

Contract Labour and Debt Bondage in the Arab Gulf States. Policies and Practices within the *Kafala* System

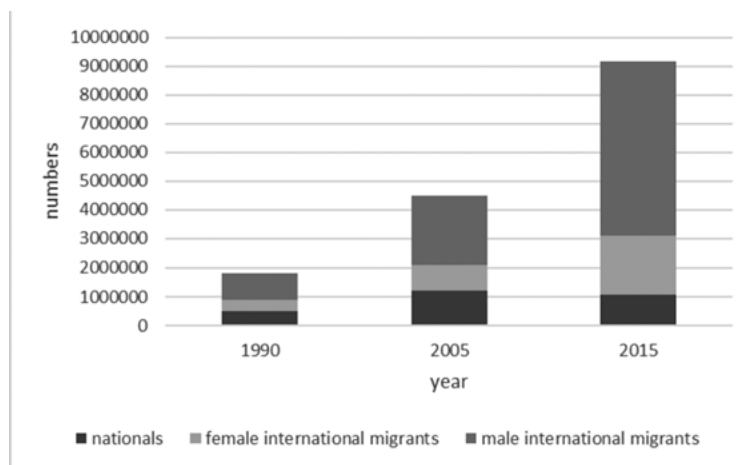
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Since the discovery of oil on the Arabian shore of the Gulf in the 1930s, the first oil-induced economic boom, and the compensation of the lack of human resources by imported labour, the Arab Gulf States have experienced a continual rise in the number of foreign workers. In particular, from the 1960s onwards, the influx of foreign workers – initially primarily from neighboring Arab countries, but, due to political reasons, in recent decades mostly from South and Southeast Asia – has increased.¹ According to a United Nations database of 2015, the six member states of the Gulf Cooperation Council (GCC), namely Bahrain, Kuwait, Oman, Saudi-Arabia, Qatar, and the United Arab Emirates, have one of the largest migrant stocks worldwide with around 25 million migrant workers, who together constitute about 60 per cent of the area's total population.² Numbers vary from country to country; in the United Arab Emirates (UAE) and Qatar for instance, nationals comprise a mere 12 per cent of the total population (United

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- 1 Cf. Seccombe/Lawless (1986) and Errichiello (2012) for details on labour migration patterns to the Arab Gulf before the oil boom in the 1970s, and for the problem of lacking reliable data for that time.
 - 2 Calculation by the author on the basis of source data provided by the United Nations 2016. However, these numbers are only estimates, and vary in the relevant literature. Since data on population from statistical centers of the Gulf States often do not provide a breakdown by nationalities, information on the share of foreign workers mostly rely on estimates of the sending countries. Furthermore, these figures do not consider the presumably high number of irregular migrants, which might be 15 per cent of the total workforce (cf. Shah 2014).

Nations 2016; Snøj 2013). However, in all GCC states, the clear majority of the labour force are migrant workers, composing approximately 70 per cent of the regional labour market (Babar 2013: 122). In some countries such as Qatar and the emirate of Dubai their share is as high as 96 per cent of the total workforce (De Bel-Air 2015: 10). India, the Philippines, Nepal, Bangladesh, and Pakistan are the main sending countries.

Figure 1: International migrant stocks in the UAE 1990-2015



Source: Chart by the author, based on data of United Nations, Department of Economic and Social Affairs, Population Division (2015).

Since the GCC states do not conceive of themselves as immigration countries, governmental rhetorics do not refer to the imported labour workforce as migrants but as “temporary contract workers”, “foreign workers”, or “expatriates”. Both the migrant workers’ residency and their employment are regulated by a specific sponsorship system (*kafala*), a kind of “extensive and institutionalized inter-Asian guest worker scheme” (Lori 2012: 15), moving millions of people and generating billions of dollars for sending and receiving countries. Long-term stay, permanent settlement, and naturalization are not possible under the *kafala* system. Therefore, migrant workers usually arrive in the Arab Gulf States with contracts valid for a period of two years, or sometimes up to four years. They are supposed to leave the country immediately after the expiration of their contracts if not renewed or extended. Regulations in the framework of the *kafala* system tie temporary contract labourers closely to their local employers, who are legally

and economically responsible for them during their stay, and often control their mobility and ability to leave the country or change employers.

This chapter examines the main aspects and legal frameworks of the *kafala* system, and the recruitment policies and practices for labour migration to the Arab Gulf until the year 2016. Focussing on the UAE and Qatar and the findings of ethnographic fieldwork conducted 2014 in Dubai and Doha,³ it explores official recruitment practices, as well as perspectives of migrants and employers. The chapter illustrates illegal practices, which employers, recruitment agencies, labour brokers, and intermediaries have developed to circumvent certain provisions of both sending and receiving countries in order to generate additional profits out of migration processes. I will show that the *kafala* regulations cannot be assessed in general as a system of bonded labour, but that especially low-income Asian labour migrants often end up in situations of debt-bondage. This is particularly the case when they fall victim to deceptive recruitment, contract frauds or illegal visa trading.

THE KAFALA SYSTEM: GENERAL TRAITS AND LEGAL FRAMEWORKS

The Arabic term *kafala*, which is usually translated as sponsorship, means “guarantee” and it is in this context that a migrant worker is required to have a sponsor (*kafil*) who functions as a kind of guarantor and bears legal and economic responsibility for him⁴ during the contract period until he leaves the country. The *kafil*, who is also the employer of the migrant worker, can be a national individual, or a company belonging to at least 51 per cent nationals.⁵ Only for domestic workers (housemaids, nannies, gardeners, drivers, cooks, cleaners etc.) may a *kafil* be a non-national, provided that his salary matches a

3 I would like to thank the Global South Studies Center (GSSC, Cologne, Germany) for financing the research visits in Dubai and Doha.

4 The male pronoun is used in this chapter to refer to both male and female individuals, unless indicated otherwise.

5 Exceptions are free economic zones in the UAE which have their own rules and regulations, and in which migrant workers are not sponsored by their employers but by the respective free zones (cf. Khan/Harroff-Tavel 2011: 294).

specific rate set by the respective GCC country.⁶ As a guest-worker scheme, organizing the process of imported manpower, the *kafala* system was established in the 1950s, when several states of the region abolished slavery.⁷ In Saudi Arabia, for instance, the residency law from 1952 required every foreigner to have a local *kafil* (Fargues/De Bel-Air 2015: 156). The roots of this specific sponsorship system are uncertain, and disputed in academic literature. Some authors hint to its origins in Bedouin traditions of hospitality which sets obligations regarding the treatment and protection of foreign guests (Khan/Harroff-Tavel 2011: 294, Zahra 2014: 11). The explanation offered by Longva (1997: 103-106) is more convincing. Longva sees striking similarities between the *kafala* system and former patterns of indentured labour in the Arab Gulf States that lasted until the 1950s. At the start of the pearling season, boat captains or boat-owner merchants used to give families of divers a loan to live on during the divers' absence. The diver was supposed to pay off the debt at the end of the season, when profits were distributed among the crew. However, at least from the 1930s onwards, most divers could not bring home any money, and so had to pledge to work for the same merchant or captain in the following season (ibid.: 104). These divers usually worked as sailors outside the pearl season, and were also tied closely to their other employers who had to give written permission to the pearl boat owners to use the service of their sailors (ibid; cf. Hopper 2013). Furthermore, certain characteristics of the current *kafala* system that tie migrant workers closely to local employers were probably also influenced by recruitment practices brought in by the British and international oil companies in the 1930s when bringing foreign workers to the Gulf (cf. Seccombo/Lawless 1986; Dusche 2011: 41). As Baldwin-Edwards suggests, the origins of the *kafala* system lie in the attempt to benefit national unskilled workers, and to provide "temporary rotating labour that could be rapidly bring into the country in economic boom and expelled during affluent periods" (ibid. 2011: 37).

What makes the current Gulf States' system for governing and regulating migrant workers unique in comparison to other contemporary migrations policies is not merely the fact that it seeks to avoid any kind of long-term stays or permanent settlement. Above all, it is the fact that the state delegates substantial portions of the responsibility for controlling foreign workers' entry, stay,

6 In the UAE, for instance, the minimum monthly salary necessary to be a *kafil* of a domestic worker is currently (August 2015) 6,000 AED; approximately 1,630 USD (cf. Hukumat Dubai 2013).

7 Cf. Miers (2003: 339-357) for an overview on the end of slavery in the Arab Gulf States between 1950 and 1970.

mobility, and exit after the termination of the employment relationship – in other countries a state prerogative – to citizens and their proxies (De Bel-Air 2015: 5, Gardner 2014: 4-5). Due to this dependence of the particular labour migrant on his *kafil* (employer), the *kafala* leads to a kind of “privatization of migration governance” (Babar 2013: 123). It produces not only a high variability in the foreign workers’ experiences (cf. Gardner et al. 2013: 15), but also a high vulnerability of migrant workers for abuse and exploitation.

Certain provisions of the *kafala* system vary from one GCC country to another and change frequently, but in general migrant workers arrive under fixed-term contracts. Since all GCC countries attempt to avoid long-term settlement of migrant workers, there is a salary cap for bringing in family members. As most migrant workers are below this ceiling, they and their families live under “transnationally split” conditions (Rahman 2011: 390) and workers remit back home to support family members left behind. At the same time, this policy results in probably unique worldwide demographic imbalances of some GCC countries. In Qatar, for instance, according to statistical data of June 2015, three quarters of the country’s total population were male (Ministry of Development Planning and Statistics 2015: 8). Although labour migrants are employed in almost all areas of work (construction, education, hospitals, service sector, education etc.), most of them are so-called “low-skilled” workers occupying low-paid jobs in sectors such as construction and service. In Qatar, around 60 per cent had below secondary school education in 2010 (De Bel-Air 2014: 5). Since low-skilled workers usually live in labour camps which by law must be outside of cities and “family areas”, according to surveys from 2010, more than half of Qatar’s total resident population dwelt in such camps (ibid.: 7), usually sharing a room with five to seven other persons, with communal bathrooms and kitchens.⁸ Domestic workers are usually housed in the homes of their employers.

THE ROLE OF THE SPONSOR

A worker’s visa status in all GCC countries is closely tied to his *kafil*, which provides him with wide-ranging control over the worker’s mobility. In Qatar, all

8 New guidelines issued in 2013 ban double-decker beds in labour camps, and prescribe that not more than four workers are to be housed in one room and that each worker should have a free space of at least 4 sqm in the shared room (cf. Perumal 2014). However, the implementation of these guidelines is still pending.

foreign workers require an exit permit issued by their *kafil* if they want to leave the country, whether for a short time or permanently; in Kuwait this applies to those employed in ministries and other governmental institutions. This requirement very obviously violates the freedom of movement as articulated in the Universal Declaration of Human Rights⁹ and the International Convention on the Elimination of All Forms Racial Discrimination, as also bemoaned for example by the UN's Special Rapporteur of human rights of migrants (Crépeau 2014: 8). International criticism triggered also the so-called "no objection certificate" (NOC), which guest workers in Qatar and most other GCC states require as a permit of their *kafil*, if they want to change employers before their contracts expire or during a non-limited contract. This NOC is even required after the expiry of contracts, when workers do not want to leave the country immediately but choose to stay with new employment. Reforms announced in 2014, but as yet (February 2016) not implemented, promise among other things that employers may be changed after the end of contracts without an NOC and without the previous work barrier of six months, or in case of a non-limited contract after a period of five years (State of Qatar 2014; Kovessy 2014).

In the UAE, until 2011, the regulations for NOCs and labour bans after the expiry of contracts were quite similar to those in Qatar. Workers required the *kafil*'s NOC after the termination of their work contracts to be allowed to transition to another company. Otherwise, they had to return to their home countries with a labour ban for at least six months. With ministerial resolution 1186, which was put into force in January 2011, workers now do not necessarily face a six-month ban on taking up new employment after the expiration of their contracts. They can take up a new employment, provided the following conditions are met: Firstly, that the former *kafil* of his own accord terminates or neglects to renew the work relationship; and secondly, that the employee had spent at least two years under his former contract. Exceptions to the requirement of the two-year-period and a NOC are for professional and skilled employees who have completed one full year of service and fulfill certain provisions. They must hold at least a high school diploma and must receive a certain minimum salary in their new jobs (minimum 5,000 AED [1,360 USD] for those with a high school diploma, 7,000 AED [1,906 USD] for diploma holders, and 12,000

9 The Universal Declaration of Human Rights states in article 13: "1. Everyone has the right to freedom of movement and residence within the borders of each State. 2. Everyone has the right to leave any country, including his own, and return to his country."

AED [3,268 USD] for bachelor degree holders) (Al-Imarat al-‘arabiyya al-Muttahida 2010).

Nonetheless, according to UAE labour law (Paragraph 4, article 116)¹⁰ workers who leave their employers before the end of the contract term have to compensate the “losses” of their employers. Only in Bahrain, since 2009, workers of all professional fields are allowed to change employers after only one year of service (Zahra 2015)

Workers who leave their *kafil* (employer) without an NOC are categorized in official rhetoric as “absconders” and “runaways”, and are subject to immediate detention and/or deportation. Moreover, if they continue to stay in the country without valid papers, they face additional fines for overstaying their visas. Their *kafil* will also be held responsible and fined, if he does not file an official complaint in the form of an “absconding report”. If for example in the UAE a *kafil* does not report his “absconded” housemaid, and the maid is caught working illegally for another employer (which she most probably will do, since she can’t leave the country without her *kafil*’s NOC), the *kafil* will be charged with a fine of up to up to 50,000 AED, approximately 13,600 USD (Al-Sadafy 2012). For persons who employ her as an undocumented housemaid, current fines are up to 70,000 AED, approximately 19,061 USD (Hukumat Dubai 2013). However, an absconding report can be quite complicated.¹¹ In order “to save time and effort” in 2014 the Qatari Ministry of the Interior introduced a new feature in its e-governance service, which enables employers to lodge complaints about absconding workers via their smartphones (Hukumi 2014).

Especially for low-skilled migrant workers with low income it is difficult to receive an NOC before the expiration of their contracts, since the *kafil* usually demands the reimbursement of the “investment” he paid for their recruitment, e.g the fees of an agency as the intermediary, plane ticket, medical tests, residence visa, health card, etc. For a domestic worker in the UAE for example, in 2014, depending on the home country of the worker, a sponsor would pay a recruitment agency between 10,000 and 14,000 AED (around 2,723 – 3,813 USD).¹² With a monthly minimum salary of a housemaid, as dictated by law, ranging according to the housemaid’s nationality from 750 AED (204 USD) to

10 Compare labour laws at the homepage of the UAE’s Ministry of Work: “Qanun al-‘amal”, <http://www.mol.gov.ae/molwebsite/ar/labour-law/labour-law.aspx>.

11 See for example “Abscond Reporting at Labour & Immigration – UAE”, <http://www.visaprocess.ae/beta/abscond-reporting-at-labour-immigration-uae/>.

12 Interview with Louis, manager of a recruitment agency for domestic workers in Dubai, March 15, 2014. All names of interlocutors have been anonymized.

1,400 AED (381 USD) (Government of Dubai 2014), it is extremely difficult for a maid to reimburse her *kafil*. Ann, a Filipina maid employed by a cleaning company and taking care of three to five large houses every day, with often more than 12 hours work per day and sometimes no days off in a month, had been repeatedly threatened by her Moroccan supervisor: “If you break the contract, you will have to pay me 13,000 AED [3,540 USD].”¹³ Saving this sum from her monthly income of around 1,400 AED (381 USD) was far beyond Ann’s reach.

Furthermore her children, who lived in the Philippines with her sister and other family members, relied on her remittances. Ann’s migration to Dubai was, like many other cases, a family-driven decision to improve living conditions at home. Besides, it was also a kind of “personal escape”, since she separated from her husband, but is still married, because divorce is not legal for Catholics in the Philippines. However, her hopes for a more independent life in Dubai turned out to be false. According to Ann, far worse than being overworked was sexual harassment: “It happens all the time that they touch you [...] Here you have no dignity, you are nothing, you are not a human being”, she said. For domestic workers it is difficult to report rape or sexual assault, because they risk the accusation of consensual sex under the charge of “illicit relations”, which are forbidden by law (cf. Amnesty International 2014: 8). After a friend of Ann’s who worked for the same company was nearly raped, the two decided to quit and return together to the Philippines with the help of their embassy. At the same time, she feared her family’s reaction, since they considered her the one who “will make it for all” of them. Therefore, she was still hoping to find another sponsor in order to be able to continue working in Dubai, while waiting for the legal procedures undertaken by her embassy to enable her returning home.

In addition to the threat of having to bear the costs of reimbursing the *kafil*, workers who break a contract before its termination and want to return home also have to bear the costs of the return flight, which would otherwise have been covered by the *kafil* (cf. Tappe, this volume, for similar restrictions within coolie contracts in colonial Southeast Asia).

‘MAID-TRADE’ AND PERSECUTION OF ‘RUNAWAY MAIDS’ IN SAUDI ARABIA

Especially in Saudi Arabia, many citizens use social media to bemoan the high costs involved in recruiting housemaids. Depending on the maid’s country of

13 Interview with Ann, Dubai, March 14, 2015.

origin, recruitment costs in 2014 ranged from 20,000 to 25,000 SAR, approximately 5,333–6,666 USD (al-Umran/al-Utaibi 2014). Official procedures for hiring domestic workers via a recruitment agency take several months, and many Saudi families complain that they face difficulties in finding domestic help at all. The latter situation also arises due to bans preventing several Asian and African countries from sending housemaids to work in Saudi Arabia. The high recruitment costs probably contribute to the perception on the part of some Saudi sponsors of their domestic workers as a kind of personal property, in which they have invested money.

Numerous profit-seeking Saudi companies and also some individuals trade sponsorships of domestic workers by advertising on internet forums offering to “take over” housemaids and to compensate their sponsors for their investment, efforts, and time. In other advertisements they offer these maids to “hand over” (*li-l-tanazul*), often openly labelling the women as “for sale” (*li-l-bayʿ*) and mentioning their “price” (*siʿr*).¹⁴ It is strongly to be doubted that the domestic workers who are offered in such advertisements are not trafficked, but are able to participate in the decision on their future stay and employment.

The “trading of housemaids” is most frequent in Saudi Arabia, but also occurs in other GCC countries. On a Kuwaiti online advertisement portal, for instance, in February 2015 a *kafil* posted a picture of the passport of his 27-year-old Filipina maid and offered her for the “price” of 1,200 KWD (3,965 USD). Explaining that the reason for her “handover” was the return of his former housemaid, he stipulates a direct transfer without probation time, and contact via WhatsApp.¹⁵ However, these attempts are at the margins of the law in the respective countries or, if human trafficking can be proven, are punished, as highlighted by the example of an Emirati newspaper article on a *kafil* in Dubai who was arrested for trying to sell his maid for a sum of 3,000 AED (817 USD).¹⁶ Nevertheless, financial losses of sponsors whose maids have “absconded” are an issue which is frequently discussed in Saudi newspapers and social media.¹⁷ In order to avoid the costs of recruiting a new one, or to force the

14 Cf. for example the numerous ads in the following forums: “Mauqi’ Khadimat” [Servant Forum]: <http://www.shrte.com/> and “‘Alam al-Mar’a [World of the Woman]”: <http://www.womenw.co/fl146/>.

15 Cf. 1808080.com: <http://www.1808080.com/viewlisting.php?view=25493>.

16 Cf. “Muqabil 3000 alaf Dirham – Dubai: Tajir bashar yaʿrud khadima lil-bayʿ wa-l-shurta taqbid ‘alayhi bi-kamin,” 24, May 10, 2015, <http://bit.ly/1CGAOjk>.

17 Cf. for example “Runaway domestics cost families SR 1 billion”; <http://www.arabnews.com/saudi-arabia/news/620891>; August 26, 2014; Toumi 2013.

“runaway” maid to reimburse the *kafil*’s recruitment costs, Saudi sponsors of maids do not only rely on legal persecution by the government, but have also developed several strategies to find their runaway maids by themselves. In the Saudi twitter site “khadimat haribat@maidescape”, for example, sponsors post pictures of their “runaway” maids, often with copies of their passports, with the hope that others will recognize them and turn them in to the police.¹⁸ Often this is also accompanied by accusations against the respective maid, such as that she “stole money”, “didn’t leave anything in the house which she didn’t break” (plates, glasses, electrical appliances) or “showed very suspicious behavior with a man of her nationality who helped her and two of her relatives to flee”.¹⁹ Saudi newspapers take up such efforts as well, as for an example in an article in which a *kafil* offered a reward of 50,000 SAR (13,333 USD) for his “absconded” maid, who was accused of having poisoned the neighbour’s family and then escaping with her lover (Al-Ufuq News 2015).

A rather new strategy of Saudi sponsors to protect themselves against financial losses for recruitment costs in case of “runaways” is by taking out insurance, which has emerged as a new industry. A Saudi company offers sponsors an insurance policy of 375 SAR for a housemaid, promising a compensation of up to 8,000 SAR in the case that she absconds. It also hints at the fact that the policies are more expensive when they are to cover employees of certain nationalities, such as Ethiopians and Indonesians, because they are more likely to run away (al-Muriki 2014).

At the same time, a flourishing black market has developed in Saudi Arabia for undocumented “freelance housemaids”, who have entered the country in irregular ways, overstayed their visas, or “absconded” from their *kafils*. According to data from the Statistical yearbook of the Saudi Labour Ministry, in 2013 around 65,000 domestic workers (49 per cent female, 51 per cent male) were absent from work (Wizarat al-‘amal 2014; cf. Damir-Geilsdorf/Pelican 2015).

HIRING PRACTICES AND DEBT BONDAGE

In labour recruitment to the Arab Gulf, a chain of recruitment agencies, labour supply agencies, brokers, contractors, and sub-contractors and other intermediaries is involved in both sending and receiving countries. As a “profit-seeking

18 Cf. “Khadimat haribat@maidescape”, <https://twitter.com/maidescape>.

19 Ibid.

industry” (Gardner 2014: 6), all these different actors and sponsors try to benefit from the process. Furthermore, some sending countries also rely significantly on remittances from their citizens abroad. In Nepal in 2013, for example, remittances comprised around a quarter of the country’s gross domestic product (Knight 2014). In Kerala (India), where around 90 per cent of migrant workers stay in the Arab Gulf, remittances were 31 per cent of the state’s GDP (Jayan 2012; cf. Philip 2014).

Kafala regulations in the GCC countries require that sponsors bear the entire recruitment costs, including the employee’s return flight after the termination of the contract. Nonetheless, recruitment agencies in the GCC states always cooperate with recruitment agencies and brokers in sending countries who in turn charge the migrants. Depending on their countries of origin, labour migrants on average pay around 1,000 USD for their recruitment; some up to 3,000 USD. However, as several studies have shown, recruitment costs also depend on the skills of the labour migrants, since skilled workers often pay only half of the recruitment costs that low-skilled ones have to bear (Jureidini 2014: 30).

In most sending countries private recruitment agents operate under licence from the government, according to detailed rules and regulations (Shah 2010). In an attempt to protect their citizens from unscrupulous brokers and intermediaries, some sending countries also prescribe a maximum recruitment fee by law. Bangladesh, for example, set 84,000 BDT (1,230 USD) as the maximum recruitment fee to the Gulf, but surveys showed that the Bangladeshi labour migrants leaving to Saudi Arabia nonetheless on average pay 3,000 USD for their recruitment (Rahman 2011: 400). The Nepali government, which in 2005 signed an agreement with Qatar requiring Qatari employers to bear the entire cost of hiring workers, limits manpower companies in Nepal as well: They are not allowed to charge more than 70,000 Rs (669 USD) from Gulf-bound migrants, but due to the lack of control most workers pay double this amount (Rai 2015). Nepalese workers interviewed by Amnesty International in 2013 in Qatar typically owed around USD 1,150 when they arrived there, often borrowed at an interest rate of 36 per cent per annum, which means that they sometimes need two years or more to pay back loans of this size (Amnesty International 2013: 34f.).

According to a survey among Bangladeshi migrant workers in Saudi Arabia, most relied on multiple sources to fund their around 3,000 USD migration costs, an amount usually far beyond personal savings:

“selling land (27 per cent), mortgaging land (23 per cent), taking a loan (72 per cent), and disposing of other family assets such as livestock and jewelry (19 per cent). Only nine per

cent of migrants used personal savings to meet the expenses of migration.” (Rahman 2011: 401)

Moneylenders in Bangladesh often charge seven to ten per cent interest per month for migration loans, roughly 100 per cent per year. Taking into consideration that, if the interest is compounded, the debt will double in less than a year and triple in less than two years, this explains why the majority of households with a family member working in Saudi Arabia for a period of three years or longer were still saddled with sizeable debts (ibid.: 403). Comparing the average remuneration of 18,732 BDT (273 USD) per month that Bangladeshi workers in Saudi Arabia receive, their amounts of remittances, and their repayments of loans etc., the study found out that it takes Bangladeshi migrants on average 2.3 years to recover the financial costs of migration to Saudi Arabia (Rahman 2011: 404).

Especially for low-skilled and semi-skilled workers, the recruitment costs paid in advance often lead to forms of debt bondage, even though the debt is not directly owned to the employer or the recruiter – the latter described by Bales (2004: 121-123) in regard to contract work in Brazil as a contemporary form of “contract slavery”. However, someone who arrives in the Gulf States heavily indebted will need to work for a significant time before he is able to pay the return flight home and/or to compensate a *kafil* for an NOC. Furthermore, he will probably endure unacceptable working conditions rather than returning home empty-handed. As shown in the case of Ann, mentioned above, decisions about the migration are often made at the household level.

As they are deeply intertwined with household livelihood strategies such as landholdings, school education for children, eradicating debts, and medical treatment for somebody in the family (Gardner 2014: 7), the remittances expected and needed by dependents in the country of origin comprise another force locking migrants in employment situations. This is not classical bonded labour, described in most definitions as work “against a loan of money, but the length and nature of this service is not defined and the labour does not reduce the origin debt” (Bales 2004: 116). Nevertheless, incurred debts at home, along with the difficulties involved in exiting a contract before its termination, bind migrant workers into exploitive employment conditions. Therefore, it could be described as a form of “neo bondage” as described by Breman (2008: 84-86) who stresses the huge diversity of bonded labour situations, both present and past, and demonstrated by examples in India that current practices of bondage are often a result of indebtedness and temporally restricted instead of previous forms of

bonded labour which went on indefinitely or were even perpetuated in the next generation.

Figure 2: Labour Migrants in Dubai, 2014.



Source: Author's photo.

Sometimes there are additional costs after migrants' arrival in the Gulf States, as illustrates the case of Muhammad, a 42-year-old taxi driver from Bangladesh, who had to pay 1,360 USD for a six-month training program in order to receive a valid driving licence after his arrival in Dubai.²⁰ Compared to average monthly incomes in Bangladesh it is extremely difficult to save such sums in addition to the recruitment costs in advance. In 2014, for Bangladeshi garment workers the monthly minimum wage was 5,300 BDT (68 USD) and the best salaries 128 USD (Farhana /Syduzzaman/Shayekh Munir 2015: 572).

More skilled labour migrants with a higher income can also face difficulties in paying off recruitment debts and reimbursing a *kafil*, because living costs in the Arab Gulf States are high. The salary of Julie, a Cameroon nurse, for instance, who works twelve hours a day in a hospital in Dubai with one day off

20 Interview with Muhammad, Dubai, March 15, 2014.

per week, is, at 3,000 AED (720 USD), above average. However, the rent for her one-bedroom apartment in Dubai is also 3,000 AED. She therefore lives like many other migrant workers in so called “bed space”, which means that she shares the bedroom with three other persons. Each one pays her share of the rent in order to keep enough of the income for other living costs, savings, or remittances.²¹

To provide a brief comparison of possible incomes and savings: Abdu from the Philippines, who has worked since three years in several malls in Dubai and recently became Assistant Sales Manager, earns 2,255 AED (614 USD) per month and pays around 790 AED (215 USD) for his “bed space” in a room he shares with two other Filipinos.²² Amir from Kerala has been working in Doha for almost five years as a kind of freelance taxi driver for a huge taxi company. The company provides him and five other taxi drivers from Kerala with a room, pays his health insurance, and every two years also pays for a flight back to visit his wife and children in Kerala. He in turn rents a taxi from the company, for which he pays 264 QAR (73 USD) per day. Depending on numbers of passengers and traffic, in some months he is able to save around 1,500 QAR (412 USD), in others much less, or nothing at all.²³ Taxi drivers in Qatar who receive a basic salary from a company usually earn around 1,200 QAR per month, and like Abdu are provided with a “bed space” in a workers accommodation block, health insurance, and sometimes food. Cooking is often not allowed in the accommodation blocks. Aziz, who works as such a salaried taxi driver, usually saves between 282 QAR (77 USD) and 403 (111 USD) QAR, which he sends home to his family in Eritrea.²⁴

On the other hand, high-skilled labour migrants in the GCC countries can secure substantial salaries, although there are great differences depending on the nationality of the migrant. According to the Gulf Business 2013 Salary Survey, the salary of a high-skilled “Western” expatriate working in the GCC in sectors such as real estate or finance is around 12,215 USD per month, that of an Arab expatriate around 10,556 USD per month, and that of an Asian expatriate 9,060 USD (Nagraj 2013). Therefore, companies in the private sector often prefer to employ Asians because they will accept lower salaries, as a Qatari Human Resource Officer explained in an interview with a newspaper:

21 Interview with Julie, Dubai, March 18, 2014.

22 Interview with Abduh, Dubai, March 12, 2014.

23 Interview with Amir, Doha, November 3, 2014.

24 Interview with Aziz, Doha, November 9, 2014.

“We cannot hire a European accountant for a monthly salary of QR 20,000 (\$5,500) when we can get an Asian accountant for QR 5,000 (\$1,370).” (Toumi 2011)

However, although high-skilled labour migrants are also bound to their employers by the regulations of the *kafala* system, in contrast to low-paid, low-skilled labour migrants, they do not fall victim to debt bondage incurred by their recruitment costs.

Diplomatic representatives of some sending countries try to monitor recruitment agencies, in both the sending and receiving countries. POLO, the Philippines Overseas Labour Office in Dubai, for example keeps a list of local recruitment agencies and blacklists those who mistreat their citizens. However, according to the head of POLO in Dubai, many Filipino migrants do not follow the prescribed procedure of applying with an agency back in their home country, but enter the Emirates with a visitors’ or tourist visa. He estimates that this applies to around 70 per cent of the consulate’s walk-in clients.²⁵ Some of them are in an irregular situation because they overstayed their visas, others found a *kafil* who agreed to arrange for employment by sending them for a “visa change” to Oman, Bahrain, or a nearby Iranian Island, and are now in regular employment.

However, some labour migrants choose to work in irregular employment situation as an advantageous alternative to restrictive employment regulations within the *kafala* system (cf. Damir-Geilsdorf/Pelican 2015).

LABOUR LAWS AND VIOLATIONS

All Arab Gulf States have labour laws that regulate contracts, maximum working hours, breaks, payment of overtime, safety regulations, annual leave, etc. Fines and penalties are imposed for the violation of labour laws, such as contract frauds or the withholding of wages, but there is a lack of control and enforcement. In order to crack down on the non-payment of salaries in the private sector, the UAE for example introduced a Wage Protection System in 2009, in the form of an electronic salary transfer that records wage payments. Although since its launch some thousand employers have been penalized,²⁶

25 Interview with Delmer Cruz, Dubai, March 13, 2015.

26 For new measurements to combat labour law violations cf. United Arab Emirates, Ministry of Labour 2015a and 2015b.

several studies prove that in most Arab Gulf States withholding parts of workers' wages is still a common practice.

Also commonly reported are contract frauds in the recruitment process. Once the migrant worker arrives at the airport, the contract he has signed in his home country is substituted with a new contract, stipulating only half or two third of the originally promised salary. In a survey of more than 1,000 low-income labour migrants in Qatar, 21 per cent received their salary on time only "sometimes, rarely or never", and 20 per cent found they were paid a different salary from the one they had been promised prior to leaving their home country (Gardner et al. 2013: 9-10).²⁷ Jureidini (2014: 64) mentions in his research a company which lists a salary of QAR 1,000 (270 USD), but on their arrival gives workers only QAR 650 (175 USD) with the claim that QAR 350 (95 USD) of the listed amount was to cover food and accommodation. In another example from his research – according to Jureidini (ibid.) "an all too common practice" – a young man from Togo borrowed around 3,000 USD to pay an agent at home who promised him employment in Doha in a university's soccer team with a salary of 4,000 QAR (1,100 USD) per month. Once he arrived, he was placed in a labour supply agency specializing in security guards and sent to work in the French embassy in Doha with a salary of only 1,000 QAR (275 USD) per month, from which he must pay for his food, support his parents back home, and pay off his loan.

In particular low-income workers are at an increased risk of becoming victims of these forms of deception and abuse, since there are few avenues by which they can challenge such frauds. Indebted migrants who just arrived have little option but to accept the substitution of contracts at the airport. Companies seem to count on the fact that these workers are probably not able to afford their airfare in order to return home, and furthermore most probably will be reluctant to return without providing the expected financial support for their dependents.

Although laws of all GCC countries have for several years prohibited the withholding of migrants' passports, this practice still seems to be widespread. In the survey mentioned above, 90 per cent of the interviewed low-income labour migrants in Qatar said that their employers were in possession of their passports (ibid.). Longva (1999) showed, in her ethnographic fieldwork conducted in Kuwait in the 1980s and 1990s, that sponsors (employers) justified the confiscation of passports as a crime-preventing measure, with the argument that those who have committed an infraction will not be able to leave the country and escape prosecution. Today, the confiscation of passports in order to prevent

27 Cf. Amnesty International 2013.

employees from quitting their job or “running away” from problematic work conditions (Human Rights Watch 2014: 38-39; Gardner/Pessoa/Harkness 2014) is often explained as being a favor for their owners, with the claim that workers in labour camps otherwise would not find a secure place for the deposition of their papers.

According to labour laws in all GCC countries, migrant workers can file a lawsuit in case of labour law violations. Due to many practical obstacles, this remains a merely theoretical option, especially for low-qualified workers. They often come from rural areas, are illiterate, and speak only a little English or Arabic. Since the language used by governmental officials and courts is Arabic, they face many difficulties in submitting formal complaints to Ministries. Efforts like the “Workers [sic] Rights Book” (Al Ali 2009) for Qatari workers, published in English and Arabic by the National Human Rights Committee in Doha, with legal information about their rights, probably reach only a few of the workers. Furthermore, migrant workers in the GCC countries cannot rely on the help of trade unions or go on strike, as such actions are strictly forbidden, and punished by deportation. Trade unions are only allowed in Bahrain, Kuwait, and Oman, and there they do not include migrant workers (Khan/Harroff-Tavel 2011: 302). An additional obstacle to protesting against labour law violations is that the labour migrant will be exposed to a period without income until his case has been decided. Even if he wins a court case against an employer, the outcome will be the termination of the contract and hence the residence permit, which means that the worker will have to return home to his country of origin and start the costly recruitment process once again (Lori 2012: 16).

Some of the major sending countries such as India and the Philippines have appointed labour and welfare attachés as part of the embassy staff in the GCC country, and provide help for their citizens in irregular situations or labour disputes. However, the possibilities for them to intervene are limited. This is particularly the case for domestic workers, who are not covered by labour laws in most GCC countries, although some GCC states have been announcing changes for several years. While most sending countries have designed sample work contracts for domestic workers that state requirements such as regular working hours, a weekly day off, or the provision of a sim card, the fulfilment of these requirements can hardly be controlled. Ahmad for example, an Emirate employer, explains that he provided his two live-in maids with mobile phones and a sim-card, but only allows them to use the phones at the weekend, and in his presence. He justifies his control over their communication as a precaution to ensure that they do not use the mobile phone for immoral things, like “starting a

love affair with the Bengali cleaner next door”.²⁸ Studies show that obviously many housemaids are prohibited from leaving the house at all, or do not receive a bed from their sponsor but have to sleep on the floor next to the children of their *kafil* (Vlieger 2011; Amnesty International 2014).

(ILLEGAL) PROFITS IN RECRUITMENT PROCESSES

Some companies and individual sponsors in the Arab Gulf States have developed several strategies to subvert certain regulations of the *kafala* system in order to make an additional profit in recruitment processes. According to a human-resource officer (himself a migrant labourer from a Middle Eastern country) of a huge construction company in Doha which employs several thousand workers, the following practices are widespread.²⁹ Usually a company that wants to hire construction workers from Nepal contacts a local Qatari recruitment agency, and has to pay this agency around 5,000 QAR (1,375 USD) per worker in recruitment costs. Some companies in highly sought as employers by labourers from abroad can avoid these costs, and furthermore they are even (illegally) remunerated by Qatari recruitment agency with an amount of around 1,000 QAR (275 USD) for each recruited Nepali worker. The Qatari agency in turn covers its costs by charging a recruitment agency in Nepal, which passes on the charge to the workers. Thus, when hiring for example a stock of 200 workers, the *kafil* (the company) and his intermediaries can not only save recruitment costs of around 275,000 USD but also make an additional profit of 55,000 USD. As the human-resources officer in Qatar said, “there is the law, but reality is another thing”. However, in his opinion “the biggest corruption starts at home, in Nepal or in the Philippines, they all pay hard currency”. Companies that are well connected to governmental circles and do not have to fear legal prosecution also make additional profits by setting up fraudulent employment contracts and selling visas to workers without offering them employment. While the worker searches for employment on the black market and (illegally) works for somebody other than his *kafil*, the latter charges the workers for the maintenance and renewal of his visa, generating a profit for himself.³⁰ This can easily contribute to an additional income: In the case of 100 workers, for instance, each of whom pays around 3,000 QAR (824 USD) for a valid residence and working

28 Interview with Hasan, Dubai, March 16, 2014.

29 Interview with Ahmad, Doha, November 8, 2014.

30 Ibid.

permit, instead of its real cost of around 1,200 QAR (330 USD), the Qatari sponsor and his intermediaries can earn 180,000 QAR (49,450 USD).³¹ A similar practice was observed by Crépeau, the Special Rapporteur of the human rights of migrants of the United Nations Human Rights Council, with the so-called “block visa”. Some Qatari companies have access to this kind of visa, which entitles them to recruit a certain number of workers according to the company’s assets and demand for workforce. Instead of employing workers, they sell the visa to the highest bidder (Crépeau 2015: 9).

These forms of illegal visa-trading obviously constitute a highly profitable business, and are widespread in various GCC countries. According to the research by Nasra Shah (2008: 9), in the UAE the prices for illegally traded visas seem to be higher than those in Qatar, but – as in Qatar – they depend on the migrants’ countries of origin: In 2008, Indians had to spend on average 7,500 AED (2,042 USD) for a “free visa”, and Iranians 15,000 AED (4,084 USD). While in 2004, the estimated number of workers sponsored by fictitious companies in the UAE was 27 per cent of the total workforce, the Labour Ministry in Saudi Arabia complained that around 70 per cent of the visas issued by the government were sold on the black market (ibid.). Both countries tried to crack down on this by instigating several measures, among them issuing bans on violating individual sponsors and companies, but as with other forms of labour law violation, there remains a serious lack of control.

A survey conducted in 2013 in Qatar found hundreds of workers without valid residence permits. In some cases, their employers had never given them a residence permit or the accompanying ID-card; in other cases their employers had failed to renew their expired permits (Amnesty International 2013: 36-37; 74). As the main reasons for these failures, managers of companies cited financial problems and a lack of cash flow, either due to slow government processes or due to the physical absence of the local sponsor, who is required to carry out the procedures. Another reason mentioned is that some companies transfer the sponsorship to subcontractors who do not complete the residence procedures. However, workers without valid papers find themselves in highly precarious situations. Despite the lack of access to provisions like medical treatment, they always have to fear police controls, and risk being assumed to have “absconded” from their employers, which will result in their deportation (Damir-Geilsdorf/Pelican 2015: 7).

Another strategy for increasing profit within the *kafala* system – this one legal – is to be a “passive sponsor” for a migrant worker who starts a business in

31 Ibid.

a GCC country and needs a national, either an individual or a company owned by at least by 51 per cent nationals, as a sponsor. Often, the latter has no interest in actively being involved in the business, but acts as “sleeping partner” or “passive sponsor”, earning for his role as a pro forma business partner an additional income, which may be up to 3,000 USD per month. The dependent migrant business partner in turn risks that his pro forma business partner suddenly increases his share.³²

Yet, rather than a simple narrative of local nationals exploiting foreign workers, main perpetrators of abuses are also often foreign nationals, local branches of multinational businesses, or diverse subcontractors (Amnesty International 2013: 8-9).

CONCLUSION

The chapter has shown that the *kafala* system exposes labour migrants to great risks and vulnerabilities, mainly because individual sponsors or sponsoring companies exercise wide-ranging control not only over their employment situation and their freedom to quit jobs or change employers, but also over their residence status and freedom to enter and exit the country. Taking into account these restrictions on personal freedom and mobility, the fact that migrant workers are criminalized and labelled as “absconders” or “runaways” when they leave their employers before the termination of their work contract, and requirements such as “exit permits” and “NOC”s from employers, accompanied by exploitative squalid working conditions, as has been frequently documented, some aspects of contract work under the *kafala* system could be considered as contemporary forms of unfree labour. However, unfree working arrangements are often defined by an involuntary entry into the relation (Barrientos/Kothari/Philipps 2013: 1038-1039), whereas others suggest that contemporary forms of unfreedom arise from the inability to exit from working relations (Brass 2014: 575). These characteristics do not directly apply to contract labour in the GCC countries, since migrant workers come voluntarily, and at least theoretically have the option of canceling their contracts. Furthermore, many of them are able to save substantial sums during their stay.

At the same time, as discussed above, in particular low-skilled Asian migrant workers sometimes find themselves in employment or situations for which they did not voluntarily sign up at home. ILO Convention 29 from 1930 defines

32 Interview with Ahmad, Doha, November 8, 2014.

“forced or compulsory labour” as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily”. In a report of 2013, the ILO tried to break down legal definitions of unfree labour into “operational indicators”, which can be summarized in the following three dimensions.

- 1) “Unfree recruitment”, which means, in the description of the ILO, coercive as well as deceptive recruitment;
- 2) “Life and work under duress”, with indications such as limited freedom, withholding of wages, forced overtime or task, and the retention of identity papers;
- 3) “Impossibility of leaving the employer” (Harroff-Tavel/Nasri 2013: 37). Some or all of these indications can definitely be applied to the employment of labour migrants in the GCC countries.

The highly precarious situations of migrant workers are not an unequivocal result of the *kafala* system, though. Rather, it is a result of widespread labour-law violations and illegal practices by sponsors, companies, recruitment agencies, sub-contractors etc., and the lack of control or enforcement of regulations also contributes to the precariousness. Especially low-skilled Asian migrant workers often face contract fraud, such as the substitution of their contracts when arriving at the airport, the withholding of wages, the confiscation of passports, or the requirement to work much longer hours than stated in the contract. Others find themselves in irregular situations due to their involvement with sponsors who were issued a “free visa” or “block visa”, and the labourers now have to work illegally for somebody other than the original employer. As a study by Amnesty International (2013: 31) has shown, “employers have been able to use threats such as non-payment of wages, refusal to return passports and provide exit permits to leave the country and in some circumstances, physical threats in order to exact work from workers involuntarily”. Since most low-skilled Asian migrant workers have heavily invested in their migration and incurred substantial debts, which sometimes take up to three years to pay back, they often have no other option but to accept exploitative working conditions and abuse.

Furthermore, migrants who want to return home before the termination of their contract have to pay their return cost, which otherwise would have been covered by their *kafil*, and which most migrants did not calculate in their investment for migration. As Derks has outlined in her study of bonded labour in Southeast Asia, the distinction between free and unfree should be considered as

“gradual and contextual” (2010: 842). The same applies for coercion and being bonded. Since in contemporary contexts of migratory movements a range of actors have been able to profit from the aspirations, needs, labour, and earnings of migrants, they may cause migrants “to highly indebt themselves to finance their migration, to be transported, and treated as commodities and/or to face severe restrictions in their autonomy, as well as conditions of subordination and abuse – much like the coolies in colonial times” (ibid.: 843).

It is evident that the debts involved in the migration process incurred in the sending countries can lead especially low-paid labour migrants in the GCC countries not only into new forms of debt bondage, but also to the acceptance of employers’ infringements of contracts, or contract frauds. The latter is also produced by the unequal power relationship between the *kafil* and the migrant worker, as well as migrant workers’ very limited avenues for filing a legal case when they are abused or deceived. Moreover, the fact that labourers remain in situations of involuntary work is often due to other structural features in the *kafala* system such as the financial reimbursement of the *kafil* for a “no objection certificate” (NOC) in order to change employers or to leave the country. At the same time, the strong dependence of labour migrants on their *kafil*, because they entered the GCC with fixed contracts and are very limited in their ability to offer their workforce to the labour market, capitalizes on them, acting as an instrument by which migrant labour is controlled and cheapened.

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