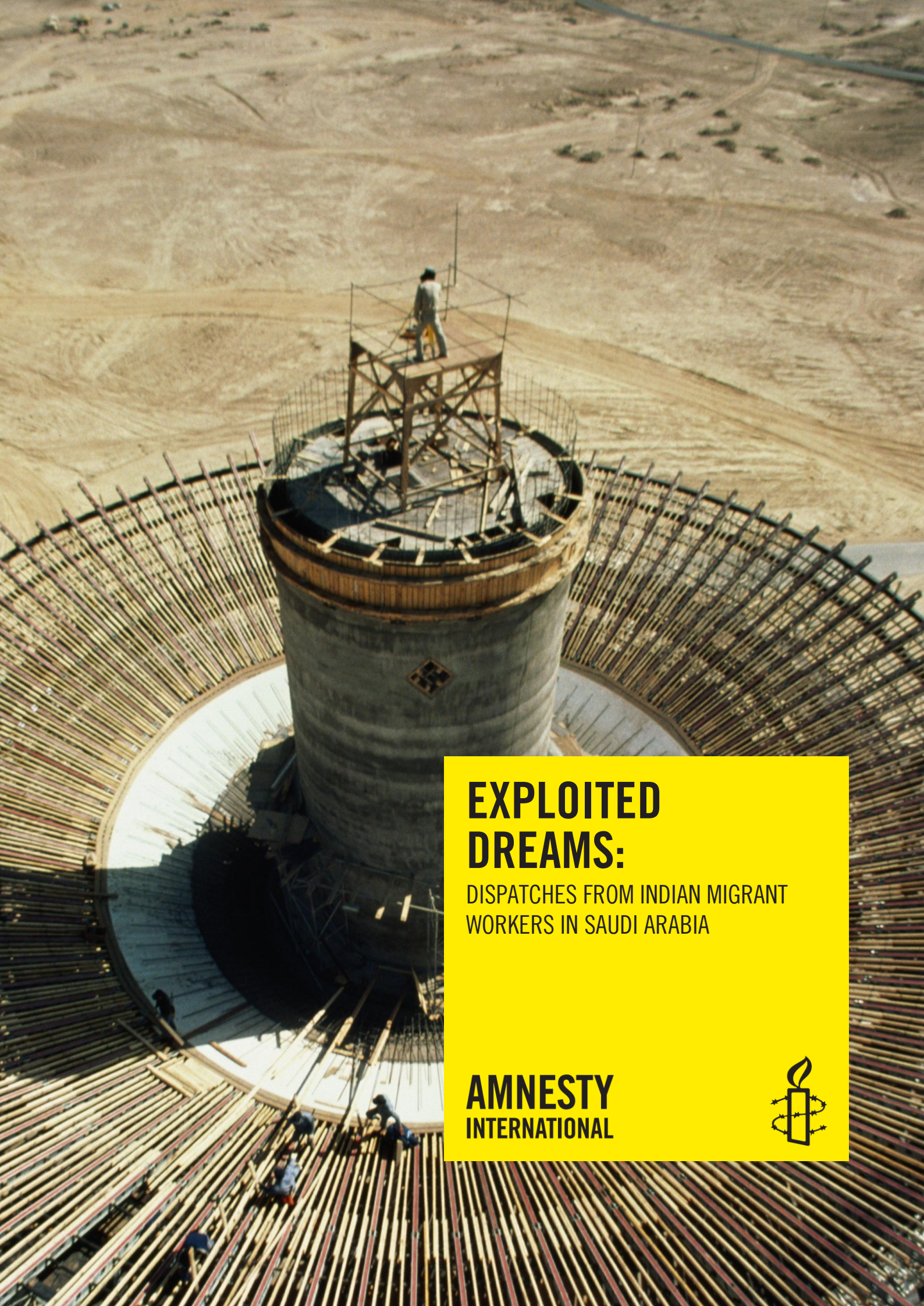

EXPLOITED DREAMS:

DISPATCHES FROM INDIAN MIGRANT WORKERS IN SAUDI ARABIA

AMNESTY INTERNATIONAL

Amnesty International is a global movement of more than 3 million supporters, members and activists in more than 150 countries and territories who campaign to end grave abuses of human rights.

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Cover photo: Construction workers atop a water tower in Saudi Arabia ©Wayne Eastep, Getty Images

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CONTENTS

GLOSSARY OF TERMS

Emigration Clearance Required (ECR): An approval required under Indian law for Indian passport-holders with lower levels of education seeking to work abroad.

Kafala system: A sponsorship system present in the Persian Gulf countries (including Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates) — with notable variations in its form — which regulates the recruitment and employment of migrant workers. Under the kafala system, every migrant worker must have a specific job and a sponsoring employer under whom she works — neither of which can be changed easily.

Exit permit: A document of approval that migrant workers under the kafala system are required under Saudi law to obtain from their sponsoring employer to be able to leave Saudi Arabia.

Free visa: An informal arrangement — disallowed under the kafala system — where a sponsor allows migrant workers to work for other people. In return, migrant workers pay monthly or annual instalments to the sponsor.

Iqama: A residence permit for migrant workers in Saudi Arabia which serves as the primary identity document when passports have been confiscated. The document contains information about the migrant worker including her name, job, nationality and the name of her sponsoring employer.

Irregular migrant: A migrant worker who does not have the documentation required to legally enter or stay in a country.

Migrant worker: "A person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national" (Article 2(1) of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families)

Recruiting agent: A legal entity registered under India's Emigration Act to recruit Indian citizens for overseas employment.

Visa brokers: Individuals who help prospective migrants find jobs in Saudi Arabia for a price. They could be tied to a recruitment agent, or could themselves be migrant workers employed in Saudi Arabia.

Wakala: An authorization permit given by Saudi authorities to recruiting agents to recruit a certain number of workers on their behalf.

Visa stamping: The process of visa application and authorization at the Saudi embassy in India. The process is usually facilitated by a recruiting agent.

First Information Report (FIR): In India, a report prepared by the police when they receive a complaint or information about the commission of a crime.

1. EXECUTIVE SUMMARY AND RECOMMENDATIONS

Saudi Arabia has attracted more low-paid Indian migrants over the last 25 years than any other country in the Gulf region.[1] Every day, close to 1,000 Indian low-wage migrant workers are provided with emigration clearances to travel to Saudi Arabia.[2] They are recruited to work in cafeterias, supermarkets, construction sites, and guest houses; they sweep streets, cook in restaurants, and serve in households as domestic workers. Together, they send close to 500 billion INR (approximately 8.2 billion USD) back to India every year.[3] Remittances to Kerala account for nearly a third of the state's net domestic product.[4]

Indian migrant workers in Saudi Arabia are a part of the estimated nine million workers who make up the country's migrant labour force, along with others from across South Asia and North Africa, including Pakistan, Bangladesh, the Philippines, Yemen and Ethiopia.[5]

However, Indian migrant workers can often face exploitation and deception in the pre-departure phase in India which contribute to serious human rights abuses in Saudi Arabia.

Focus of the report

Amnesty International India acknowledges that governments and non-state actors in both sending and receiving countries are responsible for the protection of migrant workers. However, the particular focus of this report is what India can do as a sending country to protect migrant workers from human rights abuses, including forced labour and human trafficking.

This report examines the systemic factors in the pre-departure phase of the migration process that contribute to the exploitation and deception of migrant workers by individual brokers and recruiting agents in the state of Kerala, India.

It also documents the human rights abuses migrant workers encountered during their employment and residence in Saudi Arabia, and analyses the role played by the Indian government in regulating recruiting agents and ensuring access to remedy for migrant workers. On their return, workers that Amnesty International India spoke to have found it harder to find regular jobs, and in many cases migrant workers are in debt and struggling to repay their visa loans.

Amnesty International India found that migrant workers were vulnerable not only because of the individual acts of deception and abuse by rogue visa brokers, recruiting agents and employers in Saudi Arabia; but their vulnerability also stemmed from the design and implementation of policies and laws that regulate the recruitment and employment of migrant workers in India and Saudi Arabia.

Human rights abuses in Saudi Arabia:

Unpaid wages

A third of the migrant workers Amnesty International India interviewed reported facing problems with wage payments – including wages being arbitrarily deducted, underpayment, late payment and even non-payment.

In some cases, migrant workers said they were not paid in months, or were not paid at all, and were told by their employers to continue working if they wanted to be paid some day.

Migrant workers, when they begin their jobs, are usually burdened by the debt they have accumulated to buy their visas, and can also face the additional burden of being expected to support their families in India.

Overworked and underpaid

Migrant workers told Amnesty International India that they worked for hours much in excess of the eight hour maximum prescribed under Saudi labour law. Some workers said they used to work between 15 to 18 hours a day – which severely affected their health – but were not paid or were underpaid for their overtime work. Some of the workers interviewed by Amnesty International India also said that they were made to work on all seven days of the week without a day's rest.

Identity documents

The confiscation of passports continues to be a routine practice among low-paid migrant workers in Saudi Arabia. An overwhelming majority of migrant workers interviewed had their passports confiscated by their employers.

Employers also used residence permits as a tool to control migrant workers and prevent them from running away. Migrant workers complained that their sponsors had refused to give them residence permits, or delayed giving them for months. Sometimes the permits were arbitrarily retained, and the migrant workers were told that they would be returned for a price. Migrant workers without a residence permit cannot work legally, or move freely, and may not be admitted to hospitals for medical treatment. They can even be arrested.

Exit permits

Under the kafala system, migrant workers must obtain an exit permit from their employer before they can return to their country.[6]

This means that if workers arrive in Saudi Arabia to find that they have been deceived about the terms and conditions of their work during the recruitment process, or are subjected to abusive working or living conditions by their employer, the question of whether or not they can change jobs depends on their employer – the very person responsible for their abuse.

Some migrants interviewed by Amnesty International India said that they had to pay large sums of money to secure an exit permit from their sponsors. In two cases, workers paid amounts as high as 10,000 riyal – roughly equivalent to about four to five months of wages.

In some cases, workers who faced serious exploitation at the hands of their sponsoring employers, including non-payment of wages, excessive working hours and confiscation of documents, were not permitted to return home because they did not have an exit permit.

Forced Labour

Amnesty International India found cases where workers had been engaged in employment for which they had not offered themselves voluntarily – because they had been deceived or had pay withheld for a prolonged period of time – and faced credible threats of penalties if they stopped working, including the withholding of passports and exit permits and failure to pay pending salaries. These cases constitute forced labour. Some migrant workers, who had clearly been deceived into situations of forced labour, were also victims of human trafficking.

Deception and Exploitation in India

According to the International Labour Organisation (ILO), deception can take place at all three stages of the trafficking cycle – a) at the time of recruitment, b) during the transportation process and c) either before the commencement of work or during its progress.[7] Deception is often the first step in a chain which can, at times, lead to situations of forced labour.

In the interviews that Amnesty International India conducted, a third of the migrant workers interviewed said that they had been deceived by their brokers.

Amnesty International India documented a range of abuses in the pre-departure phase of recruitment which included:

- Deception about work conditions including wages, nature of employment, hours of work and payments to the sponsor.
- Excessive fees for employment visas.
- Deception about legality of the work arrangement.

According to the UN Special Rapporteur on Trafficking in Persons especially Women and Children, an independent expert:

"The employment agent himself can be considered a trafficker if s/he knows or turns a blind eye to the fact that the employer is recruiting the worker for the purpose of exploitation, but is deceiving the worker about this intention."[8]

Visa brokers – who act as intermediaries between employers and recruiting agents in India – provide a range of services that include selling visa review letters, providing information about jobs and prospective working conditions and wages, directing prospective migrants to recruiting agents for visa processing, and buying air tickets. Some brokers are also based in

Saudi Arabia, where they often receive arriving migrant workers at the airport and act as the first point of contact between them and the sponsoring employer.

Under the Saudi labour law, employers are required to bear all costs related to the recruitment and employment of migrant workers, including fees for the application and renewal of residence permits, work permits, changing professions, exit and re-entry visas, and air tickets.

However Amnesty International India found that migrant workers often paid exorbitant amounts of money for their recruitment and during their employment in Saudi Arabia.

During the recruitment process, migrant workers sold their work tools, their family gold, their land and cattle in India and borrowed heavily from banks, friends and family members to buy employment visas to travel to Saudi Arabia. Sums of money sometimes amounting to as high as 250,000 INR (4,100 USD) were paid to deceptive recruiters (visa brokers and recruiting agents) who made false promises about jobs and prospective working conditions.

Many migrant workers that Amnesty International India interviewed were employed on free visas, an informal arrangement where sponsors permit migrant workers under their sponsorship to work for other employers and do different jobs in return for a fee. The arrangement is illegal under the Saudi labour law, and if caught migrant workers can be fined, detained or even deported. In these cases, migrant workers paid for the application and renewal of their residence permits, insurance, and their exit permits to return home.

The kafala system

The kafala system is a sponsorship system present in six Gulf countries (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates) – with notable variations in its form – which regulates the recruitment and employment of migrant workers. Under the kafala system, every migrant worker must have a specific job and a sponsoring employer under whom she works — neither of which can be changed easily. Under the kafala system in Saudi Arabia, workers need the permission of their sponsor to return to their country of origin.

The ILO Committee of Experts has said that the kafala system is conducive to the exaction of forced labour.[9]

Visa brokers

The recruitment of Indian migrant workers for employment abroad is governed by the Emigration Act, 1983, which sets up a mechanism for recruitment to be conducted through government-certified recruiting agents (individuals or public or private agencies).[10]

Under the Emigration Act, visa brokers are illegal and can face up to two years in jail and a fine up to 2,000 INR. The majority of workers interviewed by Amnesty International India admitted that they paid brokers for their visas instead of going through government-certified recruiting agents. A 2007 survey by the Centre for Development Studies, a research institution in Trivandrum, found that only eight per cent of returned migrants had emigrated through certified recruiting agents.[11]

Migrant workers dependent on visa brokers – who are all unregistered and unregulated - can be exposed to exploitation and deception, and made further vulnerable to human rights abuses when they emigrate.

Due diligence by recruiting agents

In the case of Saudi Arabia, only recruitment agents registered with the Saudi consulate in Mumbai – also referred to as wakala holders – are authorised to conduct the visa application process. Under the Emigration Act, recruiting agents have certain obligations towards migrant workers recruited by them. However wakala holding recruiting agents interviewed by Amnesty International India maintained that their obligations to migrant workers travelling to Saudi Arabia were different, and they did not have an obligation to conduct due diligence to ensure that these workers are fairly recruited without deception.

Recruiting agents in Kozhikode, Ernakulam and Trivandrum (the hubs of migration in Kerala) told Amnesty International India that they believed their obligations did not extend to seeking to ensure that migrant workers traveling to Saudi Arabia are provided safe employment, regular salaries, renewed residency documents or a mechanism to settle disputes with their employers

This is at odds with the domestic legal framework, because the Ministry of Overseas Indian Affairs has clarified in a government order that recruitment agencies must exercise the same due diligence in the wakala process that they exercise in regular recruitment.

Pre-departure training

The UN Special Rapporteur on Trafficking in Persons, especially Women and Children has stated that:

"The role of prevention is critical in ensuring that the crime of trafficking does not occur in the first place. Despite its importance, the efforts to combat trafficking have been largely centred on a 'symptom-specific' approach in that solutions are sought only after particular problems occur. It follows that resources and efforts are often concentrated on prosecuting traffickers or developing assistance programmes for survivors of trafficking but neglect the development and implementation of comprehensive and systematic prevention measures."[12]

In 2013, the Ministry of Overseas Indian Affairs stated in its Annual Report that one of the crucial challenges that migrant workers face is the 'difficulty in accessing authentic and timely information' relating to overseas employment, recruitment agents and emigration procedures. The Ministry concluded that the lack of this information makes workers dependent on intermediaries and vulnerable to exploitation.[13]

Despite this emphasis by the Ministry of Overseas Indian Affairs, attendance in pre-departure orientation programmes is a serious problem.

In 2012, approximately 100,000 low-paid migrant workers from Kerala were granted emigration clearances to work abroad. However, according to the Project Manager involved in pre-departure trainings at the Non Resident Keralite Affairs (NORKA) in Trivandrum, such programmes reach out to only 3,500 to.6,000 people a year.

Of the 51 workers interviewed by Amnesty International India, not even one had attended or undergone a pre-departure training. More than half of the migrant workers said that they had not even heard of the pre-departure training programmes.

Remedy

The UN Special Rapporteur on Trafficking in Persons has highlighted the importance of the right to effective remedy for victims of trafficking, noting that:

"The international community clearly recognizes that trafficked persons, as victims of human rights violations, have the right to adequate and appropriate remedies, which goes beyond the right to the possibility of obtaining compensation."[14]

Amnesty International India interviewed migrant workers who had been deceived into jobs where they faced serious human rights abuses including forced labour, but none of those interviewed had tried to seek remedy.

Most migrant workers had found their jobs through visa brokers who were related to them, and this discouraged the workers from blaming their brokers. In some cases, workers said that the terms and conditions of the agreement were violated by their sponsors, and the brokers were not to blame.

Others were either sceptical about their chances for remedy if they were to engage in the judicial process, or were not well-informed about their legal rights, the available enforcement mechanisms, and how to access them.

Regulation of recruiting agents and visa brokers

"I have not seen a single case in my tenure as Protector of Emigrants in Chennai where an illegal recruitment agent has been convicted. On one case, after filing the first F.I.R, the first hearing came after 16 months. This is the problem with our system."

- D. Jai Sankar, former Protector of Emigrants in Chennai [15]

None of the workers that Amnesty International India interviewed had tried to access remedy

However, secondary research, including interviews with the Protector of Emigrants, delineated the problems that migrant workers face while trying to access justice mechanisms. These include delays in the trial process and the power differential between the recruiter and the migrant worker.

According to the Protector of Emigrants officer in Kochi, between 2011 and 2013 his office received 53 complaints against fraudulent recruiters. But not a single case had led to a conviction.

Protector of Emigrants

Under the Emigration Act, 1983, the Protector of Emigrants (PoE) offices are responsible for the protection of the interests of overseas migrant workers. In 10 cities across India, the PoE is meant to protect, aid and advise all migrants. In reality, however, the PoE office plays a far

more limited role, confining itself to the granting of emigration clearances and the perfunctory supervision of recruitment agents.

The PoE offices in both Chennai and Kochi lacked the institutional capacity to effectively regulate the recruiting agents under their jurisdiction

Recommendations to the Government of India

The report makes recommendations on steps the Indian government must take to fulfil its obligation to strengthen protections for the rights of migrant workers abroad, including effective regulation of recruiting agents and brokers; implementing compulsory pre-departure training programmes and providing effective access to remedy.

- Invite comments and recommendations from relevant government stakeholders including civil society organizations, academics and trade unions to draft a new emigration law to replace the Emigration Act, 1983. This law must be consistent with international human rights standards and aligned with progressive emigration management systems.

- Consider alternate regulatory measures to recognise and regulate visa brokers including:

  - Providing clear terms of reference by which visa brokers may be tied to recruiting agents.

  - Informing brokers about their legal obligations and duties and the human rights of migrant workers.

  - Issuing short-term and individual licenses to visa brokers to conduct recruitment in collaboration with recruiting agents and renewing licenses based on their record.

  - Emphasizing to recruiting agents that the onus is on them to conduct due diligence on the prospective work conditions promised by visa brokers tied to them.

- Enforce greater regulation of recruiting agents by setting up a separate department under the Protector of Emigrants to conduct timely and surprise checks and reviews. Provide the department with the necessary logistical and financial support and assistance to undertake their duties.

- Improve access to remedy by setting up a separate department with enforcement powers under the Protector of Emigrants to investigate complaints of exploitation or other abuses by recruiters. The department must provide access to legal aid, information, translation services and other assistance where necessary.

- Expand the outreach of the pre-departure orientation and support programmes provided by the Government of India and the state of Kerala, including through the Overseas Workers Resource Centre, the Non Resident Keralite Affairs Department (NORKA) and the Migrants Resource Centre (MRC).

Recommendations to the government of Saudi Arabia

- Sign and ratify without reservations the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

- Sign and ratify without reservations the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

- Fundamentally reform the kafala system and remove the requirement for migrant workers to obtain the permission of their employer to move jobs or leave the country.

- Reform national labour laws to ensure that migrant workers have adequate protection against abuses by employers and the state.

2. METHODOLOGY

Research for this report was carried out between June 2013 and June 2014. Field research in Kerala was carried out in June, July, September 2013 and February and March 2014.

Migrant workers

Amnesty International India interviewed 51 low-paid migrant workers in the Indian state of Kerala who had worked in Saudi Arabia. Most of the interviewees had returned to India after the enforcement of the Nitaqat programme (featured in Pg 15) in Saudi Arabia in 2013. Some workers who had returned earlier were also interviewed. All the interviewees were men.[16]

All interviews were conducted in Malayalam — the first language of the interviewees. Interview questions covered the workers' reasons for migration, the nature of the recruitment process, their employment and living conditions in Saudi Arabia, treatment by their employers, return to India and the assistance they were able to secure from the governments of India and Saudi Arabia.

Interviews were typically conducted at the homes of migrant workers. Where this was not possible, interviews took place in public places including bus stops, tea centres, and in public grounds. While these interviewees were not a random sample of returned migrant workers, their accounts provide an understanding of the migration process and the types of abuse that migrant workers can encounter, particularly in the state of Kerala.

Amnesty International India also conducted shorter telephone interviews with 73 male migrant workers who were randomly selected from a government database of Kerala returnee migrant workers from Saudi Arabia in 2013. Interview questions covered details of the manner of recruitment, the nature of work agreement, and general employment conditions. Researchers did not interview migrants in Saudi Arabia.

Recruiting agents

Amnesty International India interviewed 15 registered wakala-holding recruiting agents in three cities in Kerala – Kochi (Ernakulam), Kozhikode and Trivandrum. Interview questions covered the due diligence measures that they took while facilitating the visa stamping process for migrant workers to Saudi Arabia.

Government officials

Amnesty International India also interviewed a number of Indian government officials, including the Protector of Emigrants in Kochi and Trivandrum and a former Protector of Emigrants in Chennai. Telephone interviews were conducted with staff from the Overseas Workers Resource Centre and the Migrant Resource Centre in Kochi, India.

Amnesty International India also held meetings with a former Indian Union Minister of Overseas Indian Affairs, the Kerala Minister of Non–Resident Keralite Affairs, and officials from the Ministry of Overseas Indian Affairs, including the Protector General of Emigrants.

Civil society organizations

Meetings were held with several NGOs in India and Saudi Arabia, including the Kerala Pravasi Sangam (KPS) in Kerala, the Tamil Nadu Domestic Workers Trust (TNDWT) and two community welfare organizations in Saudi Arabia.

Migrant workers from India can be recruited for specific jobs in Gulf countries directly by foreign employers. However, this report mainly focuses on recruitment facilitated by individual visa brokers and wakala-holding recruiting agents.

Since all interviews were conducted in the state of Kerala, there may be concerns around recruitment processes in other Indian states which the report does not address.

As recruitment processes for domestic workers are significantly different – and afford greater protections — from the processes for other migrants, this report does not focus on the situation of domestic workers. Further, the enforcement of the Nitaqat programme impacted workers in the private sector more than the domestic sector.

The names of all migrant workers interviewed have been changed to protect their identities and ensure their safety. The names of recruiting agents and some NGOs have been withheld at their request.

SAUDI ARABIA'S NITAQAT PROGRAMME

In March 2013, the Saudi authorities clamped down on companies and establishments that employed migrant workers who they were not sponsoring, and conducted work and residency documentation drives across the country to apprehend workers who lacked the legal documents to work and live in Saudi Arabia. The crackdown ended in early April, with the Saudi authorities offering a short "grace period" for migrants to regularise their work status. In May 2013, the Saudi Ministries of Interior and Labour announced an amnesty programme for all migrants who had violated residency and work rules before 6 April 2013, permitting workers to rectify their legal status and change their sponsoring employers by 3 July 2013. This deadline was later extended by four months to 3 November 2013.

The raids were enforced as a part of the Saudi government's Nitaqat programme – a scheme where private companies are classified according to their compliance with quotas and incentives around the employment of Saudi Arabian citizens in the private sector. [17]

Despite Saudi Arabia's high economic growth, the unemployment rate among Saudi nationals aged between 20 and 34, according to the Central Department for Statistics and Information of Saudi Arabia, is around 21%.[18] The Nitaqat programme is one of many strategies adopted by Saudi Arabia to tackle local unemployment and dependence on foreign workers in the private sector. Under the programme, there is a stricter enforcement of the Saudi labour law requirement that workers must only work for their sponsoring employers and on the jobs listed on their visas.

For irregular migrant workers, the message was clear – they either had to regularise their status or return home.

The enforcement of the Nitaqat programme has had a serious impact on the lives of many Indian migrant workers who have returned to India and their families. Over one million allegedly irregular migrant workers have reportedly been sent home since the enforcement of the Nitaqat programme in Saudi Arabia — of which approximately 140,000 are Indian workers.[19] On their return, workers that Amnesty International India spoke to have found it harder to find regular jobs, and in many cases migrant workers are in debt and struggling to repay their visa loans.

While the plight of these returnees is dire and deserves serious attention, the enforcement of the Nitaqat programme and the subsequent amnesty have also helped many irregular migrants to amend their legal status and continue working in Saudi Arabia, or to go back home without facing legal action or a ban on return to Saudi Arabia.

During the grace period, as many as 1.4 million Indian workers were able to amend their legal status. [20]

3. PUSHED TO THE EDGE: AN ACCOUNT OF DECEPTION AND EXPLOITATION

In 2011, Santhosh Kumar, a 49-year-old migrant worker from Kerala, India, and his colleague Radhakrishnan Pillai arrived in Dammam, Saudi Arabia.[21] Immediately, they were driven 25km from the airport to an industrial area on the peripheries of the city. Santhosh told Amnesty International India in an interview:

"As soon as we got there we grew anxious, our room was right next to a camel farm."

In that moment, the men felt that something had gone terribly wrong.

Until a few weeks earlier, Santhosh had been the owner of a small metal fabrication workshop in the Idukki district of Kerala, India. He lived with his wife, his 14-year-old son, and his ageing parents in his family home. Santhosh was the only member of his family, and among the few people from his village, to have travelled to work in the Gulf. He had lived in Qatar from 2007 to 2009, working in a company as a labourer, where, he said:

"We worked for eight hours a day, we were paid on the fifth day of every month and even had an ATM card which was issued to employees."

When Santhosh did not get the promotion he thought he deserved after two years, he quit his job and returned to his village. Many months had passed, and Santhosh thought his desire to make a little extra money and build a house for his family would be met when he was offered an employment visa for a job in Saudi Arabia by a visa broker.

Santhosh was promised work conditions that were difficult to turn down. The offer was a 2,300 riyals salary, (approximately 38,000 INR or 600 USD a month), and an eight-hour day job in a metal fabrication company outside Dammam. Santhosh was told by the visa broker:

"It's a good company, Santhosh, there are 40-50 employees, and you don't need to worry!"

Santhosh paid 100,000 INR (1,700 USD) for his visa, borrowing from his relatives and using up most of his savings from his previous job in Qatar. He approached a recruiting agent near his hometown to apply for a visa. When he asked if he needed a contract, he was told:

"Isn't this the visa Rajiv [the visa broker] got you? You won't be needing an employment contract for this."

As part of the recruitment process, Santhosh underwent a mandatory medical test, and submitted his passport and a visa copy to the recruiting agent. In a couple of weeks, his

passport returned from the Saudi consulate in Mumbai, stamped with a visa. He now had all the documents he needed to travel to Saudi Arabia.

Confiscation of documents

As soon as Santhosh and his colleague Radhakrishnan arrived in Dammam, their passports were taken away by their sponsor and they were put to work. Santhosh's residence permit (the Iqama) which is typically issued to migrant workers and serves as a primary and accepted identity card, was also withheld by his sponsor. The absence of a residence permit restricts migrants' freedom of movement, and migrant workers without residence permits can be fined, detained or even deported. Afraid of the consequences if he was found out by authorities, Santhosh did not move very far from the work premises. The furthest he went was to buy groceries, cooking gas or to order drinking water.

Overwork

Santhosh's work consisted of washing vehicles and fabricating and lubricating equipment that came to the company. He was often forced to work for more than 18 hours a day — well in excess of the prescribed maximum of eight hours under Saudi law.[22] He started work at 7am and he was only permitted to close the shop after midnight. Santhosh describes instances when he was made to work for up to 22 hours a day*:*

"At 1am, after our duty, we would be cooking rice and he (the manager) would say, 'Come on now! I'll get you food. Come… there is more work to be done.'"

On such occasions, Santhosh was often forced to work till 4am, only to be woken up again at 6am.

"Just when you thought you could sleep a little, he would come and kick our door; kick and kick, till it broke. He would drag us from our bed and throw us out of the room. If I told him I would not go to work, he would come and hit me."

Physical abuse

Santhosh's manager in the company hit and coerced him into working longer hours, and punished him if he began to bargain for his wages.

"After we finished our duty at midnight and when we were ready to go to bed, he wouldn't send the vehicle to get home. He asked, 'Why can't you stay longer?' and pulled us by our shirts… If you asked for your salary, he would hit you, and he would hit you straight in the chest!"

Salary

Santhosh was not paid for close to 18 months. Over the course of around two years, Santhosh received wages for approximately six months of work, making it impossible for him to send enough money home to support his family.

"When we stopped working he would hit us. He would say, 'I'll pay you when I make money, when we make money, when I have money.'"

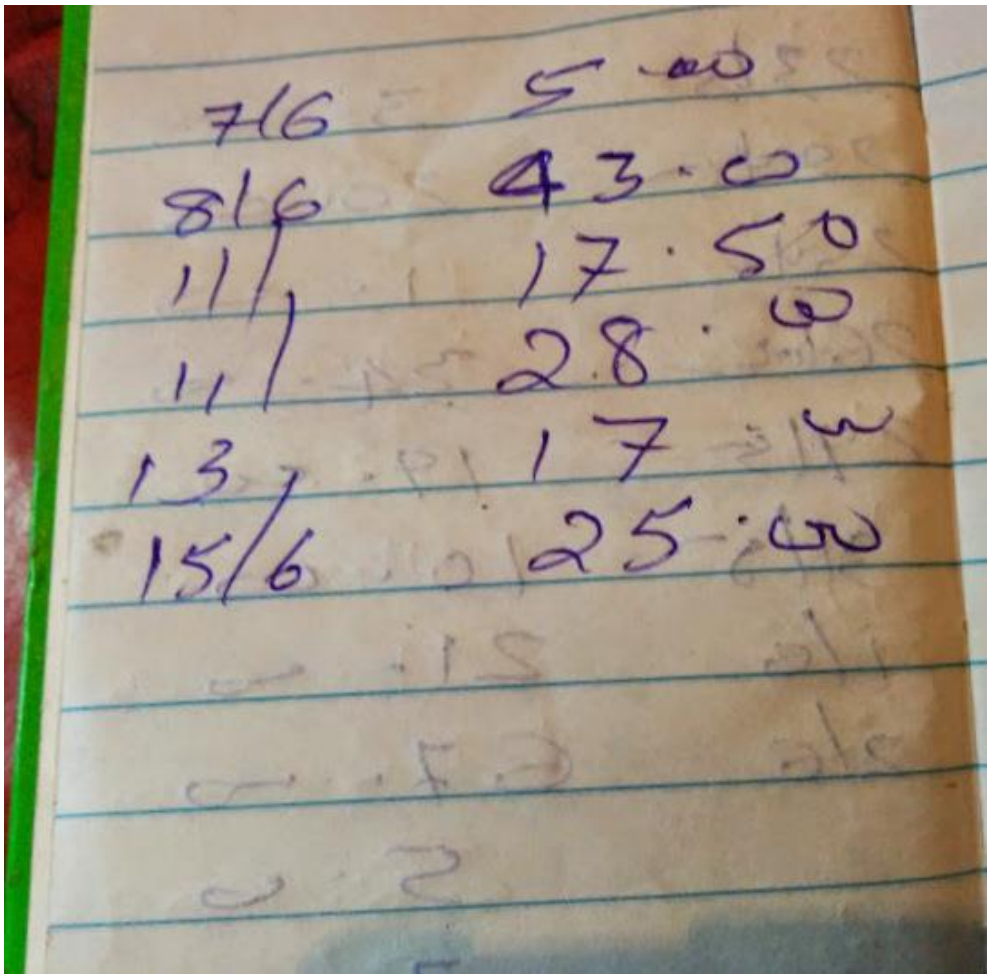


Photo 1: Santhosh bought provisions on debt because his sponsor did not pay him. He kept a record of them in a notebook. © Amnesty International India

Living conditions

Santhosh often went hungry when his manager did not give them enough provisions. He would sometimes also not provide them with cooking gas to cook their food.

"We went hungry for months, he wouldn't give us gas to cook our food, we depended on our friends (customers at the welding company) to ferry us to the closest place to buy gas."

Santhosh and his companions were not provided with adequate drinking water. They depended on an overhead tank which needed to be filled regularly with drinking water, but which often ran dry.

"Don't we need water to drink? The water that came in the taps was salt water. In the months of June and July, it's really hot. In that heat, can you think about not having water to drink? If you don't have water to drink, what can you do? Imagine all the sweat from your body draining out... Imagine this... We couldn't stand for 10 minutes."

In this situation, Santhosh would have to walk approximately 400m to a nearby shop every time he had to drink water.

On 10 May 2013, the Saudi Ministries of Interior and Labour announced an amnesty for all workers who had violated residency and labour rules, allowing them to return to their countries of origin. Santhosh approached a community welfare organization and applied for an emergency passport at the Indian embassy. When he received his new passport, he applied for an exit permit and returned home.

"It's thanks to God and the amnesty declared by the King of Saudi Arabia that I am now home."

Santhosh lives in Idukki with his wife and son, and says he will never return to the Gulf again.

4. INDIA'S OBLIGATIONS UNDER INTERNATIONAL AND DOMESTIC LAW

India's regulation of labour migration is governed both by international legal obligations and its own domestic laws.

4.1 INTERNATIONAL LAW AND STANDARDS

India is obligated under international treaties which it has ratified to protect workers from abuses by non-state actors such as recruiting agents, and to ensure that Indian migrant workers going abroad are not subjected to human rights abuses including trafficking and forced labour. In addition, there are also several non-binding guidelines and standards which India must apply as a member of the International Labour Organisation.

Obligations under international treaties

Under the International Covenant on Economic, Social and Cultural Rights (ICESCR) — ratified by India in 1979 — everybody has the right to work and to just and favourable conditions of work.[23] As part of its obligation to protect workers' rights, India is required to take measures that prevent third parties from interfering with the enjoyment of the right to work.[24] This specifically includes prohibiting forced or compulsory labour by non-state actors.[25]

The International Covenant on Civil and Political Rights (ICCPR) – ratified by India in 1979 – also forbids forced or compulsory labour.[26] The Human Rights Committee, which monitors state compliance with the ICCPR, has also indicated that states should take measures to address human trafficking, including into situations of forced labour.[27]

India is also obligated under Article 1 of the ILO Forced Labour Convention 1930 (No. 29) (ratified in 1954) to suppress the use of forced or compulsory labour in all its forms within the shortest possible period, while taking specific measures against the practice, such as ensuring that it is made a penal offence and that penalties are sufficient and strictly enforced.

Forced Labour as defined under Article 2 of Convention No. 29 is comprised of two essential elements – compulsion and threat/sanction:

"all work or service exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily."[28]

This obligation is further reinforced by the requirement under Article 2 of the ILO Abolition of Forced Labour Convention 1957 (No. 105) – ratified in 2000 – for states to take effective measures to secure the immediate and complete abolition of forced or compulsory labour.

According to the ILO, while forced labour involves a threat of a penalty, this penalty is not confined to penal sanctions, but may also mean a loss of rights and privileges:

"Situations […] included threats to denounce victims to the police or immigration authorities when their employment status is illegal […] Other penalties can be of a financial nature, including economic penalties linked to debts, the non-payment of wages, or the loss of wages accompanied by threats of dismissal if workers refuse to do overtime beyond the scope of their contract or of national law. Employers sometimes also require workers to hand over their identity papers, and may use the threat of confiscation of these documents in order to exact forced labour."[29]

In addition to committing to suppress forced labour more generally, in May 2011 India signed and ratified the United Nations Convention against Transnational Organized Crime and its additional protocols, which includes the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. India thus signified its commitment to prevent and combat trafficking in persons, to protect and assist victims of trafficking and to enhance close international cooperation between member states to tackle these problems.

Under the Protocol, India has specific responsibilities, including to ensure that trafficking as defined under Article 3(a) of the Protocol[30] is established as a criminal offence under domestic law, to ensure access to justice for victims, establish measures for physical, psychological and social recovery of victims and establish comprehensive policies to prevent and combat trafficking in persons.

According to the UN Special Rapporteur on Trafficking in Persons Especially Women and Children, an independent expert:

"The employment agent himself can be considered a trafficker if s/he knows or turns a blind eye to the fact that the employer is recruiting the worker for the purpose of exploitation, but is deceiving the worker about this intention."[31]

"Trafficking, as defined in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, requires a 'purpose of exploitation'. It is obvious that traffickers themselves do not have to act with an exploitative purpose: when trafficker and exploiter are different persons, the trafficker will typically be indifferent as to whether the exploitation actually takes place or not, as long as he receives his trafficking commission. Therefore, knowledge on the part of the trafficker about exploitation planned by others or even deliberate ignorance to that effect must be considered sufficient."[32]

The UN Special Rapporteur on Contemporary Forms of Slavery Including its causes and consequences has noted with regard to domestic workers, that agents recruiting them:

"become perpetrators of trafficking, if they deliberately deceive their clients about the conditions of work or engage in illegal practices of control (such as the withholding of passports), while knowing that such practices will result in the exploitation of their recruits".[33]

These considerations are valid more generally for other migrant workers as well.

Other international standards

In December 1990, the United Nations (UN) General Assembly adopted an International Convention on the Protection of Rights of all Migrant Workers and Their Families in a landmark step to recognise and protect the rights of migrants and their families. One of the most important principles laid out in the convention is that all migrant workers (regardless of their status) and their families are entitled to respect for their fundamental human rights regardless of their legal status in the country. It sets out rights to which all migrant workers and their families are entitled to, including the rights to life (Article 9), to liberty (Article 16), to protection from collective expulsion (Article 22) and to adequate conditions of work (Article 25). Although India has not ratified the Convention it should be noted that migrant workers enjoy the same level of protection as all other people under the ICCPR and ICESCR.

There are also ILO conventions to which India is not a state party that serve as guidelines for governments of sending countries to effectively regulate the recruitment sector.

The ILO Migration for Employment Convention 1949 (No. 97) stipulates that member states must:

"undertake to maintain, or satisfy itself that there is maintained, an adequate and free service to assist migrants for employment, and in particular to provide them with accurate information", and "so far as national laws and regulations permit, take all appropriate steps against misleading propaganda relating to emigration and immigration." [34]

The ILO Private Employment Agencies Convention 1997 (No. 181) requires member states to:

"provide adequate protection for and prevent abuses of migrant workers recruited by recruitment agencies including laws and regulations which provide for penalties and a ban on agencies that engage in fraudulent recruitment practices."

The convention emphasizes that states have an obligation to:

"ensure that adequate machinery and procedures, involving as appropriate the most representative employers and workers organizations, exist for the investigation of complaints, alleged abuses and fraudulent practices concerning the activities of private employment agencies."[35]

The ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) requires members:

"To adopt all necessary and appropriate measures, both within its jurisdiction and in collaboration with other members –
(a) To suppress clandestine movements of migrants for employment and illegal employment of migrants, and
(b) Against the organisers of illicit or clandestine movements of migrants for employment departing from, passing through or arriving in its territory, and against those who employ workers who have immigrated in illegal conditions." [36]

Although India has not ratified these conventions, many of their provisions are also reflected in several ILO recommendations which serve as non-binding guidelines for ILO member states, including India to apply.[37]

The Office of the United Nations High Commissioner for Human Rights (OHCHR) Recommended Principles and Guidelines on Human Rights and Human Trafficking provides guidelines for states to set a holistic human rights based approach to trafficking. They state that:

"1. The human rights of trafficked persons shall be at the centre of all efforts to prevent and combat trafficking and to protect, assist and provide redress to victims.
2, States have a responsibility under international law to act with due diligence to prevent trafficking, to investigate and prosecute traffickers and to assist and protect trafficked persons.
3. Anti-trafficking measures shall not adversely affect the human rights and dignity of persons, in particular the rights of those who have been trafficked, and of migrants, internally displaced persons, refugees and asylum-seekers."[38]

4.2 DOMESTIC LAW

In April 2013, the definition of trafficking under the Indian Penal Code (IPC) was amended to include trafficking for labour exploitation including slavery, and other practices similar to slavery.[39] Under the IPC, trafficking of a person is punishable with imprisonment for up to 10 years, and trafficking of a minor or more than one person with imprisonment up to a life term.[40]

India has regulated the overseas migration of labour for over three decades now through the Emigration Act, 1983 and the Emigration Rules, 1983.[41]

These laws lay down the institutional framework for overseas migration, including the general duties and functions of the Protectors of Emigrants (the institutional body set up to advise and protect all migrants) and established a regulatory framework of Emigration Clearances to prevent the exploitation and abuse of migrant workers who are typically less educated and/or have not travelled to the Gulf before.

Under Article 2 of the Emigration Act, recruitment has been defined in a broad encompassing manner to include:

"the issuing of any advertisement for the purpose of recruitment or offering by advertisement to secure or assist in securing any employment in any county or place outside India and the entering into any correspondence, negotiation, agreement or arrangement with any individual for or in relation to the employment of such individual in any country or place outside India."

The laws also lay down the process for registration of recruiting agents, and list the agents' obligations and responsibilities towards migrant workers. The Act outlines the offences and penalties for recruiting agents for breaches of its provisions.[42]

4.3 BILATERAL AGREEMENTS

On 2 January 2014, the Indian government signed a labour cooperation agreement with the government of Saudi Arabia to enhance cooperation and secure the rights of domestic workers and their employers. The agreement endeavoured to achieve a range of objectives including reducing the costs of recruitment, ensuring that the recruitment takes places through licensed recruiting agents and that recruiters do not charge any fees from the salary of the migrant worker, adopting a standard employment agreement, providing access to remedy and taking legal action against recruitment agencies that violate the laws of the country. Unfortunately, this agreement does not apply to other categories of workers.

5. REASONS FOR MIGRATION TO SAUDI ARABIA

"If six people have to go to school, you need 15 rupees for each as bus fare, and you need to make food for them. It suddenly became difficult to just get that money... I realised that we couldn't move forward in life this way. When I started to see poverty, I had to find a job."

Binu Bhaskaran, a migrant worker from Malappuram in Kerala[43]

"We as a nation are not able to provide employment to our own people. In Kerala, a huge population of the youth is in Gulf countries. If we ask them all to come back, would the state government be able to provide employment to all of them?"

L. Adolphus, Protector of Emigrants, Kochi, Kerala[44]

Born in a village called Koppam in Kerala, Manzoor Ali started working when he was 11 years old.[45]

"When I was young, I did all kinds of jobs – on construction sites, on estates, I even washed vehicles for people."

Manzoor was the eldest son in a family of eight members, in which every extra earning hand was important.

"My father did not have such a good job and it was difficult for him to support all of us. We were a poor family."

As he grew older, he was encouraged and supported by his family to find work abroad. He went to Malaysia and the United Arab Emirates on two separate occasions, but returned home within months after discovering that he had been deceived about his terms of employment. Yet in 2010, 32-year-old Manzoor sold his wife's jewellery for 80,000 INR (1,300 USD) and borrowed around 50,000 INR (800 USD) from his brother-in-law to pay a visa broker for an employment visa and flight tickets to Riyadh in Saudi Arabia.

The India-Saudi Arabia migration corridor is one of the top migration corridors in the world.[46] Of the 5.6 million Indians estimated to be working in Gulf countries, over 1.7 million are in Saudi Arabia.[47]

Widespread poverty and unemployment among young people have contributed to the increase in migration in recent years. The state of Kerala registered an economic growth rate of above 8.2 % in 2012-2013. Yet Kerala has an unemployment rate of 7.4%, which is much higher than the national average of 2.4% and is the highest among large Indian states.[48]

Research conducted by the Centre for Development Studies in Trivandrum, Kerala, using several large-scale surveys, including one conducted in 2008 among 15,000 households in Kerala, found that about half of the returned migrant workers interviewed had migrated to the Gulf because they were unemployed. A smaller proportion said they had migrated because they needed money to support their families – including for building a house, buying land and paying dowry.[49]

Binu Bhaskaran, a construction worker employed in Dammam and Riyadh in Saudi Arabia between 2009 and 2013 (featured later in the report Pg. 34, 45 and 46) explained his reasons for migrating to Saudi Arabia:

"I make 350 rupees a day. I have to support two children, my wife, my mother and father, two sisters, and a younger brother at home in India. I have to support this family, and give them food every day. If I am not able to bring that money home, my daughter won't be able to go to school tomorrow." [50]

Bhagavathi Sundaram, employed as a goat herder and a tailor in Ha'il and Dammam in Saudi Arabia from 2007 to 2011 (featured later in the report. Pgs. 48, 56 and 61) said:

"I made 6,000 rupees a month as a labourer. With that wage, I had to support my wife, two boys, an ailing father and my mother who was really sick… I couldn't support them all. When my mother passed away, I decided to go abroad." [51]

Jaffar Ibrahim, a 31-year-old migrant worker from Kannur in Kerala, employed twice in Saudi Arabia from 2004 to 2005 and 2011 to 2013, told Amnesty International India that he had paid 175,000 INR to a recruiting agent in Kozhikode to work as a cleaner in a company in

Riyadh, Saudi Arabia. [52]He was promised 800 riyals a month for eight hours of work, with an additional 20 riyals an hour as overtime by the recruiting agent.

However, when Jaffar arrived in Saudi Arabia, he found out that he had been deceived. He received only 250 riyals a month. Jaffar often worked for 12-13 hours without being compensated for overtime. After working for five months, and unable to negotiate a higher salary, Jaffar returned home. Despite his harrowing experience, Jaffar migrated again to Saudi Arabia in 2011, paying 135,000 INR, and hoping for a change in his fortunes so that he could support his wife and his young daughter.

"I wanted to build my house. That's why I migrated to Saudi the second time... but it has not been useful."

Mohammed Rafi (featured also later in this report Pg. 50) worked in Dammam as a mechanic, a spray painter, an electrician and a waiter between 2006 and 2013.

"I worked in a sales agency in Kozhikode before I went abroad. I made 10,000-12,000 rupees a month. When I heard there was a job in Saudi, I went – to build my life, and improve it." [53]

Presennan Kumar (featured also on Pg. 47), a labourer, sold his work tools and took a loan to raise 150,000 INR to buy a visa from his uncle to work in Riyadh from 2009 to 2013. [54] He said:

"I was only making 300-400 rupees a day here (Kerala)... The visa was for Saudi. It's always been a dream to go! So many people have gone and done well, I wanted the same thing!"

When Shahul Hameed, a 28-year-old migrant worker from Palakkad employed as a taxi driver in Dammam from 2009 – 2013, spoke to Amnesty International India, he pointed to the other houses around his own, and said:

"Look around! All these houses you see around you belong to people who work in Saudi. With luck and hard work, they have been able to build these houses." [55]

6. THE RECRUITMENT PROCESS

The recruitment of Indian migrant workers for work outside the country is governed by the Emigration Act, 1983, which set up a mechanism for recruitment to be conducted through government-certified recruiting agents (individuals or public or private agencies)[56]. Recruiting agents are not permitted to employ sub-agents.[57] Anyone found to be carrying out recruitment activities without authorization from the government can be punished.[58]

6.1 WAKALA PROCESS

The wakala-based recruitment method bypasses the legal requirements of recruitment under the Emigration Act, 1983. The visa slip confirms the demand for recruitment but it does not provide the terms and conditions of employment in Saudi Arabia. Employers must show their intent to recruit migrant workers and provide them with clear conditions of employment."

– D. Jai Sankar, Former Protector of Emigrants in Chennai[59]

Under the Emigration Act and Rules, the recruitment process is typically initiated when a foreign employer issues a demand letter and a power of attorney to a recruiting agent in India. [60] The demand letter mentions the type of job, the name of the employer, the number of workers being recruited and the employment conditions. The power of attorney is an authority letter that permits the recruiting agent to recruit workers on behalf of the employer and to represent the employer in the recruitment process. In addition, the employer is required to issue a sample employment contract which includes details of the wages, accommodation facilities and food allowances that would be provided to migrant workers.

In December 2003, the Indian government modified this procedure for migration for work to Saudi Arabia. The Ministry of Overseas Indian Affairs (then a department within the Ministry of Labour) issued an order (Appendix I) which observed that Saudi authorities were not issuing demand letters, power of attorney documents and sample employment contracts in the manner prescribed by the Government of India.

The order noted that if these requirements "are insisted upon, the employment opportunities for Indian personnel in KSA may be adversely affected". It stated that Indian authorities would therefore begin to accept the wakala – an authorization permit given by Saudi authorities to recruiting agents to recruit a certain number of workers on their behalf – instead of the demand letter and power of attorney.

Under the wakala process, the sponsoring employer in Saudi Arabia is responsible for securing employment visas (typically in the form of a visa review letter) from the Saudi government for the number of foreign workers they seek to employ. The visa review letter specifies the job and the number of visas on offer. Sponsors then issue wakalas to recruiting agents in India, who are expected to identify and recruit prospective migrant workers, and to use the visa review letters to obtain visas for the workers at the Saudi Arabian consulate.

6.2 FREE VISAS

"Workers prefer to migrate on free visas as they are able to change jobs and match their own experience and skills with those available in the labour market in the foreign country. That's one of the reasons they choose these illegal agreements."

– K.V Abdul Khader, Member of Legislative Assembly, Kerala.[61]

"All our brothers in Saudi Arabia work on the free visa. Most people work that way, I didn't know it was illegal. I was told that I would make more money as a free visa worker."

– Shafiq Ahmed, a migrant worker from Wayanad, Kerala.[62]

Migration through unregulated channels and on irregular arrangements can involve a significant amount of risk, including serious human rights concerns around just and favourable conditions of work and residence, exploitation and forced labour – with the impact often being pronounced for low-wage workers.

All migrant workers in Saudi Arabia are bound by the kafala system to work only for their sponsoring employers. But often, an informal agreement, colloquially called free visa, is used to subvert the kafala requirements. Under this so-called 'flexible' arrangement – that has been in practice for decades in Gulf countries — rogue sponsors set up fake agencies or exert their influence over the labour bureaucracy to secure visas from their governments for workers they do not intend to employ.[63]

Once these visas are procured, they are sold on the informal market to other employers who need labour, migrant workers, or visa brokers. Migrant workers who use these visas to travel to Saudi Arabia then have to find work with other employers, and pay a monthly or yearly sum to the sponsor named on their visas. This arrangement is not permitted under Saudi law.[64]

A journalist with a Malayalam newspaper in Kozhikode described the free visa system succinctly:

"Let's say a sponsor owns a cafeteria in Dammam, Saudi Arabia, and he has three spots that he needs to fill. He will get 10 visas for the cafeteria. He will then sell these visas to brokers and other migrant workers in Saudi Arabia. They will then further sell the visas at a premium. Once the 10 workers arrive in the Kingdom, he would employ only three of them in the cafeteria, while others would be allowed to work outside. The sponsor sometimes assists them in finding employment, or workers are left to seek employment on their own, paying rent to the sponsor either on an annual or monthly basis."[65]

Yoosaf Khan, a migrant worker employed as a pump attendant in Ha'il from 2009 to 2013, spent approximately 100,000 INR (1,700 USD) for a free visa. Many like Yoosaf also believed that it was a legal channel of migration up until the enforcement of the Nitaqat programme.

"The great thing about the free visa was that if you were a ready worker, capable and lucky, then you could work outside, you could find any job you wanted, that was the great thing about Saudi."[66]

Chandra Babu, a migrant worker recruited as a driver but employed as an electrician in Dammam, from 2011 to 2013 was paid 2,600 riyals a month and worked for eight hours a day.

"It's like when rickshaw drivers ferry more than four people at a time in their vehicle. We know that this may not be legal, but we know that the results of breaking the rule are not serious. It's the same with the free visa."[67]

In 2004, the then Saudi Minister of Labour, Ghazi Al-Gosaibi, said that as much as 70% of all visas issued every year were free visas.[68]

On 25 March 2013, the Saudi Council of Ministers approved amendments to the labour law reemphasizing that foreign workers are not allowed to work for people other than their sponsor employers, and that Saudi employers cannot permit their workers to be employed elsewhere.[69]

6.3 VISA BROKERS

A majority of migrant workers interviewed by Amnesty International India said they had found employment through visa brokers, friends or family members already employed in Saudi Arabia.

According to some migrant workers interviewed, sponsoring employers in Saudi Arabia often sell visa review papers on the black market to visa brokers or migrant workers. These visa review papers are bought and sold between several intermediaries before eventually being purchased by prospective migrant workers. Once the papers are bought, migrants can approach the designated recruiting agents (to whom the wakala has been issued) to proceed with the visa application process.

Visa brokers – who are not registered with the government and act as informal intermediaries between migrant workers and certified recruiting agents – provide a range of services in the pre-departure phase. These include selling visa review letters, providing information about jobs and prospective working conditions and wages, directing prospective migrants to recruiting agents for visa processing, and buying air tickets.

Some brokers are also based in Saudi Arabia, where they often receive arriving migrant workers at the airport and act as the first point of contact between them and the sponsoring employer. Migrant workers typically stay with their brokers until they receive their work and residency documents. Sometimes brokers also help migrant workers to find jobs with other employers.

Surveys of prospective and returned migrant workers have also found that a majority of them rely on informal networks for emigration. A 2007 survey by the Centre for Development Studies, a research institution in Trivandrum, found that only eight per cent of returned migrants had emigrated through certified recruiting agents.[70]

More than a third of the workers that Amnesty International India interviewed said they had been deceived by their brokers.

Many migrant workers said they had bought visa review letters from brokers who were friends, relatives, neighbours, ex-colleagues or simply acquaintances.

Ramesh Kumar was employed in Dammam as a waiter in a restaurant from 2011 to 2013. He said he had paid 115,000 INR (1,900 USD) to a visa broker, who was a distant relative and a supervisor at the same restaurant in Saudi Arabia.

"I think the visa must have passed through a couple of hands – a few agents. My friend did not know the sponsor in person but arranged for the visa through his colleagues....The broker asked me to go a recruiting agent in Wayanad and they directed me to get my driver's license and passport. Once I got to Dammam, my broker came to pick me up and I was taken to the restaurant. He also helped me get my residence permit." [71]

Gopala Krishnan, a migrant worker from Palakkad, Kerala, (featured later on Pg. 51 and 61) paid a visa broker 80,000 INR (1,300 USD) for his visa and tickets, to work as a heavy vehicle driver in Jeddah, Saudi Arabia, in 2010.

"My broker worked as a barber in Saudi Arabia. When a Saudi customer paid him 10 riyals more for a haircut, the broker thought he (the sponsor) was a good man... Later he bought a visa from him." [72]

When Gopala arrived in Jeddah, his first point of contact was the broker.

"The visa broker picked me up at the airport and we went to meet the sponsor. At the company, I tried out the vehicle that I was going to drive, and the sponsor was okay with me. I stayed with him (visa broker) for a few days before I moved out."

Irshad Aziz, a mason from Kannur, was sold his free visa letter by a visa broker who was a relative. He worked as a supermarket attendant in Yabu, Saudi Arabia, between February 2013 and May 2013.

"I paid 130,000 rupees for my visa. I transferred this amount to a bank account. I spent 40,000 rupees at the recruiting agent." [73]

Irshad said, about his arrival in Yabu:

"My sponsor picked me up at the airport and he dropped me to my broker's room. I stayed there for a month trying to find a job."

Migrant workers' reliance on visa brokers to facilitate the recruitment process can leave them vulnerable to deception, exploitation and indebtedness.

However, almost every interviewed migrant worker who had travelled on a free visa said they had gone into debt to pay for their visas and tickets.

The visas cost between 120,000 and 175,000 INR (2,000 USD and 2,800 USD) which is more than a year's and in some cases more than two times the per capita net national income for Indians in 2012.[74]

Kabeer Aliyar, a 26-year-old migrant worker, paid 200,000 INR to a visa broker known to his uncle, for a job in Saudi Arabia. He was employed as a hospital clerk from 2010 to 2013.

"I think the cost to issue a visa is 26,000 rupees or so, but I paid 200,000 rupees for my visa." [75]

Prem Navas, a 31-year-old migrant worker worked at a cafeteria in Jeddah, Saudi Arabia, from 2008 to 2013. He paid approximately 260,000 INR for his visa. According to his sponsor, he says, the visa did not cost nearly as much.

"My sponsor told me that he had sold the visa to an agent for 8,000 riyals (approximately 130,000 INR). I paid 260,000 rupees – what I paid was all extra..." [76]

Despite the high costs, low-paid migrants sometimes choose to migrate through visa brokers because they feel that they do not have the educational qualifications or specific skills that recruiting agents seek.

Jayaram Rajan, a 48-year-old migrant worker employed in a lodge in Dammam, Saudi Arabia, from 2011 to 2013 (featured again on Pg. 45), said:

"I have only studied till Standard 7, I don't have the qualifications that recruitment agents look for, and they will not recruit me." [77]

Amnesty International India found that migrant workers trusted (sometime blindly) brokers who were friends and relatives to secure visas and jobs for them in Saudi Arabia. In a number of cases, Amnesty International India found that their trust and comfort in the visa broker led to them not scrutinizing the terms of the employment.

Sajeev Kumar, a 28-year-old migrant worker from Malappuram, was employed in Ha'il, Saudi Arabia, on a free visa between 2007 and 2013.

"I thought I was going to work as an electrician there but I ended up as a waiter. But because he (the visa broker) was family, I didn't ask too many questions." [78]

Since the broker's income depends on convincing the migrants to travel abroad, they have an incentive to make false promises about the nature and terms of employment.

Kabeer Aliyar said:

"I knew that it was a free visa and I would need to find my own work but I thought that I was going to work for the broker or that the broker would help me find a job."

Kabeer was unemployed for four months before he found a job as a clerk in a hospital from 2009 to 2013.

Rajimon Basheer, a 33-year-old construction worker from Wayanad worked in Saudi Arabia from 2008 to 2013. Rajimon went to Saudi Arabia on a free visa to work as an iron welder. His visa broker (a relative) told him that once he got to Saudi Arabia, he didn't have to work

in the same profession and could look for other employers. Rajimon was promised a good salary and a fixed job at a construction company.

"I was told that I would make 40,000 INR a month. But later I found that employment on the free visa is not a certainty and wages are not paid often. In good months we were able to earn close to 2,400 riyals but there have been times when I have had no work for 2-3 months at a stretch." [79]

Some migrant workers said that brokers had lied to them about what travel on a free visa entailed.

Binu Bhaskaran (featured earlier on Pg. 27), a truck driver from Malappuram district, Kerala, was recruited on a free visa in 2006. Binu's visa said he was to be employed as a household driver. His broker did not tell him that working for other employers was not permitted under Saudi law.

"According to the law, house drivers are not allowed to work outside, but he (broker) told me that I could work outside. I could work anywhere and do any job… I didn't know that I could get into trouble and he didn't tell me this."

Viswan Chettiyar (featured later on Pg. 49 and 60) from Palakkad, Kerala, was recruited to be a chauffeur in 2008. He said:

"The broker told me it was a free visa. I didn't know what that meant…Only later did I realise that there was no job and I had to go out and find my own work…I thought I would automatically have work because it was a visa…When I arrived, the sponsor took 1,000 riyals for a residence permit…He also said that I had to pay him 300 riyals a month…He said, 'If you get a job, or don't get a job, you will have to pay me.'" [80]

When Viswan approached his broker he was told:

"I didn't know the sponsor was going to be like this. My responsibility is to take you to the sponsor. After that my responsibility is done."

6.4 RECRUITING AGENTS

We are like a flour mill. We grind the wheat into flour. We don't need to worry about the quality of the wheat, that's not our job.

– Recruiting agent in Kozhikode, Kerala[81]

In 2012-13, India had 1,439 certified recruiting agents.[82] These agents – most of them agencies – are concentrated in major migration hubs like Mumbai, Chennai and New Delhi, and may also have supporting offices in smaller cities and districts.

Recruiting agents perform a range of functions, including assessing and understanding the requirements of employers, identifying prospective candidates, selecting and subsequently assisting candidates through the recruitment process, which includes visa application and stamping procedures, emigration clearances, medical tests and air tickets.

Recruitment agencies vary in size, core areas of expertise and operation procedures, and are primarily evaluated by employers for their ability to conduct quick and efficient recruitment. Only recruitment agencies registered with the Saudi consulate in Mumbai – referred to as wakala holders – are authorised to execute the visa application process.

Migrant workers are directed to wakala-holding recruiting agencies by visa brokers or directly by sponsors. At the agencies, once prospective migrant workers agree to be recruited, they are directed to undergo a medical examination. Simultaneously, these recruiting agencies apply for a visa application number (commonly referred to as the MOFA). Once workers are declared fit to travel, their visa application numbers are updated on the medical report. The recruiting agent then proceeds with the visa application process (commonly called visa stamping) at the Saudi consulate in Mumbai.[83]

Photo 2: Prospective migrants waiting for an interview at a recruiting agency in Kerala, India. © Amnesty International India

Once the visa has been stamped and returned by the consulate, the recruiting agent obtains an emigration clearance from the Protector of Emigrants, if needed. As a final step, workers pay for the flight tickets to Saudi Arabia.

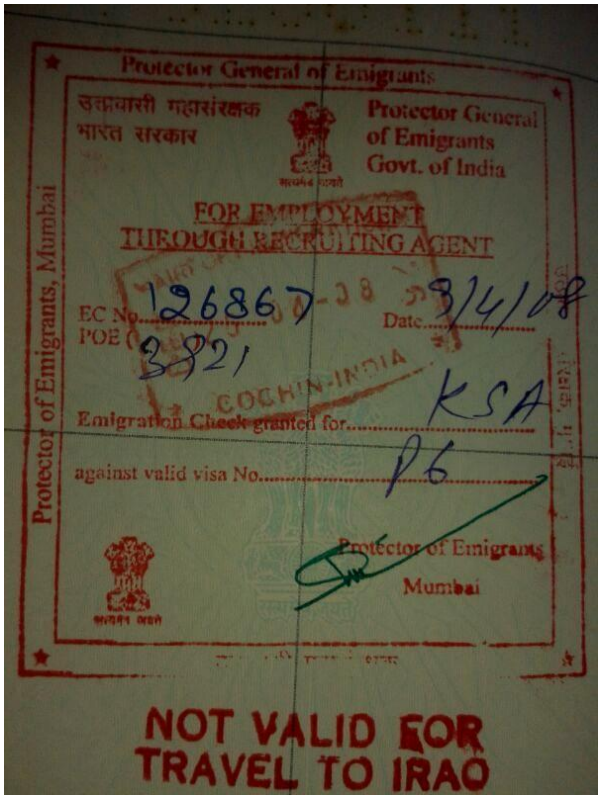


Photo 3: Emigration Clearance Stamp © Amnesty International India

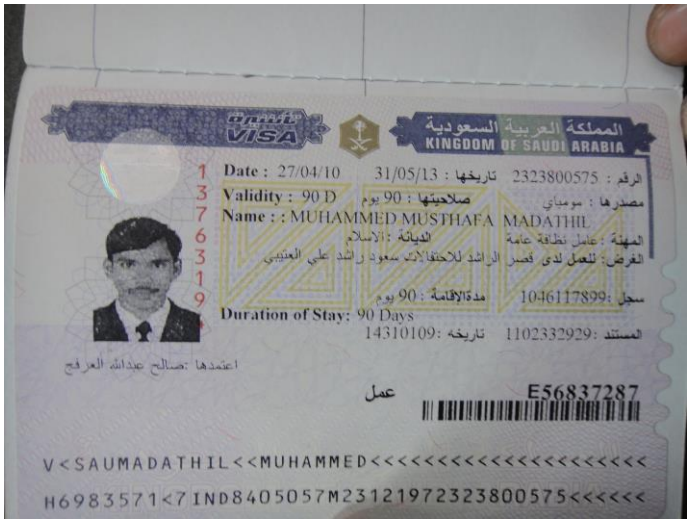


Photo 4: Visa to Saudi Arabia. © Amnesty International India

Under the Emigration Act, recruiting agents are required to endeavour to ensure that workers are properly received in the country of destination, the agreements which they have signed are respected, their residency and employment documents are renewed as per the law, and they are protected from having their travel and employment documents confiscated.[84]

However, in practice, recruiting agents widely hold the view that under the wakala framework for emigration to Saudi Arabia, when visa review papers are obtained by visa brokers, recruiting agents do not have an obligation to ensure that migrant workers are fairly recruited. Agents insist that the visa was secured by the broker, and the responsibility to protect migrant workers therefore also lies with him. They claim they are merely involved in the visa application process and their responsibilities only extend to the visa stamping process.

Further, L. Adolphus, the Protector of Emigrants, Kochi, and recruiting agents in Kozhikode, Ernakulum and Trivandrum told Amnesty International India that while a specimen employment contract is typically required for workers to get an emigration clearance, for workers going to Saudi Arabia, the emigration clearance is granted by the Protector of Emigrants based on the wakala authorization.

In an order dated 14 September 2011 (Appendix II), India's Ministry of Overseas Indian Affairs observed:

"[S]ome 'Recruiting Agents' have been claiming in certain cases to have got only the visa stamped and claiming that they otherwise have no role to play in recruitment/deployment".

The Ministry clarified that the recruiting agents mentioned in authorization documents "shall be considered for all purposes of recruitment", and are required to verify the details of the visa letter and the employment contract.

Despite the order, recruiting agents continue to insist that their responsibilities are limited. In interviews with Amnesty International India, officials in 14 recruitment agencies in Kerala all said that they considered their responsibilities to be restricted to their wakala obligations to conduct the process of visa stamping on behalf of Saudi sponsoring employers.

An employee in charge of the Saudi visa process at a prominent recruiting agency in Kozhikode said:

"We are not the ones getting the visa. You bring the visa, and you tell us you want to get it stamped. Do you expect me to ask you – is this the right visa, is this is the correct employer? Why should we do that? We are like a flour mill. We grind the wheat into flour. We don't need to worry about the quality of the wheat, that's not our job. We provide a service to the migrant, we stamp the visa and give it to them, and once the visa has been stamped we don't need to check about what happens next. It's simple."[85]

Recruiting agents in Kozhikode, Ernakulam and Trivandrum (the hubs of migration from Kerala) told Amnesty International India that they believed their obligations did not extend to ensuring that migrant workers are provided safe employment, regular salaries, renewed residency documents or a mechanism to settle disputes.

Sajeev Kumar, (featured earlier on Pg. 33) when asked if his recruiting agent was aware that he was migrating on a free visa agreement, said:

"They are generally aware but it's not something they care about; they only check to see if our medical report is in order and get the visas approved."

The recruitment head of a recruiting agent in Kozhikode told researchers:

"After the visa stamping, when candidates are going to Saudi Arabia, after that what happens, we don't know. We cannot check it. If they are issuing a demand letter and power of attorney in our name, and a job agreement attested by the Indian embassy, then we can check."[86]

The only oversight that recruiting agents said they carry out is to verify if a visa letter is genuine by checking details including the type of visa, the number of workers being recruited and the name of the employer, on the Saudi government's online visa portal.[87] They insisted that visa brokers – who function outside the legal framework – be held responsible for the recruitment process, since they had obtained the visa letters.

However, serving and retired senior emigration officials clarified to Amnesty International India that recruitment agents responsible for the visa stamping process must exercise the same due diligence that they conduct in regular recruitment.

L. Adolphus, the Protector of Emigrants in Kochi, said:

"Somebody has brought me the visa for stamping and I have only stamped it. The Government of India says that whoever gets the visa stamped will be responsible for the welfare of the worker. [..] So if there is a migrant worker that needs to be repatriated from Saudi Arabia, it is the recruitment agent who has done the visa stamping that needs to bear the costs." [88]

D. Jai Sankar, a former Protector of Emigrants in Chennai, clarified the intent of the 2011 order:

"The Government of India has said that it doesn't matter who the primary recruiter is. If the recruiting agent has also helped in conducting the visa stamping process, both the actors are aware and responsible for the situation."[89]

The chairman of a recruiting agency (that does not conduct visa stamping) in Ernakulam stated that recruitment agencies should perform the same due diligence expected of them as when they conduct recruitment for workers travelling to other countries.

"If the institution has been set up to protect migrant workers, then the government needs to take that stand, that recruitment agencies are responsible for the recruitment process. They should be given that responsibility. They say that they don't know the visa agent, that they don't know the migrant worker, and if he ends up dying, or in jail, what then? On what basis are they recruiting workers then?" [90]

Migrant workers who found jobs through visa brokers (typically agreeing to free visa agreements) and who faced exploitation and abuse did not blame recruiting agents. They typically remembered the visit to the recruiting agent being a routine process where they submitted their documents, performed their medical checks, and were invited to collect their stamped passports a few weeks later.

Recruiting agents have a duty to conduct the due diligence required to protect migrant workers from exploitation and abuse. Recruiting agents who take on visa stamping responsibilities must also take steps to verify the conditions of employment, scrutinize the employer, and ensure that in cases of abuse, the migrant worker can be repatriated.

However, it must be noted that the replacement of the demand letter and power of attorney with the wakala does provide migrant workers with less protection than the Emigration Act, 1983, and imposes limited obligations upon Saudi employers.

Under the process applicable to recruitment for workers travelling to other countries, the demand letter is supposed to contain conditions of employment. However, under the wakala process which applies to emigration to Saudi Arabia, neither the visa review slip nor the wakala contain any details about the conditions of employment.

6.5 PRE-DEPARTURE TRAINING

"It seems to be like one drop of water in the ocean. Not even one per cent of prospective emigrants receive pre-departure training. It has to be improved drastically and made freely available to anyone who wants to attend."

– Irudaya Rajan, Professor, Centre for Development Studies[91]

"For the past four years, my Ministry has been carrying out advertisement campaigns in various languages. I am sad such campaigns have not delivered results."

– Vayalar Ravi, Former Minister of Overseas Indian Affairs[92]

"I was aware that I was being sent on a domestic driver visa but I believed that once I got to Saudi Arabia, I could find my own job and I could work at the restaurant. I didn't know it was illegal."

– Vimal Prathap, a migrant worker from Malappuram, Kerala[93]

Some migrant workers that Amnesty International India interviewed admitted that they had been too desperate or anxious to scrutinise the terms of their agreement at the time of recruitment. In many cases, they said they wished they had exercised restraint, and had planned better.

In 2013, the Ministry of Overseas Affairs stated that one of the crucial challenges that migrant workers face is the 'difficulty in accessing authentic and timely information' relating to overseas employment, recruitment agencies and emigration procedures. The ministry said that the lack of this information makes workers dependent on intermediaries and vulnerable to exploitation.[94]

The ILO recognises the lack of awareness among prospective migrants to be a key factor which contributes to their exploitation by unscrupulous intermediaries.[95] Unfree recruitment

(a term indicating either forced or deceptive recruitment) is characterized by intending migrants lacking the complete information they need about their jobs, wages, living or working conditions to make informed choices in their receiving countries.[96] Unfree recruitment is a serious concern where poverty and poor levels of education can expose many intending migrants to an ever widening set of different actors including sub-agents, travel agents, touts and other middlemen, many of whom have the potential to exploit them.

Under India's international obligations under the UN Protocol to Prevent, Suppress and Punish Trafficking, member states are required to establish comprehensive policies, programmes and other measures – including to undertake research, informational, social and economic initiatives – to prevent and combat trafficking in persons in partnership with non-governmental organizations and other parts of civil society.[97]

The UN Special Rapporteur on Trafficking in Persons, especially in Women and Children stated that:

"The role of prevention is critical in ensuring that the crime of trafficking does not occur in the first place. Despite its importance, the efforts to combat trafficking have been largely centred on a 'symptom-specific' approach in that solutions are sought only after particular problems occur. It follows that resources and efforts are often concentrated on prosecuting traffickers or developing assistance programmes for survivors of trafficking but neglect the development and implementation of comprehensive and systematic prevention measures."[98]

In Nepal, the Foreign Employment Act, 2007, which regulates overseas recruitment, stipulates that all migrant workers must be provided with pre-departure training before migrating abroad.[99] Similarly, in the Philippines, the Migrant Workers and Overseas Filipinos Act of 1995, as a measure to prevent illegal recruitment and fraud, gives "utmost priority" to the establishment of programmes and services to issue travel advisories and disseminate information to migrant workers.[100]

While the Emigration Act of 1983 does not expressly provide for pre-departure orientation or training, the Government of India and the state government of Kerala do undertake multimedia awareness campaigns and have set up training and support programmes for prospective migrant workers.

These include:

- NORKA pre-departure programmes to inform and engage workers about migrating safely.[101]

- Overseas Workers Resource Centre: a 24-hour helpline toll free information service in multiple languages to assist migrant workers and their families. The toll free number received 43, 569 calls in 2012-2013.[102]

- Migrants Resource Centre: resource centres set up in a few cities across India including Kochi, Kerala, to assist migrant workers and their families. The office in Kochi received questions from 2,635 migrant workers in 2013.[103]

However, attendance in pre-departure orientation programmes is a serious problem. In 2012, approximately 100,000 low-paid migrant workers from Kerala were granted emigration clearances to work abroad. However, according to the Project Manager involved in pre-departure trainings at the Non-Resident Keralite Affairs (NORKA) in Trivandrum, such programmes reach out to only 3,500 to 6,000 people a year. [104]

Amnesty International India asked the migrant workers it interviewed if they had attended a pre-departure orientation programme. Of the 51 workers interviewed, not one had. The migrant workers said that they had not even heard of the pre-departure training programmes.

Sajeev Kumar (featured on Pg. 33 and 38 of the report.), said:

"Everything about the Gulf we know from our brothers in the Gulf, why do we need a training... I have not heard of the training programme."

7. WORKING IN SAUDI ARABIA

"I went through hell... Never in my life have I suffered like this... No food in the morning, no food in the afternoon, and no food for lunch… five of us. We would cry, because we hadn't eaten."

- Murali Pillai, a construction worker employed in Dammam, Saudi Arabia[105]

"I stood on the highway where I could be easily spotted by the authorities. I waited there for (the police) to find me – and for them to enquire about my residency permit. Once the police had arrived, I described what I had been through. I was taken to a police station and a file was prepared. I was asked a few questions including my address and nationality. I was taken to a prison cell and kept there for 15 days."

- Bhagavathi Sundaram, a goat herder employed in Ha'il, Saudi Arabia[106]

Nineteen of the 51 migrant workers that Amnesty International India spoke to said they had been deceived. There was deception about the legality of their employment agreement,

working conditions, wages, working hours, and the extent of payments workers had to make to their sponsors for their residency and other documents.

Migrant workers were also subjected to other forms of abuse – beatings, verbal abuse, confiscation of residency documents, being declared as absconding migrants, and being denied the exit permissions to return home. In some cases, migrant workers faced multiple abuses simultaneously. Workers facing these abuses came under severe physical and psychological stress. In a few cases the abuses amounted to forced labour and human trafficking.

According to the ILO, deception can take place at all three stages of the trafficking cycle – at the time of recruitment, during the transportation process, and either before the commencement of work or during its progress. Deception can be the first step in a chain which can lead to situations of forced labour. Examples of deception include[107]:

- Excess charging of fees for visas and other travel documents
- Processing and provision of fake travel documents without informing the migrant of their illegitimate status
- Recruitment for non-existent jobs
- Misrepresenting the job and work conditions
- Providing the future migrant worker with a loan that is hard to pay back (particularly since the interest on the loan and the loan itself tend to be falsely inflated, though the migrant is not usually aware of this), leading to situations of debt bondage and forced labour

The kafala system has been described as 'inherently problematic' as it creates 'an unequal power dynamic between the employer and the worker'. [108] The International Labour Organization (ILO) Committee of Experts has said that the kafala system is conducive to the exaction of forced labour. [109]

Both international law and domestic Saudi law set minimum obligations for Saudi employers including the number of hours of work, wages payable, overtime wages, days off, and the provision of annual leave. Employers are also obligated to ensure the issuance and timely renewal of residence permits. Saudi law also provides for access to remedy when employers do not respect their commitments.

Photo 5: Migrant workers waiting outside the Indian embassy for emergency passports. © Private

7.1 UNPAID WAGES

Migrant workers, when they begin their jobs, are usually burdened by the debt they have accumulated to buy their visas, and can also face the additional burden of supporting their families.

Seventeen of the 51 migrants Amnesty International India interviewed reported facing problems with the payment of their wages – including wages being arbitrarily deducted, underpayment, late payment and even non-payment.

Ali Akbar, a migrant worker from Kollam, Kerala, paid 14,500 riyals (approximately 230,000 INR or 3,800 USD) for a visa to work as a carpenter in Dammam, Saudi Arabia, in 2012. [110] For the first seven months, his sponsor let him work for other employers. In 2013, when Ali secured a job at an oil rig in Saudi Arabia, he asked his sponsor if he would let him change his job. His sponsor said that he was setting up his own construction agency, for which he would need Ali's help, and asked him to work for him. He promised Ali 2,000 riyals (approximately 32,000 INR or 540 USD) a month with pay for overtime.

For the first two months Ali waited at the office for work to begin. For the next three months, he worked 12-hour days for his sponsor, carrying construction materials for a railway project in the desert. He was not paid for a single day of work. When Ali threatened to stop work until he was paid, his sponsor said:

"Are you here to have fun or work? If you don't work I'll get you arrested by the police and you won't be able to go home, do you want that?"

Ali said he could not leave, as he had not been paid for five months:

"I didn't have 10 riyals to go anywhere. I was stuck."

When the amnesty programme was announced, Ali secured the assistance of a community organization and ran away from his employer – the organization gave him money to take a taxi from his place of work to a safe area, and helped him secure an emergency passport to leave Saudi Arabia.

Jayaram Rajan, a 48-year-old man (featured earlier on Pg. 33) in Dammam was employed at a lodge between 2011 and 2013, even though his residence permit said that he was a driver. He was intimidated and beaten by his employers who did not pay him for two months, and then refused to provide him with an exit permit until he signed an agreement saying that all wages that were due to him had been paid. Jayaram signed the agreement and was provided with an exit permit to return home in 2013.

Naushad Ali (featured later on Pg. 59), a 53-year-old man, got a job as a carpenter in Dammam through a visa broker in 2011. However, his employer contracted him out as a construction labourer, mixing cement, carrying bricks, and doing plastering work. He was paid for his first few months of work, but the money soon began to dry up.

"First he would give us money on the 15th, then that became the 20th, then he stopped paying us…He didn't pay me for three months." [111]

Vijesh Narayanan (featured later on Pgs. 52 and 58) was recruited to work as a truck driver in Dammam by a distant relative employed at the same contracting and trading agency as a driver. According to Vijesh, his recruiter had been told he would be sent home as soon as he found a replacement.

Vijesh was promised a good job and a salary of 1,200 riyals (approximately 19,000 INR or 300 USD), with wages for overtime, which would be subsequently increased. But Vijesh's experience was very different:

"Our wages were paid a month after our work had been done and I didn't get money for overtime. Only after we would fight with him, would he give us some money – if we had done work for 500 riyals, he would pay us 200 riyals." [112]

Migrant workers on free visas are often more vulnerable. Their irregular status means they find it difficult to take to court rogue employers who do not pay wages on time, or at all. They are also required to pay monthly instalments to their sponsoring employers. Amnesty International India spoke to migrant workers who had paid approximately 15-25% of their wages as sponsorship fees.

Binu Bhaskaran, who was recruited on a free visa, (featured earlier in the report Pg. 27 and Pg. 34) worked variously as a carpenter, a construction labourer and as a waiter in a restaurant between 2009 and 2013.

During this period, he was employed for two different manpower supply companies in Dammam for five months. At both the companies, Binu was owed unpaid wages – for one month and three months of work respectively – amounting to approximately 6,000 riyals (approximately 100,000 INR or 1,700 USD). According to Binu, in both these cases:

"I could not file a complaint. They were not my sponsors."

Regardless of whether he was being paid, his sponsoring employer continued to demand money from him, including 5,000 riyals for an exit permit to return home, 3,000 riyals for the renewal of a residence permit, 2,000 riyals for a driving license, and other fees. Binu recounted what his sponsor told him once:

"Don't tell me that your mother is unwell, your father is unwell, I want my money."

Workers often need to pay for their room rents, food and telephone charges. When they were not paid wages, some said, they were left with no choice but to borrow from other migrant workers, plunging them further into debt.

Article 90 of the Saudi Labour law states:

"The worker's wages and all other entitlements shall be paid in the Country's official currency. Wages shall be paid during working hours and at the workplace in accordance with the following provisions:
(1.1) Workers paid on a daily basis shall be paid at least once a week.
(1.2) Workers paid on a monthly basis shall be paid once a month."[113]

Article 88 of the Saudi Labour Law states:

"Upon the end of the worker's service, the employer shall pay his wages and settle his entitlements within a maximum period of one week from the date of the end of the contractual relation. If the worker ends the contract, the employer shall settle all his entitlements within a period not exceeding two weeks."

7.2 EXCESSIVE WORK

At least 21 workers who Amnesty International India spoke to worked for hours much in excess of the eight hour maximum prescribed by Saudi labour law. These included migrants who worked as cooks, construction labourers and clerical staff. Some workers said they used to work for between 15 to 18 hours a day – which severely affected their health – but were not paid or were underpaid for their overtime work.

Jasif Khadar[114], a 50-year-old migrant worker, was recruited to work in a restaurant in Riyadh from 2010 to 2013. Before he went to Saudi Arabia, he was told that he would need to work for 10 to 12 hours. But Jasif worked regularly for close to 18 hours a day. He said:

"We worked in two shifts – if we started at 5am, we finished at 4.30pm. Sometimes we would finish at 5.30-6pm. We would then need to get back to work at 8pm. And while the shop officially closed at midnight, we would find ourselves working till 2am."

Overwork affected his health. A lack of sleep and an inability to eat regular meals led to severe back pains and stomach ailments. Jasif was not allowed to take time off and he was not paid for overtime. Because Jasif was not issued a residence permit, it was harder for him

to change his employer. Had he been caught by authorities, he would have been detained and possibly deported.

Shafeek Abdul, a migrant worker from Trivandrum, Kerala, was offered a job by a visa broker who was employed in Dammam to work under him as a mechanic repairing household appliances.[115] Shafeek was employed in Dammam and Mecca in Saudi Arabia from November 2011 to August 2013. He said his broker had told him:

"This is a good job. I will pay you 1,600 riyals for eight hours of work. You can soon bring your family to Saudi Arabia. You can work under me for a while, if you don't like it I have another shop across the road that you can manage. It's your choice."

However, Shafeek was made to work regularly from 6.30am to 11pm. Sometimes, he worked until 2am. He was not compensated for the extra hours of work. Unable to continue working for such long hours, Shafeek ran away from his employer after three months, and moved to Mecca where he worked as a construction labourer.

Shafeek was soon declared an absconder by his employer (please see section 'Being declared an absconder' for more details). Had he been caught by the Saudi authorities, he could have been detained and deported. Shafeek turned himself in to Saudi authorities when the amnesty programme was announced and was issued an emergency passport to return to India.

Vimal Prathap was employed in Jizan in Saudi Arabia in a restaurant from 2011 to 2013. On a regular basis, Vimal began work at 2am and worked until 11am, when he would get a break until 4pm. He would then return to work, and stop only at around 11pm. He was not paid for overtime. Sometimes, he was also asked to 'volunteer' to work at a supermarket and a cafeteria under the same sponsor for no extra wage.

Abobaker R, a chauffeur, told Amnesty International India that he would work from 5am to 10pm every day.[116] Another driver, Shafiq Ahmed, said he would be on call for 20 hours every day, and be able to sleep for only four to five hours at night.[117] Both workers were not paid for overtime and worked on all seven days of the week.

Presennan Kumar was recruited to work in a printing press in Riyadh, Saudi Arabia. He said he worked continuously with a short break for lunch from 9am to 9pm, packing printing material at a conveyer belt. He told researchers that his supervisors would routinely increase the speed of the conveyer belt to push employees to work faster.

Five workers interviewed by Amnesty International India said they were made to work on all seven days of the week without a day's rest. Migrant workers said they sometimes accepted long hours of work, because they did not have their residence permit, or they needed to make monthly payments to their sponsors.

Article 98 of the Saudi Labour Law states:

"A worker may not actually work for more than eight hours a day if the employer uses the daily work criterion, or more than forty-eight hours a week if he uses the weekly criterion.

During the month of Ramadan, the actual working hours for Muslims shall be reduced to a maximum of six hours a day or thirty-six hours a week."

Article (104) of the Saudi Labour Law states:

"(1) Friday shall be the weekly rest day for all workers. After proper notification of the competent labour office, the employer may replace this day for some of his workers by any other day of the week. The employer shall allow the workers to perform their religious obligations. The weekly rest day may not be compensated by cash.
(2) The weekly rest day shall be at full pay and shall not be less than twenty-four consecutive hours."

Saudi Arabia is also a state party to the ILO Weekly Rest (Industry) Convention (No14) and the ILO Weekly Rest (Commerce and Offices) Convention (No. 106).[118]

7.3 CONFISCATION OF IDENTITY DOCUMENTS

Confiscation of passports

In October 2000, the Saudi Council of Ministers stated[119] that employers were not to retain the passports of migrant workers or their families. The Council created a special committee to settle any problems that could arise in practice.[120]

However, the confiscation of passports continues to be a routine practice among low-paid migrant workers in Saudi Arabia.

Following her visit to Saudi Arabia in 2008, the UN Special Rapporteur on Violence against Women, its causes and consequences, said:

"Upon arrival, all migrants – contrary to the Council of Ministers' Decision 166 (2000) – have their passport and residency permit taken away from them, and some find themselves in slave-like conditions."[121]

The overwhelming majority of the migrant workers interviewed had their passports confiscated by their employers.

Bhagavathi Sundaram (featured on Pgs. 27, 56 and 61 of the report) said about his first meeting with his sponsor:

"A man got up and introduced himself as my employer. In about a minute, he asked me for my passport, and told me to wait and help myself to some coffee."

Migrant workers said they were told that their passports were being taken so they could be issued an Iqama or residence permit, or that they were being taken for safe keeping.

According to the ILO, the practice of retaining identity documents is one of the key characteristics of contemporary forced labour, as it prevents workers from leaving their jobs, restricts their movement and makes them vulnerable to threats and intimidation by employers

and sponsors.[122] This was particularly true for migrant workers who were in irregular arrangements, and were working for different employers.[123]

Residence permits

Employers also use the residence permit as a tool of control against migrant workers. The permit, issued by the government of Saudi Arabia, is required to be carried by all migrant workers and renewed periodically. Migrant workers without a permit cannot work legally, cannot move freely, may not be admitted to hospitals for medical treatment, and can even be arrested.

Some migrant workers interviewed said their sponsors had refused to give them residence permits, or delayed giving them for months. Sometimes the permits were arbitrarily retained, and the migrant workers were told that they would be returned for a price.

Murali Pillai, a migrant worker from Trivandrum, Kerala, was recruited to work as a carpenter in a furniture warehouse in Dammam, Saudi Arabia, in 2008. [124] After two years of employment, Murali's sponsor decided to shut down the warehouse, and gave Murali the option of working for other employers. A few months after Murali began another job, his sponsor confiscated his residence permit and told him that he would be sent back to India. Some days later, the sponsor agreed to return the residence permit if he was paid 3,000 riyals (approximately 50,000 INR or 800 USD). Left with little choice, Murali paid up.

Over the next two years, Murali's sponsor continued to sporadically either confiscate, threaten to cancel or fail to renew his residence permit. In all, Murali ended up paying close to 10,000 riyals (approximately 160,000 INR or 2,600 USD) to his sponsor to either retrieve his confiscated permit or have it renewed. As an irregular worker, Murali was not paid regularly, and had very little money to send home. He said:

"After two and a half months of work, there was no work for four months – not even a nail to drill. I was just sitting on footpaths, here and there.... the months went on…I had no money to send home. When my wife called me, she would tell me her troubles. Could I tell her the situation I was in? I could never tell her."

In late 2013, after close to five and a half years of working in Saudi Arabia, Murali approached his sponsor and paid 200 riyals (3,000 INR or 50 USD) for an exit permit to return home.

Viswan Chettiyar[125], from Palakkad, Kerala, spent 150,000 INR (approximately 2,500 USD) on a free visa to Saudi Arabia. Viswan worked in small sales shops and warehouses as a labourer lifting material, making 900 riyals a month (approximately 14,000 INR or 240 USD). Every month, Viswan had to pay 300 riyals to his sponsor, and every 3-4 months, the sponsor would demand extra payments for not reporting him to the police. Viswan says he paid nearly 11,000 riyals (approximately 180,000 INR and 3,000 USD) over the course of 2-3 years. Viswan said:

"He (the sponsor) would come to where I work and say, 'From tomorrow onwards you will not work here, or I will get you caught by the police'. Then the shopkeeper of that shop would try

and pacify him and tell me that I couldn't work there anymore. I would then plead with the sponsor and tell him that I would try and get the money for him tomorrow, and I would borrow from somewhere and give it to him. Like this, I have changed my job 15-16 times."

During one period, Viswan's Iqama was confiscated for nearly five months.

"So many times I had to run away from my job. When you don't have documents, if you get caught, you can get into serious trouble. So we would run. So often, we have lost our jobs as a result. You can't run away from work and then come back."

7.4 BEING DECLARED AN ABSCONDER

The Saudi labour system allows for employers to report "runaway workers" – or 'harib' – under their sponsorship to the authorities, and state that the workers do not work for them anymore. According to a report by the Saudi Ministry of Labour, 525,301 expatriate workers were labelled 'harib' in 2013 (roughly 7.25% of the migrant population).[126]

Reporting a worker as 'harib', or the threat of it, has been used as a mechanism by sponsors to expel migrant workers from their sponsorship, curb complaints, demand money, and threaten migrant workers into accepting exploitative conditions of work. Migrant workers who are determined to be 'harib' can be detained and deported. They may also be barred from re-entering Saudi Arabia and could have their bank accounts frozen.[127]

Amnesty International India interviewed five migrants who had been reported as 'harib' by their employers.

In 2010, Abdul Navas spent 70,000 INR (approximately 1,200 USD) to work in a brick factory in Riyadh, Saudi Arabia.[128] His recruiter – a visa broker employed in the same factory – said he would be paid a monthly salary of 900 riyals (approximately 14,000 INR or 240 USD). But on his arrival, Abdul was only paid 600 riyals for 12 hours of work every day. Unable to make enough money to send home, Abdul ran away from his employer, and was reported 'harib'. Abdul worked covertly in a grocery shop for the next two years before the announcement of the amnesty programme. Abdul applied for an emergency exit with the Indian embassy and he returned home.

Mohammed Rafi was employed on a free visa in Dammam in 2006 and worked variously as a mechanic, a spray painter, an electrician and a waiter. [129] Over the course of seven years, Mohammed earned between 1,200 and 3,600 riyals every month, depending on the job. During this period, he never met his sponsor, and the renewal of his employment and residence documents in Saudi Arabia were done through a private 'labour office'. The office also retained Mohammed's passport.

In September 2012, a few weeks after Mohammed approached the labour office about the renewal of his residence permit, he discovered that he had been declared a 'harib'. According to Mohammed, he was one of many migrant workers under the sponsor who had been reported as a runaway worker. Mohammed had no idea why this had happened. For close to six months, Mohammed stayed in his house, without working anywhere, afraid that the authorities would not help him. He said:

"When we knew there is checking outside, I would stay in the room – very scared, my roommates locked the door from outside. They (the Saudi authorities) would bang on the door and when nobody responded, they would go."

Mohammed was finally able to leave Saudi Arabia in April 2013 after he received assistance from another Saudi employer in securing an exit permit.

In 2010, Gopala Krishnan from Palakkad, Kerala, paid 60,000 INR for his visa and 20,000 INR for his air tickets and visa processing fees to work as a heavy goods vehicle driver in Jeddah, Saudi Arabia.[130] He was promised a monthly salary of 3,500 riyals (approximately 56000 INR or 900 USD). He said his agent had told him:

"Don't think about it too much, you will get the money you want."

Gopala did not receive his salary for the first two months. At the end of the second month, his sponsor paid him 1,500 riyals (approximately 24,000 INR or 400 USD). Gopala argued with his sponsor, and asked to return to India. The sponsor said that he would let Gopala look for other employment until the expiry of his residence permit. Eleven months later, when Gopala returned to his sponsor to renew his residence permit, his sponsor told him that he had declared him a 'harib'. Gopala says he was told:

"I have marked you as a 'harib'. Now you and the police have a relationship, we have nothing more between us. When you go back, you can go back via jail."

The sponsor offered to withdraw his complaint if Gopala paid him 5,000 riyals (approximately 80,000 INR or 1300 USD), but the sum was too much for Gopala to afford. He left for a smaller town a few hundred miles away, where he worked for the next two years in a fruit shop, at risk of being detained. He said:

"My body and mind suffered, thinking that I will have to go through jail to come back and see my family. I didn't even know if I would be able to get out if I went to jail."

Gopala and Mohammed were able to return home after the government of Saudi Arabia announced a limited amnesty period in April 2013.

In May 2013, Saudi Arabia's Ministry of Labour announced that it intended to do away with the 'harib' provisions in law, and cancel all pending cases. However these reforms have not yet been implemented, and the government of Saudi Arabia has not announced when they will be rolled out.

7.5 PAYMENTS AND INDEBTEDNESS

Under the Saudi labour law, employers are required to bear all costs related to the recruitment and employment of migrant workers, including fees for the application and renewal of residence permits, work permits, changing professions, exit and re-entry visas, and air tickets.[131]

However migrant workers interviewed by Amnesty International India who had travelled to Saudi Arabia on free visas said that they had to pay for their residence permits (Iqama) and

insurance cards, which they were required to subsequently renew periodically. The payment conditions and amounts were determined informally. Workers also were required to pay for the exit permits they need in order to leave Saudi Arabia. Workers said, variously:

"When you need to pay 400-500 riyal a month to your sponsor and an equally large amount for your food, accommodation and other expenses, there is very little left to actually send home. I would borrow from friends in Saudi to send some money to my family."[132]

"My sponsor would charge 5,000 riyal a year from me for the renewal of my residence permit. I believe that the prescribed charge for my job was 1,300 riyal. He kept the rest. What could I do?"[133]

"He took 6,000 riyals from me to renew my residence permit. Then he told me he lost the money and wanted more."[134]

Twenty-eight migrants on free visas who were interviewed by Amnesty International India paid sponsors or visa brokers tied to their sponsors exorbitantly high fees, from 2,500 to as high as 10,000 riyals a year. In a few of these cases, workers had agreed even before they left India to pay sponsorship fees and document application and renewal costs. But in the majority of cases, migrant workers only found out about their payments when they arrived in Saudi Arabia.

7.6 EXIT VISA TRAP

Migrant workers in Saudi Arabia leaving the country are required to obtain an exit permit from their sponsor prior to their departure. However sponsors are known to use the exit permit to control and abuse workers.

Nineteen migrants interviewed by Amnesty International India said they had to pay large sums of money to secure an exit permit from their sponsors. In two cases, workers paid amounts as high as 10,000 riyals – roughly equivalent to about four to five months of the workers' wages – to obtain an exit permit.

In some cases, workers who faced serious exploitation at the hands of their sponsoring employers, including non-payment of wages, excessive working hours and confiscation of documents, were not permitted to return home because they did not have an exit permit. A few of these workers had run away from their sponsoring employers and had been declared 'harib'.

Apart from not being paid his wages, Vijesh Narayanan (featured earlier on Pg. 45) was forced to drive a heavy goods vehicle without a driving license. He was stopped five times by Saudi authorities and was fined 500 riyals each time (approximately 8000 INR and 130 USD) for driving without a license.

"For 14 months, I was made to drive without a license... I would continue to drive the vehicle and the police would fine me. I finally gave up and told him that I wouldn't work anymore until he got me a driving license. He said he would take care of it but he didn't. He didn't do

anything for three months. After that, I asked him to give me an exit permit and send me home. He didn't do anything."

Vijesh's sponsor refused to give him an exit permit. As soon as his sponsor cleared his driving fines, Vijesh ran away from his employer. When the amnesty programme was announced, Vijesh returned to India.

Abdul Rasheed, a migrant worker from Malappuram, Kerala, worked as a tailor near Riyadh in Saudi Arabia for nearly five years before his sponsor's firm was penalised under the Nitaqat programme in 2012 for employing more migrant workers than the prescribed quota. [135] At the time, Abdul Rasheed had not been paid for three months of work and was owed 8,400 riyals (approximately 130,000 INR or 2239 USD). His sponsor refused to renew his residence permit or grant him an exit permit.

Abdul Rasheed filed a case at the labour court and quit his job. He was diabetic, and not having a valid residence permit meant that he had limited access to medical services, as most hospitals and medical centres refused to treat migrant workers who could not produce a residence permit. As a result, his health began to deteriorate.

Over the next 12 months, Abdul Rasheed continued to attend court hearings. Abdul Rasheed's sponsor did not appear for any of the court hearings, and ignored the court orders summoning him for hearings.

By the time the amnesty programme was announced by the Saudi authorities, Abdul Rasheed had lost hope that he would receive his pending wages. He applied for an emergency passport and returned home. His wife told Amnesty International India:

"Let's forget the money, at least he's back home alive, otherwise we do not know what might have happened to him."

The exit permit system is a violation of the right to the freedom of movement under international law. The Human Rights Committee in its authoritative interpretation of the right to freedom of movement under the ICCPR, has stated that:

"The right to leave a country must include the right to obtain the necessary travel documents."[136]

The Special Rapporteur on the Human Rights of Migrants has stated with regard to the exit permit requirement:

"Another problematic element of the kafala system is the exit permit requirement under the Sponsorship Law: migrants can only leave the country with an exit permit issued by their sponsor. This requirement violates the freedom of movement guaranteed by the Universal Declaration of Human Rights and the International Convention on the Elimination of All Forms Racial Discrimination. The claim that it is meant to prevent the flight of migrants after committing crimes can only apply to a few individuals and does not justify the pre-emptive punishment of thousands. It is a source of abuse and there is no valid justification for maintaining this system."[137]

Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination, to which Saudi Arabia is a state party, states:

"State Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the right to leave any country, including one's own, and to return to one's country."[138]

Similarly, the Arab Charter on Human Rights, to which Saudi Arabia is a state party, states that:

"No one may be arbitrarily or unlawfully prevented from leaving any country, including his own, nor prohibited from residing, or compelled to reside, in any part of that country."[139]

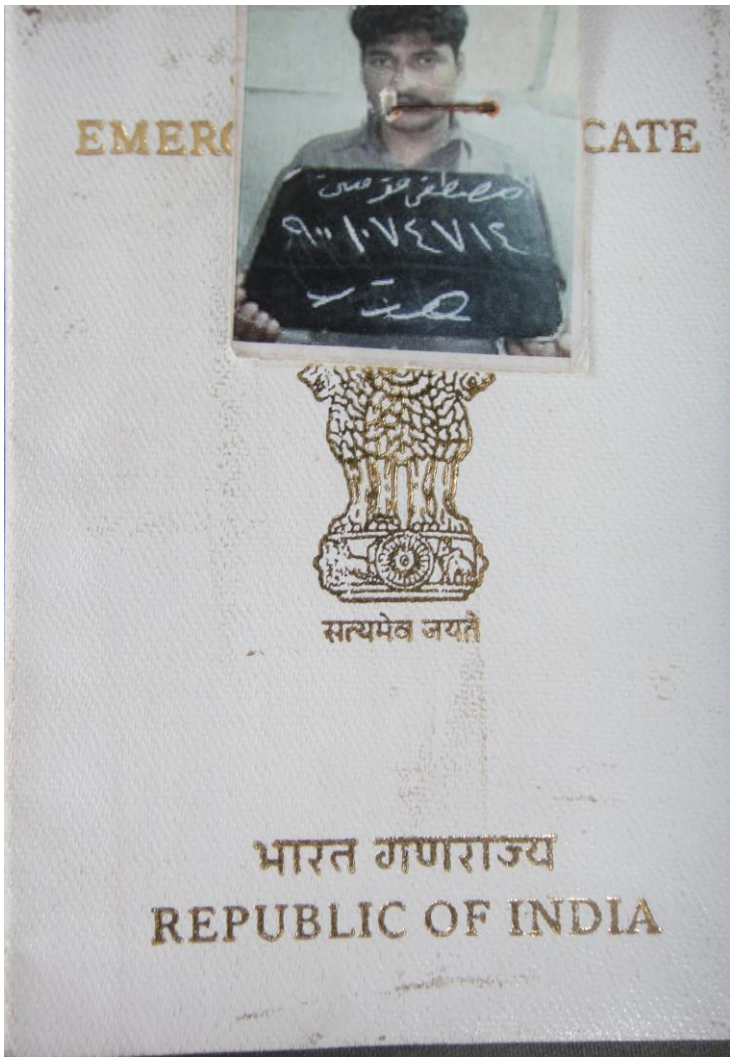


Photo 6: Emergency Passport © Amnesty International India

7.7 TRAFFICKING INTO FORCED LABOUR

Amnesty International India found cases where workers had been engaged in employment for which they had not offered themselves voluntarily – because they had been deceived or had pay withheld for a prolonged period of time – and faced credible threats of penalties if they stopped working, including the withholding of passports and exit permits and failure to pay pending salaries. These cases constitute forced labour. Where migrant workers had clearly been deceived into situations of forced labour, they were also victims of human trafficking.

Abubaker Rafique told Amnesty International India that he had spent 150,000 INR for a visa to Saudi Arabia in 2010.[140] He signed a two year employment agreement to work as a truck driver in Ha'il for 1,000 riyals a month, with an eight-hour working day and a return ticket.

His recruiting agent told Abubaker that it was a good job for a well-known contracting company.

In April 2010, Abubaker arrived in Saudi Arabia to find that he had been deceived about the conditions of employment. Abubaker was made to drive 16-wheel trailers he said had mechanical defects and were not suitable to drive. He often worked for 15 hours a day without being compensated for overtime.

Abubaker's passport was confiscated and he was given a residence permit. However, his employer refused to give him a driving license. Abubaker said:

"Who is going to drive a heavy trailer for 1,000 riyals? Nobody. He wanted to trap us into doing this job. He thought that we would escape, so he didn't give us our license."

Over the course of one year, Abubaker was caught 41 times by Saudi authorities for driving without a license. Every time, he was fined about 500 riyals, and in all about 26,300 riyals. Abubaker's sponsor asked him to continue driving, and said he would pay the fines, but never did. One time, after an accident, Abubaker had to spend a few days in jail for driving without a license. When his residence permit expired, his sponsor refused to renew it, because it involved clearing the pending fines.

Abubaker and seven other workers filed a complaint at a labour court in Ha'il against their sponsor, stating that they wanted to return home and that their sponsor was not renewing their residence permits or giving them driving licenses. When the sponsor found out about the complaint, he tore the copies of the court documents and threatened to hand the workers to the police if they decided to pursue the case further. Uncertain about the consequences of his actions, Abubaker decided to drop the case.

Because Abubaker's sponsor refused to clear his driving fines, Abubaker could not renew his residence permit. His sponsor also refused to give him an exit permit. For the next two years, Abubaker stayed at the company until he could borrow close to 150,000 INR from friends in Saudi Arabia to bribe different government departments and return to India. He told Amnesty International India:

"If I had been caught at that time that would have been it! I would have been stuck in Saudi forever."

Abubaker blames his recruitment agency for his troubles, saying:

"Shouldn't they know that there's a company like this? They definitely knew that things were going to be this, they have an office in Dammam."

Bhagavathi Sundaram borrowed heavily from his friends and family to pay close to 150,000 INR to a recruiting agent in Kozhikode in Kerala who promised him a job as a cleaner at a lodge in Saudi Arabia. [141] He was assured a monthly salary of 1,200 riyals (20,000 INR) which was more than twice what he earned as a labourer on the tea plantations in his town. But on his arrival in Ha'il, Bhagavathi was driven straight to the desert to work as a goat herder. His sponsor told him that he would pay only 600 riyals – half of what he had been

promised. However, for the first six months, Bhagavathi was not paid any wages. At the end of six months, he was paid 16,000 riyals (approximately 26,000 INR and 400 USD), half of what his sponsor had promised.

Bhagavathi's passport was confiscated and he was not issued a residence permit. He was instructed not to leave the farm. In the nine months that he lived there, he rarely met other people. When he fell ill and went to a hospital for treatment without asking for permission, he was beaten by his sponsor. Bhagavathi says he worked for 18 hours a day on all seven days of the week. His sponsor rationed his food, and often there was not enough to eat. Bhagavathi was afraid that he if he asked for his residence permit or for his salary, his sponsor would punish him, cut down his food or make him work longer hours.

Bhagavathi ran away from his employer and worked as a tailor for two years to clear his visa debts before handing himself over to authorities.

"I stood on the highway where I could be easily spotted by the authorities. I waited there for (the police) to find me – and for them to enquire about my residence permit. Once the police had arrived, I described (to them) what I had been through. I was taken to a police station and a file was prepared on me. I was asked a few questions including my address and nationality. I was taken to a prison cell and kept there for 15 days."

Bhagavathi was deported to India in 2011.

Obligations of Saudi government

In 2009, Saudi Arabia adopted an Anti-Trafficking in Persons Law that lays down the framework for trafficking in persons, its definition, the offences and penalties for various categories of people and their involvement in the crime and lays down guidelines for the investigation and prosecution of a crime.[142]

Saudi Arabia is a member of the International Labour Organization and by virtue of its membership has to respect fundamental principles and rights of labour. It has ratified six of the eight core ILO conventions that include the Forced Labour Convention 1930 (No.29) and Abolition of Forced Labour Convention, 1957 (No.105) that lay out core labour obligations to end forced labour and protect their rights. Under Article 1 of the ILO Forced Labour Convention 1930 (No. 29) (ratified in 1978), Saudi Arabia is obliged to suppress the use of forced or compulsory labour in all its forms within the shortest possible period.

In the 103rd ILC Session in 2013, the Committee of Experts on the Application of Conventions and Recommendations (CEACR) recommended that the government of Saudi Arabia:

"take the necessary measures to ensure that persons who impose forced or compulsory labour are subject to really adequate and strictly enforced penalties. It requests the Government to provide information on measures taken in this regard, in its next report."[143]

In addition to committing to suppress forced labour more generally, in July 2007, Saudi Arabia signed and ratified the United Nations Convention against Transnational Organized

Crime and its additional protocols which includes the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, signifying its commitment to prevent and combat trafficking in persons, to protect and assist victims of trafficking and enhance close international cooperation between member states to tackle these problems.

Under the Protocol, Saudi Arabia has specific responsibilities including to ensure that trafficking as defined under Article 3(a) of the Protocol is established as a criminal offence under domestic law, to ensure access to justice for victims, establish measures for physical, psychological and social recovery of victims and establish comprehensive policies to prevent and combat trafficking in persons. [144]

8. REMEDY

8.1 SAUDI COURTS

The few migrant workers who tried to access mechanisms of justice in Saudi Arabia said their experiences had been disheartening. Migrant workers said they had to travel to court multiple times, submit summons repeatedly to their sponsors, only to have them not appear for hearing, and face threats and intimidation from their employers. Eventually, all the migrant workers withdrew their complaints, or just gave up, either out of concern for their own well-being, or discouragement by the lengthy and often expensive process.

Abdul Rasheed (featured on Pg. 53 of the report) filed a complaint against his sponsoring employer at a labour court close to Riyadh because he had not been paid for three months of work. Over the course of a year, Abdul Rasheed's date of hearing was postponed approximately nine times because his sponsoring employer would not show up in court, despite receiving summons after each hearing.

The court eventually ruled that Abdul Rasheed should get all that he asked for. However, at this stage, the sponsor appealed the decision before a court of appeals.

Abdul Rasheed told Amnesty International India:

"I did not have a heart problem before I went to Saudi. After these events, I had high blood pressure. The medicines were expensive, and it was becoming difficult to live so far from home."

At the court of appeals, again, the sponsor refused to appear for hearings. After another three hearings at the appeal court, Abdul Rasheed lost hope that he would ever receive his dues and withdrew his complaint. He returned to India with unpaid wages of 8,400 riyals in 2013.

Vijesh Narayanan (featured on Pg.45 and 52 of the report) had a similar experience. Vijesh filed a complaint before a labour court for being made to work on a different job than what he had been promised, and not being paid the wages he had been told he would receive. He told Amnesty International India:

"The case went on for a more than a year. But I did not receive any compensation from the court. At the hearings, my sponsor would not turn up, and the court would give me a paper to give to my sponsor. The same thing... over and over. I would go and submit the document to his office. His office would collect it. But he did not come to court."

Vijesh withdrew his complaint and returned to India in 2013.

8.2 INDIAN MISSION IN SAUDI ARABIA

While none of the migrant workers that Amnesty International India interviewed directly had actually visited the Indian embassy in Riyadh or the Indian consulate in Jeddah to seek assistance, many reported a lack of confidence that the embassy could protect their rights.

Naushad Ali (featured on Pg. 45 of the report) was deceived by a broker in 2011 who promised him work at a good company as a carpenter in Saudi Arabia. He was instead driven to a small contracting business (housed in a shed) in Dammam where his sponsor contracted workers out for various construction jobs. He was not paid for several months, and his sponsor threatened to not return his passport.

"My passport and contract were taken as soon as I got to the airport. When I told him (my sponsor) to give me my passport so I could return home, he said, 'Give me 100,000 riyals and I will.'"

Naushad eventually returned to India by securing assistance from a community-based organization in Saudi Arabia. When asked if he had thought of approaching the Indian embassy, he said:

"There is no point going to the Indian embassy, we won't get any help from there, we shouldn't even expect it."

Santhosh Kumar (featured on Pg. 17) was forced to work for 18 hours a day, was beaten by his employer and was not paid for close to 18 months of work. When asked if he considered approaching the Indian embassy for assistance he said:

"The Indian embassy can't do anything. If you're going to Saudi, go with the thought that you need to protect yourself, don't think that the embassy will come and save you. That's false hope."

Many migrant workers told Amnesty International India that the Indian embassy did not do enough to protect migrant workers. In a response that was typical, Manzoor Ali (featured on Pg.26), employed as a carpenter in Saudi Arabia from 2011 to 2013, said:

"The Indian embassy is not set up to protect us. We (migrant workers) look after ourselves and care for others in trouble, the embassy does nothing."

It must be emphasized that none of the migrant workers interviewed had actually approached the Indian embassy for assistance. Many of the perceptions about the embassy seemed to stem from personal experiences of other migrant workers, or the impressions of other migrant workers in Saudi Arabia.

The Migrant Forum Asia, an NGO which works on migrant rights issues, shares this perception. The organization regularly forwards petitions from migrant workers facing exploitation and abuse in Gulf countries to the Indian embassies and relevant government departments. In 2014, the organization sent at least seven petitions to the Indian embassy in Saudi Arabia.

Hubertson Wilson, who worked as an assistant field coordinator for Migrant Forum Asia from March 2013 to June 2014, described the action taken by the Indian embassy as "lukewarm at best":

"We receive positive action on some cases, but by no means all. Generally, they do not like to hear from social NGOs, so they purposely delay their response and action time."[145]

One of the pending cases with the organization was that of Alfred Jose, whose family had filed a petition to the Indian embassy in Riyadh asking to help rescue him from his employer and provide him legal aid. Alfred, who had worked as a construction worker in Dammam for 15 years, had been recruited for a job in a construction company in 2013. His brother-in-law, David Jacob, told Amnesty International India that Alfred had not been paid for eight months, and had been beaten and repeatedly locked up by his sponsor and manager.[146] He said the ill-treatment was a tactic to extract money. David Jacob said of his experience with the Indian embassy:

"It has been two months. They (the Indian embassy and Alfred) have spoken on the phone five or six times. But no assurances of safety or help are being given by the Indian embassy. Each time that they speak, the embassy asks him only about the problem..."

As of 25 June 2014, Alfred was still in Saudi Arabia and unable to return.

In 2013, the Indian embassy twice rejected requests for information filed by the Migrant Forum Asia about Indian migrant workers who had died in Saudi Arabia whose bodies had not been sent back to India. The embassy said that disclosure of the information:

"would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence."[147]

The Deputy Chief of Mission at the Indian embassy noted that:

"Unfounded statements which cast aspersions on a friendly country which hosts a (sic) 2.8 million Indians would adversely affect the welfare of the Indians in Saudi Arabia, and should be avoided."

8.3 SEEKING REMEDY IN INDIA

All the migrant workers that Amnesty International India interviewed who had faced either exploitation or deception at the stage of recruitment had not made any claims for remedy after their return to India.

Most migrant workers had found their jobs through visa brokers who were related to them, and this discouraged the workers from blaming their brokers. In some cases, workers said that the terms and conditions of the agreement were violated by their sponsors, and the brokers were not to blame.

Viswan Chettiyar (featured earlier on Pg. 34 and 49) said:

"It's not really my uncle's fault. He bought the visa from another set of brokers who knew the Saudi employer. They tricked him."

Gopala Krishnan (featured on Pg.32 and 51) said:

"The sponsor had told the broker that I would get 3,500 riyals a month, he (the sponsor) changed the terms."

The migrant workers interviewed were also highly pessimistic about their chances for remedy if they engaged in the judicial process. Many said they preferred to forget their bad experiences.

Abubaker Rafique (featured on Pg.55) had paid 100,000 INR (1,700 USD) to a recruiting agent to work as a truck driver in Ha'il, Saudi Arabia. Instead, he was made to drive a heavy goods trailer without a drivers' license; his residence permit was not renewed, and he had paid heavy fines and had even been detained for a few days for driving without a license. When asked if he would file a police complaint against the recruiting agent he said:

"What will happen if I file a police complaint? Is there any point to this, will anything happen as a result?"

Bhagavathi Sundaram (featured on Pgs. 27, 48 and 56) had paid 150,000 INR (1,700 USD) to a recruiting agent in Kozhikode for a job as a cleaner in a lodge, but had been put to work as a goat herder and paid a fraction of what he had been promised. He was not provided enough food and was beaten by his employer. Bhagavathi said:

"I went back to the office (recruiting agent) as soon as I returned to India, but it was closed. The agent had shut down. I decided to forget this nightmare."

Migrants were also generally not well-informed about their legal rights, the available enforcement mechanisms, and how to access them. Many migrant workers had not heard of the Ministry of Overseas Indian Affairs or the Protector of Emigrants before their departure.

Sakir Mujeeb had been recruited for a job as a cleaner in Saudi Arabia in 2010. He said that his recruiting agent had deceived him about the hours of work, his wages and the identity of his employer. On his arrival in Saudi Arabia, Sakir was made to sign documents that transferred him to a different company, where he worked for 16 hours a day without being compensated for overtime.

When Amnesty International India asked Sakir if he was considering filing a complaint against the recruiting agent, he said was not sure how to go about it, whom he should approach, what claims he could make against the recruiting agent, and what remedy he could receive.

International obligations of governments of India and Saudi Arabia

The UN Special Rapporteur on Trafficking in Persons has highlighted the importance of the right to effective remedy from victims of trafficking noting that:

"The international community clearly recognizes that trafficked persons, as victims of human rights violations, have the right to adequate and appropriate remedies, which goes beyond the right to the possibility of obtaining compensation."[148]

While most human rights treaties do not explicitly spell out the content of reparations, the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law ("Basic Principles and Guidelines on Remedy and Reparation") elaborate various forms of reparations, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.[149]

The UN International Covenant on Civil and Political Rights (ICCPR) gives particular effect to the general rights of individuals to an effective remedy. Article 2(3) states:

"Each State Party to the present Covenant undertakes:
(a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;
(b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;
(c) To ensure that the competent authorities shall enforce such remedies when granted."

The UN Committee on Economic, Social and Cultural Rights (CESCR), the expert body that monitors the International Covenant on Economic, Social and Cultural Rights (ICESCR), has emphasized:

"The Covenant norms must be recognized in appropriate ways within the domestic legal order, appropriate means of redress, or remedies, must be available to any aggrieved individual or group, and appropriate means of ensuring governmental accountability must be put in place."[150]

It is the responsibility of the Indian government to ensure that recruiters who are engaged in exploitative recruitment practices are identified, investigated, and handed appropriate punishments. Indian laws must improve the accountability of recruitment agencies, provide information about and effective access to remedy, and strengthen enforcement mechanisms under the law.

9. CHALLENGES TO REGULATION

9.1 PROSECUTION OF RECRUITING AGENTS

Recruiting agents agree to be bound by certain terms and conditions when they apply for a registration certificate. These include providing migrant workers with details of employment, endeavouring to ensure that they get a proper reception, that the employer does not change the terms of the contract and acts to renew work and residency documents on time, and facilitating an amicable settlement of disputes between migrant workers and their employers. Certified recruiting agents can have their registration certificates suspended or cancelled if they are found to have violated these terms and conditions.

The Emigration Act also lists certain offences, including overcharging migrant workers and cheating migrant workers, which can be punished with imprisonment for up to two years and a fine of up to 2,000 INR. Under the Indian Penal Code, trafficking of a person is punishable with imprisonment for up to 10 years, and trafficking of a minor or more than one person with imprisonment up to a life term.[151]

Complaints against registered recruiting agents are received by the Ministry of Overseas Indian Affairs and the Protector of Emigrants. The Ministry typically first requires recruitment agents to settle and resolve the dispute. A former Protector of Emigrants in Chennai told Amnesty International India that this means the recruiting agent would need to repatriate the migrant worker. If the agent fails to do so, or provides an inadequate response, the agency's registration certificate is suspended.

In February 2013, the Minister of Overseas Indian Affairs announced that the Ministry had cancelled the licenses of 91 recruitment agents[152] between 2010 and 2012. These cases, he said, had been sent to the concerned state governments for prosecution. In the same period, the Ministry received 624 complaints against recruitment agents.[153]

However, prosecution measures are weak. In June 2008, the Minister of Overseas Indian Affairs pointed out that while the Ministry had referred so many cases to the state authorities to take action, there had not been a single conviction to date.[154]

In June 2013, the Minister of Overseas Indian Affairs reiterated the call to state governments to initiate prosecution proceedings against unscrupulous recruiting agents.[155]

The power differential between migrant workers and recruiting agents makes it difficult for workers who face abuses to secure justice. A report commissioned by the Ministry of Overseas Indian Affairs in 2009 noted:[156]

"Cases initiated at the level of the local police hardly help the victim as RAs would be powerful enough to influence the police machinery. The victim would be made to go through all perils, with the result that often s/he either would not lodge a complaint at all or would give up on it in the midway.""

9.2 PROSECUTION OF VISA BROKERS

Recruitment carried out by anyone without a certificate from the government is punishable with up to two years of imprisonment and a fine of 2,000 INR.

Complaints about unregistered recruiting agents – which would include visa brokers – are forwarded by the Protector of Emigrants to the concerned District Police Chief for registration and investigation.

Sister Valarmathi[157] – the head of an NGO that works for the rights of migrant and domestic workers – said that rogue recruiters often used their influence over the criminal justice system to escape prosecution:

"Sub-agents are usually influential, powerful people in villages and they are able to manipulate the system. They threaten and coerce migrant workers (to prevent them) from pursuing their cases. In many cases, migrants settle for small amounts of compensation."

Between 2011 and 2013, the Protector of Emigrants office in Kochi received 53 complaints against fraudulent recruiters. However, the Protector of Emigrants said that not a single case, has led to a conviction. Describing the challenges, he said the trial process often takes too long.[158]

"This is one case among many others for the police. The police have so many cases to deal with. Unless the case assumes national importance, they feel there is no urgency to deal with it."

D. Jai Sankar, a former, Protector of Emigrants in Chennai said:

"I have not seen a single case in my tenure as Protector of Emigrants in Chennai where an illegal recruitment agent has been convicted. In one case, after filing the first FIR, the first hearing came after 16 months. I have filed 12-13 FIRs like this. This is the problem with our system."[159]

Jai Sankar said that the Protector of Emigrants Office did not have the manpower capacity and even the skills sometimes to follow up on cases that they had received.

9.3 PROTECTOR OF EMIGRANTS OFFICE

The Emigration Act, 1983, set up Protector of Emigrants (PoE) Offices responsible for the protection of the interests of overseas migrant workers.[160] In 10 cities across the country, the PoE is meant to protect, aid and advise all migrants. Further, the office is in charge of enquiring about the living and working conditions of migrant workers in destination countries, and the treatment they receive on onward and return journeys, and submitting reports on the same to the Protector General of Emigrants (PGE). The PoE is supposed to act in coordination with the local police and authorities in the ports of embarkation and aid and advise returnee migrant workers.[161]The PoE can conduct physical inspections at recruiting agent offices to monitor and oversee the migration process.

Photo 7: Protector of Emigrants Office in Kochi, Kerala. © Amnesty International India

In reality, however, the PoE office plays a far more limited role, confining itself to the granting of emigration clearances and the perfunctory supervision of recruitment agents.[162] D. Jai Sankar, who served as Protector of Emigrants in Chennai from 2009 to 2013, told Amnesty International India that his office had only seven to eight staff members, who dealt with a range of daily administrative functions, and lacked the institutional capacity to regulate the 150-odd recruitment agents the office was expected to supervise. He said the office typically acted only on complaints received.[163] He said that during his tenure, he had to recruit four or five personnel and train them to take up specific roles.

D. Jai Sankar emphasized that there was a need for significant reform in the recruitment system, including setting up a dedicated police unit to strengthen the PoE's investigative and prosecution capacity, informing and engaging prospective migrants with pre-departure information, and establishing a grievance and enforcement cell in the PoE Office.

Amnesty International India also interviewed L. Adolphus, the Protector of Emigrants in Kochi, who supervises 152 registered recruitment agents across 11 districts in Kerala. He admitted that it was practically impossible to regulate each recruitment agent through physical inspections, as he was the only officer authorized to conduct these checks. He said the problem was the same in other offices:

"I have 11 districts in Kerala under my jurisdiction. The Protector of Emigrants in Chennai has to cover the states of Tamil Nadu and Karnataka. In Kolkata he has to cover the entire North East. It is physically impossible to inspect the offices of recruitment agencies. What we

generally do is, whenever there is a renewal of license, we have a checklist for recruitment agencies. With that checklist we go to the recruiting agent to see if the documents needed are complied with."

L. Adolphus said that he was also the only person authorized to sign emigration clearance documents, so it was nearly impossible for him to leave the office to conduct surprise checks on recruitment agencies.[164]

10. CONCLUSION AND RECOMMENDATIONS

The Government of India has failed to meet its international obligations to protect the rights of migrant workers and prevent trafficking and forced labour. It has not adequately regulated and monitored recruitment agents and brokers who deceive migrant workers and abuse their rights. It has also not properly informed migrant workers about their rights prior to their departure.

The government of Saudi Arabia has also failed to enforce domestic legislation which could have protected migrant workers from trafficking, exploitation and forced labour, and provided some effective remedy in cases of abuse. The use of the kafala system has facilitated exploitation and abuse.

Recommendations to the Government of India

- Ratify and fully implement the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

- Draw up bilateral agreements with the government of Saudi Arabia to set up appropriate mechanisms to protect the rights and ensure the welfare of migrant workers not employed in the domestic sector.

- In collaboration with the respective ministries, including the Ministry of External Affairs and Ministry of Overseas Affairs, set up migrant worker welfare centres at all Indian international airports to provide key information to prospective and returnee migrants, including details of labour laws, contact numbers for emergency assistance, access to labour welfare departments and assistance in seeking remedy on return.

- Increase the scope of governmental support and assistance provided to irregular migrant workers in Saudi Arabia, including conducting periodic inspections of employment and residency documents, and providing assistance to migrant workers with expired documents.

Amnesty International India urges the Ministry of Overseas Indian Affairs to:

- Establish an independent body to carry out prompt, comprehensive and impartial investigations into the allegations of abuse revealed in this report.

- Invite comments and recommendations from relevant government stakeholders including civil society organizations, academics and trade unions to draft a new emigration law to replace the Emigration Act, 1983. This law must be consistent with international human rights standards and aligned with progressive emigration management systems.

- Ensure that all migrant workers, regardless of how they emigrated, have access to a transparent and effective complaints mechanism through which they or their families can seek redress if they were subjected to human rights abuses.

- Consider alternate regulatory measures to recognise and regulate visa brokers including:

  - Providing clear terms of reference by which visa brokers may be tied to recruiting agents.

  - Informing brokers about their legal obligations and duties and the human rights of migrant workers.

  - Issuing short-term and individual licenses to visa brokers to conduct recruitment in collaboration with recruiting agents and renewing licenses based on their record.

  - Emphasizing to recruiting agents that the onus is on them to conduct due diligence on the prospective work conditions promised by visa brokers tied to them.

- Expand the outreach of the pre-departure orientation and support programmes provided by the Government of India and the state of Kerala, including through the Overseas Workers Resource Centre, the Non Resident Keralite Affairs Department (NORKA) and the Migrants Resource Centre (MRC).

- Abolish the ECR/ECNR category and replace it with a transparent mechanism to register all migrant workers that travel abroad for work.

- Enhance the process of granting emigration clearances by PoEs, including through speedy implementation of the e-migrate model.

- Enforce greater regulation of recruiting agents by setting up a separate department under the Protector of Emigrants to conduct timely and surprise checks and reviews. Provide the department with the necessary logistical and financial support and assistance to undertake their duties.

- Improve access to remedy by setting up a separate department with enforcement powers under the Protector of Emigrants to investigate complaints of exploitation or other abuses by recruiters. The department must provide access to legal aid, information, translation services and other assistance where necessary.

- Suspend the provisions of the wakala-based recruitment and ensure that recruitment takes place under the aegis of the Emigration Act, 1983, failing which:

  - Emphasize in a notification to all recruitment companies in India that recruitment companies involved in the wakala process shall bear full responsibility and are accountable for the protection and welfare of migrant workers in Saudi Arabia, and can be investigated and prosecuted if they are accused of forced labour, human trafficking or other human rights abuses.

Recommendations to the government of Kerala

- Establish 'safe migration cells' in key migration districts in Kerala to inform and engage prospective migrant workers about the emigration process, employment contracts, their rights under law, and other important information to protect them from exploitation and abuse.

- Expand the outreach and access of the pre-departure orientation and support programmes provided by the state of Kerala through the Non Resident Keralite Affairs Department (NORKA).

- Provide all returnee migrant workers, without delay, reparation including rehabilitation and compensation measures guaranteed by the state government of Kerala

Recommendations to the government of Saudi Arabia:

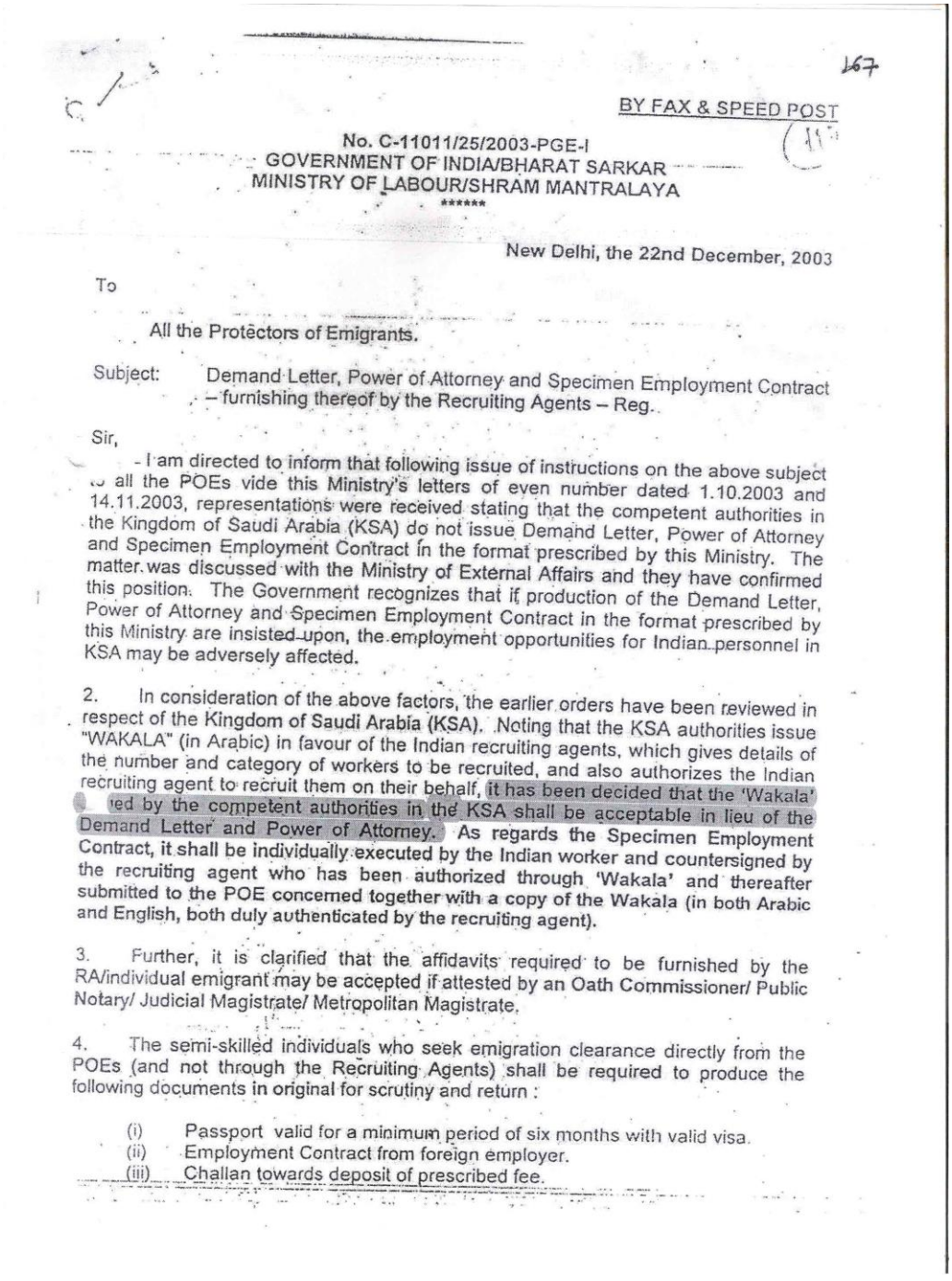
- Sign and ratify without reservations the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

- Sign and ratify without reservations the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

- Fundamentally reform the kafala system and remove the requirement for migrant workers to obtain the permission of their employer to move jobs or leave the country.

- Reform national labour laws to ensure that migrant workers have adequate protection against abuses by employers and the state.

APPENDIX I: AUTHORIZING 'WAKALA' RECRUITMENT



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BY FAX & SPEED POST

No. C-11011/25/2003-PGE-I
GOVERNMENT OF INDIA/BHARAT SARKAR
MINISTRY OF LABOUR/SHRAM MANTRALAYA
******

New Delhi, the 22nd December, 2003

To

All the Protectors of Emigrants.

Subject: Demand Letter, Power of Attorney and Specimen Employment Contract – furnishing thereof by the Recruiting Agents – Reg.

Sir,

I am directed to inform that following issue of instructions on the above subject to all the POEs vide this Ministry's letters of even number dated 1.10.2003 and 14.11.2003, representations were received stating that the competent authorities in the Kingdom of Saudi Arabia (KSA) do not issue Demand Letter, Power of Attorney and Specimen Employment Contract in the format prescribed by this Ministry. The matter was discussed with the Ministry of External Affairs and they have confirmed this position. The Government recognizes that if production of the Demand Letter, Power of Attorney and Specimen Employment Contract in the format prescribed by this Ministry are insisted upon, the employment opportunities for Indian personnel in KSA may be adversely affected.

2. In consideration of the above factors, the earlier orders have been reviewed in respect of the Kingdom of Saudi Arabia (KSA). Noting that the KSA authorities issue "WAKALA" (in Arabic) in favour of the Indian recruiting agents, which gives details of the number and category of workers to be recruited, and also authorizes the Indian recruiting agent to recruit them on their behalf, it has been decided that the 'Wakala' issued by the competent authorities in the KSA shall be acceptable in lieu of the Demand Letter and Power of Attorney. As regards the Specimen Employment Contract, it shall be individually executed by the Indian worker and countersigned by the recruiting agent who has been authorized through 'Wakala' and thereafter submitted to the POE concerned together with a copy of the Wakala (in both Arabic and English, both duly authenticated by the recruiting agent).

3. Further, it is clarified that the affidavits required to be furnished by the RA/individual emigrant may be accepted if attested by an Oath Commissioner/ Public Notary/ Judicial Magistrate/ Metropolitan Magistrate.

4. The semi-skilled individuals who seek emigration clearance directly from the POEs (and not through the Recruiting Agents) shall be required to produce the following documents in original for scrutiny and return :

(i) Passport valid for a minimum period of six months with valid visa.
(ii) Employment Contract from foreign employer.
(iii) Challan towards deposit of prescribed fee.

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(iv) Challan towards deposit of one way economy class fare or Insurance policy as per Scheme notified on 13.11.2003 by the Ministry of Labour.

5. The unskilled workers and women seeking employment abroad as housemaids/ domestic workers shall continue to furnish (in original) the following documents at the time of obtaining emigration clearance from the POEs:-

(i) Passport valid for a minimum period of six months with valid Visa.

(ii) Work agreement from the foreign employer duly attested by the Indian Mission.

OR

Permission letter from the concerned Indian Mission/Post.

(iii) Challan towards deposit of prescribed fee.

(iv) Challan towards deposit of one way economy class fare or Insurance policy as per Scheme notified on 13.11.2003 by the Ministry of Labour.

The POEs shall return the original documents after scrutiny and retain a copy each for their office record.

6. Kindly give wide publicity to these instructions.

7. Kindly acknowledge receipt.

Yours faithfully

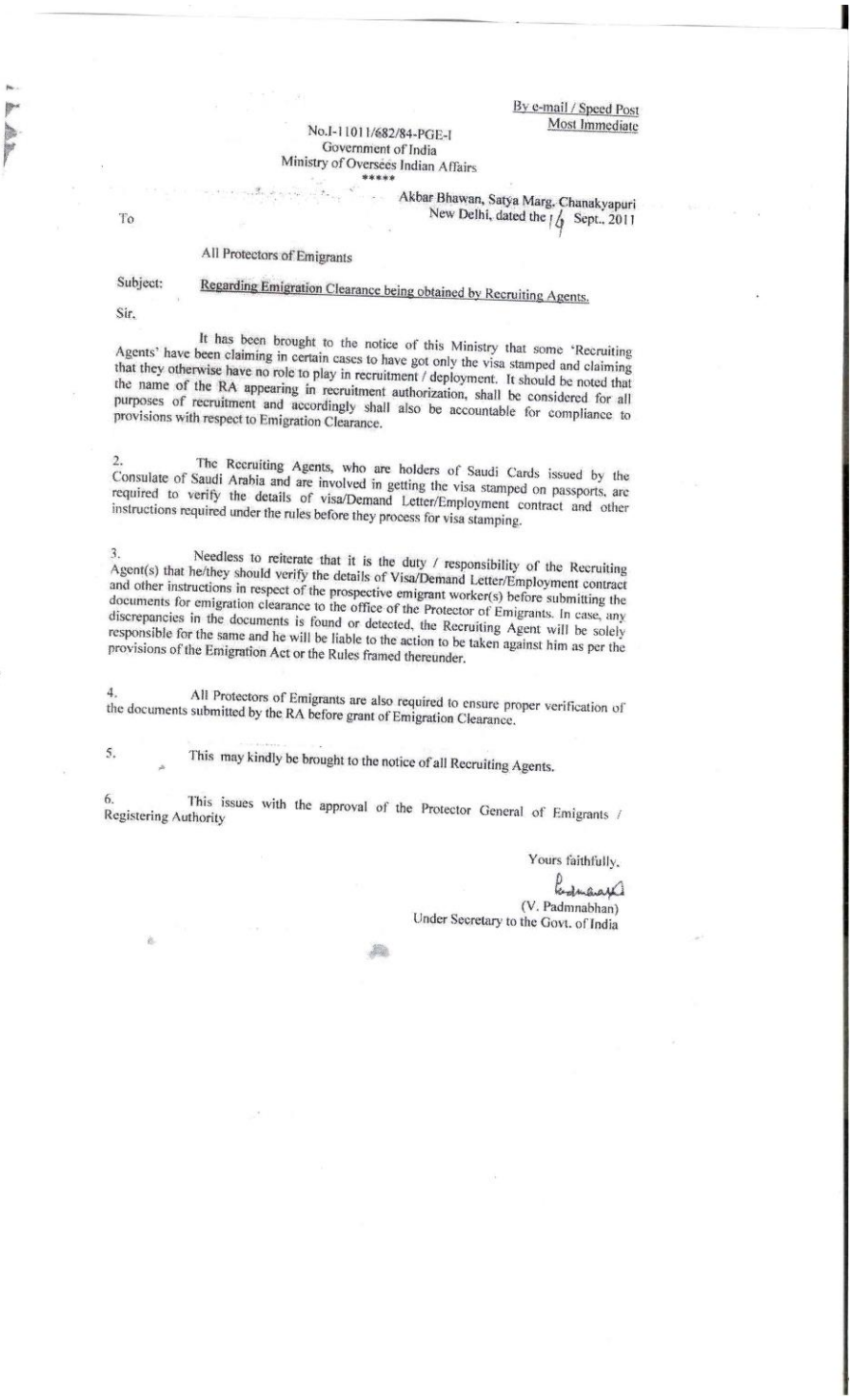
(A.A. CHALAI
Under Secretary to the Govt. of India

Copy to :

(1) JS(CPV), Ministry of External Affairs, New Delhi.

(2) JS(Gulf & Haj), Ministry of External Affairs, New Delhi.

APPENDIX II: EMIGRATION CLEARANCE AND VISA STAMPING



By e-mail / Speed Post
Most Immediate

No.I-11011/682/84-PGE-I
Government of India
Ministry of Oversees Indian Affairs
*****

Akbar Bhawan, Satya Marg, Chanakyapuri
New Delhi, dated the 16 Sept., 2011

To

All Protectors of Emigrants

Subject: Regarding Emigration Clearance being obtained by Recruiting Agents.

Sir,

It has been brought to the notice of this Ministry that some 'Recruiting Agents' have been claiming in certain cases to have got only the visa stamped and claiming that they otherwise have no role to play in recruitment / deployment. It should be noted that the name of the RA appearing in recruitment authorization, shall be considered for all purposes of recruitment and accordingly shall also be accountable for compliance to provisions with respect to Emigration Clearance.

2. The Recruiting Agents, who are holders of Saudi Cards issued by the Consulate of Saudi Arabia and are involved in getting the visa stamped on passports, are required to verify the details of visa/Demand Letter/Employment contract and other instructions required under the rules before they process for visa stamping.

3. Needless to reiterate that it is the duty / responsibility of the Recruiting Agent(s) that he/they should verify the details of Visa/Demand Letter/Employment contract and other instructions in respect of the prospective emigrant worker(s) before submitting the documents for emigration clearance to the office of the Protector of Emigrants. In case, any discrepancies in the documents is found or detected, the Recruiting Agent will be solely responsible for the same and he will be liable to the action to be taken against him as per the provisions of the Emigration Act or the Rules framed thereunder.

4. All Protectors of Emigrants are also required to ensure proper verification of the documents submitted by the RA before grant of Emigration Clearance.

5. This may kindly be brought to the notice of all Recruiting Agents.

6. This issues with the approval of the Protector General of Emigrants / Registering Authority

Yours faithfully,

(V. Padmnabhan)
Under Secretary to the Govt. of India

ENDNOTES

[1] S. Irudaya Rajan and K.C Zachariah, *Kerala's Gulf Connection 1998 – 2011 Economic and Social Impact of Migration*, Orient Blackswan, 2012, p. 12, para. 2.

[2]Government of India, Ministry of Overseas Indian Affairs, "Annual Report 2012 – 2013" *Annual Labour Outflow from India Destination Wise from 2008 – 2012*, p. 53. (http://moia.gov.in/writereaddata/pdf/Annual_Report_2012-2013.pdf).

[3]World Bank Migration and Remittances Data, Bilateral Remittance Matrix 2012. (http://econ.worldbank.org/WBSITE/EXTERNAL/EXTDEC/EXTDECPROSPECTS/0,,contentMDK:22759429~pagePK:64165401~piPK:64165026~theSitePK:476883,00.html#Remittances).

[4]S. Irudaya Rajan and K.C Zachariah, "Inflexion in Kerala's Gulf Connection", *Report on Kerala Migration Survey 2011*, September 2012, p. 7. (http://www.cds.edu/wp-content/uploads/2012/11/WP450.pdf).

[5]Calculated based on the difference between the total population of Saudi Arabia and the number of Saudi nationals, Central Department of Statistics and Information, Saudi Arabia. (http://www.cdsi.gov.sa/english/index.php).

[6]A sponsorship system present in six Gulf countries (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates) – with notable variations in its form – which regulates the recruitment and employment of migrant workers. Under the kafala system, every migrant worker must have a specific job and a sponsoring employer under whom she works — neither of which can be changed easily.

[7] ILO, The Cost of Coercion, Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, 2009, p. 6, para. 25. (www.ilo.org/wcmsp5/groups/public/@ed_norm/.../wcms_106387.pdf).

[8] S. Huda, Report of the Special Rapporteur on the human rights aspects of the victims of trafficking in persons, especially women and children: Mission to Lebanon, E/CN.4/2006/62/Add. 3, 20 Feb. 2006, p. 9.

[9]Observation (CEACR) – Saudi Arabia adopted 2009, published 99th ILC session (2010) Forced Labour Convention, 1930 (No. 29). (http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:2309889).

[10] The Act also allows for recruitment through registered project exporters and employers with permits.

[11]S Irudaya Rajan, V J Varghese & M S Jayakumar, "Chapter Two", *Beyond the existing structures: Revamping overseas recruitment system in India* (Submitted to Ministry of Overseas Indian Affairs), Research Unit on International Migration, CDS Trivandrum, 2009, p. 29. (http://www.cds.edu/wp-content/uploads/2012/09/MOIA-CDS-Final-Report-June-2009.pdf).

[12]Joy Ezeilo, Trafficking in Persons, especially Women and Children, A/65/288, 9 August 2010, (http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/483/11/PDF/N1048311.pdf?OpenElement).

[13] Ministry of Overseas Indian Affairs, Chapter VII, Information dissemination on Legal Migration, Annual Report 2012 – 2013, p. 26. (http://moia.gov.in/writereaddata/pdf/Annual_Report_2012-2013.pdf) .

[14]Report of the Special Rapporteur on trafficking in persons, especially women and children, 13 April 2011, A/HRC/17/35, para. 16

[15]Interview with Amnesty International India in Chennai on 12 June 2014

[16]Interviews with NGOs in India and Saudi Arabia and the Kerala government database of Nitaqat returnees suggest that the majority of migrant workers impacted by the Nitaqat programme were men.

[17]*Be Aware: Focus on Kingdom of Saudi Arabia*, DLA Piper, June 2012. (http://www.dlapiper.com/~/media/Files/Insights/Publications/2012/06/Focus%20on%20Kingdom%20of%20Saudi%20Arabia/Files/Be_Aware_Middle_East_June_2012/FileAttachment/Be_Aware_Middle_East_June_2012.pdf).

[18]Central Department of Statistics and Information: Analysis on statistics of Labour Force and Unemployment Rates. (http://www.cdsi.gov.sa/english/index.php?option=com_docman&task=cat_view&gid=85&Itemid=162).

[19]Saudi government fired 7,500 foreign workers, deported 1 million illegals in 2013, *World Tribune.com*, 22 December 2013 (http://www.worldtribune.com/2013/12/22/saudi-government-fired-7500-foreign-workers-deported-1-million-illegals-in-2013/).

[20]Saudi Arabia still offers lot of opportunities for Indians: Interview with India's consul general of Jeddah, Rediff.com, 27 November 2013 (http://www.rediff.com/business/report/interview-saudi-arabia-still-offers-lot-of-opportunities-for-indians/20131127.htm).

[21]Interview with Amnesty International India in Idukki, Kerala, on 1 March 2014.

[22]Article 98 of the Saudi Labour Law states: "A worker may not actually work for more than eight hours a day if the employer uses the daily work criterion, or more than 48 hours a week if he uses the weekly criterion. During the month of Ramadan, the actual working hours for Muslims shall be reduced to a maximum of six hours a day or 36 hours a week."

[23]Articles 6 and 7 of the ICESCR.

[24] Committee on Economic, Social and Cultural Rights, General Comment No. 18, Article 6: the equal right of men and women to the enjoyment of all economic, social and cultural rights, U.N. Doc. E/C.12/GC/18, 24 November 2005, para. 22 (http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G06/403/13/PDF/G0640313.pdf?OpenElement) .

[25] Committee on Economic, Social and Cultural Rights, General Comment No. 18, para. 25.

[26]Article 8(3) of the ICCPR.

[27]See for example: Concluding Observations on: Thailand, UN Doc. CCPR/CO/84/THA, 8 July 2005, para.20 (http://www.refworld.org/docid/43f2ff76a.html); Bosnia and Herzegovina, UN Doc. CCPR/C/BIH/CO/1, 22 November 2006, para.16. (http://www1.umn.edu/humanrts/hrcommittee/Bosnia2006.html).

[28] ILO Forced Labour Convention, 1930 (No. 29). (http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_ILO_CODE:C029)

[29] ILO, *A Global Alliance against Forced Labour*, 2005, p. 5-6 (http://www.ilo.org/public/english/standards/relm/ilc/ilc93/pdf/rep-i-b.pdf.).

[30]Under Article 3(a) "Trafficking in persons" is defined as "the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the

prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs."

[31] S. Huda: Report of the Special Rapporteur on the human rights aspects of the victims of trafficking in persons, especially women and children: Mission to Lebanon, E/CN.4/2006/62/Add. 3, 20 Feb. 2006, p. 9.

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[33] Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, UN Doc. A/HRC/15/20, 18 June 2010, para. 60.

[34]Article 2 and 3 of ILO Migration for Employment Convention (Revised), 1949 (No. 97). (http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312242).

[35]Article 8 and 10 of the ILO Private Employment Agencies Convention, 1997 (No. 181) (http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C181).

[36]Article 3 of the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143). (http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_ILO_CODE:C143).

[37]These include Migration for Employment Recommendation 1939 (No. 61); Migration for Employment (Co-operation between States) Recommendation 1939 (No. 62); Migration for Employment (Revised) Recommendation 1949 (No. 86); Protection of Migrant Workers (Underdeveloped Countries) Recommendation 1955 (No.100) and Migrant Workers Recommendation 1975 (No. 151)

[38]Office of the High Commissioner for Human Rights, Recommended Principles and Guidelines on Human Rights and Human Trafficking, p. 1. (http://www.ohchr.org/Documents/Publications/Traffickingen.pdf).

[39]Section 370 of the Indian Penal Code reads: (*1*) Whoever, for the purpose of exploitation, (*a*) recruits, (*b*) transports, (*c*) harbours, (*d*) transfers, or (*e*) receives, a person or persons, by—

First. – using threats, or

Secondly. – using force, or any other form of coercion, or

Thirdly. – by abduction, or

Fourthly.– by practising fraud, or deception, or

Fifthly.— by abuse of power, or

Sixthly.—by inducement including the giving or receiving of payments or benefits, in order to achieve the consent of any person having control over the person recruited, transported, harboured, transferred or received, commits the offence of trafficking.

[40]Section 370 of the Indian Penal Code. The section was introduced in 2013.

[41]Prior to the Emigration Act, there existed other laws that only nominally monitored the movement of Indian workers to foreign countries. The labour boom in the Persian Gulf in the 1970s and reports of the thriving fraudulence and exploitative practices of brokers and recruiting agents eventually led to the enactment of a legislation to regulate the recruitment of Indian workers. See Chapter 2, Research Unit on International Migration: *Beyond the existing structures: Revamping overseas recruitment system in*

India, Submitted to Ministry of Overseas Indian Affairs, p. 19 (http://www.cds.edu/wp-content/uploads/2012/09/MOIA-CDS-Final-Report-June-2009.pdf).

[42]See Emigration Act and Rules. (http://moia.gov.in/writereaddata/pdf/emig_act.pdf).

[43]Interview with Amnesty International India in Malappuram, Kerala, on 21 June 2013.

[44]Interview with Amnesty International India in Kochi, Kerala, on 20 February 2014.

[45] Interview with Amnesty International India in Palakkad, Kerala on 7 June 2013.

[46]See for example: World Bank, Migration and Remittances Factbook 2011, p. 6 (http://siteresources.worldbank.org/INTLAC/Resources/Factbook2011-Ebook.pdf).

[47]Lok Sabha, Ministry of Overseas Indian Affairs, starred question No 193. Answered on 18 December 2013. (http://164.100.47.132/lssnew/psearch/QResult15.aspx?qref=148181)

[48]Kerala unemployment rate falls, but still highest among larger states: Economic Review, *India Today*, 23 January 2014. (http://indiatoday.intoday.in/story/kerala-leads-in-unemployment-60-percent-of-them-are-women-says-state-economic-review/1/339218.html).

[49]K. C. Zachariah and S. Irudaya Rajan: *From Kerala to Kerala via the Gulf, Emigration Experiences of Return emigrants*, Migration Monitoring Survey 2008, March 2011. (http://opendocs.ids.ac.uk/opendocs/bitstream/handle/123456789/3172/wp443.pdf?sequence=1).

[50]Interview with Amnesty International India in Malappuram, Kerala, on 11 February 2014.

[51]Interview with Amnesty International India in Wayanad on, Kerala, 1 July 2013.

[52]Interview with Amnesty International India in Kannur, Kerala, on 30 June 2013.

[53]Interview with Amnesty International India in Kozhikode, Kerala, on 26 February 2014.

[54]Interview with Amnesty International India in Malappuram, Kerala, on 15 June 2013.

[55]Interview with Amnesty International India in Palakkad, Kerala, on 12 June 2013.

[56] The Act also allows for recruitment through registered project exporters and employers with permits.

[57]Section 10(1)(viii) of the Emigration Rules, 1983.

[58]Section 24 of the Emigration act states that illegal recruitment is punishable with a sentence that could extend to two years and a fine of 2000 INR.

[59] Phone Interview with Amnesty International India on 11 February 2014.

[60]Emigration Act, 1983 and Rules: Rule 10, (http://moia.gov.in/writereaddata/pdf/emig_act.pdf).

[61]Interview with Amnesty International India in Thrissur, Kerala, on 22 September 2013.

[62]Interview with Amnesty International India in Wayanad, Kerala, on 1 July 2013

[63] Steffen Hertog, "Eluding the "Saudization of Labor Markets", *Princes, Brokers, and Bureaucrats: Oil and the State in Saudi Arabia*, Cornell University Press, Ithaca, 2011.

[64]Art. 38 of the Saudi Labour law states that "An employer may not employ the worker in a profession other than the one specified in his work permit. Before following the legal procedures for changing the profession, a worker is prohibited to engage in a profession other than his. Art. 39 states (1) "Unless he has followed the stipulated legal rules and procedures, an employer may not allow his worker to work for others, and a worker may not work for other employers. Similarly, an employer may not employ workers of

other employers. (2) An employer may not allow a worker to work for his own account and a worker may not work for his own account. (http://www.sagia.gov.sa/Documents/Laws/labor_law_en.pdf).

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[66]Interview with Amnesty International India in Kozhikode, Kerala, on 7 February 2014.

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[70]S Irudaya Rajan, V J Varghese & M S Jayakumar, "Chapter Three", *Beyond the existing structures: Revamping overseas recruitment system in India* (Submitted to Ministry of Overseas Indian Affairs), Research Unit on International Migration, CDS Trivandrum, 2009, p. 29. (http://www.cds.edu/wp-content/uploads/2012/09/MOIA-CDS-Final-Report-June-2009.pdf).

[71]Interview with Amnesty International India in Wayanad, Kerala, 1 July 2014.

[72]Interview with Amnesty International India in Palakkad, Kerala, 27 February 2014.

[73]Interview with Amnesty International India in Palakkad, Kerala, 3 July 2013.

[74]The per capita net national income during 2012-13 was Rs. 68,757 (http://mospi.nic.in/mospi_new/upload/nad_pr_31may13.pdf)

[75]Interview with Amnesty International India in Malappuram, Kerala, on 29 June 2013.

[76]Interview with Amnesty International India in Palakkad, Kerala, on 12 June 2013.

[77] Interview with Amnesty International India in Wayanad, Kerala, on 1 July 2013

[78]Interview with Amnesty International India in Malappuram, Kerala, 27 June 2013

[79] Interview with Amnesty International India in Wayanad, Kerala, on 1 July 2013.

[80] Interview with Amnesty International India in Palakkad, Kerala, on 24 February 2014.

[81] Interview with Amnesty International India in Kozhikode, Kerala on 23 February 2013

[82] Ministry of Overseas Indian Affairs, Protector General of Emigrants, Annual Report 2012 – 2013, p. 32 (http://moia.gov.in/writereaddata/pdf/Annual_Report_2012-2013.pdf).

[83] Information based on multiple interviews with recruitment agencies in Kozhikode District of Kerala in January 2014.

[84]Rule 10, Emigration Rules 2009 Amended. (http://moia.gov.in/writereaddata/pdf/gazettenotification_eng.pdf).

[85]Interview with Amnesty International India in Kozhikode, Kerala on 23 February 2014

[86] Interview with Amnesty International India in Kozhikode, Kerala on 23 February 2014.

[87] Enjaz Information Technology (https://enjazit.com.sa/)

[88]Interview with Amnesty International India in Kochi, Kerala on 21 February 2014

[89] Interview with Amnesty International India in Chennai, Tamil Nadu on 12 June 2014.

[90]Interview with Amnesty International India in Kochi, Kerala on 28 February 2014

[91]Interview with Amnesty International India on 8 October 2013

[92]See for example: Ravi calls for prosecution of unscrupulous agents, *The Hindu*, 6 April 2013. (http://www.thehindu.com/todays-paper/tp-national/ravi-calls-for-prosecution-of-unscrupulous-agents/article4587264.ece)

[93]Interview with Amnesty International India in Malappuram, Kerala, June 2013.

[94] Ministry of Overseas Indian Affairs, Chapter VII, Information dissemination on Legal Migration, Annual Report 2012 – 2013, p. 26 (http://moia.gov.in/writereaddata/pdf/Annual_Report_2012-2013.pdf).

[95]International Labour Organization (ILO): A global alliance against forced labour, Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work. 2005. P.48 225. (http://www.ilo.org/public/english/standards/relm/ilc/ilc93/pdf/rep-i-b.pdf).

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[98]Joy Ezeilo, Trafficking in persons, especially women and children, A/65/288, 9 August 2010 (http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/483/11/PDF/N1048311.pdf?OpenElement).

[99]Section 27, Foreign Employment Act 2064 (2007) (http://ceslam.org/images/publication/foreign%20employment%20act%202064%202007.pdf)

[100] Section 14, Migrant Workers and Overseas Filipinos Act of 1995 (http://www.poea.gov.ph/rules/ra8042.html)

[101] Available at (http://norkaroots.net/PDOProg.htm)

[102]MOIA Annual Report 2012 – 2013. p. 26. (http://moia.gov.in/writereaddata/pdf/Annual_Report_2012-2013.pdf)

[103]Interview with Amnesty International India, Kochi, Kerala, 21 February 2014.

[104]Interview with Amnesty International India, 4 October 2013

[105]Interview with Amnesty International India, Trivandrum, Kerala, 18 February 2014

[106]Interview with Amnesty International India, Wayanad, Kerala, 1 July 2014.

[107] The Cost of Coercion, Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, ILO, 2009, p. 6, para. 25 (www.ilo.org/wcmsp5/groups/public/@ed_norm/.../wcms_106387.pdf)

[108] Hélène Harroff-Tavel and Alix Nasri, *Tricked and Trapped, Human Trafficking in the Middle East*, ILO, 2013, p. 14. (http://www.ilo.org/wcmsp5/groups/public/---arabstates/---robeirut/documents/publication/wcms_211214.pdf)

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[110]Interview with Amnesty International India in Kollam, Kerala, 16 February 2014

[111] Interview with Amnesty International India in Kollam, Kerala, 16 February 2014.

[112]Interview with Amnesty International India in Trivandrum on 25 February 2014.

[113] Labour law, Royal Decree No. M/51, 2006.
(http://www.sagia.gov.sa/Documents/Laws/labor_law_en.pdf)

[114]Interview with Amnesty International India in Kozhikode, Kerala, 18 February 2014.

[115] Interview with Amnesty International India in Trivandrum, Kerala, 1 March 2014

[116]Interview with Amnesty International India in Palakkad, Kerala, June 2013.

[117]Interview with Amnesty International India in Wayanad, Kerala July 2013.

[118] ILO ratifications by Saudi Arabia.
(http://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:103208)

[119]Council of Ministers Decision No. 166 of 12/7/1421 AH (2000).

[120]ILO, Observation (CEACR), Convention No. 29 Saudi Arabia 2009.
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[121]Yakin Ertürk, Report of the Special Rapporteur on violence against Women, its causes and consequences, addendum: Mission to Saudi Arabia,14 April 2009 A/HRC/11/6/Add.3, p. 16
(http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/128/22/PDF/G0912822.pdf?OpenElement).

[122]The Cost of Coercion, Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, International Labour Conference 98th session, ILO, 2009
(http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@relconf/documents/meetingdocument/wcms_106230.pdf).

[123]To avoid being fined, detained, arrested and possibly deported during surprise checks by Saudi authorities, migrant workers had run away, escaped through back doors, jumped over walls, hid in sheds on construction sites and stayed in their rooms for months on end.

[124]Interview with Amnesty International India in Trivandrum on 16 February 2014.

[125]Interview with Amnesty International India in Palakkad on 27 February 2014.

[126] MOL: Half a million huroob cases reported last year, *Saudi Gazette*, March 10 2014.
(http://www.saudigazette.com.sa/index.cfm/myfiles/Images/2012/05/19/index.cfm?method=home.regcon&contentid=20140311198230).

[127] Saudi Arabia abolishes "Huroob" Status, *Migrant-Rights.org*, 14 May 2013. (http://www.migrant-rights.org/research/saudi-arabia-abolishes-huroob-status/).

[128] Interview with Amnesty International India in Trivandrum on 18 February 2014.

[129] Interview with Amnesty International India in Kozhikode on 26 February 2014.

[130]Interview with Amnesty International India in Palakkad on 27 February 2014.

[131]Art 40 of the Saudi Labour law states that, "An employer shall incur the fees pertaining to recruitment of non-Saudi workers, the fees of the residence permit (Iqama) and work permit together with their renewal and the fines resulting from their delay, as well as the fees pertaining to change of profession, exit and re-entry visas and return tickets to the worker's home country at the end of the relation between the two parties (http://www.sagia.gov.sa/Documents/Laws/labor_law_en.pdf).

[132] Interview with Amnesty International India in Palakkad, Kerala, in June 2013

[133] Interview with Amnesty International India in Palakkad, Kerala in June 2013

[134] Interview with Amnesty International India in Palakkad, Kerala in June 2013

[135]Interview with Amnesty International India in Malappuram, Kerala, in September 2013.

[136]General Comments Adopted By The Human Rights Committee Under Article 40, Paragraph 4, of the International Covenant On Civil And Political Rights (http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/6c76e1b8ee1710e380256824005a10a9?Opendocument).

[137] François Crépeau, Report of the Special Rapporteur on the human rights of migrants: Mission to Qatar, A/HRC/26/35/Add.1, p. 8. (http://www.ohchr.org/Documents/Issues/SRMigrants/A-HRC-26-35-Add1_en.pdf).

[138] Article 5, International Convention on the Elimination of All Forms of Racial Discrimination. (http://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx)

[139] Article 21, Arab Charter on Human Rights. (http://www1.umn.edu/humanrts/instree/arabhrcharter.html)

[140] Interview with Amnesty International India in Kozhikode, Kerala on 28 February 2014.

[141]Interview with Amnesty International India in Wayanad, Kerala on 1 July 2013.

[142] Anti-Trafficking in Persons Law (http://www.gulfmigration.eu/database/legal_module/Saudi%20Arabi/National%20Legal%20Framework/Anti-trafficking/1.2%20Anti-Trafficking%20in%20Persons%20Law_EN.pdf)

[143]Observation (CEACR) - adopted 2013, published 103rd ILC session (2014). (http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3145835:NO)

[144]Under Article 3(a) "Trafficking in persons" is defined as "the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of aperson having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;".

[145] Telephone interview with Amnesty International India, 24 June 2014

[146] Telephone interview with Amnesty International India, 24 June 2014.

[147]8 1 (a) of the RTI Act states that the "information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence."

[148]Report of the Special Rapporteur on trafficking in persons, especially women and children, 13 April 2011, A/HRC/17/35, para. 16.

[149] Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law. (http://www.ohchr.org/EN/ProfessionalInterest/Pages/RemedyAndReparation.aspx)

[150] Committee on Economic, Social and Cultural Rights,General Comment 9: The domestic application of the Covenant, UN Doc E/C.12/1998/24, 3 December 1998, para 2

[152] This is approximately six per cent of all recruitment agents registered under the Ministry in 2012-2013

[153]See for example: Licences of 91 recruitment agents cancelled: Ravi, *The Economic Times*, 27 February 2014 (http://articles.economictimes.indiatimes.com/2013-02-27/news/37330903_1_recruitment-agents-licences-emigration).

[154]S Irudaya Rajan, V J Varghese & M S Jayakumar, "Chapter Four", *Beyond the existing structures: Revamping overseas recruitment system in India* (Submitted to Ministry of Overseas Indian Affairs), Research Unit on International Migration, CDS Trivandrum, 2009, p. 80. (http://www.cds.edu/wp-content/uploads/2012/09/MOIA-CDS-Final-Report-June-2009.pdf).

[155]Vayalar Ravi calls for prosecution of unscrupulous agents**,** *The Hindu*, 5 April 2013, (http://www.thehindu.com/news/national/kerala/vayalar-ravi-calls-for-prosecution-of-unscrupulous-agents/article4585558.ece).

[156]S Irudaya Rajan, V J Varghese & M S Jayakumar, "Chapter Four", *Beyond the existing structures: Revamping overseas recruitment system in India* (Submitted to Ministry of Overseas Indian Affairs), Research Unit on International Migration, CDS Trivandrum, 2009, p. 80 (http://www.cds.edu/wp-content/uploads/2012/09/MOIA-CDS-Final-Report-June-2009.pdf.

[157]Telephone interview with Amnesty International India on 3 February 2014.

[158] Interview with Amnesty International India in Kochi, Kerala on 20 February 2014.

[159]Interview with Amnesty International India in Chennai, Tamil Nadu on 12 June 2014.

[160]Emigration Act, 1983, Section 4 (a) (http://moia.gov.in/pdf/emigration_authorities.pdf).

[161]The Emigration Act 1983 Sections 3 and 4. (http://moia.gov.in/services.aspx?id1=326&idp=326&mainid=73).

[162]S Irudaya Rajan, V J Varghese & M S Jayakumar, "Chapter Five", *Beyond the existing structures: Revamping overseas recruitment system in India* (Submitted to Ministry of Overseas Indian Affairs), Research Unit on International Migration, CDS Trivandrum, 2009, p. 89. (http://www.cds.edu/wp-content/uploads/2012/09/MOIA-CDS-Final-Report-June-2009.pdf).

[163]Phone Interview with Amnesty International India on 1 March 2014.

[164]Interview with Amnesty International India in Kochi, Kerala on 21 February 2014.

EXPLOITED DREAMS:
DISPATCHES FROM INDIAN MIGRANT WORKERS IN SAUDI ARABIA

Every day, close to 1,000 Indian low-wage migrant workers are provided with emigration clearances to travel to Saudi Arabia. They are recruited to work in cafeterias, supermarkets, construction sites, and guest houses; they sweep streets, cook in restaurants, and serve in households as domestic workers. Together, they send close to 500 billion INR (approximately 8.2 billion USD) back to India every year.

However, Indian migrant workers can often face serious exploitation and deception during the migration process, leading to serious human rights abuses in Saudi Arabia which, at worst, includes forced labour.

Drawing on interviews with migrant workers, government representatives and recruiting agents, this report examines the systemic factors in the pre-departure phase of the migration process that contribute to the exploitation and deception of migrant workers by individual brokers and recruiting agents in the state of Kerala, India.

It documents the human rights abuses migrant workers encountered during their employment and residence in Saudi Arabia, and analyses the role played by the Indian government in regulating recruiting agents and ensuring access to remedy for migrant workers. It ends with recommendations to the governments of India and Saudi Arabia on how to prevent human rights abuses and protect migrant workers.

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