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Great migrant hope

BY RINA MUKHERJI

24 AUGUST 2016

Indian migrant labourers in Jordan and other West Asian countries have little to hope for unless there is considerable labour reform.



Construction workers at the Burj Dubai. (Photo: Imre Solt, Wikimedia Commons)

For millions of Indians who travel to the Gulf and other West Asian countries for work, the kafala (sponsor) system is a known devil. As per the system, which operates right across the region, a worker is directly recruited and, subsequently, cared for entirely by his employer. On one hand, this system aids the migration process because once a worker is hired, all his costs for securing visa and other legal documentation, along with his living expenses, like food and accommodation, are paid for. As a result, from the 1960s onwards, there has been steady out-migration of job seekers, skilled, semi-skilled and unskilled, from states like Kerala, Tamil Nadu and Andhra Pradesh and now, from Goa and Uttar Pradesh as well. The spurt in expatriate workers to the Gulf rode the 1973 oil crisis, and rising oil prices. But the kafala system is also

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the Gulf took the 1975 oil crisis, and rising oil prices. But the kafala system is also riddled with corruption, abusive practices and extreme exploitation because it places the well-being of the worker entirely on the firm or individual employing him, without any proper checks and balances.

As a part of a research project, I was able to visit Jordan, one of the coveted ‘modern’ destinations for migrants (compared to the ultra-conservative Saudi Arabia). Even though the country on the whole is progressive, when it comes to migrant workers, the kafala system dictates their experiences. For instance, when a worker is recruited, a contract is signed wherein all details of the worker’s employment are spelt out. The contract, in keeping with the labour laws, ought to be made available in Arabic, and the native language of the migrant worker. But this seldom happens. Substitution of contracts, wherein the original content of the contract is replaced by other terms and conditions is quite rampant. Since the original contract is often never provided to the workers in a language they understand, there is no way to track such substitutions.

Prakash Rajbar, for instance, was handed over a contract in Arabic, when he was recruited by an agent in Mumbai. On reaching Amman, he got his contract in Hindi (his native tongue). This was when he realised that he had been duped. By then, there was nothing he could do, since he had paid more than INR 80,000 to the agent for a garment cutter’s job in Jordan. Contract substitution affects skilled labour too, like Sharon Raj, an engineering diploma holder who was recruited as a supervisor to work with Classic Builders in Jordan. He was contracted to receive JD 587 (USD 830) per month. But since 2014, he has only been paid JD 400 (USD 565) per month till now. The salary cuts were justified on the grounds that he was doing an “unsatisfactory job”, although he was working 12 hours every day at the construction site. This was in violation of the Jordanian labour law that specifies that no worker can be made to work more than 48 hours a week, and needs to have a weekly off.

Rajbar and Raj are only two among thousands of such cases. It is not uncommon to see a worker, who has been hired as a driver for example, to be packed off to work on agricultural land or a camel farm. Even highly qualified labour can end up working as domestic helps. This causes many workers to quarrel and fall out with their sponsors, and run away from their workplaces. If this happens, the sponsor refuses to renew the visa, work and residency permits. Thus, the worker ends up becoming an illegal immigrant, liable to pay a fine. At times, since the sponsor may not care to pay workers for months together, when labourers finally do flee, they are often penniless and can’t pay any fines. Eventually, they become scapegoats for what was essentially the fault of the employer.

Under the kafala system, a worker also cannot take up another job unless he is given express permission to do so from the original sponsor. Hence, illegal workers are often left without any means of sustenance. Such stranded illegal workers can be picked up by the police and detained for months, until someone pays the fine and arranges for the worker’s deportation and the flight back home. I was told about a case where 10 Indian and 10 Pakistani workers employed on a construction site in Jordan on a two-year contract were not given their wages for two months of work, and they also didn’t receive the return airfare home on the expiry of their contract. In another case, four Indian workers employed at a factory manufacturing Venetian blinds hadn’t got their wages for four months when their contracts expired and they too were denied the promised return airfare. Since the workers did not know any Arabic, and spoke only Malayalam, they required the help of Arshad Ali, a migrants rights activist, and Tamkeen, an NGO, to resolve the matter and fly home with their arrears.

The number of such “illegal” migrants is astounding. To understand the extent of the

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Kishore Dave, the bureau chief of the Gujarati newspaper *Jai Hind*, was stabbed to death at the newspaper’s office in Gujarat’s Junagadh district. According to a Press Trust of India report, the Superintendent of Police at the local police station said Dave (53) was attacked by unknown assailants at around 9:30 PM on 22 August 2016. *Aaj Tak*, the Indian television channel, reported that personal enmity prompted the murder.

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The number of such illegal migrants is astounding. To understand the extent of the problem, consider this: in 2009, the Indian government had to arrange a general amnesty for all Indian workers who had overstayed in Oman, totalling some 15,000 workers. According to an official from the Jordanian Ministry of Labour, “there are 800,000 migrant workers from Southasia in Jordan, engaged by employers in the manufacturing, construction and agricultural sectors. Of these, only 85,000 have work permits.”

The UAE, estimated to have 2.2 to 2.9 million Indian migrant workers, according to the UN, saw thousands of illegal workers leave the country in 2012 when a general amnesty for illegal migrants was announced. Earlier, in 2007, another 342,000 illegal residents belonging to various nationalities left the country when a general amnesty was declared. In Saudi Arabia, a crackdown on illegal workers in 2012-13 saw 90,000 workers being deported.

Consular indifference

Even though migration to the Gulf and West Asia picked up in the 1970s with the oil boom, the Government of India largely ignored the problems of migrants until 2012. But following reports by Amnesty International, and the International Trade Union Confederation which laid bare the grim working conditions and deaths of Indian (and Southasian) workers toiling to meet the targets of the 2022 FIFA World Cup in Qatar, there was global attention and censure and the Indian state was criticised for its lack of action. Currently, as reports of how thousands of Indian workers, laid off from work and starving in Riyadh, Saudi Arabia, pour in, the Indian government is finally making the right noises and is aiding repatriation efforts.

The apathetic treatment meted out earlier was primarily because a majority of these migrants – who were illiterate or semi-literate, and from the lowest strata of society – lacked a voice. In the early days, from the mid-1960s, many migrants were duped by recruiters into travelling in *dhow*s that would dump them along the shoreline of the Persian Gulf, without the necessary documents. Such migrants would be promptly arrested if the authorities at the destination countries got wind of such dubious transactions.

In the event of a crisis, these migrants were often ignored, and left to fend for themselves, as was evident when Iraq invaded Kuwait. Matters have improved, with even the Indian Prime Minister Narendra Modi taking the initiative to reach out to migrant Indian workers during his recent visit to Qatar, assuring them of fighting abusive labour practices that they are subject to. Yet, safe shelters are lacking in many Indian embassies based in these countries.

In Jordan, for example, the Indian embassy lacks a labour attache. Regular visits to factories and construction sites are admittedly never made, due to the “lack of manpower.” Thus, migrant workers are left to fend for themselves when they find their rights flouted in an alien land. But the exploitation starts in the home country itself with unscrupulous recruitment agents who engage in contract substitution and take hefty commissions from potential hopefuls. Activists blame the kafala system for the exploitation of Southasian domestic workers, and generally feel that working as freelancers, by the hour, can prevent exploitation. However, this can prove to be a financial burden for domestic workers, who are then required to manage expenses for food and accommodation on their own. ‘Undocumented’ freelancers – the ones who run away from abusive employers – are unable to leave the country and fear arrest. Such vulnerability forces some of these women into the illegal underworld of prostitution in destination countries.

Organisations working on migrant rights are far from satisfied by the slow pace of

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legislative labour reforms in destination countries. According to Joe Stork, deputy Middle East and North Africa director at Human Rights Watch, “without more vigorous enforcement, these reforms do little to address the most widespread rights violations such as failure to pay wages and withholding workers’ passports”. Penalties are hardly ever enforced, with employers ignoring the rulings or accusing workers of theft or for “absconding”. The long wait for justice (between six months to a year or even more) means most workers, legally unable to work with no means to generate an income till the case is settled, accept unfavourable out-of-court settlements, according to Human Rights Watch. The organisation also reported on how some workers paid their former employers to get back their passports and leave the country with the proper documentation. Safety norms continue to be ignored, causing many Southasian workers to die from time to time due to fires and accidents at construction sites.

Criminal investigations related to human trafficking and slavery seldom bear fruit. For instance, in September 2012, the *Gulf Daily News* reported a case in Bahrain where a 63-year old Indian domestic worker, Aakana Satyawati, had not been permitted to visit her home in India for 21 years and hadn’t been paid her wages for two years. According to a report in *The Hindu*, Satyawati had approached the Indian Embassy twice, in 2007 and again in 2011, but couldn’t secure any support. It took the Migrant Workers Protection Society (MWPS), a voluntary organisation based in Bahrain, to fight her case and finally facilitate her return to Hyderabad.

A helping hand

NGOs in destination countries like MWPS represent a slender hope for migrant workers. The MWPS for instance provides legal aid, translators and shelter (for female workers). Besides providing medical help and treatment for victims of abuse, MWPS has also helped with visa fees, and airline tickets for repatriation of male and female workers in distress. Since 2005, MWPS has sheltered 1200 female workers at its shelter home. In Oman, the Indian Social Club, commenced work as the Indian Cultural Association way back in 1977, and is the one organisation in the country focussed on the welfare of migrant Indian workers. Besides fostering a sense of community among economic migrants, the Indian Social Club has been instrumental in securing amnesty for Indians with expired visas in 2005, 2010, and 2015.

Often, the fight for dignity is spear-headed by activists working singly and tirelessly. Activist PM Jabbar of the Indian Social Club, has handled some 3000 deaths in Oman, ensuring Indian migrant workers who die there get a decent burial or cremation back home in India. In Jordan, polyglot organiser Arshad Ali, who started the General Trade Union of Workers in Textile, Garment and Clothing Industries (GTUW), has worked for a better deal for Southasian workers. GTUW was instrumental in pushing through an amendment to the Jordanian labour laws, so that migrant workers could unionise under the GTUW banner. It also successfully negotiated a unified agreement for every worker recruited for the garment industry. The greatest success of GTUW has been the building of bridges between employers, workers and officials at the Jordanian Ministry of Labour.

Back in India, the huge following for *Pravasalokam*, a programme on *Kairali TV*, devoted to tracing missing Indian migrants in the Gulf, proved to be a god-send for families where the bread-winner had gone missing after migrating to the Gulf from Kerala, and other states in western and southern India. Rafeek Ravuther, the brain behind *Pravasalokam*, on realising the extent of exploitation faced by migrant workers, set up the Centre for Indian Migrant Studies (CIMS), giving up his full-time media job to become a migrant rights activist. CIMS today researches the myriad problems affecting Indian migrants and liaises

advise. CEMO today researches the myriad problems affecting Indian migrants, and works actively with Indian missions and overseas Indians abroad in its mission. It has also helped the Kerala government set up 'NoRKA Roots', the field agency of the 'Non Resident Keralites Affairs' (NORKA) Department, to look at the welfare of families with missing members.

Highlighting the problems of Gulf migrants, and their reasons for going missing in an alien land on TV has also resulted in the Government of India taking note. It has resulted in setting up the Indian Community Welfare Fund (ICWF) for the welfare of overseas Indians in distress, which is now operational in 17 Emigration Clearance Required (ECR) countries and the Maldives since 2009. The countries include the UAE, Lebanon, Libya, Jordan, Yemen, Sudan, Afghanistan, Indonesia, Thailand, Iraq, and all the member-nations of the Gulf Cooperation Council (GCC). Through memorandums of understanding, signed by the Indian State in 2012, and followed by meetings with authorities in Kuwait, Malaysia and Oman, there has been an improvement in the lives of migrant workers. In fact, Kuwait has accepted the idea of a model employment contract for Indian migrant workers, which is certainly a huge move towards equity and transparency in recruitment. Arranging orientation programmes and informing them of their rights is another area where some progress has been achieved. Since most workers end up being fleeced by rapacious recruitment agencies in India, and later exploited by employers in the Gulf, the Centre for Education and Communication (CEC) operating from New Delhi realised the need for pre-departure training, and stepped in to fill this huge knowledge gap. CEC has generally been imparting pre-departure training to construction workers travelling to Qatar and other parts of the West Asia from Uttar Pradesh and Delhi. CEC does not impart language training, but as Ruchi Gupta, who is in charge of the pre-departure sessions for migrant workers, says, "Awareness of legal rights is a necessary component of our training". CEC's sessions are designed to familiarise workers with the kafala system, the need for work contracts, and residence permits. They are also advised about grievance redressal mechanisms, financial remittances and the precautions to be taken to avoid getting exploited by recruiters or employers. Peer learning from Gulf returnees at the sessions also helps the workers learn about the customs, laws and other aspects of the destination country.

The Arunodhaya Centre in Chennai, under its 'Migrant Initiatives' program, has been doing a similar job since 1998. Focussed primarily on the health of migrant workers, Arunodhaya has been educating workers on how to avoid getting infected by HIV/AIDS or other sexually transmitted diseases, and the dangers of getting trafficked.

India's intervention

In the recent past, the Government of India has signed memoranda of understanding (MOUs) with the governments of Kuwait, Oman and Qatar. This was followed up further during Prime Minister Narendra Modi's visit to Qatar in June 2016. Following the MoU signed with India, Kuwait had accepted the idea of a unified contract for workers. However, action in this regard came in only in 2016.

Oman, which is considered a comparatively better place for Indian migrants to work in, has been riddled with xenophobia against its 1.56 million migrant workers, 87 per cent of whom are from India, Pakistan and Bangladesh. In 2014, there were mass deportations of workers, many of whom did not have the necessary work and residency permits. There have been frequent demands in Oman for taxing remittances of migrant workers, who are often seen to contribute to unemployment within Oman. However, the Indian government's initiative, with regard to Indian migrants in Oman, saw the latter propose a general amnesty for undocumented workers in 2015.

The Government of India had earlier signed a MoU with Qatar with regard to the rights of Indian migrant workers. However, implementation of its clauses have taken time. Qatar recently released 23 Indian workers from prison following a pardon; these are among 100 Southasian workers released from prison during PM Modi's visit to the Emirate. These migrants, incidentally, had already served a significant portion of their sentences so far.

Indians form the largest group of migrant workers in Qatar, with 630,000 Indians in a country of two million. A new Qatari law promises to address the abuses faced by migrant workers. In a revolutionary step meant to address issues of forced labour and squalid working conditions, especially that of construction workers, a new law was passed that abolishes the kafala (sponsorship) system, effectively removing the curbs on worker mobility. However, the law is not applicable to domestic workers. Both Amnesty International and Human Rights Watch have expressed their concern that despite the 'abolishing' the kafala system, the framework of exploitative practices remains unchanged.

The road ahead

To improve the lot of Indian migrant workers in these countries, there are several key concrete steps that can be taken. For one, Indian missions abroad need to engage enough interpreters for its migrant workers. Maintaining a dossier of migrant workers in the respective countries can easily reveal which state or region they hail from; interpreters who can speak and interact with the concerned workers could then be placed in the respective missions to regularly keep in touch with the workers, so that the mission can promptly act in times of emergency. Helplines to the embassies ought to be especially manned by full-time personnel, so that Indian workers, wherever they may be, never find themselves abandoned and helpless.

In the case of death or an accident, embassies have to play a role in making sure their wages are sent to family members and they are buried or cremated with dignity. Embassies could also facilitate and arrange for legal help for workers facing detention because employers have lodged criminal cases against them. At the moment, even where helplines exist, they only function during the working hours of the day. If a worker is in distress late in the day, there is no help available.

Recruitment agencies are known to flout rules, fleece workers and illegally charge huge sums at both the source and destination countries. This needs to be curbed by countries working in tandem in the interest of migrant workers. Only then can the laws be implemented. In many cases, workers have complained of not just being cheated, but also of being victims of physical assault when they have approached recruiting agents to escape the clutches of their vicious employers. This can only be prevented if stringent punishment is meted out for such criminal acts.

Of late, the Government of India has been zealously taking up the cause of its migrant workers at the highest level with the Gulf Cooperation Council (GCC) and other destination countries such as Malaysia. But this needs to be backed up by safeguards at the Indian end as well, with the government keeping an eye on recruitment agents and their nefarious practices.

It may be a tough call; but if there is a political will, nothing should prove impossible.

development and the environment. She is a Panos Fellow working for the Southasian initiative for migrant labour.

RINA MUKHERJI

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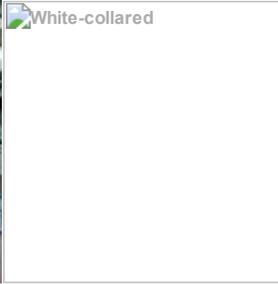
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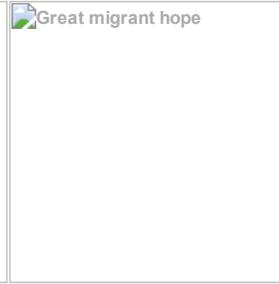
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