.¹²¹

National Defense Authorization Act (NDAA) of 2017

The NDAA of 2017 was included on the DoD CTIP office’s list of U.S. laws and policies on trafficking in persons. Generally, NDAAs are passed every year to authorize appropriations for the applicable fiscal year for

military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.¹²²

Section 1298 entitled, Efforts to End Modern Slavery, requires the Secretary of Defense to report to congress on the “policies and guidance of the Department of Defense

¹²⁰ Foy, Kylie. “Artificial Intelligence Is Helping Investigators Fight Crime on the Dark Web.” MIT Lincoln Laboratory, 2019. <https://www.ll.mit.edu/news/artificial-intelligence-helping-investigators-fight-crime-dark-web>.

¹²¹ “U.S. Laws and Policies on Trafficking in Persons.” CTIP DoD. Accessed July 10, 2022. <https://ctip.defense.gov/Resources/US-Laws-and-Policies-on-Trafficking-in-Persons/>.

¹²² “U.S. Laws and Policies on Trafficking in Persons.” CTIP DoD.

with respect to the education and training on human slavery and the appropriate role of the United States Armed Forces in combating trafficking in persons that is received by personnel of the Armed Forces.”¹²³ This report is to be compiled into an annual Federal report authored by the Comptroller General of the U.S. who is tasked to provide it to Congress on the effectiveness of a myriad of Departments and their CTIP programs. The report must include,

a detailed analysis of the effectiveness of such programs in limiting human trafficking and modern slavery and specific recommendations on which programs are not effective at reducing the prevalence of human trafficking and modern slavery and how the funding for such programs may be redirected to more effective efforts.¹²⁴

The most current version of the report, authored in fiscal year 2020, details TIP cases across departments, including those reported by the Department of Defense. In fiscal year 2020, the DoD reported 112 labor trafficking cases with 1,423 victims. Of the 112 cases, 28 cases fell under 48 CFR 252.225-7040, which governs contractors supporting deployed U.S. forces.¹²⁵ Though, similar to other policies, guestworkers were not mentioned.

U.S. Code, Title 22, Chapter 78

Existing legislation and law enforcement in the United States and other countries are inadequate to deter trafficking and bring traffickers to justice, failing to reflect the gravity of the offenses involved. No comprehensive law exists in the United States that penalizes the range of offenses involved in the trafficking scheme. Instead, even the most brutal

¹²³ Ibid

¹²⁴ Ibid

¹²⁵ “Attorney General's Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons.” The United States Department of Justice, February 1, 2022. <https://www.justice.gov/humantrafficking>.

instances of trafficking in the sex industry are often punished under laws that also apply to lesser offenses, so that traffickers typically escape deserved punishment.

The President shall establish a system to evaluate the effectiveness and efficiency of the assistance provided under anti-trafficking programs established under this Act on a program-by-program basis in order to maximize the long-term sustainable development impact of such assistance.¹²⁶

This code touts the TVPA as comprehensive, though it too, lacks mention of guestworkers and guestworker programs.

Under Secretary of Defense for Policy

This 2004 memo assigned the Under Secretary of Defense for Personnel and Readiness the responsibility for the implementation of CTIP policy.⁹⁸ There was no mention of guestworkers.

Deputy Secretary of Defense

“It is the policy of the Department of Defense that trafficking in persons will not be facilitated in any way by the activities of our Service members, civilian employees, indirect hires, or DoD contract personnel.”¹²⁷ While this memo mentions the applicability of the U.S. government’s zero-tolerance policy extending to DoD contract personnel, it does not mention guestworkers.

¹²⁶ “U.S. Laws and Policies on Trafficking in Persons.” CTIP DoD. Accessed July 10, 2022. <https://ctip.defense.gov/Resources/US-Laws-and-Policies-on-Trafficking-in-Persons/>.

¹²⁷ “U.S. Laws and Policies on Trafficking in Persons.” CTIP DoD.

Secretary of Defense

Commanders need to be vigilant to the terms and conditions of employment for individuals employed by DoD contractors in their Areas of Operations. Trafficking includes involuntary servitude and debt bondage. These trafficking practices will not be tolerated in DoD contractor organizations or their subcontractors in supporting DoD operations.¹²⁸

Again, the applicability of U.S. policy to DoD contract personnel is highlighted, though no mention of the specific vulnerabilities of guestworkers is mentioned.

Under Secretary of Defense for Personnel and Readiness, Awareness

We developed an awareness training program on Trafficking in Persons. The program: (1) reviews U.S. Government policy on Trafficking in Persons; (2) examines the phenomenon of trafficking; (3) describes ways to identify persons who are trafficked; and (4) describes the legal provisions and their consequences for involvement with trafficking... Trafficking in Persons Awareness Training is mandatory for all DoD military and civilian personnel, and for DoD contract personnel, deploying overseas.¹²⁹

This memo served to highlight the CTIP training created by the DoD. No mention is made of guestworkers.

Department of Defense Instruction (DoDI) 2200.01

DoDI 2200.01 “established policy, assigns responsibilities, and prescribes training requirements for CTIP, implements National Security Presidential Directive-22.”⁵¹ It established efforts to ensure U.S. Government contractors and their employees or U.S. Government subcontractors and their employees do not engage in TIP. The instruction

¹²⁸ Ibid

¹²⁹ Ibid

also included data on DoD contractor adherence to DoD CTIP policy consistent with Subpart 22.17 and Clause 52.222-50 of FAR.”¹³⁰

Much like the previous memorandums, this instruction provides for the U.S. Government’s TIP policies to extend to DoD contractors. It also prescribes the inclusion of the CTIP clause, which calls for CTIP compliance plans from overseas contractors. Ultimately, it makes no mention of guestworkers.

Department of Defense Instruction (DoDI) 5525.11

The Act and this Instruction are intended to address the jurisdictional gap in U.S. law regarding criminal sanctions, as applied to civilians employed by or accompanying the Armed Forces outside the United States, members of the Armed Forces, and former members of the Armed Forces, including their dependents. It does not enforce a foreign nation’s criminal laws and, as such, does not require that the person’s actions violate the foreign nation’s laws and applies even if the conduct may be legal under the foreign nation’s laws. The jurisdictional requirement is that the conduct be in violation of U.S. Federal laws. When, however, the same conduct violates the Act and the laws of the foreign nation, the Act provides for consideration of existing international agreements between the United States and the foreign nation.¹³¹

This instruction clarifies that a DoD contractor can still be held liable for violations of U.S. Federal Law even if the offense is not criminal worthy in the host country. No mention of guestworkers is made.

¹³⁰ Ibid

¹³¹ Ibid

Defense Federal Acquisition Regulation Supplement 222.17

This regulation calls to “(i) Prohibit any activities on the part of contractor employees that support or promote trafficking in persons; and (ii) Impose suitable penalties on contractors who fail to monitor the conduct of their employees.”¹³²

This DFARS reference reminds contractors of their liability if found supporting or promoting trafficking in persons, though makes no mention of guestworkers.

CENTCOM Joint Theater Contracting Command

The CENTCOM Joint Theater Support Contracting Command Acquisition Instruction is specific to Central Command area of responsibility encompassing much of the Middle East, Northeast Africa, and Central and South Asia. The instruction provides for Contracting Officers to include the mandatory FAR CTIP clauses in contracts, which make no reference to guestworkers.¹³³

Federal Acquisition Guidance on Anti-Trafficking Requirements

Federal Acquisition Guidance on Anti-Trafficking requirements describe best practices to combat trafficking in persons from the Senior Policy Operating Group of the President’s Interagency Task Force to Monitor and Combat Trafficking in Persons (SPOG) Procurement and Supply Chain Committee.¹³⁴

¹³² Ibid

¹³³ Ibid

¹³⁴ Ibid

Best practices include elements of the CTIP clause which calls for a CTIP compliance plan from all contractors providing other than commercially available off the shelf items, to be acquired outside the U.S. or services to be performed outside the U.S. and has an estimated value that exceeds \$500,000. These requirements “flow down” to subcontractors and suppliers when the portion of work to be performed overseas exceeds \$500,000 for services or non-COTS supplies. This document referenced a site called responsiblesourcingtool.org which was established through the “collaboration of four institutions committed to fighting human trafficking: the State Department’s Office to Monitor and Combat Trafficking in Persons, Verite, Made in a Free World, and the Aspen Institute. The State Department funded the effort, while the Aspen Institute managed the process, Verite provided the content for the site and hosts it, and Made in a Free World designed the website. The site offers the following policy recommendations, which make no reference to guestworkers:

Implementing effective management systems is the foundation to combating trafficking in your supply chain. The first step to change behavior is to clearly communicate expectations in all contracts and vendor agreements.

A Code of Conduct establishes basic performance expectations for suppliers and subcontractors. A strong Code of Conduct will explicitly prohibit human trafficking and define other worker protections.

Clear performance indicators enable accurate evaluation over time to determine if genuine improvements are made in the labor and recruitment practices of suppliers.

A formal record of commitment to anti-trafficking requirements from all suppliers throughout the entire supply chain is important to establish accountability expectations for all parties.

Creating a robust due-diligence screening process for labor recruiters will minimize the risk of human trafficking as a result of fraudulent or misleading recruitment practices.

Regularly evaluating the strengths and weaknesses of suppliers' and subcontractors' anti-human trafficking policies and procedures will help highlight where more improvement is needed.

Effective due diligence of labor recruiters must include regular, independent monitoring of actual performance against legal and Code of Conduct requirements.

Robust compliance efforts include worker input, including systems for gathering information from migrant workers through direct interviews or other confidential feedback mechanisms.

Fostering improvement over time requires a systems approach to risk management, known as 'Identify, Evaluate, Control and Monitor.'

Supply chain mapping allows a company to trace the chain of custody — and points of accountability — at all levels of production, from extraction or procurement of raw materials to processing, manufacturing, packaging, and distribution to final sale.¹³⁵

While these policy recommendations are at the tactical level, they still fail to speak to the vulnerabilities of the guestworkers and the guestworker programs which facilitate labor trafficking.

Executive Order 13627

The United States has long had a zero-tolerance policy regarding Government employees and contractor personnel engaging in any form of this criminal behavior. As the largest single purchaser of goods and services in the world, the United States Government bears a responsibility to ensure that taxpayer dollars do not contribute to trafficking in persons. By providing our Government workforce with additional tools and training to apply and enforce existing policy, and by providing additional clarity to Government contractors and subcontractors on the steps necessary to fully comply with that policy, this order will help to protect vulnerable individuals as contractors and subcontractors perform vital services and manufacture the goods procured by the United States.¹³⁶

¹³⁵ Ibid

¹³⁶ Ibid

This Executive Order called for amendments to the FAR which would expressly prohibit Federal contractors from trafficking-related activities as well as require CTIP compliance plans. No mention of guestworkers was made.

Chapter VIII.

Findings

Dr. Lea Ypi's reformed theory on how to address the exploitative nature of guestworker programs was used to determine the extent U.S. policy addressed the vulnerabilities of guestworkers. Ypi wrote, that guestworker programs

help employers and firms increase profits at the expense of adverse effects on local wages and by leveling down. Guestworker programs pit workers off against each other, ensuring that what expands options for some workers at the same time increases constraints for others. In the end, even if workers are not exploited distributively, as citizens of different states, they may be exploited collectively, as members of the working class.¹³⁷

Therefore, she recommended four approaches to refocus the discussion of exploitative guestworker programs:

1. Focus on the status of workers as a class,
2. The circumstances in which they are forced to accept certain wages,
3. The incentives that reward employers and firms seeking to hire cheap labor, and
4. The institutional arrangements that govern the trade of labor and the accumulation of capital in the global market.¹³⁸

¹³⁷ Sarah Fine and Lea Ypi. *Migration in Political Theory: The Ethics of Movement and Membership*. Oxford: Oxford University Press, 2019. <https://oxford-universitypressscholarship-com.ezp-prod1.hul.harvard.edu/view/10.1093/acprof:oso/9780199676606.001.0001/acprof-9780199676606>.

¹³⁸ Sarah Fine and Lea Ypi. *Migration in Political Theory: The Ethics of Movement and Membership*.

The U.S. laws and regulations relating to trafficking in persons, as presented by the DoD CTIP program office, were examined to determine if they addressed the four foci, in whole or in part. None of the policies explicitly addressed guestworkers as a particularly vulnerable class. Thematically, most of the regulations focused on women and children. Similarly, most policies emphasized and made special reference to sex trafficking more frequently than labor trafficking.

On a positive side, the DoD authored the most material which focused on the exploitation of migrant workers on U.S. contracts. However, most of the policies were at the tactical level. For instance, regulations instructed Contracting Officers to require contractors to furnish CTIP compliance plans and to ban offending contractors from future work with the U.S. government. However, not one policy offered any type of strategic, high-level doctrine on combating labor trafficking at its roots (i.e. Ypi's four approaches). The problem is much bigger and further upstream than requiring contractors to author compliance plans. As Ypi described,

The exploitative nature of guestworker programs is manifest in the way labor markets operate in a global sphere, in the way states and private employers interact with each other, and in the way the global distribution of labor negatively affects guestworkers and domestic workers alike.¹³⁹

Positive tactical level references to combating the labor trafficking of guestworkers were found in DoD CTIP computer-based training modules, which included information on what constitutes trafficking in persons, the vulnerabilities of trafficking victims, the laws and regs associated with human trafficking, and how to recognize indicators of human

¹³⁹ Ibid

trafficking. Furthermore, the DoD CTIP program office offers worker's rights brochures and wallet cards, posters available in 22 languages, and TIP indicator fact sheets.¹⁴⁰

¹⁴⁰ "U.S. Laws and Policies on Trafficking in Persons." CTIP DoD. Accessed July 10, 2022. <https://ctip.defense.gov/Resources/US-Laws-and-Policies-on-Trafficking-in-Persons/>.

Chapter IX.

Policy Recommendations and Conclusion

As a nation, we must require serious consequence and accountability for those who commit these crimes. *And we must work to stop these crimes before they happen.*

Our plan centers on the key pillars of U.S. and global anti-trafficking efforts: *prevention*, protection, prosecution, and partnerships... There is a clear line that runs throughout our Administration's work: We are focused on the most vulnerable."¹⁴¹

- Vice President Kamala Harris

In Samantha Power's book, *A Problem From Hell: America and the Age of Genocide*, she astutely explains the hesitancy behind policymakers when it comes to responding to human rights issues. She claims, "U.S. officials fear repercussions for their sins of commission—for decisions they make and the policies they shape that go wrong. But none fear they will pay a price for their sins of omission."¹⁴² Accordingly, guestworker program reform has been difficult to sustain given change only occurs when media gets hold of a story which gives the U.S. a black eye. Over the 20+ years that the DoD has been in the Middle East, headlines have read, "The American Government is Funding Human Trafficking"¹⁴³, "After 12 years of war, labor abuses rampant on U.S.

¹⁴¹ "Fact Sheet: President's Interagency Task Force to Monitor and Combat Trafficking in Persons." The White House. The United States Government, January 25, 2022. <https://www.whitehouse.gov/briefing-room/statements-releases/2022/01/25/fact-sheet-presidents-interagency-task-force-to-monitor-and-combat-trafficking-in-persons/>.

¹⁴² Samantha Power, *A Problem from Hell: America and the Age of Genocide*. 2002, p. 510.

bases in Afghanistan”¹⁴⁴, “Third Country Nationals Trafficked by Military Contractors”¹⁴⁵, “US Overseas Contracts Faulted in Human Trafficking”¹⁴⁶, etc.

Though U.S. response has only been at the tactical level, giving identification and reporting tools to those with boots on the ground, but failing to address the root causes of trafficking across the board in CTIP laws and regulations. Therefore, my first recommendation is to include guestworkers, their unique vulnerabilities, and the exploitative powers of guestworker programs into existing U.S. laws. Current legislature is heavily biased toward addressing sex trafficking vice labor trafficking and not once mentions guestworkers. Acknowledging the plight of guestworkers is the first step in creating meaningful policies and policing U.S. complacency in Qatar’s guestworker program.

Secondly, the U.S. needs to increase engagement with Qatar in their kafala system reformation efforts. While the U.S. tracks CTIP compliance via the annual State Department TIP report, Qatar’s Tier 2 rating hasn’t changed for the past five years. Tier 2 indicates “countries whose governments do not fully meet the TVPA’s minimum standards but are making significant efforts to bring themselves into compliance with

¹⁴³ Schulberg, Jessica. “The American Government May Be Knowingly Paying for Human Trafficking.” *The New Republic*, July 14, 2022. <https://newrepublic.com/article/120269/contractors-violate-us-zero-tolerance-policy-human-trafficking>.

¹⁴⁴ “After 12 Years of War, Labor Abuses Rampant on US Bases in Afghanistan.” *Al Jazeera America*, 2014. <http://america.aljazeera.com/articles/2014/3/7/after-12-years-ofwarlaborabusesrampantonusbasesinafghanistan.html>.

¹⁴⁵ “Third Country Nationals Trafficked by Military Contractors.” *Human Trafficking Search*. Human Trafficking Search, May 21, 2021. <https://humantraffickingsearch.org/third-country-nationals-trafficked-by-military-contractors/>.

¹⁴⁶ Behn, Sharon. “US Overseas Contracts Faulted in Human Trafficking.” *VOA*. US Overseas Contracts Faulted in Human Trafficking, November 25, 2014. <https://www.voanews.com/a/us-overseas-contracts-faulted-in-human-trafficking/2533174.html>.

those standards.”¹⁴⁷ How long can a country stay Tier 2 until they are considered stagnant in their progress? The State Department uses “information from U.S. embassies, government officials, nongovernmental and international organizations, published reports, news articles, academic studies, consultations with authorities and organizations in every region of the world” to compile the annual report.¹⁴⁸ The tier levels range from Tier 3, Tier 2 Watch List, Tier 2, to Tier 1. Tier 3 is the worst rating, meaning “countries whose governments do not fully meet the TVPA’s minimum standards and are not making significant efforts to do so”.¹⁴⁹ Tier 2 Watch List refers to:

Countries whose governments do not fully meet the TVPA’s minimum standards but are making significant efforts to bring themselves into compliance with those standards, and for which:

-the estimated number of victims of severe forms of trafficking is very significant or is significantly increasing and the country is not taking proportional concrete actions; or

-there is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year, including increased investigations, prosecutions, and convictions of trafficking crimes, increased assistance to victims, and decreasing evidence of complicity in severe forms of trafficking by government officials.¹⁵⁰

If a country stays in Tier 2 Watch List status for two consecutive years, they will be downgraded to Tier 3 the following year. No such downgrade exists for the other tiers.

¹⁴⁷ “2021 Trafficking in Persons Report - United States Department of State.” U.S. Department of State. U.S. Department of State, August 20, 2021. <https://www.state.gov/reports/2021-trafficking-in-persons-report/>.

¹⁴⁸ “U.S. Department of State - United States Department of State.” U.S. State Department, 2022. <https://www.state.gov/wp-content/uploads/2022/04/337308-2022-TIP-REPORT-inaccessible.pdf>.

¹⁴⁹ “2021 Trafficking in Persons Report - United States Department of State.” U.S. Department of State. U.S. Department of State, August 20, 2021. <https://www.state.gov/reports/2021-trafficking-in-persons-report/>.

¹⁵⁰ “2021 Trafficking in Persons Report - United States Department of State.” U.S. Department of State.

Lastly, Tier 1 indicates “countries whose governments fully meet the TVPA’s minimum standards for the elimination of trafficking”.¹⁵¹

Lastly, the U.S. can take on a more active role in their participation in Qatar’s guestworker program. For guestworkers employed on DoD contracts, the U.S. can broker more nuanced bilateral labor agreements between Qatar and the sending countries. Aboueldahab of the Brookings Institute suggests “increased advocacy for social protections of worker populations” will help ensure “worker representation in policy reform processes and in monitoring and evaluation mechanisms.”¹⁵² The U.S. needs to be a better advocate for the workers they rely on to support deployed operations.

In summary, given the exploitative nature of guestworker programs, which foster conditions for trafficking in persons, the United States should bolster its trafficking in persons policies in order to account for guestworker programs.

The U.S. should re-evaluate the exploitative practices of the countries whose guestworker programs they utilize. Areas of future research include a comprehensive comparative analysis of guestworker programs to glean best practices, incorporation of standalone new legislature specifically addressing guestworkers, and an analysis expanding Ypi’s recommendations to all guestworker programs in which the U.S. participates. Limitations of this paper included accessibility of DoD trafficking in persons violation data.

¹⁵¹ Ibid

¹⁵² Aboueldahab, Noha. “Social Protection, Not Just Legal Protection: Migrant Laborers in the Gulf.” Brookings. Brookings, March 9, 2022. <https://www.brookings.edu/research/social-protection-not-just-legal-protection-migrant-laborers-in-the-gulf/>.

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