

International Entanglements with Migrant
Workers' Rights in the UAE:
Modern Day Slavery, Migration Governance &
Codes of Conduct

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Abstract

In the context of some activists' and organizations' attempts to internationalize labor regulation, I turn to the case of migrant workers' rights in the United Arab Emirates (UAE), using it as a case study to analyze global institutions and movements that attempt to improve local labor conditions. In an era where corporate codes of conduct and international naming-and-shaming NGOs such as Amnesty International and Human Rights Watch proliferate, there is great hope that international monitoring schemes, codes of conduct and naming and shaming tactics can reign in the excesses of multinational corporations. In an era where globalization is presented as endless opportunity for exchange, growth and development – elevated almost to an ideology of globalism, there is also a discourse around the power and ability of international legal instruments, organizations, and transnational campaigns to force corporations and governments to improve their track record of protecting labor rights

The UAE is a particularly interesting case study because of a number of factors. It is a wealthy state that maintains low labor standards (although it is not compelled to in order to attract foreign investment). Between 85-90% of the country's population consists of foreign workers who are viewed as “eternally temporary,” by the state and the indigenous population. Finally, as the UAE government attempts to diversify its economy and attract cultural and financial capital, it has a heavy stake in its public image.

I argue that that these international engagements have had very limited impacts on the ground, despite the powerful rhetoric of “modern day slavery” used to galvanize condemnation of Gulf state labor practices. While these international campaigns have been successful in politicizing the discourse, laws and standards have been reformed only superficially. The various Gulf state governments have coopted the very framework that international standards have used to target the labor practices, in order to “sell” its cosmetic changes in laws by creating zones of exception and harnessing media coverage. Meanwhile, the underlying structural systems that facilitate worker abuse remain untouched.

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March 2015. Hundreds of men, dressed in teal work clothes, wearing distinctive yellow reflective vests congregate and block a main road in Dubai, protesting in broad daylight – a sight that makes the city stop and stare. They stand only a short distance away from the pride of the Dubai skyline and the tallest building in the world, the Burj Khalifa. The atmosphere is exuberant and enthusiastic though the workers soon disperse after the police promise to resolve their complaints.¹

May Day 2015. Protestors chanting and protesting in the lobby of the Guggenheim Museum in New York: 'No Museums Built on Death!' The Museum calls the police, but ultimately lets the protestors stay and closes the museum instead. The protestors, calling for the protection of workers' rights at the Museum's branch in Abu Dhabi, consider their protest a success.²

UAE Vision 2021. '...We must steer a course among challenges on many fronts with confidence, optimism and determination. There will be challenges to the family ties that bind us together the strong fabric of our cohesive society; challenges to our economic competitiveness; challenges to our national identity; challenges to health, education, environment and well being....The UAE is also emerging as a point of reference in the cultural sphere. Sustained interaction between

¹ "Video: Workers Stage Strike in Downtown Dubai over Wage Issues," Gulf Business, <http://www.gulfbusiness.com/articles/industry/video-workers-stage-strike-in-downtown-dubai-over-wage-issues/>.

² Michael Pizzi, "Protestors 'Occupy' New York's Guggenheim over Gulf Labor Abuses," Al Jazeera America, <http://america.aljazeera.com/articles/2015/5/1/protesters-occupy-new-yorks-guggenheim-over-gulf-labor-abuses.html>.

*Emirati and other cultures has fostered mutual understanding and enrichment. Local traditions of literature, art and poetry will be promoted as international ambassadors for UAE culture.*³

Introduction and Background

Structure of the thesis

The international English language press is placing increasing scrutiny around the treatment of migrant workers in the UAE. At this time global cities are increasingly relying on a migrant workforce to carry out the most menial yet necessary work, and being a global city increasing means attracting starchitects⁴ and creating urban spectacles of building that more often than not require the importation of a migrant construction workforce. The global city ideal and the luxury economy it attempts to create are very sensitive to international criticism because the global city model is deeply embedded in global economic flows. It is in this context in general and, specifically, in the context of scrutiny over slave-like working conditions in the UAE and the Gulf more broadly, that a media campaign against the UAE government and prominent international cultural institutions based in the country is taking place. In a world where many transnational flows, particularly economic ones, may be outside the ambit of control for nation-states, they are increasingly turning to the securitization of migration and using migrant labor to discipline domestic labor. Given these factors, there is limited engagement in the English language literature with the effectiveness of international campaigns to change the

³ "Uae National Charter 2021," ed. Prime Minister's Office (United Arab Emirates2010).

⁴ Prominent international brand name architects or firms. Examples could include Jean Nouvel, Zaha Hadid, and Bjarke Ingels. The former two were involved in designing projects in the UAE.

working conditions of a migrant labor force. To fill this gap I present an analysis of the campaign around migrant construction worker rights in the UAE, specifically looking at monitoring schemes, corporate codes of conduct and media campaigns.

There are many factors that suggest international monitoring and pressure may be a powerful force for change in the UAE. Firstly, the UAE's sensitivity to international pressure as it builds global city brand names in Dubai and the capital, Abu Dhabi. Secondly, many scholars argue that international standards are particularly important for developing states that require foreign direct investment (FDI) to stimulate growth, and may thus resort to lowering labor standards to attract investment if they do not have another competitive advantage or alternative funding sources. However the UAE has the 8th largest proven crude oil reserves, one of the largest sovereign wealth funds in the world and attracts high amounts of FDI through its tourism and real estate projects.⁵ It is then a state that is not economically obliged to maintain low labor standards, but a strong one that deliberately keeps labor standards low. International pressure may be encouragement enough for the state to raise labor standards since raising them is economically viable. Finally, unlike other parts of the world, the national citizen population is a small minority in its own country, and the majority migrant population is de facto deportable at a moment's notice. This suppresses the formation of active workers' rights movements on the ground. The indigenous population largely replicates government rhetoric describing migrant workers as "eternally temporary." Therefore an

⁵ CIA World Factbook, UAE, <https://www.cia.gov/library/publications/the-world-factbook/geos/ae.html> ; *The Gulf: High Culture/Hard Labor*, (New York: OR Books, 2015).

international voice could potentially stand in as a substitute for poor domestic channels for change.

However, despite the enthusiastic discourse of groups like Human Rights Watch, the International Labor Organization and Gulf Labor around the power of international pressure to assist migrant workers, are there any improvements for migrant workers on the ground?

The strong push for corporate codes of conduct and monitoring by HRW, and the attempts by the ILO to encourage better labor practices through international cooperation, is coopted by the UAE as a corporatist neoliberal state, and used to create zones of exception where labor rights are higher on paper, as well as superficial legal changes for the country more broadly which can be marketed and used to deflect attention from deeper structural exploitation. The naming and shaming based framework employed by HRW, and the ILO's migration governance framework both lend themselves to the marketing of superficial reforms by the UAE government rather than structural changes. Beyond the proliferation of the term 'modern day slavery' to describe the UAE's working conditions in English-language media, which does make it harder for the UAE to dismiss workers' rights off-hand, international engagement with migrant workers' rights has led to few changes for the workers it claims to champion.

The United Arab Emirates: Historical Migration to “Modern Day Slavery”

Today the UAE has a sometimes-ubiquitous presence in the news - reified and reviled simultaneously. On one hand, it is presented as a dazzling country where the unheard of happens, whether world records, cultural events or luxury tourism, while on the other, it embodies a “dark-side” of capitalism, unregulated and wild, with workers toiling away in conditions no better than slavery.⁶ As is usually the case, neither is particularly accurate, though both have some truth within them. The UAE is situated in the Arabian Gulf where many countries have a large number of non-citizen residents, most of whom have no real access to a naturalization process and can be deported at the government’s will. Migrants are generally only allowed in the country only if a citizen-employer sponsors their work visa, and legal residency status is tied to that employer, a system which lends itself to situations of extreme exploitation. In Bahrain over half the population is non-citizen and in Kuwait around 70% are migrants.⁷ As the non-citizen population makes up over 80% of the population in the UAE, the country is an extreme and illuminating case study for how international engagement with worker rights may play out in the Gulf. News headlines decrying labor conditions in neighboring Qatar in

⁶ Just one example would be: Jenny McCartney, "Sky-High Debt in Dubai's Dubious Utopia," *The Telegraph* 2010.

⁷

the lead up to the World Cup 2022 make clear that problems regarding migrant workers' rights are hardly unique to the UAE.

The UAE has a population of around 9.4 million people, 85-90% of whom are noncitizens and classed as 'migrants' regardless of how long they may have been in the country.⁸ Although the largest proportion of these migrants perform unskilled or semi-skilled work, highly skilled workers are also part of the migrant workforce since 98% of the private sector workforce consists of migrants.⁹ There is class variation within national groups as well as an immense number of different nationalities in the country. Around half of the migrant population is South Asian, while Arabs and Iranians make up a quarter and other nationalities are about 8%. 'Low-skilled' workers from India, Pakistan, Bangladesh and the Philippines make up the largest segment of the population, about 5 million people.¹⁰

Prior to independence in 1971, the emirates that make up the country were British protectorates under the name of the 'Trucial States.' Amongst the various emirates, the sheikhdom of Dubai in particular had a long history of engagement with Persian merchants and workers from the Indian subcontinent.¹¹ After the collapse of the pearl

⁸ CIA World Factbook, UAE Country Profile, <https://www.cia.gov/library/publications/the-world-factbook/geos/ae.html>; What unifies them as 'migrants' is this visa sponsorship system that makes their stay eternally contingent on employment of some sort and sponsorship by a citizen employer

⁹ Hadi Ghaemi, "Building Towers, Cheating Workers: Exploitation of Migrant Construction Workers in the United Arab Emirates," (Human Rights Watch, 2006).

¹⁰ *The Gulf: High Culture/Hard Labor.*, 36

CIA World Factbook, "People and Society: United Arab Emirates", <https://www.cia.gov/library/publications/the-world-factbook/geos/ae.html>, accessed 4/28

¹¹ Christopher Davidson, *Dubai: The Vulnerability of Success* (New York: Columbia University Press, 2008). 89

trade in the late 1930s, Sharjah and particularly Dubai, became export re-processing zones through their ports, particularly as duties in India soared post-independence, attracting some Indian merchant families.¹² Through alliances with the British and later with the discovery of oil and abolition of all forms of taxation, the ruling families of these sheikdoms managed to suppress local challenges to their rule.¹³ By granting exclusive contracts to prominent families and extensive spending on infrastructure, the state quelled dissident voices and quashed political opposition.

This process led to the development of a rentier state where rents from commodities became the main income source and citizenship was defined by welfare state benefits rather than political rights.¹⁴ This particular history in the case of the UAE has given rise to what some scholars have described as a “double exclusion,” that feeds the power of the state – the exclusion of nationals/citizens from the private labor market and thus their dependence on the public sector; and the exclusion of migrants from citizenship, in other words, a separation between the state and its responsibilities and the market and its functions.¹⁵ The structural dependence of the state on an exploited migrant workforce means that the state is more inclined to pursue superficial reforms and employ logics of exception to appease potential challenges to its authority rather than change and implement protective labor laws that would threaten this state/market binary and force the state to take responsibility for the welfare of migrant workers.

¹² Ibid.

¹³ Ibid. 53-54

¹⁴ Ibid.

¹⁵ Neha Vora, "Impossible Citizens: Dubai's Indian Diaspora," (Durham: Duke University Press, 2013). ; *The Gulf: High Culture/Hard Labor*. 40

Scrutiny in the English language media over working conditions in the country has been acute. The capital, Abu Dhabi, has recently been in the international spotlight over working conditions on Saadiyat Island, an educational and cultural hub that currently hosts a campus of New York University and will soon boast a branch of both the Guggenheim and the Louvre. A coalition of artists and other cultural producers have called for a boycott of the Guggenheim branch in Saadiyat because of poor labor conditions. The International Trade Union Confederation (ITUC) recently submitted a complaint to the International Labor Organization (ILO), an organ of the UN, against the UAE for its’ “slavish” treatment of migrant workers, particularly on Saadiyat Island. Dubai, sometimes the better-known emirate and city, with a larger number of migrant construction workers, has often been in the news regarding labor rights issues as well.¹⁶ Meanwhile, Human Rights Watch has issued five reports over the past ten years documenting the working conditions of construction laborers in Dubai and Sharjah, domestic workers, and conditions on Saadiyat Island in particular, creating a sense of ratcheting pressure on the UAE government to respond to labor rights abuses. The ILO has recently been attempting to work with the UAE and governments of migrant-sending countries as well as some other Gulf Cooperation Council countries to improve migration governance and policy as well.¹⁷

¹⁶ See for example Chris Arsenault, "Dubai's Striking Workers in Their Own Words," Al Jazeera, <http://www.aljazeera.com/indepth/features/2013/05/201352371226306130.html>.

¹⁷ I will sometimes use the GCC and the Gulf interchangeably but Oman, although a GCC member is not generally implicated in my analysis. For reference the other GCC members are: the United Arab Emirates, the State of Bahrain, the Kingdom of Saudi Arabia, the State of Qatar and the State of Kuwait

All of these complaints, concerns, and even comparisons to slavery tend to arise from the work-visa sponsorship system used by the UAE and other Gulf countries referred to as kafala.¹⁸ Under this system of temporary work contracts, migrant workers' visas are tied to a specific citizen-employer and job. If the job is terminated the migrant worker must leave or be deported. Since low/semi-skilled migrant workers almost universally pay large sums of money to recruitment agents in their home countries to enter the UAE in the hopes of earning a better or more regular wage than is possible at home, they are in a form of debt bondage to their employer until this fee is paid back. Construction workers spend on average two years to simply pay back this debt. During this time if their employer chooses to fire them, decides to illegally withhold wages, or forces them to work overtime, they have very little recourse against them, partly out of fear of losing their job and their legal visa status and thus being deported without earning anything.¹⁹

The UAE, then, has evidently come under increasing scrutiny as it attempts to engage the world stage with international organizations, advocacy groups and activists demanding better treatment for workers. The question is, has anything significant changed on the ground?

¹⁸ The phrase has been used by Russia Times, the ITUC, and the Guardian amongst others. See section on Modern Day Slavery discourse

¹⁹ Ghaemi, "Building Towers, Cheating Workers: Exploitation of Migrant Construction Workers in the United Arab Emirates."

Literature Review

Structures and Power Dynamics

Models of the State

The rentier state model is often used as a starting point to analyze GCC economies and state structures. In this model a rentier economy is one where the state's main source of revenue is through rents paid to it by the export and sale of a natural commodity – in the case of the GCC, this is oil. In this model a citizenship based on rights for all citizens is replaced by welfare state largesse towards a narrowly defined citizenry. Other features of GCC states are that taxes are not collected and representation is not a feature of government. Different migrant groups are also not treated equally and instead the state has different unwritten contracts with migrant groups depending on their ethnicity and class background, a fact which has led some authors to follow Anh Nha Longva's characterization of Kuwait as an ethnocracy and apply this theoretical framework to other

GCC countries as well.²⁰ An ethnocracy would be a state that has a ruling ethnicity and then differential power relations with other ethnic groups. However, moving beyond simple rentier state models that fail to take into account the role of migrant labor and other techniques of governing citizens, I argue that the paradigm of a corporatist family state used by scholars such as Ahmed Kanna and Abdulhadi Khalaf is more appropriate to describe the character of the UAE.²¹ This paradigm argues that the ruling family is effectively the state, not just that the state is an instrument of the ruling family. This paradigm is motivated by the character of the state as a family business in some ways, such as the existence and governance of large parastatals like Emaar, a large construction firm. Combining the ideas of family-state and ethnocracy, Ahmed Kanna suggests that ‘family-states derive their legitimacy and impose their hegemony on historical and national-identity narratives because they...present themselves as responsible stewards of ethnic domination,’ partly by playing on the notion of an ethnic polity under threat and partly by empowering the ruling ethnic group by allowing them to exercise domination over the rest.²² The Dubai family-state in particular presents itself as a protector of tradition, culture and ruling power in the face of an overwhelming number of foreign migrants, a dynamic present in the other emirates too. With these frames of analysis it is clear how the state can and does use the non-citizen polity to bolster its authority and power with the citizen population, and again suggests the likelihood of a policy change in favor of granting rights to this migrant population unlikely. However, on the other hand,

²⁰ Anh Nga Longva, *Walls Built on Sand: Migration, Exclusion and Society in Kuwait* (Boulder, Colorado: Westview Press, 1997).

²¹ *Transit States: Labor, Migration and Citizenship in the Gulf*, (London: Pluto Press, 2015).

²² Ahmed Kanna, "Dubai: The City as Corporation," (Minneapolis: University of Minnesota Press, 2011), 15, 30

Kanna's model also goes as far as to characterize Dubai as a city-corporation, one that is sensitive to international branding and so may be vulnerable to media critique.

Another model that complements Kanna and Khalaf's analysis is Michelle Buckley's framing of the Dubai city-state and its construction industry as a space of contestation between the contradictory pressures of autocratic rule and those of neoliberal urbanization.²³ In the tradition of Aihwa Ong, I take neoliberalism as particular logic of governance, rather than simply a set of policies applied uniformly across the world.²⁴ Concrete policy measures of neoliberalism may include privatizing public industries, removing regulations on trade, tax cuts, strict control on organized labor, reducing public spending; particularly on social programs, and expanding international markets, but these are applied in contextual and contradictory ways in different contexts. In *Locating Neoliberalism in Dubai: Migrant Workers and Class Struggle in the Autocratic City* Buckley illustrates some of these contradictions in the case of Dubai, illustrating this contextual approach, which we will examine in more detail later in the literature review. Ong argues that rather than using concrete policy measures as the main lens of analysis for a neoliberal state, neoliberalism is an appropriate descriptor for technologies of exception to 'the prevailing political system, separating some groups for special attention and carving out special zones that overlap but do not coincide with the national terrain.'²⁵ Taking Ong's definition I believe that a neoliberal state model can be applied to analyze the UAE more broadly rather than limiting the analysis to Dubai. Timothy K. Choy

²³ Michelle Buckley, "Locating Neoliberalism in Dubai: Migrant Workers and Class Struggle in the Autocratic City.," *Antipode* 45, no. 2 (2013).

²⁴ Aihwa Ong, "Neoliberalism as a Mobile Technology," *Transactions of the Institute of British Geographers* 32, no. 1 (2007). 3

²⁵ Ibid.

contrasts Giorgio Agamben's conceptions of the state and governmentality as a reduction to a bare life, with the approach favored by Ong, which theorizes neoliberal exceptionalism as 'positive exceptions, demarcating certain spaces and populations as sites and subjects of greater rather than less freedom, greater mobility, and hence, greater availability to capital.'²⁶ This model of the state suggests that the UAE is likely to use techniques of exceptionalism to placate international critics by creating zones of positive exceptions rather than changing broader structures.

In the indigenous citizen discourse, migrants are presented as eternally temporary visitors, and their rights are not a priority, even for those who would otherwise consider themselves political activists amongst Emiratis.²⁷ The state encourages this narrative through both policy and discourse. The migrant visa process means that anyone's tenure in the country could be cut short if their visas are not renewed by their employer for any reason. In responding to criticism regarding migrant workers' rights in the UAE, the government has also claimed in 2006 that 'workers hosted by the UAE and other [Gulf Cooperation Council] countries cannot be considered migrant workers, as they work on a temporary basis and according to fixed-term employment contracts. Therefore, the immigration laws applicable in the western countries cannot be applied to these

²⁶ Timothy K. Choy, "Neoliberalism as Exception: Mutations of Citizenship and Sovereignty by Aihwa Ong," *Political and Legal Anthropology Review* 31, no. 2 (2008).

²⁷ Vora, "Impossible Citizens: Dubai's Indian Diaspora." 117: the activist in question was discussing issues of civil society, education and employment for Emiratis and broader questions of political representation in the wake of the Arab Spring. For a more textured ethnographic look at indigenous responses to increasing numbers of migrants also see Ahmed Kanna, "The Vanished Village: Nostalgic and Nationalist Critiques of the New Dubai," in *Dubai: The City as Corporation* (Minneapolis: University of Minnesota Press, 2011). The idea of migrants being temporary is a repeating theme in both pieces.

workers.²⁸ Furthermore, the UAE's recently released Vision 2021 promotes the idea of the UAE existing primarily for its nationals – the majority expatriate population is not a part of that vision, except in so far as the population is a means for Emiratis to actualize the vision.²⁹ Every one of the seven themes focuses on building a cohesive, naturalized national identity and emphasizing the benefits of the state for Emiratis. Given this palpable lack of interest on the side of the government and citizens, international activism is one important point of pressure to force the government to acknowledge the need for migrants' rights.

Although domestic channels for protecting migrant workers' rights and forcing change at the government level are poor, they do still exist and are important to overview here. UAE federal law 'prohibits the creation of labor unions and official NGOs,' so a common assumption from both expatriates in the UAE and people outside the country is that local NGOs and civil society more broadly does not exist.³⁰ Many informal groups do exist, although it is difficult for organizations to be officially recognized by the UAE government due to numerous bureaucratic criteria and a general unwillingness for the government to grant expatriate groups official status.³¹ The groups usually work more on social service provision than on challenging the government and Pardis Mahdavi shows that they work on legal provision of services, helping with translation, visiting prisons, raising money for return tickets home, providing food, shelter and medical help. Mahdavi

²⁸ HRW 2006

²⁹ released in Jan 2015 as per this national article:

<http://www.thenational.ae/uae/government/uae-cabinet-sets-out-its-2021-vision>

³⁰ Pardis Mahdavi, "Gridlock Labor, Migration, and Human Trafficking in Dubai," (Stanford, California :: Stanford University Press, 2011)., 151; Sharmila Dhal, "Expat Ngos Hit by Tough Registration Criteria," *Gulf News* 2014.

³¹ Dhal, "Expat Ngos Hit by Tough Registration Criteria."

highlights the way migrants' rights' groups have been successful in introducing training for police and judicial personnel in working constructively with people from many different nationalities, and how one particular group had success in pushing for more labor inspectors and improving the enforcement of a summer midday work ban that is meant to stop companies from having their workers outdoors between 12.30 and 3pm.³² Michelle Buckley argues that these groups are allowed to exist because of both their apolitical nature and because they act essentially as extensions of the privatized migration visa-system used in the UAE which devolves primary responsibility for worker welfare away from the government, and again enforces a state/market and public/private binary of responsibility.³³ In this case third-party non-state actors play a pivotal role in maintaining the current system as the non-state, often non-citizen elites take on the care and responsibility of lower waged migrant workers, illustrating the inability of these initiatives to push for deeper or wider reforms that can benefit migrant workers.

Buckley further explores this idea by looking state responses to labor strikes, another point of pressure, which reveal the way the UAE state prefers to create committees and informal structures to deal with migrant worker rights rather than any sort of firm responsibility. Despite many structural barriers to strikes such as their illegality, and the easy deportability of striking workers, a spate of strikes occurred in the mid-2000s including a two-week strike in November 2007 that involved approximately 35,000 workers from a single company. Buckley demonstrates how the failure of government attempts to curtail strikes using repressive measures such as force,

³² Mahdavi, "Gridlock Labor, Migration, and Human Trafficking in Dubai."

³³ Buckley, "Locating Neoliberalism in Dubai: Migrant Workers and Class Struggle in the Autocratic City.."

intimidation, jailing and deportation the continuing prevalence of the strikes across the country led to a de facto acquiescence of strike activity, as long as it took place within the “private” space of work camps in the form of refusing to go to work, rather than demonstrations on site or in public arenas.³⁴ In the case of Dubai, where the majority of the emirate’s construction workers are employed, the proliferation of strikes led to the formation of ‘a government committee of labor affairs...and a human rights department [within Dubai Police] to assist in the arbitration of disputes between individual workers and their employers,’ which have since dealt with many thousands of cases of unpaid wage issues.³⁵ Notably, despite pressure from significant aspects of the construction industry in 2008 to establish a minimum wage for construction workers to prevent expensive work stoppages and overcome the shortfall in the current labor supply, the government refused to consider the move, continuing to rely on a ‘simultaneously disciplining and capitulative’ logic of repression and *informal* negotiation.³⁶ As both third party welfare initiatives and worker strikes lead only to informal or limited gains in migrant worker welfare, and the citizen population which has some more leverage and greater security from the state’s repressive apparatus, does not generally champion their cause, the most important role that international advocacy can play would be in pushing for formalization of protections. As we shall see, though international advocacy successfully establishes a greater acknowledgement of the need for migrant worker

³⁴ Ibid.

³⁵ Ibid.

³⁶ Ibid. Buckley describes how two-thirds of the participants at the Arabian World Construction Conference in early 2008 voted in favor of establishing a minimum wage for construction workers. The conference brought together many important corporate and governmental players in the construction industry from across the Gulf.

rights, and politicizes the discourse around their rights with the label of ‘modern day slavery,’ the specific routes taken by international groups in fact lend themselves to continued informal arrangements rather than structural overhaul.

The Kafala System

The specific form of labor migration to the UAE, touched on in several places so far, is also crucial to our analysis. The kafala system of work-visa sponsorship used in the UAE and other Gulf countries “privatizes” the management of migration, reducing it to the individual level.³⁷ All workers coming into the Gulf must be sponsored by a citizen-employer, and their visas are directly connected to their working contracts. Without the latter the former ceases to be valid. For lower-wage, non-Western workers passports are often confiscated, long working hours without overtime pay are often reported and illegal deductions from salaries, delayed payments or non-payments often occur.³⁸ Migrant laborers who work these lower-wage jobs are frequently in a lot of debt with family members or middle men back home because the costs of airfare and procuring a visa are quite steep, forcing them into an even more dependent relationship with their employer. Employers are required by law to provide medical insurance and take care of all immigration-related documentation, as well as provide adequate working conditions, though enforcement through the Ministry of Labor inspectors is scant and the officers more often search, police and deport illegal migrants.³⁹ Because the work-visa is tied to a

³⁷ "Migrant Labor in the Persian Gulf," ed. Mehran Kamrava and Zahra Babar (New York :: Columbia University Press, 2012).

³⁸ Ghaemi, "Building Towers, Cheating Workers: Exploitation of Migrant Construction Workers in the United Arab Emirates."

³⁹ These migrants may have been smuggled into the country but may also have chosen to or been forced to leave their legal employer to find other work because of abusive working conditions or much lower wages than promised.

specific employer, there is no horizontal mobility for workers, and there is less incentive for employers to improve working conditions.⁴⁰ Scholarship is generally attuned to the deeper power dynamics embedded in the otherwise administrative institution of the kafala. Some scholars, such as Mohammed Dito, link the kafala system to state systems of economic control. Beyond offering the citizen population the ability to dominate over other ethnicities, Dito argues that these immigration policies that allow most migrant workers to be paid low salaries and to be given poor working conditions promote labor-intensive techniques in the private sector, which leads to low productivity levels and thus lower wages in the private sector overall. Since labor is cheap and easily exploitable within this system there is little incentive to introduce technologies that would increase productivity. These low private-sector wages encourage citizens to seek employment in the public sector instead that the government then accommodates— this is the double bind and double exclusion referenced earlier.⁴¹

Cultural Capital & Global Cities

The concept of global cities developed from the work of John Friedmann's seminal essay on the World City and, a little later, Saskia Sassen's work on global cities. Sassen in particular located the global city as an arena of centralization and control in the new globalized capitalist economy. Global cities were ones that provided financial and managerial services and specialized knowledge to enable diffuse global production and supply chains to exist.⁴² Although Sassen began her work focusing on London, Tokyo

⁴⁰ *Transit States: Labor, Migration and Citizenship in the Gulf*. 54

⁴¹ "Migrant Labor in the Persian Gulf."

⁴² Saskia Sassen, *Global City: New York, London, Tokyo (Revised Edition)* (Princeton: Princeton University Press, 2013). 324 [first edition, 1991]

and New York and argued persuasively for the centralization of power in these three cities, the intervening years have seen some decentralization of power in the form of competition for global city status and the capital and investment such a designation brings. Academics have pointed out that ranking global cities, usually on the basis of the size of their financial markets, as well as other advanced producer services like marketing, insurance and law and the interconnections of these cities into world networks, affects cities on a material level because it affects chances of attracting investment.⁴³ In its attempts to diversify its economy and attract foreign investment, the UAE has actively sought the global city distinction by creating several world records, such as the tallest building in the world, building dedicated free zones for services like media production, education, and renewable energy, as well as hosting a dizzying array of international events and conferences.⁴⁴ The Saadiyat Island development is one amongst many that is meant to put the UAE on the map.

Pierre Bourdieu's concept of cultural capital is key to understanding the UAE's attempt to build an international reputation and its subsequent sensitivity to negative media. Bourdieu's influential formation of forms of capital suggest that just as economic capital like factories and financial instruments grow progressively through a process of accumulation with certain barriers to entry, social and cultural capital also exist.⁴⁵ Like

⁴³ P.J. Taylor, "Specification of the World City Network," *Geographical Analysis* 33, no. 2 (2001); Lisa Benton-Short, Samantha Friedman, and Marie D. Price, "Globalization from Below: The Ranking of Global Immigrant Cities," *International Journal of Urban and Regional Research* 29, no. 4 (2005).

⁴⁴ Just as an example of international events: Dubai recently hosted the World Governance Summit. Amongst the keynote speakers was Barack Obama, the president of the United States.

⁴⁵ Pierre Bourdieu, "The Forms of Capital," in *Handbook of Theory and Research for the Sociology of Education*, ed. J. Richardson (New York: Greenwood, 1986).

their financial counterpart, the amount of social and cultural capital one possesses can increase or limit the possibilities for an individual, or in our case, for a city. Social capital refers to the time and effort placed in cultivating relationships with others so as to access those other individuals' capital as well, and like financial capital, can be inherited through, for example a title or a prominent family name. The most pertinent form of capital for our case is cultural capital or forms of knowledge, skills, and tastes that a person has which, in their particular social context, allow them to increase their status. Bourdieu argues for the interchangeability of these three forms of capital, suggesting that high social and cultural capital could be leveraged to increase financial capital while financial capital could be used to, for example, gain the attention of important individuals like politicians, or to buy certain kinds of goods which increase one's cultural capital. Within cultural capital there are also things that are learned and embodied, such as a certain way of speaking or walking or reading a particular set of literature, which may also be inherited indirectly; institutionalized cultural capital which may come from something like a university degree; and objectified cultural capital, which flows from the things one owns, like art. Importantly, in Bourdieu's formulation, the power of social and cultural capital in part lies in severing their connections with financial capital.

For Bourdieu economic capital is at the root of the other two kinds, but the effects of cultural and social capital exist, 'only to the extent that they conceal (not least from their possessors) the fact that economic capital is at...the root of their effects.'⁴⁶

Bourdieu's theory suggests that governments like the UAE would have a vested interest

⁴⁶ Ibid.

in attempting to convert their economic capital into less visible forms like cultural capital, and international efforts to make the economic roots of this cultural capital visible would give the UAE strong incentives to improve their problems with workers rights and thus escape scrutiny. As the UAE attempts to play for international traction it theoretically becomes more vulnerable to international criticism and backlash and more pliant towards international norms and standards.

Discourses

Global Injustice Symbols: Modern Day Slavery

The symbolism of migrant workers and modern day slavery attempts to invoke a particular kind of galvanizing and horrifying reaction to prompt action concerning migrant worker rights. Following the work of Thomas Olesen, I classify the discourse around “modern day slavery,” as a *global injustice symbol*. In Oleson’s work these symbols embody, ‘collective values and meaning,’ attempting to create ‘moral shocks.’ Oleson defines these shocks as:

events, situations or *conditions* that challenge collectively and individually held conceptions of right and wrong, just and unjust...Moral shocks often have a solidarity dimension. In the late modern and global world, moral shock is typically a media dependent and constructed relationship between audiences and distant others in which suffering and injustice in one part of the world undergoes a scale shift (Tarrow, 2005) to become a concern for individuals and collectives in other spatial settings...[they] are never automatic...they are created and amplified

through social movement action publicly highlighting and exposing the injustice of an event or situation.⁴⁷ (Italics mine)

These shocks universalize a particular injustice and thrust it onto the world stage, with broader connotations. Olesen uses Malala Yousufzai as an example of an injustice symbol: the attack on her became universalized to stand in for cultural barriers to girls' education worldwide. In this case the discourse around "modern day slavery," combines with the jarring image of shiny skyscrapers built for the luxury class with poorly treated and housed migrant construction workers, to create an injustice symbol around the conditions of work for migrant labor in the Gulf, and particularly in the UAE.

Globalization & Corporate Codes of Conduct

Globalization can be defined a specific set of physical processes that increase interdependence and connection amongst all parts of the world, whether economic dependence through trade and multinational corporations, or increased access media and communication linking all parts of the world. However, scholars such as Manfred B. Steger have called to attention the distinction between the physical processes that constitute globalization and the ideologies that attempt to define the value-content of globalization. Steger labels one of these ideologies as globalism, 'an ideology that endows the concept of globalization with neoliberal values and meanings...saturat[ing] the public discourse with idealized images of a consumerist, free market world.'⁴⁸ Claims

⁴⁷ Thomas Olesen, *Global Injustice Symbols and Social Movements*, Cultural Sociology (Palgrave Macmillan US, 2015).

⁴⁸ Manfred B. Steger, "The Ideological Dimension of Globalization," in *Globalization: A Very Short Introduction* (Oxford: Oxford University Press, 2003).

of this discourse include naturalizing the link between globalization and the liberalization and integration of free markets, ignoring the active state intervention needed to accomplish such a goal and furthermore presenting a neoliberal globalization as natural and inevitable, leaderless and self-directed: something to be adapted and accommodated to rather than a particular political project that can be supported or rejected. I argue that it is this notion of the efficiency, naturalness and general desirability of neoliberal globalization that undergirds the discourse of both migration governance (discussed later in the literature review) and the call for global standards, corporate codes of conduct and international monitoring of multinational corporations.

In Beyond the Boycott: Labor Rights, Human Rights and Transnational Activism, Gay W. Seidman focuses on analyzing the effectiveness of “corporate codes of conduct” which have become increasingly prominent from the 1990s onwards. Hailed as a way to regulate working conditions in an era of weak nation states that are unwilling or unable to enforce labor laws and regulations, these codes of conduct attempt to leverage companies’ sensitivity to brand image in wealthier countries, principally Europe and North America, to improve working conditions in their supply chains which are generally located in less developed parts of the world.⁴⁹ From the late 1970s onwards, many multinationals focused on flexible supply lines to reduce costs, manufacturing different items or parts in different countries, assembling them in another and selling in yet another market. At the same time economic liberalization was touted as the best way for less developed countries to attract investment for jobs and increase their international trade to gain technologies from more developed countries. In this discourse it is fear that capital

⁴⁹ Gay W. Seidman, *Beyond the Boycott: Labor Rights, Human Rights and Transnational Activism*, (New York: Russell Sage Foundation, 2007), 2-4

will move elsewhere if labor is regulated too heavily and that this would precipitate job crises, that leads to market deregulation often with adverse effects for people and labor. Corporate codes of conduct were one of the solutions proposed to counter poor labor practices. Another solution, to prevent an international race-to-the-bottom regarding labor laws, was to create international labor standards to maintain a base level of rights and laws which I analyze further in the migration governance section.

Due to these pressures on the state, many labor activists have recently turned from relying on the state and local campaigns to create and enforce laws on building a sort of global international system of accountability by trying to outrage ethical consumers about poor working conditions in companies' supply chains; call for boycott or other action that would damage the company's bottom line; and by leveraging their brand image, force the company to adopt corporate codes of conduct guaranteeing certain rights to workers who produce goods for it. Interestingly this approach has some embedded ideas that recall the ideology of globalism: it naturalizes rather than challenges the spread of neoliberal globalization, and it firmly works within the free market framework, mobilizing consumer pressure.

Although corporate codes are sometimes valorized as effective ways to attempt protection of workers' rights, there is little evidence that they that they result in significant improvements on the ground.⁵⁰ Just one prominent example of corporate codes of conduct that have gained widespread acceptance would be the US-based campaigns carried out by United Students Against Sweatshops (USAS) which targeted

⁵⁰ Kimberley Elliot and Richard Freeman, "Can Labor Standards Improve under Globalization?," (Washington, DC: Institute for International Economics, 2003).

companies that produce college apparel and pressured them to sign onto monitoring and codes of conduct, and more recently pushed for certain brands to sign the Bangladesh Fire Safety Accord following the Rana Plaza collapse in 2013.⁵¹ Ideally, in the vision of labor activists, corporations would adopt these codes and then allow independent monitoring of their work sites by NGOs to check compliance. These NGOs ‘would alert transnational networks to violations; those networks would then mobilize consumer pressure against the corporate violator.’⁵² Even in cases where companies accede to both corporate codes of conduct and independent monitoring of these codes, the initiatives tend to be much more successful if consumer pressure is leveraged through institutions like universities or churches because of their numerical power, and if initiatives have support from politicians in importing states.⁵³ Critics would be quick to point out that any sort of monitoring or standards that have worked have attempted to hold monitoring in place for a short period, as a precursor to government intervention and legislation. Indeed Seidman, after analyzing the Sullivan corporate codes linked to American company behavior in apartheid South Africa, the Indian carpet industry and clothing factories in Guatemala, concludes that, “in each case, the social activism that pushed companies to accept voluntary monitoring stemmed from efforts to create more democratic, more inclusive, and more effective state institutions; in each of these cases, social movement

⁵¹ See <http://usas.org/about/>

⁵²

⁵³ Seidman, "Beyond the Boycott: Labor Rights, Human Rights and Transnational Activism.", 70

activists sought to construct a democratic effective state, not to replace states with civil society monitoring in perpetuity.⁵⁴

The framing of a transnational labor rights movement is crucial to my work and plays an important part in my analysis, as the mobilization around Saadiyat island fits this criteria well: it attempts to use mostly Western consumers and, to some extent artists as producers, to pressure global brands to improve migrant worker rights on their respective construction sites in the UAE. The model is certainly one of involving and alerting NGOs such as Human Rights Watch when egregious labor violations happen and pressuring corporations to accept labor codes and independent monitoring. The matter is further complicated by the fact that most workers are not citizens, and that there are few activists on the ground attempting to create more democratic or inclusive state institutions. As mentioned earlier, the UAE does not fall under the category of a country particularly hard pressed to attract foreign direct investment to keep jobs, particularly since 98% of the private sector workforce is non-citizen. Some of the corporations being targeted are also parastatal entities, majority or wholly owned by the state, reducing the state's incentive to enforce legal protections for workers. On the other hand, though the UAE doesn't suffer from that specific pressure, its international clout and image have been built entirely because of foreign direct investment, so attracting and maintaining investment remains an essential goal. Though this goal may mean poor labor practices to encourage investment it is far more likely to mean maintaining a good global image, one that is indeed threatened by widespread publication of labor rights abuses. The international organizations I look at leverage this concern with image, but by working with the specific

⁵⁴ Ibid., 70

tool of corporate codes of conduct and monitoring fail to create lasting or structural impact. Given the UAE's structure as a neoliberal corporatist state, codes of conduct dovetail well with other informal arrangements of exception that sustain the state, and are unlikely to mean higher labor standards across the country.

Migration Governance

Scholars have noted how migration governance and management has become a genre unto its own. Global migration arises from the largely unregulated nature of transnational migrant flows, as compared to other trans border flows or issues like disease epidemics or climate change.⁵⁵ Migration governance has historically been spread out over different agencies and instruments that incidentally cover migration under their ambit, such as instruments relating to global health and human rights. There is now an attempt to centralize these disparate discussions on migration under the framework of migration governance through specific dialogues and venues like UN Higher Level Dialogues, and the Global Forum for Migration and Development under the International Organization for Migration.⁵⁶ The International Labor Organization has also recently turned its focus towards migration governance, and this is the main framework it uses to engage with migrant worker rights in the UAE.

Some scholars particularly note the neoliberal nature of migration management, in that the goal of this management is to connect over-supply of labor to demand centers while the structures of a global capitalist system are not generally problematized, but are

⁵⁵ *Global Migration Governance*, (New York: Oxford University Press, 2011). 7

⁵⁶ *Ibid.* 15-16

taken for granted as conditions to work around and mitigate.⁵⁷ Migration management also dovetails with trends towards deregulation and attempts to solve problems arguably caused by liberalization of economies via reduced state support and uprooting people from agriculture, by proposing further deregulation as a solution.⁵⁸

In the discourse around governance there is often an implicit understanding that ‘more’ governance is beneficial and necessary, and migration is presented as normalized and positive.⁵⁹ The focus is deliberately not on control but on guiding management through the creation of certain kinds of “expert” knowledge and through “technical” support and knowledge sharing which tend to focus on limited remedies. For instance, in the case of Europe, long term permits, regularizing irregular migration or better workplace monitoring to prevent migrant exploitation are facets almost never proposed or discussed.⁶⁰ The topic is also depoliticized through an “everyone-wins” framework where it is assumed that origin and destination countries and employees and employers can all benefit from migration if only it is managed properly, ignoring power asymmetries. Finally the discourse relies on ideas of best-practices rather than binding frameworks and avoid direct criticism of policies that are poor for migrants.⁶¹

⁵⁷ *The Politics of International Migration Management*, ed. Zig Layton-Henry and Danièle Joly, Migration, Minorities and Citizenship (London: Palgrave Macmillan, 2012). 14

⁵⁸ Ibid. 37

⁵⁹ Ibid.9 ; *Global Migration Governance*.

⁶⁰ *The Politics of International Migration Management*. 21

⁶¹ Ibid.

Chapter One: Discourses

The International Labor Organization & Migration Governance

The International Labor Organization (ILO), an organ of the UN, was founded in 1919 after the first World War as part of the Treaty of Versailles, ‘to reflect the belief that universal and lasting peace can be accomplished only if it is based on social justice,⁶² and partly in response to fear of communism after the Russian revolution. From its inception the ILO considered the link between world trade and global standards, recognizing that ‘the failure of any nation to adopt humane conditions of labor is an obstacle in the way of other nations which desire to improve the conditions in their own countries’ because of the race-to-the-bottom to attract foreign investments.⁶³ It consists of employer, worker and government representatives and provides a forum to set labor standards, develop policies and devise programmes industry-wise and internationally. It often provides technical assistance to countries, helping them apply conventions and

⁶² Kimberley Elliot and Richard Freeman, "The Ilo to the Rescue?," in *Can Labor Standards Improve under Globalization?* (Washington, DC: Institute for International Economics, 2003).

⁶³ Ibid.

protocols that they have ratified and also has a monitoring system that mainly relies on countries' self reported progress (including observations sent in by workers' and employers' organizations) and on naming and shaming non-compliers. The ILO 'provides technical assistance to help member states ratify and observe conventions and supervises their application,' in particular focusing on applying international labor standards consistent with the decent work agenda through legal reform.⁶⁴ ILO in the Arab States (Jordan, Lebanon, Iraq, Syria, Kuwait, Oman, Saudi Arabia, UAE, Qatar, Yemen and Occupied Palestine) mostly focuses on countries in the Levant area for its projects. The types of projects they initiate include creating employment by encouraging an enterprise culture (Saudi Arabia, Jordan), enhancing labor inspection effectiveness (Syria, Lebanon, Yemen, Oman), addressing issues of child labor and refugee employment, and the employment of young people and women.

The ILO's South Asia Labor Migration (SALM) Governance project, running from 2013-2016, involves UAE, Nepal, Kuwait, Qatar, India and Pakistan. Its stated aim is the promotion of better labor migration management to, 'ensure effective protection of the rights of vulnerable migrant workers, enhance the development impact of labor migration and reduce unregulated migration.'⁶⁵ The project aims to do this by increasing information flows on what kind of labor is in demand in the receiving countries so that adequately skilled and trained workers go abroad, improving recruitment services to reduce migration costs and abuses; 'enhancing training and the portability of skills for outgoing and returning migrant workers and promoting the development impact of

⁶⁴ <http://www.ilo.org/beirut/areasofwork/international-labour-standards/lang--en/index.htm>

⁶⁵ "South Asia Labour Migration Governance Project," (International Labor Organization).

migration.’⁶⁶ The project firmly works within a migration governance framework since it frames the main challenge of migration today as ensuring an equitable distribution of the benefits of migration between employers and workers, and sending and receiving countries in terms of remittances for the former, and human capital for the latter. Though the project frames the kafala sponsorship system, passport confiscation and the inability of workers to organize in receiving countries as challenges, the problems are presented as solvable through better management and a simple promulgation of administrative laws is considered the antidote. There is no engagement with the reasons behind the entrenchment of this system.

The SALM project report identifies two further challenges and solutions that reveal its use of migration management as the dominant analytic framework. The challenges are a lack of information in the labor market, which leads to poor skill-matching between migrants and potential jobs, and the need for a more judicious use of migrant remittances for development. The project report argues that a lack of mutual information about the supply and demand of qualifications and skills, ‘results in lost opportunities or training investment mistakes in both source and recipient countries.’ The document claims that a better system, perhaps through an ‘internationally recognized ‘skills passport,’ would bring tremendous benefits to countries, employers and workers.’⁶⁷ Similarly, in terms of migration leading to development, the project claims that, ‘migration enables the upgrading of professional, cultural and social skills as well as

⁶⁶ ILO information leaflet on the South Asia Labor Migration Governance Project http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-kathmandu/documents/publication/wcms_234572.pdf

⁶⁷ "South Asia Labour Migration Governance Project."

technology transfer.⁶⁸ The claim that a skills passport could be a solution or that migrants gain skills abroad is contradicted by an earlier acknowledgement that the majority of the jobs available in the GCC are low or semi-skilled jobs in labor-intensive industries simply require cheap labor bodies. Since workers are hired from South Asian countries because they are cheap, there is a significant trade off between the rights afforded to migrant workers and the demand for them abroad. In recent years, the Philippines government began a program to ensure better work for its domestic workers through more extensive pre-departure training and a minimum wage of \$400/month. The number of Filipinas employed as domestic workers fell from 91,000 new workers in 2006 to 40,000 in 2007.⁶⁹ There is little acknowledgement of this structural issue in the ILO project reports, and a general lack of appreciation for the unequal power dynamics between sending and receiving states and the unequal framework of global capitalism more broadly.

The project also sets up initiatives to provide workers with more information regarding their rights abroad, and establishes more migrant worker resource centers in sending countries. There is little attempt to have the receiving countries take on any of the burden of these systems, or for the project to explicitly target laws and abuses in the Gulf. The ideology of globalism is woven into the claims of the report. It presents globalized migration as a good thing, an opportunity to gain skills, technology and knowledge, and ignores inequalities between sending and receiving countries. In fact, it exacerbates them by presenting migration as a net positive because it thereby strengthens the claim of many Gulf states, including the UAE, that many of the abuses, such as high

⁶⁸ Ibid.

⁶⁹ *Global Mobility Regimes*, (New York: Palgrave Macmillan, 2011). 209

recruitment fees, are out of their control and that they provide valuable opportunities for work for ‘over 200 nationalities,’ and cannot be held to account for any abuses that may occur as individuals pursue those opportunities.⁷⁰ In this discourse if sending countries wish to reap the benefits of migration they must also bear the costs of managing migration to limit abuses, and the receiving states are exempt from critical attention.

As a final example of the prevalence of migration governance discourse and its inefficacy, I turn to the Abu Dhabi Dialogue, which brings together twelve Colombo Process countries of origin, including India, Pakistan, Bangladesh, Nepal and the Philippines, with the six GCC countries and Yemen as destinations under the aegis of the International Organization for Migration, with some support from the ILO.⁷¹ The dialogue again focuses first and foremost on sharing labor market trends and working out techniques to match skills and jobs despite the prevalence of low-skilled workers in the migration flows to the destination countries. The other main goals are preventing illegal recruitment and protecting contractual workers as well as developing a ‘framework for a comprehensive approach to managing the entire cycle...[of migration] that fosters the mutual interest of countries of origin and destination.’⁷² Information rather than changing systems seems to be the aim of the project. Another document elaborating this “framework,” emphasizing the need for foreign workers to have better pre-departure

⁷⁰ The use of the phrase ‘200 nationalities,’ has become almost a trope in UAE newspapers, and some tourism materials, to showcase the diversity of the country. In fact it was used in UAE’s bid video for the World Expo 2020. See

⁷¹ The organization itself is a sort of private consulting firm for international migration, offering its services to various states while simultaneously claiming to work in the best interests of migrants everywhere. ADD SOURCE

⁷² <https://www.iom.int/abu-dhabi-dialogue>

training so that they have a sense of their rights and mechanisms of redress. Though this is undoubtedly crucial, it is also significant that more information is the solution presented rather than any structural change to migration such as removing the current visa sponsorship system, again suggesting the inefficacy of this framework in addressing migrant worker rights on the ground.

Modern Day Slavery: A Global Injustice Symbol

One of the achievements of international engagement with migrant worker rights in the UAE is the successful linkage of the term ‘modern day slavery’ with the exploitative kafala system and working and living conditions in the UAE more broadly. The *global injustice symbol* invoked by this discourse is used to horrify and galvanize and communicate the various nuanced hardship and struggles of migrant workers in a simple term that focuses on the emphatic rather than the technical.

Trafficking, Forced Labor or Slavery? Discursive Slippage

Although in its inception human trafficking was focused on sex trafficking and prostitution, in the past fifteen years or so the definition has gradually been widening in policy and academic circles to include other forms of coercion involved in the employment and transport of people. In 2000, the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons (hereafter Trafficking in Persons Protocol) was added to

the UN Convention against Transnational Organized Crime. In this protocol, Trafficking is defined more broadly than just sex trafficking. The definition used is:

The recruitment, transportation, transfer, harboring or receipt of persons, by means of the **threat or use of force or other forms of coercion**, of abduction, of fraud, of deception, of the **abuse of power or of a position of vulnerability** or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, **forced labor or services, slavery or practices similar to slavery, servitude** or the removal of organs.⁷³ (emphasis mine)

Forced labor and slavery-like practices are also highlighted in this definition, and there is less focus on just the transport of persons, but also the ‘transfer, harboring or receipt of persons.’⁷⁴ At the same time, US policy, which has an outsized impact in defining and monitoring trafficking around the globe, condemned modern day slavery on the world stage, but focused on this slavery as sex trafficking and prostitution, rather than the broader UN definition of trafficking above.⁷⁵ Domestic campaigning encouraged the prostitution focus and the US’ Trafficking in Persons’ report (TIP), at least in the case of the UAE, focused more often on sex trafficking offenses than other forms of trafficking

⁷³ <https://www.unodc.org/unodc/en/human-trafficking/what-is-human-trafficking.html>

⁷⁴ <https://www.unodc.org/unodc/en/human-trafficking/what-is-human-trafficking.html>

⁷⁵ Benjamin Skinner, "The Fight to End Global Slavery," *World Policy Journal* 26, no. 2.

such as forced labor.⁷⁶ Pardis Mahdavi, in her book, *Gridlock*, suggests that a broader notion of human trafficking in the US TIP reports and rankings, such as the one put forward by the UN, could have helped direct light on the serious problems with the kafala system which institutionalizes coercion and forced labor and encourages abuse of power. Instead, when the UAE was placed in the lower ranks in 2008-09, raids on brothels temporarily spiked, statements were issued, and a federal law was passed indicting trafficking (including forced labor, though this element has not been prosecuted yet) but no substantial changes in the migration and visa-sponsorship occurred because the trafficking framework was largely a sex trafficking one.⁷⁷ However, Mahdavi notes the changes in the way trafficking is conceptualized even in the US Trafficking in Persons reports: from 2003-2008 the report on the UAE continued to focus mainly on child labor and sex trafficking. However, in 2009 the UAE's status was deliberately downgraded because of migrant workers' rights more broadly, including the prevalence of forced labor and the lack of protections for domestic workers, highlighting the shifting academic and policy discourse around trafficking.⁷⁸ The UAE government has taken on sex trafficking as a serious cause to tackle and through the reports issued by the National Committee to Combat Human Trafficking (NCCHT) attempts to showcase its international engagement with the issue of sex trafficking. Because of the recent shift towards issues of forced labor within the framework of trafficking the reports also address this issue, though on a smaller scale than sex trafficking, and with the ever

⁷⁶ Mahdavi, "Gridlock Labor, Migration, and Human Trafficking in Dubai."

⁷⁷ Ibid. 24

⁷⁸ The case of domestic workers is of particular interest, as it seems that the focus of "modern day slavery," has turned somewhat from sex trafficking to domestic work, both feminized industries. For instance, see Nisha Varia, "A Victory against Modern Day Slavery," Human Rights Watch.

present disclaimer that ‘the UAE – with expatriates making up 80 per cent of its population – believes that labor issues should not be linked to human trafficking, and should be treated separately.’⁷⁹

Recent academic work has also noted the discursive slippage between trafficking, forced labor and modern day slavery. In particular the Anti-Trafficking Review released a whole issue last year to debate and discuss the topic. Janie Chuang noted that the discursive links may end up raising the bar for trafficking to be considered legitimate since it is being equated to slavery, which in the international discourse still evokes the particular horrors of the transatlantic slave trade and plantation slavery rather than the many other forms of slavery practiced across the world and across time.⁸⁰ Chuang and Marja Paavilainen argue that the villainizing discourse of slavery, in the legalistic and securitized framework of human trafficking, may in some cases obscure structural realities that facilitate exploitation and that require broader socio-political changes.⁸¹ However, in the case of the UAE, the discourse in fact links slavery to the particular structures of kafala and takes a systematic analysis as the default rather than individual acts. Paavilainen quotes a discussant from an ILO online discussion on trafficking, forced labor and slavery who summarizes the differential utility of the three approaches:

⁷⁹ "Combating Human Trafficking in the Uae Annual Report

2009-2010," (United Arab Emirates: National Committee to Combat Human Trafficking, 2010).

⁸⁰ Trafficked into Slavery, "Quirk, Joel," *Journal of Human Rights* 6, no. 2 (2007). ; Janie Chuang, "The Challenges and Perils of Reframing Trafficking as “Modern-Day Slavery”," *Anti-Trafficking Review*, no. 5 (2015).

⁸¹ Marja Paavilainen, "Towards a Cohesive and Contextualised Response: When Is It Necessary to Distinguish between Forced Labour, Trafficking in Persons and Slavery?," *Anti-Trafficking Review*, no. 5 (2015).

She noted that the trafficking framework provides a strong basis for international cooperation, whereas the forced labor framework provides a more contextual, collective and systemic approach that allows greater focus on prevention and remedies rather than solely on prosecution. The slavery concept on the other hand provides the historical and emotive power that can be deployed to awaken public consciousness and motivate governments to act.⁸²

In this case, the international trafficking framework is taken up by the UAE almost entirely in terms of sex trafficking and HRW, ILO, ITUC and Gulf Labor have leveraged the media to link forced labor to slavery and human trafficking to force the UAE to broaden its scope.

Given these discursive slippages, HRW and ILO reports attempt to link labor practices in the UAE to forced labor and trafficking, laying the foundation for the modern day slavery label to hold fast to analyses of the UAE's labor markets. Gulf Labor and NYU then use these discursive foundations and enhance them by linking them to ideas of a global luxury infrastructure built on the back of "slavery" to enhance the 'moral shock,' of the idea. By combining ideas of modern day slavery with analysis of global luxury infrastructure and critiquing cultural and educational institutions, they draw on notions of cultural capital, weakening it by exposing its financial and exploitative origins. This threatens the standing of the UAE on the world stage and can materially affect the government's ability to attract investment. It similarly threatens the reputation and brand name of the Guggenheim Museum and NYU. These naming and shaming threats are then

⁸² Ibid.

used as leverage by the NYU Coalition for Fair Labor and Gulf Labor to force UAE government entities and Western cultural and educational brands to adopt and enforce stricter stances on the protection of migrant construction workers. The power of the modern-day slavery formation then cannot be underestimated in the sort of leverage it gives migrant rights' advocates and how directly it challenges the UAE's own narratives of progress, growth and prosperity that it uses to market itself.

An International Infrastructure Around "Modern Day Slavery"

In August 2012 Vice, an international news group, created a short 15-minute program called the 'Slaves of Dubai.'⁸³ The beginning of the program, an exchange between Shane Smith from Vice News and Ben Anderson from BBC News, encapsulates the rhetoric of modern day slavery employed in discussing the labor situation in Dubai and increasingly, the UAE as a whole.

Shane Smith: 'Most people know about Dubai because they're trying to be the hub of the Middle East...'

....

Ben Anderson: 'The guys actually building the big, shiny skyscrapers, and the world's biggest mall and the world's biggest aquarium, and all that stuff...The guys who are being paid almost nothing to build it.'

Smith 'So they're being built by slaves.'

⁸³ Shane Smith and Ben Anderson, "The Slaves of Dubai," Vice News, <http://www.vice.com/video/the-slaves-of-dubai>.

Anderson: That's not an exaggeration

Smith: Really?

Anderson: 'Once they find themselves out there and they realize how much they're getting paid or how much they're not getting paid, they're indebted by the time they get there. So it is bonded labor'

The rest of the program discusses the details of this modern day slavery, panning over skyscrapers, artificial islands, hotels and luxury houses throughout to enhance the discourse of unjust exploitation. The program notes the Dubai's attempts to become world renown and contrasts these lofty aspirations to build urban attractions with the so-called reality of working conditions on the ground, firmly placing them in a slavery/forced labor context. I argue that HRW and ILO reports help set the stage for the framing of modern day slavery to become a global injustice symbol: an acceptable shorthand for working conditions in the UAE and elsewhere in the Gulf.

A key trope used in Human Rights Watch reports is that of forced labor. The reports draw on the ILO's Forced Labor Convention No. 29, which defines forced labor as 'all work or service which is exacted from any person under the threat of a penalty and for which the person has not offered himself or herself voluntarily.'⁸⁴ According to the ILO in the Middle East (defined as Syria, Lebanon, Occupied Palestine, Saudi Arabia, UAE, Bahrain, Qatar, Kuwait, Iraq, Jordan, Oman, Yemen), as of 2012 there are 600,000

⁸⁴ International Labor Organization, "Questions and Answers on Forced Labour," http://www.ilo.org/global/about-the-ilo/newsroom/comment-analysis/WCMS_181922/lang--en/index.htm.

victims of forced labor in the region, about three percent of the world total.⁸⁵ HRW reports from 2009 onwards increasingly detail forced labor as a crucial element in the landscape of construction workers' rights in the UAE. Leveraging the UAE's membership in the ILO and its ratification of Convention No. 29, these reports contrast the UAE's international obligation to eradicate forced labor with the realities of passport confiscation, fraudulent contracts, inability to change employers and crushing recruitment debt that places migrant workers in a situation of debt bondage. With the negative publicity around the term forced labor, the very first guidelines initiated by the Tourism and Development Company (TDIC), the parastatal company in charge of much of Saadiyat island's developments, including the Guggenheim, created a provision requiring contractors to affirm that 'you do not engage in or support the use of forced labor.'⁸⁶ Later HRW reports focused more specifically on the role of recruitment debt in facilitating forced labor, and in the most recent report, dated 2015, HRW outlines the ILO indicators of forced labor that it believes are present in the working conditions of many construction workers in the UAE:

abuse of vulnerability; deception; restriction of movement; intimidation and threats; retention of identity documents; withholding of wages; debt bondage; abusive living and working conditions; and excessive overtime⁸⁷

Forced labor and exploitative working conditions are not necessarily one and the same, and there are cases even within HRW reports that may not fall under the rubric of forced

⁸⁵ Ibid. Regionally this means 3.4 in every 1000 people.

⁸⁶ Bill Van Esveld, "'The Island of Happiness': Exploitation of Migrant Workers on Saadiyat Island, Abu Dhabi," ed. Sarah Leah Whitson (Human Rights Watch, 2009).

⁸⁷ Nicholas McGeehan, "Migrant Workers' Rights on Saadiyat Island in the United Arab Emirates: Progress Report 2015," (2015).

labor. However, the reports argue that many of these indicators occur in conjunction with each other, and are bolstered by laws forbidding strikes and the particular sponsorship system in the UAE, making it nearly impossible for workers to seek redress if wages are unpaid or working and living conditions are unsatisfactory. This discursive link is crucial because it is forced labor, under the rubric of human trafficking that gets politicized as modern day slavery.

In its role as a knowledge producer to aid in better labor and migration policies, in 2013, the ILO released a report on Human Trafficking in the Middle East, which focused on the UAE, Kuwait, Jordan and Lebanon as case studies. The report links forced labor and human trafficking, with the latter often referred to as modern day slavery in journalistic accounts. The report itself makes the link explicit, noting that ‘a crucial element of the definition of trafficking is its purpose, namely exploitation, which is specifically defined to include forced labor or services, slavery or similar practices.’⁸⁸ The report more directly acknowledges the unequal power dynamic between employee and employer perpetuated by the kafala visa sponsorship system, and notes, in passing the need for the right of freedom of association so that migrant workers can represent their own best interests.⁸⁹ It focused on a wide range of sectors where human trafficking and forced labor situations proliferated, from domestic work, to seafaring, to construction, again setting the stage for the modern day slavery label to stick to the UAE and for strong criticism of the country’s labor policies within the framework of trafficking.

⁸⁸ Hélène Harroff-Tavel and Alix Nasri, "Tricked and Trapped: Human Trafficking in the Middle East," (I.L.O, 2013). 21

⁸⁹ Ibid. 14

Gulf Labor, an organization founded by a coalition of international artists and other “cultural workers” including curators, writers, professors and students in 2010, ’ draw on the discourse of modern day slavery as well. The organization grew out of concerns that the Guggenheim was being built under exploitative labor conditions. So far their work has mainly focused on the Guggenheim museum’s branch-to-be in Abu Dhabi, but they have been expanding their protest to include other institutions in the Saadiyat Island development too. As illustrated in the next section by the newspapers referencing Gulf Labor, the organization has managed to make itself an important player in the international English-language press when it comes to discussing the UAE’s labor rights. In an October 2015 book, *High Culture/Hard Labor*, which was released to raise awareness of the work of the group, Paula Chakravartty and Nitasha Dhillon explore how the label of “modern day slavery,” in fact plays on tropes that present the kafala system as a ‘premodern patronage system,’ playing into Orientalist and Orientalizing narratives that in fact allow the UAE government to dismiss outside criticisms.⁹⁰ Instead Chakravartty and Dhillon argue that the kafala is a modern day visa trading system that allows a large disenfranchised foreign class do most of the work, ‘insuring against political demands that citizens might make.’⁹¹ They explicitly criticize the conflation of kafala with modern day slavery in the media. However, despite these disclaimers elements of comparison to slavery exist in their discourse.

In 2013 Gulf Labor ran a campaign named ‘52 Weeks’ that involved different artists or other cultural producers calling attention to different aspects of the labor situation in the UAE. The subsequent art produced engaged with ideas of art, labor and

⁹⁰ *The Gulf: High Culture/Hard Labor*. 40

⁹¹ Ibid.

exploitation broadly, but a strong theme through many works was that of forced labor and slavery. For instance, the piece produced by Hans Haacke for Week 5 focused on the debt bondage of a Pakistani migrant worker in the UAE, while Week 10, 'No Debt is an Island,' links college student debt with the 'bonded labor' of a Bangladeshi migrant to the UAE, and week 44 involves chains and a shackle around a migrant worker, while 'Cultural (En)richment by Charles Gaines and Ashley Hunt and others uses the discourse of slavery throughout:

It will seem like nothing to enslave a people...a slave wage is a wage slave, is a slave is a slave by whatever name you call it⁹²

In September 2014, the International Trade Union Confederation (ITUC) brought complaints about forced labor and the violation of Convention no. 29 in the UAE in the ILO using the complaint mechanism.⁹³ The ITUC represents 180 million workers in 162 countries around the world and frames itself as 'the global voice of the world's working people,' working on trade union activity as well as, 'human rights...and international solidarity.'⁹⁴ It has particularly targeted the Gulf's labor laws – leveraging the term 'modern day slavery,' and going as far as to create an interactive project "Qatar Exposed," where visitors to the site can visit labor camps in Qatar's "police state," and meet migrant workers to hear their stories – all with real recorded footage.⁹⁵ Filing a complaint with the ILO seems to be a well-curated publicity move as well, because the

⁹² Ibid.

⁹³ David Batty, "Call for the Un to Investigate the Plight of Migrant Workers in the Uae," *The Guardian* 2014.

⁹⁴ "About Us." International Trade Union Confederation, <http://www.ituc-csi.org/about-us>

⁹⁵ See www.qatarexposed.org

actual complaints procedure has rarely resulted in any action.⁹⁶ The ILO also spotlighted forced labor in June 2015, encouraging member nations to ratify a new Forced Labor protocol, an addendum to the Forced Labor Convention which ILO members are considered automatically party to, through their campaign 50 For Freedom.⁹⁷

The New York Times (NYT), The Guardian and RT are some of the prominent English language outlets that have reported on the labor situation in the UAE. Both the Guardian and the RT reports follow the ITUC complaint filed with the ILO. Russia Times published articles in November 2014 and April 2015 that compared the working conditions of migrant workers with slavery. In the former, working conditions were described as “slavish” while the second had the headline “Slave Labor: Migrants Building the Guggenheim, Louvre in UAE ‘treated like battery hens.’” The latter article also mentions a NYU Professor, Andrew Ross, a member of Gulf Labor, who was banned from entering the country in March 2015 and worked hard to publicize this ban,

⁹⁶ After a complaint is filed a Commission of Inquiry may be created if the violations are ‘persistent and serious.’ where three independent members carry out a full investigation and then make recommendations. To date eleven such commissions have been established, at least one of which was helpful in reinstating a union and promoting the right to organize, in Poland. If a country refuses to fulfill the recommendation then, ‘the Governing Body may recommend to the Conference such action as it may deem wise and expedient to secure compliance therewith,’ a step that was carried out against Myanmar in 2000 for violating the forced labor convention. See Elliot and Freeman, "The ILO to the Rescue?." In the case of the UAE a committee was appointed to investigate the claims and released a report with recommendations for the UAE government this March.

⁹⁷ Other core ILO conventions that member states are automatically party to, regardless of ratification, include the Freedom of Association and the Right to Organize, the Equal Remuneration Convention addressing discrimination at work, as well as the Minimum Age Convention and the Worst Forms of Child Labor both addressing child labor. “List of the ILO Core Conventions,” International Labor Organization, July 2010, http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-islamabad/documents/policy/wcms_143046.pdf

and references the February 2015 HRW report on Saadiyat Island, illustrating the way international organizations and advocacy intersect with media to create injustice symbols and the infrastructure to name and shame and give weight to campaigns for international monitoring and accountability. Similarly the NYT articles reference the New York University Coalition for Fair Labor (NYU CFL), Gulf Labor and HRW to bolster their articles on working conditions specifically on the New York University Abu Dhabi (NYU AD) campus. The Guardian newspaper has also reported extensively on labor conditions on Saadiyat island and on the working conditions of domestic workers in the UAE (and elsewhere) under its 'Modern Day Slavery in Focus' series. The Guardian published several articles on working conditions in the UAE beginning in 2013, when the Guardian and the Observer jointly carried out an investigation of working conditions on a number of Saadiyat island developments. Various guardian articles have drawn on the claims of the ITUC and members of Gulf Labor to describe working conditions on the island as 'an open prison.'⁹⁸ The Guardian also published a piece highlighting the findings of the 2015 HRW report on working conditions in Saadiyat, focusing on the vast differences between the promises made by the Guggenheim foundation, NYU and the Agence-France de Museums to protect workers rights, versus the stark reality of low wages and terrible working conditions. Crucially most of these articles rely on human rights watch reports and ILO definitions to grant their cases legitimacy revealing the importance of the discursive links created in the HRW reports and the ILO report on human trafficking in the Middle East.

⁹⁸ David Batty, "Migrants Building Uae Cultural Hub 'Working in Prison Conditions'," The Guardian, <http://www.theguardian.com/global-development/2015/apr/04/migrant-workers-uae-saadiyat-island-abu-dhabi-battery-hens>.

One of the key elements of these articles is linking the specific visa sponsorship system and restrictive labor laws to the issues of slavery and forced labor - the articles make a discursive link between 'kafala' and worker rights abuses. It is important to note that this tied visa system is used in other parts of the world too, such as the US guest worker program, and Singapore's migrant worker visa system.⁹⁹ In the UK a recent move to tie domestic worker visas to employers was widely criticized as being similar to the kafala system and enabling modern day slavery, illustrating the potency of the modern day slavery label with the exploitative migration structures of the UAE and elsewhere in the Gulf.¹⁰⁰

Brand Names, Cultural Capital & Codes of Conduct

Saadiyat Island and Cultural Capital

The UAE has steadily been attempting to reduce its dependence on oil exports which has led to the proportion of GDP based on oil and gas output decreasing to 25% as of 2013, although crude oil exports still make up 45% of all commodities exported.¹⁰¹ As part of this attempt the country is instead focusing on attracting luxury tourism, including

⁹⁹ See "*Farm Workers & Immigration*," National Farmworker Ministry, <http://nfwm.org/education-center/farm-worker-issues/farm-workers-immigration/>. ; Michael Malay, "Singapore Needs to Address Its Treatment of Migrant Workers," *The Guardian*. ; Toh Ee Ming, "Making Singapore a Better Place for Workers Who Come from Afar," *Channel News Asia*, <http://www.channelnewsasia.com/news/singapore/making-singapore-a-better/2341718.html>.

¹⁰⁰ Daphne Demetriou, "'Tied Visas' and Inadequate Labour Protections: A Formula for Abuse and Exploitation of Migrant Domestic Workers in the United Kingdom'," *Anti-Trafficking Review* 5 (2015).

¹⁰¹ CIA world factbook, <https://www.cia.gov/library/publications/the-world-factbook/geos/ae.html>

high-end cultural consumption. Examples of luxury tourism in the UAE include the world's only 7-star hotel, the world's richest horse race, the Abu Dhabi Grand Prix and the Ferrari World theme park, amongst others. The promotional literature on Saadiyat island's website further reveals the inextricable connections between the development and attempts by the UAE government to increase cultural capital and international presence: the main attraction for Saadiyat residents is access to world-class museums, designed by 'Pritzker Prize winning' architects and access to a performing arts center as well as an arts and culture exhibition center.

Kanna's city as corporation model deserves further probing here. Combining ideas of a family-state with Buckley's theorizations of Dubai as an autocratic neoliberal domain, Kanna highlights the way most urban development in the UAE, even when conducted through corporations, is tightly bound to the ruling family.¹⁰² For instance, Dubai's Executive Council, headed by the emirate's ruler Muhammad bin Rashid Al Maktoum and 'confidantes,' chair the parastatals in the city-state including Emaar properties, the Media and Technology Freezone (Tecom), Dubai Holding and Dubai World. Similarly the Executive Affairs Authority (EAA), an advisory body to the government's main executive council is the ultimate authority in charge of the NYU project's execution, delivery and maintenance, through a government entity named Tamkeen. The Tourism, Development and Investment Company (TDIC), the main parastatal developer of Saadiyat island was created to 'fulfill... [Abu Dhabi's] 2030 Economic Vision to become a global tourism destination, through delivering world class

¹⁰² Kanna, "Dubai: The City as Corporation."

projects,' throughout the Emirate.¹⁰³ With Saadiyat in particular, TDICs stated aim is to help the Emirate 'become a world class cultural destination.'¹⁰⁴ TDIC is wholly owned by the Government of Abu Dhabi, through The Tourism and Development Authority of Abu Dhabi and is also primarily funded by them.¹⁰⁵

TDIC has paid for the right to name its museums as branches of the Guggenheim and Louvre but as part of its contract has limited the possibility of these foundations inscribing specific labor standards or dictating the terms of the construction.¹⁰⁶ Similarly, the Abu Dhabi government has paid for the construction of the NYU AD campus and funded some operations of the university's main campus in return for the right to use the NYU brand name. In 2009, the EAA and NYU released a "Statement of Labor Values" in response to student and faculty concerns that workers' rights may be violated during the construction.¹⁰⁷ This was later instrumentalized into "14 Points" which gave more specific guidelines on the reimbursement of recruitment fees, the right for all employees to retain their passports, specific working hours and vacation times as well as minimum housing conditions.¹⁰⁸ Mott MacDonald was appointed to monitor compliance, again in

¹⁰³ Annual Report 2013,

[http://www.tdic.ae/TDICWSAssets/En/pdf/AnnualReport_2013\(3\)_LR.pdf](http://www.tdic.ae/TDICWSAssets/En/pdf/AnnualReport_2013(3)_LR.pdf)

¹⁰⁴ <http://www.tdic.ae/TDIC/investorsrelations/Pages/index.aspx> ;

¹⁰⁵ Also using conventional and Islamic capital markets; 2009 \$1bill bond, and \$1 bill sukuk, largest in the GCC that year

¹⁰⁶ Claims from the GG? And it's a name franchising decision thing? DO A GOOGLE

¹⁰⁷ "Statement of Labor Values" <http://nyuad.nyu.edu/en/about/statement-of-labor-values.html>

¹⁰⁸ "Construction and Operation of NYU Abu Dhabi"

<http://nyuad.nyu.edu/en/about/additional-labor-info.html>

response to student and faculty pressure for greater accountability.¹⁰⁹ Similarly, responding to criticism for HRW and pressure from Gulf Labor and the Guggenheim Foundation, TDIC adopted an Employment Practices Policy (EPP) in 2010 that is applicable to its contractors, which provides detailed guidelines on employment contracts, regulations for paying workers on time, and potential penalties for non-compliance, and overtime guidelines, amongst other things.¹¹⁰

In this section I look at the discourse around brand names and cultural capital employed by Gulf Labor and the New York University Coalition for Fair Labor (NYU CFL), as well as the logic of corporate codes of conduct that are advocated by those two groups and in Human Rights Watch reports from 2009 onwards. Using Bourdieu's ideas of cultural capital, I illustrate the power of the brand name naming-and-shaming approach; yet I also analyze the limitations of using a brand name as leverage to instate corporate codes of conduct. The establishment of global cultural and educational brands such as NYU, Guggenheim and the Louvre have given activists unique leverage over working conditions in the UAE, in particular on the multi-billion dollar Saadiyat development. Although these institutions are corporations and their expansion into branches abroad is motivated by the prospect of financial gain, they also claim to be holders of a certain cultural value that goes beyond the monetary. It is this claim that student and faculty activists in NYU as well as artists who are members of the Gulf Labor

¹⁰⁹ McGeehan, "Migrant Workers' Rights on Saadiyat Island in the United Arab Emirates: Progress Report 2015."

¹¹⁰ "Employment Practices Policy (Epp) August 2015," (Tourism, Development & Investment Company, 2015).

Coalition attempt to leverage as they place public pressure on these institutions, demanding that they act on the values of cultural and educational advancement they claim to espouse.

Brand Names

Gulf Labor, as mentioned earlier, is an organization consisting of people from ‘all across the spectrum of cultural work, from artists, to curators, to critics and other writers, to architects, to academics (both students and teachers), to arts administrators and other people who make the visible labor of art-work possible.’¹¹¹ Members of Gulf Labor have met with the main parastatal company behind the Saadiyat Island development, the Tourism and Development Investment Company (TDIC) as well as the directors of the Guggenheim foundation, and have consistently engaged with their responses via press releases and continued demonstrations, urging them to do more and working within an international infrastructure to pressure the Guggenheim foundation and through pressuring the foundation and threatening their brand name, pressuring the UAE as well. Members of Gulf Labor have staged direct actions through the autonomous but related organization, the Global Ultra Luxury Faction (G.U.L.F.) Notably one of the first acts of the Gulf Labor coalition (GLC) was to sign a letter boycotting the new museum and eventually to send it to the Guggenheim to pressure them for better labor standards, setting up a relationship of leverage early on. The GLC’s three conditions for lifting this boycott are that 1) recruitment fees are paid back to workers and passport are not held by

¹¹¹ <http://gulflabor.org/faq/>

employers, 2) that a living wage is paid and 3) that workers have the right to organize themselves.¹¹²

The group effectively draws on a broader discourse that art should represent values of liberty and free expression rather than be dominated by purely profit making motives to exercise real leverage over the Guggenheim foundation and the TDIC.¹¹³ Drawing on Bourdieu, I argue that the power of this approach lies in exposing cultural capital institutions as nothing more than means towards attaining financial capital and thus reducing their cultural value. The editor for *High Culture/Hard Labor*, Andrew Ross, who was also involved in the NYU CFL, directly frames Gulf Labor's work as one of challenging 'PR-sensitive outfits that cannot afford to be associated with the taint of labor and human rights abuse.'¹¹⁴ In an interview, Ross focused on the high profile nature of the Saadiyat Island development for the UAE to explain how this made it an ideal target, echoing the broader logic that attempting to increase one's presence on the world stage to increase cultural capital makes one much more vulnerable to international pressures and standards. Ross sees the current period in time as an incredibly strategic moment to change the existing labor laws in the Gulf. Given the intensive construction prompted by the 2022 World Cup in Qatar as the publicity around the World Expo 2020 in the UAE, there is subsequently increased attention given to labor abuses in the region.¹¹⁵ Ross recognizes that the UAE allows cultural producers to criticize its policies because it needs them to build the desired cultural capital of educational and art institutes

¹¹² *The Gulf: High Culture/Hard Labor*.

¹¹³ Andrew Ross, "Gulf Labor" (paper presented at the Gulf Labor and Precarious Workers' Rights, Center for the Humanities, City University of New York, 2015).

¹¹⁴ *The Gulf: High Culture/Hard Labor*, 34

¹¹⁵ Author's interview with Andrew Ross

so that it can attain a greater world city status. G.U.L. F. has carried out occupations of the Guggenheim museum in New York and Venice to raise awareness about its involvement in abusive labor practices in Abu Dhabi and released a fake press release to call for a more ethical redesign of the Guggenheim Abu Dhabi. Similarly the Gulf Labor group raised the profile of their campaign against the Guggenheim and against poor labor standards acting as a foundation for cultural institutions by presenting at the 56th Venice Biennale, an important international arts event. In particular they focus of ‘the nexus of art+labor+capital as it is congealing in Abu Dhabi and the UAE.’¹¹⁶ And finally, the boycott materially threatens the ability of this new Guggenheim to showcase pieces by many prominent artists.

One of the arguments behind the efficacy of both Gulf Labor and G.U.L.F is that they are able to take action on the ground and extend the reach of international groups’ recommendations and criticisms to a wider audience and thus place more pressure on the UAE government to act. Gulf Labor and G.U.L.F employ a dual strategy where they target the Guggenheim by insisting that art should not be linked to exploitation for the sake of financial gain and the Guggenheim should not turn a blind eye to labor abuses in Saadiyat just because it stands to profit from the project. It should in fact take responsibility for worker welfare if it is to maintain the power of its cultural capital and not be exposed as simply a profit making institution rather than one that also carries values of expression, art, culture and civilization. The Abu Dhabi government is simultaneously targeted by this discourse as it suggests that their desire to attract museums is nothing more than cynical attempts to “buy” culture through exploited labor.

¹¹⁶ <http://gulflabor.org/venicebiennale2015/>

By exposing the financial roots of this cultural capital Gulf Labor attempts to weaken the brand image of both the UAE and the Guggenheim.

The NYU Coalition for Fair Labor (CFL) is a faculty-student initiative formed to advocate for higher labor standards. Many of its recommendations made it to NYU Abu Dhabi's (NYUAD)/EAA Statement of Labor Values. The NYUAD Campus construction is completed at this point, in contrast to the Guggenheim where construction is still in preliminary phases, and as such the Coalition for Fair Labor is now pushing for more research on reforming the kafala system and its effects to take place in NYUAD, particularly as construction on the rest of the Saadiyat Island development surrounding the campus is set to continue for several more years.

The CFL particularly emphasizes the reputation of the NYU brand name, which, in their literature, 'carries a value that is dependent upon NYU's reputation as a democratic institution dedicated to ethical and intellectual engagement with the world.'¹¹⁷ Since NYU has left the financing of the Abu Dhabi campus to the UAE government and there is an argument to be made for staying away from the construction process, the CFL is careful to emphasize the stain on the NYU brand name if labor abuses occur under an institution carrying its name. Other examples of CFL's attempt to leverage the NYU brand name include:

Who are we? We are a group of NYU students and faculty who are deeply committed to ensuring that the university continues to enjoy a reputation for academic excellence and democratic values befitting a global private university in the public service.

¹¹⁷ <https://fairlabornyu.wordpress.com/faqs/>

We all have a stake in maintaining NYU's reputation as a leading educational institution. We are concerned that a human rights scandal at NYU Abu Dhabi could prove detrimental to the university's name and are committed to doing everything in our power to prevent any reputational damage... to ensure the protection of human rights and the responsible use of NYU's name¹¹⁸.

Here a dual logic is at play: NYU is treated as a brand in a corporate fashion and reputational damage is the foremost concern, but then there is also an appeal to 'democratic values befitting a global private university,' a powerful cultural capital claim to power. The CFL also constantly references back to HRW reports to highlight violations and bolster its arguments. It also references abuses around the Guggenheim site, and the CFL homepage links to every Saadiyat related human rights watch report as well as a New York Times investigation and a Gulf Labor report. It therefore firmly positions itself and within a larger international infrastructure that can be mobilized to push back against violations of workers' rights.

Corporate Codes of Conduct & Monitoring

As the previous section demonstrates, brand name leverage effectively targets the cultural capital of both NYU, the Guggenheim museum and by extension the Abu Dhabi government which has invested significant amounts of money to bring in the cultural capital power of these cultural and educational brands to the city as it works to boost its standing as a global city. However, despite an effective weapon in the form of cultural capital, the form of reform proposed is the relatively ineffectual one of corporate codes of

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conduct and monitoring schemes. These codes of conducts lend themselves to creating small zones of exception within a broader context of exploitative labor conditions rather than leading to broader structural change.

As mentioned earlier, Human Rights Watch (HRW) has issued five country specific reports specifically on the conditions of labor in the UAE: one on workers in the construction sector, one on domestic workers and three on the conditions on the Saadiyat Island Development, as well as three more issue specific reports that include the UAE as a country of concern.¹¹⁹ The methodology of reports tends to be similar, with researchers interviewing workers (usually between 60-100), government officials, foreign embassy representatives as well as surveying local news for statistics that are not always formally available or accessible. The 2006 and 2009 reports are broken down into similar sections as well, beginning with an overall summary of findings, a recommendations section, methodology notes and then turning to the meat of the report with section titles like “Migrant Workers/Exploitation of Migrant Workers”, “UAE Labor Law,” and “Workers Rights and Government Obligations under International Law.”

There is a clear shift in the focus of HRW reports from the federal government to private corporations between the 2006 report on migrant construction workers broadly and the 2009 report on working conditions on Saadiyat Island. Indeed the 2009 report on working conditions in Saadiyat was prompted by the Solomon R. Guggenheim Foundation’s announcement that it was building a branch in Abu Dhabi. Human Rights Watch wrote to the foundation with concerns over labor practices in the UAE, but the

¹¹⁹ These reports cover topics including abuses of domestic workers, particularly Sri Lankan women, and the deportation of HIV positive migrants

‘Guggenheim officers argued that Abu Dhabi was an exceptional emirate more amenable to change than others,’ which led to HRW commissioning another report on labor conditions on the Island itself.¹²⁰ Even in the motivation for the report we already see the intense focus on targeting corporations and foundations as a way of changing local labor conditions. The 2006 Report directed most of its recommendations towards the UAE government, with a smaller section for the governments of sending countries including Pakistan, India, Bangladesh and Sri Lanka. There was also a section directed to the governments of the US, EU and Australia encouraging them to condition the negotiations and ratification of free trade agreements with the UAE on better protection for labor rights. In contrast the 2009 report has a much smaller section devoted to recommendations for the UAE government, with recommendations instead focusing on the main developers on Saadiyat Island – the Abu Dhabi parastatal TDIC, the EAA; and targeting the most prominent institutions opening branches on Saadiyat Island, the Solomon R. Guggenheim foundation, the Agence-France Museums, and New York University; the architectural companies contracted to design the buildings; and other specifically named local and international construction companies working on the development. The final section of this report emphasizes UAE obligations to international law in a way similar to the 2006 report but then looks at international standards of corporate responsibility as well, a new addition. The trend continues with the 2012 report, where all of the key recommendations address the TDIC and EAA and their corporate codes of conduct.

¹²⁰ Van Esveld, ""The Island of Happiness": Exploitation of Migrant Workers on Saadiyat Island, Abu Dhabi."

HRW also attempts to leverage international principles aimed at corporations, such as the “Guiding Principles on Business and Human Rights,” endorsed by the UN Human Rights Council in 2011, the Universal Declaration of Human Rights and the corresponding UN Global Compact, a ‘voluntary initiative under which companies...pledge their adherence to ten “universally accepted principles in the areas of human rights, labor...” and the ILO Tripartite Declaration of Principles amongst others.¹²¹ However there is not much consistency in which principles they evoke and pursue against corporations, the main tactic remaining a general sense of naming and shaming against an equally generalized expectation that businesses should respect workers’ rights. Invoking these multiple frameworks does help create a sense of a minimum international standard of workers rights, even if none of them are aggressively promoted by HRW reports.

However the crux of the problem is that Human Rights Watch targets the TDIC and the EAA both as corporations, leveraging ideas of corporate codes of conduct and naming and shaming tactics to scare investors, when both entities are in some ways, the government. This results in a paradoxical situation where instead of adopting and enforcing laws that would enable higher labor standards, the Abu Dhabi government is content to rely on corporate codes of conduct for its public companies to ensure worker welfare on Saadiyat construction sites. These codes were, until recently, self-monitored, in one case by a company that also had a construction contract on Saadiyat and thus a clear conflict of interest. HRW reports routinely insist that ‘it is also necessary to establish an enforceable mechanism, such as contractual guarantee, through which NYU,

¹²¹ HRW 2015, 2009

the Louvre and the Guggenheim can hold the EAA and TDIC responsible if they fail to uphold their promises.¹²² The strategy employed by HRW then relies on particular US- and France- based corporate foundations holding parastatal companies in the UAE to account regarding labor abuses through the use of corporate codes of conduct. In this discourse the state/market binary is enforced and the state is exempt from needing to take responsibility for worker's rights and welfare, devolving it instead onto corporations and codes of conduct (even when those corporations are effectively government entities), and creating informal stopgaps to deal with international criticism instead of lasting reforms.

Similarly Gulf Labor firmly advocates for corporate codes of conduct and independent third party monitoring on the Guggenheim construction site and across the island more broadly. Ross in particular is a firm believer in the need for third party independent monitoring, arguing that even PriceWaterhouseCoopers (PwC), currently employed by the TDIC, is not independent although PwC has no vested interests in the development. For him PwC being employed by the company it is auditing is enough to compromise independence. He therefore believes the Workers Rights Consortium is the best choice for a monitor, as it would be funded by US-based cultural institutions that can be held accountable more easily and it also has a track record of success combating sweatshop production of college apparel. Ross believes that sweatshop monitoring is an inspiring example of combating offshore and outsourced labor abuse but contends that monitoring can be even more effective in this case because unlike factories these cultural institutions will remain on Saadiyat and will potentially provide lasting leverage over the

¹²² "The Island of Happiness Revisited," ed. Sarah Leah Whitson (Human Rights Watch, 2012).

UAE government.¹²³ Here again we see ideas around corporate codes of conduct and cultural capital undergirding his reasoning. Ross did not problematize codes of conduct as the main mechanism to ensure worker rights, whether in the case of sweatshops producing clothing, or migrant construction workers, as it is unsustainable in the long term. In terms of cultural capital, since culture producers are one of the holders of this capital, their criticism is somewhat tolerated. However, the danger here is that places that face international scrutiny and are leveraged through the framework of cultural capital simply become human rights zones of exception with higher labor standards maintained through links to codes of conduct and the pressure of international cultural capital, while labor laws and enforcement in the rest of the UAE remain poor. This is somewhat the case already with NYU. In response to concerns from its constituents that free-speech would not be protected in the UAE, when the NYU AD branch was first announced, President John Sexton was quick to reassure faculty and students that the campus would be a free-speech zone of exception.¹²⁴

The CFL's approach is very similar as well: it pressured NYU and the EAA into adopting codes of conduct and appointing a monitor. The approach has in fact many of the factors that Seidman would argue make a corporate monitoring scheme successful. The pressure comes from an institution so it is backed by numbers. If the call for independent monitoring is answered, an infrastructure to publicize abuses exists through

¹²³ Ibid

¹²⁴ Despite these assurances NYU faculty member Andrew Ross was denied entry into the UAE in March 2015. Although he is not a professor at NYU Abu Dhabi and was conducting his own research during the trip, the ban was widely seen as the inability of NYU to guarantee academic freedom for their Abu Dhabi campus. See, for instance, http://www.slate.com/articles/life/inside_higher_ed/2015/03/nyu_has_an_abu_dhabi_campus_but_the_government_still_blocked_professor_andrew.html

HRW, the ILO and a number of press outlets more generally that have recently taken interest in the topic. There is also a significant brand name at stake for the NYU and enough stakeholders in terms of students and faculty that would be scandalized by the news of labor abuses. However, Seidman also argues that even supposedly successful monitoring programs struggle to eliminate labor abuses in general. In his analysis of several case studies any significant success is most likely to occur when transnational networks are leveraged to create more inclusive and democratic institutions locally rather than replacing government action with 'civil society monitoring in perpetuity.'¹²⁵ The issue with the kind of leverage used by NYU students against their institution (and also by Gulf Labor and an artist movement against the Guggenheim), is that it is constantly being exercised from within NYU (or the Guggenheim) to affect very specific labor conditions on one construction site and enforce corporate codes of conduct rather than push for local legislation and enforcement that would improve standards. There is a reason that the EAA prefers that Tamkeen, the public company created to manage the NYU project, adopts codes of conduct rather than have more stringent laws that must be followed. The intention from the Abu Dhabi side seems to be to replace laws with monitoring perpetually in areas that come under international scrutiny as much as possible, and otherwise continue to pass superficial laws that lessen the staying power of naming and shaming tactics.

¹²⁵ Seidman, "Beyond the Boycott: Labor Rights, Human Rights and Transnational Activism."

Chapter Two

The State of Migrant Workers' Rights in the UAE, 2006 – Present

I use local media reports as well as various human rights reports to paint an overall picture of migrant construction worker rights in the UAE over approximately a ten year period from 2006 through 2015. Human Rights Watch has produced four reports over this time period documenting working and living conditions for migrant construction workers in the UAE. In these reports researchers interview workers (usually between 60-100), government officials, foreign embassy representatives as well as surveying local news for statistics that are not always formally available or accessible. Gulf Labor has visited the Saadiyat Island Accommodation Village in 2011, and 2014 released a report in 2014 and another in July 2015, based mainly on visits to Saadiyat Island, visits to related sites off the island, and interviews with workers in the UAE and India.¹²⁶ The track record is littered with poor enforcement of existing regulations, reducing them to laws merely in name, and of newer regulations often remaining unenforced as well. In other words, superficial change is enacted rather than any lasting reforms. It is difficult to exactly and accurately pinpoint the effect of international engagement on the passing and enforcement of various laws but themes of laws on paper rather than in practice and informality are strongly present in the picture of migrant workers' rights.

¹²⁶ Gulf Labor Timeline, <http://gulflabor.org/timeline/>; *The Gulf: High Culture/Hard Labor*.

Poor enforcement of existing laws and shallow promises of change are evident when we look at promises to increase labor inspections and thus prosecutions of violators and laws that theoretically weaken the kafala system by allowing workers to change jobs without the approval of the current employer and laws regarding recruitment agencies. In 2006 the work visa system required employees to complete two years of service before being able to change their employer and sponsorship, and also collect a “letter of no objection” from their employer. As employers can cancel the work visa at any point, making the worker an illegal resident subject to deportation and workers often have substantial debts that must be repaid, abuse is facilitated.¹²⁷ However in 2010, Ministerial decree 1186 allowed for workers to change employers without a no-objection certificate (NOC) at the end of a contract.¹²⁸ Before this law if an employer did not issue an NOC then the worker would be subject to a six month ban or leave before being allowed to work again. Under this decree workers can change employers before the contract expires if employers fail to fulfill their legal obligations.¹²⁹ However, the Ministry of Labor has provided no data on whether or not any workers were able to use the provisions of this decree, and HRW notes that a 2013 article in *Gulf News* quotes an official from the Ministry clearly stating that the pre-2010 laws still apply in practice:

However, in June 2013, *Gulf News* quoted a Ministry of Labour official as saying that foreign workers would still need a an NOC to change jobs and that the Ministry of Labor would impose a one-year travel ban on anyone who attempted

¹²⁷ Ghaemi, "Building Towers, Cheating Workers: Exploitation of Migrant Construction Workers in the United Arab Emirates."

¹²⁸ McGeehan, "Migrant Workers' Rights on Saadiyat Island in the United Arab Emirates: Progress Report 2015."

¹²⁹ *Ibid.*

to change jobs without employer permission. The report also quoted the official contradicting the text of the new regulations: “No one is allowed to switch jobs even if they complete many years in their [current job], without the consent of their sponsor,” he said.¹³⁰

Similarly, a November 2006 Prime Ministerial Decree attempted to set better standards on housing, hire more inspectors and announced that workers who had not been paid for two months would be granted release from their visa sponsor/employer.¹³¹ Although the decree called for an additional 2000 inspectors to be hired, HRW said that at the end of 2008 only 48 health and safety inspectors were present, while the total number of inspectors were 425 to cover ‘over 260,000 businesses employing a total of 3,113,000 foreign workers,’ illustrating just one of the many examples where official government rhetoric did not match up to reality.¹³² In January 2011 the UAE government passed a law to prohibit recruitment agencies from charging workers’ any employment related fees or expenses such as airfare and to ban recruiters from placing workers in a workplace with an ongoing labor dispute.¹³³ As of 2015 however evidence from HRW and Gulf Labor suggests that recruitment fees are still incredibly widespread and the UAE government has no released any statistics on whether an recruitment companies lost their license as a result of a failure to comply with the law. The law appears to be a paper-only piece of legislation rather than actual implementation.

¹³⁰ Ibid.

¹³¹ Van Esveld, ""The Island of Happiness": Exploitation of Migrant Workers on Saadiyat Island, Abu Dhabi." Over the next 6 months, the government announced that it had closed down 100 different housing units that did not meet standards, but in general the ministry’s own inspections showed that housing conditions remained inadequate.

¹³² Ibid.

¹³³ "The Island of Happiness Revisited."

Elements of informality also exist in the framework of labor rights, rather than firm regulations and legal prosecutions. The earliest of these reports highlights the poor enforcement of existing protections in the law due to a lack of mechanisms to investigate and prosecute breaches such as non-payment of wages. In Dubai, the Permanent Committee for Labor Affairs and the Human Rights Department of the Police arbitrate and collect unpaid wages but penalties against late payments are largely non-existent and in general prosecutions and investigations are avoided in favor of informal mediation that does not threaten the state's autocratic control over labor.¹³⁴

Amongst other issues that remain present are low wages of around \$1/hour, contract substitution, customary withholding of wages for the first two months of employment and general non-payment of wages, debt bondage because workers almost universally accrue large debts to pay recruitment fees that generally take at least two years of work to pay off, and endemic passport confiscation even on Saadiyat Island, where the TDIC Employment Practices Policy (EPP) was meant to end the practice.

The track record of international engagement in terms of the TDIC & the Guggenheim and NYU and the EAA, the results are similarly limited. In the case of NYU student and faculty pressure pushed the university to adopt a Statement of Labor Values in 2009 and then in response to continuing pressure, release the 14 Points which covered the implementation of the statement of labor values in more detail. However, rather than appointing an independent third party monitor, NYU appointed Mott MacDonald and this

¹³⁴ Ghaemi, "Building Towers, Cheating Workers: Exploitation of Migrant Construction Workers in the United Arab Emirates."

choice was widely criticized by the CFL since Mott MacDonald had a conflict of interest. It also had a contract to develop the power and water systems on Saadiyat. Subsequent New York Times newspaper reports detailing violations of the Statement of Labor Values despite Mott MacDonald reporting compliance, led to NYU appointing another company, Nardello & Co. to investigate these violations. Nardello found that there was indeed oversight in implementation that excluded around 10,000 workers from the provisions set forth by the Statement of Labor Values and the 14 Points and that even from the 20,000 workers who were covered only twenty had had their recruitment fees returned to them, as required by the Statement of Labor Values and the 14 Points because most workers were unable to show receipts or proofs of the recruitment fees they paid.¹³⁵

PriceWaterhouseCoopers (PwC), the company hired to act as a monitor for the TDIC's EPP found that, as of December 2014 the enforcement of the EPP was poor since there was little to no deterrent for violators of the codes. For instance, the TDIC's main mechanism for preventing contractors from charging recruitment fees /determining that contractors have not charged fees, appears to be a 'Site Assignment Agreement,' that is signed by workers before they begin work attesting to the fact that they did not pay a fee. Workers who do not sign this agreement may be denied access to the construction site.¹³⁶

Therefore over most of this period the UAE government passed straw laws regarding recruitment agencies and debt, passport confiscation, and improvements to the visa sponsorship system. Improvements, such as those in regular wage payments due to

¹³⁵<http://www.nardelloandco.com/pdf/NYU%20Abu%20Dhabi%20Campus%20Investigative%20Report.pdf>

¹³⁶ "The Island of Happiness Revisited."

Ministerial Resolution No. 788 of 2009, which puts a ‘wage protection system’ in place which means that salaries must be paid electronically, are few and far in between.¹³⁷

One particular piece of legislation however, bears closer analysis. At the end of September 2015 the UAE announced reforms to its labor law system and passed three ministerial decrees. Ministerial Decree 764 requires employers to file a standard employment contract, signed by the worker, with the Ministry of Labor before a visa approval is issued. These contracts contain ‘information on pay, date and duration of the contract and the nature of the work to be performed.’¹³⁸ The contracts may not be altered or substituted, providing some protection against contract fraud though employers are not obliged to give workers contracts in a language they can understand, and at present many workers sign contracts without knowing their contents, an issue the decree does not address. The two other Ministerial Decrees allow for the sponsorship to be terminated if the employer ‘has failed to meet contractual or legal obligations to the worker...a business has been inactive for two months, a labor court finds in favor of a worker a case relating to arbitrary or early termination, or the unlawful denial of benefits, including end-of-service benefits.’¹³⁹ This law may, depending on implementation, end the current policy of workers needing a “no-objection certificate” (NOC) from current employers before being able to transfer visa sponsorship to a different company, or the practice of

¹³⁷ McGeehan, "Migrant Workers' Rights on Saadiyat Island in the United Arab Emirates: Progress Report 2015."

¹³⁸ "Uae: A Move to Protect Migrant Workers," Human Rights Watch, <https://www.hrw.org/news/2015/11/01/uae-move-protect-migrant-workers>. "Ministerial Decree (764) of 2015

on Ministry of Labour-Approved Standard Employment Contracts," ed. Ministry of Labor (U.A.E: U.A.E Government, 2015).

¹³⁹ "Uae: A Move to Protect Migrant Workers."

banning a worker from returning to the UAE for a fixed time period.¹⁴⁰ Theoretically these laws, which came into effect in January 2016, could dismantle many of the worst excesses of the kafala system if they are enforced. Although one's sponsor would still be one's employer and control visa status, the worker has a greater ability to switch employers, and a standard work contract can provide some protection from contract fraud. However, the latter of the decrees is almost identical to a law passed in 2010 regarding workers' ability to switch jobs even without employer consent and an NOC, which was directly contradicted in practice. Similar issues of poor enforcement or laws without implementation are common so it is unclear whether this law will lead to any substantial changes on the ground. Since international engagements and evaluations often rely on reforms made on paper it is quite possible that these laws will not translate into much change for migrant workers, but it is too early to say. The UAE then, as a neoliberal corporatist state that prefers reforms on paper, informality or zones of exception rather than structural reforms and international engagement has made little difference to these tendencies, especially as the tools of corporate codes of conduct lend themselves to zones of exceptionality and the naming and shaming framework focuses on branding and marketing, allowing the UAE to market its superficial reforms rather than focusing on deeper change.

¹⁴⁰ Shuchita Kapur, "New Uae Rules to Follow When Resigning Your Job: why Noc Not Pre-Requirement Anymore for Switching Jobs," Emirates 24/7, <http://www.emirates247.com/news/emirates/new-uae-rules-to-follow-when-resigning-your-job-2016-01-19-1.617771>.

Local Media Responses: Cooptation/Dismissal in a Naming & Shaming Framework

The TDIC's 2013 Annual Report emphasizes its Corporate Social Responsibility Committee, founded in 2011, particularly focusing on 'Worker Welfare.' The section advertises TDIC's Employment Practices Policy (EPP) and mentions PriceeaterhouseCoopers (PwC) as the independent monitor hired to ensure compliance with the policy. This section also spotlights the Saadiyat Accomodation Village (SAV), the housing facility built for Saadiyat island that is meant to be a state of the art facility to house all workers involved in TDIC projects, though many are not housed there. The report also uses international accords to create a sense of transparency, high standards and legitimacy of the project. For instance, the Pearl Initiative, a non-profit organization that looks at companies and evaluates them based on best practices awarded the TDIC the 'beyond compliance,' standard regarding the SAV and the company has also received the Sustainability MEED Quality Award.¹⁴¹ SAV facilities, including sports grounds and libraries, are advertised and TDIC is careful to note that the village is open to visit for guided tours and that it has regularly hosted, 'dignitaries, human rights institutions, media groups, cultural institutions, independent artists,' amongst other visitors. Here Gulf Labor's inspection visit to the SAV is transformed into a moment of advertisement for the TDIC, illustrating the way that a naming and shaming discourse based on cultural capital can be coopted by the target to sell its own vision. TDIC's 2014 report follows a similar trajectory.

¹⁴¹ 47, Annual Report 2013

Refutation/Dismissal

A scholar specifically researching migrant domestic workers in the UAE, Rhacel Parrenas, has suggested that local newspapers tend to both self-censor critiques of the government and also dismiss international critiques as “culturally insensitive”. In her particular work on migrant domestic workers, international calls for a day off and freedom of movement are ill-received because, as many of the employers she interviewed mentioned, it is considered inappropriate to let women (the majority of domestic workers) out on their own, and the actions of domestic workers outside the house reflects back on the sponsoring households.¹⁴² At other times critiques of UAE labor laws are dismissed as orientalist. Mahdavi explores this dynamic by charting the rise and fall of the UAE’s TIP report rankings that seemed to correlate more with how well trade negotiations were going than with concrete measures to address trafficking on the ground. Many of her interlocutors also insisted that it was international politics more than facts on the ground that influenced critiques of the UAE.¹⁴³ The UAE’s engagement with HRW reports illustrates the pressure exerted by the government by this form of international advocacy, but a number of techniques are used to dismiss critiques as orientalist, insensitive, or factually inaccurate. Thus international engagement does not necessarily filter down to the local level to make the atmosphere for migrant workers’ rights advocacy easier.

¹⁴² Rhacel Parrenas, "***Eating in Dubai: The Labor Conditions of Migrant Domestic Workers***" (paper presented at the Human Trafficking Series, Center for the Study of Slavery and Justice, Brown University, 2015).

¹⁴³ Mahdavi, "Gridlock Labor, Migration, and Human Trafficking in Dubai."

Analysis of local English and Arabic newspapers supports the view that human rights based critiques are dismissed as Orientalist and culturally insensitive. I specifically look at Gulf News, the most widely circulating English language daily, and Al-Ittihad, the oldest Arabic language paper in the UAE, which predated independence.¹⁴⁴ Al-Ittihad is owned by the Abu Dhabi Media group, which presents its mission as ‘adopt[ing] key initiatives that support the evolution of the UAE’s media industry and overall development plans.’¹⁴⁵ Although Gulf News is nominally an independent journalistic outfit, press censorship in the UAE is rife and newspapers often self-censor or deliberately print news items to support the government’s agenda.¹⁴⁶ Many of the Gulf News’ articles below in fact replicate the story from the government run Emirates News Agency (WAM), illustrating how the views expressed in both publications around labor rights and particularly HRW reports hew closely to establishment ideas and attempt to present them as convincing to the wider public.

¹⁴⁴ <http://www.thenational.ae/uae/heritage/al-ittihad-at-45-the-newspaper-that-was-ready-for-the-uae> ; Gulf News is has the largest circulation of all English language dailies in the UAE, reaching 107,403 readers, in print higher than all other English language dailies combined; and an online audience of around 3 million unique monthly visitors. (see <http://gulfnews.com/the-history-of-gulf-news-1.446035>)

¹⁴⁵ <http://www.admedia.ae/about-us/our-company/>

¹⁴⁶ Currently, a Jordanian journalist working in the UAE is held incommunicado since he was called in by the UAE Criminal Investigations Department in Abu Dhabi. In 2014 a Ugandan Journalist for another UAE-based publication was fired for failing to obtain his employer’s permission before publishing his autobiography which the newspaper alleged showed them in a negative light. This same journalist, Yasin Kakande, recorded in detail his experience with the self-censorship in his newspaper offices. The UAE ranks 118th out of 180 countries in the 2014 Reporters without Borders Press Freedom Index. Other incidents include the arrest of Osama Najjar who was an outspoken critic of the UAE government’s decision to imprison 94 Emirati citizens who were tried on charges of overthrowing the government. (see <http://en.rsf.org/united-arab-emirates-ugandan-journalist-s-damning-19-06-2014,46472.html> and <http://en.rsf.org/united-arab-emirates-netizen-arrested-after-tweeting-24-03-2014,46036.html>)

HRW reports targeting the Gulf countries are often presented as unjustified attacks on countries that are working hard to reform laws.¹⁴⁷ In Gulf News (GN), the reports are criticized for small sample sizes and HRW is often presented as a ‘politicized organization that operates according to an agenda targeting’ various countries, in the case of this quote in particular, Bahrain.¹⁴⁸ In this same article, the information minister of Bahrain insisted that Bahrain’s laws do not allow for any kind of extrajudicial torture and it has its own robust organizations to prevent detainee abuse, attempting to trivialize the HRW report and alleging a lack of expertise and understanding from HRW’s end.¹⁴⁹ In February 2015, Gulf News published an article stating that the International Gulf Organization (IGO) for Human Rights, a UAE-based organization, refutes ‘allegations made in the [February 2015, Saadiyat island] HRW report against the UAE.’¹⁵⁰ The HRW report is uniformly framed as an attempt to malign the UAE, ‘as a way to blackmail...in order for [the UAE] to be subject to the organization’s agendas,’ a ‘well

¹⁴⁷ It seems that Gulf News pushes back against HRW reports to different extents depending on the Gulf country targeted. For instance in 2015 Gulf News reported on the recent changes to Qatar’s sponsorship system that theoretically make it easier for workers to leave the country and change employers. The article states that the laws still allow employers to retain an inordinate amount of power over employee movement and do not go into effect until the end of 2016. Gulf News included praise and criticism of the laws, and some of the latter came from a Gulf researcher with HRW, Nicholar McGeehan and from an engineer working in Doha. See <http://gulfnews.com/news/gulf/qatar/significance-of-new-sponsorship-rules-in-qatar-debated-1.1611434>

¹⁴⁸ <http://gulfnews.com/news/gulf/bahrain/bahrain-rejects-hrw-report-as-misleading-unbalanced-1.1625368> The statement is a quote from Eisa Al Hammadi, the information and parliamentary affairs minister in Bahrain.

¹⁴⁹ <http://gulfnews.com/news/gulf/bahrain/bahrain-rejects-hrw-report-as-misleading-unbalanced-1.1625368>

¹⁵⁰ <http://gulfnews.com/news/uae/government/organisation-responds-to-human-rights-report-1.1450342>

intentioned but ultimately misinformed,' attempt.¹⁵¹ Similarly in that same news report, GN quotes the chairman of the IGO commenting on the abuses of migrant workers and expatriates, including international descriptions of their working conditions as 'slavery, forced labor or human trafficking.' The chairman insists that local investigations reveal the HRW reports are deficient as they do not acknowledge that many of the abuses occur in sending countries such as recruitment agencies charging high fees. The HRW report is uniformly framed as an attempt to malign the UAE and an incompetent one at that. Al-Ittihad also contains refutations of HRW reports. For instance, the day after HRW released its 2015 report on Saadiyat island, Al-Ittihad published a piece where the Tourism and Development Authority of Abu Dhabi refuted the claims made in the report as not objective, with poor methodology. TDIC is instead quoted as stating that living conditions meet international standards, and the law of the UAE is followed. In particular the news report noted that PriceWaterhouseCoopers (PwC), the monitor hired to audit the code of conduct interviewed over a 1000 workers for its report, much higher than the HRW report, and it found that all workers have their passports, and they have access to food and laundry services, 99% have health insurance and there is a grievance system as well as strict penalties for workers who fail to comply.¹⁵² The PwC statistics are not reliable because they rely on workers signing off on forms, potentially under coercive conditions, but this article is another example of HRW presented as incompetent or having an agenda that prompts false allegations.

¹⁵¹ <http://gulfnews.com/news/uae/government/organisation-responds-to-human-rights-report-1.1450342>

¹⁵² <http://www.alittihad.ae/details.php?id=15095&y=2015&article=full>

Another significant tool of dismissal is alleging that HRW is insensitive to local values, and simply reflects Western paradigms that have no place in the Gulf. A 2009 GN published a news-report on Saudi Arabia refuting rights violations due to poorly adjudicated death and execution sentences, by arguing that HRW fails to ‘take into account the religious background of the people of Saudi Arabia.’¹⁵³ In the Arabic language local press, there was a fascinating column last year in Al-Ittihad, justifying the Emirates’ security policy and lack of judicial transparency, which has been criticized by groups like HRW, by employing Orientalist tropes that suggest that it is one of the few places in the Middle East blessed with safety and prosperity and despite criticisms the country must continue to do what it does best and protect its people and interests, especially given the proliferation of terrorist and extremist groups in the area.¹⁵⁴

Therefore we see how international engagement has very limited impact on worker’s rights on the ground, and how international criticism is by turns coopted to weaken the naming and shaming framework, and in other turns dismissed as Orientalist, incorrect or biased, failing to create any local discourse or effect on migrant worker’s rights.

¹⁵³ <http://gulfnews.com/news/gulf/saudi-arabia/rights-group-report-ignores-islamic-law-1.2069>

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<http://www.alittihad.ae/columnsdetails.php?category=1&column=14&id=62925&y=2015>

Conclusion

International engagements through migration governance discourses, naming and shaming within a cultural capital framework, and using corporate codes of conduct to try and protect migrant workers' rights in the UAE largely fail to increase migrant worker welfare or protection. The particularities of the migration governance discourse and that of the discourse around monitoring and codes of conduct allow the UAE as an autocratic neoliberal state to in fact maintain a state/market binary, particularly through codes of conduct for public entities, which absolve the state of any responsibility for migrant worker welfare. The UAE is also able to use techniques of neoliberal governance as exception to create zones of free-speech and higher rights (on paper) or informal reforms rather than broader structural reforms that would cut at the heart of the state's authority and challenge the state's use of migrant workers' to bolster their own authority and power.

International engagement does manage to create a powerful international infrastructure and discourse around the global injustice symbol of "modern day slavery" which is used to gain the attention of the UAE government and the cultural and educational institutions on Saadiyat Island. Unfortunately, largely because this leverage is channeled into corporate codes of conduct and a migration governance discourse it ceases to be as effective as it could be in pushing for structural change. On the local level international engagements, particularly brand based naming and shaming, are either coopted to sell superficial reforms and weaken the framework itself or dismissed as Orientalist, failing to advance local discourse on migrant workers' rights.

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