

Challenges of Pakistani Community in Bahrain: The Role of Pakistan Embassy

Saad Bin Rafiq¹

Introduction

Workers' migration from Pakistan has remained a significant contributor to the national economy by way of providing employment and financial support through remittances. The bulk of this migration has taken place (and continues to do so) to the Gulf Cooperation Council (GCC) countries. The Kingdom of Bahrain remains the fifth largest destination for Pakistani workers.² However, these workers face a number of challenges in Bahrain that are the outcome of several factors.

As in almost all the GCC countries, emigrants in Bahrain work under a sponsorship or *kafala* system that ties the immigration status of a worker to his or her sponsor – a local individual or a company. This provides excessive leverage to the sponsor over the employee for the latter's exploitation. The vulnerability grows when the expatriate worker is not well-educated, and hence ill-informed about his or her rights and means to overcome any exploitation. The majority of Pakistani emigrants in Bahrain comprise unskilled or semi-skilled blue collar workers who are especially at risk of excesses from their sponsors.

The Embassy of Pakistan in Bahrain is a critical support mechanism for such workers who are unable to directly interact with the host government agencies. While the embassy provides necessary support, it is paramount to first examine the labour regime of Bahrain and other root causes that contribute towards different kinds of exploitations meted out to our emigrants.

Statement of Problem

There are about 120,000 Pakistanis residing in the Kingdom of Bahrain, constituting the second largest expatriate community. More than 80 percent of these are blue collar workers. They work under a sponsorship or *kafala*-system which has historically been linked to labour exploitation. A number of reforms have taken place in the labour ecosystem of Bahrain, but labour exploitation is still prevalent. This paper aims to examine the labour regime, especially the sponsorship system, in Bahrain and the emigration chain with a view to delineate various aspects that provide the breeding

¹ Office Management Group, 32nd MCMC.

² Ministry of Finance, "Economic Survey of Pakistan 2020-21" under 'Chapter 12: Population, Labour force and Employment' page 237 https://www.pc.gov.pk/uploads/cpec/PES_2020_21.pdf (Accessed 21 October 2021).

ground for labour exploitation. The study shall dilate upon the following research questions;

- (i) How does the sponsorship based labour regime of Bahrain contribute to the illegal exploitation of Pakistani blue collar workers in Bahrain?
- (ii) How does Government of Pakistan (including the embassy in Bahrain) provide relief to the Pakistani victims of labour exploitation?

Significance and Scope of the Study

The study is limited to examining labour exploitation issues specifically faced by the blue collar Pakistani workers in Bahrain. The scope is further focused on the four major ILO defined labour exploitation indicators related to withholding wages, confiscation of passports, deceptive service contracts and irregular visa practices.

Review of Literature

This study is the first work that specifically examines labour exploitation of Pakistanis in Bahrain. Accordingly, the author could not find any specific research on these lines.

Radhika Kanchana (2018) has traced the historic origin of sponsorship system in Arab Bedouin practice of providing safe-passage to strangers.³ The British continued this tradition during the 1950s to keep the local population assuaged vis-a-vis the influx of migrant workers. She has concluded that the GCC region institutionalized the system in modern times after the 1970s oil-boom. On the other hand, Kali Robinson of the Council on Foreign Relations (2021) connects *kafala* with Islamic Jurisprudence on legal guardianship. In modern times, this system emerged from the demand of cheap labour in GCC countries and desperation for employment opportunities in South Asia.⁴ Ann Nga Longva (1999) has suggested that *kafala* strengthened during the pre-oil pearl exploration economy of the gulf region in early 20th century.⁵ However, she points out that the sponsorship system was diluted in Bahrain owing to a better local to expatriate ratio in comparison with neighboring Kuwait and Qatar. These studies have helped shape Section-I of this study.

European Centre for Democracy and Human Rights (2019) finds a correlation between the *kafala* system in Bahrain and long work hours, withholding of salaries and

³ Radhika Kanchana, "Is the Kafala tradition to blame for exploitative work-conditions in Arab Gulf countries?"

"Paris, March 2, 2021.

https://www.researchgate.net/publication/324203451_Is_the_Kafala_Tradition_to_Blame_for_the_Exploitative_Work_Conditions_in_the_Arab-Gulf_Countries (accessed 22 November, 2021).

⁴ Kali Robinson, "What is Kafala System?" Council on Foreign Relations (cfr), March 2021.

<https://www.cfr.org/background/what-kafala-system> (accessed 17 November, 2021).

⁵ Ann Nga Longva, "Kafala System in Gulf" *Middle East Research and Information Project*, 1999, 211 ed.

<https://merip.org/1999/06/keeping-migrant-workers-in-check/> (accessed 11 November, 2021).

passports, abusive recruitment fees and dilapidated work conditions.⁶ While highlighting a number of reforms in the *kafala* system of Bahrain, it identifies gaps in actual implementation of the progressive reforms which are extensively elaborated in Section-I of this paper.

International Labour Organization (ILO) guidelines clearly define indicators of labour exploitation and forced labour. The indicators in this paper which relate to wages, contract, work conditions have been borrowed from ILO standards.

Pranav Naithani and A.N. Jha (2009) explore the relationship of social norms of superiority in Arab society with the social segregation and resultant exploitation of outside labour.⁷ The study, however, falls short of linking existing gaps in the implementation of progressive laws with this social mindset.

Migrant Rights Forum (2019) has pointed out that increasing incidences of wage non-payment in Bahrain has resulted in worker protests including those by Pakistanis.⁸ ILO's Rapid Assessment Study on Covid-19 impacts on Pakistani human resource in the GCC countries conducted by Zishan Ahmed Siddique (2021) highlighted massive layoffs, repatriations and forced leave of Pakistanis from GCC including 1500 from Bahrain,⁸ underscoring a trend in which local sponsors tend to terminate contracts abruptly and withhold labour payments in a crisis. Moreover, Migrant Forum in Asia (2019) highlights Bahrain's attempts at reform and gaps in implementation.⁹ Abdoulaye Diop, Trevor Johnston, and Kien Trung Le (2018) examine challenges hindering the reform process which have helped shape Section III of this paper.

Research Method

This paper follows an analytical and exploratory research design. Major reliance has been placed on secondary sources comprising journals, reports, research papers, online sources and policy briefs. In some areas, information has been directly taken from primary sources through interviews. Various laws and policies of both Pakistan and Bahrain have also been consulted.

⁶ European Center for Democracy and Human Rights, *Bahrain: Migrant Workers Rights*, Brussels: EDCHR, June 2019. https://www.ecdhr.org/wp-content/uploads/2019/06/2019.06_Bahrain_Migrant-workers%E2%80%99rights.pdf (accessed 5 November, 2021).

⁷ Pranav Naithani, and A.N. Jha, "Challenges faced by expatriate workers in GCC countries", under, 'Research', *Munich Personal RePEc Archive MPRA*, 2009. <https://mpra.ub.uni-muenchen.de/67679/> (accessed 12 November, 2021).

⁸ Migrant Rights Bahrain, "Non-payment of wages: An issue on the rise for low-income migrant workers in Bahrain" *Migrant-Rights.org Report* October 13, 2019. <https://www.migrant-rights.org/2019/10/non-payment-of-wages-an-issue-on-the-rise-for-low-income-migrant-workers-in-bahrain/> (accessed 15 November, 2021). ⁸ Zishan Ahmed Siddiqui, *The impact of COVID-19 on Labour Migration Governance, Recruitment Practices and Migrant Workers*. Research, ILO, Pakistan: ILO, 2021.

⁹ Migrants Forum in Asia. "Policy Brief No. 2: Reform of Sponsorship System." *International Labour Organization*. n.d. <https://www.ilo.org/dyn/migpractice/docs/132/PB2.pdf> (accessed 20 November, 2021).

Organization of Paper

This research paper is divided into three sections. The first section covers the legal framework of labour ecosystem of Bahrain while specifically discussing the dynamics of the sponsorship system, its background and reforms. The second section focuses on labour exploitation of Pakistani blue-collar workers, delineating four ILO indicators of labour exploitation. It also highlights the mechanisms and role of Embassy of Pakistan for redressal. The third section analyses contribution of sponsorship system and other factors in the migration chain – on both Pakistani and Bahraini sides – towards the prevalent labour exploitation culminating in a fish-bone analysis.

Section I

Labour Regime of Bahrain

Comprising an area of 785 sq. kilometers and a population of 1.6 million,¹⁰ Bahrain is the smallest member state of the six GCC countries. Under British rule, oil was first discovered in the Middle East in Bahrain in 1932.¹¹ Since its independence in 1971, the al-Khalifa family has been ruling Bahrain, providing a stability that has led the Kingdom to continue on its growth trajectory towards a diversified economy with 80 percent contribution from non-oil sectors.¹²

Owing to its small local population, Bahrain relies heavily on expatriate labour who make up 52 percent of the total population for local economic productivity.¹³ The expatriates are mostly from South Asia. Pakistanis comprise about 11 percent of the total workforce, and are mostly employed in construction, security, maintenance, manufacturing and retail sectors. While some Pakistanis are employed in highly professional roles, the bulk of around 80 percent are employed as blue-collar workers.¹⁴ The ILO defines a blue-collar worker as a person whose job mostly comprises manual work, having skills at various trades or unskilled labour.¹⁵

¹⁰ Britannica Encyclopedia, "Bahrain", under 'facts', <https://www.britannica.com/facts/Bahrain> (accessed 10 November, 2021).

¹¹ BAPCO – Bahrain Petroleum Company", 'About us (History)' <https://tinyurl.com/uzf4693n> (accessed 17 November, 2021).

¹² Government of Bahrain, "Ministry of Information Affairs", under 'Business and Economy' <https://www.mia.gov.bh/kingdom-of-bahrain/business-and-economy/?lang=en> (accessed 7 November, 2021).

¹³ The Daily Gulf Insider, "Bahrain population crosses 1.5 Million mark of which 52.6 percent are expatriates" under 'Middle East', <https://www.gulf-insider.com/bahrain-population-crosses-1-5-million-of-which-52-6-are-expats/> (accessed 5 November, 2021).

¹⁴ Muhammad Ayub, Ambassador of Pakistan to Bahrain, interview by author, 20 November, 2021.

¹⁵ Robert Heron and Liesbeth Unger, ILO Glossary of Labour Administration, International labour office, 1992, Thailand.

https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/--lab_admin/documents/publication/wcms_111331.pdf (accessed 19 November, 2021).

1.1 Legal Framework

Expatriates in Bahrain are governed under a sponsorship (*kafala*) system. Aliens Immigration and Residence Act of 1965,¹⁶ Law No. 19 of 2006 Regulating the Labour Market¹⁷ and Labour Law No. 36 of 2012¹⁸ make up the foundation of the legal framework for migrants in Bahrain. In 2006, Labor Market Regulatory Authority (LMRA) was established for regulating expatriate labour market. This authority issues, cancels and renews all kinds of expatriate work permits.¹⁹

The Ministry of Interior controls residency visas and conducts operations against illegal resident workers. The Ministry of Labour is responsible for sponsor-employee matters and dispute resolution mechanisms are therein. Unsettled cases are referred to Labour Courts working under Ministry of Justice as there is no separation of executive and judiciary in Bahrain.

1.2 Sponsorship System

The sponsorship or *kafala* system formally emerged in 1950s to regulate expatriate workers in the Middle East²⁰ laying the foundation for contractual emigrant labour markets in GCC countries (including Bahrain). It maintains control of a local sponsor (either an individual or an organization) over expatriate workers in the host country and ensures temporary nature of the labour transaction. Sponsorship policy, in turn, grants flexibility to the government to easily manage migration model by outsourcing responsibility to the sponsors. Thus, the government can conveniently pull or push desired migration in times of economic booms and busts respectively.

In Bahrain, the system is institutionalized through a legal framework that recognizes the expatriate worker only through the sponsor. This provides considerable discretionary power to local sponsors over migrant workers that translates into a wide scope for labour exploitation.²¹ Moreover, employment and legal residency are inter-linked, therefore, private local individual sponsors or companies control expatriate workers' legal status. This framework creates an employer-worker power imbalance²² that in turn contributes to labour exploitation.

¹⁶ Government of Bahrain, "Aliens Immigration Residence Act, 1965", <https://www.refworld.org/cgi-bin/tehis/vtx/rwmain?page=search&docid=3fb9f4bd4&skip=0&query=bahrain%20alien%20immigration> (accessed 17 November 2021).

¹⁷ LMRA, "Labour Law of Bahrain", <https://lmra.bh/portal/files/cms/shared/file/labour%20law%202012.pdf> (accessed 9 November, 2021).

¹⁸ Ibid.

¹⁹ LMRA, "About us", <https://lmra.bh/portal/en/page/show/56> (accessed 29 November, 2021).

²⁰ Migrants Forum in Asia, "Policy Brief No. 2: Reform of Sponsorship System.", <https://www.ilo.org/dyn/migpractice/docs/132/PB2.pdf> (accessed 20 November, 2021).

²¹ Ibid.

²² Kali Robinson, "What is Kafala System?", Council on Foreign Relations 2021 <https://www.cfr.org/background/what-kafala-system> (accessed 17 November, 2021).

1.3 Reforms and Current Situation

Bahrain initiated a major transformation in the sponsorship system in 2009, when the then Minister for Labour equated the system with “slavery” and vowed to terminate it,²³ abolishing the mandatory approval of sponsors for changing the employer by expatriate workers. The decree also aimed at gradually doing away with the sponsorship system as a whole. However, only after two years, LMRA conditioned this freedom with requirement of spending at least one year with the current sponsor.²⁴ Moreover, the *kafala* system remained intact till date (2021), well beyond the stipulated deadline of 2017.

While Bahrain does provide protections that are not available in the other GCC countries, its law still does not provide for fixing of minimum pay by sponsors. Similarly, Bahrain has not ratified International Convention on the Protection of the Rights of All Migrant Workers.²⁵

Similarly, Bahrain also announced rolling out of electronic Wage Protection System (WPS) in 2012 to curb wide-spread delays of wages paid in cash to workers by making bank transfer of wages mandatory for employers to maintain record and transparency.²⁶ However, Bahrain is still in the consultation phase and has given a three-stage plan for employers to commit to the system till May 2022 without attaching any penalties.

1.4 Master-Slave Social Mindset

Despite labour reforms, Bahrain faces a lag in the practice of progressive laws in labour market as there is widespread social acceptance of traditional *kafala* practices that expect expatriate workers to submit to sponsors’ will. A study cited an advertisement in Bahrain media about “winning a domestic worker” through an online competition²⁷ highlighting the social image of an expatriate as a subject or property. Such a mindset creates a disabling social environment where implementation of progressive labour laws remains slack.

²³ BBC, “Bahrain to end Slavery system”, under ‘Middle East’, http://news.bbc.co.uk/2/hi/middle_east/8035972.stm (accessed 22 November, 2021).

²⁴ Maysa Zahra, "Bahrain's Legal Framework of Migration", under ‘Gulf Labour Markets and Migration, 2018’, <https://gulfmigration.org/bahrains-legal-framework-of-migration-2/> (accessed 21 November, 2021).

²⁵ Abdoulaye Diop, Trevor Johnston, and Kien Trung, "Migration Policies across GCC: Challenges in Reforming Kafala" In *Migration to the Gulf: Policies in Sending and Receiving Countries*, Cambridge: Migration Policy Center, 2018.

²⁶ Ray Jureidni, "Wage Protection System and Programs in the GCC", under ‘Migration to Gulf: Policies of Sending and Receiving Countries’, Gulf Research Center, 2018, https://gulfmigration.org/media/pubs/book/grm2017book_chapter/Volume%20-%20Migration%20to%20Gulf%20%20Chapter%202.pdf (accessed 1 December, 2021).

²⁷ Radhika Kanchana, “Is the Kafala Tradition to Blame for the Exploitative Work Conditions in the Arab-Gulf Countries?”, https://www.researchgate.net/publication/324203451_Is_the_Kafala_Tradition_to_Blame_for_the_Exploitative_Work_Conditions_in_the_Arab-Gulf_Countries (accessed 9 November, 2021).

Moreover, Bahraini society earmarks highest social status to locals, followed by other Arab citizens and Westerners. On the other hand, South Asian expatriate workers in low skilled jobs are at the lowest rung of the social ladder. Spatial segregation further sharpens social divisions. Quite naturally, rights and wages are also linked to the underlying social status.²⁸

Section II

Exploitation of Pakistani Labour Force

2.1 Pakistani Community in Bahrain

Major migration from Pakistan to Bahrain started from 1970s owing to oil-led prosperity and demand for human resources. Since 1971, 190,611 Pakistanis have reached Bahrain on work visas – mostly in the blue-collar category. During the last decade, average annual workers flow to Bahrain from Pakistan remained around 8511. The number of workers emigrating to Bahrain in last ten years is as following;²⁹

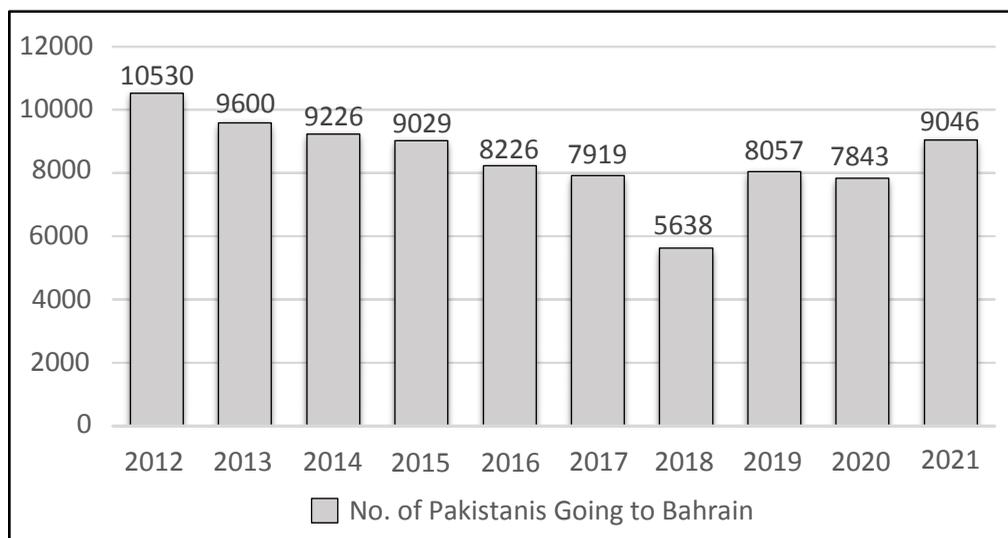
Year	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
No. of Pakistanis emigrating to Bahrain	10530	9600	9226	9029	8226	7919	5638	8057	7843	9046

The Work Permit regime of Bahrain segregates professionals from workers through the category of permit issued. The Executive and Managerial category of visas in which sponsors are institutions shields high-skilled expatriates from exploitation. However, the majority of Pakistanis in blue collar jobs have worker visas that tie them to contractors, individuals and small scale companies. According to the Bureau of Emigration and Overseas Employment (BEOE), more than 90 percent Pakistanis going abroad during 2020 and 2021 were blue collar workers comprising of skilled, semi-skilled and unskilled occupations.³⁰

²⁸ Pranav Naithni, and A.N. Jha, "Challenges faced by expatriate workers in GCC countries", under, 'Research', *Munich Personal RePEc Archive MPRA*, 2009.

²⁹ BEOE, "Reports and Statistics", under 'Country-wise Emigration', <https://beoe.gov.pk/files/statistics/2021/country.pdf> (accessed 17 November, 2021).

³⁰ Bureau of Emigration and Overseas Employment, "Occupation-wise Break-up", <https://beoe.gov.pk/files/statistics/2021/occupation.pdf> (accessed 2 December, 2021).



2.2 Prevalent Labour Exploitation

The most frequently received complaints at Embassy of Pakistan in Bahrain with regards to labour exploitation are delays or withholding of wages, confiscation of passports, deceptive service contract issues, and independent ‘free visa’ holding illegal workers.³¹ The ILO clearly defines all above issues as “Indicators of labour exploitation.”³² In another instance, the ILO’s Special Action Program to Combat Forced Labour defines the above as Forced Labour indicators.³³ Each indicator is discussed separately below:

2.2.1 Withholding Wages

The problem of unpaid wages is the most recurring workers’ grievance in Bahrain, even though nonpayment of wages is both a criminal and a civil offence.³⁴ Bahrain witnessed a number of protests by workers against non-payment of salaries, including by a number of Pakistanis. Protests of workers of Bahrain Motor Company, Mirador Hotel, Ramses Trading, GP Zachariades ran into hundreds, with a few blocking major

³¹ Muhammad Ayub, Ambassador of Pakistan to Bahrain, interview by author, 20 November, 2021.

³² ILO, “Details of indicators on labour exploitation”, https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_105035.pdf.

³³ ILO, “Special Action Program to Combat Forced Labour”, https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_203832.pdf (accessed 18 November, 2021).

³⁴ ILO White Paper, “Exploratory Study of good policies in protection of Construction Workers in the Middle East”, under ‘Late Payment of Wages’, https://www.ilo.org/wcmsp5/groups/public/---arabstates/---robeitur/documents/publication/wcms_618158.pdf (accessed 1 December, 2021).

highways.³⁵ The delay in payment of wages in Bahrain increased with lower oil prices and the economic slump of 2018 and 2019.³⁶ The delayed wages issue worsened after onslaught of the Covid-19 pandemic that brought economic activity to a grinding halt. Despite Government of Bahrain's assurance towards paying 50 percent of salaries to workers of private companies,³⁷ the companies kept their employees unpaid for months and subsequently massive lay-offs took place. The workers were unable to get their withheld salaries and end of service benefits, as the companies found it more expedient and cost-effective to recruit new workers after the pandemic subsided. The Pakistan Embassy registered 2743 cases related to wage delay in years 2020 and 2021.³⁸

2.2.2 Confiscation of Passports

Passports of expatriate workers routinely remain with their sponsors. This is on the pretext of safe-keeping and completion of residency procedures. The practice is rampant, despite being a criminal and civil offence. This ensures that expatriates cannot change jobs or leave the country without informing the sponsor. Non-possession of passports precludes a worker from accessing basic facilities like opening bank accounts, applying for driving licences, private health care, and even procuring a mobile phone SIM card. Pakistan Embassy received 271 complaints of passport confiscation in 2021³⁹ despite the practice being under-reported.

2.2.3 Deceptive Service Contract Issues

Bahrain does not have a minimum-wage law. Therefore, the settlement of wages and work hours is unfairly bargained between permanent sponsors and temporary workers. Absence of such a law creates an enabling ground for exploitation of workers. Moreover, Pakistani overseas employment promoters (OEP) – private companies which mediate the employment contracts – abet the practice by routinely deceiving aspiring emigrants with promises of high salaries. Service contracts are either not shown to the emigrants prior to departure, or worse a dummy contract is provided to them listing fake terms. Once the worker reaches Bahrain, his salary, terms and working hours are different from what had earlier been promised at home, leaving the workers – who have spent their scant family resources to pay off the agents – with no choice but to accept the tough new terms as the labour law does not permit them to change the sponsor or approach any official agency. The Pakistan Embassy received 123 cases regarding issues arising due to deceptive service contract issues.

³⁵ Migrant Rights Bahrain, "Non-payment of wages: An issue on the rise for low-income migrant workers in Bahrain", under 'Migrant-Rights.org Report October 13, 2019', <https://www.migrant-rights.org/2019/10/nonpayment-of-wages-an-issue-on-the-rise-for-low-income-migrant-workers-in-bahrain/> (accessed 15 November, 2021).

³⁶ Ibid.

³⁷ Reuters, "Bahrain to Pay 50 percent of the wages to private firms hit by Corona virus", under 'Emerging Markets Dubai, June 29, 2020, <https://www.reuters.com/article/us-health-coronavirus-bahrain-economy-idUSKBN2401M0> (accessed 21 November, 2021).

³⁸ Tahira Saleem, Community Welfare Attache Bahrain, interview by author, November 18, 2021.

³⁹ Ibid.

2.2.4 Irregular Emigration/Informal Visa Issues

The system of sponsorship is frequently abused by sponsors who sell work permits in the international recruitment market. Such an irregular/open work permit is popularly called *azad* or independent visa. An expatriate emigrates on such an open permit after paying hefty sums to employment agents and sponsors. As the law does not recognize such a visa status, when the worker reaches the destination such visas are canceled turning the worker's stay illegal. Resultantly, the worker incurs fines and remains unable to access legal, medical, social or economic support from any agency. These workers are specifically vulnerable to exploitation in the informal labour market, as they remain on the fringes and shadows for fear of penalties. It is estimated that there are 5000 illegal Pakistani workers in Bahrain.⁴⁰

Visa-trading in the Gulf market is a multi-million-dollar industry. Despite being an illegal practice, there has not been any known prosecution of a local Bahraini national for visa trading.⁴¹ Nevertheless, this practice is not possible without the connivance of employment agents in Pakistan who entice desperate workers in Pakistan with a promise of emigration without disclosing consequences of such visas. An *azad* visa for Bahrain sells at an average price of 2200 dollars in Pakistan.⁴²

2.3 Role of Pakistan Embassy

Pakistan Embassy at Bahrain is a thinly staffed mission, with an ambassador and two officers, along with 25 staff members. It plays a vital role in assisting victims of labour exploitation.

2.3.1 Labour Support Mechanism

The office of Community Welfare Attaché (CWA) in Bahrain was created under section 7 of the Emigration Ordinance, 1979 in 1995⁴³ for the purpose of safeguarding interests of emigrants and promoting overseas employment.⁴⁴ The CWA visits labour camps, companies, labour courts, and provides necessary assistance to workers; moreover, their grievances are registered and appropriate interventions are made. A 24-hour helpline is in place. The CWA also works in close coordination with the BEOE Pakistan for regulation of emigration practices. The Community Welfare wing verifies grievances related to labour exploitation and engages with sponsors directly. In case of non-responsiveness of sponsor, cases are referred to host government agencies.⁴⁵

⁴⁰ Muhammad Ayub, Ambassador of Pakistan to Bahrain, interview by author, 20 November, 2021.

⁴¹ Migrants Forum in Asia, "Policy Brief No. 2: Reform of Sponsorship System", International Labour Organization. <https://www.ilo.org/dyn/migpractice/docs/132/PB2.pdf> (accessed 20 November, 2021).

⁴² Zain ul Abidein, Al-Yaj Gulf OEP, Interview by Author, Lahore, 26 October, 2021.

⁴³ BEOE, "Emigration Ordinance, 1979",

<https://beoe.gov.pk/files/legal-framework/ordinance.pdf> (accessed 5 December, 2021).

⁴⁴ BEOE, "Emigration Rules, 1979", under 'Rule 5', <https://beoe.gov.pk/files/legal-framework/rules.pdf> (accessed 12 December, 2021).

⁴⁵ Tahira Saleem, Community Welfare Attache Bahrain, interview by author, November 18, 2021.

2.3.2 Interventions Made by the Embassy in Labour Exploitation

During the recent crisis period 34 cases of wage delay were resolved through direct negotiations with the sponsors. Cases involving groups of workers were jointly handled by CWA and Ministry of Labour. In 10 such cases only three were resolved and seven remained undecided till date. For want of funds, the aggrieved in such cases were repatriated on their own request at the embassy's expense from Pakistan Community Welfare Fund (PCWF). Only three of them chose to file their case in the labour court through private attorneys. The embassy does not have any lawyer on its panel nor can it pay legal fees through the PCWF under existing financial rules.⁴⁶

In passport recovery cases, out of 271 cases registered, 102 were recovered through direct negotiations with sponsors, 90 were issued new passports and 79 were referred to the local police. Issuance of new passports in such cases remains a convenient intervention, however, this comes with risks of abuse and involves initiation of the visa process anew.⁴⁷

In service contract grievances, the embassy is constrained to only follow whatever is provided in the contract and does not have any legal option to overcome deceit or duality of contracts (between the fake ones provided at home and the actual provided upon arrival). Emigration Rules 1979 define the registration of agreements with the Protectorate of Emigrants as a mandatory requirement before a worker departs Pakistan⁴⁸ and sharing copies with the embassy. However, this is not practiced in general.

With respect to the illegal visa trade, there is no verifiable data on the number of emigrants proceeding on *azad* visas as they are apparently similar to regular work permits but with a different – and often concealed – underlying bargain. The embassy received 183 cases of illegal stay from the Ministry of Interior in 2021. These Pakistanis had been detained in the Deportation Jail and were assisted in issuance of passports/ emergency travelling documents and their subsequent travel.

Section III

Analysis

An analysis of above sections reveals a direct correlation of the sponsorship system with the resultant labour exploitation. However, this is not the only cause contributing to exploitation, as a number of other factors have also been found. As highlighted earlier, Bahrain has been consistently reforming its overall labour regime since 2009. However, in spite of reforms, major indicators of labour exploitation such as delay in

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ Emigration Rules, 1979.

payment of wages, low salaries, confiscation of identity documents, and deceptive recruitment practices are still present. This is a result of a complex interplay of various elements: some relating to the Bahraini side and others to the Pakistan side.

3.1 Bahrain Related Causes

In terms of legal provisions for expatriate workers in the labour regime, the status of Bahrain compared with regional Arab countries is shown in Figure 3.1 below:

Figure 3.1: Comparative Matrix of Labour Provisions

	Join unions	Change job or quit without permission	Leave country without permission	Minimum wage	Domestic workers included under labor law	Standard contract for all workers
Bahrain	Yes	After 1 year	Yes	No	In some cases	No
Jordan	Yes	After 1 year	Yes	Yes	Yes	Yes
Kuwait	Yes	After 1 year	Yes	Yes	No	No
Lebanon	Yes	No	Yes	Yes	No	No
Oman	Yes	No	Yes	No	No	No
Qatar	In some cases	Yes	In most cases	Yes	No	No
Saudi Arabia	No	In some cases	No	No	No	No

Thus Bahrain turns out to be a relatively reformed labour market, with many permissions legally available to expatriate workers. However, non-availability of certain provisions⁴⁹ directly contributes to labour exploitation.

As noted earlier, till date, Bahrain does not have a minimum wage law. The absence of a minimum standard remains a major reason for under payment and exploitation. Similarly, Bahrain has not rolled out a Wage Protection System that makes payment of salaries to the employees through their bank accounts mandatory. Blue collar workers who are paid in cash are most vulnerable to wage related exploitation as there is no record to make sponsors accountable.

On the other hand, centuries of *kafala* practice in Bahrain has engendered a social mindset of local superiority over foreign workers. Despite a number of progressive laws, this mindset remains an impediment in bringing expatriate workers at par with locals. Moreover, residential areas of Bahrainis are far segregated from expatriate labour camps precluding social intermingling of the two classes. This social gap symbolizes exclusiveness of the elite local class and internalizes inferiority in migrants.

⁴⁹ Kali Robinson, "What is Kafala System?"; Council on Foreign Relations, <https://www.cfr.org/background/what-kafala-system> (accessed 17 November, 2021).

The feeling of social ostracization is further strengthened as sponsors face limited accountability. While fulfillment of residency procedures is the responsibility of sponsor, in case of nonfulfillment it is the employees who face heavier penalties. If a sponsor falters in renewing the work permit, it is the employee who becomes illegal. Even if a sponsor is approached by the police in cases of passport confiscation, the sponsor has an easy way out feigning ignorance as there is no receipt of the original deposit.

While the law explicitly prohibits passport confiscation, wage delays, excessive work hours, visa trade and irregular recruitment, such practices are rife in actual practice. The prosecution of local sponsors on these issues has been seldom witnessed, if at all. This underscores the ground reality that the government and the society tacitly acquiesce to the chasm between the legal and the real, the *de jure* and the *de facto*.

Adding to the unevenness of the playing field, complaint filing and dispute resolution mechanisms are cumbersome in terms of accessibility, cost and procedural issues. Sponsors have great leverage of familiarity with settings, local connections, money and time. Contract-based blue-collar workers are devoid of any advantage. This imbalance further promotes labour exploitation.

The LMRA was established in Bahrain with a view to act as an interface between sponsors and expatriate employees. However, it remains restricted to a procedural conduit rather than an enforcer. The enforcement in terms of expatriate affairs remains with the Ministry of Interior which is under a minister from the ruling Al-Khalifa family, and thus holds great sway. The enforcing arms – police and NPRA⁵⁰ – do not act under directives of LMRA or Labour Ministry that are issued in wage or employment disputes. Thus, the quest for obtaining justice in labour exploitation cases is complex and uphill.

In the meanwhile, the trade in “Free Visas” continues despite being a major reason for presence of illegal migrants in Bahrain.⁵¹ Such workers are employed at lower than market wages and on a transactional basis, thus providing a cheap alternative to regular workers. The economy benefits from cheap labour and the practice is condoned. Illegal Pakistanis are specifically vulnerable to Labour exploitation.

Lastly, public opinion is also a major reform impediment. Any immigration reform is a highly sensitive political issue and prejudices against expatriates are connected with the inherent economic insecurity of the locals, engendering a need for *kafala* as tool for both control and rent-seeking.⁵²

⁵⁰ Nationality, Passports and Residency Affairs, <https://www.npra.gov.bh/en/>

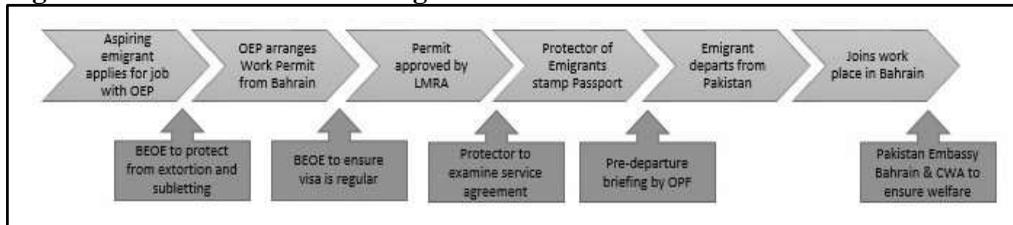
⁵¹ Hassan Alahsan, “Irregular Migration in Bahrain: Legislation, Policies and Practice”, Gulf Research Center 2017.

⁵² Abdoulaye Diop, Trevor Johnston, and Kien Trung, Migration Policies across GCC Challenges in Reforming Kafala, “Migration Policies across GCC: Challenges in Reforming Kafala”, *Migration to the Gulf: Policies in Sending and Receiving Countries*, Cambridge: Migration Policy Center, 2018.

3.2 Pakistan Related Causes

The Emigration Ordinance and Emigration Rules, 1979 have laid strong institutions and procedures to check labour exploitations. Under Sections 3, 5 and 7 of the Ordinance⁵³, BEOE, Protectorate of Emigrants and CWA have been created to regulate the complete origin to destination migration chain by checking irregular migrations, penalizing extortion by employment agents, providing pre-departure awareness of laws and rights, and assisting emigrants in destination country. The migration chain and role of each agency at every step is as follows;

Figure 3.2: Pakistan Bahrain Migration Chain



However, as already noted, gaps exist throughout the migration chain which directly contribute in labour exploitation. To begin with, the BEOE does not provide methodical pre-departure awareness and lacks resources to check subletting or over charging in recruitment. The protectorate offices stamp passports without ensuring the contract provisions due to disconnect with the Bahraini legal framework. The Community Welfare Attache at the Pakistan Embassy Bahrain is unable to provide direct legal assistance or legal fees to the victims of labour exploitation in Bahrain.

Emigration Rule 21 and 21-A make agreement registration mandatory, Rule 27 provides a consultation framework with the embassy in host country in case of agreement violation, and Rules 28-30 provide the complaint resolution mechanism. However, these rules have not been amended to preclude malpractice innovations. Moreover, the rules are same for all countries despite peculiarities in destination markets.

On the other hand, there has been no general awareness campaign in the major labour exporting areas of Pakistan about migration intricacies, procedures, legality and rights. Consequently, uninformed and uneducated blue-collar workers become easy targets of predatory employment agents in Pakistan and remains vulnerable to labour exploitation in Bahrain. With no legal counsel on the embassy's payroll, and preclusion of payment of legal fees of privately hired lawyers under rules, legal assistance in labour courts cannot be provided.

⁵³ Ibid.

Although existing institutional framework holistically covers the areas where labour exploitation takes place, however, due to resource constraints, systematic weaknesses, generic outdated rules, general unawareness and complacency of related offices, effective implementation remains lacking.

3.3 Fish Bone Diagram

The following ‘Fish-Bone diagram’ summarizes the whole analysis.

Figure 3.3: Fish Bone Diagram on Causes of Labour Exploitation



Conclusion

The analysis of the available secondary data and interviews of primary sources reveals that all four indicators of labour exploitation are being faced by Pakistani blue-collar workers in Bahrain. Despite many reforms, the labour regime of Bahrain is still based on the sponsorship system that substantially contributes to labour exploitation. However, this is not the only factor.

While wage related exploitation can be attributed to absence of minimum wage laws and Bahraini reluctance to roll out the Wage Protection System, many practices termed illegal by the sponsorship system itself are rampant and are tacitly acquiesced. Similarly, illegal visa trading and deception in service contract are also faced by Pakistanis despite being illegal in sponsorship system. The social mindset of superiority exhibited by Bahrain sponsors, historic *kafala* (mal)practices, expatriate-local social segregation and lack of Bahraini sponsors’ accountability allow exploitative practices that are barred by law.

Partial contribution to the absence of facilitation to workers facing exploitation also lies with Pakistan's emigration framework, including aspects relating to the Pakistan Embassy in Bahrain. Lack of resources, absence of a legal counsel with the embassy, lack of awareness campaigns, complacency in service contract examination, outdated emigration legislation, and absence of integration preclude an otherwise effective government framework to carefully check illegal employment practices and educate emigrants.

The Government of Pakistan needs to implement a fundamental role revision to uplift the institutional framework in BEOE, Protectorate of Emigrants offices, and Pakistani missions by revising laws and policies according to modern needs and examining issues of labour exploitation bilaterally with Bahrain. There also needs to be constant vigilance in implementation.

Recommendations

(i) Amendment in Emigration Rules

Under an amendment to the Emigration Rules, 1979 country specific sub-rules should be added for destination countries including Bahrain, directly responding to each particular labour market and the exploitative malpractices prevalent therein, in consultation with CWAs.

(ii) National Emigration Policy

A revised National Emigration Policy should define indicators of labour exploitation, assign exact roles at each step of the migration supply chain, make labour exploitation related functions as performance indicators for line offices and put accountability mechanisms in place.

(iii) A MoU on Joint Effort against Labour Exploitation

Building on excellent bilateral relations with Bahrain, a draft MoU should be floated through the Ministry of Foreign Affairs to create an exploitation free migration corridor through bilateral efforts.

(iv) Bahrain-Pakistan Joint Working Group

Pakistan and Bahrain already have an agreement on labour cooperation since 2014. A Joint Working Group under this agreement may be recommended to identify exploitative practices and recommend mutually agreed remedial actions.

(v) Integration of Emigration related Institutions

A web-portal may be established to link Pakistan missions abroad, CWAs, BEOE, Protectorates, OEP's and the Ministry of OP & HRD for real time flow of information on the labour market malpractices and configuring a holistic response. A complaint redress system – similar to the one developed for Hajj Operations – that escalates complaints upwards after timed intervals be put in place.

(vi) Service Contract Regulation

The protectorate offices all over Pakistan should only stamp passports if the contract is verified by CWA Bahrain. The portal can be used to upload the contract, connect with CWA who in turn will verify it in consultation with the Bahraini sponsor. In this way, *azad* visa trade, and contract deceptions can be ruled out.

(vii) Upgrading CWA Office Bahrain

One additional CWA and ample staff should be posted, given that 120,000 Pakistanis reside in Bahrain.

(viii) Appointment of a Legal Consultant at Embassy

A legal firm or lawyer should be hired by the embassy to defend victims of labour exploitation in court through the PCW fund.

(ix) Dialogue with Private Employment Promoters

OEPs should be engaged to ensure stoppage of subletting recruitment, extortion of money and illegal visa trade. It is in the interest of both the government and OEPs to identify the rogue elements to maintain safe emigration market competition.

(x) Labour Awareness Campaigns

A wide scale national level awareness campaign should be launched and maintained through regional protectorate offices to inform aspiring migrants about the illegal practices, indicators of exploitation and their labour rights.

Bibliography

Alahsan, Hassan. *Irregular Migration in Bahrain: Legislation, Policies and Practice*. Gulf Research Center, 2017.

Ayub, Muhammad Ambassador of Pakistan to Bahrain, interview by author. 20 November, 2021.

BAPCO. "Bahrain Petroleum Company." About us (History). n.d. <https://tinyurl.com/uzf4693n> (accessed 17 November, 2021).

BEOE. "Statement showing Occupation-wise emigration." BEOE Reports and Statistics". <https://beoe.gov.pk/files/statistics/2021/occupation.pdf> (accessed 20 November, 2021).

Britannica Encyclopedia. n.d. <https://www.britannica.com/facts/Bahrain> (accessed 20 November, 2021).

Bureau of Emigration and Overseas Employment. *Labour Migration Report*. Government Paper, Islamabad: BEOE, 2021.

Diop, Abdoulaye, Trevor Johnston, and Kien Trung. "Migration Policies across GCC: Challenges in Reforming Kafala,." In *Migration to the Gulf: Policies in Sending and Receiving Countries*. Cambridge: Migration Policy Center, 2018.

Emigration Ordinance. 1979. <https://beoe.gov.pk/files/legal-framework/ordinance.pdf> (accessed 17 November 2021).

Emigration Rules. 1979. <https://beoe.gov.pk/files/legal-framework/rules.pdf> (accessed 10 November 2021).

European Center for Democracy and Human Rights. *Bahrain: Migrant Workers Rights*. Brussels: EDCHR, June 2019.

Government of Bahrain. "Ministry of Information, Business and Economy". <https://www.mia.gov.bh/kingdom-ofbahrain/business-and-economy/?lang=en> (accessed 7 November, 2021).

Government of Pakistan. *Economic Survey of Pakistan*. Government Report, Islamabad: Ministry of Finance, 2020/21.

Harmassi, Muhammad. "Bahrain to end 'slavery' system." *BBC One minute World News*. May 6, 2009. [news.bbc.co.uk/2/hi/middle_east/8035972.stm](https://www.bbc.co.uk/2/hi/middle_east/8035972.stm) (accessed 22 November, 2021).

ILO. "Details of Indicators for Labour exploitation." *International Labour Organization*. n.d. https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_105035.pdf (accessed 18 November, 2021).

ILO. "Indicator of Forced Labour." *International Labour Organization Special Action Plan to combat forced labour*. n.d. (accessed 18 November, 2021).

Jha A.N, Pranav Naithni and A.N. *Challenges faced by expatriate workers in GCC countries*. Research, Munich Personal RePEc Archive MPRA, 2009.

Jureideni, Ray. "Wage Protection System and Programs in the GCC." In *Migration to Gulf: Policies of Sending and Receiving Countries*, by Nasra M Shah Philippe Fargue. Gulf Research Center, 2018.

Kanchana, Radhika. *Is the kafalatrading to blame for exploitative work-conditions in Arab Gulf countries?* Paris, March 2, 2021.

Kingdom of Bahrain. "Bahrain Laws." Aliens Immigration and Residence Act of 1965". <https://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=3fb9f4bd4&skip=0&query=bahrain%20aliens%20immigration> (accessed 14 November, 2021).

Labour Market Regulatory Authority. "Labour Law of Bahrain". <https://lmra.bh/portal/files/cms/shared/file/labour%20law%202012.pdf> (accessed 22 November, 2021). Longva, Ann Nga. "kafalaSystem in Gulf." *Middle East Research and Information Project*, 1999, 211 ed.

Migrant Rights Bahrain. "Non-payment of wages: An issue on the rise for low-income migrant workers in Bahrain." *Migrant-Rights.org*. October 13, 2019. <https://www.migrant-rights.org/2019/10/non-payment-of-wages-an-issue-onthe-rise-for-low-income-migrant-workers-in-bahrain/> (accessed 15 November, 2021).

Migrants Forum in Asia. "Policy Brief No. 2: Reform of Sponsorship System." <https://www.ilo.org/dyn/migpractice/docs/132/PB2.pdf> (accessed 20 November, 2021).

Robert Heron, Liesbeth Unger. "International labour office." *ILO Glossary of Labour Administration*. 1992. https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---lab_admin/documents/publication/wcms_111331.pdf (accessed 23 November, 2021).

Robinson, Kali. "What is kafalaSystem?" *Council on Foreign Relations* (cfr), March 2021.

Saleem. Tahira. Community Welfare Attache. Pakistan Embassy Bahrain. interview by author. 18 November, 2021.

Siddiqui, Zishan Ahmed. Research, ILO, Pakistan: ILO, 2021. *The impact of COVID-19 on Labour Migration Governance, Recruitment Practices and Migrant Workers*. Rapid Assesment Study, ILO, 2021.

Reuters. "Bahrain to Pay 50 percent of the wages to private firms hit by Corona virus." *Reuters Emerging Markets Dubai*. June 29, 2020. <https://www.reuters.com/article/us-health-coronavirus-bahrain-economy-idUSKBN2401M0> (accessed 21 November, 2021).

The Daily Gulf Insider. *Bahrain population crosses 1.5 Million mark of which 52.6 percent are expatriates*. n.d. <https://www.mia.gov.bh/kingdom-of-bahrain/business-and-economy/?lang=en> (accessed 5 November, 2021).

Wells, Jill. Exploratory study of good policies in the protection of construction workers in the middle east, International Labour Organization, Regional Office for Arab States. - Beirut: ILO, 2017 Zahra, Maysa. "Bahrain's Legal Framework of Migration." *Gulf Labour Markets and Migration*, 2018.