

MIGRANTS IN THE GULF:
A CRITICAL ASSESSMENT OF THE SOCIAL, CULTURAL, AND ECONOMIC
IMPLICATIONS OF MIGRANT WORKERS IN THE COUNTRIES OF THE GULF
COOPERATION COUNCIL

By

JASON BRIAN ERNST

A Thesis Submitted to The Honors College
In Partial Fulfillment of the Bachelors degree
With Honors in

International Studies

THE UNIVERSITY OF ARIZONA

M A Y 2 0 1 1

Approved by:



Dr. Wayne Decker
Director of International Studies and External Fairs in the Honors College

Abstract: This article introduces the systems of labor that regulate employee-employer relations between migrant workers and their sponsors in the states of the Gulf Cooperative Council. It provides a historical overview of labor migration to the Gulf, addresses domestic and international responses to the a growing concern that migrants are subjected to harsh working conditions and human rights abuses at the hands of their employers. It seeks to examine the economic and social impacts of the presence of migrants in the Gulf and the Gulf States' growing dependence on foreign labor. Ultimately, it seeks to determine whether the rights of migrants in the Gulf States are adequately protected; and, after concluding that they are not, attempts to identify ways in which these issues may be addressed, both internally and externally.

Arabic Terms for the Reader to be Familiar With:

Kafala – a labor system under which migrant workers are contractually sponsored by employers who assume full economic and legal responsibilities for the employee for the duration of the contract period

Kafeel – Nationals who sponsor, employ, and act as guarantors for migrant workers

Table of Contents

| | |
|---|----|
| Introduction: Migrant Labor and the Gulf..... | 3 |
| GCC Migration and Human Rights..... | 7 |
| A Brief History of Labor Migration to the Gulf to the Early 1970s..... | 10 |
| A Brief History of Recent GCC Labor Migration: 1973-Present..... | 12 |
| Who Are the Migrant Workers?..... | 15 |
| <i>Kafala</i> : How the System Works..... | 17 |
| Does the <i>Kafala</i> System Provide Employers with a Free Pass to Commit Human Rights Abuses?..... | 20 |
| The Recruitment Process..... | 22 |
| Contractual Abuses Prevalent Under the <i>Kafala</i> System..... | 26 |
| The Effect of Migration on the Countries Exporting Labor..... | 27 |
| The Effect of Migration on the Countries Importing Labor..... | 29 |
| Labor Camps in the Gulf..... | 31 |
| Domestic Migrants..... | 35 |
| Conclusion: Solutions in Theory and in Practice..... | 37 |
| Bibliography..... | 43 |

Introduction: Migrant Labor in the Gulf

The oil price explosion of the early 1970s triggered a massive wave of labor migration to the newly rich states of the Gulf that is both unique to the Gulf Cooperation Council (GCC) and unprecedented in size, scale, and impact.¹ Unlike other mass labor migrations, what happened in the Gulf at this time was neither planned nor gradual. The rapidity with which wealth was showered on the region was made possible by vast and continuous oil revenues. This in turn led to a sharp increase in demand for foreign labor, as the GCC national workforces were unequipped in both size and skill to carry out the development projects that become a priority as soon as money began flowing into the coffers of these states. As soon as this demand was made apparent, the supply side seemed to take care of itself. Workers from South and Southeast Asia, Africa, and some poorer Arab states, attracted by wage levels considerably higher than what they could earn in their homelands, made their way to the Arabian Peninsula in droves to construct and maintain much of the infrastructure present in each of the Gulf States today.

Concerned about the impact this mass migration might have on nationals and national interests, the governments of the GCC hastily established systems designed to restrict and monitor the flow of migrants. Ill-equipped to manage this migration, GCC governments gave a great deal of administrative leeway to employers in carrying out this system and setting a precedent for how it would be run. Fast forward forty years, and the GCC is a patchwork of urban development where nationals and educated expatriates enjoy a high standard of living while migrant workers toil diligently from before dawn until after dusk, six

¹ F. Eelens et al., *Labour Migration to the Middle East*, 1-11.

or seven days a week, the subjects of grueling labor injustices and blatant social discrimination.

The mobilization of cheap labor in an exploitative manner is nothing new. The West, products of which are leading the crusade against the *kafala* system that plays such a dominant role in labor markets of the Gulf, knows this better than anyone else. For historical justification of this practice, one must look only to the Dutch slave trade in the Indian Ocean in the seventeenth century, the forced labor of South Asian convicts in the eighteenth and nineteenth centuries, or Cuba's more recent history with indentured Chinese laborers.² A number of parallels can even be drawn between the issue discussed in this paper and the treatment some migrants from Mexico and Latin America receive in the United States.³ As far as we know, these harsh labor practices could first and foremost be a Western construct. Nevertheless, the horror stories of maids who have been raped and beaten and construction workers who never get breaks and sleep on rooftops to stay warm in the wintertime and rotate cots between them because there are typically fewer beds in each room than there are workers assigned to that room boil the blood of human rights activists who fight for what they believe are the rights of migrants.

Western interests mobilized Asian and African labor for their benefit, and this tradition of exploitative labor migration was adopted by the Gulf States ad nauseam as they were made wealthy overnight. In fact, much of the development of Saudi Arabia, Bahrain, Kuwait, Qatar, Oman, and the United Arab Emirates (UAE) can be attributed to the backbreaking work of laborers from the Horn of Africa and South and Southeast Asia.

² David Northup, "Free and Unfree Labor Migration, 1600-1900: An Introduction," 125-130.

³ J.A. Bustamante, "Undocumented Immigration from Mexico: Research," 150, 163-177.

Does the treatment of migrant workers in the Gulf constitute a violation of the basic rights these workers have as humans? If so, who is to blame? Is it the system that provides the foundation on which the employer-employee relationship can be built? Is it the employers, for exploiting the cheap and abundant labor source available to them? Is it the workers, for not seeking recourse for abuses they fall victim to? Is it the justice system, for failing to adequately represent the interests of workers who do try to seek recourse? Is it the system of recruitment in place that helps pair workers with employers, for failing to accurately inform workers of the conditions under which they will be working once in the Gulf? Is it the governments of the countries that supply the Gulf with so much of its labor, for failing to stand up for and protect their citizens living and working abroad? Or is it the governments of wealthy and influential states that hesitate to speak out against the practices in question for fear that their own strategic interests could be at stake if they do so? These are the questions that will be explored in the framework of this paper, addressed vis-a-vis the findings of the author's extensive research, background in the study of macro and microeconomics, general knowledge of world history and current events, and analytic and reasoning skills.

Obviously, this is a multifaceted issue that is difficult to deconstruct, and accordingly some generalizations must be apologized for and hopefully excused in advance. Throughout this paper, I refer to the six states of the Gulf Cooperation Council —Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates—simply as the GCC. While cultural and social norms across states lines are similar in many regards when it comes to these six states, each has its own governing body, its own institutions, and its own national identity. For purposes of simplicity, I group these countries together to address a broad issue

that concerns each of these six states. When addressing a particular problem or a concept that cannot be applied evenly and with fairness across all six states, I do my best to distinguish this fact. By and large, however, the prevailing conditions in the states of the GCC as they impact migrants and nationals are similar enough that they can be grouped together without difficulty. The reader should bear in mind, however, that the standard of living for nationals in Oman and Bahrain has a tendency to be lower than for nationals in the UAE, Saudi Arabia, Kuwait, and Qatar, and because of this many statements regarding the disparity of wealth or living standards between nationals and migrants can be assumed to apply more directly to the cases of these four states than to cases in Bahrain and Oman.⁴

This is the broad topic I set out to explore in this paper in as unbiased a manner as possible, although criticisms of various parties this issue concerns have not been withheld. In this paper, I seek to identify and analyze the intrinsic and extraneous variables that have contributed to the status quo in the region. To a more limited extent, I also seek to determine whether there may be any way to improving the situation of migrant workers in the Gulf without compromising the interests of the states that host them.

⁴ Blominvest Bank. *Cement Report in the MENA Region*, 21-23.

GCC Migration and Human Rights

To the governing bodies of the states of the GCC, the overwhelming presence of migrant workers in their states and in a region with many shared interests is perceived as a national security issue. To much of the rest of the world, including but not limited to government officials and activists in most Western states and the major labor exporters, the treatment of migrant workers is perceived as a human rights violation.

To keep the large presence of migrant workers in the GCC—in Qatar and the UAE the total population of migrants is four times the total population of nationals—from constituting a real threat to national security, policymakers in the GCC have implemented tougher recruitment policies, deported surplus foreign workers, made the renewal of residence permits more difficult, and instituted citizenship policies that make it near impossible for migrant laborers, especially those who are considered unskilled, to even qualify to apply for citizenship, let alone be granted it.⁵ Quota systems have been instituted in all GCC states to restrict the number of migrant workers present in them at any one time, with justification on the grounds that non-Arab foreign workers “constitute a strategic threat to the region’s future.”⁶

While the majority of the policies instituted by GCC governments are backed by sound economic reasoning, international observers are quick to point out that the economies of these states are extremely dependent on the labor of both skilled and unskilled migrant workers. These laborers work in a variety of industries, ranging from construction to

⁵ Anisur Rahman, “Migration and Human Rights in the Gulf,” 17.

⁶ Majid al-Alawi, Minister of Labor and Social Affairs in Bahrain

domestic servitude to the operation and maintenance of the infrastructure that was constructed by the generation of migrants before them.⁷

Through their work, these migrants provide valuable services which many nationals would consider indispensable in their daily lives. The toiling and efforts exerted by these workers furnish the GCC economies with what international migration specialist Anisur Rahman has termed an “invisible subsidy.”⁸ Understanding this gives human rights advocates an impetus to view the labor situation in the Gulf as particularly unjust. Images of Qataris and Kuwaitis enjoying a lavish lifestyle at the expense of migrants working tirelessly for paltry sums can be conjured up even without visiting the states in question and observing the situation. In reality, these images paint an accurate picture of the disparity in comfort that exists between life in the Gulf for nationals and life in the Gulf for migrant laborers.

Compounding this disparity are various national trends toward entitlement in all of the GCC states. Most pronounced in the United Arab Emirates and Qatar, where public sector employment—above 80 percent in each state—trumps private sector employment and the cushy benefit packages with short work weeks and flexible and fortuitous vacation time public sector employment provides are causing crowding out in the private sector.⁹ Researchers at think tanks in the U.S. and the GCC alike have identified this as a problem that could severely hinder long term economic growth, innovation and productivity.¹⁰ The harshest critics suggest that a generation of educated degenerates is in the making in many of the GCC states.

⁷ F. Eelens et al., *Labour Migration to the Middle East*, 11.

⁸ Anisur Rahman, *Migration and Human Rights in the Gulf*, 16.

⁹ Andy Sambidge, “Emirati Public Sector Jobs ‘at Saturation Point’ Study”

¹⁰ “Young, Educated, and Dependent on the Public Sector: Diversifyng Qatari and Emirati Labor Markets”

When these national populations of individuals who work only a handful of hours a week yet enjoy all the trappings a wealthy and developed society can provide for its citizens are juxtaposed against migrants who work upwards of eighty hours a week in harsh working conditions and receive compensation worth on average five percent of a national's compensation package, it becomes difficult to argue that something is not wrong with the distribution of wealth in these countries.¹¹ However, considering the fact that these migrants are not citizens of the countries in which they are employed, political economists may argue that the GCC states are merely trying to protect their national interests and the citizens their governments are responsible for.

This mode of thinking may be in the best interests of the GCC states, but it only serves to propagate the harsh conditions migrants find themselves subjected to, in the workplace as well as in the public sphere. Setting wealth distribution aside, there is still a host of problems human rights activists identify as human rights abuses, the most glaring being whether or not many workers in the Gulf who are subjected to contractual abuses have adequate opportunity for redress.

¹¹ Mafiwasta, "Economy and Wages."

A Brief History of Labor Migration to the Gulf to the Early 1970s

As mentioned in the introduction, the region constituting the present-day GCC has a long and colorful history of migration. This can be traced back more than a millennium, as there were several stopping points throughout the region for merchants trading across the Indian Ocean and economic activities connected with the annual Hajj pilgrimage to Mecca provided a space in which labor migration could thrive.¹² However, local populations were never even remotely dependent on migrant labor until the 1930s. When the Arab oil era began, outside workers were required to aid with the process of oil exploration, well drilling, and the construction of pipelines and other infrastructural entities that provided for the quick transportation of oil, as well as of people along oil routes.¹³ Much of this work was undertaken by skilled migrants, and in these days skilled migrants in the Gulf fared much better on the aggregate than nationals did.

Accompanying this growth in transportation and oil infrastructure was an expansion of government administration and institutions, institutions designed to control foreign oil companies and foreign workers. Today, these institutions—police, public works, financial, and legal departments—have the experience and clout necessary to manage migrant workers' affairs, but virtually all authority in terms of migrants is left to the sponsors under the *kafala* system.

As oil revenues were collected, the newly wealthy states of the GCC embarked on large-scale welfare projects to provide money and services to their people in an organized manner. The resulting boom in the construction of schools, clinics, hospitals, etc. proved to

¹² Roger Owen, *Migrant Workers in the Gulf*, 6.

¹³ *Ibid.*

be extremely labor intensive, both during initial construction phases and for the maintenance and operations of these projects.

Once a state has established and consolidated its social services, excess money may be spent on developing entities designed for pleasure, such as shopping centers, tourism infrastructure, statelier living facilities, etc. The general idea is that once construction has been done to meet the requirements of one phase of development, additional projects will present themselves if money is available to be invested in them. It is this cycle that contributed to a continuously increasing demand for foreign workers, eventually of the labor-intensive variety. Seeking to decrease this growing dependence on foreign workers, Bahrain, Kuwait, and Qatar all passed nationality laws in the 1950s and 1960s, restricting the number of individuals who could be naturalized as citizens.¹⁴ Since these laws did not restrict the flow of migrant workers who were assumed to be only temporary, they had little impact on the dependence of foreign labor they were intended to restrict. Still, the total number of foreign workers (skilled and unskilled) that is estimated to have been in the Gulf in 1970 was no more than 1.5 million., the majority of whom were Arabs from Jordan, Lebanon, Yemen, and Sudan.¹⁵

¹⁴ Roger Owen, *Migrant Workers in the Gulf*, 8.

¹⁵ Onn Winckler, *Labor Migration to the GCC States: Patterns, Scale, and Policies*, 11.

A Brief History of Recent GCC Migration: 1973-Present

In today's global world, the flow of ideas, goods, services, and human capital is more common and less complicated than ever. Thus it comes as no surprise that, when work is hard to come by at home, work-seeking individuals look for employment in states where the demand for workers is much higher than it is in their birth country. There are an estimated 200 million migrants living in countries they are not citizens of, meaning that almost 3% of the world's population is made up of international migrants.

International migration is not unique to one or two specific regions. In fact, nearly every country is affected to some degree by international migration. The situation in the states that make up the Gulf Cooperation Council is unique, however, because the makeup of the region's workforce changed so drastically in one decade that the situation is not really comparable to any other migration examples. In 1970, there were no more than 1.5 million migrant workers in the Gulf States, already a sizeable number given the global total of international migrants at that time.¹⁶ Of these, more than 80% were Arabs, primarily of Egyptian, Syrian, Yemeni, or Palestinian origin.¹⁷ Today, non-nationals outnumber nationals in the labor force in all of the Gulf States except Kuwait, the first among the Gulf Cooperation Council members to do away with the *kafala* system.

Trends in migration to and from the Gulf since 1970, not surprisingly, have largely followed oil price indicators.¹⁸ After the Arab oil embargo that was imposed on oil importing countries who supported Israel in the Yom Kippur War of 1973, at least one

¹⁶ Roger Owen, *Migrant Workers in the Gulf*, 5.

¹⁷ Anisur Rahman; "Migration and Human Rights in the Gulf," p. 16.

¹⁸ "Oil Price History and Analysis," WTRG Economics Online.

million migrants from elsewhere in the Arab world made their way to the Gulf in search of work.¹⁹ It was also during this time that the first true surge of non-Arab international migration to the Gulf took place. The hypersensitivity of oil prices to the ensuing supply shortage made it apparent to all that OPEC was much more adept to control the price of crude oil than the United States was. In just six months, the price of oil increased by four hundred percent. After the war, OPEC had no little incentive to reduce oil prices; and the age of expensive oil had begun. This provided the oil-producing states in the Gulf with the impetus and financial confidence to embark on development projects at an unprecedented rate.

The Iranian Revolution of 1979 and the subsequent invasion of Iran by Iraq in 1980 caused the price of crude oil to double again.²⁰ While this price increase gave all of the oil-producing states in the Gulf the leverage to invest more heavily in development projects, the impact of these events on Saudi Arabia is most pronounced. During this time, the Saudi government increased its ownership of Saudi Aramco from 25% to 100%. With the increase in government revenue, Saudi Arabia was able to embark on another series of development plans, as well as provide its citizens with benefits from social welfare programs that were far more impressive than those they had hitherto known.²¹ To help Saudi Arabia and the other booming states in the Gulf region, an additional 700,000 laborers joined the ranks of the migrant workers who were already in the region, the vast majority of whom came from non-Arab states.²²

¹⁹ “Oil Price History and Analysis,” WTRG Economics Online.

²⁰ Ibid.

²¹ F. Eelens et al., *Labour Migration to the Middle East*; 64.

²² Anisur Rahman, “Migration and Human Rights in the Gulf,” 15.

By 1980, the share of the Gulf's migrant workers who were Arabs from other Arab states had fallen to 37%.²³ This can be attributed to two factors: 1) laborers from South Asia were thought to be more desirable from a political standpoint, and 2) the demand for unskilled laborers was replaced in large part by a demand for skilled workers who were available in greater abundance in South Asia than in the Arab world.

In 1982, a decline in oil prices led to a decrease in demand for foreign migrants, a trend that would continue until the end of the Cold War.²⁴ In 1991, after the second Gulf War ended, upwards of 1.5 million inhabitants—the bulk of them Yemenis—of the Gulf region were expelled. The vacancies left by the newly displaced were filled quickly and almost entirely by South Asians.²⁵ The migrant worker population today is estimated to be between twelve and thirteen million, some nine million of which come from South or Southeast Asia.²⁶

²³ Ibid., 16.

²⁴ Roger Owen, *Migrant Workers in the Gulf*, 15.

²⁵ F. Eelens, et al., *Labour Migration to the Middle East*, 67.

²⁶ Anisur Rahman, "Migration and Human Rights in the Gulf," 16.

Who Are the Migrant Workers?

While there are a number of skilled workers hailing from all corners of the globe living and working in the Gulf States, these workers—the majority of whom come from the developed world—typically enjoy high-paying jobs and favorable working conditions and will not be considered migrant workers within the framework of this paper. These workers typically hold management positions at multinational corporations, teaching posts, or any of a number of other professional, semi-professional, or administrative tasks. In the majority of literature available on migrants in the Gulf, these white-collar workers are referred to as simply “expatriates” or “consultants.” In the Gulf, these skilled workers are referred to most frequently as simply foreigners.²⁷ The population of workers this paper is concerned with consists of migrants in the Gulf performing manual labor, staffing the public service industry, and working as domestic help in private homes. Whenever the terms “migrant workers” or “migrant laborers” is used in this paper, it is these workers that are being referenced.

These migrant workers are a heterogeneous group, varied in race, religion, first language, sector of former employment, and just about any other categories of identification one can imagine. While they hail from more than one hundred countries, the top source countries of migrant workers to the GCC are India, Pakistan, Bangladesh, Sri Lanka, the Philippines, Nepal, Iran, Egypt, Yemen, Sudan, and Jordan.²⁸ Since Arab migrants from Egypt, Yemen, Sudan, and Jordan predate the oil boom that paved the way for mass migration elsewhere, since they often secure contracts through kinship ties and other

²⁷ Jane Bristol Rhys, “A Lexicon of Migrants in the United Arab Emirates (UAE), 26.

²⁸ World Bank, *Migration and Remittances Factbook 2011*, 67, 155, 198, 209, 216, 250.

connections, and because Arab nationals in the GCC often feel less threatened by their presence, the plight of these workers on the whole tends to be less than those of workers from South and Southeast Asia.²⁹ For this reason, they are not a part of this paper's focus group; however, it should be noted that these workers on the aggregate work six or more days a week and typically receive salaries comparable to those of other migrant workers employed in their industrial sectors.³⁰

Generally speaking, the migrants we are left describing are young, between the ages of 20 and 35, and overwhelmingly male.³¹ Virtually all of them come from the lower rungs of society in their home countries and are looking for a way to improve their life circumstances and contribute to their families. Consequentially, many of these individuals are willing to incur debt to secure positions in the Gulf; and most of them are willing to endure great hardships to keep their posts, as long as they are able to send some remittances home. The same individuals who are willing to endure such hardships tend to be determined not to share any of the harsh details of their realities with those close to them at home, oftentimes resulting in obedience in the face of oppression. The psychological effects of internalizing such a burden are bound to be immense, but this seems to be uncharted territory in the world of gulf migration research.

²⁹ Roger Owen, *Migrant Workers in the Gulf*, p. 5

³⁰ F Eelens et al., *Labour Migration to the Middle East*, p. 64

³¹ Fred Arnold and Nasra M Shah; *Asian Labor Migration to the Middle East*, 298-299.

Kafala: How the System Works

With the percentage of the GCC area's total population classified as migrant workers topping fifty percent³², it is not difficult to imagine why policymakers in the Gulf would draw up and garner support for a system designed from keeping the interests of migrants in the region from superseding the interests of nationals in each of the six Gulf States. While the migrant populations vary between the six states, migrants make up at least twenty-five percent of the total population in each state and at least thirty-five percent of each state's workforce.³³

In response to the first large wave of labor migration to the Gulf in the mid-1970s, governments of the Gulf States sought ways to ensure the interests of their citizens would not be threatened as the presence of migrants in the region grew. By the end of the decade, all six of the GCC states had adopted legislation with this purpose at the heart of it. While there are some slight variations in the structure of the *kafala* system from country to country, the foundations behind each state's practice of the system is similar and the systems are operated largely in the same way in each of the Gulf States.

Under the *kafala* system, migrant workers receive entry employment visas and residence permits only if they are employed by a GCC institution or by a citizen of the a GCC state. *Kafala*, which can loosely be translated from Arabic to mean "sponsorship," requires the employer, *kafeel*, to "assume full economic and legal responsibility for the

³² World Bank, *Migration and Remittances Factbook 2011*, 67, 155, 198, 209, 216, 250.

³³ Nora Ann Colton, "The International Political Economy of Gulf Migration, 36.

employee during the contract period.”³⁴ After signing a form issued by the Ministry of Social Affairs and Labor or its institutional equivalent³⁵ declaring that a migrant works for him or her, the migrant’s *kafeel* effectually becomes the sole proprietor of that migrant for the duration of the contract. In signing this form, the *kafeel* is making a commitment to inform the state’s immigration department of any change that may occur in the labor contract, as well as a commitment to repatriate the employee at the *kafeel*’s expense if the contract is to be terminated prematurely. The latter of these two stipulations is unlikely to be enforced by the government unless a suit is brought against the employer, a rarity for several reasons, which will be discussed later on in this paper.³⁶

Because the *kafala* systems requires the employer and sponsor to be one and the same—whether it be an individual or an institution makes no difference—migrants who have obtained work and residence permits under one employer cannot seek employment under another employer in the same state. One consequence of this is that migrant workers are rendered “entirely dependent on their sponsors’ goodwill in order to remain in the country.”³⁷ The benevolent position this puts the employer in makes working in the Gulf a gamble for virtually any migrant worker, but domestic workers are usually more at the mercy of their employers than workers in other industries. Reasons for this are that domestic workers are the only migrant workers in the Gulf who typically work alone. This has several repercussions, perhaps the most impactful of which is the lack of incentive employers of single domestic help have to treat their workers well. Such employers are typically not held

³⁴ Ahn Nga Longva, *Keeping Migrant Workers in Check*, 20.

³⁵ “Institutional equivalent” has been added to clarify that the name of the department being referenced is not the same in each of the GCC states, but each state has its own equivalent: in Bahrain, Kuwait, Qatar, and the United Arab Emirates, it is the Ministry of Labor and Social Affairs; in Saudi Arabia, the Ministry of Social Affairs and Labor; and in Oman, the Ministry of Social Affairs, Labor, and Vocational Training.

³⁶ For a discussion on this, refer to the section of this paper titled “Contractual Abuses Under the *Kafala* System.”

³⁷ Ahn Nga Longva, *Keeping Migrant Workers in Check*, 21.

accountable for their actions toward employers, as there is no public or private watchdog responsible for auditing household operations, including the employment of domestic help. Additionally, live-in migrants working alone are less likely to develop relationships with other migrants in similar situations, the likes of which might give them the confidence and the support necessary to make demands of their employers if they feel they are being treated unfairly. If a migrant does make demands of her sponsor, the lack of aforementioned accountability on behalf of the employer and the absence of other migrant workers to support or work with the migrant making demands leaves the *kaleef* with little pressure to act in the interests of anyone but herself.

Before addressing concerns over the opportunities for exploitation and abuse the structure of the *kafala* system provides employers with, it is important to note that millions of national sponsor-migrant worker relationships are amicable if not warmer. While these stories are harder to find, heartwarming accounts of mutually beneficial relationships between domestic workers and their employers are available to the public, and likely characterize a large majority of national sponsor-migrant worker relationships. While many employers undoubtedly treat migrant workers employed by them, domestic and otherwise, in a manner that would be considered fair by international observers the world over, it is this glaring opportunity for worker exploitation that is perceived by many to constitute a human rights violation.

Does the *Kafala* System Provide Employers With a Free Pass to Commit Human Rights Abuses?

Officially, the variations of the *kafala* system that prevails in the Gulf States today were adopted by governments in the GCC in an attempt to reduce dependence on foreign labor.³⁸ Unofficially, this was a way for governments whose institutions were incapable of managing the flow of migrants in and out of their states to diffuse responsibility to employers of migrants. The advent of the *kafala* system signified a transfer of responsibility for ensuring that labor regulations were observed from the state to the *kafeel* of migrant workers. In return for taking on this responsibility, sponsors were given permission to import whatever foreign workers they claimed were required to effectively run their companies' operations.

The effect of this magnificent transfer of power from the state to employers has certainly not done anything to reduce dependence on foreign labor in the Gulf States. Instead, it has facilitated the growth of a system that provides no channels of accountability for the actions of employers who more or less have free reign to treat their workers as favorably or as harshly as they choose.

Not all commentators on this issue argue that the *kafala* system needs to be scrapped or abolished. Attiya Ahmad, an academic who has spent more than two years conducting research in Kuwait and South Asia, argues that migrant workers in the Gulf are not without recourse. She claims that workers can “file criminal charges in situations of physical or sexual abuse, and file civil legal cases related to contract disputes” in an effort to seek justice for themselves and the perpetrators of the limited rights they have as migrants.³⁹ Another

³⁸ Roger Owen, *Migrant Workers in the Gulf*, 8.

³⁹ Attiya Ahmad, “Domestic Workers in Kuwait: The Role of State Institutions in Kuwait,” 28.

expert on this matter who wishes to remain anonymous asserted in an interview that she thinks the extent of migrant workers' abuses in the GCC, and in the UAE in particular, are grossly understated and that their opportunities for redress are accordingly overstated in literature on migrants in the Gulf.⁴⁰ One explanation for this could be that researchers whose projects are funded in part or in full by the GCC may be wary of adopting a critical approach in order to have their research published and to protect themselves from being barred from returning to the countries in which their research is conducted.

Even if migrant workers are technically entitled to file lawsuits in situations where contractual or physical abuses have been inflicted upon them, language barriers and a tendency of GCC courts to favor nationals in sponsor-employee abuse cases makes legal recourse an unlikely luxury for most migrants.⁴¹ In theory, migrants should be able to seek assistance at any embassies their home countries may have in their host countries. However, most migrants are expected to work during all operating hours their embassies may hold, and forgoing work to pay a visit to an embassy would be putting a great deal of faith in the embassy's ability to help a certain worker. The Philippines has a 24-hour hotline for overseas foreign workers in Saudi Arabia, but it is not well advertised and requires migrant workers to find a phone they can use to make a potentially risky call.⁴²

Given that many migrants work in states where their home countries have no embassies or the closest one could be hundreds of miles away, the argument that migrants can count on their embassies to help them deal with contractual and other abuses is weak at best. The author of this paper concludes that the *kafala* system is a major barrier to redress

⁴⁰ Interviews with two anonymous sources, both of whom have spent a minimum of eighteen months in the UAE and have astutely observed living conditions for migrant workers and migrant-worker-employer relations. Interviews conducted in Tucson, Arizona, April 2011.

⁴¹ "Walls at Every Turn," Human Rights Watch Online.

⁴² "Philippine Embassy: 24-Hour Hotlines for OFWs in Saudi Arabia," Overseas Filipino Workers Guide.

for migrant workers in the GCC. It provides no incentive for employers to treat their employees with respect and only little incentive for sponsors to abide by the contracts they have arranged with their employees. Consequentially, employers who so choose to capitalize on this pronounced lack of regulation do, in several respects, have a free pass to commit human rights abuses in relation to their employees.

The Recruitment Process

None of the Gulf States has a free labor market, meaning that competition among workers for jobs promising higher pay and favorable working conditions and among employers for the cheapest or most qualified workers takes place in the countries supplying labor to the Gulf. Little research has been conducted on this process, but if a multitude of personal accounts from workers is to be believed, it is likely that both sponsors in the Gulf and recruiters posted in supplying countries lure migrant workers to the Gulf under false pretenses.⁴³

To highlight what is meant by this, let us examine the case of Mohamed Sakoor, a Sri Lankan migrant who arrived to Saudi Arabia in 2000 eagerly awaiting the opportunity to work hard in order to send remittances home to his family. At the time, Mr. Sakoor was no stranger to working in the Gulf, as he had spent several years working as a driver in Kuwait as a teenager and young adult. An acquaintance of Mr. Sakoor's who worked for a recruiting

⁴³ Ahn Nga Longva, *Keeping Migrant Workers in Check*, 21 and Attiya Ahmad, "Domestic Workers in Kuwait: The Role of State Institutions in Kuwait," 26.

agency told Mr. Sakoor that he could get him a job driving and translating for other Sri Lankans in Saudi Arabia. This type of job is considered very desirable by most South Asians looking for work in the Gulf, and Mr. Sakoor was only qualified because he had learned Arabic in Kuwait.⁴⁴

The agent Mr. Sakoor knew laid out the terms and the benefits of the job. Once Mr. Sakoor raised the \$900 finder's fee to the agent, he could board a plane to Riyadh and start working. He was to be given one roundtrip airfare ticket, a monthly salary of \$213, and free food, housing, and medical care. After pooling all of his resources together—18 of Mr. Sakoor's relatives sold jewelry to make this possible—Mr. Sakoor raised the \$900 finder's fee required for this job and boarded his flight to Riyadh.⁴⁵

The agent who set Mr. Sakoor up with the job told him that someone would be waiting for him, but no one was there. This was to be the first of many broken promises for Mr. Sakoor. Mr. Sakoor was paid \$213 a month, but he did not see his first paycheck until he had been working seven days a week for three straight months. His paychecks were regularly three or four weeks late, and even though he typically worked between thirteen and fifteen hours a day—not including breaks—he never earned a cent of overtime pay. Mr. Sakoor also had to spend more of his meager earnings than he bargained for, as neither his meals nor his medical care were provided free of charge as promised.⁴⁶

While Mr. Sakoor remained with his employer for the entire duration of his two-year contract, he likely did so out of necessity rather than choice. Had he severed his contract, he would have had to pay his way home, as well as face the difficult task of explaining his early

⁴⁴ "Special Report: Inside Saudi Arabia," St. Petersburg Times Online.

⁴⁵ Ibid.

⁴⁶ "Special Report: Inside Saudi Arabia," St. Petersburg Times Online.

return to his family and friends.⁴⁷ While this highlighted example may seem out of place in a paper of this nature, Mr. Sakoor's case is representative of the cases of many migrant workers in the Gulf, and complementing a series of general claims about a situation with a story like this can oftentimes provide the reader with a clearer picture of the situation being described. Mr. Sakoor's employment circumstances were certainly harsher than those of many migrants in the Gulf, but others still have experiences most would consider to be even worse, and a multitude of news articles featuring workers like Mr. Sakoor suggest that both the treatment he received and the false promises which lured him to Saudi Arabia in the first place are not uncommon.

Workers report being paid less than they are promised, being assured that all of their meals will be taken care of and never once being fed without having to pay, being assured they will have their own bed and then living in a room with more workers than beds and having to take turns sleeping on the floor with the others in their rooms, and facing a number of other hardships and injustices they are not prepared for because that have been assured certain provisions at the time of recruitment that their employers fail to provide them with. Because regulating these employment agencies is a concern for neither the states the agencies operate in nor the states in which the employers they are recruiting for are operating, migrants are susceptible to exploitation both by the agencies recruiting them and by their employers from the time of recruitment.⁴⁸ One can imagine an employer providing a recruitment agency with inflated benefit descriptions in an attempt to secure better-qualified

⁴⁷ The author takes some liberties in this paragraph in an attempt to draw a connection between difficult questions facing many migrant workers and the specific case described in this section. A presupposition has also been made. The interview with Mohamed Sakoor from which the preceding information was drawn took place during the month before Mr. Sakoor's scheduled departure from Saudi Arabia, and an attempt to find follow-up information on this case was unsuccessful.

⁴⁸ Roger Owen, *Migrant Workers in the Gulf*, 5.

workers. Alternatively, in cases where agents are paid on commission, there may also be an incentive for them to underscore undesirable working conditions and exaggerate perks in order to secure more workers faster, even if it means their job as an agent will only be temporary.

Recruitment is an integral component of the migration process, and the lack of transparency with which it is carried out is a cause for great concern. Without effective regulation, migrants are hard pressed to secure any guarantees that they will get what they bargained for once abroad. The guarantee of at least a one-way plane ticket, provided in virtually every case of recruiting, is often incentive enough for a potential migrant to go to great lengths to come up with the money required to pay an agency fee, which can vary from \$100 to more than \$1000.⁴⁹ Paying back the lender or lenders of this money is an arduous task, one that can take workers several months' salary to repay, especially if compounded by interest. What this means is that workers are unlikely to break their contracts no matter what working and living conditions they find themselves in. Even if agencies lie to potential employees about their compensation and the terms of their contracts, they are unlikely to be held liable at any capacity aside from perhaps the space occupied by moral conscience, which obviously differs from individual to individual. Reasons for this include language barriers workers face upon arrival in their host countries, as well as a perceived inability to breach the subject with employers that stems from a mix of cultural norms and a fear of facing even harsher treatment or greater injustices. Since many workers go to great lengths to hide the injustices they face from their family and friends back home, both during their contracts and once they have returned home, it is likely that many individuals seeking contracts in the Gulf are entirely unaware of this throughout the recruitment process.

⁴⁹ Ibid.

Contractual Abuses Prevalent Under the *Kafala* System

One stipulation of the *kafala* system in all of the GCC states is that terms of work and compensation must be agreed upon in the form of a written contract that is to be signed by both the sponsor and the migrant worker involved in the relationship. However, these contracts need not be submitted in full to any government department; and numerous studies show that employers regularly make changes to the contracts once their employees are already working for them and in many cases do not adhere to the contracts at all.⁵⁰

A thorough reading of literature on this issue suggests that the most common contractual abuses include routinely late pay, pay that is less than what was promised, refusal to pay, long working hours, the forced signature of revised contracts or other documents in Arabic, refusal to pay overtime hours workers, and effectual termination of contracts without officially breaking them. These abuses only serve to make a poor working situation worse, and in many instances workers who do not make as much money as they were impressed to believe they would make upon their departure for the Gulf are unable to send much in the way of remittances home to their families. The frequency with which these contracts are broken, and the inability for migrants to do anything about them, may lead one to believe or argue that the *kafala* system provides a worker's *kaleef* with the opportunity to carry out the role of master in a traditional master-slave relationship.

⁵⁰ W.A. Shadid et al., *Labour Migration to the Middle East*, 77.

The Effect of Migration on the Countries Exporting Labor

Being one of the better researched and more quantifiable aspects of this issue, there is quite a bit of literature available on the impact migration to the Gulf has had on the countries supplying the GCC states with their labor. However, this literature is largely concerned with the economic impact of migration and not with the social and psychological factors involved.

Though the population of migrant workers in the Gulf is extraordinarily diverse in virtually every respect, it is bound by one common and overarching goal: to send as much money home to family and friends as possible. Due to the lack of an opportunity to obtain citizenship and restrictions that prevent virtually all migrant workers from bringing family members with them, most workers view their posts in the Gulf as temporary, spend as little money as possible in the states in which they are employed, and send home as much in remittances as they possibly can.

Taken as a whole, migrants in the GCC sent home more than fifty billion USD in the year 2009.⁵¹ Clearly this is a large sum of money with the potential to help receivers of remittances alleviate their impoverished positions, as well as improve their access to education and healthcare. Additionally, remittances at such a large scale have the capacity to impact the receiving countries at a macroeconomic level, by affecting exchange and interest rates, as well as national consumption and savings levels. A particular study on the impact of remittances sent home to Kerala, an Indian state that contributes immensely to the workforce in the Gulf, found that remittances from the Gulf have factored largely into Kerala's high

⁵¹ World Bank, *Migration and Remittances Factbook 2011*, 14.

human development index. In terms of education and health, Kerala is a leader among India's twenty-eight states and seven union territories. The Gulf, host to a large majority of emigrant workers from Kerala, can also lay claim to having enhanced the quality of life for many Keralans, as the impact of remittances sent home by workers in its six countries is "manifested in household consumption, saving and investment, the quality of houses, and the possession of modern consumer durables" in Kerala.⁵²

However, these same figures give critics plenty of impetus for venting. Take Kuwait, for example. Non-nationals make up roughly eighty percent of Kuwait's workforce, but remittances sent out of Kuwait in 2009 constituted only eight percent of Kuwait's GDP for that year. When the critic's viewpoint that the efforts of migrant workers are at the heart of Kuwaiti society's functionality is considered, it would seem that migrant workers are entitled to an unfairly small proportion of the country's financial pie. Even after accounting for workers' income spent before being sent home and Kuwaiti resources allocated to the livelihood of migrants, arguments that migrant workers are grossly undercompensated for their work when compared to nationals, both employed and unemployed, and skilled expatriates filling white-collar positions that are much less physically demanding and require half or less of the hours put in by migrant workers.

⁵² S. Irudaya Rajan and K.C. Zachariah, "Remittances to Kerala: Impact on the Economy" 45.

The Effect of Migration on the Countries Importing Labor

Unlike the topic of the previous section, very little research has been conducted on the effect this mass labor migration has on the labor importing countries. However, the migrants living and working in the Gulf have a quantifiable impact on the economies and an observable impact on the social structures in the states of the GCC.

In terms of percentage of GDP, the impact of remittances sent away from the GCC has a much greater impact on these states' economies than remittances sent from the United States, Germany, France, and other large countries with sizeable migrant worker populations.⁵³ While measurable, the impact of remittances sent from the GCC has a negligible impact on the economies as a percentage of gross domestic product (GDP).⁵⁴ In 2006, remittances leaving Oman's economy constituted 10% of the country's GDP. In Kuwait, Oman, and Saudi Arabia, remittances to the tune of between 6% and 8% of GDP flowed out of those states' coffers and into those of various South and Southeast Asian countries.⁵⁵ Since remittances are typically converted into more widely accepted currencies such as the dollar or the euro before they are sent home, they can place pressure additional pressure on GCC banks to keep high volumes of foreign reserves, which are high to begin with because the currencies of all GCC states are pegged to the US dollar. Similarly, these remittances can impact fiscal and monetary policy.⁵⁶

Remittances flowing out of the GCC also impact investment in the region, as money that would more likely be reinvested in the GCC economies if earned by nationals is instead

⁵³ George Naufal and Ali Termos, "Remittances from the GCC Countries: A Brief Outlook," 39.

⁵⁴ *Ibid.*, 41.

⁵⁵ World Bank, *Migration and Remittances Factbook 2011*, 16.

⁵⁶ George Naufal and Ali Termos, "Remittances from the GCC Countries: A Brief Outlook," 40.

being sent home. Two of the only academics who have focused their research efforts on this impact also argue that large-scale remittances leaving the GCC economies open the door for underground money transfer agencies, which, if not kept in check, could damage the GCC States' investment friendliness ratings and consequentially hamper economic growth.⁵⁷

To those primarily concerned with human rights, all of this means very little. A glance at World Bank remittances data confirms their worries that migrants are severely undercompensated, given that they provide nearly all of the manpower required to keep the GCC countries operating as effectively as they can, make up the bulk of these states' labor forces, and receive only a small fraction of the countries' distributed wages. Someone concerned much more with the social consequences of this migration than the economic ones may point first to the lack of legal action taken against sponsors who subject their workers to human rights abuses. Employees who abuse their workers are, in most cases, not blacklisted from hiring migrant employees in the future, and by and large most abuses go entirely unaddressed.⁵⁸ The failure of the GCCs legal institutions to apply justice in cases of human rights abuses perpetuates the problems the workers are faced with. The cultural mindset that prevails in Saudi Arabia, Qatar, the UAE, and Bahrain is that Arabs are superior to non-Arab migrants.⁵⁹ This mindset is perpetuated by the status quo under the *kafala* system, which provides employers with conditions that are ideal for abuse and exploitation, if they are so inclined to partake in either. This opportunity, coupled with a cultural notion of ethnic and national superiority, makes migrant workers in the GCC especially vulnerable to power relations that are reinforced through derogatory "stereotypes, prejudices, racism, xenophobia,

⁵⁷ Ibid., 40.

⁵⁸ Gwenann S. Manseau, *Contractual Solutions for Migrant Labourers: The Case of Domestic Workers in the Middle East*, 38.

⁵⁹ Gwenann S. Manseau, *Contractual Solutions for Migrant Labourers: The Case of Domestic Workers in the Middle East*, 38.

ignorance, and institutional discrimination.⁶⁰ This vulnerability can be especially raw for female domestic workers, as they are often seen as the most subhuman of migrants, a notion which stems from the tandem workings of migrant vulnerability discussed above and the institutionalized discrimination of females in the public spheres of the GCC.⁶¹ Since female domestic workers typically live in the residences that employ them without any other migrants, their vulnerability may be further aggravated by the opportunity this presents employers with to abuse these workers without anyone else witnessing or even being aware of the abuse.

Another impact on the receiving countries is the problem of promoting productivity among nationals in the workforce that stems from an ever-increasing dependence on migrant laborers.⁶² Young, educated Emirates and Kuwaitis are learning to expect to live comfortable lives without exerting much physical or intellectual effort, a problem that is certainly not sustainable but has already been addressed in the section of this paper on “GCC Migration and Human Rights.”

Labor Camps in the Gulf

Since the *kafala* system provides no stipulations for the housing of migrant workers except for the inference that can be made from the sponsor’s responsibility to assume full

⁶⁰ Jorge Bustamante, “Immigrants’ Vulnerability as Subjects of Human Rights,” 339.

⁶¹ Wajeha Al-Huwaider, “Women Still Find Themselves Marginalized in Our Society.”

⁶² “Young Educated, and Dependent on the Public Sector: Diversifying Qatari and Emirati Labor Markets,” Brookings Institution Online.

responsibility for her employees, it is up to sponsors to determine where their employees live. For unskilled domestic workers, shelter is almost always provided by the workers' sponsors in their private residences.⁶³ For the small percentage of workers subjected to physical or sexual abuse at the hands of their employers, this may be a nightmare. For most domestic migrants, however, housing conditions are not so rough. Most other unskilled migrant laborers in the region dwell in labor camps, which researchers on the subject have split into four categories, arranged here from most to least desirable:

1. Large, well organized labor camps that primarily house migrants employed by large private and public institutions, multinational corporations, etc. While most of these camps house hundreds upon hundreds of workers, they are usually equipped with amenities not often available in the other three categories of camps, such as cafeterias, air conditioning, clean and reliable water sources, around the clock electricity, and recreational facilities. In these camps, men and women traditionally sleep in bunks, six to eight individuals in a room.
2. Unstaffed apartment buildings made up of numerous one-room housing units that were either designed specifically for housing labor or are older structures converted for the same purpose. These dwellings typically have kitchens and bathrooms for communal use, but the accessibility of other amenities varies widely from structure to structure. These single-room units typically house six to eight individuals as well, and bunk beds are the norm for sleeping.

⁶³ Andrew Gardner, "Labor Camps in the Gulf States" 55-56 and Interviews with two anonymous sources, both of whom have spent a minimum of eighteen months in the UAE and have astutely observed living conditions for migrant workers and migrant-worker-employer relations. Interviews conducted in Tucson, Arizona, April 2011.

3. Aging and undesirable villas throughout the Gulf States are converted into labor camps, housing fifty or more laborers each. While these villas vary in size, it is not uncommon for sixty or seventy workers to share a single kitchen and two or three toilets. The author could find no information on how many individuals sleep in these room, but logic could lead us to conclude that anywhere from eight to fourteen or more laborers sleep in each room.
4. Makeshift housing structures that are spread throughout the cities in which many migrant laborers are employed. These ad hoc structures are made from plywood, shipping containers, converted garages, or materials left over from construction sites after work has been finished. Resembling refugee camps from throughout the world, these camps tend to be the least desirable for migrants to live in, as well as the most hazardous.⁶⁴

Unskilled migrant workers who live in neither private family residences nor one of the four types of labor camps described above tend to live in staffed apartments not classified as labor camps, but these individuals make up a small minority. Skilled migrants often live comfortably in apartments or houses similar to those that GCC nationals live in.

Statistics are unavailable as to the distribution of these camps and the workers who live in them, but all available research shows that considerably less than half of all labor camps in the Gulf would be considered squalid for living in, but when conditions are poor. However, the disparity in living conditions between migrant workers and GCC nationals in general is striking, and the wretched living conditions workers living in the most undesirable labor camps experience are a hard pill for proponents of human rights to swallow, given the

⁶⁴ Characteristic information of the labor camps was compiled using Ahmed Kanna's, *Dubai in a Jagged World*, Andrew Gardner's, *Labor Camps in the Gulf States*, and the anonymous interviews that are referenced throughout this paper.

general prosperity of the region and the level of comfort with which virtually all GCC nationals live.

On the higher end of labor camp accommodation in the region, the first category mentioned above, one can expect to share a 40 square foot room with five or seven others, scarcely enough space for the three or four bunks that are squeezed into the room. This makes for cramped living quarters, but the amenities provided to workers at these higher end camps usually leaves them with few complaints, especially if they have any brethren living in the *ad hoc* camps described above. There are several camps throughout the GCC without plumbing, electricity, and food provisions. In one particularly squalid camp with no amenities in the UAE, workers sleep on the roofs of buildings to stay warm in the wintertime.⁶⁵ There are several camps throughout the GCC without plumbing, electricity, and food provisions. In one particularly squalid camp with no amenities, workers sleep on the roofs of buildings to stay warm in the wintertime. Labor camps like this have drawn attention from human rights organizations such as Human Rights Watch and Migrants' Rights International as it is in labor camps like these where laborers without work whose passports are still held by their sponsors are likely to be found.⁶⁶ Camps housing dozens of migrants who once worked for sponsors who no longer need them, either because the sponsors' companies have shut down or because the workers have been replaced, are not uncommon throughout the region.

⁶⁵ Ahmed Kanna, *Dubai in a Jagged World*, 26.

⁶⁶ Migrant Rights Online.

Domestic Migrants

On the aggregate, the working conditions and rights of domestic workers in the GCC are more compromising than the conditions in any other industries in which migrants make up a majority of the workforce. In 1970, roughly ten percent of Kuwaiti households had domestic workers. Flush with petrodollars from the oil boom of 1973, large-scale migration of domestic workers to Kuwait first occurred in the mid-1970s as Kuwaitis had spare money to hire household help. Before long, having domestic workers was so prevalent that it became a societal norm. Today, more than ninety percent of Kuwaiti households have domestic help; and virtually all domestic workers in the country are migrants, the vast majority of them women.⁶⁷

Kuwait's independent constitutional monarchy was only a decade old at the time of this oil boom, and the primary objective of its state institutions was to control and distribute the country's oil revenues through state welfare institutions.⁶⁸ Ill-equipped to manage Kuwait's rapidly growing migrant population, the state passed the responsibility of governing migrant domestic workers, as well as other private sector migrant workers, to the migrants' *kafeel*, effectively giving employers of migrant rights complete autonomy in deciding what pay and rights to afford their workers. Because of this, the pay and working conditions migrants working in the private sector were subjected to varied greatly, but this fact was unbeknownst to most of them since opportunities for communication and social exchange among migrants was often severely restricted by their *kafeel*.

⁶⁷ Nasra Shah et al., "Foreign Domestic Workers in Kuwait: Who Employs How Many," *Asian and Pacific Migration Journal*, Vol. 11, No. 2 (2002), pp. 247-6

⁶⁸ Jill Crystal, "Kuwait: The Transformation of an Oil State," 42.

One major difference between domestic migrant workers and migrant workers employed elsewhere in the private sector, such as in construction, organized custodial work, sales, and even company management, is that domestic workers were not initially included under the purview of the Gulf's labor laws. This can be attributed to a gendered understanding of labor that excludes work done in the household from being considered "labor."⁶⁹ This gendered understanding has likely contributed to the extremely harsh treatment many domestic workers have faced and continue to face in the Gulf.

Reports of mistreatment include routinely late pay, physical and sexual abuse, rape, and in some extreme cases, murder. In September 2010, an Indonesian maid and a Filipino guest worker were brutally murdered by their employers within a week of one another, once case in Medina and the other in Al-Khobar.⁷⁰ In that same month, a man whose identity was not revealed by the police allegedly confessed his involvement in the killings of three maids. Reports also claimed that the man was stalking a fourth maid with the intent to kill her.⁷¹ In November 2010, the body of 36-year-old Kikim Komalasari was found laying on a road in the Saudi town of Abha, where she was employed.⁷²

While these are certainly some of the most horrific endings to migrant workers' stories in the GCC, many domestic workers in the Gulf are treated inhumanely. While the privacy that employers' homes provide makes it impossible to quantify cases of extreme abuse, reports abound of domestic workers who must wake up before anyone else in the homes they are living in to start preparing breakfast and then stay awake until long past everyone is asleep taking care of household duties. Many of these women work seven days a

⁶⁹ Attiya Ahmad. "Migrant Domestic Workers in Kuwait The Role of State Institutions," 28.

⁷⁰ "Saudi Sponsors Suspected of Brutally Murdering Two Asian Maids" Migrant Rights International.

⁷¹ "Suspected Maid Killer Arrested in Yanbu." Arab News Online.

⁷² "Indonesian Maid Killed in Saudi Arabia." BBC News Online.

week without reprieve, and nearly all are forbidden from leaving home without a chaperone from the family. This combination of being overworked, underpaid, and isolated has been attributed to dozens of recorded suicides in the GCC over the past few years, the bulk of which have taken place in Saudi Arabia. Even the Saudi-based Arab news has acknowledged that “maids who are physically or emotionally abused have no choice but to run away or attempt suicide.”⁷³

Conclusion: Solutions in Theory and in Practice

Is there a conceivable solution to this problem that could be considered palatable to all parties involved? It is unlikely, even though government officials and interest groups in both the labor exporting and importing states and international observers are aware that injustices are being carried out unpunished. From a basic macroeconomic perspective, the push and pull factors far outweigh the costs incurred by migrant laborers in the Gulf. From a GCC employment perspective, migrants are doing work that nobody wants to do at a wage levels much lower than those that would be required to employ nationals in the same industries. For the countries supplying the labor, remittances sent home have become an important source of income and attempts to protect their citizens from exploitative working conditions in the Gulf could divert those remittances elsewhere, as a shortage of supply has yet to be a problem in this equation. Governments of wealthy and influential states such as the United States, Great Britain, and Germany have strategic interests in the region that they

⁷³ “Abuse pushes maids to end their lives.” Arab News Online

are not willing to risk by imposing sanctions on the Gulf States until the plight of migrant workers there has been alleviated.

Nevertheless, some real attempts to improve working conditions for migrants in the Gulf have been made. Unfortunately for those who have lobbied for and enacted these measures, none has been met with marked success. Of all the major suppliers of labor to the region, the Philippines has been the most active in trying to protect the rights of its citizens. The Philippines first passed legislation aimed at guaranteeing the rights of its workers abroad in 1995, with the Migrant Workers and Overseas Act.⁷⁴ The law had the dual-purpose of more strictly monitoring the policies of labor importing countries to prevent its workers from injustices abroad and tightening regulations on recruitment agencies based in the Philippines. Perhaps the biggest impact this law had on Filipino migrants until recently was that, by making registering with Philippines embassies overseas mandatory for foreign Filipino workers, it made them more aware of resources available to them abroad.⁷⁵

This very law, Republic Act (RA) 10022, was amended in October 2010. The amendment calls for the Department of Foreign Affairs to survey labor-importing countries, under the jurisdiction of those countries, to determine whether migrant workers are protected in those countries. The survey is based primarily on four main criteria: (1) existing labor laws protecting the rights of migrant workers in the country in question; (2) that country's status as a signatory to "multilateral conventions, declarations, or resolutions" pertaining to the protection of migrant workers; (3) the existence of a bilateral agreement with the Philippines on the rights of overseas foreign workers or a similar arrangement; and (4) the

⁷⁴ "Philippines Approves New Migrant Worker Act," Migration News Online.

⁷⁵ Ibid.

steps the country has taken to effectively implement the first three criteria.⁷⁶ In accordance with the survey, the Philippines has vowed to only send workers to countries the Department of Foreign Affairs' determines protect the rights of migrant workers. Immediately after the passage of the amendment, international discussion over whether and how this will affect Filipino migrants in the Gulf and elsewhere was initiated. On March 12, 2011, the Saudi Ministry of Foreign Affairs informed the Philippines that it would stop processing employment contracts until further notice.⁷⁷ With more than 1.5 million Filipino migrants currently working in Saudi Arabia, the kingdom is the top destination for overseas Filipino workers.⁷⁸ This measure could have a great impact on both the Philippines and the makeup of Saudi Arabia's workforce.

Passing measures of this sort, while hailed as courageous by human rights activists and idealists everywhere⁷⁹, is risky for countries that depend on out-migration to keep unemployment levels at a minimum and for economic stimulus. If several major suppliers of labor to the Gulf enacted similar measures simultaneously or in cooperation with one another, perhaps the outcome would be different. Then again, with close to three billion people living on less than two dollars a day⁸⁰, it is unlikely that the Gulf States would have difficulty finding migrants in countries that have not traditionally contributed so heavily to their workforces who will be willing to work for them for the same levels of pay and under the same working conditions that Filipinos, Indians, Pakistanis, and others are working for now. In the case of the Philippines, the head of the Philippine Overseas Employment

⁷⁶ Philippines Department of Foreign Affairs, Republic Act 10022.

⁷⁷ "Saudi Stops Hiring Filipino Domestics" Inquirer Global Nation Online.

⁷⁸ Charles Kelly, "Saudi Arabia Was Top Destination for Filipino Workers in 2009," Immigration Matters Online.

⁷⁹ "Is Saudi Arabia Punishing the Philippines for Trying to Protect its Migrant Workers?" Migrant Rights International.

⁸⁰ Anne-Emmanuelle Birn, "Gates' Greatest Challenge."

Administration has already attributed a three percent decline in the number of Filipinos hired abroad to the amendment of RA 10022; and he is anticipating an additional six percent decrease during the remainder of 2011.⁸¹

While economic incentives for suppliers to follow the Philippines lead in taking a more aggressive stance against migrants' rights abuses are nonexistent, the grassroots of a new movement could be in place. Indonesia's International Labour Office published a report in 2006 titled "Using Indonesian Law to Protect and Empower Indonesian Migrant Workers: Some Lessons from the Philippines"⁸², and in August 2010 Indonesia and Saudi Arabia agreed to hold regular meetings between their labor ministers to discuss issues and solutions concerning migrant workers in Saudi Arabia.⁸³ Nothing has come of these meetings yet, but they have the potential to be a step in the direction of increasing migrant workers' rights and *could* set the stage for a bilateral agreement concerning migrants between the two countries.

International pressure, especially coming from large trading partners of the Gulf States, has the potential to spur labor reforms in the GCC. However, public statements criticizing the Gulf's treatment of its workers and calling for reform are unlikely to have any impact. These urgings likely need to be backed by economic sanctions in order to yield results. At least for now, this scenario is unlikely because the world's largest economies have few if any migrant workers in the Gulf, but a great deal of interest in keeping the price of oil to a minimum. Once again, it is a matter of incentives.

Another approach that is unlikely to succeed, but has not been tried yet, is an appeal to Islam that could be employed from within. An Islamic principle, *Sadd al-Dharai*, or

⁸¹ "Philippines' New Law May Harm Jobs for Migrants," PINOY-OFW Online

⁸² "Using Indonesian Law to Protect and Empower Migrant Workers: Lessons from the Philippines," Indonesia's International Labour Office.

⁸³ "Indonesia, Saudi Form Meeting on Migrant Workers." Asia News Online.

“blocking the means to evil”, has emerged over the past few decades as a generally accepted principle of Islamic jurisprudence. This principle is referenced twice in the Qur’an, as well as in the Sunnah, a record of the sayings and habits of Islam’s Prophet Muhammad, and thus is considered by Islamic legal scholars to be an authoritative principle. In Islamic law, if the means of getting to an end violate the principles of the *Shari’ah*, they must be blocked. In applying the concept of *Sadd al-Dharai* to this framework, jurists have determined that preventing harm to oneself or another takes priority over securing a benefit.⁸⁴

An Islamic scholar could argue that the *kafala* system, with the leverage it gives employers over their workers, is a means that can and has on countless occasions led to evil and that it should be abolished in accordance with Islamic law. Every member of the GCC is an Islamic state, and statesmen and religious clerics throughout the region claim to be the proponents of the most true and unadulterated form of Islam. While there has been no major push to abolish the *kafala* system on these grounds, the notion of doing so is not that outlandish.

Aside from religion, there is at least one other internal force that could ultimately lead to a change in the status quo for migrants in the GCC, although it would have a profound impact on GCC nationals and migrant workers already employed or seeking employment in the GCC. For several years, observers have been commenting on the decreased productivity of the national labor force—and population in general, for that matter—in the Gulf States, particularly in Saudi Arabia, Qatar, and the UAE. This has been attributed to a combination of the comfortable social security net each of these three states provides for its citizens and

⁸⁴ Mū’il Yūsuf ‘Izz al-Dīn, *Islamic Law: From Historical Foundations to Contemporary Practice*, 25, 62-63, 146.

the labor efforts of the migrant populations in each. Some policymakers have recommended phasing out the large presence of migrant workers and increasing the number of nationals in the workforce to replace them. Given the high joblessness rates in each of these three countries and the preferential national trend toward employment in the public sector, popular because of high salaries and luxurious working conditions, an experiment in restricting the presence of migrant workers would probably be short-lived. Domestic workers drive the engines of the Gulf's economies; they deserve to be treated better.

Bibliography

- Al-Huwaider, Wajeha. "Women Still Find Themselves Marginalized in Our Society." *Saudi Affairs*, May 2003. http://www.artarabia.com/artman/publish/article_94.shtml.
- Al-Mukhtar, Rima. "Abuse Pushes Maids to End Their Lives." *Arab News*, 6 Mar 2010, <http://arabnews.com/saudiarabia/article26304.ece>.
- Alsharekh Alanoud, ed. *The Gulf Family: Kinship Policies and Modernity*. London: London Middle East Institute. 2007.
- Awadi, Mahomud. "UAE Migrant Workers' Rights Draw Focus." *In Depth News*, January 2010.
- Bustamante, Jorge A. 2002. "Immigrants' Vulnerability as Subjects of Human Rights". *International Migration Review*. 36, 333-354.
- Bustamante, Jorge A. 1977. "Undocumented immigration from Mexico: Research Report." *The International Migration Review*. 11, 149-77.
- Birn, Anne-Emmanuelle. "Gates's Grandest Challenge: Transcending Technology as Public Health Ideology." 366, (2005): 514-519. <http://physiciansforhumanrights.org/students/hhr-ed/gates-grandest-challenge.pdf>.
- Cement Report in the MENA Region*. Blominvest Bank SAL. <http://www.scribd.com/doc/49759143/25/Consumption%2%A0vs%2%A0GDP%2%A0-per%2%A0capita>.
- David, Natacha. "Migrant Workers in the Middle East." 07, no. 1 (2007): 1-15.
- Eelens, F. and T. Schampers and J.D. Speckmann. *Labour Migration to the Middle East: From Sri Lanka to the Gulf*. New York: Kegan Paul International. 1992.
- Gamburd, Michele. 2009. "Advocating for the Rights of Sri Lankan Workers". *Critical Asian Studies*. 41 (1): 61-88.
- Hernandez-Truyol, Berta Esperanza. *Moral Imperialism: A Critical Anthology*. New York: New York University Press. 2002.
- "Indonesian Maid Killed in Saudi Arabia." *BBC News*, 19 Nov 2010, <http://www.bbc.co.uk/news/world-asia-pacific-11795>.
- "Indonesia, Saudi Form meeting on Migrant Workers." *Asia News Network*, 12 Aug 2011, http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_112928.pdf.

Longva, Anh Nga. "Keeping Migrant Workers in Check: The Kafala System in the Gulf." *Middle East Report*, 211 (1999): 20-22.

Kanna, Ahmed. "Dubai in a Jagged World." 243, (2007):.
<http://www.merip.org/mer/mer243/dubai-jagged-world>.

Kelly, Charles. "Saudi Arabia Was Top Destination for Filipino Workers in 2009." *Immigration Matters*, 4 Jan 2011, sec. News
<http://www.immigrationmatters.co.uk/saudi-arabia-w>.

Mahoney, Jack *The Challenge of Human Rights: Origin, Development, and Significance*. Singapore: Blackwell. 2007.

Manseau, Gwenann S. "Contractual Solutions for Migrant Labourers: The Case of Domestic Workers in the Middle East ." Master's thesis, The University of Nottingham, 2006.

Martin, Susan T. "Inside Saudi Arabia: A Five Part Special Report." *St. Petersburg Times.*, 24 Jul 2002, <http://www.sptimes.com/2002/webspecials02/saudiara>.

Migrant Rights: Giving Hope, Sharing Life (blog). <http://www.migrant-rights.org/>.

Migrant Rights International. <http://www.migrantwatch.org/>.

Morsink, Johannes *Inherent Human Rights*. Philadelphia: University of Pennsylvania Press. 2009.

Northrup, David. 2003. "Free and Unfree Labor Migration, 1600-1900: An Introduction". *Journal of World History*. 14 (2): 125-130.

"Oil Price History and Analysis." WTRG Economics. <http://www.wtrg.com/prices.htm>.

Owen, Roger and *Migrant Workers in the Gulf*. London: Minority Rights Group, Ltd.. 1985.

Philippines Department of Foreign Affairs. *Republic Act 10022*, 2010. Pasay City, Philippines: Department of Foreign Affairs, Briefing Room, 2010.

"Philippines' New Law May Harm Jobs for Migrants." *PINOY-OFW*, 15 Feb 2011, sec. Philippine Overseas Employment Administration <http://www.pinoy-ofw.com/news/5777-philippines-law>.

Santolan, Joseph. "Stranded Migrant Workers Protest in Saudi Arabia." *The Global Realm*, January 26, 2011. <http://theglobalrealm.com/2011/01/26/stranded-migrant-workers-protest-in-saudi-arabia>.

"Suspected Maid Killer Arrested in Yanbu." *Arab Times*, 13 Sep 2010,

The Brookings Institution. "Young, Educated, and Dependent on the Public Sector: Diversifying Qatari and Emirati Labor Markets." December 15, 2010. http://www.brookings.edu/events/2010/1215_middle_east_labor.aspx.

Tubeza, Philip. "Saudi Stops Hiring Filipino Domestic." *Inquirer Global Nation*, 29 2011, sec. Breaking News. <http://globalnation.inquirer.net/news/breakingnews>.

Wallace, Charles. "Philippines Approves New Migrant Worker Act." 2, no. 7: 1995. http://migration.ucdavis.edu/mn/more.php?id=699_0_3_0.

Winckler, Onn and Anisur Rahman and Jane Rhys and Attiya Ahmad and Nora Colton and Andrew Gardner. *Viewpoints: Migration and the Gulf*. Washington, D.C., The Middle East Institute, 2010. http://www.mei.edu/Portals/0/Publications/Migration%20Gulf_Viewpoints.pdf.

World Bank. 2011. *Migration and Remittances Factbook 2011*. Washington: World Bank. <http://siteresources.worldbank.org/INTLAC/Resources/Factbook2011-Ebook.pdf>.