

THE SOUTH ASIA TO GULF MIGRATION GOVERNANCE COMPLEX

EDITED BY
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PART I

Introduction

Mapping and Theorizing Migration Governance: Insights from the South-to-West Asian Migration Corridor

Nicolas Blarel and Crystal A. Ennis

Introducing the migration governance complex in the South Asia to Gulf corridor

Labour markets in Gulf economies are considered peculiar spaces, where over 80 per cent of the private sector labour force is foreign. The six economies that make up the Gulf Cooperation Council (GCC) are major attractors for economic migrants from South Asia, with the [International Labour Organization \(ILO\) \(2015a\)](#) reporting that over 90 per cent of economic migrants from India, Pakistan, and Nepal leave their homes to work in the region. According to the same report, Bangladesh and Nepal send more than 60 per cent of their migrant workers to the GCC region (p 6). Gulf labour markets have attracted increased attention since international media amped up attention on the status of construction workers from South Asia after Doha won the bid to host the 2022 FIFA World Cup. In the intervening years, it has become increasingly apparent that, aside from human rights outcry, insufficient academic attention has been given to the governance of this large migration flow and its position within global migration governance.

The South Asia to Gulf Migration Governance Complex examines one of the world's most significant labour migration corridors. The Gulf is a major global destination for migrant workers, following Europe and North America, and 24 per cent of global remittances flow out of the Gulf (World Bank data 2020). The ILO estimates that the Arab states of the Gulf,

the focus of our study, along with Lebanon and Jordan, host 35 million migrants, estimating that 23 million of them are migrant workers. This means that this region hosts nearly 14 per cent of the world's formal migrant workers (ILO 2018: 15; ILO 2020: 2). A majority of these migrant workers come from South Asia, yet much of the scholarship on global migration governance has failed to systematically integrate insights from the South Asia to Gulf corridor.¹ Ignoring this important migration route impairs our ability to generate governance insights that are truly global. At the same time, scholarship on migration from South Asia, or migration to the Gulf, tend to not only be methodologically nationalist and geographically limited within the nation-state or region, but also fail to directly engage with the latest theoretical developments and points of inquiry in global migration governance literature. This volume is designed to address this mutual neglect, suggesting how insights from managing, regulating, and governing this migration corridor can inform broader debates over global migration governance.

This book argues that multiple overlapping processes occur simultaneously and form a *global migration governance complex* that takes shape within and beyond national borders. By using the concept of a *complex*, we aim to emphasize that we look at governance as developing alongside and beyond formal structures and to concentrate rather on all the varying actors involved in the actual practices of governing and managing migration.² This migratory corridor is usually treated in isolation within South Asian or Gulf migration studies, viewed as an exceptional space because of the mechanisms of governance, the deficits and gaps in migrant rights, or due to the '*kafala*' sponsorship system.³ We insist, however, that this space offers rich insights for how some patterns of global migration governance occur in practice in diverse spaces and are of immense comparative value. This volume represents a first attempt to put an analysis of the South Asia to Gulf migration corridor in dialogue with the wider scholarship on global migration governance.

Our perspective on global migration governance draws from Dingwerth and Pattberg (2006) and also from Rosenau and Czempiel's (1992) understanding of governance, illustrated through their book *Governance Without Government*. Rosenau and Czempiel introduced this alternate formulation to break with the traditional assumption that governance is only connected to the activities of governments. We build from this scholarship to equally contest the assumption that governance is restricted to formal governmental institutions, and that global governance is restricted to global governance organizations. In this light, we use James Rosenau's definition of global governance as 'conceived to include systems of rule at all levels of human activity – from the family to the international organization – in which the pursuit of goals through the exercise of control has transnational repercussions' (Rosenau

2005: 45). This volume finds that the global governance of migration in the South Asia to Gulf corridor is a multi-layered, multi-actor space that occurs ‘at all levels’ and at various intersections ‘of human activity’.

We offer a volume that is intentionally diverse, multi-disciplinary, and multi-method. We include scholars from the disciplines of international relations, political economy, law, anthropology, economics, history, and arts alongside practitioners in national and global governance institutions. Their diverse disciplinary lenses and approaches to scholarship offer fruitful insights into not only the different angles and components of migration governance and the actors involved, but also to varying ways of interpreting and explaining the meaning and value of these interactions.⁴ We weave the findings together throughout the volume to map the global migration governance *complex* in the South Asia to Gulf corridor. Moreover, the position of the authors, being from or working in diverse regions, adds fresh perspectives and insights that broaden Western-centric views and approaches to migration governance. We believe the intersection of multi-disciplinarity and globality contributes to our claims to expand the diversity and *global* nature of scholarship on the field of global migration governance.

The South Asia to Gulf migration corridor should be especially interesting to migration and global governance scholars because the labour market space in which these governance spheres interact is especially globalized. By this we mean not just that globalization has affected labour markets, which, in turn, are subject to demand and supply pressures from the global economy, but also that these pressures intensely manifest in Gulf labour spaces. Not just the types of economic activity, but also the individuals in the labour market, are international and subject to multi-level governance pressures. We also see in the various chapters of this book that, in practice, domestic and international forms of migration governance have led to the outsourcing of migrant governance to non-state actors and citizen populations. We believe that this offers interesting comparative insights for how globalization and global migration governance can interact in other migratory corridors.

This particular migration corridor and labour market is subject to a variety of competing pressures and processes that are analysed through the various contributions to this volume, as indicated below:

- Forces of supply and demand: seeking the lowest cost, most flexible, and mobile labour to fuel ambitious development projects and the expanding consumption needs of a growing middle class (Ennis and Blarel; Hamadah; Walton-Roberts et al).
- Competing global pressures: the push for adherence to international labour standards in global migration and labour regimes on the one hand and the

neoliberal pressures for labour market flexibility on the other (regulation versus liberalization) (see, for example, [Cammett and Posusney 2010](#)) (Devkota; Babar; Hamadah).

- Reputational pressures: alongside these global constraints, there are reputational concerns among Gulf states as they engage more widely with the international community. This became especially apparent after Qatar won the FIFA 2022 bid and Dubai was announced as the host for Expo2020. Furthermore, the pressure to conform to labour standards has been further fed by the contemporary intra-GCC rivalries (Devkota; Hamadah; Ennis and Blarel).
- Global and regional governance processes: for governing and managing migration, such as the Global Compact for Safe, Orderly, and Regular Migration; the Colombo Process; and Abu Dhabi Dialogue (Ennis and Blarel; Devkota; Walton-Roberts et al).
- Regional and bilateral agreements: facilitating and regulating aspects of labour migration (Walton-Roberts et al; Ennis and Blarel; Devkota).
- Diplomatic and foreign policy initiatives integrating diaspora needs and labour demands into negotiations and political platforms. Both sending states (South Asian states) and host states (GCC members) are increasingly conscious of both the opportunities and constraints the presence of migrants can create for furthering diplomatic ties. As witnessed throughout this volume, this ‘migration interdependence’ ([Tsourapas 2018](#)) plays out in different ways contingent on how dependent the sending state is on remittances and other economic benefits coming from its diaspora abroad. For instance, the chapters by Devkota, Percot, and Wadhawan note that countries like Nepal, Sri Lanka, and Bangladesh have relatively less leverage (or political willingness to use this leverage) than India (Walton-Roberts et al).
- Domestic pressures in host states, where unemployment and underemployment are rising, to protect local labour and provide employment to Gulf citizens (Percot; Wadhawan; Hamadah).
- Public and private authorities and transnational labour standards bodies (Walton-Roberts et al; Devkota; Babar).
- Private sector interests, including employers and recruitment agencies (Babar; Ennis and Blarel).
- Civil society actors, like human rights networks and transnational migrant rights activists, and informal migrant networks (Babar; Percot; Devkota).
- Sub-national and national political pressures in the home states to take the needs of migrants into account (Akhil and Ganga; Ennis and Blarel).

This volume finds that global migration governance occurs in both *expected* and *unexpected* spaces. It happens at the border, through the state, and in bilateral spaces between states. It also occurs below the state, at the

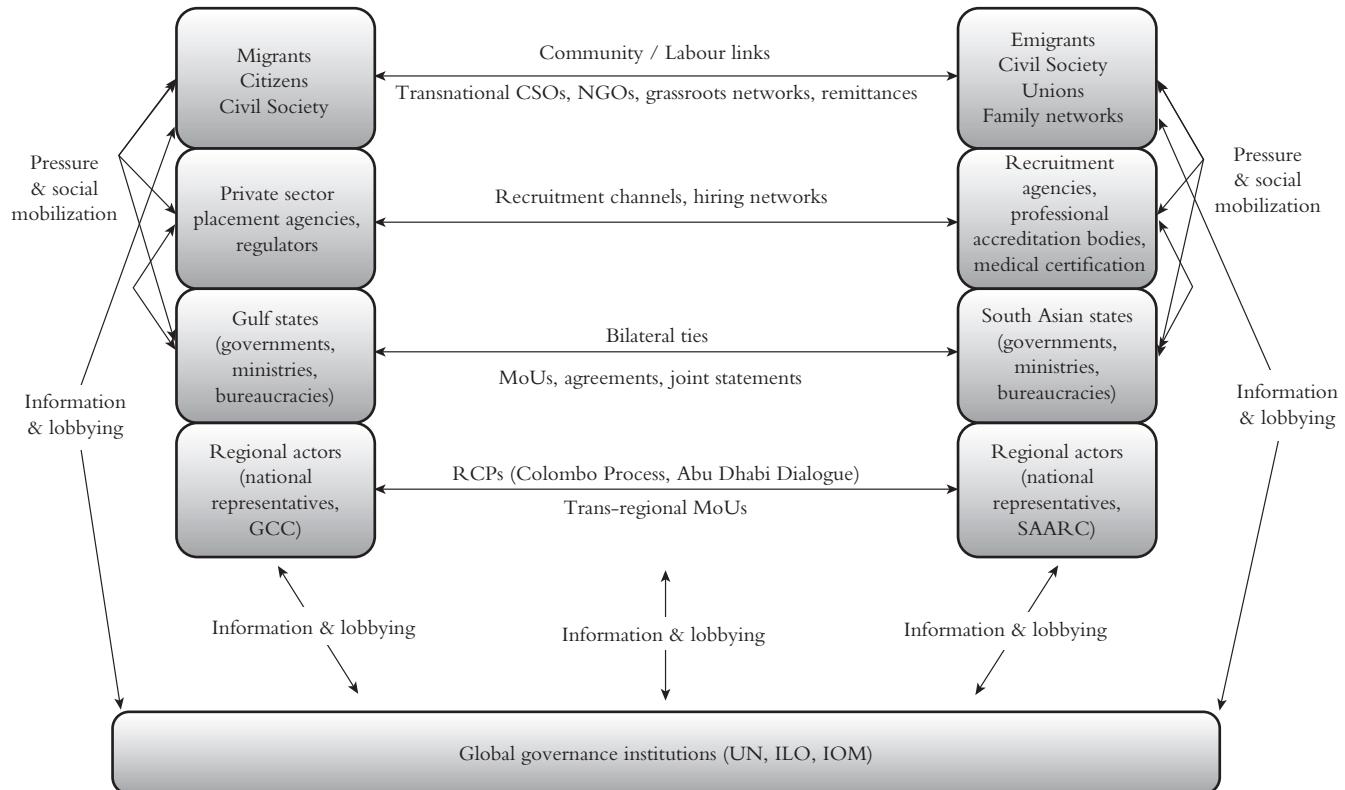
level of the individual employer who acts as immigration sponsor or the individual migrant through the informal networks that facilitate migration. It happens above and beyond the state at the regional and international organization levels, and also in the transnational private business and activist networks (Geddes 2021). In short, we see both bottom-up and top-down governance alongside spaces of overlapping and intersecting governance. The South Asia to Gulf migration corridor illustrates these forms and scales of governance clearly, contributing insights for how we should think of and analyse global migration governance as it occurs in practice in different parts of the world.

These varying pressures and their interactions are at the core of this book, and we thereby propose a novel approach to understanding the variety of actors in migration governance along the South-to-West Asia corridor. We call this a *global migration governance complex*, and illustrate it through the South Asia to Gulf corridor as visible in [Figure 1.1](#), and further unpacked below. Each of these layers contributes to our conceptualization of a complex, multi-scale space of competing interests, identities, and pressures for governance reform.

The purpose of the volume is to interrogate these different levels and scales of governance and a range of traditional and non-traditional actors involved in the global migration governance space (see [Table 1.1](#)). For example, [Chapter 4](#), by Akhil and Ganga, is focused on the two Indian states of Kerala and Andhra Pradesh as examples of subnational governance. The empirical chapter by Ennis and Blarel ([Chapter 7](#)) is focused on the relations of state and non-state actors between the emirate of Dubai and the Indian state of Kerala as an example of contested sovereignty and ‘extraterritorial’ governance interventions. [Chapter 6](#), by Percot, is interested in local networks of recruiters and migrants between Hatiya, Bangladesh, and the coastal regions of Oman. The focus of our book is on the corridor rather than only the nation-state(s). States remain crucial actors through some of their actions and non-actions in migration management, as well as their reactions to seeing their migration policies contested by non-state actors. We not only engage with regulatory measures and change in countries of origin and destination in states, but also those between states. Our perspective looks at, below, and beyond the state when analysing migration governance by focusing in on the interactions across and around a corridor.

The remainder of this introductory chapter is organized as follows. First, we provide a brief review of the history and existing literature on global migration governance. Second, we unpack global migration governance scholarship, locating our contribution within the wider literature on the global politics of migration. In so doing, we demonstrate the relevance of the South Asia–Gulf migration corridor as an illustrative case to further understand how the governance of migration takes shape over time and in

Figure 1.1: Mapping the South Asia to Gulf migration governance complex



diverse contexts. Overall, we map the important actors and their preferences and roles, as well as their interactions. Each subsequent chapter of the volume uses different entry points to further engage with this mapping exercise, elaborating on the diverse roles, pressures, and entanglements of particular actors and processes within the migration governance complex. As a whole, both this chapter and the volume provide a picture of the migration governance architecture in this corridor.

Formal institutions and global migration governance

One of the most contentious contemporary policy and scholarly debates is the extent to which states agree to renounce their sovereign powers to control the admission of foreign nationals into their territories and to dictate the terms and conditions of their stay. Relatedly, sending states also have to expand their attention and policy reach to their emigrant constituents. Moreover, business interests press for liberalized labour markets to reduce costs and regulatory interventions. Although national leaders have increasingly recognized the need for cooperative approaches to the management of migration flows, multilateral approaches have only received tepid support. Difficulties in addressing this collective action problem at the global level were visible through the uneven support for the UN's Global Compact for Safe, Orderly and Regular Migration.

Unlike other policy fields like trade and finance, where states were mobilized by an urgent need for institutionalized cooperation and the formation of global regimes, a multilateral framework to govern the cross-border movement of people has never fully materialized (Betts, 2011; Grugel and Piper 2007, 2011; Kalm 2008; Koser 2010). This is puzzling as public and policy attention to cross-border migration issues has been constant. The existing scholarship offers various explanations as to the absence of concrete problem-solving arrangements in the form of international organizations. Most of the responsibility is, for instance, attributed to states' (real or perceived) needs to control population flows and access to employment opportunities, mediated by national sovereignty claims (Piper 2015). The right of countries to decide over the entry and admission of people, and of the rights of these people to obtain nationality and employment, has been considered a 'last bastion of state sovereignty' (Dauvergne 2009: 169) in the context of globalization. Others have pointed out the problem that international migration has been divided into various regimes and their corresponding specialized formal and informal organizations (Betts 2011; Ghosh 2000; Koslowski 2011; Trachtman 2009; Triandafyllidou 2018), thereby limiting the emergence of a more general and collective approach to problems linked to global migration. This has led to the emergence of a wide array of specialized, local, and ad hoc arrangements and agreements.

For instance, the creation of the ILO in 1919 at the Peace Treaty of Versailles marked the first attempt at giving an international organization a mandate on labour migration. By 2016, the ILO produced ‘189 Conventions, six Protocols and 204 Recommendations’ ([Hendrickx et al 2016](#): 342). However, this mandate was limited from the start as it did not extend to matters of immigration. The Preamble to the ILO Constitution only mentioned its role to protect ‘the interests of workers when employed in countries other than their own’. There were some initiatives during the interwar period to expand the role of the ILO but opposition from the states limited any breakthrough until the adoption of the revised Migration for Employment Convention in 1949, followed by the 1951 Refugee Convention and the 1967 Protocol, which extended the ILO’s coverage. While there were still differences in how states would define asylum-seekers and refugees, all signatory states agreed to cooperate with the Office of the UN High Commissioner for Refugees in supervising the application of the Convention. As a consequence, there are some minimal multilateral tools to manage migration in the field of asylum and refugee protection.

In parallel, the International Organization for Migration (IOM) was established in 1951 to become one of the first inter-governmental organizations in the field of migration management, and today includes 166 member states. However, for most of its institutional existence, the IOM operated outside of the UN system and without a clear mandate. The drive towards migration governance has increased over the last decades, along with the growth of irregular migration. Notably, this has led to the adoption of the 1990 Convention on the Rights of Migrant Workers and Members of their Families. However, the absence of ratification from major migrant-receiving countries (such as the US, the West European states, Australia, the GCC, and India) limits the relevance of this attempt at global migration governance ([Western et al 2019](#)).

In 2003, at the initiative of the governments of Sweden, Switzerland, Brazil, the Philippines, Morocco, and Egypt, the UN Secretary General, Kofi Annan, created the Global Commission on International Migration (GCIM) with expectations that this could lead to the ‘institutionalization’ of the governance of migration at a global level, akin perhaps to the functioning of the World Trade Organization (WTO). In 2005 the Commission completed its work and issued a report, which recommended the establishment by the UN of a ‘global migration facility’ (Global Commission on [International Migration 2005](#)).

It was not until the UN General Assembly (UNGA) meeting in September 2016, however, that member states sent a message that migration and refugee matters had to receive a high profile on the international agenda ([Pecoud 2020](#)). This started the course towards the development of the Global Compact for Safe, Orderly and Regular Migration (GCM), which was

developed as a multilateral effort, with specific regional-level consultations. In 2018, global governance of international migration received much attention, with governments succeeding in negotiating, for the first time – albeit not unanimously and not without controversy – an agreement to cooperate to manage migration work. The GCM became the first comprehensive framework of principles and objectives to guide international cooperation on migration that has been formally negotiated and adopted by a majority of states. However, the concrete policy implications of that latest development are still to be monitored and evaluated, as several states, including some major countries of immigration such as the United States and Australia, refused to support the compact ([Guild 2018](#); [Pecoud 2020](#); [Turk 2019](#)). Recent scholarship notes that ‘because of the diverging worldviews and interests among governments and other stakeholders, the GCM is marked by major internal contradictions’ ([Pecoud 2020](#)). As a result, when it comes to migration governance, members of the EU have been the closest to embracing the idea of a concerted rapprochement to the management of refugees and illegal migration, but there are still some problems of uneven implementation and different interpretations of the engagements made through various multilateral agreements ([Mainwaring 2020](#)). Similarly, in Africa and Latin America, attempts at multilateral management of migration problems have led to varying results ([Geddes et al 2019](#)). As a consequence, there remains little consensus among states over the policy responses to govern the transnational mobility of people.

This uneven development of a global migration governance architecture can be explained by the fact that not all areas of migration governance have been recognized as ‘global public goods’ by states ([Betts 2011](#); [Hirst and Thompson 1995](#)). This has led states to opt between alternative forms of cooperative management of migration (bilateral, regional) depending on perceptions of how to maximize the benefits and minimize the costs of population mobility and mobilization ([Hollifield 1998, 2004](#)). Regional organizations also ‘become increasingly significant sites of cross-border social governance and social policy formation, and of the contested social politics of globalization and international integration’ (Yeates 2014: 18). According to Betts, the perspectives over the division and exclusivity of benefits and costs of migration have led states to prioritize bilateral and regional levels of cooperation rather than be constrained by collective engagements at the global level (2011).

Some scholars perceive international and transnational cooperation as materializing at different levels and speeds ([Kunz et al 2011](#): 6). Others observe alternative formal and informal forms of migration governance gradually taking shape along some migration corridors. For instance, [Ennis and Walton-Roberts \(2018\)](#) recently discussed how skilled migration governance policies are formed within globalized policy spaces that transcend the control of any one state or level of governance. In particular,

they point to spaces where labour market policies in conditions of high migration become deterritorialized. While states have tried to retain formal authority over migration issues, national policy autonomy is limited.

The governance of migration does not just entail migration admission policies and bilateral agreements, but also regulations directed at recruiters, placement agencies, and professional credential evaluators. It also involves legal frameworks and soft laws advocated by non-governmental organizations (NGOs), advocacy networks, and trade unions (Pittman 2016). The actors are multiple. The strength and enforcement capacity of any regulation or governing mechanism variable.

Our project fits within the growth of studies looking at mapping and theorizing what has been termed multi-level (or multi-layered) migration governance, which takes the form of a ‘complex array of bilateral, regional, and inter-regional institutions ... enabling states to selectively engage in different forms of informal cooperation with different partner states’ (Betts 2011: 2). In particular, our book sits alongside new thinking on global migration, and on international political economy of the Gulf and South Asia as part of an Indian Ocean regional system.⁵ We build on important insights from Hugo and Piper (2010) that show important social policy and development implications of South–South migration, and on insights from recent works like LeBaron and Phillips (2019) and LeBaron (2020), which made critical contributions to understanding unfree labour within existing global governance frameworks of labour migration; Ennis and Walton-Roberts on the labour market governance as global social policy (2018); Panizzon et al (2015) and Piper and Rother (2019), which show the importance of a transnational civil society network within this space.

Unpacking (global) migration governance through the South Asia to Gulf migration corridor

The South Asia to Gulf migration corridor offers compelling examples of how migration governance transpires, illuminating well Saskia Sassen’s impression that ‘the politics of contemporary sovereignties are far more complex than notions of mutually exclusive territorialities can capture’ (2006: 415). We believe the South Asia to Gulf migration corridor is a prototypical case of the fragmented, uneven, and complex nature of global migration governance today. It is also important for theoretical purposes as it has witnessed the unprecedented creation and development of new political spaces at various levels (national, subnational, transnational, regional, and global). Within these, migration governance has taken a more dynamic form. We have unpacked in [Figure 1.1](#) how these levels of governance, processes, and political and economic forces engage with, influence, or circumvent the global level.

In this volume, we focus on the governance of economic migration, which would seem to be a policy space with clear lines of authority – states being the most relevant actors. Yet research shows that state authority is diffused even in such instances (Sassen 2005; Strange 1996). The case of the South-to-West Asia corridor shows how in circumstances of high migration, where host country dependence on migration is extremely high, the situation becomes even more complex. In her work, Sassen uses the term ‘assemblages’ to describe formations that mix subnational and global domains to address issue areas that are usually considered the purview of one or the other. We see similar patterns of uneven, fragmented (and sometimes incidentally overlapping) migration governance in the context of the South Asia to Gulf migration corridor. As a consequence, some of the instances observed in this corridor seem to resemble the model of multi-layered architecture of international migration governance developed by Kunz et al (2011) and Panizzon and van Riemsdijk (2019).

The lack of a comprehensive and unified international regime regulating states’ responses to economic migration means the governance of migration is increasingly complex. Chimienti has persuasively argued that the failure of global migration governance can be traced to the state-level ‘denial of connectiveness and interdependence’, which hinders both effective governance and the implementation of labour and human rights (Chimienti 2018: 425–26). Yet taking a global governance perspective, both sending and hosting states are not unitary actors in this field. Rather, they are part of an assemblage of multiple actors with various agendas conditioned more or less by the state sovereignty and political regimes these actors operate in. It is still the state that, in many ways, decides who has access to rights or not. The state itself is not a monolithic actor. States are often disaggregated with various layers of governance, such as bureaucracies and subnational governments, which develop their own ideas, interests, and competences when it comes to migration governance. Therefore, the state evolves and its policies are shaped by a fluctuating collection of ideas, identities, and interests.

At the same time, and in conjunction or competition with state actions, legal action by migrants and migrant advocates ‘invoke international law in order to challenge the sovereign power of the state’ (Mainwaring and Walton-Roberts 2018: 136; Devkota, this volume). Their claims and exercises in agency are often ‘not subversive’ but rather appeal to both states and international organizations to implement the norms and policies they have set (Chimienti 2018: 427). As a result, individual citizens (migrants, their families, and political, professional, and ethnic communities), international non-governmental organizations (INGOs), private recruitment agencies and agents, regional and international organizations, and states (which we then understand both in a broad and non-homogeneous sense, including notably central and subnational political authorities) all have stakes in the

migration process, and each serve as potential mechanisms of governance or venues for responding to migrant needs. We thereby argue that this density of actors (see [Table 1.1](#)) and clashing international, regional, and national legal and regulatory frameworks, while raising questions about the clarity and potency of governance, are equally part of the *migration governance complex*.

Scholarship on ‘bottom-up’ migration governance is useful in unpacking migration governance in this corridor. Within this literature, some scholars have concentrated on understanding new forms of governance from the actions of transnational social movements engaged in the promotion of the rights of migrant workers through mobilizing and capitalizing on new political opportunities that have materialized at the global and regional levels ([Grugel and Piper 2007](#); [Lavenex 2019](#); [Lavenex and Piper 2019](#); [Piper 2015](#); [Piper and Rother 2019](#); [van Riemsdijk et al 2021](#)). In line with [Piper \(2015\)](#), we emphasize in this book the role of migrant activism and transnational advocacy networks, which have also had an influence on global migration governance over time. Migrant networks have been conceptualized as functioning as a form of governance in their own right ([Taylor 2016](#)). A view of migrant agency even in cases where migrants are usually written as victims or criminals is important and better captures the forms and levels of governance occurring simultaneously. Mehta’s study of Indian domestic workers in Oman is one example of how migrants use existing systems to empower themselves ([2017](#)). Moreover, Onuki’s study of Philippine migrants illustrates how global labour migrants are not ‘passive recipients’ of state policies that facilitate migration but are active political agents that ‘contest and negotiate’ global migration spaces, politics, and practices ([2007: 126](#)). Percot (this volume) further unpacks this phenomenon in her chapter. In most of the chapters, we also observe patterns of grassroots as well as transnational social movement linkages (between the migrants’ home and host states, and international NGOs), notably in the form of transnational campaigns for labour standards and rights in the Gulf states.

Certain economic perspectives view temporary labour migration as a benefits-for-all system. Since the 1970s, host Gulf countries have been able to support a level of economic activity that would be impossible without foreign workers. For South Asian states, overseas migration has provided relief to local labour market pressures and brought in much needed foreign exchange earnings in the context of poverty and slow growth. Finally, this system should have been beneficial for the migrants who have been able to earn relatively higher incomes and escape the limited socio-economic opportunities provided by their home states ([Farbenblum and Nolan 2017](#)). This supposed triple-win scenario is the standard economic explanation for continued labour migration. Yet pointing to push/pull factors and deferring to the ‘wisdom’ of the market in balancing the supply and demand of labour both normalizes market pressures and overlooks the abuses inherent

in such a system. Moreover, it is ‘de-contextualized, reductionist, and misleading’, overlooking both the ‘realm of neoliberal globalization and unequal development in which contemporary migration is embedded’ (Wise 2015: 39).

Economic migration flows transpire within what have been called global production networks or global value chains (Neilson et al 2014; Ravenhill 2014). These networks are an integral feature of global capitalism, and labour costs and flows serve these pressures. These labour demand patterns shape the flows of migration in and through hydrocarbon-dependent Gulf economies. A steady supply of cheap, flexible labour is critical for fuelling development and economic activity in Gulf economies. Cheap labour is one of ‘the main engines of neoliberal capitalism’ (Wise 2015: 28). Not just supply and demand of labour itself, but also other aspects of the labour flow process become commodified and part of the production network. Even the employment visa, as Rajan et al (2013) discuss, has become ‘a commodity of sale and purchase’ (58); its price level is controlled by recruitment agencies, and this power is exploited and worsened with fraud. Gaps in effective governance compound the practice of taking advantage of aspiring migrants. This underlines a fundamental reason as to why international organizations, governments, and other transnational and subnational actors have been unable to develop a system that ensures that the relationships across global production networks become a global public good, which deliver benefits equally to all three parties. The nature of the system is a key obstruction. Indeed, such economic pressures have resonance not only in South–South migration, but also through South–North migration.

Gulf policy makers have long argued that migration policies were ‘depoliticized along the line of classical economics’ (Thiollet 2011: 105). But newer scholarship argues to the contrary, looking at the control of migration flows and populations as an outcome of deliberate state policy and political engineering (Khalaf et al 2015; Thiollet 2011, 2015). In these views, host countries preferred migration from particular sending states because they were viewed as less obstructive to domestic political objectives (Hanieh 2010: 55–8). Thus, it was not only cost savings that led to a shift in migration from Arab states to South Asian ones in the 1990s, but also the perception that migrants from Asian countries would demand fewer political rights.⁶ Differing national policies and divergent political objectives across home and host countries add to the complex set of pressures structuring migration and shaping possibilities in the governance of it.

Labour migration into GCC countries is infamously structured by the *kafala* system. *Kafala* comes from the Arabic root k-f-l – to sponsor. The *kafeel* is the individual sponsor. *Kafala* is a sponsorship system, akin to guest worker programmes. Migrants’ work and residency are tied to their sponsor – an individual or company (Dito in Khalaf et al 2015; Sater 2014).

The use of the term ‘*kafala* system’ in English gives the impression that it is a uniform system that is applied across the Gulf. However, the regulations which shape immigration into each GCC country differ and are subject to independent regulatory amendments. Notably, *kafala* has been subject to many reforms in Qatar and the UAE in the last few years (see Hamadah, this volume).

Domestic politics in both host and home states have also increasingly played a role in shaping labour and migration policies. In some Gulf countries, concerns about national unemployment and citizens’ access to jobs and economic benefits forces state action to curtail migration or restrict migrants’ access to certain professions. In home states, increased sensitivity about the treatment of expatriates in Gulf countries have compelled countries to be more vocal, and prompted some, like India and Sri Lanka, to be more or less proactive in advocating the welfare of its diaspora.⁷

Multiple interpretations exist that seek to explain the motivation for the variation seen in sending states’ advocacy on behalf of their overseas migrant population. In the Indian case, one possible utilitarian explanation is recognition of the value of its diaspora for public diplomacy. Some scholars have argued that sending states engage their expatriate population as ‘potential resources for material power’, and through this aim to attract remittances and direct investments (Adamson and Tsourapas 2019; Gamlen 2014; Koinova 2018; Koinova and Tsourapas 2018; Ragazzi 2009, 2014). In some cases, guest workers abroad have also acted as a ‘safety valve’ against unemployment in developing economies (Tsourapas 2015, 2018). Taking this into account, some states have actively tried to help expatriate populations achieve a more secure status in the host states to ensure ‘sustained economic and political contributions’ (Portes 1999: 467). One important initiative in this direction has been India’s attempt to regulate, through a national ordinance, the emigration of low-skilled labour migrants, following numerous reports of exploitation by private brokers involved in connecting low-skilled labour migrants to employment in Gulf states. To streamline the recruitment of certain categories of labour migrants, the Government of India has, since May 2015, centralized the recruitment process through an online e-Migrate system. This initiative is further explored by Walton-Roberts, Rajan, and Joseph (Chapter 2) and Ennis and Blarel (Chapter 7).

Alongside economic forces, national policies, and domestic politics, the migration governance complex also involves a patchwork of various bilateral arrangements. Over the last decades, bilateral Memorandums of Understanding (MOUs) on labour migration have been signed between governments. Usually, policy pronouncements follow bilateral visits and summits, where migration issues are linked to cooperation on other

economic (trade, investment) and security issues (military cooperation, counter-terrorism) (see also on this [Battistella 2015](#)).

In addition, the two regional organizations, the GCC and the South Asian Association for Regional Cooperation (SAARC), have also initiated measures to regulate migration dynamics and limit fraudulent recruitment of migrants along this corridor through disseminating information about migration procedures, especially in the sending countries. The SAARC has, for instance, created the South Asian Migration Commission to spearhead such initiatives ([Jain and Oommen 2016: 12](#)). Agreement and implementation at this regional level have been weak. Both the GCC and the SAARC have mainly been ineffective in pushing for coordinated migration policies among their members (for more on the lack of coordination at the SAARC level see [Shivakoti 2020](#)).⁸

Over the last two decades, there has also been some degree of influence of global and transnational efforts and organizations. For example, the ILO, through its South Asia Labour Migration Governance Project, has launched numerous activities, including a report promoting effective governance of labour migration from South Asia ([ILO 2015a, 2015b](#)). Importantly, the GCM has embarked on numerous regional consultations that engage with governmental and non-governmental actors active in this transnational space. The networking between these consultative processes and migration rights networks and organizations, like the Migrant Forum in Asia (MFA), is a case in point (Akhil and Ganga, this volume).

Further coordination occurs at the transregional level through regional consultative processes on migration (RCPs), such as the Colombo Process and the Abu Dhabi Dialogue. These have brought together representatives of states, international and regional organizations, and NGOs for informal and non-binding dialogue around migration management and labour regulation. We therefore see how transnational activist networks engage with regional, transregional, and global processes. They also use their international linkages to engage in migration diplomacy ([Malit Jr and Tsourapas 2021; Piper and Rother 2019](#)). Some networks take on more institutionalized shapes, like the MFA, which has membership across South and South East Asia and participates in regional consultations like the Colombo Process and those in the lead up to the GCM. They also take shape in quieter, informal spaces. Personal networks of activists and individuals across South Asian and Gulf cities pool their experiences, connections to various communities, and know-how to support migrants in distress and advocate for regulatory change across different levels of governance at different times.

We observe that the migration complex provides new opportunities for migration actors to exercise agency by opening new avenues for ‘forum shopping’ ([Koinova 2018; Murphy and Kellow 2013](#)). The multiple levels of governance – global governance institutions; transnational consultation

processes; and local, state, national, regional, and international organizations – are all places where actors can put forward their grievances, ideas, policy proposals, and rights-based claims. They can take these issues and shop them across different forums where they perceive they have a greater chance of their voice being heard. The chapters herein show various instances of actors within sending states (subnational political entities like regional states, parties, bureaucracies, civil society organizations, and other non-state actors) making use of such opportunities and forums. Their outreach and efficiency seem to be conditioned by statehood and varying institutional dynamics (centralized vs. federal, regime type). Through existing scholarship, we know that migrants look at ‘transnational space’, such as kinship and informational networks (Levitt 2001; Massey and Espinosa 1997; [Rother 2019](#); Schiller 1999), and at international human rights regimes to improve their legal and socio-economic situation in the host state ([Jacobson 1996](#); [Soysal 1994](#)). We find that the potential of this transnational space has expanded, increasing both opportunity and also complexity.

Further observations from this volume

The South Asia to Gulf migration governance complex is characterized by an accumulation of actions and interactions across multiple levels, spaces, and directions of governance, with varying layers of formality and informality. This complexity offers the potential for improved governance, but its disaggregation also leaves many governance gaps. Spaces of contested sovereignty over migration issues create opportunities for multi-actor cooperation, but also for multi-actor blame-shifting, blind spots, and weak political will to construct effective responses. Along with mapping the governance complex, this volume raises important questions and cross-cutting themes. One of the most obvious shared insights is that labour migrants have to cope with multiple challenges due to the vulnerabilities produced by inadequate migration governance throughout the corridor. These challenges and vulnerabilities vary by social class and skill class of labour; by the regularity or irregularity through which the migrant enters the work space; and by gender, race, and caste. For irregular migrants, work conditions in the GCC states are often precarious and dangerous. Many South Asian migrants operate in gray and unregulated or under-regulated sectors of the labour market (as the cases of fishing and domestic work by Percot and Wadhawan in this volume illustrate). In the GCC states, these migrants have limited access to the appropriate knowledge or networks to support their labour rights. If they are irregular, seeking labour rights support would often result in detention or deportation for violating labour and residency regulations (see the contributions of Devkota, Hamadah, and Percot in this volume).

Why are there these governance gaps? Why do the existing regulatory spaces deprive so many migrants of basic labour rights? The chapters offer varying answers to these questions. The authors in this book all highlight the weakness of the state's ability to regulate the recruitment industry, which then leaves most migrant workers hostage to exploitation by recruitment agencies and employers (Akhil and Ganga; Babar; Percot). According to most chapters, emigration clearance policies are no guarantee of protection for the migrants (Ennis and Blarel; Devkota; Percot; Walton-Roberts et al). Given the cumbersome regulations in formal recruitment processes, many migrants opt for irregular channels through which to obtain jobs in the Gulf through their own informal (professional, family, local) networks (Babar; Percot; Ennis and Blarel). Many of these migrants have decided to exercise agency by using irregular channels to migrate, thereby opting out of the official governing space and becoming undocumented in their home country's migration governance systems (Wadhawan). Differences between sending countries' policies in how active the state is in facilitating outward migration, and variation in receiving countries' policies all add confusion to the process. Prospective migrants must not only navigate their local regulations concerning their emigration, but also interpret differences between sending country regulation that, from afar, may seem similar.

In reaction to these problems, the chapters discuss several initiatives that have been announced by South Asian states to address various governance gaps and regulate emigration to the Gulf. For example, Devkota examines the provisions present in Nepal's 2015 constitution, which, for the first time, recognized foreign employment as 'State Policies'. This was intended to guarantee the regulation and management of the sector in order to make foreign employment safe and free from exploitation, and to guarantee employment and rights of labour migrants (Devkota). In Pakistan, the Migrant Resource Center was established to provide information on the migration process, recruitment channels, and potential challenges faced in host countries, as well as on laws and regulations on labour protection both in Pakistan and in host states (Babar). In India, as well, the e-Governance system launched in 2015 offered an online registration portal to better monitor the recruitment process between workers falling under the Emigration Check Required (ECR) category, recruitment agents, and foreign employers in the Gulf (Ennis and Blarel; Walton-Roberts et al).

Crucially, the chapters point out negative consequences linked to these policy changes. Evidence suggests that increased controls in formal migration channels have in fact encouraged migrants to bypass the formal system to travel to the Gulf and find employment (Walton-Roberts et al). According to the chapters, these new initiatives towards the increased control and monitoring of migration have neither provided additional or effective

protection for migrants, nor seem to address the structural conditions that have led labour migrants to travel to the Gulf economies in the first place. In limiting the ease of migration, sending states like India have in fact pushed migrants to pursue irregular channels, which increases their vulnerability to bad contracts, poor working conditions, and weaker access to legal support. In effect, by clearly demarcating the space of regular migration channels through official registration systems, sending states also restrict, to some degree, their own responsibilities, and potential migrants are made individually accountable and responsible of ensuring their own safety by following the stipulating guidelines or opting out of the governance space (Percot; Walton-Roberts et al).

Another crucial outcome of these governance gaps, and the complexity of contested sovereignties over the regulation of migration, is the proliferation of diverse actors aiming to respond to such governance oversights and migration outcomes. International organizations and global governance processes seek the creation of alternative frameworks to govern migration. Non-state actors and transnational activist communities network across national spaces with migrants, their families, with human rights organizations, with social clubs, political parties, and policy players in sending and receiving states. They do this not only to advocate on behalf of migrants but also to intervene in the direst of cases – to rescue or secure legal counsel for migrants in distress (Devkota). Likewise, subnational political entities craft their own regulatory frameworks and governance mechanisms to support outward migration from their geography. Examples discussed include the states of Kerala and Andhra Pradesh in India (Akhil and Ganga).

Another set of questions raised in this book pertain to the conventional wisdom over the structural conditions leading migrant workers to enter into irregular migration. The association of irregular status with illegality poses a major obstacle to ensuring and protecting the rights of migrant workers, and leads both sending and receiving states to shirk their traditional governance responsibilities (Percot). Traditionally, irregular immigration has been presented as the result of extreme poverty, the lack of opportunities in sending countries, and the fraudulent acts and false promises of recruitment agents and employers (Devkota). Chapters in this book, however, also suggest that the migration choice process is not as straightforward as this. Alongside structural conditions that encourage outward migration and facilitate forced migration, some of the authors in this volume point out a critical, complex tension between victimhood and agency (Babar; Percot; Wadhawan; Walton-Roberts et al). Sometimes migrants choose an irregular path because they perceive it as a way of improving their welfare – a more empowering option. As a result, rather than simply viewing precarity and irregularity as negative outcomes, scholars can disentangle the choices (sometimes informed) that

lead to irregularity and how these can be experienced as an exercise in agency towards potential empowerment.

Opportunities for empowerment and spaces to exercise agency are also often shaped by the skill class of labour in migration. For instance, some authors emphasize how low-skilled female workers employed as domestic workers are marginalized in policy discussions. Their work, located in private homes, is often invisible and therefore difficult to regulate (Wadhawan). Due to variation in educational qualifications and income (such as the case of investor categories), migration networks for ‘high-skilled’ workers and ‘investors’, the recruitment process, and terms of employment are significantly better (Ennis and Blarel). Interestingly, semi-skilled and skilled labour that is ‘gendered’ has been the focus of monitoring, as seen with nurse migration being placed under the purview of the Emigration Check Required (ECR) process. Previously the ECR system had been a ‘means to discriminate based on education’, which had typically only been ‘applied to low skilled migration flows to Gulf nations’ (Walton-Roberts et al). Its expansion to include nurses has further fed the impression that female migrants were ‘lacking in agency and not in control of their own actions and experiences’ (Walton-Roberts et al).

Finally, all chapters note that knowledge gaps exist in the available data. Often the information is spread across disparate data sources and institutions, and there is a variance in the ways the data is collected, categorized, and disaggregated in both sending and receiving states. Many authors encountered data that did not match, was not reported, or was contested by various parties. Indeed, the politicization and fragmentation of available data hinders thorough analysis. To counter this challenge, many of the contributors in this book derive primary data through their own survey and field work (Akhil and Ganga; Babar; Ennis and Blarel; Hamadah; Percot; Wadhawan), or consult secondary statistics provided by multiple national and international, official and non-governmental sources (Devkota; Wadhawan). Informal and irregular migration often escapes accounting altogether. For example, Devkota observes that the data regarding the number of irregular migrant workers often varies depending on whether you consult the estimates from national institutions in the sending state or the figures collected by embassies in the receiving states. Recent surveys of migrants in the Gulf have also suggested that available Indian data on the magnitude of ECR migration to countries since the initiation of the e-Migrate system in 2015 may not correspond with the actual number of Indian migrants there (Walton-Roberts et al). Moreover, not all GCC countries provide population breakdowns by country of origin. On top of this, data on the type of work is often inaccurate as employers may receive a visa clearance for one occupation but actually need an employee in a different job altogether. Restrictions on visa clearances

and migration bans in certain categories of work encourage employers to misrepresent the nature of the work needed.

Wadhawan's chapter also laments the availability of disaggregated data according to sex, class, caste, religion, or source location in the public domain. This is not a trivial issue as efforts to disaggregate data on labour migration by gender and occupation, for instance in Sri Lanka, have shed considerable light on the magnitude of women's migration for work. Wadhawan argues that a better picture of the composition and distribution of emigrant workers might underline the significant contribution to remittances of female migrant domestic workers, which is currently neglected in the national official data and policies of most South Asian countries. In fact, the paucity of data on these critical labour flows draws attention to the need for more systematic information collection on migrant workers to generate evidence-led policy debates and suggestions over better migration governance in both sending and receiving states (Walton-Roberts et al).

Taken together, the chapters of this volume provide scholars of migration governance with critical insights into the complex space that continuously evolves in reaction to the demands of labour migration in this region and in others (Carmel et al 2021; Panizzon et al 2015; Schierup et al 2015). They also address a series of questions that analyse not only the dynamics of migration governance, but also the interactions that occur within and between different actors and stakeholders of this migration complex. The volume, through examining an underexplored labour migration corridor, challenges prevailing notions of the migration governance literature that had, until recently, concentrated on South–North migration and on state-centric structures. Morgana, in [Chapter 10](#), notably concludes the book by highlighting which lessons from the chapters can contribute to a more inclusive approach to, and understanding of, the global governance of migration. Many of the governance challenges highlighted in this book, such as the vulnerabilities produced by inadequate migration governance mechanisms in both sending and receiving states; the complexity of contested sovereignties; and the resulting proliferation of diverse actors, including private and informal actors aiming to respond to existing governance oversights, are shared by other migration corridors. That South–South migration now exceeds South–North migration makes studies like this volume an even more urgent contribution to the migration governance literature, as it both problematizes these divides and raises questions about why this corridor continues to be left out of comparative global migration governance analysis. Here we disentangle the migration governance complex in the South Asia to Gulf corridor as a critical step to shed more light on how migration corridors take shape across the globe, and how multifaceted pressures and actors become involved in its governance.

Table 1.1: Multi-level migration governance of the South-to-West Asian corridor

Level of analysis	Actor(s)	Motivations/ preferences	Policy impact for migrants	Degree of institutionalization
Global, multilateral	<ul style="list-style-type: none"> • ILO • IOM • UNHCR (United Nations High Commissioner for Refugees) 	<ul style="list-style-type: none"> • Effective governance • Migrants' welfare 	<ul style="list-style-type: none"> • Information • Recommendations • Non-binding • Programmes to help migrants 	<ul style="list-style-type: none"> • Semi-formal
Transregional (RCPs)	<ul style="list-style-type: none"> • Colombo Process • Abu Dhabi Dialogue 	• Regulation	<ul style="list-style-type: none"> • Information • Recommendations • Non-binding 	<ul style="list-style-type: none"> • Informal • Collective action (CA) problems • But regular meetings
Regional	<ul style="list-style-type: none"> • SAARC Technical Committee on Labour Migration and SAARC Ministerial Forum for Labour Migration • GCC 	<ul style="list-style-type: none"> • Regulation • Migrants' welfare 	<ul style="list-style-type: none"> • Information • Recommendations 	<ul style="list-style-type: none"> • Formal • CA problems
Bilateral	<ul style="list-style-type: none"> • MoUs • Treaties • Joint statements 	<ul style="list-style-type: none"> • Economic incentives (trade, investments) • Welfare of citizens • Security 	<ul style="list-style-type: none"> • Depends on willingness of actors and power symmetry • Legal and signaling power • More or less binding 	<ul style="list-style-type: none"> • Formal

(continued)

Table 1.1: Multi-level migration governance of the South-to-West Asian corridor (continued)

Level of analysis	Actor(s)	Motivations/ preferences	Policy impact for migrants	Degree of institutionalization
National	<ul style="list-style-type: none"> • National governments • National institutions/bureaucracies 	<ul style="list-style-type: none"> • Economic incentives (internal development) • Welfare of citizens • Security • Political and electoral incentives (local and coalitional politics) 	<ul style="list-style-type: none"> • Creation of institutions to regulate migration • Creation of institutions to support citizens abroad or temporary migrants • Binding 	<ul style="list-style-type: none"> • Formal
Transnational	<ul style="list-style-type: none"> • Transnational advocacy networks (labour unions, kinship, culture) 	<ul style="list-style-type: none"> • Migrants rights (labour, political, human) • Input in governance architecture 	<ul style="list-style-type: none"> • Provides visibility for grievances • Information • Lobbying • Recommendations • Programme to help migrants 	<ul style="list-style-type: none"> • Both informal and formal

Notes

- ¹ Scholarship on migration governance mirrors the extraordinary attention focused on the immigration and refugee policies of the EU and OECD. Less well explored is how this unfolds in other global contexts. There are some notable exceptions, such as [Geddes et al \(2019\)](#) and the special *Third World Quarterly* issue edited by [Riemsdijk et al \(2021\)](#). The South Asia–Gulf migration corridor is especially neglected, despite the fact that intra-Asian migration flows between South Asia and the Gulf are centuries old ([Amrit 2011; Kumar 2021; Sheriff and Ho 2014; Tinker 1974; Wright 2021](#)). This is even more surprising given the high level of migration across those regions mentioned above ([Baldwin-Edwards 2011; ILO 2015a, 2015b](#)). In many GCC countries, migrants form a demographic majority ([Modarres 2010](#)).
- ² Here we agree with and build on Lavenex and Piper's suggestion to look at the interaction between perspectives 'from above' and 'from below' ([2019](#)).
- ³ The dynamics of Gulf migration management and of the kafala system inform debates over how actors beyond the state are shaping migration governance. See, for example, [Malit Jr. and Tsourapas \(2021\)](#).
- ⁴ See Panizzon et al (2015) for another example of the benefits of multi-disciplinary lenses on global migration research.
- ⁵ To date, only one edited volume takes the international political economy of Gulf migration and citizen/migrant relations in the labour market seriously – *Transit States*, edited by [Khalaf et al \(2015\)](#).
- ⁶ Oomen (2016) refers to this shift as the 'Asianisation' of migrant workers in the GCC, but traces its cause more to economic than political demands.
- ⁷ The most vocal and active sending state is arguably the Philippines, but its location in South East Asia kept it out of this volume.
- ⁸ The GCC, notably, was unable to agree on a common GCC framework for domestic worker regulation ([HRW 2014](#)).

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PART II

Levels and Forms of Migration Governance

Gendered Mobility and Multi-Scalar Governance Models: Exploring the Case of Nurse Migration from India to the Gulf

Margaret Walton-Roberts, S. Irudaya Rajan, and Jolin Joseph

Introduction

Based on secondary data and policy analysis, the chapter will examine the Government of India's (GoI) application of Emigration Clearance Required (ECR) migration regulation to nursing, how it has informed the character of Indian nurse migration to Gulf nations, and its gendered migration and labour market implications. The chapter examines this context in the following manner: First, we provide some background on the international migration of nurses from India; second, we explore the infrastructure and policy framework relevant to the training and migration of nurses; third, we consider the impacts and implications of the extension of ECR status to nurse migrants; fourth, we consider if this ECR application to nursing is a form of gendered transnational migration governance. We highlight the misdirected nature of this governance approach, since nurse migrant vulnerabilities remain in effect through the unofficial migrant pathways used to bypass state regulation (such as the imposition of ECR). The ECR effectively becomes another structural barrier that limits the mobility and opportunities nurses can pursue. Additionally, the conditions in India that push nurses to migrate(poor pay and working conditions, and lack of professional career development) remain unaddressed. We also comment on the data limitations

we have experienced in conducting this research, which represents another undeveloped migration governance and regulatory component.

Background: nurses and international migration

Despite their high social and human capital, the experiences of skilled migrant women remain under-theorised ([Raghuram 2000](#)). While in the past women migrants have overwhelmingly occupied gender-segregated sectors of the labour market and dominated particular reproductive labour flows (for instance, domestic work, sex work, and the entertainment and service sector), there has emerged an increasingly diverse and complex pattern of women's migration in terms of skill level, destination, and occupational sector. Within the medical sector, the proportion of women among migrant nurses has remained historically high. This highly feminized sector presents a critical avenue for women to gain greater skills, experience, and earnings, leading to improved quality of life and migration prospects ([Gaetano and Yeoh 2010](#)). However, it is also evident that increasing numbers of males are entering this profession because of the international opportunities nursing offers ([Walton-Roberts 2019](#)).

Nursing has traditionally offered the opportunity of international migration for Indians. [Walton-Roberts et al \(2017\)](#) determined that approximately 42 per cent of nurses from the Indian states of Kerala and Punjab demonstrated some degree of inclination to migrate overseas – a higher propensity than other healthcare workers. Structural forces driving international mobility in this sector include the persistence of poor pay, reports of precarious work conditions, inadequate staff-to-patient ratios, and incidences of physical and verbal abuse (Nair 2012; Nair and Rajan, 2017). In a media briefing on the Government of India's e-Migrate system (the latest government system used to register intermediaries and monitor labour migration from India), the Protector General of Emigrants, Mr M.C. Luther, was asked about nurses engaging in international migration. In his response he noted that nurse salaries remain staggeringly low (ranging between Rs. 13,000 and 15,000, approximatively US\$ 186–215), even among high-profile and reputed hospital chains ([MEA 2017a](#)). This is despite the Central government's mandate to increase nurse compensation in private hospitals in India ([Chhapia 2016](#)). The widening gap between private and public sector and rural and urban healthcare in terms of salary and working environment, and the lack of nursing vacancies in government hospitals and urban centres, are often cited as factors influencing nurses' propensity to migrate. Striking wage differentials between domestic and overseas employment –overseas employment paying up to five times that of domestic salary levels ([MEA 2017a](#)) – and the desire for professional autonomy and professional development opportunities also spur nursing graduates to seek opportunities abroad ([Walton-Roberts et al 2017](#)).

Table 2.1: Emigration of nurses under ECR, by state (2016–2019)

State	2016	2017	2018	2019
Andhra Pradesh	57	17	52	78
Delhi	37	25	54	62
Karnataka	110	70	131	206
Kerala	4,111	3,611	6,085	8,453
Maharashtra	67	58	114	179
Tamil Nadu	330	242	561	994
Telangana	71	43	95	111
Other states	75	57	82	124
Total	4,858	4,123	7,174	10,207

Note: Data sourced through the Right to Information Act in 2021.

The GCC is a key destination for Indian-trained nurses and has been of increasing significance since the petro boom of the 1960s. More recent analysis of the relationship between India and the GCC highlights the importance and increasing diversity of migrants from India to the GCC nations (from unskilled and semi-skilled to increasingly high-skilled migrants), the feminization of this migration (around 0.7 million Indian female migrants in 1990 compared to 1.6 million in 2013, especially evident in Kuwait and Saudi Arabia), and the rise in white collar professional Indian workers in GCC countries (now accounting for 30 per cent of total migrant flows). Saudi Arabia, Qatar, Kuwait, and the UAE are key destinations for these flows ([Zachariah and Rajan 2016](#)).

Data from [Table 2.1](#) shows that there is significant state selectivity in the migration of Indian nurses to the Gulf, and that migration of nurses is concentrated from the southern states, including Kerala ([WHO 2017](#)), Tamil Nadu (Rajan et al 2017), and Karnataka. These inferences appear consistent with Percot's estimation that over half of the migrant nurses practising in the Gulf were from Kerala ([Percot 2006; Percot and Rajan 2007](#)). As a percentage of migratory flows from India, recorded annual nurse outflows from Kerala comprised between 85 and 95 per cent of national total nurse emigration between 2016 and 2019 (see [Table 2.1](#)).

Education and training: privatized and export oriented

India is a major supplier of trained nurses for overseas markets, even as the country experiences an acute deficit of domestic nursing resources ([WHO 2017](#)). There appears to be clear interest in promoting the growth and increased privatization of nurse training institutions oriented towards

servicing international demand (Walton-Roberts 2015). Indeed, [Khadria \(2007\)](#) notes a strategic aligning between hospitals, recruitment agents, licensing bodies, and other stakeholders that profit from preparing and recruiting nurses for international opportunities. Economic benefits accruing to the state through remittance transfers, and the private sector through returns on investment in training institutions, suggest some level of state interest in managing and sustaining export-oriented nurse labour production and recruitment ([Walton-Roberts et al 2017](#)). Despite such interest in the ‘export’ of nursing labour, in recent years the Government of India (GoI) has opted for protective regulatory interventions in Indian nurse migration routes. This policy shift has been presented as a response to recently recorded cases of recruitment fraud ([Rajan et al 2011](#)), human rights violations, and the resultant pressure from civil society and migrant groups to institutionalize migrant protections.

National migration framework

Given the salience of migration to India’s socio-economic development, there are two dedicated governmental Ministries (formerly three) that administer migration related processes. The Ministry of External Affairs (MEA) is the central authority responsible for the formulation and implementation of emigration policies and processes. It also houses the Passport Issuing Authority and coordinates with Indian Missions abroad that inform the government about migrant and bilateral issues. A recent merger of the Ministry of Overseas Indian Affairs (MOIA) with the MEA was undertaken to ensure streamlining in matters relating to overseas Indians. In addition, the Ministry of Home Affairs is tasked with overseeing the Airport and Immigration Authorities of the Bureau of Immigration (BoI) to monitor emigration clearances granted by the regional Protector of Emigrants (POE).

The primary legislative grid framing migration from India is the Emigration Act of 1983. The national and regional institutional structures supporting its administration include the Protector General of Emigrants (PGE) in New Delhi and the ten regional offices of the POE that are entrusted with the protection of Indian migrants and those seeking to migrate, facilitation of formal migration through the granting of Emigration Clearance, and registration of recruitment agents. The GoI introduced the e-Migrate system in 2015 to streamline the migration process and increase transparency and efficiency. This e-Governance tool offers an online registration portal for workers designated under the ECR category, recruiting agents, and foreign employers desiring to recruit Indian workers, including nurses. The electronic platform is integrated with the Passport Seva Project (PSP), for the validation of passport details of registered ECR category workers, as

well as with the BoI of the Ministry of Home Affairs, used at Immigration Check Post (ICP) at airports for online validation of the emigration clearance granted by POEs. Integration with the BoI system allows the e-Migrate system to record departure and arrival information of workers in the ECR category and verify their emigration clearance status in real time ([Standing Committee on Labour 2018](#)). Recent government circulars detail the stringent terms and conditions applied to registered Foreign Employers permitted to recruit nurses through private recruiters, which have to be vetted by the GoI and approved through a ‘Country Specific Order’ (CSO).

Sectoral migration policy

With the stated objectives of restructuring recruitment and migration processes, and eliminating exploitative recruitment and employment of migrant nurses, the Indian Government, in 2015, elected to place controls on the mobility of nurses to the Gulf while promoting state-run recruitment agencies and direct government recruitment ([Thompson and Walton-Roberts 2018](#)). Following numerous reports of exploitation by private brokers connecting nurses to employment in Gulf states, a national ordinance, issued by the erstwhile MOIA, brought the emigration of nurses to 18 ECR countries under the purview of the Emigration Clearance Required category. This previously only applied to low-skilled labour migrants – defined as those with less than matriculate-level education (Monsy 2014).

Under the aegis of this new policy, recruitment of Indian nurses to the Gulf states (and other ECR countries) has shifted to the public sector; foreign employers are required to register electronically with the e-Migrate system prior to engaging in the recruitment of nurses, and private recruitment agents are no longer permitted to facilitate the migration of nurses to ECR countries. Nurses seeking employment in the Gulf are now required to apply for an emigration clearance in addition to overseas visas and job contracts. Furthermore, their recruitment is routed exclusively through the following six government-mandated public sector agencies – NORKA Roots of Kerala, Overseas Development and Employment Promotion Consultants (ODEPC) of Kerala, Overseas Manpower Corporation Ltd. (OMCL) of Tamil Nadu, Uttar Pradesh Financial Corporation (UPFC) of Uttar Pradesh, Overseas Manpower Company Andhra Pradesh Limited (OMCAP) of Andhra Pradesh, and Telangana Overseas Manpower Company Limited (TOMCOM) of Telangana state. Governance of these accredited agencies is undertaken by respective state governments in coordination with the GoI. It is assumed that the move to a government-to-government recruitment model will ensure the recruitment ecosystem is more effectively monitored, transparent, and free from corruption.

International instruments

A number of international standards and inter-governmental agreements serve as guidelines for the migration and recruitment of women, healthcare workers, and migrants in general. The World Health Organization (WHO) adopted a voluntary Code of Practice on the International Recruitment of Health Personnel in May 2010. The Code endeavours to foster ethical and fair international recruitment of health workers, taking into account the rights, obligations, and expectations of source and destination countries, as well as those of health workers themselves ([WHO 2017](#)). Placing restrictions on the recruitment and migration of nurses, and migrant women, goes against the spirit of the WHO Global Code of Practice on the International Recruitment of Health Personnel, which asserts the individual rights of health personnel to leave any country in accordance with applicable laws and the freedom of workers to migrate to countries that wish to admit and employ them (Article 3.4). Also relevant are the ILO Conventions on Migration for Employment and the Private Employment Agencies Convention, and the Sustainable Development Goals (SDGs) – particularly 10.7, which calls for greater national and global coordination in facilitating safe, orderly, and regular migration ([Thompson and Walton-Roberts 2018](#); Kerr et al 2016). In addition, India has engaged in institutional dialogue with Gulf receiving states under the Joint Working Groups on labour and manpower cooperation, the Abu Dhabi Dialogue, and has entered into a number of bilateral agreements and signed MoUs with the Gulf countries to facilitate the mobility of migrants.

Extension of Emigration Clearance Required status to nurse migrants: impacts and implications

Review of the Emigration Clearance Required procedure and its policy objectives

Migration and recruitment policies exert considerable influence on skilled women's capacity to migrate, their channels of mobility, and experiences of migration. This section considers how the extension of ECR to nurses structures and limits their migration from India to the Gulf. There has been substantial media and public attention highlighting the particular vulnerabilities faced by women migrating to the Gulf, including deception relating to salary or working conditions, confiscation of passports, extortion, trafficking, and physical and mental abuse. The GoI has undertaken a number of measures to protect the specific interests of women migrants, including setting up Pre-Departure Orientation, multi-lingual helplines, shelters, and Migrant Resource Centers, as well as assisting in the repatriation of

migrants stranded in the Gulf. In 2014, under the leadership of the Minister of External Affairs Sushma Swaraj, the Indian Government facilitated a number of challenging rescue operations to evacuate and rehabilitate nurses from conflict zones in Iraq, Libya, and Yemen ([Padanna 2015](#)). These successive efforts prompted the government to install further safeguards to manage the emigration of nurses to ECR countries and curb the operation of fraudulent agents.

The GoI elected to control the emigration of nurses between India and the Middle East due to concerns about the unethical practices of labour brokers and the resultant vulnerabilities the mainly female nurses might face ([Standing Committee on Labour 2018](#)). Reports suggest that recruitment for nurse migration was rife with deception, manipulation, and extortion, leading to unsafe or unsuitable working conditions ([Walton-Roberts and Rajan 2013](#); Oda et al 2018). Nurses often paid higher costs for migration through higher agent charges and visa processing, with agents charging job seekers up to 2 million rupees – 100 times the eligible service charge ceiling of 20,000 rupees – in some cases ([Rejimon 2018](#)). Gross neglect and ineffective enforcement of recruitment guidelines contributed to the cycle of indebtedness, cheating, and fraudulent practices that prompted the introduction of this policy change. This was brought into sharp relief with the 2015 arrest of a central figure in Indian emigration administration, the Protector of Emigrants, Kochi, who was prosecuted for collusion with private recruiters, financial fraud, and extortion in a high-profile nursing recruitment scam ([Mathew 2015](#)).

In formalizing the migration of nurses through the ECR channels and e-Migrate, the government has sought to consolidate control over certain streams of migration, protect nurses seeking employment in the Gulf, restrict recruitment fraud, and increase the transparency and efficiency of the migration process. Recent government success in a number of high-profile evacuations of stranded nurses in the Gulf regions following public outcry has galvanized support for more direct government intervention ([Padanna 2015](#)). Electronic filing of the EC application and Foreign Employer requests is expected to increase oversight over these movements and lay the ground for more effective coordination and streamlining of these flows. However, the inclusion of migrant nurses under the ECR category has increased the bureaucratic burden on nurse migration. Transitioning the migration approval process from a national network of Protector of Emigrant (POE) offices to a few public sector agencies (initially three, and later expanded to six) has resulted in backlogs and institutional overburdening (also see Akhil and Ganga, this volume). Site visits to several government-linked agencies have shown that much of the services can only be accessed in-person, thereby limiting the scope of their activities and reach ([Rajan and Joseph 2018](#)). In the past, recruitment agents were able to submit applications

for emigration clearance for their clients to respective POE offices. The additional bottleneck has lengthened the migration and recruitment process and made formal migration to the Gulf increasingly onerous.

Migrants and recruiters have expressed strong reservations about restrictive emigration rules. Recruiters, many of whom were integral in linking migrants to Gulf migration opportunities, lost out on a profitable niche of labour brokerage. A number of agents have even taken the GoI to court over grievances around the updated ECR policy and elimination of private actors from nurse migration. The Delhi High Court is considering 37 cases and petitions ([MEA 2017a](#)), however, federal and judicial responses appear to stand by and even double-down on the new policy and its objectives.

Impact on spatial, numerical, and gender character of nurse migratory flows

This section considers whether the implementation of ECR for nurses heading to the Gulf has altered the spatial, numerical, and gender character of nurse migratory flows within and outside of India. Media reports suggest that these regulatory moves accompany a decline in nursing opportunities for Indian women in the region, with indications of a drop in the number of Indian nurses in the Middle East from 20,000 to 12,000 between 2013 and 2015. [An ILO \(2018\)](#) India labour migration update shows that data from the GoI e-Migrate portal indicated a steady decline in the number of women workers from the top 25 Indian sending districts since the ECR system was introduced for nurses – from 1,167 in 2015 to 950 in 2016 and 512 in 2017.

Former Kerala Chief Minister Oomen Chandy, in a 2015 letter to the Minister of External Affairs, lamented that migration of nurses to ECR countries had completely stalled since the introduction of the new ECR policy for nurses ([The Hindu 2015](#)). MEA data indicates that this was true for nurses intending to migrate to Bahrain, Jordan, Kuwait, Qatar, and Saudi Arabia for the rest of 2015. While nurse migration to Kuwait and Qatar marginally increased over the following year, formal migration of Indian nurses to Bahrain and Jordan remained at a standstill. From [Table 2.2](#), it is clear that the ECR approvals in the second half of 2015 were less than 5 per cent that of subsequent years. As the policy change was further incorporated there was a marked recovery in ECR approvals. By 2017 the destination of nurses had fanned out to include all countries of the ECR, with 3,326 Indian nurses employed in Saudi Arabia as of December 19, 2017. This was followed by Qatar with 350 nurses and Kuwait with 118 workers –10 per cent or less of the outsized totals directed to Saudi Arabia.

Since the introduction of the new recruitment process for nurses, Saudi Arabia has largely taken advantage of the exemptions accorded to the nurse

Table 2.2: Indian nurses granted emigration clearance, by country (2016–2019)

Country	2016	2017	2018	2019
Bahrain	-	55	191	6
Jordan	-	60	10	-
Kuwait	7	118	236	236
Oman	31	114	145	130
Qatar	2	353	764	746
Saudi Arabia	4,556	3,326	5,677	8,950
United Arab Emirates	262	97	151	139
Total	4,858	4,123	7,174	10,207

Note: Data retrieved from MEA archives ([MEA 2017b](#)) as well sourced from the Right to Information Act in 2021.

ECR approval process through state recruitment agents. In mid 2015, the Ministry of Health for Saudi Arabia initiated a Country Specific Order (CSO) to allow the continued deployment of nurses to government hospitals across Saudi Arabia through a few designated private recruiters. Since then, this approach has been adopted by a number of private and public sector hospitals and medical centres across the Middle East, including Sultan Qaboos Government University Hospital, Oman; Ministry of Health, Oman; Hamad Medical Corporation, Qatar; Red Crescent Society, Qatar; King Hussein Cancer Centre, Amman; and in private hospitals in the UAE (Ministry of External Affairs 2016, 2017a). In the initial stages, among ECR countries, only Kuwait initiated action to recruit nurses through the six state agencies while all other Gulf governments resorted to short-term arrangements through CSOs (Ministry of External Affairs 2017b, 2018). It is unclear whether nurses migrating under these exemptions were recorded on the e-Migrate system. Given that the MEA data does not show any migrant nurses to Saudi Arabia for 2015, at a time when it had several CSOs in place, it either points to a delay in the processing of nurses recruited under such programmes, leading to the numbers being captured under the subsequent year, or suggests that the number of nurses migrating through private recruiters under approved CSOs were not included in the e-Migrate system.

[Table 2.3](#) suggests that women migrants continue to dominate nurse migration flows to the Gulf and ECR countries. Female nurses applying from Kerala comprised 87 per cent of ECR flows from the agency between 2015 and 2018. This trend is consistent with the high proportion of women in the nursing profession. The composition of male nurses varied between

Table 2.3: Total nurses migrating through NORKA-Roots, by gender (2015–2018)

	2015	2016	2017	2018	Total
Female nurses	109	285	290	161	845
Male nurses	23	41	54	9	127
Total	132	326	344	170	972

Note: Special data from NORKA-Roots and tabulated by authors.

Table 2.4: Data on Indian nurses who migrated through the e-Migrate system, by gender (2016–2019)

	2016	2017	2018	2019	Total
Female nurses	4,740	3,731	6,673	9,653	24,797
Male nurses	118	392	501	554	1,565
TOTAL	4,858	4,123	7,174	10,207	26,362

Note: Data sourced via Right to Information Act in 2021.

3 and 25 per cent of ECR approvals between 2016 and 2019 ([Table 2.4](#)). Estimates of nurse migration from Kerala based on household surveys by Rajan et al ([WHO 2017](#)) indicate a decline in numbers. Between the Kerala Migration Survey periods of 2011, 2013, and 2016, the number of Kerala nurses working abroad decreased from 30,038 to 26,138 to 20,622. This points to a decline in the migration rate from 32.8 per cent in 2011, to 30.8 per cent in 2013, and 23.2 per cent in 2016, a reduction of nearly 10 per cent between 2011 and 2016. Nearly 57 per cent of all emigrant nurses resided in Gulf countries in 2016 (with Saudi Arabia being the most favoured destination). In the same year, the UAE and Kuwait were the second and third favoured destination countries respectively. The share of migrant nurses going to Saudi Arabia declined from 32 per cent in 2011 to 22 per cent in 2016 – a decrease of 10 per cent. The proportion of migrant nurses going to the United States declined from 12.2 per cent in 2011 to 6 per cent in 2016, while the share of nurses migrating to Canada slightly increased from 3.3 per cent in 2013 to 5.5 per cent in 2016. Nurse migrants to Australia also registered rises in this period. Overall, nurse migration levels from Kerala are falling, and there appears to be a decline in preference for Gulf destinations, including Saudi Arabia ([WHO 2017](#)). The decline in oil prices since the end of 2014 may also explain part of this decline, but the influence of the imposition of ECR regulations on nurse migration must also be assessed in more detail.

Impact on multi-state relations and the governance of nurse migration

The reverberating impacts of the sending country's policy reform on nurse migration to the Gulf and local labour markets is a compelling illustration of the presence of the migration governance complex detailed by Ennis and Blarel in the opening chapter of this volume. The migration of nurses from India involves a multiplicity of stakeholders at various levels, and is facilitated at the multi-state level through regional collaborative efforts that reflect a form of global social policy making ([Ennis and Walton-Roberts 2018](#)). This includes the adoption of global guidelines on ethical recruitment, government-to-government labour mobility agreements, and the regulation, monitoring, and licensing of a host of recruitment actors and practices.

The imposition of an ECR requirement on nurse migration allows the GoI to control migration and, in cases where it thinks there are security concerns, to deny it. For example, in 2016, nurses who were in India on leave from their jobs in Libya were not allowed to return due to security concerns ([MEA 2016](#)). Yet, this regulatory effort at controlling and limiting migration occurs alongside India's continued efforts to develop bilateral agreements with select GCC countries, with a focus on labour mobility processes and protections ([Chanda and Gupta 2018](#); Kumar and Rajan 2015; [Singh and Rajan 2015](#)). For example, the UAE is working on an integrated recruiting system that streamlines the process between India and the UAE using an online recruitment portal that will be integrated with India's e-Migrate system. Once the system is operational it is planned to be the exclusive channel for the recruitment of ECR Indian workers. The systems' development emerges as part of an MoU signed between the two countries. Navdeep Singh Suri, Indian Ambassador to the UAE, told Gulf News the following:

We had very good discussions on those matters during the visit of Al Nuaimi to Delhi and we are making excellent progress to establish an integrated online system that would provide a much better level of protection to Indian workers in the UAE. I would like to express my appreciation for the positive spirit, in which MoHRE is supporting this initiative. (Quoted in [Rasheed and Abdul Khader 2018](#))

Policy consequences within India and in the GCC labour market

This section analyses the connections between state policy on nurse recruitment and attendant consequences for migrants' experiences within India and Gulf labour markets. It foregrounds the role of the state in shaping and structuring the flows and experiences of migrant nurses ([Bach 2010](#)),

and examines shifts in migration policy, paying particular attention to the extension of ECR protocols and public sector nursing recruitment. We also comment on how understanding the nature of this migration process, and as a corollary, its governance and regulation, is seriously undermined by a lack of effective data collection.

Increasing vulnerability through individualizing governance: Among the most pervasive outcomes of the policy change is that when faced with increasing controls to formal migration, migrants bypass the system and use other methods to get overseas and find employment. Despite government efforts to prevent nurses from being duped in the recruitment process, through mandatory ECR requirements and state-designated recruiters, reports suggest that the number of nurses migrating through unofficial channels and private agents remains high. The Ministry of External Affairs issued an advisory in November 2018 stating that it is aware of nursing graduates travelling to the Gulf on tourist visas and converting the same to employment visas via recruitment agents in an attempt to subvert ECR ([MEA 2018](#)). Officials note that such informal practices beget gross recruitment and employment rights violations, leaving said migrants untraceable and outside the scope of embassy/government assistance should the need arise. According to one account, in the wake of newer, more stringent stipulations, nurses opting to migrate to Kuwait are regularly charged between Rs. 1 and 1.5 million by unauthorized private agencies. Activists note that while some migrants may secure their intended job once abroad, in most cases they are deceived and defrauded, losing the money paid and denied basic rights and working conditions in the Gulf ([Rejimon 2018](#)). Therefore, in limiting migrants' ease of migration, the state effectively conditions the incorporation of migrants into Gulf labour markets ([Bach 2010](#)), limits the parameters of their employment and migration status, and, to some degree, contributes to an increased sense of vulnerability and the ratcheting down of conditions of migration and work.

The Protector General of Emigrants is acutely aware of this situation, and while he understands the structural conditions that place these nurses in positions of vulnerability to exploitation (poor salaries in India, shortage of public sector opportunities, loans due to high cost of education and migration fees), these are not the issues that are being addressed. Rather, monitoring women migrants is the approach selected.

Yeah, the age group of 30 is not applicable for nurses because they are well-trained, well-educated, but let me tell you, nurses are also very much under the 'exploited' category because of the poor wages of the nurses in India. Even in big, big hospital chains in India, their salaries are not more than Rs. 15,000 or Rs. 13,000. But there, when they go, their salary is almost five times that money, so they want to go.

And therefore, they are prepared to take the risk and not go through my system but go on a tourist visa to Dubai, appear for an interview and then get selected. But they are not captured here. If she gets into trouble, I can't reach out to her. ([MEA 2017a](#))

Regulatory restraints in this context construct women migrants as uniquely risk-prone and responsible for their own safety should they deviate from state systems of control. These deeply entrenched gendered arrangements cast women migrants, regardless of their skills and experience, as requiring state supervision and protection. Scholars have critiqued this approach of regulating women's mobility in the case of domestic workers, and argued that the state is complicit in creating regulatory gaps that increase women's vulnerability ([Kodoth and Varghese 2012](#); [Varghese and Rajan 2011](#)). While nurses are generally attributed with agency and skills, the placement of nursing in proximity to precarious migration streams via ECR presents a case where the state chooses to perform its duty to protect by regulating the migrant, *not* the conditions of inequality that exist in India that create a pool of trained nurses willing to go overseas. This may lead to a further devaluation of the nursing profession within the healthcare system and speaks to the need for systemic changes to Indian nursing.

There are also other issues that appear related to what seems a contradictory policy outcome, namely that seemingly protective regulation leads to more unregulated migration and increased vulnerability. Drawing on the control gap literature ([Bonjour 2011](#)), we need to ask if the apparent failure of regulatory oversight (the continued migration of nurses outside of the ECR framing) is due to some kind of external constraint, or whether the failure is intended. While control gap literature in immigration policy focuses on receiving states and why they accept 'unwanted' migrants, the case of India is similar in that pronounced policy is stated to regulate emigration but it appears that migrants continue to move outside of this channel. [Bonjour \(2011\)](#) looks at family class migrants to the Netherlands and argues that the state is not 'constrained' in its migration policy making (that is, the courts do not prevent the state from closing down family immigration), rather the state draws on moral and rights-based arguments to allow it. Applying control gap arguments to India suggests that despite the moral protective arguments about containing migrants' movements (for their own protection), the GoI has effectively positioned itself in a manner that permits it to oversee continued unregulated migration. [Varghese \(2018\)](#) has argued that the ECR policy allows for 'controlled informality', in that authorities know nurses migrate to the GCC outside of ECR routes, but the GoI is now a central part of this overall migration infrastructure through its imposition of ECR and other regulations. It may be possible that the guarantee of protection that partly operates in

the ECR process acts as a form of marketing aimed at receiving nations, domestic audiences, and/or international institutions to signal some kind of GoI oversight and control.

Oversupply of domestic nurses: GoI efforts to manage nurse migration through the ECR approval process are underpinned by competing objectives of promotion and protection. While ostensibly aimed at protecting workers from widespread abusive practices and promoting formal migration flows, the policy has in fact curtailed the flow of nurses to the Gulf (outside of Saudi Arabia). Although not framed explicitly as a domestic nurse retention strategy, since it does little to encourage domestic employment or discourage the desire to migrate, the policy change has nevertheless contributed to a temporary glut of domestically trained nurses wishing to go abroad. After the initial rollout of the policy in 2015, there were considerable delays in GCC governments recognizing the new system, during which many migrants who had already received job contracts and approval to migrate were reportedly turned away by POEs, emigration authorities, and airport officials, with others being deemed ineligible for emigration clearance ([Padanna 2015](#)). This excess supply of nursing graduates is unlikely to be absorbed into the domestic healthcare system due to prevailing labour conditions, and in fact, it may contribute to a further reduction in salaries, propping up of ‘intern culture’, and the contractual hiring of nurses within India.

Impact on migrant destinations and routes: Many migrants consider employment in Gulf states as a stepping-stone to other, more desired destinations in the West, such as the US, the UK, Canada, or Ireland ([Percot 2007](#); [Thompson and Walton-Roberts 2018](#)). It remains to be seen whether the introduction of ECR processes in this corridor have altered this pattern of step-migration, causing potential migrants to seek destinations outside the GCC as their first point of anchor. According to Rajan et al ([WHO 2017](#)), foreign employers were slow to adapt to the new emigration rules and requirements. A salient point raised by a key informant signals the decreasing prospects for employer’s financial gain caused by the introduction of the new system. It was common practice that employers received a commission from recruitment agents for nurses hired by them – as this financial kickback can no longer be received, some employers may turn to nurses from other countries to meet their demand. It was also discussed that increasing regulatory constraints on formal nurse migration may cause nurses to migrate via alternative channels, such as applying for a visa through Indian embassies in foreign countries or moving overseas under a different visa category (for example, a tourist visa, Hajj/Umrab visa etc) and later interviewing for a job.

Reinforcing gendered perception of nursing and the impact on male nursing patterns: The policy rests on the twin-gendered assumption that nurses

are primarily women and that women are inherently vulnerable. This perspective feeds into the dominant discourse that women migrants are unskilled migrants, lacking in agency and not in control of their own actions and experiences. This supposition, in turn, rests on a flawed social ontology that conceives of an individual's agency through interlocking prisms of gender, education, and skill. With respect to implications on the gendered patterns of nurse migration flows, the apparent sectoral gender bias in this occupation may be further accentuated due to its inclusion in the ECR category and association with unskilled labour and unsafe migration. Taken together, these policies serve to reinforce nursing as a gendered occupation subject to greater surveillance and monitoring, at a time when men have been enrolling in greater numbers ([Walton-Roberts 2019](#)). But, it is possible that creating a sense of gendered insecurity might actually benefit male nurses: 'With women returning due to strife, more men, who are ready to work in a tougher working environment, are now willing to learn nursing' ([Barnagarwala 2016](#)).

Data limitations

Available estimates of nursing production, stock, and migration are spread across disparate data sources and there is considerable divergence in their collection, categorization, and collation. To advance our analysis, fragmented data and statistics have been gathered from multiple sources, including media outlets, Right to Information requests, the GoI e-Migrate website, POE offices, and government-appointed agency websites. Aside from being difficult to access, many of these figures are incomplete, represent incongruous timelines or worker categories that do not immediately lend themselves to comparative study, and fail to present a coherent picture of the migration of nurses or the policies framing these movements. For instance, data on ECR approvals only captures recent patterns of nurse migration to the Gulf and other ECR countries, and does not include trends of Indian nurse migration more broadly. While data deficiencies and discrepancies may be linked to the recording of data at multiple migration stages and sources, and continued channelling of nurse migrants through alternate routes that are not captured in the system, it is also reflective of the lack of attention to the gendered nature of migratory flows by governments of the Gulf and India. Furthermore, sustained analysis is impeded because facts and figures are not made available in the public domain and need to be requested by raising Right to Information (RTI) petitions that are tedious and time-consuming. The paucity of updated and relevant data on these critical labour flows highlights the need for improved and systematic information collection on migrant and healthcare workers to generate evidence-led policy suggestions.

Conclusion: a gendered form of the migration governance complex?

Although nurses were brought under the ECR category, GoI responses on the matter of the ECR approval indicate their focus is explicitly on women's mobility, even though male nurses are also involved in these practices. While it is clear that the policies are aimed at protecting particular women workers, they have differential impacts on and responses from migrants across class, gender, and occupational status. Furthermore, these policies play neatly into gendered narratives of victimhood and vulnerability, and imbue all potential (female) nurse migrants with an assumed fragility. Constructing nurses as potential victims of recruitment fraud, requiring state support through surveillance, reinforces the low status that has historically been accorded to nurses in hierarchies of healthcare and migration. By placing impediments on their migration and recruitment, states reproduce the cultural and historical stigma associated with nursing, despite their position as globally sought-after frontline healthcare professionals. This discriminatory policy approach creates and maintains structural inequality, thereby undoing recent shifts towards a positive transformation of nursing status. Operating within structural and systemic constraints, predominantly female nurse migrants are located at the interstices of migration policy and praxis. This has significant implications for migrants' empowerment, employment, and experiences of im/mobility. As long as domestic working conditions continue to track below industry standards and wages fail to meet statutory requirements, international migration offers the best opportunity for social mobility, and professional and financial growth.

Policy response to nurses' migration at both the state and central government levels is inflected by conflicting intentions of promotion and protection. On the one hand, efforts at revamping recruitment procedures may be seen as dovetailing with imperatives to enact ethical and transparent recruitment practices. On the other hand, they appear out of step with broader moves to facilitate migration opportunities through harmonization and internationalization of export-oriented nursing education in the country. As India attempts to shield workers it deems vulnerable from widespread abuses embedded in emigration practices, it has placed hyper-visible and stringent regulatory impediments that constrain the ease and safety of their migration. This raises questions as to whether the policies emerge from a protective position or one that merely postures a proactive approach to managing emigration missteps to garner good optics from national and international audiences. Although most of the Conventions and international agreements India is party to are voluntary and non-binding, these commitments probably led policymakers to pay greater attention to the global structuring of feminized migrant mobility and migration governance.

Placing controls on nurse migration at the source does not afford effective protections for migrants during the migration process or at the destination, or adequately address the systemic and structural factors that cause these flows and contribute to recruitment fraud. In effect, potential migrants are made accountable and responsible for their own safety by ensuring that they follow stipulated guidelines. Although framed towards nurses in general, the targets of such ‘protective’ policies are overwhelmingly women, whose mobility is constrained, rather than the operation of agencies exploiting nurse migrants. By narrowly focusing policy attention on individual characteristics such as occupation, age, and gender, the burden of ensuring safe migration is shifted to the individual, away from collective and state responsibility. This takes the onus to correct the domestic conditions that contribute to nurse precarity in these contexts (for example, the operation of private, informal, and illegal recruitment agents and sub-agents and the mismatch between domestic healthcare working conditions and resources and those available overseas) away from the government.

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Understanding Irregularity in Legal Frameworks of National, Bilateral, Regional, and Global Migration Governance: The Nepal to Gulf Migration Corridor

Anurag Devkota

Introduction

International labour migration has seen unprecedented growth throughout the world in recent years. The 2017 International Migration Report has stated that the number of international migrants worldwide has continued to grow, reaching 258 million in 2017, which is up from 220 million in 2010 and 173 million in 2000 ([United Nations 2017](#)). According to the United Nations High Commissioner for Refugees (UNHCR), the total number of displaced persons at the end of 2015 was 65.3 million, and the number of refugees reached 21.3 million ([UNHCR 2016](#)). This accounts solely for the migrants who move through regular channels; it is very difficult to accurately count the number of irregular migrants on a national, regional, and international level due to various methodological approaches and definitions. The Human Development Report of 2009 suggests that most estimates of migrant workers are deprived of censuses and that there are good reasons to suspect that, when censuses are available, they significantly undercount irregular migrants, who may avoid census interviewers for fear that they will share information with other government authorities (United Nations Development Programme, [UNDP 2009](#)). The United Nations Office of the High Commissioner for Human Rights (UNOHCHR) has also confirmed that, while some data does exist, it is mostly from a sub-section of irregular

migrants that have been detained or subjected to state action, and so is unlikely to be indicative of the total population of irregular migrant workers ([UNOHCHR 2014](#)).

The inequality of conditions between employers and irregular migrant workers is more pronounced than other labour relations because of the latter's irregular status, and the criminalization of their mobility (see [Bhui 2013](#); [Stumpf 2006](#)). Irregular migrant workers are willing to work in inferior working conditions in comparison to other legal migrant residents in the destination country. While the occupations of migrant workers differ across countries, there are similarities in labour market conditions: low wages, poor working conditions, and dangerous workplaces. In fact, irregular migrant workers have limited possibilities to protect their rights, despite being faced by such dire situations and regular exploitations. Ironically, there appears to be a system of immunity for those who take advantage of the vulnerability of these workers and a system of punishment for the latter rather than the former. This corresponds with scholarship that analyses 'crimmigration' as a form of migration governance and control ([Aas 2011](#); [Aas and Bosworth 2013](#); [Aiken et al 2015](#)).

Issues pertaining to the rights of migrant workers, especially those undocumented workers, have raised growing concerns throughout the world. Despite renewed global attention on this issue, Nepali migrant workers – particularly the undocumented workers – continue to face numerous obstacles in accessing justice and ensuring protection of their most basic rights. The protection of undocumented workers' rights is particularly important in a country like Nepal, where undocumented migration has become a common phenomenon. Nepalese migrant workers holding 'undocumented status' are often erringly identified by the term 'illegal' – an insensitive label that is attached with stigma and dehumanization. They are often excluded from the protection policies of the Government of Nepal, and the data involving Nepali undocumented migrant workers is a huge challenge. A study from Amnesty International has suggested that migrant workers who had used irregular channels to enter the destination countries were 'not entitled to the same assistance' as migrant workers who had received labour permits from the official channels ([Amnesty International 2017](#)). Against this backdrop, the chapter highlights the overall situation and the major concerns and challenges vis-à-vis undocumented migrant workers. Using the case of Nepalese migrant workers, this chapter examines the discrimination and plights of undocumented migrant workers in the Gulf region. The chapter draws the analysis that limiting the fundamental rights and freedoms of these migrant workers would re-victimize them, as the irregular experience is already characterized by intimidations, fraudulent malpractices, and curtailed liberties. The study also recommends that joint coordination between host and destination countries is an important mitigating measure to overcome

the current situation and plight of undocumented Nepalese migrant workers in the Gulf countries and beyond.

Irregular migrant workers in the context of Nepal

According to the data made available by the Department of Foreign Employment (DoFE)¹ of Nepal, a total of 17,555 labour permits were issued for Kuwait, 104,209 for Malaysia, 103,179 for Qatar, and 40,962 labour permits (excluding the re-entry) were issued in Saudi Arabia in the year 2017/18 ([Department of Foreign Employment, Nepal 2019](#)). The access to data regarding the number of Nepalese irregular migrant workers poses a key challenge. Considering the data provided by the Nepal Embassy in Riyadh, however, it is evident that significant numbers of migrant workers in the Gulf states hold such a status. The data reveal that 7,300 workers, including eight domestic workers, had returned to Nepal from Saudi Arabia within three months of amnesty (March 29, 2017–June 25, 2017) provided by Saudi Arabia ([Kathmandu Post 2017](#)). The Embassy estimated that there were about 35,000 Nepalese migrant workers in this period in which irregular migrant workers were allowed to leave the country without any penalty and change of status ([My Republica 2017](#)). This data helps us gain an idea of the number of irregular migrant workers, not only in Saudi Arabia but also in different parts of the Gulf region world, as Saudi Arabia is ranked third in terms of the most popular destinations for Nepalese workers after Malaysia and Qatar ([Government of Nepal, Ministry of Labour and Employment 2018](#)).

It has been identified that the vulnerability of workers – especially irregular workers – is exacerbated by fellow Nepalese under various official and non-official capacities ([ILO.GIZ 2015](#)). Current foreign employment practices in Nepal integrate the role of individual agents throughout the entire process of migration. The fraudulent acts and false promises of these agents are often identified as the causal factor for entering into an irregular situation. Amnesty International's report of [2017](#) ('Turning People into Profits, Abusive Recruitment, Trafficking and Forced Labour of Nepali Migrant Workers') divulges the stories of the plights of irregular Nepalese migrant workers. It reveals that migrant workers from Nepal end up in such situations because of fake or forged documents for either travel or foreign employment, which puts them at risk of labour exploitation and criminalization under destination country immigration laws ([Amnesty International 2017](#)). The report also reveals that women are particularly at risk of deception about the legality of travel documents and work permits. The age restriction on female labour migration set by the Nepal Government in 2015 has often meant that women who do not meet this age criteria rely on their recruiters to obtain their travel documents and organize their travel out of the country through irregular channels ([Amnesty International 2017](#)). The report also states that 20 per

cent of returnee migrant workers interviewed by Amnesty International had left their employers, and as a result lost their legal right to remain in the country, thus becoming irregular ([Amnesty International 2017](#)). Similarly, the decision in 2017 of the Government of Nepal to completely ban female migrant workers in domestic employment is another example of a glaring factor fuelling labour migration through irregular channels.

Despite the involvement of formal and informal agents of migration, there is involvement of other individuals as well. The Gulf Visit Report,² prepared by the parliamentary committee of the Legislative Parliament of Nepal in 2016, implicated immigration officials, airline officials, and human smugglers in the illegal transfer of Nepalese women to Gulf countries using forged documents (Legislative Parliament, International Relation and Labour Committee 2017). The report also revealed that most of the domestic migrant workers in Saudi Arabia have come through illegal channels, and most of them were women who had been sheltered in the Saudi Embassy for more than two years. It noted that, since it is very difficult to obtain exit visas for the workers who have come through illegal channels or processes, it has been problematic to send those female migrant workers back to Nepal. In addition, the report raised a concern regarding the miserable situation of irregular domestic workers, and it recommended taking immediate, effective action to stop the irregular migration of workers (Legislative Parliament, International Relation and Labour Committee 2017).

The report also found that most irregular migrant workers have been victims of human trafficking and smuggling as well. While it is difficult to estimate the number of domestic workers working in the Gulf countries, it is even more difficult to identify these domestic workers. Most of them are sent through illegal channels, where they are transported from one Gulf country to another in poor conditions. According to the report, 60 per cent of domestic workers that have gone through an illegal process were sent through that process via the coordination of immigration officials, security personnel, and airline officials. The remaining 40 per cent have been sent through various cities of India, Sri Lanka, China, and Africa, before being trafficked to the Gulf countries. The report mentions that such acts were still occurring, with offenders going unpunished because of the involvement of high-level political officials and lack of willpower on the part of responsible institutions. Despite the reporting of unscrupulous manpower companies and individuals involved in sending workers through illegal channels, the Department of Foreign Employment had yet to take any effective steps to penalize such agencies and individuals. Recent data from 2017 has shown that there were 931 cases filed at the Department against individuals, and 1,452 cases were filed against institutions ([Government of Nepal, Ministry of Labour and Employment 2018](#)).

Alongside false documentation, the hefty loans required to facilitate the pre-departure costs have been triggering the irregular status of the Nepalese

migrant workers. A recent study by the Central Bank of Nepal (Nepal Rastra Bank) unveiled that the aspirant migrant workers have been taking out loans from various formal and informal channels with interest rates ranging from 12 per cent to as high as 60 per cent ([Nepal Rastra Bank 2018](#)). The Central Bank report further added that the families of the workers have been spending 12 to 60 per cent of their earnings to cover the interest amounts of these loans ([Nepal Rastra Bank 2018](#)). Similarly, there was a comparative study conducted by the Global Knowledge Partnership on Migration and Development and the ILO regarding the expense incurred during foreign employment by returnee migrant workers from various countries. This report included interviews with workers from Ethiopia, India, Nepal, Pakistan, and the Philippines in the year 2014/15. Two thirds of the interviewees had taken out loans, some of which had interest rates as high as 36 per cent ([Global Forum on Migration and Development 2016](#)). The same study revealed that these returnees must pay their debt with half of their remittance. When workers could not pay the debt within the period of the contract term of employment, they were compelled to remain with an irregular status beyond the period of contract.

The Government of Nepal has shown some gradual signs of concern regarding the plight of these irregular migrants. The Constitution of Nepal 2015 had, for the first time, recognized foreign employment as ‘state policies’, and guaranteed to regulate and manage the sector in order to make foreign employment free from exploitation, safe and systematic, and to guarantee employment and rights of the workers (Article 51(i)(6)). Similarly, the third amendment to the [Foreign Employment Regulation 2008](#) (Rule 28) provided for financial assistance to the nearest heir of a deceased migrant worker, even if the death occurs within one year of the completion of the contract period. Similarly, under the same rule, financial assistance can be provided to workers who become mutilated or fall ill, again, even if within one year of the completion of the contract period. Additionally, the amendment provided that the welfare fund should be made available to help bring back migrant workers stuck in destination countries that have not stayed for more than two years after the completion of the contract period. These provisions are initiatives to protect the rights of irregular migrant workers, but the current concerns and challenges vis-à-vis irregular Nepalese migrant workers have not been fully addressed.

Concerns and challenges of irregular Nepali migrants in the Gulf

In the context of Nepal, various studies show that many Nepalese migrants are in such situations either because of forged documents provided by manpower agencies (or agents) or because the migrant workers travel

through irregular channels ([Pyakurel 2018](#)). Many factors have contributed to irregular travel, such as the ban on female migrant workers in and to certain Gulf countries, whereby transnational recruitment brokers facilitate the illegal migration process of Nepali workers using multiple routes ([Wadhawan 2016](#)). Given the fact that immigration officials, manpower companies, and airline officials are involved in sending these workers through illegal channels, the omission of this information from the Department of Foreign Employment is significantly problematic ([Pyakurel 2018](#)). Although the government decided to adopt a free-visa-free-ticket arrangement in July of 2015 for seven labour destination countries, shifting the financial cost associated with recruitment to the employer, the implementation is questionable since many workers stay in the Gulf countries beyond the period of ‘regular’ status set in their contract. Irregularity is also linked with working conditions in the recruiting companies.

Against the backdrop of a report prepared by Amnesty International, it became evident that sometimes workers’ status becomes irregular through so called ‘visa trading’—a deceptive recruitment practice that entails recruiting a migrant for a particular sector or job but later directing the migrant to another sector or job because the visa has been sold to another recruitment agency or employer ([Amnesty International 2017](#)). When migrants discover that they are not employed in the companies or sectors to which they were promised, they leave the companies, but, unfortunately, they are left without visas and documents that permit them to stay. In some cases, these documents have already been seized by the recruitment companies and the worker therefore remains without documentation. The embassies situated in host countries need to fulfil their duty to help these workers obtain travel documents; however, that assistance has rarely been forthcoming. Furthermore, the situation of irregular migrant women merits special mention because they are the victims of double discrimination, first as women in a patriarchal society and second as irregular migrants ([Omelaniuk 2005](#)).

Another major challenge regarding the overall migration governance vis-à-vis the undocumented worker has been the excuses used by the Government of Nepal on the basis of ‘terminology’. The Nepali Government, in June 2018, acknowledged its duty to protect Nepalese migrant workers imprisoned and/or awaiting trials in foreign countries by agreeing to create legal aid programmes in destination countries for Nepalese nationals who cannot afford, or would otherwise be denied, legal assistance. To fill the void, the Ministry of Labour, Employment and Social Security has devised guidelines³ to provide legal protection to migrant workers. The government has offered to provide free legal aid through these guidelines to indigent Nepali workers who migrated through legal channels. However, the provision in the guidelines seems contradictory to international human rights norms and principles of Right to Equality and non-discrimination,

including equal access to the court and tribunal (Article 14, ICCPR). The section under the directive has deliberately ruled out undocumented workers, stating that ‘they are not subject to protection and legal assistance’ from the Government of Nepal.⁴ This is an example of the exclusion of irregular migrants; ‘expelling’ them ‘from the sphere of legal protection’ (Aas 2011: 339). The government is not wary about the fact that failure on their part has led migrant workers to assume an undocumented status. Impractical bans, failure to implement zero-recruitment policies, and failure to put unscrupulous intermediaries behind bars have been the reasons perpetuating the undocumented status of many Nepali migrant workers. The Government of Nepal has endorsed undocumented workers as illegal, and by defying the international conventions (that Nepal is a party to), it is effectively evading its responsibility to protect the rights of these emigrant workers. Such processes offer a new example of what Aas has called a ‘type of politics’ governing those who, ‘although territorially included, find their citizenship status securitized and substantially depleted’ (2011: 340).

Similarly, the labour attachés in the Nepalese embassies in the Gulf states have largely failed to address the concerns and defend the rights of these workers (Government of Nepal, Ministry of Labour and Employment 2016). As the Status Report on Labour Migration for Foreign Employment suggests, the level of resources, including the staff availability in Nepali embassies, is largely insufficient in response to the demand of the workers in destination countries (Government of Nepal, Ministry of Labour and Employment 2016). Having limited knowledge about the language (Arabic), these officials do not have the capacity to correspond with the immigration officials or other concerned authorities in the Gulf states, which often results in failure to resolve disputes in the destination countries (Malit 2018). Specific regulation, policies and guidelines, training, and resources have not been sufficient to build up the capacity of these institutions to provide the necessary assistance to the migrant workers (CESLAM (Centre for the Study of Labour and Mobility 2014).

Further, Nepal holds only weak bargaining leverage when it comes to defending the rights of migrant workers at destination countries in the Gulf.⁵ However, we do see examples elsewhere where the Government of Nepal has successfully pushed forward an agenda in favour of its emigrant workforce. For example, Nepal recently took action against the agencies appointed by the Malaysian Government to provide visa processing services, which were charging additional fees against the Nepalese migrant workers (*The Himalayan Times* 2018). After cracking down on the mentioned agencies, the Government of Nepal halted the sending of Nepali workers to Malaysia in May 2018. Following this long freeze, the Government of Malaysia agreed to sign the bilateral agreement and, on 29 October 2018, the Memorandum of Understanding was signed between the two governments in Kathmandu.

The bilateral labour agreement of 2018 has guaranteed various rights of workers, such as there being zero recruitment fee, where all the expenses, including medical checkup, visa stampings, air ticket, and service charges, are to be borne by the employer. It has also further established repatriation responsibility as being that of employers, among other measures. As this example illustrates, such steps can serve as bargaining chips to ensure the rights and protection of outbound workers in major destination countries like the Gulf states and Malaysia. Such agreements require interaction and negotiation with a variety of actors, aside from the states involved in the bilateral relations, including agencies, employers, and migrants. This ‘migration interdependence’ ([Tsurapas 2018](#)) using soft power has helped in establishing strong diplomatic ties ([introduction](#) to this volume) between Nepal and Malaysia.

Moreover, legislative realities have also highlighted the limitations of purely state-centric or legalistic approaches to migration governance. As far as the existing legal framework of Nepal is concerned, the stand-alone legislation governing foreign employment (the Foreign Employment Act, 2007 and the Foreign Employment Regulation of 2007) are not concerned with the rights-based protection of migrant workers in general, let alone that of undocumented workers. Instead, these have primarily focused on the procedural and regulatory aspects of foreign employment recruitment agencies. Legal measures guaranteeing a legal basis to defend the rights of undocumented workers are missing in the current legislation. However, in establishing the rights of the undocumented migrant workers, some of the references could be drawn from international human rights instruments that are ratified by Nepal. Similarly, other rights defined by international human rights instruments not applicable to Nepal, given their non-ratification, need to be highlighted for future reference.

International legal standards governing the rights and protection of irregular migrant workers

The rights of irregular migrant workers have been articulated in various human rights treaties and instruments ratified by Nepal, both on a regional and international level. With regards to civil and political rights, some rights granted in the International Covenant on Civil and Political Rights (ICCPR) are only applicable to nationals, such as the right to vote or be elected, since Article 25 of the ICCPR has limited this right to ‘citizens’ exclusively. Therefore, irregular migrant workers cannot be said to possess this right. This does not, however, mean that irregular migrants cannot exercise the right to free and fair elections in their country of origin. The legality of one’s residency does not affect one’s right to political participation in their country of origin; irregular or illegal residents in host countries have legal

citizenship in their countries of origin, and the rights and responsibilities that come with it, including the right to vote ([IDEA International 2007](#)). Article 2 of the ICCPR provides that the rights enunciated in the Covenant shall be exercised without discrimination of any status, but it is still not clear whether the ‘other status’ includes irregular migrant workers. The ICCPR offers extremely limited protection against discrimination based on immigration status. The ICCPR could have been subject to the progressive realization of rights of undocumented workers if the ‘other status’ could include immigration status, but the UN Human Rights Committee has not interpreted it broadly. It has referred only to the ‘position of aliens’ and has stated that the alien should lawfully enter the territory of the country (Paragraph 8 of General Comment 15 of the ICCPR).⁶ The Convention has also provided a range of rights to be respected without discrimination.⁷

Similarly, in relation to economic, social, and cultural rights, Article 2 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) has also provided the principle of non-discrimination on any basis and any given status. Moreover, an important reference to the rights of irregular migrants can be found in General Comment 14 of the ICESCR, which outlines that states shall respect the right to health of every person, including illegal immigrants ([Committee on Economic Social and Cultural Rights 2000](#)). In recognizing the vulnerable situation in which irregular migrant workers find themselves, the International Convention on Rights of Migrant Workers and Members of their Families (ICRMW) calls upon states to protect the fundamental rights of migrant workers regardless of their immigration status, and states that all migrant workers and members of their families deserve equal treatment from nationals in regard to conditions of employment (Articles 25–26), social security rights (Article 27), emergency medical care (Article 28), and education (Article 30) ([Bicocchi and LeVoy nd](#)). The Committee on Migrant Workers adopted General Comment 2 in 2013 ([Committee on Migrant Workers 2013](#)), which guides state parties in their conduct towards irregular migrant workers, with specific respect to non-discrimination, protection against violence, protection from arbitrary arrest and detention, protection against inhuman treatment, protection in expulsion proceedings, protection against labour exploitation, the right to social security, the right to urgent medical care, and the right to education. Although the ICRMW has not yet been ratified by Nepal, the Supreme Court of Nepal has issued the directive order to the government to ratify the convention in 2017 (*Prem Chandra Rai v. Office of the Prime Minister 2017*).

Correspondingly, the optional protocol in the ICESCR is an important development regarding the rights of irregular migrant workers. It provides irregular migrants with an international accountability mechanism for addressing violations of their rights. Its application is, however, minimal, as it has only been ratified by very few states, including Nepal. Similarly, ILO

Convention no. 143 has the potential to be relevant because it explicitly includes protection for irregular migrants and affirms to respect the basic human rights of all migrant workers in Article 1 and also provides for the regularization of the situation of irregular workers in Article 9(4) (ILO Migrant Workers (Supplementary Provisions) Convention 1975). However, given the non-ratification by Nepal, it has not yet been applicable. States tend to sign labour rights and human rights treaties when they can conform to, or be defined according to, their interests. They technically have very limited impact in states that fail to sign such treaties, unless national elites can be incentivized to pursue these goals and norms (Chimenti 2018: 426). As Blarel and Ennis discuss in the introduction, pressure from global governance bodies, regional consultative processes, and from civil society advocacy places multidirectional inducements on sending and receiving states to improve governance frameworks around labour migration. Further, as unpacked in the next section, with the right incentives and pressure points, Nepal may find human and labour rights instrumental in serving their interests. What remains unclear is how global governance frameworks can better stimulate the adoption and implementation of these international legal instruments.

The report prepared by the UNOHCHR in 2014, ‘The Economic, Social and Cultural rights of Migrants in an Irregular Situation’ ([UNOHCHR 2014](#)), outlined the principles of non-discrimination and equality, and states obligations with respect to economic, social, and cultural rights. The report also discussed the policy and legal framework of rights to health and to an adequate standard of living, which includes housing, water, sanitation, food, the right to education, the right to social security, and the right to favourable and just conditions of work. It concluded that the existing legal and policy frameworks do address these socio-economic rights of irregular migrant workers.

Human rights mechanisms such as the Special Rapporteur on the Human Rights of Migrants and Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW) have been clear in stating that, although countries have a sovereign right to determine the conditions of entry and stay in their territories, they also have an obligation to respect, protect, and fulfil the human rights of all individuals within their jurisdictions ([UNOHCHR 2014](#)). Hence, in line with the referenced legal instruments, it is established that irregular migrant workers’ basic human rights have been guaranteed under various international laws, however some civil and political rights are subject to derogate from these, giving technical justifications.

Similarly, the inter-state dialogue mechanisms at the international and regional level, like the Global Compact for Safe, Orderly, and Regular Migration (GCM) ([UN 2018](#)), the Abu Dhabi Dialogue ([ADD 2008](#)), and the Colombo Process ([Colombo Process 2003](#)) confer collaborative approaches

to improve migration governance. These dialogue mechanisms centre around fostering ethical recruitment, effective pre-departure orientation, migrant health, gender equality, skill recognition and development, and condemning trafficking and slavery, so reducing the cost of migration.

Clearly, legal and normative instruments exist, but what remains vague is the drive to implement these and who can be held accountable to recognize and, when necessary, defend the rights of irregular migrants.

Remedies for better migration governance vis-à-vis irregular migrant workers from Nepal

Every state has a duty to protect the basic human and fundamental rights of their nationals. Migrant workers have been playing a pivotal role in uplifting the national economy⁸ ([World Bank 2018](#)), in terms of knowledge transfers, better investments and public finance, and economic growth of both the destination and sending countries ([OECD/ILO 2018](#)). The migrant workers need to be respected and protected of their basic human and fundamental rights irrespective of their status. The difficult situations that undocumented workers had to go through should be kept in mind, and repatriation without detention or penalization has to be considered by the respective states. On the part of the sending state, preventing migrant workers from becoming irregular and taking every feasible precaution would help advance the workers' rights and narrow down the migration governance gap vis-à-vis undocumented workers. For instance, in the case of Nepal, the government should not ignore the fact that failures on its part have led migrant workers to assume an undocumented status. The bans on domestic workers, failure to implement zero-recruitment policies, and failure to criminalize unscrupulous intermediaries, among other things, perpetuate the undocumented status of many migrant workers. The following mitigating measures should be considered by the sending countries to prevent workers facing the situation of being undocumented.

Reduce the administrative costs of migration

Migrant workers in Nepal are often found to use irregular channels because of the exorbitant recruitment fee associated with the standard migration process. In this regard, the free-visa-free-ticket policy⁹ adopted by the Government of Nepal was an initiative towards this goal, though its implementation is lacking due to the absence of strict monitoring mechanisms. As a result, the policy has largely failed and the aspirant migrant workers are still paying hefty fees to the recruitment agencies ([UNGA, Report of the Special Rapporteur 2018](#)). Reducing the costs of administrative processes would not only lessen the burden on migrants, but would also keep them from turning to irregular channels because of an inability to pay the fees.

Strict enforcement of laws against the unscrupulous agents of foreign employment

The foreign employment practice in Nepal largely incorporates the role of individual agents in the entire process of foreign labour migration. The fraudulent acts and false promises of these agents, which include falsifying contracts to the migrant workers; charging exorbitant recruitment fees; confiscating documents; and deceiving workers with regard to wages, hours, types of job etc ([Sarah Paoletti 2014](#)) often result in the initial documentation of the migrant workers, however, this can then cause issues further down the line that can result in workers then becoming undocumented. The Foreign Employment Act of Nepal provides jurisdiction to the Department of Foreign Employment to prosecute the agents, however its effectiveness is largely hindered as it is based in the capital, Kathmandu. The centralized judicial structure set out by the Foreign Employment Act (2007) of Nepal, which vested sole authority to the Department, has been an essential determinant behind the impunity of agents. There is a need for structural changes in the judicial setting to bring these agents into the jurisdiction of law. For instance, decentralizing and delegating the complaint hearing authority of the Department at the local and community level, either by handing the authority to the local police or establishing a local complaint hearing office, could be one approach.

Practical and realistic legal measures

The report prepared by the Parliamentary Committee addressed the age ban of female migrant workers as one of the most pertinent reasons that many women enter Gulf countries through irregular channels (Legislative Parliament, International Relation and Labour Committee 2017). Unfortunately, this has led to exploitation by recruitment agencies, with many women being trafficked or forced to enter their destination countries through irregular channels.¹⁰ Evidently, this law has failed to serve its purpose in protecting female migrant workers from exploitation. It is therefore important to review this law and seek a better alternative to simply banning the migration of female workers. Similarly, the Foreign Employment Act of 2007 should also be revisited to consider the situation of irregular migrant workers and provide for their protection in the source country.

Bilateral agreements between Nepal and destination countries

A myriad of problems associated with migrant workers' rights can be potentially addressed through bilateral agreements between the sending and host countries. A clear understanding of both countries through such

agreements regarding the minimum wages; insurance policies; monthly salary packages; accommodation and medical facilities; resident permits; overtime payments, including leave; and other facilities, including the repatriation of dead bodies, among others, provide strong avenues to weaker sending countries like Nepal during the time of dispute. Sender countries, such as Nepal, need to forge bilateral agreements with Gulf countries that, in cases where migrant workers are found to be irregular in destination countries, allow for their fundamental human rights, like the right to legal assistance, non-detention, and repatriation, to be recognized, respected, and upheld. Along with this, sender countries should also ensure that the host countries create conditions by introducing effective policies, border regulation mechanisms, and proper monitoring mechanisms that do not allow people to enter their countries through irregular channels.

Create awareness among the general public

Many migrant workers who are victims of fraudulent recruitment agencies are unaware of their rights during migration. Many people from rural areas of Nepal have not been informed about policies, such as free-visa-free-tickets (zero-recruitment policy), or their rights. Though the Foreign Employment Act does contain many provisions regarding valid processes during migration, many people still fall prey to fraudulent recruitment companies and intermediaries. The government, along with concerned stakeholders, should therefore focus on creating awareness by upgrading the curriculum of pre-departure orientation training combined with post-arrival in the destination countries, providing timely information about the policies and procedures vis-à-vis the foreign labour migration, including the individual rights of migrant workers. The post-arrival structured orientation programmes facilitated by countries like Indonesia and the Philippines (International Labour Organization (ILO) 2015) to its nationals at the destination countries could provide valuable lessons for Nepal.

Mitigating measures to be adopted by the destination countries

Prohibit the retention of identity documents of migrant workers

Studies have suggested that one cause of a migrant worker becoming irregular is the retention of the worker's identity documents.¹¹ In order to get away from exploitation and threats, migrant workers often quit their jobs. However, their identity documents remain with the employer, which leads to their status becoming irregular. In some cases, the employers do not return their identity documents even after the completion of their period of contract. The situation of domestic workers in countries like Kuwait, Saudi

Arabia, and the UAE is equivalent to that of bonded labour, where employers confiscate their passports ([Rassam 1999](#)). This retention of migrant workers' identity documents should be strictly prohibited to avoid the situation of irregularity. Destination countries in the Gulf should establish a monitoring mechanism to scrutinize the confiscation of passports by employers, as currently, despite a strong rhetoric in the Gulf states banning all employers for confiscating passports, in practice, nobody checks.

Guarantee of basic human rights

While irregular migrant workers may not have the right to remain in the country on the same basis as regular migrants, they nevertheless have basic human rights and workplace rights. Regardless of their legal status, employers, and indirectly the destination countries as well, profit from the labour they have provided and have a duty to respect their rights as workers and as human beings. Migrant workers are to be entitled with the basic human and fundamental rights, including, but not limited to, equality and non-discrimination, social protection, family rights, health rights, and access to justice and favourable conditions at work, as set out in the Universal Declaration of Human Rights (UDHR), ICCPR, ICESCR, International Convention on the Elimination of All Forms of Racial Discrimination (CERD), Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and other UN and ILO Conventions, and, most importantly, the ICRMW.

Similarly, being a member country and 2017–2019 chair of the Colombo Process, Nepal can push its agenda to protect the human rights of its nationals, especially the irregular migrant workers. Nepal should, as well, use the Abu Dhabi Dialogue and Global Compact on Migration to assert the rights and welfare of undocumented Nepali migrant workers.

Conclusion

Issues pertaining to the rights of undocumented migrant workers have raised growing concerns throughout the world. Despite the global attention on this issue, undocumented Nepali migrant workers continue to face numerous obstacles in accessing justice and ensuring protection of their most basic rights. The protection of undocumented workers' rights is particularly important in a country like Nepal, where undocumented migration has become a common phenomenon. Nepalese migrant workers holding undocumented statuses are often erringly identified by the term 'illegal' – an insensitive label that is attached with stigma and dehumanization.

The labour relationship between employer and worker is therefore discriminatory because of the latter's misperceived status. As a result,

undocumented migrant workers often have no choice but to resort to settling for inferior working conditions with lower wages. The undocumented experience is characterized by these low wages, poor and often dangerous working conditions, disproportional repercussions for minor offences, and curtailed liberties. Despite having to endure regular exploitation, the workers have limited avenues to turn to for help. Ironically, there appears to be a system of impunity for those who take advantage of the vulnerability of these workers and a system of punishment for the workers themselves.

Through shining a light on these challenging situations, this chapter has examined the role of law and legal frameworks in governance at the international, bilateral, regional, and national level. It shows the limitations and the possibilities of legal interventions and advocacy in responding to governance gaps in the South Asia to Gulf migration governance complex. The case of Nepal is illustrative, and provides important cues. The chapter looks to the inter-governmental and global level as offering significant promise should buy-in and legitimacy be possible. It argues that a collective effort from both the country of origin and the host is imperative to ensure stronger regulation of the sector and to improve the rights and protection of migrant workers. This will require bargaining legislative protections with host countries and collaborating on bilateral labour agreements. An example of a positive step forward in this regard includes the GCM, an inter-governmental agreement aiming to promote respect, and protect and fulfill the human rights of all migrants, regardless of their migration status. If given the space and legitimacy it deserves, the compact would produce positive global implications for undocumented migrant workers. Yet like other global instruments, it remains unclear how states, signatories, and non-signatories can be incentivized to implement GCM agreements holistically and in ways that account for the labour and human rights of all migrants – regular and irregular.

Notes

- ¹ The Foreign Employment Act of [Nepal \(2008\)](#) established the Department of Foreign Employment (DoFE) on December 31, 2008, as a sole organization responsible for monitoring foreign employment. See the following for more information: <http://www.dofe.gov.np/>
- ² The International Relation and Labour Committee of the Legislative Parliament of Nepal formed a subcommittee of eight members. The subcommittee was formed to investigate and monitor the situation of migrant workers in four Gulf countries, namely Saudi Arabia, the UAE, Qatar, and Kuwait. The report is prepared based on the ten-day visit of the subcommittee to these countries (18 March, 2016–26 March, 2016).
- ³ Guideline to provide legal protection to migrant workers, approved by the Government of Nepal (Council of Ministers) on June 28, 2018.
- ⁴ Article 4 (a) of the Directive mentions that the migrant worker is not entitled to legal assistance if his/her contract terms had expired during the time of his/her criminal

offence. Similarly, Article 4 (b) mentions that migrant workers who travelled to destination countries without labour permits are not entitled to the legal assistance.

⁵ Likewise, Percot's chapter in this volume highlights the weak bargaining power of Bangladesh.

⁶ See: General Comment 15 of Human Rights Committee In: Nogales, J.R. (2015). 'The Right to Have Rights': Undocumented Migrants and State Protection. Available online: https://kuscholarworks.ku.edu/bitstream/handle/1808/20300/9-Ramji-Nogales_Updated_Page_Numbers.pdf?sequence=1

⁷ Such as: the right to life; the right against torture, cruel, inhuman, or degrading treatment; the right against slavery or servitude, and therewith, forced or compulsory labour; the right to freedom of thought, conscience, and religion; the right to hold an opinion without interference; the right to privacy; the right against arbitrary deprivation of property; the right to liberty and security of person; the right to dignity; and the right relating to justice.

⁸ The World Bank report finds that remittance contributed 28 per cent of the total GDP of Nepal in the year 2018.

⁹ In July 2015, the government adopted a free-visa-free-ticket arrangement for seven labour destination countries (Qatar, Saudi Arabia, the UAE, Kuwait, Bahrain, Oman, and Malaysia), shifting the financial cost associated with recruitment to the employer.

¹⁰ The national daily of Nepal on February 2019 reported that 'there have been incidents of Nepali women using Indian airports and new routes' where as many as '183 Nepali citizens were rescued from the Indian state of Manipur while trying to cross the Indo-Myanmar border before they would be trafficked to the Gulf and other Southeastern countries'. See <http://kathmandupost.ekantipur.com/news/2019-05-12/two-years-on-nepal-continues-to-bar-women-from-taking-housemaid-jobs-in-gulf.html>

¹¹ See: ILO, Report of the committee set up to examine the representation alleging non-observance by Qatar of the Forced Labour Convention, 1930 (No. 29), made under Article 24 of the ILO Constitution by the International Trade Union Confederation and the Building and Woodworkers International: Conclusion of the Committee Number 51, available at https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:50012:0::NO::P50012_COMPLAINT_PROCEDURE_ID,P50012_LANG_CODE:3113101,en

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State and Non-State Actors in Subnational Migration Governance from Andhra Pradesh and Kerala to the Gulf: A Comparative Study

C.S. Akhil and Aarathi Ganga

Introduction

The management of emigration seemed an especially salient need to policy makers in labour-abundant South Asian countries after the first oil boom in Gulf economies prompted a steep increase in the level of international temporary migration.¹ Alongside the expansion of outward migration for jobs in Gulf states, recruitment networks have grown, and countries in South Asia have had to develop or expand their migration frameworks to respond to the changing nature and pace of migratory flows during this period. Regulatory frameworks and governance regimes developed at the international, national, and subnational levels throughout the late twentieth and early twenty-first centuries. This chapter examines subnational migration governance in India as an underexplored actor and space of multi-level migration governance occurring beyond and within countries in the South Asia to Gulf migration corridor. The chapter focuses more specifically on the states of Kerala and Andhra Pradesh in a paired comparison to contribute to the scholarship on migration governance and multi-level or multi-layered governance (Kunz et al 2011; Murphy and Kellow 2013; Panizzon and van Riemsdijk 2019).

Through this comparison, we argue that the subnational migration governance mechanisms in both states are influenced by economic policies of the state and interest of political parties. We also argue that subnational

migration governance is not limited to the rehabilitation of return migrants. Certain aspects of migration governance in both the Indian states are well advanced, not only in terms of the welfare policies initiated by the state but also in terms of the interventions in host countries by non-state actors to ensure the well-being of emigrants. However, limited collaborations among state and non-state actors reduce the scope of migration governance at the subnational level.

In the 1970s and 1980s, states mainly focused only on migration regulation or promotion policies, as well as bilateral agreements and management of recruitment processes (Gamlen 2006). By the mid 1990s, Civil Society Organizations (CSOs), media, advocacy agencies, and trade unions started to be increasingly involved in emigration processes and shaping the governance of migration and welfare of emigrants in various capacities (Panizzon et al 2015; Thouez 2013). Apart from these actors, within the countries of origin that had a federal system,² another important set of actors in migration governance have been the provincial/subnational governments. India has a federal system and the international migration from the country is primarily concentrated in a few subnational states. As a result, those subnational states have been disproportionately affected by migration and hence they have independently started involving themselves in governing migration through their delimited constitutional and institutional prerogatives (Kumar and Rajan 2014). The characteristics of governance in each subnational state may vary due to differences in institutional and financial constraints, subnational politics, and a varying involvement of state and non-state actors. Identifying the reasons behind the variation in subnational migration governance is vital for understanding more comprehensive migration governance practices.

On first consideration, subnational policies and politics may appear to be of lesser relevance to the study of migration policies, given that the management of most of the matters related to international migration generally come under the jurisdiction of national governments (Gravelle et al 2012). However, the democratic decentralization³ promoted by the international organizations has provided a structural opportunity for the subnational governments to act as more important players in migration governance (Murphy and Kellow 2013). For instance, the intervention of the United Nations (UN) to bring together different actors to develop a comprehensive migration management mechanism has, in recent years, identified subnational actors as predominant players in an increasingly multi-level migration governance (Likić-Brborić 2018; Rother 2019; Thouez 2013).

The attempts to decentralize governance have enabled subnational governments to effectively manage international migration in many aspects, including encouraging labour migration by providing incentives like pre-departure orientation, skill development and education, developing incentives for proper rehabilitation of returnees, and so on. Furthermore, subnational

governments provide tax incentives and Special Economic Zones (SEZ) for the aspiring investors among the returnees and migrant workers, which may directly benefit the local economy. These subnational interventions can also be attributed to the fact that emigration in India has a fiscal dimension and affects Indian subnational states directly. The state governments are not the direct beneficiaries of the foreign exchange advantages of the remittances, nor are they in a position to earn any income in the form of taxes or other charges out of migration or remittances. Unlike other South Asian countries, the cost of emigration (especially temporary labour emigration), in terms of expenditure on education, health, infrastructure, rehabilitation of returnees, old-age care of returnees, and so on, is borne mainly by the state governments ([Harilal and Akhil 2017](#)).

In addition to subnational states being active actors in migration governance, multiple non-state actors, like CSOs, media organizations and personnel, and emigrant organizations, are also active at the subnational level of migration governance. The engagement of these non-state actors with the state and labour migrants also varies across subnational states. Among 29 subnational states in India, only 12 have been witnessing large-scale international migration.⁴ Among them, Punjab and Gujarat have experienced substantial and permanent migration to developed economies, while the rest of the states have experienced temporary labour migration to Gulf countries and other Emigration Check Required (ECR) countries.⁵ These states are expected to manage the pre-departure process of migrants, their welfare, and rehabilitation of returnees, as opposed to subnational states that have witnessed permanent migration.

Andhra Pradesh and Kerala seem exceptional within India with regard to efforts from both state and non-state actors to manage international migration. Both Kerala and Andhra Pradesh are known for their proactive approach to managing emigration, despite the differences in their governance models. Both states have set up state-level institutions to manage emigration and to ensure the welfare of emigrants.⁶ Moreover, these two states have had a strong presence of non-state actors both within and outside the country, including CSOs, media, trade unions, diaspora organizations, and returnee associations. That is, we observe these non-state actors operating within the state and across the country, as well as transnationally across the migration corridor and within the receiving countries.

The diverse nature of existing governance mechanisms and the involvement of various actors in migration governance makes this particular comparison relevant. The attempts by both the states to govern emigrants can be revealed by analysing the differences in existing governance models, institutional design, and variation in the inclusion of non-state actors in this governance. Altogether, this chapter attempts to understand how the governance of migration takes place at the subnational level of a major country of origin

amidst several disadvantages, including the lack of data, the absence of diplomacy capacities, financial constraints, and political differences with the national government. The analysis is based on qualitative information collected by in-depth personal interviews of bureaucrats, civil society activists, recruitment agents, and emigrants. Apart from this, a field survey of 50 migrants from both Andhra Pradesh and Kerala, based on a semi-structured questionnaire, was conducted to understand the recruitment process at the subnational level. Available government documents and publications on emigration are also used. This chapter examines the role of the state and non-state actors in subnational migration governance by comparing the institutional architecture and welfare policies and programmes, especially recruitment and orientation programmes.

Migration governance – beyond national governments

The power and control over emigration has traditionally been vested within national governments. However, the influence of subnational bodies on emigration policies and the call for democratic decentralization have pushed towards an increasing role of subnational migration governance. Subnational migration governance involves both subnational state governments and institutions, as well as domestic and international non-state actors, including private players, playing a direct role at the subnational level ([Gravelle et al 2012](#)).

Domestic non-state actors include local non-governmental agencies – organizations without political affiliations. These organizations traditionally try to protect and ensure the rights and safety of migrant labourers who are mainly coming from vulnerable sections of society. Private actors, such as business actors and recruitment agencies, can also be included in this category of domestic non-state actors. International non-state actors consist of international agencies with strong ties to national governments, like the International Organization for Migration (IOM), the International Labour Organization (ILO), and other UN-affiliated agencies and non-governmental organizations (NGOs) ([Panizzon et al 2015](#)). Some of these international advocacy agencies operate both at the domestic and international levels ([Gravelle et al 2012](#)).⁷ Additionally, some private players and transnational corporations with specific interests in subnational regions can equally be considered transnational non-state actors. The major components of migration governance that these actors try to influence in the subnational spheres are legislation, policy planning, administration, and implementation and finance of emigration management programmes ([Kumar 2010](#)).

In the Indian context, state governments officially do not have any responsibility for emigration under the Emigration Act of 1983. Under this legislation, the subnational governments' role in migration management is

limited to providing proper education and skills for the emigrants. However, the growing influence of migration on states' economies and the need for better management of emigration has led to an increase in the scope of subnational involvement in migration governance. The study considers and compares three aspects of this increased migration governance role, that is, planning/policy making, administration, and implementation of emigration management programmes in the cases of the two Indian states of Kerala and Andhra Pradesh. The major actors involved in subnational migration governance that are observed are the subnational governments, CSOs, private economic players, media, returnee and diaspora organizations, politically affiliated organizations, and trade unions.

The following sections will analyse the existing institutionalized initiatives and activities of non-state actors to understand how these actors are involved in migration governance in Kerala and Andhra Pradesh.

Migration governance in Kerala

Among the states within the Indian federation, Kerala has the largest emigrant population and the composition of emigrants is of a heterogeneous character. The Kerala economy has greatly benefited from emigration, especially to Gulf countries ([Prakash 1998; Zachariah et al 2001](#)). Only a few states in India have set up specialized agencies to deal with the governance of their emigrants. Leading this effort to initiate state-level policies, in 1996, Kerala set up the Non-Resident Keralites Affairs (NORKA) as a department of the government ([Kumar and Rajan 2014](#)). NORKA was created to formulate schemes for the welfare of emigrants and address their problems. We argue that the creation of the NORKA Department was connected to Kerala's much-celebrated decentralized planning. Kerala's local bodies are much more effective in terms of outreach and implementation than their counterparts in other states of India ([Narayana 2005](#)).

At the same time, there are some agencies that work closely with international non-state actors, including the UN advocacy agency Migrant Forum in Asia (MFA) and the ILO, which are active in the state. The Centre for Indian Migrant Studies (CIMS), the Self-Employed Women's Association (SEWA), and the Trivandrum Social Service Society (TSSS) are other active CSOs directly associated with UN agencies to ensure safe and legal migration for migrants.

Apart from CSOs, a few visual media and newspapers that have presence in both countries of origin and of destination have been publishing news and telecasting programmes about the migrants in distress. These initiatives attempt to deal with the lack of knowledge and awareness of the migration process. Another set of non-state actors are the different returnee organizations and diaspora organizations in the host country.

The returnee organizations in the state generally attempt to convey the issues of returnees and emigrants to the subnational government of Kerala. Simultaneously, the diaspora organizations that operate in the destination countries help the migrants in distress financially and provide them with various support mechanisms.⁸

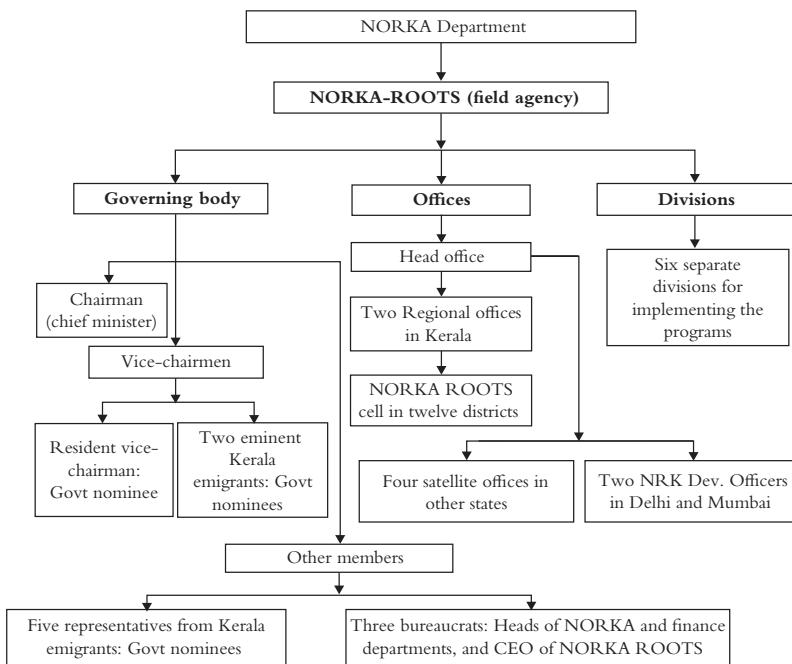
Institutional architecture of NORKA

The first notable institutional intervention by the NORKA Department was in 1998, with the establishment of an agency called Non-Resident Keralites Welfare Agency (NORKWA). But the lack of institutional and technical support and shortage of human resources in the NORKWA led to the formation, in 2002, of a field agency called NORKA-Roots, which is a company under section 25 of the Companies Act, 1956. NORKA-Roots not only acts as a field agency but also as a central government certified recruitment agency.

The governing body of NORKA-Roots is composed of a director board, with the Chief Minister of the state of Kerala as its chairman. There are three vice-chairmen, including two emigrant representatives and one resident vice-chairman from Kerala. These three are nominated by the government (based on political affiliations). The rest of the board of directors consists of five emigrant members and three bureaucrats, which include the Principal Secretary of the NORKA Department, Joint Secretary of the Finance department, and the Chief Executive Officer of NORKA-Roots (see [Figure 4.1](#)).

All members of the board of directors have to be citizens of the country, and Overseas Citizen of India (OCI) card holders cannot be chosen. The day-to-day operations of the agency are handled by the CEO and resident vice-chairman. There are six major divisions in the agency that implement the various programmes: 1) financial assistance programmes; 2) Non-Resident Keralite (NRK) ID card and insurance; 3) recruitment; 4) skill upgradation, Pre-Departure Orientation Training (PWOT), and awareness; 5) NORKA Department project for return emigrants; and 6) emergency repatriation and helpline ([NORKA-Roots nd](#)).

The review of the programmes of the NORKA Department and of their implementation suggest that they are best seen as a statement of intention rather than as an effective state intervention ([Harilal and Akhil 2017](#)). The organization has not been effective in achieving its objectives because of the poor fund allocation for each programme, the lack of employees in NORKA-Roots and subsidiary agencies, and the absence of long-term planning for each programme. The NORKA Department is managing all these initiatives using only state-owned resources, and not a single agency other than the Kerala government is involved in the planning and implementation of these

Figure 4.1: Institutional architecture of NORKA

schemes. However, the diaspora and returnees' associations have constantly protested about the poor implementation of the NORKA-Roots initiatives and submitted memorandums that included policy suggestions for policy and governance reforms (*The Hindu* 2012). They have acted as a pressure group to the Kerala government to change and improve migration governance.

Analysing migration governance in Kerala

This section analyses subnational policy planning, administration, and implementation in migration governance in Kerala. The involvement of state and non-state actors in recruitment and pre-departure orientation programmes is specifically highlighted to analyse the role of various actors and the effectiveness of the current governance model. Both academics and policy makers have criticized the fact that issues related to recruitment, like recruitment fraud, resettlement of return emigrants, and the treatment of domestic workers in Gulf countries, are not adequately managed by state institutions (Kodoth and Mishra 2011; Kodoth and Varghese 2011; Pattadath and Moors 2012). Hence, an examination of these initiatives can throw some light on possible migration governance gaps at the subnational level. The analysis was done by conducting in-depth interviews with government

officials, CSO activists, and emigrants, and by collecting secondary information from various governmental institutions.

Even though state governments do not have a considerable role in drafting migration legislation, the Kerala assembly did vote on the Non-Resident Keralites Welfare Act of 2008. The act envisaged pension schemes, family pension schemes, and death assistance for emigrants. The act was basically implemented to establish the Kerala Non-Resident Keralites Welfare Board. As per the provisions of the act, the board dealt with the welfare of the returnees. This is a unique initiative in the country and the 2015 to 2016 data illustrates the fact that around 0.15 million people are members of the board, including around 0.11 million people who work abroad, 42,000 return migrants, and 3,000 people who work in other states.⁹ The welfare board also has the same governing structure as NORKA-Roots, and was established following protests by various associations of return migrants and migrants who are politically affiliated. For instance, the ‘Pravasi Sangham’, which is affiliated to the Communist Party of India (Marxist) (CPI(M)), the ‘Pravasi Congress’, which is linked to Indian National Congress, and the ‘Pravasi League’, which is affiliated to the Indian Union Muslim league, were the three organizations that lobbied the Kerala Government for the Act to be passed. These protests not only forced the state government to recognize the importance of politically affiliated migrant groups, but also led to the formation of similar associations by other political parties in Kerala. These organizations act as pressure groups to ensure the representation of returnees and emigrants in the quasi-government bodies for the welfare of the migrants. Unlike other agencies and initiatives, the entire administrative and governing body was appointed based on the political interests of the ruling alliance. Other than the Welfare Act of 2008, no other legislations have been introduced since the creation of NORKA in 1996.

Moreover, the public financing in migration governance initiatives has an unexpected arrangement, and remains minimal. Unlike other decentralized programmes, the national government does not support NORKA-Roots financially. The entire system is solely supported by the Kerala Government via a state plan fund. There is a yearly plan fund allocation for NORKA-Roots from the state plan fund, which is usually announced during the annual budget presentation of the state government. An individual fund generated from the fees and revenue receipts from various support services of NORKA-Roots is the other source of funding.¹⁰ However, the plan allocation has been limited and funding has been inconsistent. **Table 4.1** shows that plan allocation is meagre and it does not match the contribution of Non-Resident Keralites (NRKs) to the State Gross Domestic Product (SGDP). Additionally, the NORKA Department has never received any assistance from non-state actors or foreign aid at any point of its operation.

Table 4.1: NORKA in state plan

Year	State plan	NORKA Plan (in crores)			
		Allocation (in crores)		Expenditure (in crores)	
		Allocation	Percentage to total plan	Expenditure	Percentage to allocation
2002–03	4026	0.95	0.02	0.27	27.99
2003–04	4350	0.9	0.02	1.96	217.41
2004–05	4800	2.5	0.05	1.46	58.60
2005–06	5369.8	2.5	0.05	0.46	18.43
2006–07	6680.6	2.5	0.04	1.29	51.73
2007–08	6950	1.72	0.02	0.90	52.26
2008–09	7700.5	3.8	0.05	5.76	151.64
2009–10	8660	4	0.05	3.08	77.12
2010–11	10000	5.95	0.06	3.14	52.81
2011–12		11.51		5.71	49.63

Source: [Harilal and Akhil 2017](#)

As a pioneer in subnational governance in India, Kerala was expected to come up with a well-written policy for emigration management. The existing studies and policy initiatives by the government have indicated that Kerala promoted emigration by attempting to ensure the welfare of the migrants ([Harilal and Akhil 2017; Kumar and Rajan 2014](#)). Major political parties in the state have maintained ‘migration policy’ as a key promise in their respective election manifestos over the years as a matter of practice. However, there have been no concrete attempts to frame a policy plan for future emigration from Kerala.

To provide a deeper understanding of migration governance and the specific roles of state and non-state actors at the subnational level, two specific policy areas – recruitment initiatives and pre-departure orientation and awareness programmes – are analysed below.

Case study of recruitment and orientation programmes

There are two national government-approved, government-owned recruitment agencies operating in Kerala. The Overseas Development and Employment Promotion Consultants Limited (ODEPC) was the first state-owned recruitment agency in India, established in 1977. In 2002, the Kerala Government decided to integrate the recruitment process with other activities related to migration and established a separate recruitment agency affiliated to NORKA-Roots. ODEPC functions under the Department

of Labour, Kerala, and the board of directors is composed of bureaucrats from the Kerala Ministry of Labour. All activities, including recruitment, training, and skill development, are managed and controlled by the state government apparatus. In the case of ODEPC, Rajan et al (2011) noted that ‘ODEPC could only send a total of 4,800 individuals in the three decades of functioning, a period when Kerala witnessed massive migration’. This is one of the reasons behind the inception of the NORKA-Roots recruitment agency. It has operated as a separate wing with the field agency NORKA-Roots. The agency has become a crucial player in the recruitment efforts in the state after two administrative and policy decisions. Firstly, NORKA-Roots received a recruitment licence in 2011 to act as a recruitment agency for international migration. Secondly, the implementation of the e-Migrate scheme at the national level meant that the national government assigned the subnational state, government-run, agencies to conduct recruitment of domestic workers and nurses exclusively.¹¹

NORKA-Roots have been very proactive in recruitment activities since the introduction of the e-Migrate scheme by the national government in 2015 (see Ennis and Blarel, and Walton-Roberts, Rajan, and Joseph in this volume). It has recruited around 1,000 nurses and 40 domestic workers emigrating to the Middle East since 2016. The organization normally gets direct job offers from employers in the Gulf countries, including hospital groups, individual diaspora households, and government-approved agencies from host countries. Between 2016 and 2018, NORKA-Roots received more than 5,000 job offers for nurses alone.¹² The challenges faced by NORKA-Roots are a lack of jobs or lack of connectivity to the job market, even when hundreds of prospective employees are looking for migration. The network migration and large pool of educated semi-skilled and skilled migrants attract many employers to the Kerala job market. The private entrepreneurs from Kerala who work in the Middle East also work strenuously to channel recruitment towards Kerala. But the disconnect between the recruitment agency and job market has remained a challenge.

The important means of capturing the job market are the job portal set up by NORKA-Roots and media advertisements. Both methods were not successful enough at connecting the prospective emigrants and employers in the Gulf countries. The recent and very first legal recruitment of housemaids from India has happened via NORKA-Roots.¹³ Al-Dura, a quasi-government agency from Kuwait, has approached the NORKA-Roots via the Government of India to recruit 500 domestic workers from Kerala. NORKA-Roots spent 0.6 million Indian rupees to advertise this via media and other platforms. However, NORKA only received around 30 applications, when hundreds of domestic workers are still travelling to the Gulf countries via illegal channels.¹⁴ Considering the importance of the initiative, one could argue that it is a welcome step in the recruitment sector

in the country. According to the recruitment officer of NORKA-Roots, “the challenges faced by NORKA-Roots are limited infrastructure facilities and lack of collaborations with local bodies and CSOs in bridging the gap between demand and supply” (interview, 18 September 2018). Out of 29 domestic workers who completed the procedure, 12 came to know about the programme via advertisement, 11 via friends and relatives, 4 people via their church, and 2 people via SEWA, a trade union for domestic workers.¹⁵

The skill upgrading and pre-departure orientation and awareness programmes should also be discussed in the context of recruitment. The skill-upgrade training programmes for prospective migrants are provided through selected government institutions across Kerala.¹⁶ Skill-upgrade under NORKA-Roots has included technical coaching, spoken English, communicative skills, and soft skills, including classes on recruiting procedures, pre-departure orientation, and information about employment contract among other initiatives. The training is conducted through state government agencies. During 2015 and 2016, training was imparted on 30 subjects and 3,770 students were given training. However, most of these training initiatives were not given to the persons who actually migrated.

The most vulnerable groups among the migrants have been women with poor educational backgrounds who migrate as domestic workers. To manage this issue, NORKA conducted a training programme in association with a CSO called ‘Trivandrum Social Service Society’ (TSSS)¹⁷ in 2016. This association with TSSS happened because of the efforts of the then CEO of NORKA-Roots. The TSSS selected 30 women from the most vulnerable strata of society and provided infrastructure facilities for the training. The three-month training programme was deemed a success as all participants gained employment within three months of completing the programme in developed countries and Gulf countries. But NORKA-Roots could not continue its association with TSSS because of the objection from the governing board. It was objected because of the religious background of the TSSS. That is, that TSSS operates under the Latin Archdiocese of Trivandrum and all participants were from that community alone. The reversal of the decision to associate with TSSS was also influenced by the departure of the NORKA-Roots CEO who had initiated the project.

From then onwards, NORKA-Roots decided to give training only for the employment-ensured candidates. The first training programme conducted exclusively by NORKA-Roots for the selected domestic workers was a basic one-day awareness programme. Out of the 20 participants, 17 of them were aware of the e-Migrate scheme and none of them had attended any pre-departure orientation programs previously. Out of the 20 participants, 15 felt that the one-day training programme was not enough to give them the confidence to work abroad.

These are the only two training programmes ever conducted by NORKA-Roots, and the discussion to co-operate with trade unions like SEWA to train and identify domestic workers to meet demand was not entertained by the higher officials because SEWA insisted on long-term training programmes for the prospective emigrants. So far, the recruitment and training activities of NORKA-Roots have not included any attempts at vital collaborations with non-state actors, such as CSOs, to enhance emigration from Kerala. The decision-making, planning, and implementation of programmes have been completely vested within the field agency.

The established recruitment agencies at the level of the Kerala state do not involve the recruitment of unskilled workers, especially in the post-e-Migrate context after 2016. This recruitment was mostly carried out by sub-agents and agencies that operated in other Indian states. Mr Rahman, operational manager of a major recruitment agency in Kerala, explained that:

‘[T]here are hardly any interactions between recruitment agencies in the state and other actors including government and CSOs. At the same time, the agencies with more than one branch in the state do not recruit individual unskilled workers to the Gulf. The reasons are lack of profit from recruitment of unskilled workers [and] stringent provisions of e-Migrate, including follow-up after recruitment.’ (Interview, 22 September 2018)

These agencies had been concentrating on the bulk recruitment of semi-skilled workers, for which the risk is lower. In fact, high-skilled migration happens mostly through networks, and private recruitment agencies are not allowed to recruit nurses to Emigration Check Required (ECR) countries.

The non-state actors, including CSOs, within the country and outside, are not directly involved in the recruitment, training, and orientation programmes run by the state government. However, they have played an effective role in migration governance. CIMS, SEWA, and TSSS have associated themselves with UN agencies like the ILO, UNHCR, and UN Women to identify problems of migration governance. They have conducted awareness programmes for migrants and their families in association with media and religious organizations. Also, they have reported the issues in recruitment practices to international agencies and national and state policy makers via UN-affiliated CSOs, like MFA, which is an international advocacy network for migrant's rights.

The other set of actors are diaspora organizations and associations of returnees. The returnee associations in the state mostly concentrate on activities related to emigrant reintegration, and they lobby government for policies for the welfare of the emigrants. Diaspora organizations have been mostly focused on maintaining socio-cultural associations in the host country,

and occasionally on submitting policy suggestions to the state government through representatives who are migrants on vacation/leave.

A highly visible intervention from the visual media world in migration governance has been the efforts carried out by ‘Migrants World’ (Pravasalokam).¹⁸ This is a unique weekly television programme that has helped trace Keralites who were missing while working abroad, mainly in the Gulf countries. The programme has created a network of volunteers across the world to help and rescue migrant workers who are facing poor working conditions or serving jail terms for offences related to immigration documents. Among the non-state actors involved in migration governance, ‘Migrants World’ stands out because of its desire to expand the operations by joining the international migration networks that enhance migration management across the globe. It created a group of various actors, including CSOs at home, media, diaspora networks, bureaucrats, and legal experts. The successful actions of this group overshadow many of the welfare activities of the state governments. Thus, assisting emigrants in distress was mostly carried out by the informal cooperation of these non-state actors.

Consequently, when we analyse the recruitment process and orientation as a case study of subnational migration governance, it becomes evident that there are no clear signs of cooperation between the major private and public actors across the two subnational cases. However, there were instances of sporadic collaborations as a result of ad hoc individual bureaucratic initiatives. This analysis shows that there has been a lack of linkage between state and non-state actors, which limits the scope and efficiency of migration governance in Kerala. On a positive note, initiatives such as Loka Kerala Sabha¹⁹ seem to signal a change in approach to migration governance in the state. The state tries to bring various actors from within and outside the state structure in a single platform to create a more inclusive migration governance complex for the state.

Migration governance in Andhra Pradesh

Unlike Kerala, migration management in the subnational state of Andhra Pradesh has historically been limited except for the presence of the Overseas Manpower Company of Andhra Pradesh (OMCAP) and a tiny Non-Resident Telugu (NRT) division, which was established in 2006. The reason for the lack of attempts to establish a proper management system of emigration has been due to the specific composition of emigrants from the state. The notable stream of migration before the 21st century was permanent emigration to developed countries, and so the NRTs never required any kind of welfare-oriented support from the home country since they had relinquished their Indian citizenship. But, the former Chief Minister of (United) Andhra Pradesh,²⁰ Mr Chandrababu Naidu, has effectively used the network of Telugu diaspora

to transform Andhra into an IT hub. The Andhra Pradesh Vision 2020, or ‘Swarnandhrapradesh’, document was prepared in 1999 to effectively extract the benefits from NRTs for an independent state government development programme to assert the autonomy of the Andhra Pradesh state. These initiatives did not lead to the formation of an institutionalized governance mechanism because Mr Naidu lost power in the state elections of 2004.

However, the increase in unskilled and semi-skilled migration to the Middle East and Malaysia from the poorer districts of United Andhra Pradesh prompted the government to establish a recruitment agency called OMCAP to manage recruitment, skill training, and pre-departure orientation (OMCAP brochure).²¹ As an independent agency under the labour and skill ministry of Government of Andhra Pradesh, OMCAP did not receive any budget allocation. The role of the NRT division in the United Andhra Pradesh Government was negligible and the first budgetary allocation for the NRT division of United Andhra was received in the year 2012–13.

In the United Andhra Pradesh, CSOs such as National Workers Welfare Trust (NWWT), Emigrant Welfare Forum (EWF), and Migrant Rights Council (MRC) were the leading stakeholders in migration governance. They continued their efforts even after the bifurcation of the state. These CSOs are mainly involved in information dissemination, grievance redressal, protection of migrant’s rights at all stages of migration, and reintegration of return migrants. Considering the minimal government intervention in the migration governance, their efforts were financially supported by international organizations.

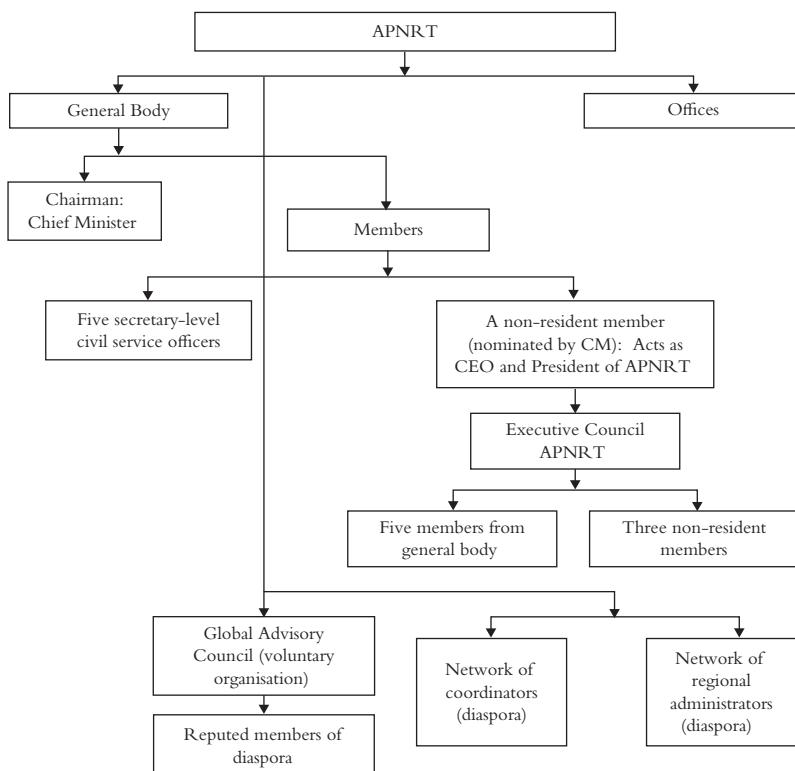
Even though non-state actors, including CSOs, were active in the state before the bifurcation of the state, with an aim of ensuring safe and legal migration for the labour migrants, the subnational government had hardly engaged in governance of migration. However, the newly formed governments in both states after the bifurcation became proactive in migration governance by creating new state-run agencies. The government of the new Telangana state decided to stick with the existing NRT division, and the Andhra Government established the Andhra Pradesh Non-Resident Telugu Society (APNRT) by emulating the institutional architecture of the NORKA-Roots in Kerala. The bifurcation of 2014 also led to the creation of a new recruitment agency for the Telangana Government called the Telangana Overseas Manpower Company (TOMCOM), and OMCAP was taken over by the Andhra Pradesh Government. The next section mainly analyses the state responses from the newly formed Andhra Pradesh state and OMCAP.

Institutional architecture of APNRT

APNRT is a non-profit society governed by a seven-member general body, which makes decisions on all matter related to its governance. The general

body of the society include the Chief Minister of Andhra Pradesh, who is its chairman, and five secretary-level Indian Administrative Service (IAS) Officers of the Government of Andhra Pradesh, acting as ex-officio members. One non-resident member is also nominated by the Chief Minister of Andhra Pradesh as ‘Advisor to Government of Andhra Pradesh, NRT Affairs and Investments’, who acts as the ex-officio ‘President and CEO’ of the society (APNRT 2018). The management of the society is vested in an ‘Executive Council’ consisting of five members derived from the general body and three NRT members, who act as the executive leadership in taking care of the day-to-day affairs of the society (APNRT 2018). In addition to the above, there is an organization within APNRT that consists of a ‘Global Advisory Council’, whose ‘members are senior community leaders, senior entrepreneurs and other people of repute, to elicit guidance in the future direction of the society’. A network of ‘coordinators’ in every major city, and of ‘Regional Administrators’, who are senior APNRT members, are appointed to promote the activities of the society (see Figure 4.2).

Figure 4.2: Institutional architecture of APNRT



The members of all these committees can be either citizens of the country or OCI card holders of Indian Government. The constitution of the governing body and other bodies show that the presence of bureaucrats is less when compared to other areas of governance. The key focus areas of APNRT are services, investments, and smart villages.²² The major thrust of this initiative has been to incentivize investment by NRTs.

All these initiatives have been managed and implemented by state actors with the support of the political party in power at the level of the state government and the private investors among NRTs. The strong presence of CSOs in the state has yet to be fully mobilized by the state-led migration management initiatives. The next section portrays a detailed analysis of migration governance in the state.

Analysis of migration governance in Andhra Pradesh

Unlike Kerala, the migration management in United Andhra Pradesh is still at an incipient stage. Even though the Andhra Pradesh Government has set up an institutional mechanism, there are no signs of a coherent migration policy yet. Furthermore, both the newly-formed states' assemblies have yet to legislate on migration issues.

The migration department of United Andhra Pradesh did not receive any planned funding until 2012, from either the national or state governments, but there was a visible improvement in plan funding after the bifurcation. The state government allocated 400 million INR for APNRT in society in the first two years after 2014.²³ However, the state-owned recruitment agency has not received any funding from the government.

The next section analyses the remaining components of subnational governance by conducting a case study of the recruitment practices and awareness programmes in United Andhra Pradesh. As a state with poor literacy rates compared to other states with high migrant populations, Andhra Pradesh has faced significant illegal migration and recruitment fraud over the years ([Kodoth 2017](#)). This issue has been aggravated by the absence of transparent recruitment mechanisms and orientation programmes.

Case study of recruitment and orientation programmes

Similar to that of United Andhra Pradesh, OMCAP, which has been involved in recruitment activities for the past ten years in Andhra Pradesh, is the most directly relevant and active player among the two recruitment agencies in the state. OMCAP's role has developed beyond being a mere recruiting agency, as it has also provided skill training (with a duration of 15 days or two months) in association with training providers, such as the National Academy of constructions (NAC), Government Industrial Training Institutes (ITIs), and

other recognized training centres, to assist the workers in placement. OMCAP has also conducted various programmes with the help of CSOs, like a mini-employment conference and job fairs. Regarding recruitment, OMCAP has mainly recruited certified semi-skilled workers and nurses who have met the market demands of Gulf countries. Up to 2017, OMCAP had placed 1,600 workers in the Gulf countries, Egypt, and Macau, and 8,410 candidates were provided orientation skills on overseas jobs. OMCAP established a Migrant Resource Centre (MRC) to develop awareness, help, and protection for the migrants abroad. MRC, in association with IOM, operates a telephone helpline to aid overseas migrant workers and address issues faced by migrants from Andhra Pradesh in distress in the host country.²⁴

Like NORKA-Roots, OMCAP also received an offer from the Kuwait Government to recruit 500 domestic workers via Al-Durra. Since districts like Kadapa have witnessed the massive migration of domestic workers, the government was expected to accept the offer. However, the state has been reluctant to do so. According to Dr K.V. Swamy, the general manager of OMCAP:

'[S]ince OMCAP is under the labour ministry in the state government, the governance of OMCAP is complicated. The formation of APNRT society led to a power shift and OMCAP is facing [a] shortage of human resources and finance. Even though we receive attractive job offers from [the] Gulf, with the current institutional mechanism it is impossible to accept the offers. The competition and illegal activities of private recruiters is also a hindrance for us to reach the prospective migrants at the local level.' (Interview, 30 September 2018)

The private recruiters have strong networks, including sub-agents that act at the very local level. The registered recruitment agents in Andhra Pradesh mostly recruit unskilled and semi-skilled workers to emigrate to the Gulf countries and Malaysia. However, the large presence of sub-agents who work for illegal agents at the local level prevent the entry of legal recruiters, especially in rural Andhra Pradesh. In United Andhra Pradesh, the government has been supported by CSOs to conduct awareness programmes in the main pockets of emigration. CSOs even identify the prospective migrants for the government recruitment agency. Following the bifurcation, the state has decided not to incorporate many of the non-state actors. Other than CSOs, the presence of non-state actors, including media and returnee organizations, has been surprisingly limited.

Regarding the orientation and awareness programmes, the role of the newly formed APNRT society has been negligible and traditionally reluctant to associate with the CSOs, private players, and other international non-state actors in ensuring the welfare of emigrants from Andhra Pradesh. A survey

of prospective and returned domestic workers from Andhra Pradesh has revealed a lack of awareness initiatives and of pre-departure orientation. Out of 25 respondents from the Kadapa district in Andhra Pradesh, 24 of them did not know about OMCAP, which is the only government-approved agency in Andhra Pradesh assigned to recruit domestic workers. Among them, 15 respondents had already migrated once and had never received any pre-departure orientation before migrating. Surprisingly, five among them had received illegal visas to migrate to the Gulf as domestic workers during the survey. The reluctance of APNRT to conduct orientation and training to ensure the welfare of labour migrants and to collaborate with non-state actors such as CSOs and international NGOs has been a distinct feature of governance in Andhra Pradesh.

The non-state actors have played a significant role in the orientation and awareness programmes in the state, with the help of aid from ILO and UN agencies. Notable efforts were taken by NWWT. In 2016, the organization introduced two initiatives in the state. The first one was the circulation of a handbill called the ‘migrant workers guide’, which consisted of a list of the do’s and don’ts during the pre-departure stage, as well as during the stay in the host country and return. NWWT targeted major pockets of migration in East Godavari, West Godavari, Krishna, Kadapa, Kurnool, Nellore, Anantapur, and Visakhapatnam districts in Andhra Pradesh. NWWT also incorporated the efforts of both national and state governments for labour emigrants in the form of a handbook in English and Telugu. Lissy Joseph, the co-ordinator of NWWT pointed out that

‘Our job is not to replace the governments, but to compliment the efforts of the state and point out the policy gaps in respective platforms. But, the Andhra government never supported the activities of CSOs in the form of finance or institutional supports. We mostly act as intermediary which bring together other actors including government, media and political parties.’ (Interview, 14 October 2018)

The second notable initiative launched by NWWT was a ‘Community based Awareness Campaign and Capacity Building on Safe and Legal Migration’ in East Godavari and Kadapa districts. It not only attempted to promote safe migration through extended outreach of information and legal services, but also to increase the protection of migrants by coordinating various stakeholders. The initiative attempted to reach around 2,000 households, and conducted 24 community-level meetings and 10 public meetings in order to spread awareness among the people. To strengthen the mechanism, NWWT conducted meetings with government officials and media representatives as well.

Despite the efforts made by CSOs to reduce illegal migration and to ensure the safety of migrants, the domestic workers from these regions have still been

migrating through illegal channels. Ten per cent of the respondents to the survey were awaiting their visa without having registered in the e-Migrate portal. In addition, e-Migrate data has shown that female migration (mostly for domestic work) in these districts has reduced drastically.

The Emigrant Welfare Forum (EWF), an organization of migrant workers and returnees, conducts orientation programmes for low-skilled migrant workers and construction workers in association with the Protector of Emigrants (POE) office, as well as distributing pamphlets. Another prominent initiative by EWF is the creation of village-level ‘WhatsApp groups’ for migrant workers. The groups consist of civil society representatives, prospective migrants, and migrants at the destination country. They aim to disseminate information and updates from government. Another organization involved in migration governance in the United Andhra Pradesh is the Migrant Rights Council (MRC). Unlike NWWT and EWF, MRC is the oldest organization in the state that advocates for migrant’s rights. Apart from mobilizing migrants, MRC advocates with both state and national governments for the rights of migrant workers. At the state level, both EWF and MRC conducted advocacy campaigns regarding the formulation of migration policy. All three organizations, in association with their partner, MFA, had been conducting pre-departure orientation training and recruitment monitoring. However, their attempts to promote ethical recruitment practices in the state have so far been unsuccessful due to the high leverage of recruitment agencies among the policy makers.

While non-state actors have attempted to promote better governance, the state government has failed to curb the increasing illegal emigration. The disconnect between the state machinery, recruitment agencies, and CSOs seems to have been the main reason for the failure of migration governance in Andhra Pradesh. In addition, the contribution of political parties and politically affiliated emigrant organizations in the governance is absent in the state.

After analysing the recruitment and orientation initiatives in Andhra Pradesh, a lack of institutional initiatives by the government to address the issues in governance can be identified. Unlike Telangana and United Andhra Pradesh, the collaboration with non-state actors has been mainly lacking in the newly formed Andhra Pradesh state. Recruitment agents, CSOs, and the state are operating separately. Besides, efforts by both, and CSOs, have not been enough to overcome the influence of illegal recruitment agents and sub-agents on emigration from the state.

Comparing migration governance of two states in India

The analysis of migration governance in two Indian subnational states can be considered a reflection of how migration governance can also take place

at the provincial level in India, and in other national and regional contexts, through decentralization and globalization processes (Piper 2015). As this chapter demonstrates, this is an underexploited yet crucial area of multi-level migration governance. As of now, most of the scholarship on multi-level (or multi-layered) migration governance has focused on the coordination (or lack thereof) between states, international and regional organizations, and non-state actors, but has not focused on subnational spaces (Kunz et al 2011; Murphy and Kellow 2013; Panizzon and van Riemsdijk 2019). It is therefore important to understand how subnational state actors are key stakeholders of the migration governance complex, and also how state and non-state actors shape migration governance at the subnational level and how this intersects with other transnational-level developments.

The governments in both Andhra Pradesh and Kerala have opted for governance initiatives with similar characteristics, but some noticeable differences could be identified at the implementation level. One common aspect of subnational governance in both states is the lack of support from the national government in pre-departure programmes, and recruitment and rehabilitation programmes (Harilal and Akhil 2017), especially in terms of financial aid. Considering the size of remittance coming to both states, the budget allocation for emigration-related activities has been minimal. The budget allocation for NORKA in 2018–19 was 170 million INR and that of APNRT was 400 million INR. The lack of financial support from the national government and the restriction in mobilizing foreign aid constrained the means for state government interventions at the subnational level.

Another challenge faced by both Kerala and United Andhra Pradesh has been the lack of information sharing from the national government. The respondents from Kerala and Andhra Pradesh unanimously shared the difficulties in designing appropriate policies for migrants from the states without knowing the number, occupation, and destinations of the emigrants. The denial of basic information regarding the emigrants by the national government has further restricted the involvement of subnational governments in migration governance. Moreover, due to domestic political differences, the national government has also obstructed direct para-diplomatic attempts by state governments, especially from Kerala.²⁵ The policy makers and bureaucrats in both states have shared concerns about the lack of replicable governance models or technical support from the national government and international agencies. The Global Compact for Migration (GCM), an intergovernmental-negotiated document for migrants and refugees, has also neglected the role of migration governance at the subnational level (Akhil 2019).

What remains remarkable is, despite the institutional, informational, and political constraints identified above, subnational governance has been active,

and arguably more active and effective than the national government. The interaction between the subnational government, the recruitment industry, civil society networks, and organizations in sending and receiving countries illustrates the complexity of the migration governance complex that forms around this issue area.

The analysis clearly shows that Kerala has an early-mover advantage over Andhra Pradesh in subnational migration governance. However, the Andhra Pradesh Government is also following in the same footsteps of Kerala and has created a similar institutional design and similar welfare programmes. In both cases, the subnational government has stepped in to fill what had been perceived as a national governance vacuum. The existing differences in migration governance in both states could be attributed to differences in economic approaches of political parties in power. Regardless of the ideologies of the ruling parties in Kerala, the governments have followed welfare-oriented redistributive policies over the years. This is also reflected in migration governance. By contrast, United Andhra Pradesh has adopted a more economically liberal model of governance after Chandrababu Naidu came into power as Chief Minister in 1997. The state government advocated for massive investment programmes and APNRT's attempts to bring in capital can be interpreted through this lens. Consequently, the Andhra Pradesh state Government's attempt to replicate the institutional design and welfare policies of Kerala's Government was also affected by the differences in the economic approaches of the then ruling party in Andhra Pradesh. The differences in visions of political parties in Andhra Pradesh have favoured investment strategies over welfare programmes for emigrants.

Non-state actors have also been more active in migration governance at the subnational level than at the national level. The analysis shows that non-state actors make their presence felt at varying degrees in both states. The non-state actors at the subnational level have been CSOs, media, trade unions, recruitment agencies, and returnee organizations. They have either associated with the subnational governments or operate independently in the subnational sphere. The association between state and non-state actors has also depended on the approach of subnational governments to the other actors. To elaborate, Kerala state's migration governance mechanism is state-centric, but various attempts were carried out to incorporate CSOs and other actors, including politically affiliated organizations. However, these attempts have generally not been successful.

By contrast, there has hardly been any association between state and non-state actors in Andhra Pradesh. The non-state actors have played a much larger role in migration governance in United Andhra Pradesh. Activities were planned and implemented by international NGOs, CSOs, and other non-state actors. However, the newly formed Andhra Pradesh Government did not offer much of a role to the CSOs. Instead, the influence of private

economic actors, such as multinational companies, has deepened in the activities of APNRT after the bifurcation. It can also be noted that the influence of a rich diaspora in the host countries has been increasing too.

However, when it comes to monitoring and rescuing migrants in distress in the Gulf countries, the activities of CSOs have been more influential than the state government at times. Due to the lack of interventions and restrictions, subnational governments have failed to intervene in the welfare of migrants in host countries. However, when coordinating, CSOs, media, and diaspora organizations have managed to rescue migrants in distress and help them to return to their homeland. The common feature of these actors in both states is that their actions have concentrated on shaping local-level policies. However, the lack of financial support and backing of state governments affects the success rate of the programmes, especially pre-departure orientation programmes and skill-training conducted by CSOs. Notably, the trade unions remain a weak actor in subnational migration governance. They are yet to identify ways in which they can influence the governance process. Keeping all these drawbacks in mind, it can be argued that the active engagement of these non-state actors in matters related to emigration has acted as a push factor, which has indirectly forced the state governments to implement pro-emigrant policies. In addition, the political mobilization of returnees within various political parties at the ground level also acted as a catalyst in Kerala. Unlike CSOs, the returnee organizations have direct access to the government and leaders of political parties. As a result, the policy suggestions and recommendations from the ground would be heard through them.

It is evident that Andhra Pradesh has followed a more top-down approach compared with Kerala's bottom-up approach to migration governance. The lack of collaboration between the state and non-state actors is a feature of migration governance in both subnational states. The Kerala Government has failed to effectively decentralize and delegate governance mechanisms to the local level. The state has also failed to create the proper institutional platforms to collaborate with non-state actors. This has been reinforced by bureaucratic inefficiencies. In Andhra Pradesh, the lack of welfare oriented-initiatives by the state and inadequate political pressure from below has led to ineffective migration governance at the subnational level. The other actors, mainly CSOs, have also failed to lobby and influence the state government to adopt better governance initiatives. The presence of illegal recruitment agencies has worsened the situation.

Considering all these factors, this chapter argues that the governance of international migration at the subnational level in a federal system remains complex. Even though CSOs and state governments struggle to identify their roles in migration governance, we argue against the conventional wisdom that the subnational state's role in migration governance is solely limited to the

rehabilitation of returnee migrants. That being said, the activities of subnational actors in migration governance in federal states are also influenced by factors such as the economic policies of the government and political interests of the ruling party. The lack of political will at the subnational level, the lack of knowledge among migrants and policy makers about the migration processes, and the lack of information-sharing between the national government, state governments, and non-state actors all affect the existing subnational governance models. The failure to form formal and informal collaborations among various actors to govern migration also limit the scope of migration governance at the subnational level. Despite these limitations, a few initiatives by state governments, including rehabilitation programmes, and activities of non-state actors, such as the interventions in the host country to ensure the well-being of emigrants, are on par with the more effective migration governance systems of states such as the Philippines and Sri Lanka.

From the analysis, the chapter proposes a few policy recommendations for improving subnational migration governance. To improve the existing system, developing a framework or a model of subnational governance with the help of the national government and international organizations like the UN could prove useful. Reducing the knowledge gap by ensuring information-sharing between national government, state government, and non-state actors is vital to improve the existing situation. Financial constraints are another concern to address. Both national and subnational governments should be ready to collaborate with non-state actors, including international NGOs and UN agencies, to address the lack of funding. Effectively decentralizing governance can help address the issue of lack of collaboration between actors. In a decentralized system, the central state, the subnational states, and other non-state actors can better identify and collaborate with the relevant actors at the local level. This will surely help in improving the well-being of emigrants.

Notes

- ¹ The chapter uses the terms ‘emigration’ and ‘international migration’ interchangeably to indicate cross-country migration from India.
- ² ‘Federal system is an institutional arrangement in which (a) public authority is divided between state governments and a central government, (b) each level of government has some issues on which it makes final decisions, and (c) a high federal court adjudicates disputes concerning federalism’ ([Kelemen 2003: 185](#)).
- ³ Democratic decentralization can be defined as ‘the development of reciprocal relationships between central and local governments and between local governments and citizens. It addresses the power to develop and implement policy and the extension of democratic processes to lower levels of government’ ([Barnett et al 1997](#)).
- ⁴ Included are states from where at least 2,000 labour migrants travelled abroad per year, based on 2017 e-Migrate data. Retrieved from <https://emigrate.gov.in/ext/>
- ⁵ India has a unique system of passport provision – Emigration Check Required (ECR) and Emigration Check not Required (ECNR). According to the Emigration Act, 1983,

'person whose educational qualification is below matric (10th class) are categorized as ECR passport holders. Currently, 18 host countries are listed as countries required ECR clearance. People with ECR passport migration to these countries undergo emigration clearance'.

- 6 The Non-Resident Keralites Affairs abbreviated as NORKA is a department of the Government of Kerala formed on 6 December 1996 to redress the grievances of Non-Resident Keralites (NRKs). Andhra Pradesh equally set up an institution called AP Non-Resident Telugu Society (APNRT) in May 2016 to address the welfare of emigrants.
- 7 For instance, the Migrant Forum in Asia (MFA) is one of the leading advocacy agencies operating in India. They have a wide network of CSOs across the country and among other Asian countries also (Piper and Rother 2019).
- 8 Diaspora organizations by emigrants from Kerala mostly operate as socio-cultural organizations in the host country due to regulations. There are registered and unregistered organizations. According to the Global Kerala Assembly, 90 per cent of the associations are operating from Gulf countries.
- 9 Accessed from Migration Working Group report, Kerala State Planning Board, 2016.
- 10 Information from an interview with the NORKA-Roots CEO on 10 August 2018.
- 11 'All key external stakeholders in the overseas employment process such as Recruiting Agents, Foreign Employers, Project Exporters, and internal stakeholders are electronically interlinked on the eMigrate platform to provide safe migration.' <https://emigrate.gov.in/ext/static/EmigrateBrochureEng.pdf>
- 12 Data collected from the NORKA-Roots' recruitment wing on 5 September 2018.
- 13 Interview with the recruitment office [NORKA-Roots](#) on 11 September 2018.
- 14 Data Collected from NORKA-Roots' recruitment wing on 5 September 2018.
- 15 Information shared by the NORKA-Roots' recruitment officer.
- 16 The Centre for Management Development (CMD) has acted as the nodal agency for conducting training programmes by NORKA.
- 17 TSSS is an NGO that operates in Kerala with an aim to empower the marginalised communities towards sustainable and participatory governance. It comes under the Latin Arch diocese of Trivandrum.
<http://www.tsss.in/>
- 18 Pravasalokam (aka 'Migrants World') is a weekly television programme telecasted by Kairali Television in Malayalam, a regional language in India. It attempts to locate the missing migrants who travel to other countries for work.
- 19 Loka Kerala Sabha (LKS) is a 351-member assembly consisting of elected representatives from Kerala and representatives from diaspora and emigrants. It aims to bridge the gap between Kerala Government and NRKs. <https://www.lokakeralasabha.com/>
- 20 The bifurcation of United Andhra Pradesh in the year 2014 led to the formation of two different states, Telangana and Andhra Pradesh. So the term United Andhra Pradesh indicates the state before bifurcation.
- 21 Accessed on 15 September 2018 from <http://www.omc.ap.gov.in/>
- 22 The smart villages programme encourages the migrants to contribute to the basic need-based development of their own villages in the state.
- 23 Retrieved from <https://www.gad.ap.gov.in/political/non-resident-telugus/nrt-policy.pdf> [Accessed 15 September 2018]
- 24 <http://www.omc.ap.gov.in/> [Accessed 10 September 2018]
- 25 One of the Kerala Government ministers denied permission to visit migrants in distress in Saudi Arabia by Indian Government in 2016 ([The Indian Express 2016](#)).
The Indian Government refused to accept the UAE Government's aid for Kerala in 2018 (Times of India 2018).

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PART III

Private Authorities and Transnational Actors

Two Bad Places at Once: Pakistani Labour Migrants and the Transnational Recruitment Industry to the Gulf

Zahra Babar

Introduction¹

Since the 1970s' oil boom, the six monarchies of the Persian Gulf have drawn millions of Pakistani migrants seeking employment opportunities (Government of Pakistan 2018: 1–4). Existing scholarship on this particular transnational migration corridor suggests that workers from Pakistan are drawn to the Persian Gulf as a direct result of both pull factors, established by the hydrocarbon-fuelled economies of the GCC monarchies, and push factors, which are a consequence of Pakistan's internal demographic and economic realities (Ahmed et al 2008: 85–99; Lefebvre 1999: 10–34).

In Pakistan, several factors, such as the national economy (which has seen itself move forward in fits and starts), widespread poverty, uneven patterns of development, and a burgeoning national population that cannot be easily absorbed into the domestic labour market, have all led to a situation where both the state and its citizenry have come to progressively rely on international employment as a pressure reliever (BEOE 2018 1–4). The Pakistani Government has actively encouraged the temporary migration of its citizens in order to offset the domestic issue of unemployment while also maintaining access to foreign currency flows that come into the country through remittances sent by Gulf migrants (Lefebvre 1999: 21). Data collected by the Pakistani Government indicates that from the period of 1971 until 2015, out of the more than 8 million Pakistanis who migrated internationally, 96 per cent ended up living and working in the Gulf (Arif

and Ishaq 2017: 297; Country Wise Emigration, BEOE, 2017). Pakistani migration to the Gulf is, however, significantly filtered by both gender and class/income divides. The largest component of outmigration from Pakistan to the Gulf comprises of lower income and low-skill male labour migrants, most of whom work in the construction, agriculture, and transport sectors in the Gulf (Erdal 2014: 119).

This chapter provides an empirical investigation of the existential dilemma of being in “two difficult places at once” that migrant workers face in the Gulf. The phrase refers to Pakistani migrants’ inner struggles as they try to navigate their periods of overseas employment while simultaneously worrying about the well-being of their families back home. Labour migrants contend with multiple challenges and are frequently exploited, due to both vulnerabilities produced by inadequate migration governance in the receiving states and recruitment processes that commence outside the Gulf. Migrants’ experiential narratives suggest that their ability to assert their agency in a host state when trying to address injustices is limited, as it is shaped in some ways by their sense of obligation towards their families back home. The first section of this chapter commences with a brief justification for studying Pathan migrants as a subnational component of Pakistani migrants, followed by an overview of the chapter’s methodological foundation. The chapter subsequently offers an in-depth analysis of key interview findings, highlighting sub-areas that emerged as being critical to migrants’ experiences in both their state of origin and while in the Gulf. The final section suggests that migrant workers’ slip into criminality and irregularity stems from state-level negligence and insufficient regulatory control over recruitment processes, both at home and overseas.

Subnational push factors

While most Pakistanis who work in the Gulf come from the Punjab province, which is the most populous of Pakistan’s four provinces, other ethnic groups, like the Pathans from the Khyber Pakhtunkhwa (KP) province, have increasingly been seeking jobs in the region. Pathan migrants present a particular subnational profile, as many tend to be from remote rural or mountainous parts of the KP province where most communities depend on subsistence-level farming. KP’s neglected tribal belt offers even fewer chances of paid employment and has suffered as a result of political instability, conflict, and anti-terror military operations, which have all resulted in a steady outflow of men seeking overseas migration. The heavy outmigration of Pathans from these areas of the province demonstrates that there is a clear correlation between economic lethargy and political instability at home, and overseas migration (Toppa 2018).

There is also evidence that Pathan migrants contribute a very large percentage of household income through the monthly remittances that they send home ([Gazdar 2003](#): 9–10). Pathan labourers in the Gulf may frequently end up supporting over a dozen family members back home. While the opportunity to earn higher income in the Gulf continues to attract Pathans to the region, the dependency generated through this system, and the migrants' knowledge of the critical role of remittances in the well-being of their extended families, often mean that these migrants become particularly willing to endure difficult and harsh working and living conditions. Eighty per cent of the migrants interviewed for this chapter originate from KP and the findings present a deeper understanding of an understudied sub-component of the Pakistani migrant presence in the Gulf.

Methodology

This chapter is the outcome of a rapid ethnographic study that was undertaken over two weeks in Islamabad, the capital city of Pakistan, in the month of May 2017 ([Mignone et al 2009](#)).² The bulk of the interview data referred to in this chapter was collected by the author and members of a larger research team, including a co-principal investigator and a research assistant, at a day-long focus group held in the rural outskirts of Islamabad ([PK 009 2017](#)). The focus group brought together approximately 40 male Pakistani potential migrants and return migrants. Interviews held at the focus group were semi-structured in nature and were carried out in Pashto and Urdu, depending on the primary language of the interviewee. Among those who were interviewed at the focus group were a number of men who were in the pre-departure stages of migration and were waiting for the finalization of their visa and work contracts; return migrants who had completed their migration journey and were back in Pakistan after having spent time in the Gulf; and those not yet actually in the process of migrating but who were considering it.

The group discussions focused on a number of themes related to migrants' experiences of navigating the recruitment process and of living and working in the GCC. In addition, non-anonymized interviews were also carried out with three staff members of an Islamabad-based NGO, the Migrant Resource Centre (MRC), to supplement some of the findings and provide for greater contextualization of key points that were raised by migrants.³ The MRC was established as an information and resource centre to support migrants and their families, primarily through providing them with accurate information regarding the safe and legal migration process, recruitment channels, challenges faced in host countries, and various laws and regulations that exist both in Pakistan and in host states that provide protections to them.

Based on the combined interview findings, this chapter provides an empirical account of the process that Pakistanis have to go through in order to secure a visa to work in the Gulf and examines the most common challenges identified by migrants when engaging with various parts of the sprawling recruitment assemblage based in Pakistan, from agents to labour brokers and overseas employment promoters (OEPs). The chapter also provides an account of Pakistani migrants' experiences while in the Gulf and working with Gulf-based employers and sponsors, as well as of their understanding of the role of both the host state and the Pakistani Government.

Overall, the migrants' first-hand accounts painted a fundamentally grim picture about the Pakistan–Gulf labour corridor. Several interlocutors emphasized that challenges had begun as soon as they entered the recruitment process, with additional complications arising during their period of residence in the Gulf. Most of the blame for negative aspects of the migration journey was placed on recruiting agencies operating within Pakistan as well as employer-sponsors in the destination countries. The federal Government of Pakistan and its constituent agencies based in the Gulf also received its fair share of criticism, with some interviewees stating that the Pakistani Government was entirely absent when it came to protecting their citizens' rights in the host state. Migrants spoke of the tremendous difficulties of managing their entire migration process, from visa application through to their departure (and return) and reintegration, however despite this, even among those who had experienced severe constraints, many still spoke of an interest in seeking future migration opportunities.

Interview findings⁴

The MRC staff informed us that Gulf-based labour migrants identify three key scenarios that have challenged them in their migration process. The first relates to being duped by the OEPs, arriving in the Gulf only to find that they have paid far too much money for their visa, the jobs promised to them do not exist, or the recruiters through which they had obtained the job have suddenly vanished and cannot be contacted for any support ([PK 010 2017](#)). A second scenario relates to migrants arriving in the Gulf to discover that the terms of their contract do not match what they were told in Pakistan, and in fact, the contract they had signed has been substituted with a new contract, offering different terms of payment and benefits, often completely changing the nature of the work that they thought they were going to be engaging in ([PK 010 2017](#)). For example, semi-skilled workers who expected to work as electricians or plumbers may end up having to work as security guards or manual labourers. The third most common complaint of migrants is either about delayed wages or a lack of payment of wages that were contractually promised. Repeatedly, relatives

of migrants come to see the MRC to seek guidance on how to help their family members in the Gulf who have been working for months but have not been paid ([PK 010 2017](#)).

At the day-long focus group much of the discussion aligned with both the information we subsequently received from the MRC and also with the existing scholarship on migration from South Asia to the Persian Gulf.⁵ Among those assembled were those who had migrated to the Gulf and returned, those who were in the process of migrating, and some who had been considering migrating but were still undecided and feared potential negative experiences and poor working and living conditions in the Gulf. Much of the focus group discussion fell primarily into two different baskets of conversation – the challenges and problems that people migrating to the GCC contend with and the positive aspects of migration to the GCC. The scope of this chapter is to present and analyse the first of these baskets – namely the challenges that migrants faced. On the subject of the challenges of migrating to the Gulf, return migrants, potential migrants, and those not considering migrating blamed three different sets of actors for the difficulties encountered – labour recruiters, GCC governments and employers, and the Pakistani Government.

Frequently the challenges that people face during the process of migrating begin in Pakistan during the recruitment process. Interviewee QQ identified Pakistani recruiters as being primarily responsible for the problems that migrants encounter.

‘It is the illegal practices here [in Pakistan] that cause problems for workers when they go there [to the Gulf]. Governments of foreign countries are just saying to come to our countries in a legal way and we will welcome you. Therefore, I think that the problem here is with the brokers. The mismatch in the promises made here and the conditions there is mainly the fault of the recruiters here. However, there might be people abroad who create problems, but I think such is the case for not more than 10 to 15 per cent of the people. I would say that 60 per cent of the problem lies here.’ ([QQ, PK 009 2017](#))

In relation to the poor practices of Pakistani labour recruiters, focus group members pointed to five main issues: 1) the high costs recruiters charge for providing migrants with jobs in the GCC; 2) misrepresenting the nature of jobs and giving inaccurate information about living and working conditions in the Gulf; 3) issuing ‘*Azad* visas’ (or free visas) at very high costs (up to 15,000 US dollars); 4) fabricating jobs so that migrants arrive to find that they do not actually have any genuine employment in the host country; and 5) failure to provide any assistance or support to migrants once they are in the host state.

Challenges in Pakistan

The financial burden of excessive migration costs

Under the regulatory framework governing overseas migration in Pakistan, labour migrants' out-of-pocket costs for recruitment are meant to total about 100 USD. Out of that amount, 65 USD are the total fees they have to pay to various government agencies that facilitate the paperwork, and include a 20 USD registration fee, a 20 USD fee for contribution to a compulsory life insurance plan, and 20 USD for a migrants-in-distress welfare fund. Additional costs of about 35 USD are what the overseas employment agencies can legally charge migrants ([PK 010 2017](#)). OEPs are meant to have their services paid for by Gulf-based employers, but in actual fact this seldom occurs, and, in reality, OEPs can charge potential migrants whatever the going rate happens to be for a particular job.⁶ For example, as described in Percot's chapter on Bangladeshi migrants in Oman, Omani recruitment agencies have consistently failed to adhere to government protocol regarding migration cost limits, thereby causing this financial burden to fall on the migrants themselves, who then seek out alternative, cheaper routes to find jobs (Percot 2020: 177–87). There is little consistency and no standardized rate for what migrants will be charged for particular job opportunities, and some agencies might charge a migrant 1,500 USD for a job as a construction worker, 2,000 USD for a job as a security guard, or 3,000 USD for a job as a supervisor ([PK 010 2017](#)).

The burden of excessive costs of migration dominated much of the conversation during the focus group. Several migrants spoke about the loans they had taken from friends and family in order to finance their sojourn in Saudi Arabia and other Gulf states. Others mentioned how they had incurred even greater debt once in the Gulf, in order to pay for their daily living expenses. This was a result of having arrived in the Gulf only to find that they did not have a real job or were not getting paid their contractually promised salaries. Some migrants even took informal loans from friends and relatives while in Saudi Arabia, so that they were able to remit some money home to their families even when they were not earning enough or not earning at all.

Participants reported significant differences in terms of what they had paid (or been asked to pay) for their GCC work visa, with the largest amounts reported (6,000–15,000 USD) reserved for the '*Azad* visa'. In addition to the high costs of migrating to the Gulf, the focus group participants also suggested that OEPs were deceitful when providing information about job contracts and working conditions. One migrant reported being offered a monthly salary of approximately 400 USD in his contract, but once he arrived in Saudi Arabia and started working, he was paid only 200 USD a month. This left him feeling frustrated and unhappy in his new job, and he

blamed the recruiter for this, adding that the recruiter had been aware of the real salary being offered but had lied to him.

JJ, who had recently returned to Pakistan from Saudi Arabia after having spent years working there, stated that he paid far above the going rate when he was first issued a visa for his job in Saudi Arabia. “I paid around PKR 150,000 (1,500 USD) to go to Saudi around seven years ago. I faced many problems as my salary was often not paid to me for months and when they would pay, it was less than the promised amount” ([JJ, PK 09 2017](#)). JJ did at least get the job that had been promised to him and, over time, managed to increase his earnings so that the investment ended up being worth it, but he resented the fact that he had been overcharged for his visa. It was only when he arrived in Saudi Arabia that he realized, through speaking to other Pakistani migrants, that he had paid his OEP significantly more than he should have, and it took him a long time to pay off that debt.

Most migrants have to borrow money to finance their migration journey, and given their lack of access to formal banking institutions, many rely on friends, family, and their personal networks for help. Existing research suggests that migrant workers from Pakistan pay among the highest costs for the opportunity to work in the GCC ([ILO 2016](#)). Part of the problem derives from the fact that many Pakistani migrants access their jobs through their own informal networks rather than through official channels, and these informal channels can be far more expensive. According to data obtained by the author for another project, formal channels of migration in Pakistan usually cost about 1,000 USD for a full range of services. However, many migrants in this study appear to be paying closer to five or six thousand dollars. Migrants in Pakistan seeking jobs in Saudi Arabia can only obtain their jobs through an official licensed OEP, but many of them use their informal networks to put them in touch with Gulf-based employers.

The problem of information

MRC staff pointed out that one of the most significant challenges faced by Pakistanis was the lack of accurate information at multiple stages of the migration process ([PK 010 2017](#)). The majority of Gulf migrants have low levels of education and literacy, and live in remote rural areas of Pakistan with little access to information regarding safe and legal migration. These individuals are more vulnerable to deception by labour brokers and to finding themselves in a position in which their rights are being exploited once they are in the Gulf ([PK 010 2017](#)). At the pre-departure stage, many potential migrants have little understanding about the regulatory environment, the official channels of recruitment, what the legitimate costs of migration should be, and which OEPs are more reputable ([PK 010 2017](#)). Similarly, migrants who are successful in obtaining a visa to work in the Gulf often

arrive there with an equally inadequate understanding of their rights and protections in the host state, how to address any challenges they face, and whom to approach should they need assistance ([PK 010 2017](#)).

Many return migrants spoke about their frustrations with unscrupulous labour brokers who had lured them to the Gulf with promises of lucrative salaries and good jobs, when in reality they ended up working under completely different terms and conditions. Focus group discussants stated that OEPs often misled potential migrants by highlighting the more attractive parts of the contract while failing to fully disclose other not-as-appealing aspects of the contract. Two migrants stated that OEPs in Pakistan had solicited large sums of money from their family members and promised high-paying jobs in Dubai. However, upon arriving in Dubai, they discovered that they had been sold fraudulent contracts and that there were no jobs for them at all. Several of the focus group discussants stated that the recruiters they had dealt with had given them incorrect information regarding both the nature of the jobs they would eventually undertake and the salaries they would receive.

Another migrant at the focus group spoke about how he had paid an OEP for a job in Saudi Arabia, but when he arrived in Saudi Arabia, he spent months trying to get his *iqama*⁷ without ever receiving it and was, therefore, unable to work legally. He blamed his recruiter for the predicament this placed him in. While many of the migrants gathered at the focus group spoke about problems of high costs, distrust, and dishonesty when it came to OEPs in Pakistan, other migrants who had positive experiences of living and working in the Gulf credited their recruiters for the work they had done to help them get the job in the first place. Several participants pointed out that there were ethical OEPs in Pakistan, and if they had not been there to assist them, they would have never been able to find a job in the Gulf.

While the difficulties posed by a lack of accurate information about jobs and conditions in the Gulf were repeatedly raised by migrants, discussions at the MRC indicated that many people seeking jobs in the Gulf, even when provided with all the tools and guidance needed to access the proper information, tend to still ignore it when making their migration decisions. MRC and other organizations that have been set up to support migrants always suggest to potential migrants that they only use valid, well-reputed OEPs who are registered with the government. They also advise potential migrants on the importance of ensuring that the job they are applying for matches their skills and experience, and that the salary they are being offered is worth the costs, both financial and non-financial. Migrants are urged to consider the fees they are being charged and compare them to the promised salary, and to assess how much time it would take for them to pay off their loans or work off their debt. Then, when equipped with all the proper information, make a sensible decision regarding whether it is still worth going

to the Gulf. But despite such efforts that are made to equip Pakistanis with as much information as possible during the decision-making process, many choose to still go regardless of whether or not it makes financial sense. As our MRC interlocutor told us, first time migrants respond to their advice to be cautious by saying, “I have to try it once. So, if the cost of the visa is 2000 dollars [200,000 PKR] and I am going to make 300 dollars a month [30,000 PKR], why not? Let me give it a try.”

Misinformation about the Gulf that is often circulated by migrants themselves also contributes to the persistence of migrants’ beliefs that their sojourn to the Gulf will provide them with an eventual pathway to financial well-being. On holidays, migrants come back to Pakistan and, for a month or two, demonstrate a lifestyle that is to be envied by their friends and family ([PK 010 2017](#)). They return laden with gifts, hire a car for a month, entertain their relatives and friends, and generally leave an impression that they now have enough money for luxuries that are unaffordable for their neighbours. In reality, these men’s lives in the Gulf may consist of difficult and long working days and uncomfortable living arrangements. Their food is often inadequate, they get barely any rest or holidays, and certainly do not have salaries that allow them to enjoy the Gulf’s ‘good life’. Additionally, many live in a state of vulnerability, anxious that they might lose their job through a dispute with their employer, end up in jail for some reason, or be deported. However, according to the MRC, when they are back in Pakistan this reality of their migration experience is not one they share with their extended social circles. The phenomenon of migrants themselves circulating inaccurate narratives of their lives in the Persian Gulf has been explored in previous scholarship ([Gardner 2012](#): 41–58).

The lure of irregular migration

At least five return migrants spoke about the extortionate costs that they had paid for their *Azad* (free) visas. The *Azad* visa is clearly an irregular and illegal visa in that it is not associated with a particular job and is issued on the basis of a fraudulent contract. However, many migrants indicated a preference for this visa as they believed it would allow them greater flexibility and the freedom to earn higher amounts of money in the Gulf. Migrants’ conception of the *Azad* visa is that it is one of the most attractive options for working in the Gulf and, as a result, they accept that there is a premium cost for obtaining it. One migrant who spoke of going to Saudi Arabia on an *Azad* visa said that his OEP had charged 6,000 USD for the visa. Another migrant spoke about initially approaching an OEP as he was interested in migrating to Germany for a job, but instead, the employment promotor tried to encourage him to buy an *Azad* visa to the Gulf, also for 6,000 USD, telling him that this visa would allow him to earn higher wages.

In the end, the potential migrant did not take up the offer, as he said the cost for the *Azad* visa was more than he could afford and he was unable to find the funds needed.

According to one of the managers at the MRC, potential migrants' perception of the *Azad* visa is skewed and that, in reality, there is no such thing ([KS, PK 010 2017](#)). While migrants are told, and may believe, that this is a 'free' visa issued by a Gulf state that bypasses the need for a citizen sponsor, all *Azad* visas are tied to a sponsor and to a particular job contract, and are entirely illegal if, rather than working for their citizen-sponsors, migrants are working elsewhere in a private capacity.

'Well, the *Azad* visa, to be honest, is a misconception. There is no *Azad* visa. For every visa that is issued in the Gulf, there is a sponsor behind it. If that sponsor wishes to be anonymous, he says to me, "you take this visa for me, and you go and sell it in Pakistan as an *Azad* visa, and you can make more money out of it". A lot of people come to us and say, "My cousin is sending me a visa. He says it's an *Azad* visa. It's more expensive but I can go and work wherever I want". Yes, a lot of people come to us and say, "Ok, you have told us about everything, but you haven't told us about the *Azad* visa". And when we tell them, they are very disappointed. But the fact is that *Azad* visas are being sold and they are being sold by people that actually know people [potential migrants]. I mean, *Azad* visas are being sold to you by your friends, your relatives, or other people that have access to the black market of visas in the UAE.' ([KS, PK 010 2017](#))

While some potential migrants clearly actively seek (and pay a lot of money for) an *Azad* visa, with the idea that this will enable them to make the most of their time in the Gulf, there is an additional category of migrants who end up on an *Azad* visa by deception. These migrants pay excessive amounts to recruiters in the belief that they are getting an authentic visa to the Gulf where they will be engaged in a well-paid job. However, as was indicated to us by many of the migrants during the focus group discussion, several of them arrived in the Gulf to discover that they did not actually have a job attached to their visa, and only then did they find out that the recruiters had deceived them. The deception behind this kind of *Azad* visa is that the migrant has no idea that he is paying for the opportunity to get to the Gulf but then has to find his own work, and that his official sponsor is under no obligation to provide him with a job and a monthly salary. In fact, the sponsor usually expects the migrant worker to provide regular 'fees' to him in return for keeping the migrant's visa and residency permit valid. The Gulf sponsor most likely assumes that the migrant has paid for his *Azad* visa with advance awareness of these arrangements, and has agreed to be 'free'

and sell his labour, and provide his sponsor with a monthly or bi-annual agreed-upon amount of money, which can range anywhere from a few hundred dollars up to a thousand dollars or more. But for those migrants who have been duped into paying for an *Azad* visa, being confronted with the predicament of having no job and simultaneously being asked by their *kafeel*⁸ to provide regular sums of cash in exchange for their sponsorship causes all sorts of issues.

Migrants that fell within this category of gaining *Azad* visas by deception related stories of frequently being victimized by unscrupulous employers, and felt that they were made vulnerable through their irregular status as they were frightened of approaching authorities to seek assistance when it came to violations of their labour rights. Given their irregular visa status, which excludes them from the formal economy, these migrants have to exist at the margins of Gulf society and often end up working in dangerous and difficult conditions in under-regulated sectors of the labour market. When these migrants refuse to pay their sponsors the fees being asked of them, their sponsor may decide to cancel their residency permit/*iqama*, leaving them in a position of illegality, or else lodge a complaint with the police that their sponsored worker has ‘absconded’. Both these situations ultimately lead to the arrest, detention, and deportation of the migrant involved. Akhil and Ganga, in their case study of subnational migration governance from the Indian states of Andhra Pradesh and Kerala, also highlight that the lapse in migration governance is problematic and there exists a ‘disconnect between the state machinery, recruitment agencies and CSOs [Civil Society Organizations]’ (Akhil and Ganga, this volume: 93).

Challenges in the Gulf

One of the focus group participants, EE, said that he had a fairly positive experience of working with a labour recruiter in Pakistan who had helped him get a job in Saudi Arabia. He considered the agency to be simply providing him with a service that he was paying for. EE said, “It’s the people abroad who create problems. They take work from you but don’t give you the money. If you demand money from them, they will put you in jail and will then try to extort more money from you to release you from jail. If you don’t agree, they will deport you back to your country once the prison term is completed” (EE 2017).

At the focus group, migrants also spoke about the challenges of adapting to local norms and customs, and of how Saudi Arabians treat Pakistanis with contempt and disdain. Not being able to speak Arabic was considered to be a huge hurdle for those migrants who had not yet learnt to speak it. Lack of Arabic language skills proved to be a major barrier as employees could not effectively communicate with employers or government agencies,

and this diminished their capacity to demand their rights effectively. A few return migrants, however, said that their experiences had been different, and that when they had been in a dispute with their employers, they had been supported by Saudi translators to effectively help them resolve their cases. RR, who was contemplating migration to the Gulf for the first time, told us that many of his family members who had migrated had contended with problems as a result of their low levels of education and inability to speak Arabic:

‘They don’t know how to communicate when they are there and how to effectively solve their problems. They have to use the services of a translator, but that does not have the same effect as when a person deals directly. If I go, I will know about my rights and will be better able to fight directly for them. If a person can’t even ask for his 500 riyals that are withheld, how is he expected to raise any voice against being forced into bonded labour? The low education level creates many problems.’ (RR, PK 009 2017)

‘Document fear’ – Where is my Iqama?⁹ Where is my passport?

In speaking about the negative role of Gulf-based employers and sponsors, the assembled focus group’s discussion primarily relied on their migration experiences in Saudi Arabia and, to a more limited extent, in other Gulf states. The three challenges most frequently mentioned were problems with the issuance of the *iqama*, salary disputes, and a perceived lack of overall ‘respect’ or care received from their employer-sponsors. Two return migrants spoke of their experiences of being imprisoned and facing charges as a result of being in violation of their visa status. They both stated that it had been their sponsors’ fault for not renewing their *iqama* (residency permit) in a timely manner, but despite this, they had been arrested. Other return migrants spoke of long delays in receiving their *iqamas* in the first place (without which they could not begin working or be paid), and also said that often the crucial information on the *iqama* that they eventually received (such as their names and nationality) would be incorrect, thus placing them in very precarious situations.

At the focus group, migrants drew a connection between their sense of vulnerability and the hold that their sponsors had over them as a result of controlling their immigration documents. Almost all the return migrants said that their Saudi companies had retained their passports (although this is in contravention of Saudi labour laws) (*Gulf Business* 2018), and in other cases, they never issued the *iqama* at all, keeping the migrants in a permanent state of limbo and precariousness. The large number of migrants who had been in Saudi Arabia stated that they had to surrender their passports to their

sponsors; one migrant mentioned that he had worked in Saudi Arabia for a little over two years, and his passport and residency permit were with his employer for the entire duration. When asked whether he could have turned to the Saudi authorities, he said that he could not complain as it would lead to his arrest or deportation, and so he just accepted the situation, working under the given circumstances. Another migrant stated that his employer also retained his documents and used them as a threat and leverage if he ever complained about any aspect of his employment. This behaviour of using a migrant's documents to instil fear and compliance was repeatedly brought up.

Discussants speaking about their disputes around wages said that they had frequently experienced being paid less than their contractual salary amount and had also faced delays in receiving their salaries. Another narrated that his treatment and overall experience had been extremely unpleasant – especially as his employer-sponsor had held his passport upon arrival, and that if he had protested this, he could risk getting imprisoned by the authorities. One of the points of discussion brought up by several of the return migrants at the focus group was the experience of arriving in Saudi Arabia and discovering that their *kafeel* was not willing to provide a proper written work contract or issue the *iqama*, meaning the jobs they had initially thought they were signing on for did not, in fact, materialize. In these cases, the only option open to the migrants was to work as day labourers on the black market, without receiving either a monthly salary or any of the original benefits that had been promised to them, such as monthly accommodation or a food allowance.

One interviewee explained that his sponsor paid him less than the contractually promised wages, and also frequently withheld his salary for extended periods of time. He said that his monthly earnings in Oman were more than 600 USD, a great deal more than he could earn in Pakistan, but on one occasion his employer did not pay him for over three months. The sponsor did not pay attention to his repeated requests to have his delayed wages paid and so eventually he decided to approach the court to have his dispute settled. Ultimately the court ordered the sponsor to pay the delayed salary, however, as a result of having found the whole process to be very challenging, this interviewee decided to leave Oman and return to Pakistan. The job he was able to eventually find back home paid him only 150 USD a month.

A simple slip into criminality

Discussing broader, more general challenges of living and working in Saudi Arabia, focus group discussants spoke about the stresses of falling in and out of legality, and about the fear of getting arrested if not on the correct visa status, having to spend time in prison (something that seems to have

happened to several of our focus group members), and getting deported. Percot similarly addresses this challenge of ‘deportability’ in her chapter on undocumented Bangladeshi migrants in Oman ([Chapter 6](#)). Migrants might utilize irregularity as a strategic tool to seek better pay and working conditions, but while they may have greater agency over their employment choices, this is achieved at the cost of living with a significantly higher risk of deportation ([Percot 2018](#): 10–11).

According to our interlocutors at the MRC, many Pakistani workers in Saudi Arabia end up facing some form of criminal charges, with the figures for 2017 suggesting that at that time 8,000 Pakistanis were in Saudi prisons ([PK 010 2017](#)). One migrant interviewed during the discussion group spoke about how his Gulf-based employer had withheld his salary for many months, until he was eventually owed almost 7,000 USD in back pay. However, before he was able to get this amount due to him payed, his residency visa/*iqama* expired and his sponsor refused to renew it. As a result, this migrant was unable to report the matter of delayed wages to the authorities as he was no longer in a legal status. Subsequently he was arrested for being in violation of his immigration status and was deported back to Pakistan, without ever recouping the 7,000 USD in unpaid wages.

Another return migrant spoke about his experiences of working in Saudi Arabia for two years and facing very similar issues over wage withholding by his employer-sponsor. As he persisted in pressing for his delayed wages, his employer accused him of theft and had him arrested. The migrant spent over six months in jail, but eventually, when his case went to trial, the courts found that his sponsor had accused him falsely and he was found not guilty of the alleged crime. Several other return migrants at the focus group shared similar stories of falling into trouble with the law as a result of trying to fight for their labour rights with exploitative employers. A number of them said that they had not received the respect they deserved for working hard, and that the entire system treated them poorly. One interlocutor noted that the majority of Pakistani migrants in Saudi Arabia who contend with non-payment issues and end up being deported or jailed are Pathan.

A lot of discussion around slipping into criminality focused on the problematic aspects of the *Azad* visas, which are the most expensive and, in some ways, the most sought-after visas. The *Azad* visas cost around 10,000 USD, and are illegal as they come without any attachment to a particular job under the designated sponsor. Pakistanis travelling on these ‘free’ visas are meant to find their own forms of employment and income generation once they arrive in the Gulf. The promise of not having to be tied to a sponsor is highly appealing to prospective migrants and many are thus willing to pay the often very steep prices that these visas are available for. However, upon arriving in the Gulf, even migrants who willingly chose this category of visa are frequently faced with the difficulty of not being able

to find work that pays them enough to make a return on the investment. Many migrants on the *Azad* visa also remain constantly anxious because of their irregular status. Some of the interviewed migrants spoke about the difficulty of managing their daily costs of living in these circumstances and admitted to occasionally having resorted to engaging in semi-criminal or criminal activities. Some migrants spoke about the tremendous strain of owing large sums of money to their friends and family at home, and how they felt bound to find some way to pay this money back as they knew that others were also suffering as a result of their failure to generate an income in the Gulf. Several migrants on the *Azad* visa, when not earning, failed to find means by which to send funds home, and this pushed them to borrow further amounts of money from people within the Gulf or engage in petty theft, and sometimes even in outright criminal activities such as the transportation and sale of drugs.

Various migrants who had ended up facing the tough consequences of being in violation of the legal system spoke about how, even if they had legitimate grievances and had been arrested without having done anything wrong, the state had failed to uphold their rights. Migrants who had been jailed by the authorities and then deported as a result of their immigration status, as well as those who had been in prison for criminal activities, both stated that the Pakistani Embassy had offered them no support.

The absence of the state

The Pakistani Government, particularly in the form of its overseas missions in Saudi Arabia, was heavily criticized by participants of the focus group. Some of the most heated statements made by return migrants were targeted at the Pakistani state and its lack of interest in protecting the rights of its citizens while overseas. One migrant contemptuously referred to the Pakistani Embassy in Riyadh as being “completely useless” and disinterested in protecting overseas Pakistani workers’ rights. The universality of this phenomenon is seen, for example, in the case of Nepalese migrant workers, whose rights are left unprotected in the Gulf due to the non-binding provisions of the International Convention on the Rights of All Migrant Workers and their Families that the Nepalese Government has failed to ratify and domesticate (Devkota 2019: 25). The local judicial system in Saudi Arabia mediating salary and employer disputes was perceived as being invariably biased in favour of citizen-sponsors. Embassy officials contacted to help in these issues offered little aid or assistance according to the return migrants. One return migrant said that when his employer had withheld his salary, he had approached the labour authorities to intervene, but in the end, they had ruled in favour of the sponsor. The perception among most of the return migrants at the focus group was that if they were to resist any

of their employers' actions or try to fight for their rights, they would face deportation or arrest, and that the Pakistani Government would not do anything to intercede on their behalf.

VV, whose brother had helped him find a job in Saudi Arabia, expanded on this:

'I did not have any problems with the labour recruiter as my brother sent my Saudi visa directly to the agent in Pakistan, but the *kafel* turned out to be a bad person. My brother couldn't do anything to help me. If we complain against our *kafel* to the police against the injustices being done with us, they will not take action against the Saudi *kafel* but arrest us instead. I called the [Pakistani] embassy from the jail but they said they are not responsible [for] my condition. I told them that there are over 16 nationalities here in the jail and their embassies are helping ... I asked them why the Pakistani embassy isn't able to do the same. I told them I was innocent but they paid no heed to my case. I had to spend 14 months in jail and now I am banned from Saudi for 14 months. I cannot go even for religious pilgrimage. I will strongly discourage anyone who plans to work in Saudi. You will work but not get paid, and if you complain to the police, you will be the one who will land in jail while the actual culprit, the *kafel*, will roam free.' (VV 2017)

The Pakistani Government itself walks a fine line between advocating for greater protections of its overseas citizens in the Gulf and developing domestic capacity in managing safe migration from Pakistan whilst ensuring that Pakistani workers are able to access overseas employment. Given the weakness of local economic conditions, the state views overseas employment of its citizens in the Gulf as critical.

'Countries like Pakistan with overpopulation problems and lack of jobs suffer from the same problems. Yesterday, one of our ministers said human capital is not a problem, it's actually an asset. And I was like, "yeah, good statement for you because you are in the planning commission, but you should ask your colleagues in the Overseas Pakistanis Ministry". So, I mean, we have this good rhetoric coming out of the Pakistani government, but actually what we are doing is very little. So we will be reliant on exporting our manpower. Because we don't have industry in Pakistan. Probably that is one of the biggest single factors [at play] – that we are not able to generate employment locally. We are not an industrialized economy, we are an agro-economy. And that cannot sustain so many people, so the Gulf will remain a very lucrative market.' (KS, PK 010 2017)

While initiative needs to be taken at the state level to both regulate the recruitment industry in Pakistan and ensure that Pakistani migrant workers are not being taken advantage of by registered OEPs, our fieldwork discovered that one of the most expensive means by which Pakistanis obtain jobs in the Gulf is through their own informal networks. While a personal network is often thought of as being less exploitative and safer to navigate, some of the largest sums of money that migrants end up paying is to their friends or family members who have informally helped arrange a job in the Gulf for them. As our interviews at the MRC pointed out, many of the migrants who seek their counselling services speak to them about how much money they spent to get jobs in the Gulf through their own relatives.

'Obviously, the people who go there and work, they have become so accustomed to making money like this so they are saying they are like killing two birds with one stone: they're getting a family member or a friend a visa and they're also making money out of it. So, why not? So yeah, that is quite exploitative. That's the most expensive [visa]. Because if there is an OEP and there's my cousin, between the two, I will say, "he [my cousin] will take care of me". I won't go to the OEP because he's my cousin. He's there. He knows the company so he has my best interests in mind. So he will not dupe me. But actually, that's how it's done.' ([KS, PK 010 2017](#))

Clearly, the trust that potential migrants have in their friends and family members already established in the Gulf is far greater than what they have in OEPs based in Pakistan. Migrants are thus more likely to accept higher costs of job contracts in the Gulf that are facilitated through their own networks, as they have greater confidence that their interests will be protected through their personal contacts. However, these informal recruitment channels are far more challenging for the state to penetrate and regulate, both in the sending and in the receiving state.

Conclusion

Based on these research findings, the labour migration system ([Dito 2008](#); ILO 2018) between Pakistan and the Gulf is clearly fraught with a lot of peril for potential migrants. While on an annual basis hundreds of thousands of lower-income Pakistanis actively look for opportunities to work overseas, many of those who do make it end up in positions of vulnerability and perhaps quasi-irregular situations. Migrants who arrive via formal channels, through the prescribed labour recruitment system, are often hampered by the very high fees associated with regular migration. Owing large amounts of debt and being desperate to pay their loans

back, these migrants are thus made more willing to tolerate harsh labour conditions. Commonly lacking appropriate information about existing immigration rules, conditions of their visa status, maximum and legally permitted recruitment, and working and living conditions in the Gulf adds to their vulnerability and exposure, both while they are navigating the recruitment process and also once they are finally in the destination state. Given the strict migration conditions that the *kafala* imposes, primarily linking migrants' work and residence to their employer-sponsors, migrants are highly likely to become irregular should they decide to escape dangerous, difficult, or poorly paid jobs.

Clearly there are many routes towards irregularity for Pakistani workers in the Gulf. With the host states' weak capacity towards enforcement of labour laws and the limited ability of the Pakistani Government to intervene to protect its citizens in the Gulf, for some migrants contending with exploitative working conditions the only option may be to leave their sponsors and work illegally, in the even less-regulated or secure informal sector. Other migrants who have still not recouped their financial investment or paid off their loans in the allotted time period for which they obtained a work contract may decide to stay on illegally after their residency has expired, and thus also end up in an irregular status. Burdensome and expensive procedures for obtaining residency permits that are entirely in the hands of the employers, who use their control over a migrant's documents as leverage, may also place migrants in a predicament and eventually force them to work illegally.

Given the poor economic conditions in Pakistan, migrants may also make the conscious decision to seek out irregular channels for migrating by purchasing *Azad* visas, as they understand that these visas provide them with greater flexibility and also because these visas are more widely available for sale. Unfortunately, for many of those who are successful in obtaining the *Azad* visa, once in the Gulf they find that the conditions of work are often dangerous and, operating in a grey and unregulated space, they have little or no protection of their labour rights. Devkota observes a similar phenomenon with Nepalese workers who enter the workforce in Gulf countries through illegal means and then contend with dangerous working conditions and violations of their labour rights (Devkota 14).

At the conclusion of the focus group, two return migrants said, "Go for the pilgrimages but never for work to Saudi Arabia" and "Go to Dubai instead of Saudi. You have more rights in Dubai, and the police [do] not bother you there." Migrants expressed their grief and frustration with the difficulties they had faced in navigating the recruitment process in Pakistan and also the challenges of trying to make a success of their lives while they were abroad. Several of them suggested that what had significantly hampered their efforts to improve their situation was a lack of knowledge and information

of their rights, and the inability to get assistance from the government to address some of their conditions. Some blamed the recruiting agencies for the worries, but others expressed that their sponsors were to blame entirely.

While many of the focus group members spoke about the extractive and exploitative nature of the labour-recruiting sector in Pakistan, there was a general agreement that, without the involvement of these agents, most migrants would be unable to find jobs in the Gulf. Although many of the assembled men focused on their negative experiences, others who had benefited from their period of stay in the Gulf stated that without the services of agents in Pakistan they would never have made it abroad in the first place. For many Pakistanis (including several of our interlocutors) migration has improved their material well-being, but as this research shows, migrants' experiences are shaped by existing structures of labour migration governance in the Gulf and the profit-generating recruitment industry that provides much-desired access to the Gulf labour markets. With intense competition for jobs abroad, which Pakistani's hope will endow them with the social mobility that they cannot attain at home, the role of labour recruiters continues to be important.

Migrants spoke about their sense of injustice at not having benefited more from their experiences abroad, and of how the high costs of their migration meant that they were constantly worried about their extended families' welfare. For many of them, they got to the Gulf as a result of a family investment in their migration and, throughout their sojourn, had to find ways to ensure they could provide financial support to those who depended on them. As one migrant mentioned, he lived with an underlying sense of anxiety, of feeling he was in "two difficult places at once", as he attempted to contend with the challenges of his life in Saudi Arabia while also worrying about his family back home. There was a general acknowledgement among the group that their own shortcomings, such as a lack of education and information about the law and their rights, made them even less capable of improving their conditions. Given the challenges of finding economic well-being within Pakistan, some return migrants who had experienced very difficult conditions even spoke about their interest in possible future sojourns for employment in the Gulf.

Notes

- ¹ This chapter is the outcome of fieldwork funded by INCITE, Columbia University, through its REALM (Research and Empirical Analysis of Labor Migration) grant. The author wishes to express her grateful thanks to Professor Peter Bearman and his team for all their invaluable support for this project.
- ² The use of a rapid ethnographic study allows for intense yet quick qualitative research fieldwork to maximize research efficiency, utilize inductive research methods, and ensure that the research is participatory in nature and takes local dynamics into account in research application processes. The limitations of this approach include the short time spent on

a research investigation and the potential lack of reliability in research findings with a sample group greater than 8,000 respondents.

- ³ The Migrant Resource Centre provides migrants with information and counselling in various areas, such as overseas employment, rights and protection of migrants, access to education systems in other countries, skills development, and vocational training programmes. One of the priority areas for the centre is to raise awareness among potential migrants about the benefits of safe and regular migration and the dangers and consequences of irregular migration. <https://www.mrc.org.pk/en/>
- ⁴ Information in this section is taken from a day-long focus group discussion held at a farm in Chak Shehzad, Islamabad, Pakistan on May 14, 2017 ([PK 009 2017](#)), as well as with staff at the MRC, Islamabad, May 15, 2017 ([PK 010 2017](#)).
- ⁵ See: [Breeding \(2012\)](#), [Chowdury and Rajan \(2018\)](#), and [Jain and Oomen \(2015\)](#).
- ⁶ A similar phenomenon is also observed in other cases in this volume. See contributions by Devkota, Percot, and Akhil and Ganga.
- ⁷ Residency visa in Arabic.
- ⁸ Employer-sponsor.
- ⁹ In Saudi Arabia the residence permit issued to foreigners is referred to as the *iqama*. The *iqama* is tied to an employment contract and to a sponsor, and is usually valid for 1 to 2 years, after which it needs to be renewed by the sponsor.

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“We Sent Our Sons across the Seven Rivers”: Tracing the Migratory Network and the Risky Migration of Bangladeshi Fishermen to Oman

Marie Percot

‘We sent our sons across the seven rivers and we let them go because we need food, because we don’t have enough. Here, they have no work and we have no land. [...] If they were getting their fair share, it would be enough for us. If those [Omani] people were thinking that they have crossed so many rivers out of need, they would help them, but they just don’t think about it.’¹

Introduction

Except for the extensive work by M.M. Rahman, little research until now has been done, especially of a qualitative nature, on the situation of Bangladeshi migrants in the Gulf. Their exact number is not known. Official data from Bangladesh only give a cumulative figure of 7.1 million documented migrants between 1976 and 2015 ([BMET 2015](#)). It is estimated that between four and five million Bangladeshis would be living now in the Gulf countries, although these estimates are unreliable considering the high numbers of undocumented workers ([Rahman 2011a](#)). Oman is now the third most popular destination for Bangladeshis. Over the last few years, Bangladesh has become the top sending country of migrants to Oman with – officially – 694,449 individuals migrating, before India and Pakistan (691,775 and 231,685 respectively) ([The Daily Star 2016](#)).

International migration is regarded very positively by the Bangladeshi authorities, for the remittances it generates (14.98 billion USD in 2017) and also as a means to mitigate the effect of climate change on rural employment ([Government of Bangladesh 2009](#)).² Yet, even if the government has initiated negotiations with the Gulf Cooperation Council (GCC) countries regarding labour recruitment, it has not yet been able to really negotiate the improvement of conditions of employment of its migrant citizens, who are, in their vast majority, unskilled migrants whose salaries are among the lowest of all migrant workers, especially when compared to Indian or Pakistani migrant workers ([Kibria 2011; Rahman 2011a](#)).

This chapter presents and analyses the case of Bangladeshi migrants from a small island in the Bay of Bengal (Hatiya) who are going in their thousands to work as fishermen in Oman. This research is based on several field visits to Bangladesh and one in Oman³ where 199 migrant or ex-migrants were interviewed. It clearly explores a small migratory niche, but has the ambition to highlight the situation of many unskilled or low-skilled Bangladeshi migrants that have chosen or have been driven to move abroad due to a poor situation at home. It is also an enlightening example of migration governance beyond the state(s), through the agency of individuals or of a very local community who have managed to deal with complex regulations – in their country as well as in the host country – in order to establish a steady network between Bangladesh and Oman. In the first section, the local context, which leads these men to opt for a notoriously hazardous move, is described and an explanation of how they migrate given. The second section deals with the situation in the destination country and highlights, in particular, how the migrants are pushed and trapped into illegality. Finally, the third section is dedicated to a discussion regarding the question of migrants' agency and their very slim chances of benefitting from their migration in the context of the structural violence they face from both states, whether it is from their home or host country.

Leaving Hatiya: a risky gamble

An island under pressure

Hatiya is a small island in the Bay of Bengal, situated almost four hours away by boat from the mainland. The island has 452,463 inhabitants living on 371 km², that is a density of 1,219 inhabitants per km² (BBS Census 2011). Hatiya is ranked among the top 10 per cent of the worst districts according to several factors concerning education of children (number of schools and teachers, and school attendance rate among other factors). The literacy rate is 34.2 per cent – low compared to the 51.8 per cent for the whole country. The lack of infrastructure in sectors other than education

is also striking: one finds only one hospital and a small NGO clinic for the whole island. Many villages have no access to electricity.

There is no industry and the only economic activities are farming, fishing, and small local businesses. Considering the size of the population and its steady increase, local economic opportunities are not sufficient to provide an occupation for each islander. There is thus a fierce competition for jobs, ending up in a high rate of unemployment. The situation is a bit better during the fishing season, which lasts for six months a year, but once it is over, most fishermen remain unemployed. In addition, the benefits of the fishing season may be compromised by attacks from pirates, who ransom fishermen and boats – a common event on the island coasts.

Like many places in Bangladesh, and particularly the coastal areas, Hatiya is prone to several environmental disasters. Firstly, the area is regularly hit by cyclones (the last ones to have hit the island were in 1991, 1998, and 2007), which result in loss of life and property. Secondly, the island is prone to land erosion, which is an endemic phenomenon in Bangladesh, where it is estimated that nearly a million people per year are displaced after their house and land have been eroded (Rahman 2009). In Hatiya, the erosion which started in the 1970s has particularly affected the northern part of the island, and has largely increased these past 20 years, leading to the displacement of a sizeable population. Erosion is partly compensated by the emergence of new land in the Southern part of the island. The accreted land belongs to the government and is supposed to be distributed to landless people, with a priority to victims of erosion, but the vast majority of displaced inhabitants have to manage the situation on their own without receiving any compensation. The lack of political will is patent since most of the emerged land has been illegally grabbed by influent farmers who have not been prosecuted.

In Hatiya, most landless families have some members working as fishermen while the others work in the fields when they are able to get a job. In any case, the incomes are too limited for a decent livelihood. Many of them are illiterate, either because they never went to school or were only able to attend it for two or three years. Many do not even own their homestead land. This is notably the case for those who have previously been victims of erosion.

It is in this class of landless people that one finds most of the future migrants. The men leaving for Oman are generally aged between 18 and 35 years old. Many come from families that have been victims of erosion (70 per cent of my interlocutors) and have been relocated in the village of Jahazmara, the place from which almost all of the migrants leaving for Oman come.⁴ Most of them are married and already have children. Almost all of them had started to work before the age of ten, usually as assistants on the boats or in small shops or restaurants.

The local network of migration: captains as brokers

In Hatiya, no network exists with the big Bangladeshi metropolises, such as Dhaka or Chittagong, that could provide job opportunities for the islanders, at least during the lean season, as is often the case in many rural regions of Bangladesh (Khandker 2012). This can be explained by the isolation of the island, where poor people, in particular, have almost no contact with the mainland. No recruitment agency can be found either that would recruit for overseas countries, and no sub-agents of such agencies tour the island. The only migratory network existing in Hatiya is the one for Oman, which started in the 1990s.

It is possible to precisely trace the origins of this migratory network. During the course of this study, the sons of the first islander to go to Oman were found, who explained their story: in the 1980s, the family was poor. The father, trying to find a solution for a better livelihood, went once to visit a brother-in-law in the neighbouring island of Sandwip.⁵ People of Sandwip had already, at that time, started to migrate to Oman. With the help of this relative, he got a visa and left in 1989 to work as a fisherman. His employer in Oman, according to the sons, “was a good man”, and he was soon made a captain. Once a captain, he was in a position to hire fishermen on behalf of his Omani boss, which he naturally recruited from his village, Jahazmara. At first he helped two of his sons to come, followed by neighbours. The sons also became captains and recruited other fishermen as well. In this family alone, over a hundred people were ‘given’ a contract to Oman. A snowball effect set in, with more fishermen coming from Hatiya, more became captains, and so in a position to recruit new islanders – namely, to sell them visas. In the meantime, Indians and Pakistanis, who were the first to be hired as fishermen in Oman, had found new and more profitable networks in the Gulf. It is also the case for the people of Sandwip, thanks to the proximity of the island with Chittagong. People from Hatiya, however, have not been able to do the same, and so Oman is still the only migratory option.

So, the recruitment has entirely been done on a private basis: an individual selling the visa to another. Such a visa is called an ‘*Urro* (that is, flying) visa’, as ‘it flies directly from a migrant broker in the Gulf countries to a prospective migrant in Bangladesh, bypassing local recruiting agencies and their sub-agents’ (Rahman 2011a: 12). In the first years of this migration flow, it seems that the visa was given for free to some relatives or neighbours, however, the captains then began to negotiate the visa cost. They are now sold for 2,500 USD, of which 1,300 USD go to the Omani boat owner who is the sponsor of the migrant.⁶ To this amount, the potential migrant has to add the fees for the visa processing through a travel agent and the price of the flight ticket. Altogether, a job in Oman will cost around 3,500 USD, more than the average price in Bangladesh for a visa for the Gulf, which M.M. Rahman

estimated at 2,750 USD ([Rahman 2011a](#): 14). The cost of migration is thus huge, particularly for people whose monthly incomes barely reach 5,000 takas (50 USD) or 15 to 20,000 takas at the absolute maximum for a joint family.

On the way to Oman: borrowing and processing the visa

I have found no migrant, ex-migrant, or candidate to migration who already had the available capital to invest in their departure, especially as it is the full amount that has to be paid before the departure of the migrant (hence long before the migrant becomes able to send any remittances). All of my interlocutors had to borrow the largest part of their expenses. As most people live in a joint family in Hatiya, the full family is responsible for the debt.⁷ The amount is borrowed from several relatives and comparatively richer neighbours. The interest rate ranges from 30 to 50 per cent per year. Everybody in Hatiya acknowledged that, even if you are very poor, when it is to go abroad, it is always possible to find money to borrow: “If you are able to go to Oman, the money may take some time to come, but there will be some remittances anyway. So, they are ready to take the risk.” This is also how migrants or ex-migrants explain that they had no choice other than to go to Oman in order to try to get a better livelihood for their family, since they would never have been able to secure a loan to support other economic ventures, like opening a small business.

The prospective migrants had paid for their visa but they had no real idea about the type of contract they would get in Oman. None of my interlocutors have been able to show me a document describing his job abroad and its conditions. Many of them claimed that they had indeed signed a written contract (at the travel agency that they have to use in order to process the visa), but it was a paper written in English and Arabic that they could not understand and for which they did not bother to get a translation. What they rely on is the given word of the captain’s family who is selling the visa, an oral contract being the tradition in Bangladesh.

I was unable to get a proper idea about the existence or non-existence of such contracts, for the travel agents with which I discussed this were very elusive about this topic, as were the Bangladeshi State authorities I have interviewed. Yet, something is clear: as unskilled workers, the fishermen need to obtain an emigration clearance certificate from the Bureau of Manpower, Employment and Training (BMET) in order to travel abroad. They would be stopped at the airport before leaving if they had not secured this paper beforehand. Their migration had therefore to be first approved by the competent authorities, which either had not checked the contract, had not bothered to check if there was a contract, or had turned a blind eye to a fraudulent contract. It would seem that corruption plays a role in each step of the migration process. Indeed, a recent report by Transparency International Bangladesh ([TIB 2017](#)) identified nine different steps where corruption takes

place during the migration process. Some of my interlocutors stated that, for instance, they had been declared ‘unfit’ at the compulsory medical check-up, but later became ‘fit’ after having paid 2,000 BDT. They may also not be aware of the other steps where money had been given, since they do not know the complete details of the total amount they pay to the travel agent who is in charge of processing the visa. This type of incident also shows that the emigration clearance policy is not a guarantee of protection for the migrants, as has been demonstrated for other cases and in other countries (Walton-Roberts et al, this volume; Ennis and Blarel, [Chapter 7](#) of this volume).

The fishermen I met in Oman had obviously left Bangladesh and entered Oman with proper documentation, but the four different high-ranking officials in charge of migration⁸ that I met in Dhaka absolutely denied the fact that there were any Bangladeshi fishermen in Oman. Their only suggestion was that they had gone there illegally and that no protection could be given to such criminal migrants: “These are such people who give a bad name to the country”, concluded one of them. In answer to a question about the need for potential better regulation or control of the ‘flying visas’, whose proportion is high in Bangladesh, a high-ranking official of the Ministry of Expatriates’ Welfare and Overseas Employment simply stated, “It is the freedom of the people to find visas by themselves. Why and how should we stop them?” An unspoken priority of the Bangladeshi State is to have as many emigrants as possible, notably as a ‘safety valve’ against unemployment (see Blarel and Ennis, [Introduction](#) of this volume). Therefore, no step has been officially taken to regulate and limit this system of private brokerage, which has developed out of the bilateral agreements regarding recruitment that Bangladesh has been able to negotiate with the Gulf countries. Being a subservient country, Bangladesh has limited power when negotiating such types of agreements. As an example, one can mention the 2017 agreement with Saudi Arabia: After a several-year ban on recruitment of Bangladeshi migrants, the Saudi kingdom agreed to resume recruitment, but only under the condition that for each male migrant, one female migrant would be sent in order to answer a shortage on domestic workers. This agreement has deeply shocked people in the Bangladeshi villages considering the frequent reports of abuse on Bangladeshi women working as housemaids. As was often said to me, “It is good that we can again go to Saudi Arabia, but not at this cost. Our government is now ready to sell our women.”

“Kulu Oman haram” (Everything is bad in Oman)

Fishing in Oman

In the 1990s, the Omani Government took some steps to develop its fishing industry. Apart from investment in new harbours, it started to

subsidize the purchase of boats by small investors (WTO 2008). At the same time, in a move to settle down its nomadic population and to provide them with jobs, it also largely subsidized the purchase of smaller boats for coastal fishing. In the case of big boats, a foreign crew could be hired, while, in the second case, where the small boats were almost fully paid for by the government, only Omanis were authorized to work. This was also part of the policy of ‘Omanization’, which was supposed to reserve jobs for Omani citizens and to limit the importance of foreign labour (Das and Gokhale 2010; Ennis 2015). Actually, nomads did not turn into fishermen and, from the beginning, foreign labour was also recruited for the small boats. This circumventing of the law seemed to be a general feature in Oman, where the failure of the indigenization of labour has eventually led to more ‘illegal’, and thus more vulnerable, migrants (Safar and Levaillant 2017).

Migration in Oman, like in all other GCC countries, is subject to the system of sponsorship called *kafala*, which makes the migrants totally bonded to their sponsor (or *kafeel*) with almost no way of changing jobs or employers in the case of a problem (Gardner 2010; Hamadah, this volume).

“Kulu Oman haram” (Everything is bad in Oman): it is with this Arabic sentence that I was welcomed in the harbours I visited in Oman. I was then given a depiction of the physical and verbal abuse the workers were suffering from: “We are not even dogs for them”; “I thought I was a human being, but here we are no more than slaves [das in Bengali]”. I was directly presented with a migrant whose back was showing the scars of having been beaten by a hammer, another whose leg was badly infected after a work accident and to whom his boss had denied any treatment, and a young migrant who had been kicked in the stomach for not understanding a few Arabic words when he had been in Oman for less than a month.

The second unanimous complaint revolves around the low wages the fishermen received.⁹ They had no fixed salary but were paid with a share of the fishing profits once the expenses of fuel and food had been deducted, and the boat owner had also collected a 50 per cent share; the rest was supposed to be equally divided between the crew members. The problem is that fishermen are denied any access to the fish market. They are thus totally dependent on their *kafeel* who, eventually, only gives them the amount he is ready to give. It seems that it is always much less than what the fishermen had estimated. The annual amount my interlocutors acknowledged that they had earned during their stay in Oman ranged from 500 to 750 Omani Rials (1,300 to 1,950 USD). After their own expenses, the average that my interlocutors said they could send home was 740 USD per year. This has to be compared with the 3,500 USD that they had invested in order to travel to Oman.

The path towards an irregular status

On their arrival from Hatiya, the vast majority of Hatiya fishermen get the *kafeel* and the job that was promised, that is, fisherman on a ‘big boat’ for which it is legal to hire foreign workers. They are thus ‘regular migrants’. The work permit in Oman is valid for two years. After this time, it can be renewed if the *kafeel* is willing to retain the worker. The renewal costs 200 Rials (520 USD) in administrative fees and it is nowadays common practice for the *kafeels* to ask the workers to pay this amount.¹⁰ To stay as a documented worker would thus be another big investment if we compare this cost to the average remittances sent home (1,480 USD for two years). The fishermen who had been regularly paid decent wages during the initial two years may prefer to continue as they are, with a more secure stay in Oman. However, the majority, that is, those who could not invest more or who had too low, irregular, or no wages at all for a period of time and who, in addition, had a particularly disrespectful or violent employer, may rather risk becoming undocumented migrants in order to try to find a better place to work. Most of these undocumented migrants go to work on the small boats, since they are stuck in the harbours and have no other networks in Oman. It is theoretically not legal.¹¹ Consequently, these migrants face the risk of deportation at any moment, but will get the possibility of a better deal regarding their wages compared to when they were bonded to a bad *kafeel*. This ‘advantage’ of irregularity is a well-known phenomenon and strategy in the Gulf (Gardner 2010; Rahman 2011a). Although there are not many options open to the fishermen, the steps that take them towards irregularity are clearly carefully thought through.¹² Three reasons usually lead them to take the path of irregularity: 1) the very bad wages they get as documented migrants, that is, when working legally, and the possibility of receiving higher earnings when working on small boats; 2) the difficulty they have in spending more money for the renewal of their visa – an illegal practice that is now the rule in this sector; and 3) the business over visas between Oman and Bangladesh – it is more profitable for both the Omani boss and the Bangladeshi captain to bring in new migrants than to renew the visa of a worker already there.

It is difficult to give accurate estimates regarding the proportion of fishermen who have become undocumented workers. One may, however, think that, apart from the ones who have succeeded in becoming captain, most of the Bangladeshi fishermen are undocumented after two years of stay in Oman. Three facts confirm this hypothesis: 1) the average time spent in Oman by the fishermen working on big boats (the only legal way), which for two thirds of the people I met was no more than two years, indicating a large turnover with new migrants replacing the ones who had left; 2) the large number of fishermen working on small boats, thus having

become undocumented workers; and finally 3) the quasi absence in Hatiya of people that have come back willingly (that is, they have returned only after deportation).

If deportation may be used as a threat for all migrants, it is a real danger facing undocumented workers. They have to constantly cope with a situation of ‘deportability’, to quote De Genova (2002). Bangladeshi workers in Oman may be even more vulnerable than migrants from other nationalities. Of the 21,190 undocumented workers officially arrested in Oman in 2014, [Safar and Levaillant \(2017: 122\)](#) report that 59 per cent of them were Bangladeshi nationals. The hunting for undocumented workers seems to have increased if one believes the Omani media, which regularly talks of massive arrests in an attempt to calm down the resentment of the population towards the high number of foreigners; a resentment which, to quote again from [Safar and Levaillant \(2017: 124\)](#), “is particularly oriented towards irregular workers, who are considered as being responsible for several socio-economic issues and are increasingly being criminalized”.¹³ Partly because of their high proportion among undocumented workers (but certainly also because of the menial jobs they are occupying), a racialized stigma is now attached to Bangladeshi workers in particular, who are considered as exemplifying the ‘bad’ migrants.

However, Bangladeshi fishermen feel as though they are legitimate migrants, even when they try to stay in Oman, for they have paid significant costs to be there. As Hassan, living in Oman as an undocumented worker for seven years, stressed: “I have paid 3 lakhs [Bangladeshi takas] to come here.¹⁴ I did not bargain and I am still paying on this amount. I am a hard worker. Why should the police be on my back as if I were a thief or a goonda [thug]? Bangladeshi people have sacrificed a lot to come here. It is only justice that they can work peacefully and earn as much as possible.” In any case, trapped by their debt, the fishermen have no other choice than to stay as long as possible. They have to attempt to pay back their debts and, as bad as their earnings can be in Oman, they are more than what they can expect to gain once back in Hatiya.

Although they try their best not to be caught, the vast majority of Bangladeshi migrants end up by being arrested.¹⁵ They are then sent to jail, as is the rule in Oman, after a trial which they do not understand, having no access to a translator and no help from their consulate.¹⁶ They are sentenced from six months to a year of detention and are eventually deported, as soon as their family back home has sent the money to pay the fine that they have been sentenced to and which needs to be paid before their release.

After a few years of hardship, bearing the shame of having been sent to prison and of financial failure, they return to Hatiya. If we exclude the few migrants who were lucky enough to become a captain and, thus, to enter the visa business, none of the migrants I met had been able to clear their debt that helped fund their travel to Oman.

A migration without protection: from precarity at home to precarity abroad

[Agustin \(2003\)](#) warns against ‘a growing tendency to victimize poor people, weak people, uneducated people and migrant people’, and suggests we should instead better consider their agency. There is no reason, indeed, to either minimize the rationality of Hatiya fishermen when they decide to leave, nor their ability to cope with the many traps they encounter from then on. Migrant fishermen and their families surely use, as much as possible, the ‘weapons of the weak’ ([Scott 1985](#)) with a lot of bravery, imagination, and determination. But as [Farmer \(2004: 315\)](#) remarks, ‘structural violence is structured and “stricturing”. It constricts the agency of its victims.’ Once migrants are trapped abroad with a huge debt to pay back and not able to send significant remittances to their family, the notions of agency and choice become more questionable, as does their apparent capacity of ‘resilience’ ([Brad and Reid 2013](#)). [Van Hear \(2014: 101\)](#) also notes that ‘the capacity for a would-be migrant to navigate the international migration order will be largely shaped by his or her endowments of economic and social capital, or the amount of economic, social, and other capital a would-be migrant can call upon’. The migrant fishermen of Hatiya are poorly educated, have no economic capital at all, and have access to only one network that facilitates their travel to Oman. Under these conditions, their chances of success are more than constrained, they are near zero.¹⁷ One can, without too much risk, hypothesize that most Bangladeshis coming from the same social background who migrate in the Gulf face a very similar situation.

From the Bangladeshi side, it is not possible to underestimate the responsibility of the state in the situation that the migrants face before and after their departure. One should at first underline the fact that, in the case of Hatiya, all the candidates of migration to Oman are landless people, and the majority of them victims of erosion who had not been given land they were entitled to. Second, they have no access to credit in order to try to build a better livelihood. If microcredit delivered by NGOs is very common there, as it is all over Bangladesh, particularly among landless people, the small revenues such loans can provide are used for daily needs and only lead to growing indebtedness ([Karim 2011](#)). They cannot finance a real business or a migration. Some banks and some NGOs have slowly started to develop ‘Overseas Employment Loan Schemes’, but these ask for guarantees that poor migrant candidates cannot give.¹⁸

According to different studies ([KNOMAD-ILO 2017; Martin 2016; Rahman 2011a](#)), Bangladeshis are the ones for whom migration costs are the highest in the Gulf countries. The Bangladeshi Government passed an ordinance in 2013 officially stipulating that the migration costs should not exceed 84,000 BDT (around 1,000 USD), but as the Refugee and Migratory

Movement Research Unit¹⁹ ([RMMRU 2017](#): 11) concludes, “unfortunately, no recruiting agencies that disobeyed these policies while recruiting workers [were] brought under jurisdiction”²⁰. No real control actually exists over the more than a thousand registered recruitment agencies that exist in the country (Devkota, this volume). However, such control may not solve the problem. According to [Rahman \(2011a\)](#) and [Afsar \(2009\)](#), a majority of Bangladeshi migrants find their job opportunities in the Gulf through personal channels. Rahman suggests 58 per cent of all Bangladeshi migrants travelled to the GCC with such ‘flying visas’, such as in the case for all of the Hatiya fishermen. The RMMRU gives an even higher estimate of 80 per cent of migrants who relied on such visas (2017). Rahman suggests that these visas through personal networks would altogether be safer and less costly for prospective migrants, since the personal bond could have induced a reduced price compared to commercial recruitment agents. This argument is shared by [Molland \(2012\)](#) and [Kern and Müller-Böker \(2015\)](#), who have looked at similar migration networks in other countries. The opposite seems to be true in Hatiya, however, and at least three hypotheses for this can be pointed out. At first, the islanders have no access to any other network, and hence no bargaining power. Then, the low income that fishermen get in Oman leave becoming a visa broker the only option in order to get some benefits (as already said, that is only possible for those who have succeeded in becoming captain). Finally, I will contest the assertion of Rahman that ‘flying visas’ are cheaper since they come through bonds of kinship or friendship (2011a: 13). Considering the number of people ready to migrate and looking for a visa, it seems to me that ‘flying visa’ brokers are nowadays ready to sell to the highest bidder,²¹ particularly when – as is most often the case – they are themselves migrants with low wages and have no scope for other good sources of income – they cannot afford to be too generous. At least in Hatiya, brothers-in-law or cousins will sell visas to their relative at the same price they would sell it to another person.²² This trend could very well be observable in many other places in Bangladesh. This does not, however, reduce the prestige attached to being a visa provider that [Rahman \(2011a\)](#) or [Lindquist \(2012\)](#) pointed out: visa brokers have indeed become an archetypal figure of successful migrants,²³ in a situation that any prospective migrant expects for himself.

In Bangladesh, the state has actually distanced itself from any involvement in emigration flows going through such channels, despite their obvious existence and importance. The officials I met simply stated that it was the freedom of the people to offer or to find visas through personal networks, although they eventually fall outside the purview of any regulatory mechanism. The lack of control of the agencies that migrants use to process the ‘personal’ visa,²⁴ added to the high level of corruption during this process, does not leave any scope for a minimal protection of the migrants before their departure,

whether it is regarding costs or terms of employment abroad (Babar, this volume; Ennis and Blarel, [Chapter 7](#) of this volume).

Finally, the Bangladeshi State has also failed to protect its migrants abroad. The RMMRU recognized that an ‘insufficient number of labour attaches creates major problems in providing services to migrants’ ([RMMRU 2017](#): 15). This could obviously be observed in the case of Hatiya fishermen: whether it is when they needed a document at the consulate, when complaining about a “bad *kafeel*”, when they needed a lawyer or a translator for a trial after being arrested by the police as undocumented workers, when they needed help once jailed, or when faced with possible repatriation, all of my interlocutors said they were consistently left alone to deal with the situation. From the discussions I had with people of the Bangladeshi consulate in Muscat, undocumented workers were moreover considered as criminal and problematic citizens for whom nothing could be done. The Bangladeshi authorities seem to avoid a political reaction to the reasons that lead so many of their citizens abroad to take the path to an irregular status, preferring until now to consider this phenomenon as an individual behaviour and hence the responsibility of the migrants. It is true that, caught in the contradiction of its ambition to increase its number of migrants (hereafter of remittances), and due to the low skills and low level of education of most of them, the Bangladeshi State has very little leverage when negotiating with the Gulf countries the conditions under which Bangladeshi citizens may stay and work (Ennis and Blarel, [Introduction](#) of this volume).

On the Omani side, one can observe, in the case of Hatiya fishermen, the perverse effects of the *kafala* system, which has been analysed by different scholars (for instance, [Bajracharya and Sijapati 2012](#); [Gardner 2010](#); [Kanchana 2018](#); [Rahman 2015](#)). As previously mentioned, it leaves the labourers subject to the abuse of *kafeels* without much scope to defend themselves. [As Safar and Levaillant \(2017\)](#) or [Gardner et al \(2014\)](#) point out, the access to justice is particularly difficult for migrants in the Gulf, if ever they are even aware of such options. For the fishermen in Oman, it was not even seen as a possibility or a right, as they were convinced that they stood no chance in challenging an Omani citizen. The fear of deportation is, according to them, enough so as not to even try.

The *kafala* system also pushes many migrants to take the path of irregular status. When migrants have a *kafeel* who is violent, does not pay them what they are owed on time, or even does not pay them at all, they have to find another solution, since coming back home is not a reasonable option. In the case of Hatiya fishermen, some had indeed chosen to abscond from their *kafeel* because of such reasons. But many of them, as explained, have also become irregular migrants at the time of the renewal of their visa, when the *kafeel* was asking them, again, for an amount that they could not afford to

pay. This practice of making the migrant pay for his visa and for its renewal, which largely developed in the Gulf in the 1990s, is certainly illegal, but one sees no evidence, in Oman at least, of a political will to stop it, although it induces an ever-growing influx of migrants. As in Bangladesh, it seems that the personal recruitment of migrants falls outside any real control. The only way for the authorities to deal with this issue is by increasing the number of deportations ([Global Detention Project 2016](#); [Safar and Levaillant 2017](#)). This policy contributes greatly to the vulnerability of the migrants. Not only do they become very precarious residents, but by contributing to their indebtedness at the time of departure and at the time of the visa renewal, the visa business also seriously hampers their chances of financially benefitting from migration. Without denying the migrants' agency (Turton 2003), one can argue that this eventually leads to a sort of forced migration. In need of earning more money to come back, whatever their legal status might be, and unable to leave even for a short time once they have become irregular workers, the migrants are literally stuck in the country of migration.

Another factor that contributes to the generation of so many irregular migrants in Oman is the failure of the Omaniization policy, which is meant to limit the weight of foreign labour and of unemployment among poorer Omani citizens. The latter, at least in the fishing sector, have not consented to occupy those menial jobs for which many of them were not even trained. Rather than pragmatically open these jobs to migrants, the authorities have rather chosen to chase them, in an endless move, since the boat owners – who are not prosecuted – recruit new migrants among those who had not been able to renew their visas as soon as the previous ones have been arrested.

Conclusion

Some studies show cases of successful migration to the Gulf even in contexts that strongly limit the rights of foreign nationals ([Osella and Osella 2009](#); [Percot 2006](#); [Syed 2007](#); [Venier 2016](#)). All of them deal with skilled or semi-skilled workers, or with entrepreneurs. The benefit of this migration for unskilled or low-skilled workers is a lot more uncertain ([Gardner 2012](#); [Rahman 2011b](#); [Rajan and Sunkendran 2010](#); [Sahoo and Goud 2015](#)). In the case of Hatiya, however, migration to Oman can be considered a disaster – all the more if one considers the societal consequences in Hatiya, such as conflicts over debts and 'bad' visas, or with wives left behind without financial means.

The precarious situation that poor people face in Hatiya (unemployment, displacement, landlessness) and the lack of livelihood opportunities at home lead them to take the risky gamble of investing a large amount of money in order to migrate. However, the cost of migration that is nowadays the norm in Bangladesh leaves them with almost no chance of succeeding, considering

the income they really earn in the Gulf. With the remittances that they are able to send, it would take more than four years for the migrants to just pay back the debt taken on in order to go, without even considering the interest. The cost of migration comes, in this case, from the business over visas by private brokers, which is actually not controlled either by the Bangladeshi or the Omani State. Candidates to migration, having no other access to abroad but these opportunities provided by the captains in Oman, are trapped into taking jobs that are particularly exploitative.

The precarious working conditions and low incomes are certainly factors that push migrant fishermen in Oman to abscond from their *kafeel*, but the most common reason is, again, the visa business – the impossibility of paying for a renewal and the precarity induced by the interest for the *kafeel* and for the Bangladeshi captain to recruit a new migrant. The path towards an irregular stay and job in Oman is hence almost unavoidable. Despite the huge number of its citizens who have become undocumented workers, the Bangladeshi authorities have nevertheless chosen to criminalize them, stating that these migrants are “a shame for the nation”, as do the Omani authorities, who just resort to deportations to deal with the issue.

The personal visa business may have been safer and cheaper some decades ago. Nowadays, however, both the Omani *kafeel* and the Bangladeshi migrant/broker take a share from the selling of visas. The amount they ask is in line with what the recruitment agencies ask; moreover, they act outside the real control of either the Omani or Bangladeshi state. In these conditions, migration through personal visas has not only ceased to be a safer and cheaper opportunity for the low-skilled migrants, it has become calamitous.

Bangladesh does not have the state capacity of India to be able to negotiate with Gulf states, and it also does not have either the political will or the organizational capacity of the Philippines to manage its emigration ([Ennis and Walton-Roberts 2018](#)). On the other side, the Gulf economies – here Oman – benefit from migrants in a vulnerable situation, with the migrants being left with almost no support from their own country. The Gulf countries partly buy social peace by tolerating a black labour market that is highly profitable to many small and medium-sized entrepreneurs. The importance of private brokerage is thus certainly not a marginal question in the South Asian migration to the Gulf. Rather, it is an intrinsic part of the political organization and governance of the population movement between these countries.

Notes

¹ Quote from Rasheeda who has two sons working in Oman.

² The Bangladeshi Climate Change Strategy and Adaptation Plan (BCCSAP) states: ‘It has been estimated that there is the impending threat of displacement of more than 20 million people in the event of sea level change and resulting increase of salinity coupled with [the]

impact of [an] increase[d number] of cyclones and storm surge, in the near future. The settlement of these environmental refugees will pose a serious problem for the densely populated Bangladesh and migration must be considered as a valid option for the country' ([Government of Bangladesh 2009](#), 17).

- ³ Five months altogether in Bangladesh and one month in Oman between 2014 and 2018.
- ⁴ There are no data regarding the number of erosion victims in Hatiya. However, the available maps of erosion on the very populated north side of the island would suggest it is reasonable to think that tens of thousands of people have been, or still are, affected.
- ⁵ It takes five hours by boat to reach Sandwip from Hatiya. Relations between the inhabitants of the two islands are thus not so frequent. Yet, marriages are sometimes arranged between families of Sandwip and Hatiya whose fathers are fishermen and get a chance meet with their boats during the fishing season.
- ⁶ According to several interlocutors, the price of the visas was cheaper until the 2000s since, at that time, the Omani bosses were still not asking for money when hiring a migrant worker.
- ⁷ The lenders thus have a sort of security to be paid back: they often start to put pressure on the migrant's family very soon after his departure.
- ⁸ Two officials of the Ministry of Expatriates' Welfare and Overseas Employment and two officials of the Bureau of Manpower, Employment and Training.
- ⁹ Babar's study also quotes this complaint from her respondents, among other similarities between these two communities of migrants (Babar, this volume).
- ¹⁰ The older migrants remarked that, in the 1990s, the *kafeels* used to pay this amount themselves, as they are legally bound to.
- ¹¹ On how labour governance is, indeed, second to economic policy choices, see also Ennis and Blarel (Chapter 7 of this volume). There is here a clear discrepancy between an economic need for labour and the law.
- ¹² See Ennis and Blarel (Introduction of this volume) about the role of migrants' agency.
- ¹³ About the criminalization of undocumented workers, see also Devkota; Hamadah; and Ennis and Blarel (this volume).
- ¹⁴ 1 lakh is 100,000.
- ¹⁵ The migrant fisherman I met in Oman who had been able to stay for the longest as an undocumented worker had been there for 18 years; most migrants had absconded from their *kafel* two to three years ago. In Hatiya, of the 150 returned migrants I met, all them but two being deportees, had stayed as undocumented workers for three to five years.
- ¹⁶ None of my interlocutors ever received assistance from the Bangladeshi consulate at the time of their trial. Nobody from the consulate ever visited them during their imprisonment.
- ¹⁷ Or less than 1 per cent if one considers the number of them who succeed in becoming captain and hence enter the visa business.
- ¹⁸ A report of RMMRU gives a figure of 5,463 migrants having accessed such loans ([RMMRU 2017](#): 14).
- ¹⁹ The RMMRU is directly linked to the Ministry of Expatriates' Welfare and Overseas Employment.
- ²⁰ See also Babar (this volume) about migration costs and its poor regulation.
- ²¹ The limit may be the 'usual price' charged by recruitment agencies, which any Bangladeshi is able to find out regarding migration to such or such country of the Gulf (Oman being the cheapest and Saudi Arabia the highest).
- ²² The only persons, in Hatiya, to whom a visa is provided for free are sons or brothers. Something which makes sense since, as a joint family, they generally live on the same budget for large expenditures.

- ²³ The captains' families in Hatiya have not become rich enough to, for instance, build a big house, but do have enough for a decent livelihood (enough food, a bit a land, and education for the children).
- ²⁴ In Hatiya, prospective migrants were using agencies in Dhaka or Chittagong that other migrants they knew had already used. The amount for which the different agencies ask for processing the visa is very similar.

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PART IV

Contestation and Absences in Migration Governance

Contested Governance and Sovereignty in the Kerala–Dubai Migration Corridor

Crystal A. Ennis and Nicolas Blarel

Introduction

Perhaps in no other space is the authority of the state felt more powerfully than from the position of a migrant or refugee attempting to enter a country for work or asylum. Yet the power of physical borders and the sovereign role of the state in governing the national space of work and mobility has irrevocably changed. While the role of a state remains of crucial significance, states are not actors operating alone. Rather, global governance institutions and governmental actors at the subnational, regional, and international levels all play a role in shaping the governance of migration. Moreover, non-governmental actors, including businesses and activists, are also influential players in the migration governance space. The ways through which sovereignty is contested and governance is shaped by these various actors and stakeholders is a critical component of how global migration governance occurs.

In this chapter, we examine these overlapping and contested spheres of governance with a view of labour migration within the India–United Arab Emirates (UAE) migration corridor – the largest Asian migration corridor ([IOM 2018](#): 57). We use a subnational spatiality, the Kerala–Dubai corridor, to illustrate the complex assemblage of actors operating in a labour migration governance space and, in a variety of ways, challenging state sovereignty over this issue area. We do so through an examination of two case studies: the actors and processes in labour recruitment, and the establishment of a shared electronic migration regulatory system.

The findings from these cases support two arguments advanced in our chapter: first, labour migration governance needs to be understood as a

multi-scalar governance activity that occurs in a contested and constantly evolving space. Second, regulatory choices that occur are not only influenced by the multiplicity of actors operating in this space, but also influence their activities, choices, and advocacy. That is, we see that recruitment agents, business hiring managers, migrants, and migration advocacy organizations react to regulatory choices by adjusting their activities, lobbying for new regulations, looking for ways of facilitating the continuation of labour migration, and creating new platforms and mechanisms for generating governance change.

Where some view migration and citizenship governance and border security as a ‘last bastion of sovereignty’ (Dauvergne 2008: 169 and 184), others suggest growing evidence in various spheres of migration governance of ‘extraterritorial interventions’ by states and private actors (Rodriguez and Schwenken 2013: 381), and even ‘deterritorialized labour market regulation’ (Ennis and Walton-Roberts 2018: 179). These cases allow us to ‘imagine a form of sovereignty that is not limited to the territory within a border’ (Longo 2018: 26). With a view of recruitment agencies, subnational governments, and transnational activist networks, we can see how these actors engage with, but also sideline, states to pursue their own agenda and shape outcomes in the labour migration space. Indeed, the ‘sidelining of states is also characteristic of large parts of policy approaches to the problem of unfree labour’ (LeBaron and Phillips 2019: 2). This becomes more prominent in global policy discourse in corridors with a reputation for facilitating controversial regulatory frameworks that allow various forms of unfree labour to emerge. Governance gaps are part of the story of global migration governance.

Our chapter proceeds by examining the two cases introduced above, as follows. We begin by setting the contextual picture for understanding the space in which migration is governed in the Kerala–Dubai corridor. We then examine each case in turn. First, we show how the actors and processes involved in labour recruitment operate across the corridor, and create and adjust their activities, both in relation to the national and international regulatory changes and to influence those processes. Second, we examine the creation of a shared electronic migration platform between India and the UAE to illustrate and concretize the ways through which sovereign political domains are contested and regulated. The research that underpins this chapter was conducted by both authors between 2017 and 2019, with interviews and participant observation in Kerala and New Delhi by Ennis and Blarel, and Dubai by Ennis.

The State-to-Emirate migratory corridor

Economic factors have historically been one of the main drivers of migration between South Asia and the Gulf, where millions of migrants emigrate to work. Among South Asian countries, Indian nationals have a major presence

in the Gulf Corporation Council (GCC) countries, having increased from 1.95 million migrants in 1990 to 8.18 million in 2015 ([United Nation 2015](#)). For labour-sending countries, the ‘export’ of labour becomes an implicit (and sometimes explicit) strategy for addressing domestic job creation demand, targeting poverty levels and stimulating social mobility, offsetting the cost of social welfare provision, and generating foreign exchange. The contribution of Indian emigrants in the UAE to the Indian economy through remittances account for 13.2 billion USD and in 2015 was the fourth top remittance corridor in the world ([World Bank 2015](#): 16). Among the states of India, Kerala has been a major labour-sending region to the Gulf since the 1930s; a trend which increased after the first oil boom of 1973. At present, about two million Keralites reside in Gulf countries. The continuation of migration from Kerala to the region means the Malayali presence is an important demographic, cultural, economic, and linguistic social sphere. Economic factors are considered one of the central drivers of migration from Kerala to the Gulf, and remittance income has played a central role in development.

Keralite migration to the UAE increased in intensity in the 1970s when the Emirati authorities started an ambitious economic and infrastructural development programme ([Oommen 2016; Rajan 2017, 2019](#)). Some estimates suggest that about one inhabitant out of seven living in the UAE is a Keralite, but precise, reliable demographic data is not available ([Venier 2007](#)). Of the 9.5 billion USD remittances sent to Kerala in 2014, 85 per cent came from the Gulf ([Rajan and Zachariah 2019](#): 200). Although there has been a decline of emigration from the state, and a return of migrants over the last decade, inward remittances have risen as migration from Kerala has increasingly included higher skill levels, moving from migration largely based on unskilled and semi-skilled jobs to high-skilled professions such as engineering, management, and accounting ([Rajan and Zachariah 2019](#)). At least partly as a result of the important remittances and investments made by Malayali immigrants in the Gulf, the state of Kerala is estimated to be about 50 per cent wealthier per head than the national Indian average ([The Economist 2015](#)).

Like all labour immigration to the UAE, the migration of Malayalis is primarily regulated through a form of temporary migration that functions as a sponsorship regime. This regime is known by the Arabic, *kafala*.¹ All migrant workers are hired through temporary contracts, usually on two- or three-year cycles, which are tied to their employer, who serves as the sponsor (*kafeel*). This sponsorship system means that each Emirati national or expatriate that employs foreign workers also plays a role in the governance of migration, as responsible actors for the host nation’s employment regulations (Hamadah, this volume).

A majority of Malayalis enter the UAE in this form, as guest workers, and are obliged to leave at the end of their contract. In practice, the temporary

sponsorship system allows a precarious type of long-term residence through the regular renewal of contracts and visas. Many expatriates, especially among semi-skilled and skilled classes of labour, spend their entire working lives in one Gulf country. They are often accompanied by their spouses and children because expatriates earning above a certain salary level can sponsor their families (Ewers and Dicce 2016; Vora 2011, 2013). Immigrants pursue multiple strategies to serve as back-up safeguards to prolong residence should they not manage to renew their contract, as detailed by Valenta et al (2020).

Economic elites, business investors, and property owners are able to secure more durable ties and longer settlements in the UAE. Dubai, for example, has offered freehold ownership to foreigners with a corresponding residential permit since 2002 (Bagaeen 2007; Valenta et al 2020: 189). Entrepreneurs and business investors also receive residency permits, with the residency of business owners in free zones tied to the company rather than business partner as sponsor (Valenta et al 2020). Some of the wealthiest individuals in the UAE are Keralite entrepreneurs. Four of the eight people in the UAE to make it onto the 2020 Forbes UAE billionaires list are foreign, and all four are from Kerala (Abbas 2020; *Emirates 24/7* 2016).² Some wealthy expatriates have managed to secure permanent residence. A famous example from Kerala is Yussuf Ali, chairman of the Lulu Group (that owns retail establishments like malls and a chain of hypermarkets). He was the first UAE expatriate to receive a ‘gold card’ permanent residency as part of a wave of new migratory paths announced in recent years (*The Economic Times* 2019). Among these were the ten-year residency visa for knowledge workers announced in 2018, which aimed at attracting and retaining high-skilled professionals, and the possibility of 100 per cent foreign ownership anywhere in the country in 2020 (Cioccarelli et al 2020; Duncan 2018).³ Therefore, *class matters* in migration regimes and socio-economic positions impact the legal situations of Keralite migrants within the UAE.

The context of the Kerala to Dubai migration corridor demonstrates the power of class and the ‘social’ in not only influencing migratory paths but also in governing migration. Formal roles and processes exist but operate alongside informal ones, and are, in turn, influenced and reshaped by them. Two significant examples became clear through our research – labour recruitment and bi-national digital platform creation. Here we see governance co-constituted between the formal and informal, and being produced by multi-level and social regulation. We turn first to labour recruitment in the following section.

Governing recruitment in the Kerala–Dubai corridor

One of the central processes in facilitating migration between Kerala and Dubai is recruitment. That is, the ways through which aspiring and existing

labour migrants decide to work abroad, find and secure employment, and navigate through the bureaucratic and regulatory processes to leave their home state of Kerala (or the place in which they are working) to move to Dubai for work. Some of the actors in this process include recruitment agencies, migrants and their relatives, state/emirate and national officials, and employers.

Recruitment agents and agencies – formal, legal agents and informal ones – are key actors in the governance of recruitment. They act as intermediaries in the process of finding work and the processing of the necessary paperwork for travel to, and employment in, the destination country. Among recruitment agencies we observe official and unofficial actors in the public and private sector and in the informal space – with a great deal of slippage across them. Sometimes these agents operate in separate national spaces, based in a particular city in Kerala or in Dubai. But often they operate across national contexts by managing the full recruitment and travel process from one location, or by having separate legal agencies on both sides.

Chain migration is central to the migratory process, and to the ways through which Keralites of all skill levels find work in Dubai. Chain migration refers to the way through which migrants receive help from relatives or friends in order to migrate. In the absence of being able to sponsor family members, finding work for friends and family is also a way of family reunification for low salaried positions ([Shah and Menon 1999](#); [Taylor 2016](#)). According to an International Labour Organization (ILO) study from 2015, 74.5 per cent of surveyed migrant workers in the UAE said they had received help from close relatives to acquire employment. In Dubai, many small businesses build their employee base through internal references, making use of informal networks instead of official recruitment agencies based in Dubai or Kerala. Even those who migrate through official channels often report being connected to the agency through a network referral. As observed in the wider South-Asia to Gulf corridor (see Percot and Babar, this volume), chain migration is also a major force in Kerala, and various towns have reputations for migration to particular destinations in the Gulf. The expansion of a migration chain has a multiplier effect – the expansion of the network leads to more migration, which in turn leads to the expansion of the network ([Shah and Menon 1999](#): 363–5). These informal chains play a role in governing migration through shaping the process and providing critical information.

The regulations of the home state and country form the first set of procedures and rules for a migrant to navigate through. International labour standards, like the Private Employment Agencies Convention 1997 (No. 181 adopted by the ILO), alongside initiatives for ‘improved regulation and enforcement, support for industry-led and multi-stakeholder certification schemes’, and ‘increased government-to-government oversight’ under the Global Compact for Safe, Orderly, and Regular Migration, are important

instruments promoting the regulation of recruitment agencies ([IOM](#) [nd](#); [Samantroy 2014](#): 407). These have partly encouraged states to enact regulatory measures and official channels for migration, such as the official recruitment agencies.

Within India, private recruitment agents, according to the Indian Emigration Act of 1983, need to be approved and registered with the Indian Ministry of External Affairs (MEA). Yet it has only been since 2015 that the Government of India has become more active in trying to develop its capacities and reassert sovereign control over migration flows through the regulation of recruiters. It authorized six state-run agencies to manage recruitment across the country, two of which are based in Kerala. Even more recently, it developed the e-Migrate recruitment system, which we explore later in this chapter, to better monitor the practices of private recruiting agencies and directly assume the task of recruiting nurses (see Walton-Roberts et al, this volume). The central government also set up two Protector of Emigrants (POE) offices in Kerala (Kochi and Thiruvananthapuram), and a Migrant Resource Centre in Kochi.

Within Kerala, the state government has attempted to consolidate and oversee the recruitment process. It chiefly does this through the two government-sanctioned recruitment agencies authorized to facilitate outward migration from Kerala mentioned above: the Non-Resident Keralite Affairs (NORKA), and the Overseas Development and Employment Promotion Consultants (ODEPC). All unskilled and semi-skilled workers, and women under the age of 30, are supposed to use these official agencies. Neither ODEPC nor NORKA, however, are new, but are part of a longer-term practice whereby the state government stepped into a governance vacuum to provide its own welfare support to Keralite emigrants at the subnational level. Indeed, these bodies have been operating for decades – with ODEPC established in 1977 and NORKA in 1996 ([WHO 2017](#): 6). NORKA was the first separate Non-Resident Indian department of its kind created by an Indian state. In 2002, it established NORKA-Roots to serve as its field agency to handle recruitment. It has since also been involved in providing free legal aid through Malayali lawyers in the UAE ([Saseendran 2018](#)) and, more recently, in hosting a website where non-resident Keralites wishing to return from abroad could register ([Gulf Times 2020](#)). The decentralized and proactive NORKA has also been emulated or cited as a model by other states, such as Andhra Pradesh and Karnataka, wishing to develop a similar type of subnational migration governance mechanism (Akhil and Ganga, this volume).

Next to these formal regulatory bodies and recruitment agencies in the home nation, there are regulatory bodies, recruitment agencies, and employers in Dubai and across the UAE that also recruit workers from Kerala. There is a disaggregation of regulation around the Dubai labour market that makes

this space especially complex. There are four segmentations of the Dubai labour market regulatory responsibility: (1) the public sector, (2) the private sector, (3) free zones, and (4) the household sector. Each of these spaces are regulated differently. Regulation of public sector employment is divided by the locational jurisdiction of the authority – that is, the local Emirate (Dubai in this case) regulates employment across the Dubai Government, and national government bodies are managed by the federal UAE authorities. The Ministry of Human Resources and Emiratisation (MOHRE), formerly the Ministry of Labour and Social Affairs, covers the private sector labour market. Interestingly, it is not only the public sector that falls outside the auspices of MOHRE but also the economic free zones, like the Jebel Ali Free Zone. Special economic zones have regulatory exceptions, and in the case of free zones in the UAE, the federal authorities have no jurisdiction to intervene on economic and labour market matters – only criminal law applies. The fourth separate regulatory area is the household sector. That is, domestic workers like maids, cooks, and drivers are not subject to the same labour laws. In fact, domestic work used to fall under the Ministry of Interior, also leaving the sector without labour oversight and instead under the auspices of internal security. A 2017 reform had household workers move under the jurisdiction of MOHRE ([HRW 2016](#)). While this has been lauded as an important step, domestic workers still remain governed under a separate law with different regulations. These four realms of regulation govern the recruitment and employment of workers in these sectors, and are a necessary space and field for private recruitment and employment agencies to be familiar with. Yet the complexity and segmentation of legal authority creates regulatory ambiguity, opening gaps in migration governance.

The recruitment of prospective workers through public and authorized private agencies constitute the more formalized channels that are, in theory, more easily and directly regulated and managed by the subnational and national authorities in both the place of origin of the emigrants (Kerala, India) and the place of destination (Dubai, UAE). In practice, the lines are less clear. Private recruitment agencies in the corridor remain abundant. Even as government efforts to sanction and regulate private agencies have expanded, this remains an opaque space that is difficult to govern. Some studies suggest that there are many thousands of recruitment agencies operating in the India–UAE corridor, including official agencies, informal brokers, and criminal traffickers ([Samantroy 2014](#): 407). Our interviews with agencies on both sides of the Kerala–Dubai corridor revealed that many licenced agencies in India have affiliates in Dubai, and others work in partnership. This pattern is also borne out in other studies ([Kern and Müller-Böker 2015; Samantroy 2014](#): 407). We found that some of these agencies feature the same recruiters who travel back and forth between distinct agency offices that are not officially connected but nevertheless work together to facilitate migration.

Such recruitment businesses are in close touch with labour demand patterns, connect with sub-agents in Keralite villages that direct prospective migrants to them, lobby regulatory authorities at the sending and receiving country sides, remain very aware of evolving regulation and enforcement protocols, and negotiate employment conditions with employers. Often recruitment agencies also act as intermediaries in employment disputes. Sometimes the migrant is able to find the agent and ask for their intervention when terms of employment violate contractual commitments. With increasing frequency, embassies inform agencies that they are responsible for resolving problems with their employment placements in the destination. Agencies view this as an unfair financial burden on their activities, claiming the protection responsibility should squarely rest with the government.

Our observations of circular blame shifting in the regulation of recruitment suggests the governance of migration is, at least partially, shaped by this pattern of conduct. Regulatory blame shifting helps explain delays in action and gaps in governance. In this manner, the Indian Government tends to offload the burden of intervening in labour disputes from the embassy labour attaché onto the recruitment agent. If recruitment agencies are authorized, they can also be made responsible for negative outcomes. This allows the embassies to deflect responsibility – for blame and costs – onto the intermediary responsible for migration. In turn, agencies (as well as migrants and migrant rights activists) complain of severely understaffed embassies and a blatant unwillingness to be active in the duty of care towards migrant workers (interviews). Both public and private authorities involved in the governance of recruitment likewise point towards the unregulated ‘sub-agent’ as the one most responsible for misinformation, illegal fee charging, and other malpractices. Regardless of the national Indian Government regulations and monitoring systems, sub-agents in Kerala operate freely within the recruitment system because they are virtually impossible to regulate. They could be contracted actors in a recruitment agent’s business, but they could also be a friend or relative network, connecting migrants with jobs across the corridor with direct employer access or other informal means. Moreover, these categories (agent, sub-agent, migrant, friend) regularly overlap. Thus, despite a negative policy discourse around sub-agents, they often enjoy a more trustworthy status due to their embeddedness within communities. Even when prospective Keralite workers do access formal channels from the national and state-level governments, the first information about job opportunities in the UAE generally comes from sub-agents. Sub-agents point blame at a weak government that is unwilling to protect its workers, or at official agencies or employers for contractual violations. The circulation of blame is often political, but it has clear governance implications.

Based on our interviews in Kerala in 2017 and Dubai in 2018, we realized that workers are rarely aware of the information and support that can be

provided by official recruitment agencies. The two state-run recruitment agencies in Kerala, NORKA and ODEPC, have been criticized for their perceived inefficiency and tardiness in operations, as well as their lack of autonomy from the state authorities ([IOM 2016](#)). Even interviews at the Protector General of Emigrants (PGoE) at the MEA in Delhi and at NORKA-Roots in Thiruvananthapuram revealed a wide recognition that government recruitment agencies have not devoted enough efforts to publicize their activities and generate awareness of safe, legal options for migration. This is partly due to the nascence of many of the current government initiatives, including the growing involvement of the six state-run recruitment agencies and the launch of the e-Migrate portal in 2015 ([Rajan and Saxena 2019: 5](#)). Private recruitment agencies remain more active and better connected with social networks. On the one hand, this helps spread information and facilitate migration. On the other hand, many prospective workers remain unaware of blacklisted recruitment agencies and government standards, such as caps for official recruitment fees, minimum salary guarantees, or complaints mechanisms. For many Keralite migrants, informal networks and/or private recruitment agencies have remained the normal and only practicable channel.

The recruitment and hiring activities within the migration process vary not only by the corridor, but also by the education and skill-level of the migrant. As we saw earlier, higher-skilled and wealthier migrants have a wider array of options and tools for migration and longer settlement at their disposal. Based on their educational level and networks, they can more easily navigate migration options and business opportunities, and also the labour laws and human rights regulations that apply to workers in Dubai ([Ennis 2022](#)). Skill and education level do not just mean you are better able to find alternatives and know your rights, but within India also mean that you are free from direct state regulation of your mobility. Blue collar workers who have not passed Class 10 are subject to an emigration clearance in order to be eligible for formal migration. If this category of prospective migrants wants to travel to countries designated as Emigration Check Required (ECR) countries, they require a notation on their passport allowing their departure for work purposes. The MEA designates a selection of countries it deems to have weak enforcement of labour standards for migrants as ECR, including the UAE and 17 other countries in West Asia, North Africa, and South East Asia. Based on the Emigration Act of 1983, emigration clearance must be obtained from the POE office at the MEA. This applies to early school leavers and, since 2015, to women migrating as domestic workers and as healthcare workers, regardless of their education level (Walton-Roberts et al, this volume).

Blue collar workers and women of various skill levels are therefore more likely to seek the assistance of intermediaries, from recruitment agents, to

sub-agents, to informal social networks of family, friends, and acquaintances, operating at both their origin and destination (Walton-Roberts et al; Percot; Babar, this volume). Educational, linguistic, and literacy levels can interact with the ability of the migrant to determine the legality and acceptability of the terms being agreed to. Thus, this is a space in which a great deal of transformative help can be offered to prospective migrants, but also a space in which a great deal of exploitation is possible (Kaur 2010; Samantroy 2014; Wickramasekara 2008). Intermediaries like private recruitment agencies can help facilitate migration, which can dramatically enhance the economic prospects of the migrant and their family and home communities. But agents are also regularly accused of malpractices, like excessive fee charging and providing limited or misinformation on working conditions and social security in the destination. Indebtedness to pay for recruitment fees and migration costs often worsens economic outcomes and makes migrants more vulnerable to exploitative conditions (Rahman 2015; Samantroy 2014). Private recruitment agencies and sub-agents are thus viewed as both developmental heroes and as villains in the migration process (Kern and Müller-Böker 2015).

In particular, informal recruitment networks have the benefit of being able to circumvent official registration channels and speed up cumbersome bureaucratic processes. Facilitating your own employment and escaping a regulatory shadow that might prevent your migration can be experienced as empowering (Mehta 2017). Yet such networks also allow for undocumented emigration, which can lead to unfree labour and a trafficked workforce (Rajan 2019; Rajan and Joseph 2017). Women regularly approach informal networks for migration because of the gender discrimination embedded in the onerous procedures, like age restrictions and the ECR requirements for their legal migration, and because they are often targeted by informal recruiters for specific jobs like domestic work. Governmental restrictions on the mobility of women are usually issued with the rationale of protection, but ultimately have the adverse effect of driving women to irregular channels (see Wadhawan; Walton-Roberts et al, this volume). Using irregular channels makes migration and work invisible to official accounting, and therefore more difficult to identify and resolve if contractual breeches or exploitation occurs (Wadhawan, this volume).

According to Kodoth and Varghese (2011), one of the main problems with the current emigration clearance process is that state intervention has indirectly served to produce and sustain a form of ‘controlled informality’ in the emigration process, which promotes the use of informal and unauthorized agents and procedures. This has created a shadow institutional space with a network across India and the Middle East that serves to replicate the functions of the central government. This pattern is clear in our study of recruitment. A potent example of this shadow institutional space that

generated media attention is the so-called ‘Kasargod Embassy’ in India and the UAE. This is essentially an operational network that produces duplicate or forged documents like passports ([Pattadath 2020](#)). The term Kasargod is a reference to an organized network of fake passport forgers based in the Kasaragod district of Kerala. Such services are sometimes sought after in order to circumvent the ECR requirement, age restrictions, or in cases of confiscated passports. Domestic workers routinely turn to non-state actors like the Kasaragod Embassy when they need to escape a bad employment situation but do not have access to their passport. Although the practice is illegal in the UAE, it is common for employers, especially of domestic workers in households, to confiscate passports. It is regularly explained as a way of securing or safekeeping important documents, but serves as a way of restraining freedom and mobility. The network became publicly known after the tragic Air India plane crash in Mangalore that killed 158 people ([Sathish 2010](#)). At least 12 travellers of the flight had secured passports with fake identities from the Kozhikode Passport Office with the help of this informal network ([Mangalore Today 2015](#)). The workers are often unaware that they are travelling on forged documents ([Bhattacharya 2010](#)). For some prospective workers, such informal processes are considered more effective than navigating cumbersome formal procedures. Such practices also highlight how vulnerability and instrumentality can go hand in hand in precarious migration situations, underscoring the very real, yet fraught, individual agency (see also [Chimenti 2018](#): 427–8).

The nature of state regulation has not only produced shadow institutional spaces but has allowed intentional gaps in migration governance for economic reasons. Immigration control is ‘flexible and open to manipulation partly because enforcement costs are significant and partly because citizens within each state benefit from this ambiguity’ ([Willoughby 2006](#): 236). Moreover, on the Indian side, the government has long emphasized the importance of labour migration for its future development ([Shah 2013](#): 61). Overlooking or being unable to regulate certain aspects of emigration to the Gulf still profits the nation insofar as it eases the employment burden on the economy, which in turn benefits from inward remittances.

In the Emirates, one can observe how the complex regulatory landscape shifts alongside economic reforms designed to facilitate the attractiveness of Dubai as a destination for business activities and multinationals. There are three illustrative examples. First, as mentioned earlier, companies that set up in the Jebel Ali Free Zone are not under the regulatory authority of the MOHRE but the Jebel Ali Free Zone Authority (JAFZA). In fact, the free zone became independent of Dubai municipal laws as early as 1986 ([Gunson 2011](#): 4). What this means is that companies can get around regulation by setting up their operations in free zones. This allows them to avoid the complications of labour market regulation and monitoring from Dubai and

federal authorities. For example, visa processing is reportedly easier in the free zone, which is not subject to as much control (interview, 4 March, 2018).

Second, the UAE introduced a Wage Protection System in 2010, whereby all companies under the authority of the Ministry of Labour (now MOHRE) were required to register salaries and pay them electronically into employee bank accounts. This was a mechanism for the state to ensure companies paid salaries regularly and on time. A major worker grievance is the non-payment of wages, and this comes up more frequently during periods of economic decline. Such a reform is intended to protect a worker from this possibility. However, interviewees estimated that as many as 30 per cent of companies had not yet fully enrolled in the Wage Protection System, as companies with connections to the authorities were able to receive exemptions.

Third, the UAE introduced a company classification system, initiated in 2005, which determines a company's access to permits for recruiting foreign labour (interviews, 2018). The higher ranked you are, the easier it is to access foreign permits. The determination of corporate ranking is primarily based on the number and type of the labour violations, the diversity of the organization, and the appointment of Emiratis. In 2017, skill level was added as a determining factor in the classification system in a bid to encourage knowledge worker recruitment. High ranking companies are those that have not been charged with violating labour codes, that hire Emiratis and high-skilled workers, and that have a high mix of cultures in the organization. That is, if all your employees come from one country (for example, India), then your company is ranked lower. Some interpret this cynically as a means of preventing labour solidarities and mobilization, but others interpret it as a move towards enhancing diversity and innovation (interviews, 2018). There are three ranks. First class companies should not have more than 25 per cent of their employees from any one country, and should adhere to all labour codes. They are subject to the lowest work permit fee tier, which adds a financial incentive for good behaviour. The second class has four levels, each with an increasing cost for the labour card. The third rank is the worst, and given to companies accused of violating labour codes, like hiring a worker who entered the country illegally or cheating the Wage Protection System. Third class companies are charged a fee of approximately 5,000 AED (approximately 1,300 USD) for a single labour permit, and may be banned from recruiting foreign labour altogether ([Kubarek 2017; MOHRE 2020](#)). This form of sanctioning companies can incentivize better employer-employee relations and mitigate against the exploitation of migrant workers. Like with other forms of recruitment regulation, there are often structural ways to get around it and benefit from exemptions or other political choices. In 2019, for instance, the year dubbed the 'year of tolerance' in the UAE, MOHRE cancelled fines and unblocked 27,000 'third class' establishments that committed labour violations. The minister did this alongside unblocking

12,000 work permits for workers who had violated labour regulations, all in the name of promoting ‘tolerance in the labour market’ and ‘supporting employers and workers [by] reducing burdens’ ([Nasrallah 2019](#)).

Taken together, these three examples raise important questions about the role of states in labour governance. While states are primarily viewed as the responsible party for responses to labour exploitation, they can also ‘play a causal role in shaping the conditions’ in which it arises ([LeBaron and Phillips 2019](#): 2). It is clear in this chapter that migration governance is of secondary concern to economic policy choices taken by states in the interest of private sector growth. Despite large advances in labour market reform and improved company monitoring within Dubai, it is worth remembering that these regulations only apply to a subset of business activities and labour relations in the UAE.

The fragmentation and disaggregation of the migration governance space between and within India and the UAE has challenged the relationship between migration control and national sovereignty. Even in recruitment, a multitude of actors at various levels of governance are involved in shaping its form. National governments, subnational governments, public and private sector recruitment agencies, informal recruiters, transnational activist networks, families and friends, and Dubai-based employers all play a role in governing recruitment in the Kerala–Dubai migration corridor.

A shared e-Migrate system

The migration recruitment governance space, examined above, illustrates well the multi-level, multi-scalar character of migration governance, and how these levels intersect with informality and the social regulation of labour markets ([Peck 1996](#)). The case of recruitment governance also hints at the variety of ways through which the governments in India and the UAE respond to criticisms of weak migration management and attempt to reassert control over migration. The case we now examine further highlights such trends. The creation of the e-Migrate system in India, and the attempt to make it a shared migration management platform, underlines the inherent difficulty in securing national control over a fundamentally bi-national (and arguably global) activity. It also underscores the deep contradiction in reasserting sovereignty while necessarily devolving some of it. The devolution of authority from the immigrant-receiving state and the ‘border’ happens in a multitude of ways in the migration governance space, from the regulation of wages ([Ennis and Walton-Roberts 2018](#): 179) to recruitment (see above). The story of the shared e-Migration platform provides a vivid example.

The pattern of large-scale outward labour migration to West Asia has gained increased attention over the decades in India, especially in states like Kerala, where labour migration is an entrenched, regular social reality. When

things go wrong abroad, demands for better protection of nationals abroad rise in force. On the other side, within the UAE, where the number of immigrants has overtaken the national population, the public discourse turns towards security narratives – the security of cultural practices and values in the face of foreign religious and cultural ones, the security of economic growth with rising economic ‘leakage’ due to outward remittances, and the security of the political economy benefits held in place by reserving citizenship for the minority of the national population. These narratives can border on the xenophobic, and are comparable to concerns over immigration in Europe from right-wing politics. The public discourse in India and the UAE are, at times, manipulated by political agendas and to rally nationalism – in India to gain credit for defending and protecting citizens abroad and in the UAE to continue to grow the economy through migration while also protecting citizens from possible negative outcomes.

One direct consequence of these patterns was the introduction of the e-Migrate system in India, and the desire to use it as a shared migration regulatory platform. This evolved out of a longer pattern of actions over the last two decades from the Indian Government to try to improve its reputation in the management of emigration and protection of emigrant welfare abroad, and to try to pull back some control from the multiplication of informal and subnational political actors in the migration governance space. One way of doing this was through encouraging its diplomatic missions to provide direct channels for workers to seek redressal of their grievances. To this end, it established the Indian Worker Resources Centres in Dubai, Sharjah, Riyadh, and Jeddah, and set up an Indian Community Welfare Fund (ICWD) in 2009 that could be tapped into by embassies as necessary for the protection and welfare of Indians abroad.

Another way was through bilateral cooperation and policy interventions with the GCC states. India and the UAE signed a Memorandum of Understanding (MOU) in the late 2000s, which declared a mutual commitment to enhancing employment opportunities and to cooperate bilaterally in the protection and welfare of workers across the UAE ([Shah 2013: 62](#)). This was an important step for securing more cooperation and collaboration in labour relations between states in the lead up to the e-Migrate system. In this vein, the Indian Government set up the online MADAD portal in 2015, where emigrants and family members can register their consular grievances as part of a Consular Services Management System (*The Economic Times* 2015).

These were all steps signalling and building towards the launch of the e-Migrate system. Successive Indian governments had planned to launch a computerized, online platform to directly monitor and regulate the migration corridor between India and the Gulf, and more specifically the recruitment process between employers, recruitment agents, and

prospective workers at home. The e-Migrate online system was intended to replace the in-house System Automation Initiative platform and to reduce administrative and financial costs of the migration process ([Charlie 2014](#)). The digitization was directly framed as a response to criticisms of the existing long, costly, and burdensome administrative process of emigration clearance as regulated by the 1983 Act. The e-Migrate system was initially due to be launched in June 2013, but it was delayed until May 2015, soon after the election of Narendra Modi. Before this, an earlier version of the e-Migrate system had already been designed and used for online tracking of the return of mortal remains of Indians who had died abroad ([The Economic Times 2014](#)). The revised version functions as a portal for online registration for foreign employers recruiting Indian workers. Some consider it useful as it auto-generates job identifications and job codes for foreign employers, helps in making employment contracts, and should eliminate the need for workers to visit the POE for emigration clearance ([Khaleej Times 2015](#)). The e-Migrate platform was launched with the promise that it would ensure a certain respect for basic labour standards, such as minimum referral wages in various sectors (carpenters, masons, drivers, fitters, nurses, and domestic workers) ([Sasikumar and Sharma 2016](#)), and foster a transparent process for recruitment and employment in the destination. By requiring all prospective workers to the Gulf holding ECR passports to be employed directly by a foreign employer, with both employees and employers submitting all necessary documents for emigration clearance, the e-Migrate platform is intended to regularize and protect labour migrants deemed most vulnerable.

It is in the ‘shared’ element of the e-Migrate system that many difficulties were encountered. A shared system between sending and receiving countries, and between recruiters and employers based across the corridor, meant that states, companies, and individuals had to be willing to provide personal and financial details to a system held and managed by the Indian Government. It raised a variety of privacy as well sovereignty concerns. As soon as the e-Migrate system was launched by the Indian Government, it was criticized by all other actors and stakeholders involved in the Kerala to Dubai migration corridor, including the UAE authorities, UAE-based employers, the Kerala Government, the recruitment agents, and the migrants themselves. The Dubai and UAE federal authorities raised objections about violations of sovereign policy domains – immigration very much viewed as something to be managed at the receiving border. Moreover, companies in the UAE balked at the idea of sharing their personal and financial details on such a system. An interviewee further suggested that “companies fear losing their advantages – losing the power to skip obligations” that might be more easily worked around in less formalized or regulated procedures (5 March, 2018, Dubai).

For instance, any UAE-based firm must first register itself and describe its vacancy in the e-Migrate system, notably describing the type of work, the facilities provided to successful candidates, and the details of the recruitment agency that will conduct the recruitment process. Through the system, the employer in the UAE must select either government agencies (including the six state government agencies, two of which are based in Kerala) or a registered private recruitment agency with prior approval from the ministry ([IOM 2016](#)). The recruitment agency must then approach the POE with the documents to obtain permission to advertise the position through the e-Migrate online platform, to conduct interviews, and select the worker. Selected candidates need to provide their passport information, as well as their certificate of completion of secondary education. Once an offer letter has been sent and signed, prospective workers are required to undergo medical examination. Once all these conditions are met, the ticket and visa are issued. Furthermore, the maximum fee that the recruitment agency can charge to the prospective worker is fixed and publicized on the website (20,0000 INR, or approximately 298 USD) ([IOM 2016](#)).

The Kerala Government was also initially critical of the system. As an authority that had been more active, for far longer, in the governance of emigration from Kerala to the Gulf, it resisted initiatives of the central government to re-engage in a policy area it had earlier mostly ignored. Most vocally, Kerala criticized the technical problems of the online system, which made it less efficient. The e-Migrate website crashed shortly following the announcement of it went public. Queries then began pouring into the Indian diplomatic missions and social organizations ([Sankar and Gokulan 2018](#)). According to the Kerala Government, thousands of prospective workers lost job opportunities due to these online glitches ([Khaleej Times 2015](#)).

Migrants and recruitment agents also raised concerns. They were offered the explanation that it was necessary for e-Migrate to capture the data of Indian emigrants so they could be reached without delay in the case of any urgent situation ([Khaleej Times 2018](#)). Indeed, the public justification for the launch of the system continued to be the welfare of Indian nationals abroad. Within the portal, the government set up a multi-lingual helpline through the Overseas Workers Resource Centre (OWRC), through which grievances could be logged to be settled by the POEs – the responsible party for granting emigration clearance ([MOIA nd](#)).

Migrant rights activists operating in this corridor, scholars of migration, and policy makers continued to be especially critical of the e-Migrate system. It came under scrutiny for pushing more unskilled workers into illegality. Between 2015, when the e-Migrate system began, and 2019, the number of officially registered (e-Migrate) Indians to the UAE dropped from 225,000 to 42,000 per year ([Calabrese 2020; Chari 2018](#)). Stakeholders in both India

and the UAE suggest that the stark decline of Indians heading to the UAE is partly attributable to the tightening of the procedures for sending workers abroad by the Indian Government. They view the move to e-Migrate, as well as any regulatory measures around the overseas labour of Indians, as contributing to a shift in the UAE away from recruiting Indians. The sense is that labour recruitment is also a race to the bottom in terms of wages and regulation, which has been suggested as the explanation for a shift towards employing a greater share of Pakistanis or Bangladeshis for work ([Chari 2018](#)). Moreover, because of the strict rules, intermediaries and migrants have found ways to bypass the e-Migrate system. For example, private agents bring domestic workers on tourist visas and change them into employment visas once the maids have arrived. The Indian Government only prevents ECR passport holders from going abroad for work, not for tourism-related travel. Once the workers enter the UAE, the agents can find placements for them through local employment agencies or ‘under the table’. Through such ways of bypassing regulation, domestic workers, and others who migrate irregularly, are more at risk of exploitation. The chance that the agency never secures a work permit increases their likelihood of overstaying their visa, raising concerns that any allegations of exploitation would result in their deportation based on the visa violation. The e-Migrate system has therefore not solved the existing structural problems and has, instead, been quickly bypassed by informal channels of recruitment and migration, thereby further pushing migration into the parallel system of ‘controlled informality’ that we discussed earlier ([Kodoth and Varghese 2011](#)).

Yet it was not concerns over rights that hindered the establishment of the shared system but national sovereignty ones. Sovereignty concerns were immediately expressed by the UAE following the creation and implementation of the e-Migrate system. In May 2017, the UAE Ambassador to India, Dr Ahmed Al Banna, raised alarm over the infringement of the UAE’s sovereignty due to the launch of the e-Migrate programme of India and its mandatory obligations for both UAE employers and recruitment agents. The UAE Government accused India of using the portal to extract information about the companies in UAE. In addition to the extraction of data, the Ambassador added that e-Migrate’s mandate included inspections of premises of UAE companies ([Haidar 2017](#)). In response to concerns shared publicly by the UAE, the Embassy of India in Abu Dhabi claimed that the e-Migrate system did not violate the sovereignty of any country and the main objective of the portal was only to discourage illegal recruitment and protect the welfare of Indian nationals abroad. Yet some of the recent policies initiated by the Indian Government, such as the Minimum Referral Wages (MRW) in 2014, were made explicit and mandatory through the e-Migrate system,⁴ thus stretching the control of the country outside its borders and into the UAE. Such an attempt from India to indirectly regulate within

another national labour market challenges the sovereign prerogatives of the UAE and is a form of de-territorialized regulation.

The public agonizing brought both sides to the negotiating table. Officials from MEA in India and MOHRE in the UAE, and a selection of migrant rights advocates, joined together in consultation, quietly behind the scenes, and more publicly through the Abu Dhabi Dialogue (interviews, March 2018, Dubai and January 2019, Kochi; [Kumar 2019](#)). The engagement of migrant rights activists in the conversation was an interesting attempt to secure buy-in and demonstrate an interest in taking the concerns ‘from the ground’ seriously. The activists were themselves sufficiently vocal and active in international platforms that they had to be taken seriously. Both governments viewed the possibility of a shared system as an opportunity to deflect negative attention around migration in the corridor and instead be viewed as proactive in the protection of workers. A shared e-Migrate system also offered the promise of improving the efficiency of immigration procedures and oversight. But critically, it first had to address the sovereignty concerns. The UAE was unwilling to be seen as devolving control over a sovereign policy domain, but seemed more inclined to repackage the initiative more positively as a progressive step for the future of migration: the UAE likes to be seen as leading the way in policy innovation in the region, and pursues avenues such as this for raising its status in the international community ([Ennis 2018](#)).

In a seeming turnaround in February 2018, India and the UAE agreed to work together to integrate their digital migration platforms. They signed five separate MOUs, one of which was for labour cooperation. In this, the governments aimed to ‘institutionalize the collaborative administration of contractual employment of Indian workers in UAE’, with both sides working to ‘integrate their labour related e-platforms for ending the existing malpractices, combat trafficking, and organise collaborative programmes for education and awareness of contractual workers’ (*The Statesman* 2018). Linking India’s e-Migrate system with the UAE’s MOHRE labour visa portal was lauded as a ‘major step to protect the rights of blue collar workers’ ([Sankar 2018](#)). This measure would be an important step in deterring contract substitution, where prospective migrants would sign one contract in India promising a particular wage and then sign a new contract on arrival in the UAE ([Kader 2018](#)). A linked system on both sides of the corridor would be a measure against these malpractices ([Rasheed and Kader 2018](#)). India and the UAE also discussed possible cooperation between Tadbeer, a new network of domestic labour recruitment centres in the UAE, and Indian government-designated agencies for the recruitment of domestic workers. This could reduce the costs of recruitment of domestic workers ([Kader 2018](#)). A year later, in October 2019, the two countries interlinked their online labour platforms ([Kumar 2019](#)).

The journey towards a shared e-Migrate system between India and the UAE offers an unambiguous example of contested sovereignty and multi-level governance in the migration governance space. It highlights the importance of the involvement and cooperation of stakeholders in government on both sides of the corridor, and at the subnational level in the State and Emirate. It also shows that, even in the seemingly concrete space of a formal regulation system, non-state actors like employers, recruitment agents, migrants, and activists all have a say in raising the stakes for such a programme, and eventually have to be involved in the discussions on how to facilitate the system. While in this example non-state actors are still not fully convinced in the efficacy of the system, and continue to raise concerns about regulation leading to informality, they were involved in the track two discussions leading to the agreement. The insertion of shared e-governance in this migration space is an important area to monitor as it further unfolds.

Conclusion

Through the case studies of the governance of recruitment and the creation of a shared electronic migration system in the Kerala–Dubai migration corridor, this chapter has examined the overlapping and contested spheres of governance that occur within migration governance. The use of a subnational spatiality allowed us to zoom in and provide concrete empirical examples for the complex assemblage of actors involved in the migration governance space – a pattern that is replicated in other corridors. The insights of how governance occurs, and how gaps in this governance emerge, offer important lessons to the wider literature on global migration governance. Sponsorship regimes and guest worker programmes continue to exist around the world, and similar forces of supply and demand, of recruitment agents and intermediaries, and of national agitation around labour demand, welfare, and regulation are all shared experiences and pressures. Labour migration within the Kerala–Dubai corridor occurs within a global system of labour flows, both within Asia and from Asia to other regions. The patterns and tensions around regulation and governance observed in our cases also illustrate how the ‘local’ in policy domains such as migration are very much *transnational* and *global*. Immigration policy does not occur in a vacuum within a single receiving nation but is subject to a variety of other invested actors and stakeholders, as well as fuzzier processes of globalization and regulatory deterritorialization.

Notes

¹ For a longer definition, see Blarel and Ennis in the introduction to this volume, as well as Hamadah’s chapter interrogating the broader way that *kafala* shapes migration governance regimes in Gulf states.

- ² Several other Keralite businessmen were on this list in previous years but dropped out during the economic downturn.
- ³ Previously foreign investors could only hold up to 49 per cent of shares in a mainland UAE company.
- ⁴ More details about the MRW: <http://pib.nic.in/newsite/PrintRelease.aspx?relid=113158>

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Kafala and Social Reproduction: Migration Governance Regimes and Labour Relations in the Gulf

Faisal Hamadah

Introduction

Domestic workers constitute a large percentage of the labour force in most of the Gulf Cooperation Council (GCC) states. We can say that domestic work is one of, if not the, most common vocations in the GCC states. According to the most recent data, domestic workers number over 700,000 in Kuwait, accounting for a quarter of the total number of migrant labourers and approximately a fifth of the total workforce in the country (Kuwait Central Statistics Bureau 2019). In the UAE, they number over 750,000 ([Migrant Rights 2018](#)). In Saudi Arabia, migrant domestic workers number almost four million ([Middle East Monitor 2020](#)), over 8 per cent of the country's population. Domestic work itself is not an exception or a marginal dimension of social life and the labour market but a central and overwhelmingly predominant sphere of work and life. To refocus on migrant domestic labour, not as an outlier or an exception but as the general and most popular form that work takes in the states of the Arabian Peninsula, would shift the perspective on what work itself means in the contemporary realities of these states, and what the future of work might entail. More concretely, it would foreground the fact that reforms to domestic migrant work in the GCC would significantly impact class relations in society at large. To make this argument, my chapter draws on comparative data from across the GCC states, and focuses on the particular experience of Kuwait, as it exemplifies many of the contradictions I attempt to unpack.

In the first section of the chapter, I attempt to situate and understand how *kafala* is lived as a social relation between (citizen) employers and (migrant) employees. I argue that *kafala* as a migration governance regime governs all populations, including citizens, and produces particular ideological effects, logics of governance, and labour relations. I then offer a history of domestic labour and position it as an important lens through which to view the migrant–citizen divide. I argue that the place of domestic labour in the Gulf both reinforces and diverges from this work, a divergence rooted in *kafala*'s main practical effect: the outsourcing of migrant governance to citizen populations. Although domestic labour is often seen as an *exceptional* site for exploitation and atomization of these migrant workers, I argue that domestic labour should instead be seen as an *exemplary* site for understanding migrant–citizen labour relations. I conclude by revisiting the category of domestic labour, tying it to social reproduction, which I argue does not entail simply the reproduction of labour but the reproduction of society at large and the global division of labour.

Labour governance in the GCC and how it is lived

The states of the GCC can be conceived of, according to Omar AlShehabi, as oil exporting/labour importing (OELI) states (2017). Significantly, among the approximately 15 million migrant labourers in the region, Asians account for 12 million (Rajan and Oommen 2020). The importation of labour is governed in these states by the nexus of governmental policies known as the *kafala* system,¹ which, at the time of writing, is undergoing significant reform. For example, in November 2020, Qatar abolished the ‘No Objection’ requirement for migrant labourers to change employment in Qatar (Amnesty 2020). The labour reform allows migrant employees to move jobs without their employers’ consent, in effect abolishing a key facet of the *kafala* labour sponsorship regime. However, there is very little literature on how employers relate to *kafala*, a relation we can see distinctly following potential attempts to dismantle it. Following the much sought-after abolition, the researcher and writer Dr Mariam al-Khater published an opinion piece in the daily *al-Raya* newspaper. In her piece, titled ‘The Protocols of International Organizations: Violated rights or legislation for theft and the law of the jungle?’, al-Khater recounts an anecdote:

When I was studying in America, I brought a nanny with me from Qatar to watch my child while I was at university. One day, a neighbour of mine from the Gulf saw her with my daughter. One day when I was hosting her for dinner, she told me something unimaginable. ‘I told your servant that I want to take her and give her a higher salary. Just leave and come work for me!’ (al-Khater 2020)

Al-Khater expresses dismay and shock over this ‘satanic idea’, stating that ‘betrayal’ isn’t something any culture should endorse. Al-Khater’s purpose for recounting this anecdote becomes clear as the opinion piece continues; she sees the new labour reforms as akin to the ‘betrayal’ she almost faced at her servant’s hands, as well as an instantiation of the titular ‘law of the jungle’ that works to take away citizens’ rights under the pretext of international labour norms.

The French philosopher Louis Althusser famously described ideology as the imaginary representation of individuals to their real conditions of existence, a representation that wasn’t simply a false consciousness. Instead, ideology’s representations are based *in* the real relationships of their life and are aimed at the reproduction of those relationships (Althusser 1971). Althusser rooted the functioning of ideology in ‘apparatuses’, such as schools, religion, the arts etc, but it is quite easy to see *kafala* itself as one such apparatus. We can see what ideological effects *kafala* produces by close-reading al-Khater’s piece, which clearly and tangibly expresses the ideological effects of the *kafala* system and its attendant stratification of labour relations on the citizen-employer and the migrant-worker. These effects are absolutely fundamental to understanding how *kafala* works on the populations it governs. I say populations in the plural here because, as al-Khater’s piece demonstrates, *kafala* is not just a system for governing migrant populations, but one for governing citizens too; indeed, all migration governance regimes are, and as such are constitutive of the ideological representations based on the real conditions of the labour relation.

The first ideological effect of the *kafala* system is that it places the rights of the citizen-employer in fundamental opposition to the rights of the migrant-worker. It produces a zero-sum game whereby if one camp gains rights, the other inevitably loses them. Secondly, it expresses a contradiction between national sovereignty and international labour norms as, similarly, a relation of conflict, with the sovereign state positioned as the defender of the ‘citizen’ class against encroachments on their rights by the international, and links the state’s legitimacy to the legitimacy of its citizens, who are now tasked with ‘defending the state’s honour’.² Finally, it reframes the labour relationship as an *interpersonal* one, with all the affective force that interpersonal relationships carry. In this sense, the idea that moving to a higher-paying job might entail a personal ‘betrayal’ can thus be used to paint the worker looking for a better life and better working conditions as ‘ungrateful’. This latter effect is built on an insistence that the host society is kind, generous, and humane, and that exploitation and abuse are minor exceptions to an otherwise thriving and mutually beneficial relationship.

These ideological effects are a result of a governance structure, and have a basis in social relations and legal frameworks. This is important in understanding how *kafala* operates in the everyday workplaces that it

organizes. They also contribute to the pushback against reform by citizen-employers, a pushback that al-Khater's piece is a particularly exemplary representative of ([Migrant Rights 2021](#)). More broadly, the link between legislation and ideology can be seen in the incentivization of absconding charges for workers across the GCC. In Dubai, residents who report an absconding worker are eligible to receive 10,000 AED (2,700 USD), while in Saudi Arabia and Qatar, the reporting of an absconding worker is performed with the utmost ease through apps that are advertised as 'easy' and 'time-saving' ([Migrant Rights 2020b](#)). In Bahrain, which has particularly weak legal protections for domestic workers that exclude them from key workplace regulations, including limits on working hours, mandatory rest days, and a minimum wage, lawmakers have recently voted unanimously to pass a proposal instituting stringent action against so-called absconders ([Migrant Rights 2021](#)). These actions include requiring the worker to reimburse their *kafel* (sponsor) and pay their own repatriation cost, and go even further by punishing those sheltering the workers with jail terms and fines.

On the opposite end, it is extremely difficult for migrant-workers to report abuses or non-payment. The legal dead-ends often facing migrant workers naturalize ethno-nationalist and class-based discrimination against migrant workers, as seen over the past few years in Kuwait both from popular social media influencers and parliamentarians ([Arab News 2020a](#)). To reiterate my point, then, *kafala*, broadly conceived, can be thought of as a complex of policies and laws that materially influence social relations in the GCC states, stratifying populations according to their position in regards to the migration governance nexus. The materiality of these relations expresses itself in the ideological effects I note above, and which I will detail at more length in the section that follows.

The most pernicious instantiation of these ideological effects, one that combines them all into a concrete political question, is the discourse of the so-called 'demographic imbalance', – the political discussions around the fact that migrant labourers vastly outnumber citizens in most of the GCC states. This reality has led, for example, lawmakers in Kuwait to attempt to introduce a 'quota' system on the diverse nationalities that make up the Kuwaiti labour force – quotas that are to be measured as a percentage against the citizen population ([Al-Rai Media 2020](#)).³ The question of the so-called 'demographic imbalance' has been expressed as a fear over the loss of cultural identity and resources and state provisions, but also, most significantly, in anti-migrant xenophobia and discrimination. That *kafala* provides the material impetus for this discrimination should be clear; when a vast majority of the labour force is unable to integrate into the structure of society, indeed, is seen as alien to that very structure and easily deportable, a rift in the connective tissue of society is created. This effectively leads to a situation where, despite living within the confines of the same state, migrants and citizens function

as distinct populations who, on the whole, do not engage in any form of social relation not mediated through the diverse labour processes in which migrant workers find themselves.

To return to the place of domestic workers in this situation, we can also see the ideology of *kafala* at work in the relations between those committed to providing safety and better conditions for migrant domestic workers and the institutions that are meant to be protecting their rights. I want to briefly turn to the organization Sandigan, a domestic worker support organization based in Kuwait. Founded by former domestic worker Ann Abunda, Sandigan emerged when Abunda, a year into her migration to Kuwait, began to experience verbal and physical abuse from her employer. She ‘absconded’ and, after a series of misfortunes from which she was lucky enough to emerge with a new job and a new visa, she founded Sandigan, a community-based domestic worker support group ([Migrant Rights 2018](#)). Until recently, Sandigan was based at the Kuwait Union of Trade Federations (KUTF), working at a grassroots level to inform migrants of their rights, with training and information workshops, maintain a database of domestic worker abuse cases, help with repatriation, and provide a social safety net for domestic workers who, for the most part, spend their days living and working in other people’s houses. They also consult with international organizations, an experience which has demonstrated that governance is not just the drafting of laws and memorandums, but also includes implementation and administration (or lack thereof). Nevertheless, Sandigan’s work literally saves lives, and their organization is one that is constantly growing, providing a community service that is not provided sufficiently by the state or by civil society. Despite this, the workers who volunteer at Sandigan are still perceived with the overriding ideological effects engendered by *kafala*. Sandigan’s working relationship with the KUTF seems to have broken down recently following a change in the union’s administration. At a recent implementation meeting for the UN Compact on Migration based in Kuwait, the author witnessed a particularly vicious moment of abuse by a representative of the KUTF towards Sandigan, a vitriolic attempt to delegitimize both the work and lived experience of the Sandigan spokesperson. Undeterred, they shifted their base of operations and are currently working under the auspices of the Kuwait Human Rights Association, a shift that demonstrates the marginalization of domestic workers from labour law and the incorporation of migrant rights issues under the purview of human rights, despite the reality that they are questions of labour.

The experience of Sandigan is an exemplary case in the kinds of marginalization that domestic workers face in the social relations engendered by *kafala*. These relations position the domestic worker *outside* the labour relation, and as a ‘grifter’ who must constantly be overseen and who does not have a political subjectivity – the common example of employers confiscating

domestic workers' passports is a clear example of this ideological relation, at once authoritarian and paternalistic. This relation takes the form of an invisibilization of the labour of migrant workers in the data on migrant labour, especially feminized labour (see Wadhawan's chapter of this volume), but is also embodied at the level of law, which often separates the mechanisms that govern domestic labour from non-domestic migrant labour. As is well documented, a key facet of *kafala* as a historical regime of governance is the fact that, until recently, migrant workers across the GCC, including domestic workers, were completely overseen by the respective states' ministries of interior (see Ennis and Blarel, Chapter 7 of this volume), and in all the GCC states the ministry of interior maintains a strong position in the migration governance framework, especially when it comes to workers' rights.⁴ This is also seen in the above-mentioned parliamentary proposal in Kuwait, which glaringly does not include domestic labour in its quota scheme.

If we look to Saudi Arabia's recent celebrated labour reforms, for example, we see that very little has been done to address the situation of domestic labour, which still falls outside the purview of the state's labour law ([Migrant Rights 2020a](#)). Qatar has gone the furthest with recent reforms to *kafala*, including the ostensible abolition of the No Objection Certificate (NOC) and the introduction of a minimum wage. These reforms were formulated to apply to domestic as well as non-domestic migrant labour. Qatar's relatively substantial reforms to the *kafala* system could explain why al-Khater's piece, for all its clear anti-worker discourse, surprisingly uses the domestic worker-employer relation as a way to critique wider labour reforms. Yet, as al-Khater's anecdote demonstrates, these reforms are attracting extreme backlash from citizen-employers and, as with much of the labour reforms in Qatar, the question of the extent to which these reforms are to be implemented remains to be seen ([Amnesty 2020](#)). Each of these reforms is often celebrated in the media as an abolition of *kafala*, often with much fanfare, yet the system continues to dominate labour relations in the states of the GCC and produce the subjectivities of migrants and citizens ([Saraswathi 2020](#)).

In the next section, I provide a theoretical basis for my discussion of domestic labour and the role of migration in the constitution of labour markets in the GCC states. To orient my discussion, I want to flag again Althusser's insight that the role of ideology is to maintain the smooth reproduction of society. As I will demonstrate, this reproduction is complexly imbricated with domestic labour, which is necessary for the reproduction of one of the basic units of this society; the worker.

Domestic labour: what is it exactly?

Theorizations of domestic labour emerged out of Marxist-feminist and activist projects of the late 1960s and early 1970s (Federici 1984). Such

theorizations aimed to reformulate Marx's theory of value production in capitalism by looking at how unpaid domestic labour – the cooking, cleaning, and upkeep necessary to ensure the worker can go to work daily – is central to the reproduction of labour-power, and thus to the wider processes of production on which capitalist society relies. In other words, they look to re-centre and foreground a dimension of capitalist production that is ostensibly ignored by Marx: 'what are the implications of labour-power being produced outside the circuit of commodity production, yet being essential to it?' (Bhattacharya and Vogel 2017: 73). If labour-power is produced outside the circuits of commodity production, who does this production? How might labouring classes turn the site of this extra commodity production towards struggle, especially when it isn't covered by traditional working-class avenues of struggle such as unions and worker's parties?

A key campaign in this intellectual and activist trajectory is the 'Wages for Housework' campaign, launched by a number of Marxist-feminist activists across Europe, including Selma James, Mariarosa Della Costa, and Silvia Federici. The crux behind the movement is an attempt to introduce a wage for housework, considering how vital this work is more generally for the functioning of society and, more importantly, how this work is apportioned to working-class women and expected from them through a sexual division of labour. In other words, women are expected to do their work as a 'labour of love'. The campaign aimed to redress this through collective action and activism, culminating in a series of international women's strikes (Mies 2014).

This was not an attempt at glorifying housework, however, or an attempt to make an argument for it. Instead, as Federici puts it:

... when we speak of housework we are not speaking of a job as other jobs, but we are speaking of the most pervasive manipulation, the most subtle and mystified violence that capitalism has ever perpetrated against any section of the working class ... The wage at least recognises that you are a worker, and you can bargain and struggle around and against the terms and the quantity of that wage, the terms and the quantity of that work. To have a wage means to be part of a social contract, and there is no doubt concerning its meaning: you work, not because you like it, or because it comes naturally to you, but because it is the only condition under which you are allowed to live. (1975)

For Federici then, the 'Wages for Housework' (which she later formulated, importantly, as wages *against* housework) is not the aim of the campaign and does not amount to a form of redistributive justice. The wage might initially open up the possibility for struggle and bargaining by acknowledging the social nature of housework, despite the fact that it occurs in the 'privacy' of the household. However, the tremendousness involved in the task of

properly valuing housework would cause the edifice of the wage itself to crumble. This perspective is important for understanding how domestic work was understood historically but comes up against an impasse when discussing the GCC states. For while migrant domestic labourers labouring under the *kafala* system do ostensibly have a wage, regardless of how paltry it is, migrant domestic labourers distinctly do not have the power to ‘bargain and struggle against the terms and the quantity of the wage’.

This is due, in the first and most immediate instance, to the nature of housework, which works by separating workers from each other almost definitionally; if workers are working in other peoples’ homes, with no recourse to collectivization, then their ability to bargain and struggle is sabotaged at the outset. In the case of *kafala*, this atomization is compounded by the migrant/citizen divide, which provides the ideology of sovereignty that citizen-employers often make recourse to when discussing the rights of migrant-workers. More to the point, the waging of the housework reforms the domestic labour relation into one of contract, giving the employer power over the workers’ very mobility. In this sense, *kafala* works to ensure an impossibility of the kinds of collective action that might effectively pressure for significant worker reforms, reforms that are rooted in worker agency and not the human-rights based ‘reform from above’ that has so far characterized migrant labour reforms in the GCC states.

To better understand how this divide between citizen and migrant populations is articulated in relation to migrant domestic work, it is useful to situate it historically in the development of a global division of labour. This division of labour has its roots in the processes of historical decolonization outlined by scholar Nandita [Sharma \(2020\)](#). Sharma’s account goes far in elucidating how the migrant/citizen divide is rooted in the decolonizing world’s imbrication within an imperial order that demarcated the world-system into rich, labour-importing countries and poor, labour-exporting ones. This demarcation was predicated on a pair of twin practices that historically produced a global proletariat by *facilitating* large-scale movements of people and *restricting* people’s mobility in order to create a reserve of disciplined, exploitable workers, often racialized and easily deportable according to the novel logics of national sovereignty.

National sovereignty, thus, is always *essentially imbricated* with an exclusion of migrant labour from the potential to ‘struggle and bargain’. This is not to say that nationalism cannot have different stripes or have progressive or liberatory aims; instead, it is to say the combination of nationalism *and* sovereignty as ordering political principles organized through a capitalist division of labour cannot but have a logic of political exclusion at its heart. Sharma convincingly describes this logic of exclusion as one rooted in the labour-capital relations of a developing capitalist world system. This can explain why, as I demonstrated earlier, there is a distinct ideological animosity

from the citizen-employers towards migrant-labourers as a class in the Gulf. For the citizen-employer, the migrant-labourers are somewhere they should not be, and constitute a potential drain on resources and provisions that *should* be going to the citizen-employer. This is what Sharma defines as a ‘politics of national jealousy’ – a jealousy over ‘land, jobs, education, and state services, all of which are imagined as belonging exclusively to those who belong to the nation’ (Sharma 2020: 160). This vision of sovereignty transforms the migrant-worker not just into an unwelcome figure in figurations of the polity, but figures the worker as an active drain on the polity’s resources.

In the GCC states, this complex has come to be known as the *kafala* system – the historical form that this global division of labour took. The roots of this historical practice can be found in the British empire’s attempts at juridically regulating labour in the early decades of the 1920s, specifically to regulate the work of pearl diving divers who were not indigenous to the Arabian Peninsula (AlShehabi 2019). In the 1930s, the system was updated to ensure that jobless migrants would not come into the peninsula in order to look for work on travel visas without prior regulation by the authorities. Thus, the British authorities stipulated that every person seeking work, in whatever capacity, had to first obtain a No Objection Certificate from the political agent, and the sponsor or employer had to pay a repatriation surety deposit to obtain the No Objection Certificate in the first place (AlShehabi 2019; Lori 2020). This system contained the basic dimensions of what today is known as the *kafala* system; it both *restricted* the movement of migrant labourers based on nationality in order to *facilitate* their movement as potential labour-power for the needs of capitalist accumulation. As this system developed over the course of the twentieth century, it more strictly articulated a broad societal division between migrant and native rights, crystallized through the issue of migrant and citizen labour relations.

Figured this way, *kafala* can be read as a complex of policies that outsource governance of migrant labour to citizen populations. These citizen populations become the agents who recruit the migrant labourer, bear the financial cost of their entry into the country, shoulder the responsibility for their reproduction through the employment relation, and police the legality of the migrant labourer’s status in the country. Because *kafala* itself is more of a complex that incorporates the citizen-employer into the governance framework than a single law, responsibilities, obligations, and rights become a blurred territory. It is a governance complex that has been in place for decades and has thus shaped the social roles that people perform within the social division of labour.

The logic behind the outsourcing of governance stems out of the divide between public and private life, a divide that waged domestic work upends on one level and reinforces on another. As Bridget Anderson puts it, ‘the household is imagined as a place for private individuals, not political or indeed

market actors ... Domestic workers were effectively consigned to the private' (2013: 64). This divide is one of the hallmarks of liberal social theory, and has historically been discussed through a key dichotomy between the state – the public realm of governance – and civil society – the private realm of free association and the market. According to feminist legal scholar Frances Olsen, this dichotomy itself produces another integral dichotomy between the market – the public realm where people go in order to seek a wage – and the family – the private realm structured by a logic of altruism (1983). An imagined naturalness to the market and the family thus figures the political and legal relations of the state to these two seemingly autonomous spheres, a naturalness that encourages a principle of non-intervention by the state into both spheres as being the most desired form of governance. As Olsen puts it:

The basic assumptions that underlie arguments in favor of the private family are similar to those underlying the arguments in favor of the free market. The first assumption is that 'the family' is a coherent way of talking about certain relations among people. Another assumption is that the family is capable of existing in some sense apart from state activity, as a natural formation rather than only as a creation of the state. (1983: 1504)

If the market and the family are to be conceived as natural and self-regulating social forms, then it follows that *the principle of non-intervention by the state* into the sphere of the market and that of the family is the most desired form of governance. In other words, the household, much like the free market, works best when left to govern itself, and so should be left to do so. In the case of the family, 'the notion of non-interference in the family depends upon some shared conception of proper family roles' (Olsen 1983: 1506), encouraging the family to govern itself, so to speak. If the family, and the household it inhabits, is imagined as a private domain, autonomous from the vagaries of state and market, then waged domestic workers, especially those who live with their employers, are often subsumed within the realm of the family and the household.

For an illustration of this principle of non-interference we can simply look to the aforementioned proposals for regulating the so-called 'demographic imbalance' in Kuwait. Following the initial proposal by the parliamentarians, the Speaker of the Parliament introduced a further proposal that excludes migrant domestic workers, spouses of Kuwaitis, and migrant workers working for foreign firms from the quota system (Arab News 2020b). The family and the global market thus come together as spheres where interference is to be limited. Indeed, the common terms of reference used by domestic workers for their employers in the Gulf are often 'baba' and 'mama' ('father' and 'mother'), reiterating the logic of the familial and domestic social

roles that govern migrant labour in the GCC states. If, as some scholars have demonstrated, the increase in migrant domestic work can be seen as a response to a wide variety of emergent social and demographic factors, such as shifts towards more nuclear arrangements in family structure and composition, decreased birth and fertility rates, and longer life expectancies (Rajan and Joseph 2020), then, on the inverse, we can also say that *kafala*, and the abundance of migrant domestic labour it allows for, has itself shaped the very form of the family in the GCC states.

Under *kafala*, the family stops becoming a model for government and becomes an apparatus of governmentality, with the sedimentation of the citizen–migrant dichotomy through the *kafala* system. As suggested by Michel Foucault, the family transforms ‘from being a model to being an instrument; it will become a privileged instrument for the government of the population rather than a chimerical model for good government’ (Foucault 2009: 105). This transformation, according to Foucault, accompanies a general transformation in the art of governance, from that of sovereignty to that of governmentality. Indeed, the governance structures that *kafala* introduces are built with a logic of population as their driving principle; how else do we separate out two kinds of people and accord both highly stratified social rights unless they are differentiated *as populations*? To think of the family this way – as an instrument for regulating and governing the migrant–citizen relation – reframes the role of domestic labour in the constitution and production of society. In the next section, I will look at what this means practically for the social reproduction of society.

Social reproduction

According to the theoretical perspectives I have surveyed, domestic work in general ensures the social reproduction of labour-power, building on the insight that, unlike other commodities, the commodity of labour-power is *not* produced with exchange in mind. As Bhattacharya puts it succinctly: ‘labour-power itself is the sole commodity – the “unique commodity,” as Marx calls it – that is produced outside of the circuit of commodity production’ (2017: 73). This uniqueness lends, in the discourse of social reproduction theory, a specificity to the site of reproduction – the family and the home, in the most familiar notions. For even if capitalism’s ability to structure daily life extends to this sphere – think of the fact that households must buy its goods from a market – theorists of social reproduction argue that capitalism must also ‘relinquish *absolute* control over the time of reproduction’ (Bhattacharya and Vogel 2017: 10). This has practical political repercussions; if capitalism must relinquish absolute control over the time of reproduction, then there are spaces in this time that can thus be used to counter or resist capitalism’s propensity towards commodification.

This perspective has recently been built on in studies of migrant labour in the GCC, most significantly by Omar AlShehabi (2017). In AlShehabi's intervention, the processes necessary for the social reproduction of labour-power make up a key dimension of work and life that must be taken into account when attempting to carry out political economic work on the Gulf. The main sites for this process are the state, which provides the infrastructure, healthcare, schooling, and retirement benefits that ensure the social reproduction of labour-power at large, and the family, who provide the 'daily' activities necessary to ensure the worker is prepared to sell her labour-power on the market. As opposed to other social formations, however, those of the GCC are marked by a special characteristic:

Many of the social services provided by the wage-earner's family in other economies such as cooking, cleaning and child-rearing, are performed in the GCC countries by domestic workers who are mostly migrants. (AlShehabi 2017: 268)

Since labour markets in the Gulf are comprised primarily of migrant workers, functionally, the processes of social reproduction of the working class are split between two geographical sites. At one, the worker must ensure they are replenished and ready to go to work every morning in the location of their employment (the GCC state where they are a migrant). At the other, the process of intergenerational social reproduction, which ensures the *continual availability of a workforce for capital*, occurs, at the site of the worker's origin, through the process of remittances that ensure the worker's family are clothed, fed, housed, and schooled. For AlShehabi, this trait means that GCC states are not responsible for ensuring the social reproduction of their labour markets, as the intergenerational reproduction of the labour force occurs beyond the boundaries of the GCC states, in the labour-exporting countries. Similarly, GCC states do not have to account for the socially reproductive activities that might take place in a worker's retirement, such as elderly care, pensions, etc, because these are also the provenance of the labour-exporting countries. In sum, while GCC states require the labour that migrant labourers provide, *kafala*, as a system of labour governance, means that GCC states have fully outsourced the social reproduction of labour-power to other entities, namely labour-exporting countries and their own citizenry. On the flip-side of this point, the structures of *kafala* also allow the GCC states to outsource socialized care – the care of children and the elderly – to the domestic sphere. The availability of cheap domestic labour in the form of nannies, cleaners, nurses, and drivers has thus not only structured the form of the GCC family but also the form of the GCC welfare state itself.

For labour-exporting countries, the remittances provided by migrant workers are absolutely necessary for the reproduction of their societies. If we take the Philippines as an example, remittances accounted for 9.3 per cent of the national GDP in 2019 ([World Bank Data on Philippines Remittances 2019](#)). For the Philippine state, its ability to function as a labour-exporter for the world is of utmost importance, providing a key economic rationality for the state's policies and approaches to governing its own population. As Anna Guevarra puts it succinctly:

From the perspective of the Philippine state, overseas Filipinos are not merely migrants, they are labourers whose value is measured by the remittances they can potentially funnel into the country. The national identity of the Philippine state as a labour exporter and a manager of labour migration are informed ... by its ability to cultivate and sustain the country's role as a global labour provider. ([2010](#): 24)

Seen this way, the migration governance complex involves a negotiation over who does the societal reproduction; for the Philippine state, it must reproduce its capacity as a global labour provider, and it does this by incorporating migration into a nexus of financial and social programmes ([Guevarra 2010](#): 2). On another level, the Philippine state must also work to commodify its population at many different levels of social practice in order to produce the Filipina domestic worker as an exceptional commodity, or a 'super-maid' ([Guevarra 2014](#)). The GCC states can thus abdicate responsibility for the reproduction of this labour force as it is economically insured to be covered by the labour-exporting country, whose own reproduction depends on its ability to continue to send labour to diverse geographical sites.

Sending state policies, however, are only one part of the picture; the robustness of the economies of the labour-importing states, and how much capital is available to be consumed in the purchase of reproductive labour, also play an important role. This can be demonstrated, for example, in the case of Sri Lankan labour migration to the Gulf. Since 2014, when the states of the GCC were facing economic pressure due to the escalating crisis in the price of oil, studies demonstrate that the absolute number of female migrants to the GCC states – 80 per cent of whom migrate to work in the domestic labour market – has been declining ([Weeraratne 2020](#)). Similarly, recent fallout from the COVID crisis has meant a drastic decline in the importing of domestic labour into the region. Regulations against travel have led to a situation where domestic labour is in short supply. In Kuwait, for example, the President of the Kuwait Union for Domestic Labour Offices described the effects of COVID on his sector as a 'catastrophe', with many offices having to close down ([Al-Anba 2020](#)).

The GCC states can thus construct a semblance of sovereignty through the process of outsourcing and abdication of responsibility for social reproduction, even as daily life, right down to the level of the household, completely relies on the work performed by migrants. We can see this in Kuwait's rollout of a migrant-focused health insurance company, titled 'Dhaman'. A flagship of the Kuwait 2035 Vision of economic diversification and privatization, the Dhaman company is a public-private enterprise with a pledged capital of KD 230 million (760 million USD), held by Kuwait Investment Authority and Public Institution for Social Security at 24 per cent, the contracting and trading group Arabi Holding at 26 per cent, and with the remaining 50 per cent of shares allocated to Kuwaiti citizens. The company owns and oversees three new migrant-focused hospitals, attendance at which will be funded by the new health insurance scheme that will become mandatory for migrant workers in the state. It functionally segregates the population, ensuring that the reproduction of citizens remains tied to the state's welfare privileges, while outsourcing the health of migrants to the private sector, further abdicating the state from any responsibilities towards its migrant population. What's more, it will also commodify the reproduction of migrant labour in a novel way, instituting a new market for healthcare in which the citizen-employer is also a shareholder.

Conclusion: governance and organization

What is clear, then, is that states in the GCC, in outsourcing governance of migration through *kafala* to citizen-employers, have resigned from their role in the social reproduction of migrant populations. This logic has seeped into social relations in the GCC states, producing an ideology influenced by *kafala* – an ideology that conditions social relations in these states at large. Social reproduction, however, does not simply mean the 'daily' maintenance of the worker, or, indeed, simply the reproduction of labour-power. Instead, social reproduction also entails *societal reproduction*, or the ensuring that global capitalist society itself, with its structures of domination and exploitation, is reproduced. As Kirstin Munro argues, 'there is no social reproduction without "societal reproduction," as all production and reproduction in capitalist society are indelibly shaped by accumulation' (2019: 455). We cannot isolate the activities that reproduce labour-power from the wider circuits of accumulation, whether they happen through the commodity circuit or not, especially if we are attempting to see how domestic work fits in with the totality of society. For this insight to shape how we think, we must be attuned to the way that the *societal reproduction*, meaning the reproduction of contemporary capitalism and its global division of labour, rests on the way that processes of social reproduction link diverse geographical sites and seemingly autonomous and sovereign political entities. As the varied entries

in this volume demonstrate, the role of governance cannot thus be located in state – or, as I argue, even public – institutions and protocols only, but seeps into the lived reality and daily experience both of migrants and citizens, workers and their employers.

Notes

- ¹ By *kafala*, I mean the sponsorship regime of migrant governance which organizes migrant labour in the GCC states. In this system, ‘migrants’ work and residency are tied to their sponsor, an individual or company’. However, it is important to remember that ‘the use of the term *kafala* system in English give[s] the impression that it is a uniform system that is applied across the Gulf. However, the regulations which shape immigration into each GCC countr[y] differs and is subject to independent regulatory amendments.’ (See Introduction to this volume.) I use it here to name a multitude of policies that are engaged with the constitution of migrant and citizen populations as discrete, and which outsource the main activities of migrant governance to citizen populations.

² For a recent evaluation of these practices, see Alhussein et al (2021).

³ For example, Indian migrants were to be capped at 15 per cent of the Kuwaiti population, Filipino migrants at 10 per cent, etc.

⁴ For more, see the Introduction to this volume.

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Invisibilized Migration, Unaccounted Work: The Governance of Women's Migration for Paid Domestic Work from Nepal and Sri Lanka to the Gulf

Neha Wadhawan¹

Introduction

Millions of workers from South Asia find work in low-skilled and low-paid sectors in the Gulf Cooperation Council (GCC)² region. While most sectors employing migrant workers primarily employ men, for example the construction sector, domestic work within households has been, in general, dominated by migrant women workers. Although some men do find employment as gardeners and drivers in individual households, women represent more than 81 per cent of national domestic workers and 73 per cent of all migrant domestic workers (ILO 2015b). Yet, their proportion to out-migrant flow, stock, or contribution to remittances is barely recognized in the data and policies in most South Asian or Gulf countries. For paid domestic work, 'women's work' in the realm of migration is rendered invisible in migration governance. This chapter is concerned with migration governance, and the relative absence of domestic work in migration governance discourse on the South Asia to GCC corridor. Drawing upon on-site field research in Nepal and Sri Lanka, in combination with a review of data and policies on the migration of domestic workers from these countries until 2019, this chapter provides insights into how skill level and gender influence migration and its governance, and how migration governance policies aimed

at protection have intensified vulnerabilities and what is referred to here as *invisibilization*. This chapter emphasizes the significance of women migrant workers in international labour migration in this South–South corridor and the increasing need to carry out similar analyses in other prominent migration corridors.

The chapter proceeds as follows. First, it contextualizes female domestic migration from Nepal and Sri Lanka to the GCC. Second, it outlines the methodology used. Third, via two separate sections – one on available data and another on existing policies – the chapter casts a spotlight on the need to *visibilize* the contours of women’s labour migration and their contribution to the care economy and social reproduction in West Asia.

Contextualizing women’s migration for paid domestic work

Women migrant workers from Nepal and Sri Lanka to the GCC region can be divided into two broad categories: semi-skilled and low-skilled. A few exceptions of skilled workers exist but are reportedly insignificant in numbers. Semi-skilled workers are required to possess the requisite technical and educational qualifications (for example, sales attendants, hospitality workers, nurses), and are mostly aware that they require an employment visa to work in the Gulf region. They also make a significant contribution to remittances and the welfare of their families back home. Due to their educational qualifications, access to migration networks, and ‘skilled’ category, their recruitment process and terms of employment are significantly different from those belonging to the low-skilled category, despite similar South Asian patriarchal influences of state and society (see [Percot and Rajan 2007](#) and [Walton-Roberts and Rajan 2013](#)). This indicates that there is a significant role of ‘skill’ and education in migration processes that is bound to influence governance mechanisms.

The low-skilled category comprises a large number of domestic workers, mostly women, who work as live-in, full-time workers in isolated workplaces. Their movement is usually restricted within the boundaries of their workplace, that is, the household in the destination country. There is a large amount of variation of job-related skills in this category, ranging from caring for infants (which many Nepali respondents referred to as ‘baby care’) and looking after the elderly, to carrying out household tasks such as cooking, cleaning, and washing. Low levels of education and lack of awareness due to their poor and less developed origins usually leaves them with limited choices over their terms of employment and make them more vulnerable to being trafficked and abused. Their contract, under the *kafala* system,³ binds them to their employer, compelling them to stay in the GCC region for around two years or more. In many cases, they have little or no contact

with family at home or friends at the destination. Often, the *kafeel* (sponsor) exerts further control over the migrant worker by confiscating their passport and travel documents, despite legislation in some GCC destination countries that declares this practice illegal.

While I draw comparisons and similarities between Sri Lanka and Nepal, it is pertinent to acknowledge the differences that exist within GCC countries with regard to the governance of migration for domestic work. In general, the *kafala*, or sponsorship system, by the employer is used across the GCC region, as well as in other destinations in West Asia such as Jordan and Lebanon, although takes various forms in different countries (see Blarel and Ennis, Introduction, and Hamadah, this volume). Apprehensions exist regarding the massive inflow of migrant workers diluting local culture and, in cases where foreign workers constitute a majority of the total population, there are concerns that nationals of GCC countries are being crowded out from private sector employment. It is pertinent to highlight that while this may be true for some sectors, such fears are difficult to substantiate in the case of low-skilled female migrant domestic workers. This demographic works not just in the households of GCC citizens but also in the households of high-skilled migrants from South Asia and other parts of the world living and working in the region.

GCC countries vary in size of ageing populations, number and composition of expatriate high-skilled workforce, and the rate of growth in female labour force participation. Conventionally, domestic work fell outside the purview of labour law in the region. There have been efforts in most GCC countries to introduce new legal frameworks to regulate domestic work, though the extent to which such regulation is effective varies. Acknowledging the size of the domestic workforce and dependence on domestic workers has led to a number of legal and institutional reforms, aimed at improving the governance of the domestic work sector, in Bahrain in 2012 and 2017, Saudi Arabia in 2013, Kuwait in 2015 and 2018, and the United Arab Emirates (UAE) and Qatar in 2017 (Tayah and Assaf 2018: 16). These reforms have included the transfer of the mandate of domestic work from Ministries of Interior to Ministries of Labour, formulation of new laws governing domestic workers and corresponding standard unified contracts, instituting wage protection mechanisms, and proposing recruitment reforms that provide for greater monitoring of working conditions by the government. The demand for these reforms has been intensified by advocacy initiatives by human rights groups, international organizations, and trade unions following the adoption of the International Labour Organization (ILO) Convention 189 on Decent Work for Domestic Workers.

Under pressure from women's rights groups and international standards, positive policy-related steps have been taken by sending countries, for example, through the signing of bilateral agreements like the Nepal-Qatar Human Rights bodies agreement of 2015, although they mostly centre

around male migration. The popular argument that the workplace is beyond the purview of the sovereign authority of the sending country also suffers from an inherent male bias and is difficult to justify when it comes to reasons for not being able to protect women migrant workers. Moreover, sending states like Nepal and Sri Lanka have ushered in democratic practices, before and after the civil war, which makes them accountable to migrants' needs – both men and women. Sending states do face challenges as it is difficult to provide answers for the 'ungovernable' destination which lies outside the purview of the sovereign authority of sending countries, but it cannot be the primary excuse when it comes to women migrants specifically. Destination states, too, are bringing in reforms to regulate employers and protect migrant workers' rights, albeit at a slow pace.

There is a strong argument for a comparison across these two cases, as both these South Asian economies are heavily dependent on remittances and large numbers of women migrate across borders for domestic work, especially to West Asia. Both countries are similar in size and population, and have witnessed a long civil war in the previous decade (ending in 2007 in Nepal and 2009 in Sri Lanka), which could have been a significant factor influencing international labour migration of both men and women due to not just civil strife and violence but also lack of viable employment opportunities within the country. The Kingdom of Saudi Arabia and Kuwait are also popular destinations for domestic workers from both countries. The main difference is that while Sri Lankan domestic workers have migrated beyond the Indian sub-continent since the 1970s, Nepali migration for domestic work was restricted mostly to India until the 1990s. Recently, popular destinations for Nepali migrants have diversified to include the GCC region and to East Asia, especially to Malaysia and Singapore.

To make this case comparison, I have drawn on extensive fieldwork conducted in Nepal, particularly in the upper regions of Sindhupalchowk district in the Bagmati Pradesh province, where I carried out a detailed village study based on a household census, followed by in-depth interviews with migrants and their families in 2008 and another round of quantitative and qualitative data collection in the same village to understand the post-earthquake impact on migration trends in 2017. In Sri Lanka, I have engaged with some key government officials, scholars, and members of civil society working on women's labour migration issues in the country through policy discussions and semi-structured informal interviews. I have also conducted a literature review of existing research on Sri Lankan migrant domestic workers and relevant reports in the international domain. For this chapter, I draw upon reflections from fieldwork, available literature, relevant reports by international organizations of repute, such as the ILO and UN WOMEN, government reports, and news articles on international labour migration for domestic work.

Methodologically, this chapter takes an intersectional and gendered lens through which to examine labour migration from Nepal and Sri Lanka. It builds on research on social reproduction and labour and applies this to the labour migration space to better understand the outcomes of the absence of gender disaggregated data and gendered restrictions in migration governance. The failures of governance and exploitation of this skill type and form of migration is linked to gendered roles in social reproduction, both at home and at the destination country. Gender, skill, and education level also intersect with race and ethnicity, not only to influence employment options but also to influence the shape of governance frameworks. Critically, both paid and unpaid domestic work is severely undervalued in South and West Asia.

Catherine Hoskyns and Shirin M. Rai's (2007) seminal article on counting women's unpaid work in the global economy lay out the various reasons for the undercounting of such work. They argued for the need for it to be measured and valued to avoid policy failures. Such policy failures are especially visible in the cases of female domestic migrant workers in the South-to-West Asian migration corridor, as will be seen below. Here, women face two forms of invisibilization – from migration and remittance data, as explored throughout this chapter, and from the very nature of their work 'counting'.

Although economic changes that increase the demand for outsourcing unpaid domestic work have been highlighted in recent literature on social reproduction, especially in the Western world, the contribution of migrant workers to social reproduction in destination countries in the global south deserves more attention by future studies. Bakker (2007) has traced the discussions on social reproduction, from its focus on women's domestic labour in their own homes subsidizing capitalist reproduction in the 1970s and 1980s to linking the increasing use of privatized forms of social provisioning with the withdrawal of the welfare state. At the destination, the 'invisible' nature of women's work, restrictions on women's mobility and social participation, and lack of state-supported care mechanisms are directly linked to the status of women in West Asia. However, the state-funded socialized care provisioning never existed in West Asian societies, so, in place of a withdrawal, economic restructuring and liberal women's movements demands for social and political rights coincide with an unproblematised increase in outsourcing unpaid domestic work to migrant workers from Africa and Asia. For West Asian and South Asian women employers, a denial of recognition of their own role in social reproduction over time and the transfer of the burden and drudgery of housework to migrant workers could be another test case for feminist theorizing. As Silvia Federici suggests, a transition to capitalism 'illustrates the redefinition of productive and reproductive tasks and the constructed character of sexual roles and divisions of labour in capitalist society' (2004: 14). This pattern puts the employer in a powerful position

over the domestic worker. Social relations are therefore mostly hierarchical and often, in the case of migration, also racialized. The employer racially ‘others’ the migrant worker, which allows a further denial of recognition to migrant domestic workers who support or fulfil roles in social reproduction.

What the data reveals and conceals

National datasets do not capture women’s contribution to social reproduction, paid or unpaid. With regard to labour migration, data on short-term migration is scarce and women’s longer-term migration (if recorded) is mostly explained as migration primarily for marriage in caste-based endogamous South Asian societies. Attempts to disaggregate data on labour migration by gender on a global and regional scale have been recent, yet are a significant indication of the magnitude of women’s migration for work. As of 2016, the Arab states were hosting 17.6 million migrant workers. There were 3.77 million domestic workers⁴ in the GCC region, of which 82.7 per cent were migrant workers ([ILO 2015b](#)). International organizations such as the ILO and the United Nations Department of Economic and Social Affairs (UNDESA) have made important contributions towards highlighting the numbers and working conditions of women migrant workers.

Data collection at the country level is scant despite a growing international recognition of its need. It is important to note that if some data has been recently collected from regulatory mechanisms (for example, mandatory registration), it is not available in the public domain, especially for the type of work for which low-skilled women workers are migrating to the Gulf. Even in the case of remittances, which are a significant proportion of GDP for South Asian countries, in most sending countries’ remittance data is not disaggregated according to sex, class, caste, religion, or source location, which hinders a more nuanced understanding of the international labour migration processes and the ‘real’ contribution of migrant women workers to the ‘home’ economy. Moreover, state-level stock data in the destination GCC countries also seldom provide break-up by origin country and type of work. This section discusses recently available, though limited, evidence on the numbers of domestic workers migrating from Nepal and Sri Lanka, highlighting the gaps and discrepancies in different datasets.

It is popularly understood that a vast majority of female migrant workers from Nepal find employment as domestic workers and caregivers, while some find employment in hotels, catering, manufacturing, and health and medical services ([ILO 2015b: 2–3](#)). The exact numbers, however, remain unknown. Officially though, the number of women migrant workers is still small – amounting to just over 5 per cent of all migrant workers departing Nepal. Between 1985 and 2001, only 161 women migrated for foreign employment as per data of the Department of Labour and Employment

Promotion (Ministry of Labour Employment, Government of Nepal 2016: 57). In Nepal, of the 1,921,494 total ‘absent’ population documented in the 2011 Census, 237,400, or 12.4 per cent, were women. While it is widely acknowledged that data from the Department of Foreign Employment (DoFE) is generally an underestimation, some recent studies have suggested that a large number of women migrant workers travel irregularly to the GCC region, via India. This figure was estimated in 2011 to comprise almost 30 per cent of total migrants (Sharma and Thapa 2013).

As of 2013/14, 46,274 permits were issued to Nepali women going abroad to work. According to the Ministry of Labour Employment (MoLE) data, despite a significant increase in numbers, female migrant workers accounted for only 4.28 per cent of the total migrant worker’s population in 2014/15, after rising to 6.15 per cent in 2012/13. The top-ten destinations for female labour migrants from Nepal in the past seven fiscal years were the United Arab Emirates (25,916 permits issued), Malaysia (23,427 permits issued), Kuwait (17,685 permits issued), Qatar (6,179 permits issued), Lebanon (4,164 permits issued), Cyprus (2,871 permits issued), Saudi Arabia (2,646 permits issued), Oman (2,538 permits issued), Republic of Korea (2,241 permits issued), and Bahrain (1,848 permits issued) ([MoLE Nepal 2016](#)). This data has not been disaggregated by type of work. It also excludes migration to India as work permits are not required for Nepali workers. Based on the Nepal Census data, it is evident that while the number of migrants from Nepal to India between 2001 and 2011 increased by 1.2 per cent, the proportion of Nepali migrants (both male and female) going to India has considerably decreased, from 77.2 per cent in 2001 to 37.6 per cent in 2011. On the other hand, there has been a 581 per cent increase in Nepali migrants to other countries (Ministry of Labour Employment, Government of Nepal 2016).

Moreover, there is no data available on domestic workers’ contribution to remittances in the case of Nepal. On the heels of a massive increase in labour migration abroad, remittances flowing into Nepal as a share of GDP doubled from 14.9 per cent in 2005/06 to 32.1 per cent in 2015/16. Close to 50 per cent of Nepalis rely on financial help from relatives working abroad, a figure which is among the highest rates in the region. The top-five destinations for Nepali migrant workers are Malaysia (40.9 per cent), Saudi Arabia (22.9 per cent), Qatar (20.3 per cent), United Arab Emirates (11.2 per cent), and Kuwait (2.1 per cent) ([ILO 2017](#)). Nepal received remittances of NPR 699 billion (6.56 billion USD) in the 2016/17 fiscal year and ranks fourth in the world in terms of the contribution of remittances to GDP.

A few qualitative studies point to the saving patterns of women migrant workers and their ability to remit up to three times as much as male migrant workers (see [Wadhawan 2016](#)). A village-level household survey that I conducted in 2017 in Sindhupalchok, one of the prominent source districts

for women migrant workers from the Tamang indigenous community in Nepal and which was one of the worst affected by the earthquake in 2015, revealed that the number of migrant domestic workers from the village to the Gulf had almost doubled. Several households reported migration for domestic work as the only means of rebuilding their homes in the village, as the design of reconstruction policies and limited allowances were insufficient to build a home. Hence, domestic workers have been crucial to the post-earthquake rehabilitation and reconstruction within their communities, not just through the remittances to sustain daily activities but also for asset re-creation in times of acute distress.

In Sri Lanka, there is some recently available data on labour migration by sex and type of work. Women have migrated to the GCC for domestic work for several decades and their proportion has led to a heightened awareness of their relevance and the need for safe migration channels. In 2009, 70 per cent of the 1.8 million Sri Lankan migrant workers were women, and 80 per cent of them were employed in Saudi Arabia, Kuwait, Qatar, and the UAE ([Fernandez 2011](#)). **Table 9.1** shows data on migration via employment visas through registered channels in Sri Lanka.

The data shows that the number of female labour migrants slightly exceeds the number of male migrants, with the vast majority finding employment as domestic workers in the GCC region (ILO Sri Lanka [Labour Market Update 2017](#)). Moreover, irregular recruitment channels, existing in most South Asian countries, often send unsuspecting poor women on tourist or visiting visas. This enables these migrants to escape the immigration radar, but they also then elude being counted in the process. This forms a vicious cycle from recruitment to return, rendering them increasingly vulnerable in the migration process.

Table 9.1: Annual departures from Sri Lanka with percentage of men and women migrants with remittances

Year	Total registered departures	Percentage of women (%)	Percentage of men (%)	Private remittances in Rs. million
2010	267,507	49	51	465,372
2011	262,961	48	52	569,103
2012	282,447	49	51	763,980
2013	293,318	40	60	827,689
2014	300,703	37	63	916,334
2015	263,307	34	66	948,975

Source: SLBFE Statistics 2015 in ILO Profile of Labour Migration in Sri Lanka (2018)

As per the Central Bank of Sri Lanka (CBSL) data, in 2013, one third of all migrant worker departures and 82 per cent of women migrants departed for domestic work; 98 per cent of which were headed to the Middle East, with Saudi Arabia and Kuwait as the top two destinations.⁵ While Sri Lanka has some gender disaggregated data available, and has publicly acknowledged the numbers and their role in contributing via remittances to the economy, data on the amount of domestic workers' contribution to remittances has not been made available in the public domain, if it exists in the first place. Nepal began to collect and disaggregate data by sex from 2016 onwards, and the figures have slowly been emerging in the public domain to influence policy debates. In the case of counting remittances, while wages and earning capacity of women workers is seen to be lesser than male workers, their expenses at the destination are minimal due to the restrictions imposed on their mobility when compared to male counterparts, hence savings are bound to be greater. Collection and availability of this data in the public domain could ensure recognition of women's role in international migration, especially as domestic workers, and hence bears the potential to better inform migration governance from an inter-sectional perspective.

Some scholars have reasoned that the decline in absolute numbers of workers migrating to the Gulf after the 2008 global financial crisis can be explained by the economic downturn and labour market reforms in the GCC region, which have adversely impacted the construction and manufacturing sectors in particular ([Tzannatos 2009](#): 26). Numbers did, however, start to increase again, until 2014, when the oil price downturn hit economies in the region. However, such trends may affect certain forms of labour more strongly than others and must not be generalized to include women and their sectors of work. It may not impact women workers employed in private households as domestic workers or care-givers in the same way, or at least there might be a longer delay between the onset of a protracted period of economic decline and how it impacts household expenditure patterns (including the hiring of domestic workers). Anecdotal data from both Nepal and Sri Lanka also suggest that increasing numbers of workers, including women domestic workers, migrated after the financial crisis, but there is a stark lack of specific data to analyse such trends because bans (discussed later in this chapter) legitimized the absence of any need to collect data. The lack of official figures cannot be brushed away, or hidden under the pretext of declining demand of supply of migrant domestic workers. The lack of data, also highlighted by other chapters in this book, afflicts most South Asian countries and leads to a peculiar problem, that is, the absence of clarity on who migrates and how many have left the country; leaving such migrants outside the purview of migration governance. In the case of women migrant workers, it results in a lack of information on which to build frameworks to protect workers vulnerable to abuse and exploitation. It also allows the state

to shirk its responsibility to protect these workers. Sending countries that do act respond by merely restricting the mobility of low-skilled women for work as a means to protect them. While this approach allows the state to claim protective action, the discrimination embedded in these rules does not ultimately live up to the responsibility of ‘protection’, as explained below.

Gender discriminatory policies and the guise of protectionism

While data conceals the scale and scope of female migration for paid domestic work, media reports, international non-governmental organization (INGO) reports, ILO reports, and anecdotes abound on the scale of this form of migration, and the potential for abuse within it. The horrifying tales of abuse from women returnees, or from the crises that gain international attention, put pressure on governments and the international community to ‘do’ something. Sending states often embrace a chauvinistic articulation of protecting ‘our’ women from abuse by nefarious recruiters or foreign employers. Yet the language of protection and the actions taken are often counterproductive. Moreover, it makes women objects or targets of governance rather than agents for their own empowerment. This section analyses this paradox by assessing country-level migration policies for labour migrants from a gendered perspective. It shows the outcomes of pressure on the policy space at the national, sending-country level, in the migration corridor itself, and in the transnational and global governance space. It also provides a critique of the failures of some of these approaches.

Through analysing these policy responses, a tension between victimhood and agency becomes apparent (see also Walton-Roberts et al, this book). Depicting domestic workers as victims is popular in public discourse and echoes the need for protection. It leads to demands for stronger regulatory frameworks, for inspection in the workplace, and for strong government policies to prevent women’s labour migration internationally. Yet migrant women themselves report a more empowered narrative, filled with choice. Several women migrants interviewed in Sindhupalchowk reported choosing migration to escape domestic violence and the drudgery of housework in their own homes. After the earthquake, 90 per cent of homes were completely destroyed, and many women reported that they migrated to earn money to rebuild their houses, as government schemes to do so had proved to be ineffective with delayed and staggered payments. It is clear from interviews with these workers that women exercise choice when they migrate out of violent relationships at home or migrate to rebuild homes, which their male counterparts are unable to do. They also exercise agency when they decide to use irregular channels to migrate to a country and return successfully. Using irregular channels makes these migrants ‘invisible’

and undocumented in their home country's migration governance systems, but this should not make us interpret them as always or singularly exploited. The choice to leave by whatever means available can be both agential and empowering at the same time as opening the door to exploitation.

International organizations such as the ILO, UN WOMEN, and the International Organization for Migration (IOM), and civil society groups and trade unions have all been active in the migration governance space. They have put pressure on sending and receiving states, and advocated for policy recommendations at the international and regional level. Today, Nepal and Sri Lanka have pre-departure training programmes, welfare and insurance schemes, and helpline numbers for migrant workers. Many such initiatives have been instituted over the past few years. Moreover, women's labour migration is mentioned in the National Labour Migration Policy of Sri Lanka 2008 and in the 2015 Constitution of Nepal. This explicit acknowledgement is meaningful and lays a foundation for domestic governance initiatives and regulations.

Male migrants, however, remain more visible and are the main target of inception, design, and implementation of most migration programmes and welfare schemes. Attention is diverted to women migrants only in the event of media reportage on sexual harassment, physical abuse, imprisonment, or death. Perhaps such incidents are seen as aberrations, which garner temporary public attention as the assumption is that 'good' women stay at home and do not migrate outside their households for work. While victimization of male migrants elicits public outrage for a strong diplomatic response and follow-up rescue operations, media reports on domestic worker abuse leads to a different and peculiar response. The abuse of female domestic workers invariably leads to restrictions or a complete ban on migration to the specific destination country in the GCC region. For example, the Family Background Report (FBR) regulation is widely viewed as the Sri Lankan Government's response to the execution of underage female domestic worker Rizana Nafeek in 2013 in Saudi Arabia (ILO 2018c). The remainder of this section explicitly focuses on the discriminatory nature of laws and policies, that is, restrictions and migration bans that have been introduced in each of these countries over the past years.

In South Asia, only in Nepal is the Ministry of Labour, Employment and Social Security (MoLESS) in charge of labour migration – internal and international – while Bangladesh, India, Pakistan, and Sri Lanka have established separate dedicated ministries to deal with emigration. Labour migration is legislated under the Nepal Foreign Employment Act of 2007, but a close reading reveals a male bias in its design, while the trafficking legislation brought out the same year has a deeper effect on women's mobility. Earlier governed by the Citizenship Act 1964, women were prohibited from leaving Nepal without the consent of their guardian (see [Table 9.2](#)).

Table 9.2: Nepal Government prohibitions on the mobility of female migrant workers

Time frame	Nature of prohibition
1985–1998	Women require consent of a guardian (parent, husband, or other relative) to go for foreign employment.
1998–2003	Complete ban on migration of women for domestic work to a Gulf country.
2003–2010	Partial ban on migration of female workers to a Gulf country.
January 2009–May 2009	Complete ban on female domestic workers going to Lebanon.
2012–May 2014	Prohibition on women younger than 30 going to work as a domestic worker in a Gulf country.
May 2014–April 2015	Complete ban on women migrants of all ages to be recruited for domestic work in a Gulf country.
April 2015	Prohibition of women younger than 25 years going to work as domestic workers in Bahrain, Kuwait, Lebanon, Malaysia, Qatar, Saudi Arabia, and the United Arab Emirates.
March 2017	Complete ban on Nepali women travelling to Gulf countries for employment as domestic workers.

Note: After several years of advocacy, on 29 September 2020, the Parliamentary Committee on Commerce, Labor and Consumer Welfare issued a directive to the Government of Nepal to relax the ban on domestic workers to Gulf Cooperation Council, Malaysia and Lebanon. While deemed progressive, seven pre-conditions appear hard to fulfil and operationalize in reality.

Source: Adapted from [GIZ and International Labour Organization \(2015\)](#). Analysis of labour market and migration trends in Nepal, Kathmandu.

In 1998, their freedom to mobility was further restricted by adding a clause requiring additional permission from the Government, and subsequently, a complete ban was instituted until 2003. The ban was partially lifted in 2003 to allow women to migrate for work, but only in the formal sector, and hence domestic work was still banned. The ban was further partially lifted in 2010, but was reinstated in 2012 to prevent any woman who was younger than 30 from travelling to the Middle East for domestic work (MoLE Nepal 2016).

In 2015, a new Constitution replaced earlier legislations on citizenship and movement. Although it is more progressive than previous provisions, the 2015 Constitution still discriminates towards women, as certain conditions restrict them from conferring citizenship to their children independently in the same capacity as men. In particular, persons born to Nepali women and foreign fathers can only acquire naturalized citizenship. A later provision in

Article 11(5) states that persons born in Nepal to Nepali mothers can acquire citizenship by descent but only if their fathers cannot be traced ([Mulmi and Schniederman 2018](#)). This impinges on the rights of migrant women workers who may decide to marry across national boundaries, with the situation exacerbated when domestic workers become pregnant during their stay at the destination country and have to return. For a detailed discussion on the legal implications of the labour rights of migrant workers from Nepal, see Devkota in this volume.

National guidelines regarding Sending Domestic Workers on Foreign Employment were also announced by the Nepal Government in 2015, which held employers and local recruiting agencies in destination countries responsible for the welfare of domestic workers. Migration for domestic work was allowed only through registered recruitment agencies in Nepal. All costs – including for the training of the domestic workers, orientation, life insurance, health tests, visa fees, air ticket, and contribution to the Nepal Foreign employment welfare fund – had to be borne by the employer, as per the directive. This was known as Nepal's free-visa-free-ticket policy.⁶ The guidelines also included worker provisions, which included daily continuous rest time of eight hours, 24-hour health and life insurance, a weekly day off from work, 30-days of annual leave, and permission to remain in contact with the Nepali diplomatic mission and families back home. However, the regulation has also imposed a prohibition on women under 25 years of age for migration to Gulf countries and Malaysia. The Nepal Government-initiated negotiations on Bilateral Labour Agreements (BLA) starting with Saudi Arabia and Malaysia.

In March 2017, the Parliament's International Relations and Labour (IRL) Committee instructed the government to implement a ban on Nepali women travelling to Gulf countries for employment as domestic workers. The order was based on observations of a field visit, which the IRL Committee undertook to Qatar, Saudi Arabia, the United Arab Emirates, and Kuwait – major destination countries for Nepali migrant workers – during which they found 'widespread abuse and exploitation of domestic workers' ([Kathmandu Post 2019](#)).

The Nepal statement at the preparatory meeting for the UN General Assembly High-level Dialogue on International Migration and Development in 2013 estimated that 90 per cent of the irregular migrant workers from Nepal were women (UNESCAP & IOM Situation report: International Migration in South and [South West Asia 2012](#)). Intermittent bans and the compulsory requirements laid down by the guidelines create bureaucratic hurdles for migrant domestic workers, which are easily circumvented by migration through India (which shares an open border with Nepal). Some scholars have stated that while media coverage of abuse of women migrant workers might induce government action in the form of restrictions or bans,

there may be hidden underlying motivations at play, creating ‘less transparent dynamics between abuse, regulation and corruption that interact in mutual interdependency’ ([Pyakurel 2018](#): 654).

While these restrictions could have been used as an exercise of diplomatic leverage by weaker states, this was not the case for two reasons. Firstly, there is limited data and analysis of the significance of Nepali domestic workers in the West Asian labour market, so the government could not have known if this could be used as leverage. Secondly, these bans were a response to media reportage on deaths and abuse of domestic workers in destinations in West Asia, which led to internal protests and demands for better protection of women workers by the Nepali state. For male workers, too, inability to pressure the destination for redressal is a persistent lacuna in migration governance, as sending countries in South Asia are seen as competitors in the destination labour market. In addition, due to intra-regional politics, their inability to collude and collectively bargain for their workers as sending states is grounded in the absence of employment opportunities at home, and international labour migration is rationalized as a historical process, which inevitability lets the steam out of the pressure valves of domestic politics.

With regards to Sri Lanka, in 2007, the Sri Lankan Ministry of Women and Child Affairs (MWCA) successfully sought approval from the Cabinet of Ministers to place a ban on women with children under five years from migrating overseas for work, citing the negative social costs on children when the mother is absent. It was also observed that repatriation was higher among women domestic workers with young children.

A National Labour Migration Policy for Sri Lanka (NLMP) was adopted in 2008 with the objective of promoting opportunities for all men and women to engage in safe and productive employment overseas in conditions of freedom, equity, security, and human dignity. The term ‘domestic worker’, however, did not receive a single mention, despite its large proportion in the total emigrant workforce. Sri Lanka’s legislation on foreign employment was developed in 1985 along with the establishment of the Sri Lanka Bureau of Foreign Employment (SLBFE). In 2012, there were 10,220 complaints made by migrant workers, out of which nearly 80 per cent were by female domestic workers. The most common grievances of women workers were directed towards the non-payment of agreed wages, sickness, physical and/or sexual harassment, the breach of employment contract, and the lack of communication ([SLBFE 2014](#)). In 2015, the Ministry of Foreign Employment (MFE) launched the Sub-Policy and National Action Plan on Return and Reintegration of Migrant Workers, Sri Lanka ([ILO 2018d](#)).

Similarly, the introduction of the Family Background Report (FBR) in 2013 sought to restrict foreign employment for female domestic workers who had children under five years of age, and ensure the welfare of children over five years of age for women seeking to work in the domestic labour

market. In short, the FBR has two objectives: to ensure that women with young children do not migrate abroad, and to secure the well-being of children over five years of age left behind through the appointment of a ‘proper’ female guardian.

The FBR contributed to a sharp fall in the numbers of registered domestic workers migrating from Sri Lanka. It has been observed that prospective women migrants encountered long delays and aspersions were raised on their ability to appoint a proper guardian for their children. In cases where the husband was present, the men were frustrated with the insistence on the part of the government to appoint an additional female guardian for their children. The role of the woman as the primary caregiver was reinforced by the Supreme Court in 2013 when dismissing a request for ‘leave to proceed’ on a petition filed by a prospective migrant worker (ILO 2018c).

Research now shows that migration bans do not prevent people from migrating and are discriminatory based on gender, class, and age (ILO 2015). In fact, they place women at a greater risk of abuse during the migration journey, with less control over their migration experience (see Kodoth 2016 and ILO 2019: 19). ILO and UN Women recently undertook a collaborative study analysing the effects of restrictions on women’s labour migration in the ASEAN region, focusing on limitations on migration for domestic work from Myanmar to Singapore and Cambodia to Malaysia. The report, published in 2017, stated that policies limiting women’s mobility can in fact increase the risks associated with migration, in addition to infringing international standards on non-discrimination and equal opportunity (ILO and UNWOMEN 2017). An increase in paperwork has also led to increased costs of migration, making irregular channels a more convenient option, even if they are the more expensive option.

Such protectionist frameworks exacerbate the situation, with migrant workers with low levels of education often being misled by recruitment agents to migrate on visit visas under the pretext that their visa status will be converted to work visas after they begin work with the employer. Many workers end up being undocumented workers, living with the constant fear of arrest and detention, irrespective of their type of employment. Additionally, some of the challenges faced by male and female migrant workers are different. Male workers live in groups or camps with close contact with other workers, while women workers live in more isolated conditions, as domestic workers in households. The ability to access help or escape exploitation can be an individual effort for the later, patriarchal tropes notwithstanding.

These challenges at the destination are acute and directly linked to conditions at the source. As Kodoth and Varghese argue, gender politics around movement provide an enabling condition for both state restrictions

and the burgeoning of (extractive) informal/illegal processes. They also succinctly suggest that:

Special protection for certain categories of emigrant women workers draws implicitly upon a framework of protectionism, which relies on marriage as the principal means of protecting women or securing their movement. Thus, mobility outside marriage (by single women or without the husband) is seen as potentially transgressive. In the case of women, the right to protection of property, including in the person, an important dimension of citizenship, is mediated by marriage, socially and implicitly, at the level of the polity. Further, in the context of emigrant women domestic workers, protectionism is used to foster a gendered conception of sovereignty that constitutes exploitation outside the country as transgression but is silent on similar forms of exploitation within the country. (2011: 6)

Hence, the assumption is that women are most secure in the confines of their homes, working, if at all, within the safe haven of the nation is a sentiment echoed by the state in South Asia. This stands in opposition to evidence of domestic workers escaping poverty, sexual violence, and conflict, and building homes and educating children while male unemployment is rife. While ‘free visas’ are risky and illegal under the strict protectionist framework of sending countries and the *kafala* system in the destination, women workers continue to take measured risks that enable them to access paid work. Migrating to the GCC may be evaluated as not such a bad choice after all, despite the risks and threats to well-being. Sandhya Rao Mehta (2017: 13), in an article on contesting victim narratives of Indian domestic workers in Oman, also argues that ‘free visas’ offer many more possibilities of exercising agency within the larger framework of strict employment regulations, as the worker is not legally tied to the employer.

Concluding thoughts on recognizing domestic workers’ contribution to social reproduction at source and destination countries

Patriarchal norms and attitudes have influenced policy frameworks and migration governance structures. While protectionist policies do not seem to work to help women migrants, at the core of this issue is a patriarchal and gender-regressive mindset towards women’s work. Despite existent democratic structures, the Constitutions of Sri Lanka and Nepal do not guarantee equal rights to male and female citizens. In fact, in different measures, guardianship is a means of perpetuating patriarchal social norms through institutionalized legal processes. In Nepal, where reports about

age-old traditions like child marriage and polygamy are widespread, despite such practices being outlawed ([My Republica 2018](#)), invisibilization in data and policies further prohibit empowerment where, even to begin with, the status of women in society is far from meeting basic human rights standards. In Sri Lanka, there is in effect a blatant violation of women's human rights in the guise of protecting children's rights, via the implementation of policies such as the FBR described previously. Patriarchy and law, then, intersect to inform and shape the governance of female domestic worker migration.

While it is important to read agency and not just victimhood into the narratives of domestic workers, the systematic nature of their exploitation is inextricably linked to gendered roles in social reproduction, both at home and at the destination, that influence employment options and the governance of them. The undervaluation of unpaid domestic work in South Asia and beyond, and the continuing reports of ill-treatment of paid domestic workers in sending countries, points to a deep-rooted bias against women's equality and dignity, both as citizens in their own countries and as migrants at the destination. Globally, domestic work is constituted as 'women's work' and is severely undervalued or unpaid. Measuring domestic work is an important step to avoid policy failures ([Hoskyns and Rai 2007](#)). Such policy failures are especially visible in the cases of female domestic migrant workers from Nepal and Sri Lanka to the Gulf. On top of their work not 'counting', women's migration and the remittance income they transfer home are invisible in the data. We need more scholarship to examine the contribution of migrant workers to social reproduction in destination countries in the global south. Care work matters and should be both valued and accounted for.

Moreover, this chapter has shown that women bear the role of caregivers in their own communities, even in absentia. As described, aspiring Sri Lankan migrant workers must arrange for the care of their children before being permitted to use formal migration channels. Fathers were not considered adequate caregivers: care work continues to be gendered. When women do migrate, narratives abound of how married migrant women workers do so to support their children through their earnings abroad. This was a common refrain in the interviews conducted during both rounds of qualitative field work in Nepal. Other scholars have also documented the myriad ways in which migrant women negotiate, submit, and/or defy negative moral representations of them, and how spousal relationships are negotiated, re-constructed, or eroded by migration for domestic work (see, for example, [Ally 2015](#)).

Recognizing women's contribution to social reproduction at home and at work is therefore essential. Narratives of victimhood must be revisited in such a context. Than-Dam Truong cautions that in approaching transnational migration through the lens of human rights of migrants, one must go beyond interpreting 'gender' as a pre-given heuristic device handed down

from previous theories: ‘Aspirations for a gender equal world cannot avoid employing epistemic vigilance to discern where and which thinking about “gender” is valid, and how unjustifiable biases may be corrected to ensure satisfactory treatments of the relationship between gender, belonging, rights and entitlements’ ([Truong 2012](#)). Thus, data must reveal, policies must be gender responsive, and contribution to social reproduction at source and destination must be acknowledged. Mobility is key in women’s route to economic independence and influence; when it makes space for women to choose their paid/unpaid responsibilities with the support of enabling state policies. There is also a pressing need to gender global migration governance policies in order to adequately respond to the gendered aspects of the labour migration processes from South Asia and other regions. Such a governance vision could eventually succeed in breaking down traditional stereotypes around gender and women’s work.

Notes

- ¹ The responsibility for opinions expressed in this chapter rests solely with the author and does not constitute an endorsement by the International Labour Organization of the opinions expressed therein.
- ² The GCC countries include Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates (UAE).
- ³ The type of sponsorship system used in the GCC countries and Lebanon and Jordan is commonly referred to as the ‘*kafala* system’. While the term *kafala* itself is rarely used in legislation, the concept remains a commonly applied term, particularly in the media, to describe the unique elements of sponsorship that the systems of the Middle East share, and which are different to sponsorship systems in other countries ([ILO 2017](#): 2). Under the *kafala* system a migrant worker cannot enter the country, transfer employment, nor leave the country for any reason without first obtaining written permission explicitly from the *kafeel* (sponsor).
- ⁴ This figure includes male workers employed as gardeners, drivers etc in households.
- ⁵ Central Bank of Sri Lanka (2013) Annual Report, quoted in B. [Weeraratne \(2013\)](#).
- ⁶ See more in Devkota, this volume.

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PART V

Conclusion

Bottom-up Politics of Labour Migration: Perspectives from the South-to-West Asia Corridor for a More Inclusive Governance

M. Stella Morgana

Introduction

This is the conclusion of a global migration governance journey into a too-often neglected space – the South Asia to Gulf migration governance complex. This volume takes the reader on an exploration into migration routes, precisely where the governance of labour encounters several levels of sovereignties: nation-states, supranational entities, non-state actors, as well as migrant workers, who represent the linchpin around which the system is organized. On the one hand, it sheds light on the tight bond between capitalism and so-called labour market flexibility. On the other hand, it unfolds the ongoing processes of abuse and exploitation through undocumented immigration. Throughout the chapters, two main issues are exposed: the unsustainability of the current dynamics of labour management between sending and host countries, and the fallacy of understanding migration governance solely through standard, state-centric diplomatic mechanisms.

This final chapter constitutes an intervention in these realms, as it tries to open up new perspectives for more inclusive governance through bottom-up politics, thinking of governing migration ‘from the margins’ (Mainwaring and Walton-Roberts 2018). As an attempt to advance the critique on labour and migration, starting from a context that has been almost systematically overlooked in the literature, it reflects on labour migration governance in participatory terms and from a migrant-oriented perspective. Thus, it stresses the necessity of an agency-centred approach,

building on this book's novel contributions. First, it speaks to the insights that the previous chapters bring up through the prism of migrants' experiences and rights. Second, it raises questions of labour rights and dignity, by highlighting the new potential trajectories for migrant workers' resistance in the South Asia to Gulf corridor to escape vulnerability and navigate the complex formations of illegality and irregularity. Although some contexts are problematic in terms of 'impenetrability' of the national level to migrants' rights (Piper 2015), dignity-based issues of social justice, with workers at the core, concern global justice. Thus, they need to be addressed as such.

Labour migration governance is anything but simple. It is directly connected to the shifting meaning of national state sovereignty (Sassen 1996), and not only that, it is also somehow enmeshed between and across sovereign state borders. It is this that represents the biggest challenge. The collective efforts of the authors who contributed to *The South Asia to Gulf Migration Governance Complex* demonstrate that actors and the processes involved constantly evolve over time and place. Significantly, this work puts migrants at the centre, as core agents, and gives prominence to the various stages of the recruiting processes. By showing the impact that different actors have on the above-mentioned dynamics, each chapter of this book provides the reader with multifaceted reflections on migrants' roles, which are far from stereotypical descriptions stigmatizing migrant workers as passive subjects or mere *victims*. In fact, within the context of labour migration governance, migrants express their agency at several stages of the process. First, they lobby and put pressure – from below – on sending states, influencing their political behaviour and responses. Second, they have the potential to challenge the host states' attitude. Third, migrants' individual choices might impact their communities; thus, individual decisions play a crucial role in shaping migrants' collective behaviour as a group.

This book has traced a path within which multiple levels of governance intersect, exposing the points of connection as well as disconnection between the top-down and bottom-up approaches in the study of labour migration governance. The South Asia to Gulf migration governance complex represents a venue to expand the understanding of labour and migration, as it generates crucial insights to truly think *global*. One of these insights is suggested in this chapter: a bottom-up politics of labour migration.

This chapter proceeds in four steps. First, it reflects on the possibilities of migrant workers' mobilization in the corridor through a re-politicization of the labour movement from the margins. Second, it discusses more inclusive strategies to diversify the plethora of actors involved in the global governance of migration. Third, it shows the perils and potential to reform the recruitment process. Finally, it argues that a bottom-up politics of labour migration requires a more inclusive re-modulation of the South Asia to Gulf

migration governance complex, residing in the encounter between labour rights and human rights.

New potential trajectories of resistance

In order to open new perspectives for a more inclusive governance in the South Asia to Gulf corridor, it is worth taking a step back and speaking to the insights in the previous contributions. The analysis of migrant workers' experiences and practices expose the mechanisms of capitalist accumulation, which are in force in the Gulf. They reveal the tight bonds between progress and exploitation, whereas accumulation of capital systematically occurs through processes of dispossession (Harvey 2003). These mechanisms can, at times, turn de facto migrants into exploited subjects, but – more importantly in the context of this conclusive chapter – they can also create the conditions for new potential trajectories of resistance.

Capitalist relations and their inner nature, based on value accumulation, have led to a deterioration of the living conditions of the working class on a global scale through a process of dispossession, as David Harvey argues. The impact of capitalist relations on migrant workers has made this category of the working class even more vulnerable (Harvey 2003). The South Asia to Gulf migration corridor reveals itself as a route in which these vulnerabilities are interwoven with other elements at stake, all occurring simultaneously: 1) requests for cheap labour by the host countries; 2) lack of clarity and irregular practices in the sending states' policies of migration; 3) enormous asymmetries in terms of living conditions and standards between the two realms mentioned above; 4) blurred practices involving the recruitment process and actors; and 5) a fallacious integration between the bilateral, the regional, and the global governance of migration. This is not to say that the dynamics occurring in the corridor are exceptional. Conversely, they directly engage with the theoretical developments in the scholarship of global labour migration governance. In particular, they speak to the literature investigating migration governance in participatory terms, with all its limits and difficulties when it comes to labour (Hyland and Munck 2015; Piper 2015; Piper and Rother 2012).

In this complex context, the organization of migrant workers in unions represents a challenge and an opportunity in the South Asia to Gulf corridor and beyond. In fact, migrant workers are a fundamental actor, and only through a workers-driven dialogue can the global governance of labour migration unlock its potential to be inclusive. As things stand today, most migrant workers in the Gulf states are either precarious – so under temporary contracts – or *invisible* because of their irregular status, as will be explored later in this chapter. These two factors mainly hinder the unionization process, beyond the obstacles posed by law. In fact, migrant workers in

the Gulf Cooperation Council (GCC) are not allowed to join any trade union or workers' organizations, with only two exceptions – Bahrain and Oman (ILO 2017). Even in these two countries, migrant workers' voices remain mostly unheard, underrepresented, and unorganized. However, scattered protests erupt. They mainly occur over unpaid wages, but they lack organization and long-term goals (Khalaf et al 2015; [Louër 2015](#)). Therefore, precarity and informality are two sides of the same coin when it comes to the organization of labour with migrants in the South Asia to Gulf corridor: they embody invisibility.

When undocumented, migrant workers are vulnerable and exposed to exploitation. When a formal employment relationship does not exist, they are *de facto* invisible. By falling out of any legal framework, these migrants do not have access to labour rights, and they are excluded from any protection. Irregularity creates unbalanced labour relations, where collective agreements are *de facto* nullified. Exploited workers might protest, but – as precarious subjects often changing workplace – they struggle to find common ground with other workers to collectivize and organize their demands ([Mosoetsa et al 2016](#)). Looking at national peculiarities, what the different contexts tell us is that other factors contribute to impeding the unionization process, and these go beyond the visa status or authoritarian management. These elements are connected to the lack of presence of migrant workers as a politicized, aware, and organized collective entity. A migrant workers' network arising from the recent experiences of workers' organizations and groups advancing labour demands would constitute a fundamental component in the multi-layered realm of labour migration governance between the South Asian countries and the Gulf monarchies. The proliferation of transnational advocacy networks has been a step in that direction, but stops short of mobilizing a full workers' movement, and focusing on both facilitating migration and improving its management. Moreover, the organization of migrant workers in the corridor – as well as beyond it – would speak to the necessity of 'bringing labour rights back' in the debate on global labour migration ([Hyland and Munck 2015](#)). A re-politicization of the labour movement from the bottom, taking into account migrant workers' grievances and including other civil society actors as interlocutors, puts global justice at the centre of the debate. This approach escapes the dichotomous understanding of migrant labour as being trapped *between* labour rights and human rights ([Adams 2008; Hyland and Munck 2015](#); Piper 2009, 2015; Savage 2008).

This edited volume and its in-depth case studies into the political and legal aspects impeding migrants from organizing themselves, and the ways they and others advocate for their interests instead, represent a milestone in this direction, both empirically and in conversation with the broader global migration governance literature.

Overcoming national policies and governance gaps

Labour migration governance is as much about its inclusions as its exclusions. That is, we learn a lot about how governance unfolds by looking at the cracks in the system. This volume questions governance gaps through different lenses, such as the weakness of national policies within the context of studies of global migration governance and the new potential opportunities to exercise agency beyond the international venues of traditional migration diplomacy. It therefore builds on Chimienti's critique of the 'denial of connectiveness' by states as one of the causes contributing to the failure of global governance and the weak implementation of international instruments in this space (Chimienti 2018: 426). Its conceptualization of migration governance as multi-layered, involving multiple sovereign political domains and a plethora of actors, including both top-down and bottom-up perspectives, highlights these gaps and also shows how the practice of governance unfolds in alternative formats. Whereas migration embraces different dimensions (supranational, national, transnational, regional, or global), political accountability of the different actors involved is needed, namely a shift from what is on paper to what effectively engages political practices. This entails a reconsideration of the current policies on various levels.

Beyond local differences, when it comes to sending states, a common feature emerges: migration governance mechanisms are mostly state-centric. This means that other actors are not fully incorporated in the process of negotiating national policies. Where the state fails to decentralize to subnational levels of governance and to open the decision-making process to non-state actors, it is the migration governance apparatus that collapses on itself. Nevertheless, as the case of Kerala discussed by Akhil and Ganga demonstrates, the attempts carried out by non-state actors to make their voices heard may trigger more inclusive practices as they constitute a push factor for the state. A way to overcome the state-centric framework is to enhance institutional platforms of collaboration that should be facilitated, if not actively supported, by the government, so as to open functional communication channels on better governance initiatives.

Furthermore, sending states differ on two crucial aspects: regulation of the migration process and interests projected on the diaspora abroad. These factors are strictly connected to the economic benefits resulting from migrants' remittances. For instance, whereas Bangladesh criminalizes certain categories of migrants, deeming them 'a shame for the nation' (see Percot, this volume), India attempts to shield those seeking a job abroad through an e-Governance system meant to follow the recruitment process (similar to the Pakistani Migrant Resource Centre as described in Babar, this volume). Such an e-Governance system, however, at the same time

hinders migration through regulatory impediments (Walton-Roberts et al, this volume). Moreover, in the Kerala–Dubai corridor, investigated by Ennis and Blarel ([Chapter 7](#)), a shared electronic migration regulatory system has been established. In the case of Nepal, the government tried to regulate migrant labour by including specific provisions for foreign employees in its 2015 Constitution (Devkota, this volume).

Host countries have different approaches to the governance of migrant workers. While some GCC countries recently started to engage in legal reforms, or have at least been considering the option of introducing a new legal framework for domestic work, as Wadhawan and Hamadah discussed in their chapters, some others are still largely ignoring the invisibility of specific segments of migrant labour. A determining factor that triggered Bahrain, Saudi Arabia, Kuwait, the United Arab Emirates, and Qatar to activate, between 2012 and 2018, research and legal procedures to improve – at least on paper – the conditions of migrant workers was the pressure coming from international actors, as well as human rights groups. Nevertheless, within a context where the *kafala* system has historically been central, and the ruling monarchies have shown scarce sensibility and empathy for the more impoverished strata of the migrant working communities, the GCC countries have lacked accountability. On the one hand, Bahrain and Qatar officially removed the notion of sponsorship from their laws and Saudi Arabia committed to ease the *kafala* system. On the other hand, dismantling the *kafala* system as a pattern in the regulation of migration in daily practices would require structural interventions on different levels, from local to global. As Hamadah points out in his chapter, the *kafala* system is not simply a mechanism to regulate and exploit migrant labour. By integrating citizens as actors, it directly intervenes in the migration governance complex with the notions of sponsorship and commodification of migrants' labour.

The examples mentioned above represent strong indicators that these asymmetries are likely to continue unless a more balanced labour migration dynamic is promoted, both in terms of subjects involved at the nation-state level and, more importantly, on the regional and global levels. Efforts such as the Global Compact of Migration, on a holistic level, or the Colombo Process and Abu Dhabi Dialogue on a more regional level, represent a reflection of the urgency to find a comprehensive approach to migration ([Betts and Kainz 2017](#)). So far, they have mostly focused on issues of control, management, and regulation of migration ([Piper 2017](#)).

Likewise, internationally, bilateral agreements on migration have become more comprehensive in focus and have opened up space for other actors, including migration advocacy networks and diaspora-driven development cooperation. We see an example sketched out in Ennis and Blarel's case study on the Kerala–Dubai corridor ([Chapter 7](#)). Yet the 'complex package deals' in bilateral agreements carry with them a 'greater potential for failure' due

to their intense bureaucracy, complexity, and cost (see Euroafrican and Latin American cases for comparative examples in [Bernal et al 2015](#); [Finn et al 2019](#); [Panizzon et al 2015](#): 427). This bilateral approach often reinforces the neoliberal economic and securitized migration status quo. Including a more diversified plethora of the actors involved would need to challenge the current situation and push the critique towards a more inclusive politics of migration. Beyond a lack of effective collaborations and interventions within states to overcome weak bilateral agreements that expose migrants to exploitation, further efforts should concentrate on the global and regional regulation system. On the one hand, most international labour conventions are non-binding. On the other hand, some sending states are not part of the Conventions. A plethora of talks and documents has been ineffective in most cases, as this book has explored. Global regulations and institutions have had no real impact on inter-state relations and the current status of regional cooperation. Therefore, a more integrated approach, which guarantees legitimacy and enhances the legal effect of the existing conventions, would be a desirable potential next step to break the current deadlock.

Reforming the recruitment process: perils and potential

Current structures of labour migration governance are shaped around a pivotal agent: the recruitment industry, which de facto provides direct access to the GCC labour markets. This sector – as various contributions in this edited volume investigated – shapes and eventually determines the destiny of migrants' experiences, not only in terms of their job search, but also the success of the migration project and, unfortunately, their vulnerability and exploitation. For these reasons, boosting and reforming recruitment procedures represents a necessary step to facilitate and improve the governance of labour migration. This is not an easy task, as the complexity of the whole process requires a comprehensive approach, which should take into consideration all the actors involved. On the one hand, recruiting agents lead a profit-generating industry that mostly preserves the employers' interests. On the other hand, without their mediation, most migrants would not be able to navigate the job search process in the Gulf (see the chapters of Babar; Ennis and Blarel [both chapters]; and Percot, this volume). False promises, fraudulent behaviour, unfair evaluation, and illegal agencies are the main obstacles to a functional recruitment process that migrant workers have reported in different countries. The International Labour Organization (ILO) has long been focused on improving the management of recruitment and protection during migration in this corridor. They suggest, for example, that careful regulation and monitoring of private recruitment agencies would enable the identification of those who are not compliant, so helping to

protect migrants. This requires the involvement of both sending and host countries, with state and non-state actors, as well as global agents, such as the ILO. The main aim would be to activate a process through which recruitment practices could fully comply with international labour standards, especially including specific provisions on the protection of migrant workers (see the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families 1990). The Migrant Forum in Asia, a regional network of migrant advocates, non-governmental organizations (NGOs), and trade unions, agrees. As the contributions in this book show, the South Asia to Gulf migration corridor and its recruitment industry present specific challenges that must be further studied and addressed beyond the nation-state or bilateral dimensions.

First, working conditions in the Gulf are directly connected to the *kafala* system, which compels migrants to link their job identity and their residence to their employer-sponsors. Second, some recruitment agencies charge migrant workers expensive fees for their services, beyond the limit allowed by local regulations in the sending country. Particularly in the case of low-skilled workers, these costs are almost impossible to cover and cast them into a path of exploitation. Third, operating with intermediaries, both in the origin country and in the Gulf, most of the private recruitment agencies make profits out of migrants' fees, as do the employers. Thus, they become more competitive while circumventing the maximum cost allowed by law. Fourth, these practices are often supported by both employing companies and recruitment agencies in the host countries. Hence, only by combining a local and international approach, as well as a top-down and a bottom-up perspective, including all the actors involved in the recruitment process, may a new forum of discussion lead to innovative solutions. The legal formulation of local labour laws is of primary importance. To defuse the potential for migrants' exploitation, further efforts are needed on the legal loopholes that systematically allow recruitment agencies and employers to circumvent national prohibitions on charging fees to workers. In fact, in most cases, fraudulent behaviours occur within the boundaries of legality. Migrants pay their fees before leaving their country and often without any guarantee of a regular contract in the Gulf. Therefore, bringing the recruitment industry to the negotiating table along with other global actors would compel governments, agencies, and employers to re-discuss the terms of labour migration governance against arbitrary practices and structural violence ([Gardner 2010](#)).

Exercising agency, escaping vulnerability, containing arbitrary practices

Migration flows often occur within a context where arbitrary practices have been the norm, but this does not mean that if migrant workers are

irregular, the whole process is illegal, primarily because arbitrary behaviours often develop within a legal framework. As Babar, Devokta, Wadhawan, and Ennis and Blarel (both chapters) suggested in their respective chapters, asking the wrong questions may lead to fallacious answers. Hence, studying a more inclusive governance of labour by questioning gaps and shortcomings exclusively from a top-down perspective would inevitably confine us to a binary realm where the opposite of irregularity would be regularity, where the first represents a chaotic dimension *versus* a more disciplined and allegedly fair one. Yet, a dichotomous approach overlooks the under-researched territories in-between rules on paper and informal practices. Moreover, fraudulent behaviours occur even where labour laws are in place, when no systematic control over law enforcement exists. Therefore, a way to avoid simplistic conclusions would be to follow the path engaged by this volume in further academic work to reformulate research questions, including broader perspectives and bottom-up approaches to understand migration governance as an interconnected complex. Only by navigating the blurred lines between legal and illegal practices, as well as directly understanding the realm and role of informality, is it possible to better frame the complexities and the vulnerabilities of migrants who decide to seek labour and social mobility in the Gulf. Whereas the requests for cheap and flexible labour continue to exist in the framework of evolving capitalist relations, informality provides appropriate venues for both workers and employers. To understand migrant workers as subjects and not only as faceless victims, various contributions in this book explored the many *hows* and *whys* migrants choose informal networks or opt for irregular channels to migrate. This methodology is not meant to neglect the responsibility of the state or international system, or ignore unequal relations of material power at stake, as the previous sections discussed. Instead, this represents an attempt to further the conversation when it comes to labour and migration, to investigate how agency is exercised within migration governance and why it develops along particular trajectories.

Following this line of argument, many questions arise and – more importantly – can be understood in terms of global justice. Does *regularity* mean more or less rights for migrants? Does *reinforced control* lead to more rights? Do migrants have rights if they are *irregular*? None of the abovementioned questions have straightforward answers, but they all lead to questioning the current labour dynamics and speak to the necessity of dismantling exploitative models with worker-driven practices ([LeBaron 2020](#)). The development of a migrant workers' network, mentioned earlier in this chapter, should be seen within this framework, comprehending migrant workers' needs in terms of global justice.

Beyond the economic triggers that give impulse to migration, and beyond poverty as a push factor, the aspiration to social mobility has to be considered as a crucial component of the migrants' decision-making process before

departure. The desire for social mobility mirrors projections of improved family welfare or individual financial growth. Thus, it may translate into family investment in their migration. Low expectations and lack of trust in the sending state contribute to the abovementioned pattern.

There is a before and an after the actual migration. In most of the cases explored in this book, whereas hopes are still simple dreams, they are not always fed with appropriate information about labour conditions in the destination country. Those who desire, dream, and hope are not a homogeneous group with a similar skillset and analogous level of education. Regular migration and formal channels are full of pitfalls for them, as high fees and recruitment expenses inevitably impose a selection based on class. On the one hand, some can aspire to be safe. On the other hand, some are less likely to follow their dreams in safety. Those belonging to this latter group either come from a low-income family or they are low-skilled workers. In both cases, they have fewer chances to cover the costs of migration, even though they find enough money to pay for the regular labour recruitment system. Potential vulnerability is on their way to migrate.

Once they reach the country of destination, if they follow the regular channels, they carry the burden of repaying their debts or their loans. Whereas some migrants are forced to accept exploitation and harsh working conditions because of economic inequalities (Babar, this volume), other migrant workers directly opt for irregular procedures before departure, aware of others' experiences. Thus, when it comes to migration and labour, the individual dimension is always dependent on the collective one. Observations of behaviours, habits, and choices made by other members of their communities, their families, or their close networks shape and model migrants' decision patterns. For some workers lacking appropriate information from the government in their country of origin, the informal points of reference within their community represent their lifeline; in other words, fundamental sources of knowledge and support. Once they choose to follow their informal networks' suggested paths, they are more likely to be sceptical towards the official regulations, mainly because the regular system lacks reliability.

Moreover, blurred lines obfuscate the practices concerning visas, which constitute the preliminary right to have access to further rights: enter the country of destination. According to consolidated procedures within irregular channels, some migrants opt for buying the so-called *Azad* (free) visas, in other words, tools of hyper-precarity that are obtained illegally, mostly in Pakistan and Bangladesh. The reasons for choosing these types of visas lie in their alleged flexibility and greater availability on the market, despite the perils for migrant workers once they reach their preferred destination in one of the GCC countries.

Once migrants set off on their journey for labour, they are immediately exposed to another choice. As the *kafala* system hovers over their lives,

carrying its strict conditions depending on the employer-sponsors, they have to decide whether to comply with the system (with everything that this entails) or not. Moreover, since *kafala* informs most of the countries' labour regulations, it embodies the norm. Yet, this norm is regularly associated with the lack of workers' protection. The legal mechanisms, rights, and protections enshrined in most Gulf countries' respective labour laws are not well known, or easily accessed to the majority working classes. Migrant rights advocates, recruiters, or national associations within countries often advocate or carry out arbitration on behalf of the migrant in the case of contract or labour disputes. But this can occur only when the knowledge of how to access this support exists, and if the migrant is willing to wait out the process. Therefore, irregularity often offers the chance to escape poorly paid jobs and exploitation in the workplace. It is within this vicious circle that migrant workers exercise their agency, where – paradoxically – the regular system envisages many routes towards irregularity for their future.

Nevertheless, this choice of being illegal, which could potentially protect them from exploitation, brings them to further vulnerability. Working via illegal channels means also being deprived of documents. It blocks access to all the rights connected to residency permits. Additionally, sources of pressure come from migrants' family networks in their home countries. As Percot estimated in her study of Bangladeshi migrants to Oman, considering the remittances migrants have to send home, it would take more than four years to pay back the debt contracted to migrate through regular channels.

Navigating the thin – yet complex – boundaries between informality, irregularity, and illegality is of pivotal relevance to enhancing labour migration governance. As discussed, a first major and extensive step is done through this book, with all chapters addressing the role of irregularity and illegality in this migration corridor, and providing empirical illustrations of these complex boundaries and dynamics. Of course, further studies and extensive fieldwork can also help to overcome the problem of data collection mentioned by almost all the authors throughout this book. It is particularly within the intersection between the informal, the irregular, and the illegal elements that the bond between agency and imposed decisions manifests itself.

It is evident that structural conditions (leading migrant workers towards irregular routes) mirror the sense of injustice reported by migrants across all the sending countries in the South Asia to Gulf corridor. Likewise, no migrant would choose exploitation if the system in place in the GCC did not present problematic governance gaps, as Percot pointed out in her chapter. Nevertheless, this binary interpretation between an oppressing structure *against* poor migrants somehow overlooks both agency and responsibility on governance at different levels. On the one hand, migrants are not to be seen as irrational subjects driven by poverty only or as mere victims.

On the other hand, the black labour market guarantees high profits (yet huge disruptions) to various actors involved in the process. Hence, critical issues related to migrants' exploitation and vulnerability, even within the boundaries of labour rules and regulations, are often marginalized in policy or diplomatic debates.

Going back to the questions posed at the beginning of this section, it seems too simplistic to see laws and legal provisions as meaningful for a functional process. As the contributions in this volume suggested, reinforced control does not always equal more rights for migrants. While some states follow the process of their migrant workers abroad and are more oriented to advocate for the welfare of their expatriates, other countries opt only for increased control within formal migration channels, without effectively supervising the whole process. Therefore, the setting of more rules does not automatically translate to more protection for migrants.

Migrant workers often prefer informal channels, especially as the alternative choice they have is taking full responsibility of their safety by registering their names into their own countries' registration systems, without enjoying further protection or legal support (see the chapters of Walton-Roberts et al and Percot). The process feeds on itself and becomes individual-oriented rather than focusing on collective problems and issues, thus discouraging migrants. Moreover, in countries such as Sri Lanka, Nepal, or Bangladesh, the registration system brings to light a gendered management of mobility and migration flows that eventually discriminate women. As in the case of nurses, policies established by sending states aim at protecting women while de facto victimizing them and limiting their mobility through surveillance (Walton-Roberts et al, this volume). Women became targets of regulatory practices that reduce the chances for their migration by hindering the process of recruitment. These protective policies, enhanced at the initial stage of the supposed migration process, block women's opportunities for empowerment through labour and economic independence. Once again, increased control does not overlap with increasing rights or procedural guarantees for migrants, either during the recruitment process or once at the destination.

Conversely, the only process that protectionism reinforces is the *invisibilization* of women (Wadhawan, this volume). In a context where both sending and host states focus on the individual and do not take enough responsibility for the governance gaps concerning migrants as a collective force, female workers pay a further price. Beyond being forced to cope with obstructive practices during the first stages of the process, women migrant workers find out that their protection depends on their married status before and after departure. Those who dare to challenge the stereotypical imagery of women as safe within their homes and decide to migrate through irregular channels are often stigmatized in the country of destination. Hence, they are often misled by illegal recruitment agencies and exploited by employers,

mostly for domestic work. In particular, a more inclusive politics of labour migration governance could limit the spread of predatory recruitment agencies that send female workers on visit visas with false promises of a better future under work visas once at their destination in the Gulf.

Governance gaps, such as the ones discussed here, are often framed by policy makers as statistics that ‘clean’ out the debate on labour and migration of the human element. Yet, the extent of the problem cannot stay confined to data only, partly because official statistics rely exclusively on documented migrants. Accordingly, those who are irregular become invisible. Even those who arrive in the Gulf via regular channels are turned into faceless workers. Often employers still confiscate passports and residency documents despite this being against the law. This is regularly explained and accepted as a practice for protection (even by embassy staff, as pointed out by Ennis and Walton-Roberts 2018: 181). Therefore, another series of questions arise: if irregularity leads to invisibility, do irregular workers have dignity? Is labour a human right? How can the arbitrary practices of exploitation occurring through legal loopholes be overcome?

If most civil rights are usually connected to an individual’s legal status in a country, these issues represent one of the most urgent challenges to cope with, as these processes, practices, patterns (and gaps) function to govern the process of migration. A viable option would be expanding the venues of policy debates at various levels, including all the actors involved in the process (in sending and receiving states, as well as at a global level). Moreover, as the example of Kerala showed, the political mobilization of returnees by various parties could act as a catalyst for further developments, potentially towards unionization and full representation of migrant workers’ rights. Following these trajectories, transnational social movements, which have been trying to promote new political opportunities for mobilizing workers in the last few years, could eventually make the difference as pressure groups.

In conclusion, this volume sheds light on new political spaces at various levels, beyond the nation-state dimension. Theoretically, potential perspectives for a more inclusive governance speak to the necessity of analysing workers’ experiences as fully exposed to the mechanisms of capitalist accumulation in the Gulf. Exploitation and dispossession go hand in hand with growing practices of resistance in order to escape vulnerability and contain top-down arbitrary practices. What the South Asia to Gulf migration governance complex teaches us is that understanding (and governing) labour migration from the margins is possible. How? Beyond the binary understanding of labour rights as opposed to human rights, the potential for a bottom-up politics of labour migration governance lies in that territory where dignity meets class, namely where the politicization of migrant workers as a collective entity occurs in coordination with other fundamental actors at the civil society level.

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The Gulf is a major global destination for migrant workers, with a majority of these workers coming from South Asia. In this book, a team of international contributors examine the often-overlooked complex governance of this migration corridor.

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