

# Between the UAE and Pakistan – Migrant Construction Workers Walk a Tightrope during COVID-19

A SNAPSHOT

Report Authors

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Mishal Khan<sup>1</sup>

Sarah Eleazar<sup>2</sup>

Gowthaman Ranganathan<sup>3</sup>

Paul Lyons<sup>4</sup>

## Introduction

As the global pandemic swept across the Persian Gulf, low-wage migrant workers from Pakistan employed at various construction sites in the United Arab Emirates (UAE) were left stranded. International flights came to a halt and workers who had either completed their contracts, were dismissed from their jobs, forced to take leave, or experienced lapses in their immigration statuses, were forced to remain in lockdown. The construction industry in Gulf Cooperative Council (GCC) countries employs an estimated 10 million workers, most of them migrant workers from South Asia, Southeast Asia, and Africa.<sup>5</sup> Government statistics report that prior to the pandemic, 1.5 million Pakistanis were employed in the UAE alone.<sup>6</sup> Construction work is one of the main sources of work for migrants in the Gulf, and thus a lifeline for millions of dependent family members who rely on wages earned by these laborers.

As the crisis of jobless and locked down workers grew, the UAE government ordered migrant sending countries to take back their nationals. Facing mounting pressure from media and human rights groups documenting the alarming conditions faced by migrant workers in labor camps, the Pakistani government acquiesced.<sup>7</sup> Thus began a panicked rush towards repatriation as over 60,000 Pakistanis registered with the Pakistani consulate demanding to return home, many

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<sup>1</sup> Postdoctoral Fellow at the Rapoport Center for Human Rights and Justice at the University of Texas School of Law Austin.

<sup>2</sup> Ph.D. Candidate in Anthropology at the University of Texas at Austin.

<sup>3</sup> Research Assistant at the University of Texas School of Law.

<sup>4</sup> J.D. Candidate at Northeastern University School of Law.

<sup>5</sup> Business and Human Rights Recourse Center, *On Shaky Ground: Migrant Workers' Rights in Qatar & the UAE Construction*, 2018, <https://www.business-humanrights.org/sites/default/files/BHRRRC-Shaky-Ground-Construction-Briefing-v1.1.pdf>.

<sup>6</sup> Inayatullah Khan, "COVID-19 and overseas Pakistanis," *News*, June 22, 2020, <https://www.thenews.com.pk/print/675864-covid-19-and-overseas-pakistanis>.

<sup>7</sup> This plan was authorized by the National Coordination Committee on COVID-18 and the Pakistani government also formed a Crisis Management Unit within the Ministry of Foreign Affairs.

having to draw on their own funds to purchase their return ticket.<sup>8</sup> The Pakistani government especially arranged repatriation flights to carry fleeing Pakistani expatriates back home. However, reports emerged that between 50-80 percent of workers alighting these packed flights tested positive for COVID-19.<sup>9</sup> The Pakistani-UAE migration corridor thus became a COVID-19 “hotspot.”

As the COVID-19 pandemic continued to spread across the globe shutting down industries and causing mass population dislocations, economic forecasters still insisted that the UAE construction industry was slated to experience growth.<sup>10</sup> These prognoses, led by government officials and powerful private sector actors, skirted over the stark realities faced by the workers on whose shoulders the entire labor burden of this economic ambition were placed.

Migrant construction workers faced formidable obstacles on multiple fronts during this early phase of the pandemic. On the one hand they confronted mass joblessness in the wake of initial shutdowns, and on the other they faced exposure to the virus as they rode out the pandemic in cramped living spaces in satellite areas outside major UAE cities.<sup>11</sup> When the pandemic hit, the Dubai municipality announced an enforced sterilization lockdown which required residents to obtain permits from the police in order to leave their homes. The UAE government similarly ordered employers to obtain permits from the Dubai Municipality and the Permanent Committee for Labor Affairs to transport their workers from satellite towns to construction sites.<sup>12</sup> The Dubai Municipality issued guidelines for employers shuttling workers back and forth between worksites and labor camps including regular temperature checks, creating on-site isolation rooms, and intensifying municipality-led field inspections.<sup>13</sup> At labor camps, hundreds of workers sharing communal kitchens and common spaces were told to maintain a distance of six feet and keep their environment clean.

In April the construction industry was declared a “vital sector” and was exempt from restrictions placed on other businesses, making it easier for some construction companies to keep

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<sup>8</sup> “Pakistan Begins Repatriating Laborers Stranded In U.A.E.,” *RadioFreeEurope/RadioLiberty*, April 20, 2020, <https://www.rferl.org/a/pakistan-labor-coronavirus-migrant-uae/30565170.html>; “Pakistan starts repatriating the UAE-based nationals stranded by coronavirus,” *Hindustan Times*, <https://www.hindustantimes.com/world-news/pakistan-starts-repatriating-uae-based-nationals-stranded-by-coronavirus/story-PsBZnBSwDKuJaMAus40HPI.html>; Sam Kiley and Mostafa Salem, “Coronavirus leaved the Gulf’s migrant worker with no income and no easy way out,” *CNN*, May 8, 2020, <https://www.cnn.com/2020/05/09/middleeast/uae-migrants-coronavirus-intl/index.html>.

<sup>9</sup> “Half of migrant workers returning from the UAE have Covid-19, says Pakistan,” *Middle East Monitor*, May 6, 2020, <https://www.middleeastmonitor.com/20200506-half-of-migrant-workers-returning-from-the-uae-have-covid-19-says-pakistan/>.

<sup>10</sup> Waheed Abbas, “UAE, GCC Construction Set for Growth in 2020,” *Khaleej Times*, February 8, 2020, <https://www.khaleejtimes.com/business/local/uae-gcc-construction-set-for-growth-in-2020>; King and Wood Mallesons, “Impact of COVID-19 on new construction contracts in the UAE,” *International Comparative Legal Guides*, May 31, 2020, <https://iclg.com/briefing/13619-impact-of-covid-19-on-new-construction-contracts-in-the-uae>.

<sup>11</sup> “Gulf’s migrant workers left stranded and struggling by coronavirus outbreak,” *Reuters*, April 14, 2020, <https://www.reuters.com/article/us-health-coronavirus-gulf-workers-idUSKCN21W1O8>.

<sup>12</sup> Disha Dadlani, “COVID-19: Dubai Municipality Issues Guidelines for Construction Workers,” *Construction Week Online Middle East*, April 7, 2020, <https://www.constructionweekonline.com/products-and-services/264325-covid-19-dubai-municipality-issues-guidelines-for-construction-workers>.

<sup>13</sup> Government of Dubai, “Dubai Municipality Strengthens precautionary and preventative measure in building control,” May 20, 2020, *News*, <https://www.dm.gov.ae/2020/06/07/dubai-municipality-strengthens-precautionary-and-preventive-measures-in-building-control/>; Dadlani, “COVID-19: Dubai Municipality Issues Guidelines.”

working through the pandemic.<sup>14</sup> However the collapse of oil prices, tourism, and partial or full lockdowns across different sectors of the economy signaled a widespread economic slowdown. Many private companies cut back operations and restricted working hours. As a result, thousands of Pakistani construction workers were left jobless.<sup>15</sup> Others were asked to avail a six-week leave as there was no certainty as to when work would begin again.

In this report we ask specifically: what did the lockdown in the UAE – a measure implemented ostensibly to protect individuals and communities from COVID-19 – look like for Pakistan migrant workers? What role did the legal and political structures which shape migration between Pakistan and the UAE play in creating the particular challenges of this moment? We provide both a descriptive snapshot and a brief analysis of the legal and economic regimes that created the conditions for the crises faced by Pakistani migrant workers in the UAE at the time of the outbreak.

In order to do so, we chart out the circular nature of the journey Pakistani migrant construction workers undertake. We trace both the legal policies and economic structures they navigate to find employment, to get on the flight back home to Pakistan, and finally to secure their return to work while confronting a new set of challenges on the ground in Pakistan. We analyze the laws and dynamics that skew the distribution of power both across countries and between employers and employees. Finally, we offer directions for further research. For example, can we understand relations between Pakistan and the Gulf states as part of a longer history of racialized relations between two unequal geographical locations in the global South? How are the inequalities between workers and employers reproduced through racialized legal and political structures within the UAE? The fact that employers, host, and home countries all abdicated responsibility for these workers, directs our attention to the specific nature of the risks experienced by migrant workers in the highly lucrative – and equally precarious – construction sector in the UAE.

## **An Outdated Legal Regime**

The challenges experienced by migrant workers in the UAE construction industry explored in this study were undoubtedly magnified by the onset of the pandemic. However, the current situation must be understood within the context of the broader legal and political structures that have shaped this particular migration corridor, and the specific history of racialized social relations that links the prosperity of the Gulf to the commodification of the South Asian worker.

From the lowest paid worker to the highest paid professional, the UAE's construction industry is almost entirely made up of non-citizens on temporary work visas. Although highly paid professionals in the industry may be allowed to start and raise families in the country, the reality differs in significant ways for unskilled and semi-skilled workers. While their labor is indispensable to the urban dreamscapes of the oil rich Gulf states, these populations are

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<sup>14</sup> Nicholas Kramer, Aarti Kramer and Clinton Slogrove, "UAE Construction during COVID-19: The Impact of Government Measures," *Norton Rose Fulbright*, June, 2020, <https://www.nortonrosefulbright.com/en-us/knowledge/publications/0abd48ed/uae-construction-during-covid19-the-impact-of-government-measures>.

<sup>15</sup> Jennifer Hattam, "Across the world, construction workers are caught between coronavirus risk and joblessness," *Equal Times*, June 1, 2020, <https://www.equaltimes.org/across-the-world-construction#.X5oy4i9h10t>; Rory Jones, "Jobless Migrants Flee Oil-Rich Countries to the Chagrin of their Home Countries," *Wall Street Journal*, May 23, 2020, <https://www.wsj.com/articles/jobless-migrants-flee-oil-rich-countries-to-the-chagrin-of-their-home-countries-11590235200>.

simultaneously racialized and treated as temporary and devalued bodies in a land where citizenship is tied either to Emirati heritage or to the ability to provide massive capital investments. This paradox is resolved by spatially organizing these migrant populations outside the city limits.<sup>16</sup> Many workers reside in labor camps located in satellite towns near cities and are transported to and from construction sites on busses.<sup>17</sup>

The UAE's reliance on migrant workers took off during the 1970s Gulf oil boom, although it predates this era.<sup>18</sup> Since the oil recession of 2015, however, the UAE has looked to diversify its investments by focusing on construction, dreaming up amazing feats of engineering and architecture. Boasting the tallest skyscraper in the world, a hit parade of ostentatious hotels and malls, and luxury island homes on land reclaimed from the sea, the UAE's vision for development is energy intensive, highly polluting, and entirely built on the labor of migrant workers.<sup>19</sup> An example of this vision is the Dubai Expo 2020, a mega-project designed to showcase the most innovative achievements of architecture set to host 143 countries. Originally scheduled for October 2020 this project alone employed 40,000 construction workers.<sup>20</sup>

According to government statistics, 11 million Pakistanis have migrated overseas for employment purposes since the 1970s.<sup>21</sup> Saudi Arabia and the UAE account for over 90 percent of overseas migration for both skilled and unskilled work. Income gained from working in these countries represents a major source of remittances to Pakistan. For Pakistan, under the structural adjustment programs announced by the International Monetary Fund (IMF) since the 1980s, remittances from migrant labor abroad are a recognized development strategy.<sup>22</sup>

Despite the significant numbers of Pakistanis migrating to the UAE, Pakistan does not have a comprehensive emigration policy. The primary legal and regulatory frameworks overseeing migration date back to the 1980s and are today considered largely ineffective at regulating and protecting the rights of migrant laborers. As alternatives, unregulated networks have functioned as

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<sup>16</sup> Juan De Lara, *Inland Shift: Race Space, and Capital*, (Berkeley: University of California Press, 2018) 14; Shirin Jaafari, "What life is like for a construction worker in Abu Dhabi, through the eyes of an artist," *The World*, August 7, 2014, <https://www.pri.org/stories/2014-08-07/what-life-construction-worker-abu-dhabi-through-eyes-artist>; Reema Kalush, "In the Gulf, migrant workers bear the brunt of the pandemic," *AlJazeera*, June 1, 2020, <https://www.aljazeera.com/opinions/2020/6/1/in-the-gulf-migrant-workers-bear-the-brunt-of-the-pandemic/>.

<sup>17</sup> Human Rights Watch, *Building Towers, Cheating Workers*, November 11, 2006, <https://www.hrw.org/report/2006/11/11/building-towers-cheating-workers/exploitation-migrant-construction-workers-united>.

<sup>18</sup> S. Irudaya Rajan and Ginu Zacharia Oommen, *Asianization in Migrant Workers in the Gulf Countries*, (Singapore: Springer, 2020), 1. The authors in this volume suggest that this diversification of the labor force was driven by a desire to stop the spread of socialism and unified labor organization among Arab workers in oil rich countries.

<sup>19</sup> Ben Thomas and Andrew Marantz, "Photo Booth: Dubai, The World's Vegas," *New Yorker*, April 18, 2017, <https://www.newyorker.com/culture/photo-booth/dubai-the-worlds-vegas>; Michelle Buckley, "Locating Neoliberalism in Dubai: Migrant Workers and Class Struggle in the Autocratic City." *Antipode* 45, no. 2 (2013): 256-74.

<sup>20</sup> Adam Barnett, "One year to Expo 2020, the UAE's construction industry must do more to tackle abuse of migrant workers," Business & Human Rights Resource Centre, April 19, 2020, <https://www.business-humanrights.org/en/one-year-to-expo-2020-uae%E2%80%99s-construction-industry-must-do-more-to-tackle-abuse-of-migrant-workers>.

<sup>21</sup> Labour Migration Branch (ILO), *Review of Law, Policy, and Practice of Recruitment of Migrant Workers in Pakistan*, (Geneva: International Labor Organization) 11 March 2020, [https://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---migrant/documents/publication/wcms\\_741312.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_741312.pdf), 1.

<sup>22</sup> See Kashif Imran, Evelyn S. Devadason, Cheong Kee Cheok, "Developmental Impacts of Remittances on Micro-Level Evidence from Punjab, Pakistan," *Journal of South Asian Development* 14, no. 3 (2019): 338-66. Mughal Mazhar, "Remittances as Development Strategy: Stepping Stones or Slippery Slope?" *Journal of International Development* 25 (2013): 583-95.

a way for semi-skilled or low-wage workers to obtain low-wage jobs in Gulf states. These informal networks are also vital for transferring money between migrants in the UAE and South Asia through a system known as the Hundi-Hawala system, and aiding workers in times of need.

The Pakistani Emigration Ordinance (1979) and the Pakistani Emigration Rules (1979) are the federal laws governing emigration and are enforced by the Bureau of Emigration and Overseas Employment (BEOE) and the Protector of Emigrants. Over a decade ago, a 2006 Human Rights Watch (HRW) report on the construction industry in the UAE revealed that migrant workers lacked access to a minimum wage or the ability to organize through trade unions. This report called on both Pakistan and the UAE to implement international human rights standards.<sup>23</sup> Little has changed. A recent ILO report (2020) concluded that there is a need for a comprehensive migration policy and a more modern legal framework to regulate migrant labor.<sup>24</sup> Current policies lack focus on the broader and daily issues facing migrant workers. For example, the relevant embassy attachés tasked with ensuring the welfare of workers and resolving disputes lack the capacity to help workers.<sup>25</sup> The Emigration Ordinance from 1979 has only been amended once in 2012, and is especially ill-equipped to deal with the mushrooming of unregistered recruitment agencies and informal remittance channels.

The kafala system is recognized as a key factor maintaining unequal bargaining power between migrant workers and their employers. This system links the employee's legal immigration status to the employer – known as the kafeel – effectively delegating government regulatory authority to private actors.<sup>26</sup> The kafala system is operational across GCC countries including Saudi Arabia, Bahrain, Oman, Qatar, and Kuwait. Several governments have promised to abolish or reform the kafala system, but it still remains very much in force. Indeed, analysts have noted that the kafala system plays a vital role as a compensation structure to Arab Gulf citizens, providing them “a ready source of revenue and significant control over migrant labor in return for reduced social and political freedoms.”<sup>27</sup> Virtually all foreign workers must be sponsored by someone who is a citizen and resident of the UAE, and this sponsor must be the majority owner of the enterprise.

## COVID-19 and the Migration Circle

Through our interviews and research, we began to see the journey of migrant workers as a circular pattern. In this section we elaborate on the choices, constraints, and decisions made by migrants themselves as they move across borders by mapping out the journey a migrant undertakes from Pakistan to the UAE – and back. COVID-19 represented a rupture in this cycle and the typical factors that enter into the calculus for workers. While COVID-19 created conditions whereby workers were expelled from the UAE, the pressures of global economic structures created strong

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<sup>23</sup> Human Rights Watch, *Building Towers*.

<sup>24</sup> Labour Migration Branch (ILO), *Review of Law, Policy, and Practice*.

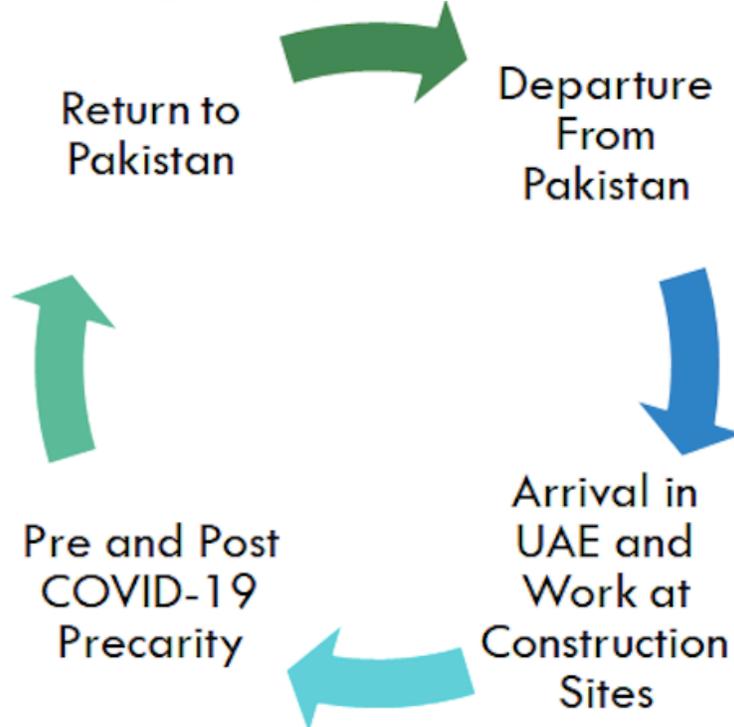
<sup>25</sup> Interview with Vani Saraswathi, journalist with Migrant rights.org on July 22, 2020; Interview with Nadia Kashif of Migrant Resource Center, July 27, 2020.

<sup>26</sup> Priyanka Motparthy, “Understanding Kafala: An Archaic Law at Cross Purposes with Modern Development Migrant,” March 11, 2020, <https://www.migrant-rights.org/2015/03/understanding-kafala-an-archaic-law-at-cross-purposes-with-modern-development/>

<sup>27</sup> Mustafa Qadri, “The UAE’s Kafala System: Harmless or Human Trafficking?” Carnegie Endowment for International Peace, July 7, 2020, <https://carnegieendowment.org/2020/07/07/uae-s-kafala-system-harmless-or-human-trafficking-pub-82188>.

incentives to return to work – across international borders. Some were repatriated, some chose to stay in the UAE, some were stranded, and still others faced threat of deportation.

This mapping exercise captures these multiple migration pathways. From the perspective of a migrant worker, we argue that every point in this cyclical trajectory involves decisions about whether to rely on official or unofficial channels and calculations about long and short-term pay-offs of these options. The migrant worker is thus constantly on the move. Indeed, informants told us that migrant workers frequently make this journey several times in their lifetimes, often using different channels each time.<sup>28</sup> Since we were unable to interview a worker who completed the cycle, this mapping exercise was done through interviews with journalists, government agencies, NGO representatives, and through secondary research.



*Fig 1: Circular Journey of Migrant Construction Workers*

### *Departure from Pakistan*

A worker wishing to leave Pakistan to better their chances of earning an income in the construction industry must choose from a variety of migration options. Workers incur substantial debt irrespective of the migration route take and there are a variety of push factors that inform this decision.<sup>29</sup> While government official fees are supposed to be fixed, the ILO reported in 2015 that migrants were paying Rs. 200,000 to 500,000 PKR in recruitment fees, well over official figures,

<sup>28</sup> For instance several informants told us that the government recruitment channels were the lowest cost options, but that usually they attracted the most seasoned migrant workers.

<sup>29</sup> Vani Saraswathi, “The GCC Debt Trap, Brought to You by Falling Oil Prices and the Kafala System,” *Migrant-rights.org*, March 16, 2020, <https://www.migrant-rights.org/2016/03/the-gcc-debt-trap-brought-to-you-by-falling-oil-prices-and-the-kafala-system/>; Alain Lefebvre, *Kinship, Honour and Money in Rural Pakistan: Subsistence Economy and the Effects of International Migration*, London: Routledge, 1999. Classic ethnographic study of two cities in Punjab, examining the push factors for labor migration.

depending on the category of work.<sup>30</sup> Methods used by Pakistanis to obtain work in the UAE can be divided into several categories: direct recruitment, formal government recruitment agencies, private recruitment agencies, and overstaying the length of UAE non-work visas. There are of course also other illegal options such as being trafficked or smuggled into the country, but these methods are beyond the scope of our discussion in this paper.

The first option is to enter the UAE workforce by seeking direct recruitment opportunities through family networks overseas. The second option is through the Overseas Employment Corporation (OEC) which is the only official public agency that recruits workers and accounts for a minimal (less than 1 percent in 2015) percentage of overseas migration. Workers mostly seek employment through Overseas Employment Promoters (OEPs) – private government registered recruitment agencies.<sup>31</sup> Private OEPs dominate as recruitment mediums. As of 2015 there were 1,857 registered private employment agencies in Pakistan, compared to only one public agency.

It appears that there is significant collaboration between official (both private and public) agencies and informal networks, and that these boundaries are less than clearly demarcated in practice.<sup>32</sup> In times of shortage, official agencies rely on unregulated informal agents to recruit workers. In addition, sub-agents are important players at all levels of the recruitment and migration process. Finally, another method of obtaining employment in the UAE is to enter the country on a visit, transit, or other category of non-work visa and simply fall out of status and remain in the country. Workers, including the one migrant worker we interviewed, then obtain employment in the UAE by simply seeking out casual, unauthorized employment with unscrupulous construction companies.<sup>33</sup> There is a need for further research to understand the relationship between these migration paths, but it is clear that both regulated and unregulated labor recruitment channels work in tandem to keep this migration corridor vibrant and the supply of labor flexible.

### *Arrival in the UAE*

On arrival in the UAE through official or regular migration channels, a migrant worker's right to remain in the country is linked to their sponsoring employer under the Kafala system. An employment contract determines the worker's migration status and is registered with the Ministry of Human Resources and Emiratization (MOHRE). Workers are given housing by their employers, but these are often little more than dormitory style small rooms shared between six and twelve people at a time.<sup>34</sup> Living conditions are cramped and often segregated based on nationality/ethnicity which can contribute to exclusionary practices amongst the migrant population.<sup>35</sup> Most workers are single males and one survey noted that there was no ethnic

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<sup>30</sup> ILO, *Law and Practice*, viii.

<sup>31</sup> ILO, *Law and Practice*, 24-25.

<sup>32</sup> ILO, *Law and Practice*; Interview with Nida Kashif.

<sup>33</sup> We have kept this informant anonymous to protect their identity but the interview was carried out over the phone in July 2020.

<sup>34</sup> Amnesty International, "COVID-19 makes Gulf countries' abuse of migrant workers impossible to ignore," Campaigns, April 30, 2020, <https://www.amnesty.org/en/latest/campaigns/2020/04/covid19-makes-gulf-countries-abuse-of-migrant-workers-impossible-to-ignore/>.

<sup>35</sup> Vani Saraswathi, "Structured to Perfection: Racism in the Gulf," *Migrant-rights.org*, April 11, 2020, <https://www.migrant-rights.org/2020/04/structured-to-perfection-racism-in-the-gulf/>.

aggression or conflict in camps because of “fear of deportation” keeps workers from causing trouble.<sup>36</sup>

Human rights groups have frequently reported that non-payment and late payment of wages even before the pandemic. In addition, most Pakistani workers do not speak Arabic and therefore are reliant on their employers or networks to navigate the UAE complaint, bureaucratic or legal system. In a survey conducted in 2019 of migrant workers in the construction and hospitality industries, researchers found that non-payment of overtime was frequent, that the nature of the work was different to what they expected prior to departing Pakistan, and that only 10 percent of respondents said they received the salary that was promised to them in their initial contract.<sup>37</sup>

### *COVID-19 – Stranded, Exposed, and Ejected*

The already precarious conditions faced by Pakistani migrant workers in the UAE were exacerbated by the onset of COVID-19. The UAE initially granted visa extensions to migrant workers, but these allowances were subsequently revoked creating legal uncertainty for migrant workers.<sup>38</sup> The MOHRE also passed a resolution that allowed amendments to be made to previously binding employment contracts.<sup>39</sup> This change made it easier for employers to unilaterally alter labor contracts – suspending protections, and limiting employer liability during the pandemic.

Under these circumstances, workers were left with several options depending on the nature of their work situation: to stay in the UAE and wait out the pandemic despite having no funds to pay for food or living, to take leave from work on unsafe work sites with little to no safety measures, to terminate their employment agreements and return to Pakistan. Returning to Pakistan has therefore been merely one among a variety of imperfect options. While the UAE officially asked workers to leave, the reality was that only a slow trickle of workers have been repatriated over time. Indeed, the decision to leaving was likely the result of a heightened environment of fear and uncertainty. One worker reported: “Everyday we were hearing news of friends who were being laid off. We were quarantined in dormitories which were away from the main cities. The area was kind of cordoned off, and we were not allowed to go out. It was so difficult to manage food even. Passports of most of our fellows were with their employers. The sudden shut down barred us from approaching them and we could not travel without the travel document. I have never felt so helpless in my lifetime.”<sup>40</sup>

These options were all constrained by the reality of the pressure of indebtedness and a complete reliance on the wages earned in the construction sector for themselves and their family. Flights themselves were extremely expensive, and Pakistanis were all battling for spots on a

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<sup>36</sup> Riaz Hassan, “The UAE’s Unsustainable Nation Building,” YaleGlobal Online Blog, April 24, 2018, <https://yaleglobal.yale.edu/content/uaes-unsustainable-nation-building>.

<sup>37</sup> Philippe Fargues, Nasra M. Shah, and Imco Bourwer, “Working and Living Conditions of Low-Income Migrant Workers in Hospitality Sectors on the United Arab Emirates: A Survey among Migrant Workers through Focus Group Discussions,” Migration Policy Center, GLMM- RR- No.2/2019. [https://cadmus.eui.eu/bitstream/handle/1814/65986/Report\\_GLMM02.pdf?sequence=1](https://cadmus.eui.eu/bitstream/handle/1814/65986/Report_GLMM02.pdf?sequence=1).

<sup>38</sup> “UAE’s Revised Visa Extension Rules Place Migrants in Precarity,” *Migrant-rights.org*, July 18, 2020, <https://www.migrant-rights.org/2020/07/uaes-revised-visa-extension-rules-places-migrants-in-precarity/>.

<sup>39</sup> Kramer et al., “UAE Construction during COVID-19.”

<sup>40</sup> Mahwish Zeeshan and Aneela Sultana, “Return Migration to Pakistan during COVID-19 Pandemic: Unmaking the Challenges,” *Pakistan Perspectives* 25, no. 1 (2020): 129-48, 140-41.

waitlist with other Pakistani expatriates in the UAE. Many workers relied on personal contacts to procure seats on repatriation flights, hoping that a returning home would grant them relief from the emerging crisis in the UAE.

### *Return to Pakistan – Stigmatized and Trapped*

If a worker did manage to return to Pakistan safely, they confronted a different set of challenges. Although the Pakistani consulate in the UAE claimed that all workers were tested before boarding repatriation flights, this was clearly not strictly observed since such high number of passengers tested positive. The government did little to ensure systematic and effective quarantine measures for those who tested positive on arrival. Some were unable to contact their family for weeks, and once released, no provisions were made for the return journey back to their communities, often on the other side of the country. This situation was made even more desperate given the overall country lockdown and closures of major transportation arteries and public transit facilities.<sup>41</sup> Some reports indicate that these groups have been stigmatized since returning from these repatriation flights to their communities.<sup>42</sup>

Fears of drops in remittances and the long-term effects on health, nutrition, and education outcomes for Pakistanis has linked Pakistan's fate to the progression of the COVID-19 crisis in GCC countries.<sup>43</sup> Millions of internal migrant workers in Pakistan faced their own economic crisis during the lockdown. In April the Pakistan Institute of Development Economics (PIDE) estimated that some 3.78 million workers in Pakistan were already facing layoffs and internal displacements.<sup>44</sup> Forecasts in Pakistan list construction as one of the most at risk sectors in the country for COVID-19 related job loss or job reductions. In an attempt to mitigate the effects of this the Pakistani government announced a stimulus package for the construction sector including tax exemptions and exempting investors from disclosing their source of income.<sup>45</sup> Indeed, this influx of returnees has in some cases caused "anxiety and even in some cases resentment" as they face challenges of reintegration into an already ailing economy.<sup>46</sup> Reports indicate that the Pakistani government plans to channel repatriated migrants into different welfare projects such establishing Special Economic Zones (SEZs).<sup>47</sup> However informants reported that returnee workers, facing a saturated labor market in Pakistan, were banking on being able to return to their previous jobs, and now wait to return to the UAE. The cycle of reliance on wages in an industry under assault by the pandemic thus continues.

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<sup>41</sup> Themrise Khan, "Migration and mobility during COVID-19: A Pakistani perspective," *Routed: Migration & (Im)mobility Magazine*, 10, June 20, 2020, <https://www.routedmagazine.com/covid-pakistan-perspective>.

<sup>42</sup> Interagency Standing Committee, "Countering Stigmatization in the Context of COVID-19," Operations and Advocacy Group, June 11, 2020, <https://interagencystandingcommittee.org/system/files/2020-07/Countering%20Stigma%20in%20C19%20%20Final%2011%20June%202020.pdf>, 3. Reports of stickers being placed on the homes of those who were quarantined contributed to this social ostracization.

<sup>43</sup> Pakistan Institute of Development Economics, "COVID-19 and Remittances," COVID-19 Bulletin, 20, 2020, <https://www.pide.org.pk/pdf/PIDE-COVID-Bulletin-20.pdf>.

<sup>44</sup> Pakistan Institute of Development Economics, "Protecting the Internal Migrant Workers," COVID-19 Bulletin, 16, 2020, <https://www.pide.org.pk/pdf/PIDE-COVID-Bulletin-16.pdf>.

<sup>45</sup> UNDP, "COVID-19 – Pakistan Socio-Economic Impact Assessment & Response Plan," May 2020, 51.

<sup>46</sup> Mahwish Zeeshan and Aneela Sultana, "Return Migration to Pakistan during COVID-19 Pandemic: Unmaking the Challenges," *Pakistan Perspectives* 25, no. 1 (2020): 129-48, 145.

<sup>47</sup> Arhama Siddiq, "Pakistani and the Repatriation of Workers Amidst COVID-19," Nepal Institute for International Cooperation and Management (NIICE), July 26, 2020, <https://niice.org.np/archives/5655>.

## Analysis of Key Legal and Political Drivers

### *Inequality between the UAE and Pakistan*

The circular pattern described above and its continuous nature stems from the pressure that workers face to seek a livelihood outside of Pakistan's borders. Pakistan considers remittances from workers in the GCC countries as a vital source of national GDP, encouraging labor migration. For the last few years Pakistan has been keen to finalize a free-trade agreement (FTA) with the GCC, and the two nations make frequent public declarations about a shared religious and cultural heritage and economic interests.<sup>48</sup> The reality, however, is that political and economic relations between these two countries are highly unequal.

The Pakistani government encourages migration without providing adequate safeguards for its workers. In addition to the Ordinances mentioned above, the movement of workers is governed and amended by intermittent Memoranda of Understandings (MoU) between Pakistan and the GCC countries including the UAE. Take for instance the fact that workers do not receive adequate pre-departure orientation and are thus frequently unprepared for layers of bureaucratic challenges they face in the UAE such as language barriers and knowledge about how to file complaints. In 2019 an MoU signed between the two nations agreed that workers would receive pre-departure and post-arrival awareness training, that signed and registered employment contracts will not be changed upon arrival in the UAE, and that complaints filed by migrants will be referred to the appropriate judicial authorities.<sup>49</sup> While officials on the Pakistani side advocate for better working conditions, the reality is that Pakistan has a limited amount of bargaining power in this relationship. In our interview with Vani Saraswati she suggested that any solution to this systemic imbalance can only be achieved if South Asian Association for Regional Cooperation (SAARC) countries come together to negotiate better trade relations and worker protections for all South Asian workers in GCC countries.

Indeed, the limited pathways to citizenship for migrants in the UAE today is indicative of a longer history of racialized immigration laws. Prior to the 1970s oil boom and the beginning of mass importation of Asian workers, Gulf countries offered naturalization programs for labor migrants – as they mostly come from surrounding Arab states.<sup>50</sup> The kafala system and the current strict immigration regime makes it difficult for low-wage earning Pakistanis to migrate to the UAE permanently and set down significant economic roots in Gulf countries. The strictly temporary nature of this immigration labor scheme betrays that the economic partnership between these two nations is based on the supply and demand for one vital commodity: cheap labor.

The ILO encourages bilateral agreements between the UAE and Pakistan and espouses the sanctity of contractual freedom without addressing the underlying inequality between these two nations, and the vulnerabilities that workers face as a result of this unequal bargaining power. Both governments as well international organizations have relinquished ground to the private sector, describing recruitment agencies as sometimes predatory, but as vital intermediaries between the

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<sup>48</sup> Sana Jamal, "Pakistan committed to free trade agreement with GCC states," *Gulf News*, August 9, 2017, <https://gulfnews.com/business/pakistan-committed-to-free-trade-agreement-with-gcc-states-1.2071445>; Shazia Mehmood Khan, "Revival of UAE-Pakistan Relations," *Defense Journal* 22, no. 6 (2020): 33.

<sup>49</sup> Ashfaq Ahmed, "Pakistan and UAE take new initiatives to protect Pakistani workers coming to the country," *Gulf News*, June 18, 2019, <https://gulfnews.com/world/asia/pakistan/pakistan-and-uae-take-new-initiatives-to-protect-pakistani-workers-coming-to-the-country-1.64679593>;

<sup>50</sup> Zahra Babar, *Arab Migrant Communities in the GCC*, (London: Hurst Publishers, 2018).

workers and foreign employers in a highly complex and dispersed labor market.<sup>51</sup> This inequality between the two countries was seen in action when the UAE threatened to renegotiate labor agreements with Pakistan if it failed to repatriate its citizens.<sup>52</sup> Pakistan is well aware of its dependence on the UAE, recently putting a great deal of diplomatic weight behind procuring preferences for Pakistanis for future construction jobs.<sup>53</sup>

### *Inequality between Workers and Employers*

The persistence of the kafala system despite criticism and opposition, shows the power that the UAE holds in sustaining a legal system that exacerbates inequality between the workers and employees. The refusal to amend this system demonstrates the UAE's relatively superior power in relation to labor supplying countries. The kafala system ties a worker's status in the UAE to his or her employer, giving the sponsor or kafeel the power to restrict worker mobility and prevent them from changing jobs unless the employer issues a No Objection Certificate. This particular visa arrangement is usually granted in two to three year increments and contains limited pathways to citizenship or permanent immigration. These contracts can, and sometimes are renewed several times by the sponsor. However, if the kafeel decides to terminate the contract for any reason, workers are required by law to leave the country.<sup>54</sup>

Workers in the UAE cannot unionize as it is prohibited along with other forms of collective bargaining. Under the kafala system, workers risk being imprisoned or deported if they engage in prohibited political activity such as labor organizing.<sup>55</sup> On arrival, many workers, including the worker we interviewed, report that their passports were confiscated.<sup>56</sup> In 2018 the minimum wage for Pakistani workers in the UAE was set at 800 DH (USD 217), but this amount is not only barely enough to get by, but has not always been enforced in private employment contracts with between UAE companies and foreign workers.<sup>57</sup>

After the pandemic hit, the UAE government passed ministerial resolution no. 279 which aimed to support businesses as they rode out the effects of the pandemic. Article 6 of the resolution made it possible to amend employment contract details with foreign workers, theoretically

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<sup>51</sup> ILO, *Law and Practice*. For instance, the ILO's Private Employment Agencies Convention (No. 181) adopted in 1997 recognizes that "private employment agencies can contribute to the better functioning of the labour market and sets general parameters for the regulation, placement and employment of workers recruited for overseas employment."

<sup>52</sup> In our interview with her, Saraswati suggested that any solution to this systemic imbalance can only be achieved if South Asian Association for Regional Cooperation (SAARC) countries come together to negotiate better MoUs with the GCC countries Interview with Vani Saraswathi, Migrant Rights.Org, on July 22, 2020.

<sup>53</sup> COVID-19: UAE to prefer Pakistanis for jobs, says Zulfi Bukhari," *News International*, July 26, 2020, <https://www.thenews.com.pk/print/692339-covid-19-uae-to-prefer-pakistanis-for-jobs-says-zulfi-bukhari>.

<sup>54</sup> Marko Valenta, Kaley Elizabeth Knowlton, Jo Jakobsen, Mouawiya Al Awad, Zan Strabac, "Temporary Labour–Migration System and Long–term Residence Strategies in the United Arab Emirates." *International migration* 58, no. 1 (February 2020): 182–197, 187; Afzar Khan and Helene Harrodd-Tavel, "Reforming the Kafala: Challenges and Opportunities in Moving Forward," *Asia and Pacific Migration Journal* 20, no. 3-4 (2011): 293-313.

<sup>55</sup> Marie-Jose L. Tayah, "Claiming rights under the kafala system," *OpenDemocracy*, August 17, 2017, <https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/claiming-rights-under-kafala-system/>.

<sup>56</sup> Ministry of Interior Circular No. 267 of 2002 prohibits confiscation of passport except through orders of judicial authorities.

<sup>57</sup> Ashfaq Ahmed, "Minimum wage for Pakistani workers in UAS fixed at Dh800 per month," *Gulf News*, December 6, 2018, <https://gulfnews.com/world/asia/pakistan/minimum-wage-for-pakistani-workers-in-uae-fixed-at-dh800-per-month-1.60786446>.

dependent on ministry approval and on the condition that workers made redundant would be registered on a virtual job board in order to be hired by other companies.<sup>58</sup> This law has meant that construction companies and workers can ‘mutually agree’ to take unpaid leave or accept amended contractual terms.<sup>59</sup>

The threat of employers launching criminal suits against their workers allows employers to exploit migrant workers. During the pandemic, workers were reluctant to raise complaints around wage theft and other irregularities as they feared their employers would retaliate by filing false complaints against them. Criminal complaints against workers puts their immigration status at risk, placing them in the category of an irregular worker. Irregular workers risk the cancellation of their employment contracts and possible deportation. Workers who entered the UAE on a visit visa but were working outside the terms of their visa faced additional threats during the pandemic. They could not register for repatriation flights as they were not officially registered as workers. Other workers who were laid off were forced to overstay in search of income sources. Their overstay results in a penalty to be paid at the airport which they could not afford. Alternatively, they faced the threat of deportation. Thus, the kafala system works with the immigration legal system and criminal law to facilitate the exploitation of workers. This precarity was rendered urgent in the aftermath of the pandemic.

## Conclusion

While our research has just begun to scratch the surface of this complex situation, this report has provided a snapshot of the crisis as it unfolded in the early months of the pandemic as Pakistani migrant workers rushed to be repatriated amidst an unfolding crisis of joblessness and uncertainty. Much work remains to be done. For instance, how racialization structures this migration corridor and historical position of both these regions in the global slave trade needs further inquiry.<sup>60</sup> This paper has highlighted some of the legal and political drivers that turned this situation quickly from economic slowdown to a widespread crisis of livelihood, displacement, and ejection. We found that increasing the bargaining power of sending countries would likely produce better conditions for migrant workers. Further, many commentators suggest the need to strengthen access to labor protections for migrant workers. In the absence of unions and platforms for organization and collective bargaining, workers have had little choice but to acquiesce to employer demands.

In recent policy debates the global migrant worker has been the subject of demonization and xenophobia the one hand, while hailed for their mobility and flexibility in responding to labor market conditions on the other. Migrant workers are essential resources in building high-tech metropolises and sustaining massive boom economies, uniquely adept at navigating informality and uncertainty. From Austin to the high-rise techno-utopia of Dubai and the Emirates at large, migrant workers constitute a sizable majority of the labor force in construction sectors across the globe. By attending to how precarity is built into the design of the systems and laws that govern

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<sup>58</sup> Marie Namour, “Coronavirus: UAE issues decree to regulate private sector jobs, salaries,” *Khaleej Times*, March 31, 2020, <https://www.khaleejtimes.com/coronavirus-outbreak/coronavirus-uae-issues-decree-to-regulate-private-sector-jobs-salaries>.

<sup>59</sup> Amnesty International, “COVID-19 makes Gulf countries’ abuse of migrant workers impossible to ignore.”

<sup>60</sup> Gilder Lehrman Center for the Study of Slavery, Resistance, and Abolition, “Labor Supply Chains in the Arab Gulf, Building Back Free-er,” GLC Webinar Archive, June 26, 2020, <https://glc.yale.edu/event/glc-webinar-labor-supply-chains-arab-gulf-building-back-free-er>.

labor conditions for millions of migrant construction workers, this study complicates traditional understandings of borders, racial capitalism, and labor supply chains especially in the context of the pandemic.