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# Contested Governance and Sovereignty in the Kerala–Dubai Migration Corridor

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## Introduction

Perhaps in no other space is the authority of the state felt more powerfully than from the position of a migrant or refugee attempting to enter a country for work or asylum. Yet the power of physical borders and the sovereign role of the state in governing the national space of work and mobility has irrevocably changed. While the role of a state remains of crucial significance, states are not actors operating alone. Rather, global governance institutions and governmental actors at the subnational, regional, and international levels all play a role in shaping the governance of migration. Moreover, non-governmental actors, including businesses and activists, are also influential players in the migration governance space. The ways through which sovereignty is contested and governance is shaped by these various actors and stakeholders is a critical component of how global migration governance occurs.

In this chapter, we examine these overlapping and contested spheres of governance with a view of labour migration within the India–United Arab Emirates (UAE) migration corridor – the largest Asian migration corridor (IOM 2018: 57). We use a subnational spatiality, the Kerala–Dubai corridor, to illustrate the complex assemblage of actors operating in a labour migration governance space and, in a variety of ways, challenging state sovereignty over this issue area. We do so through an examination of two case studies: the actors and processes in labour recruitment, and the establishment of a shared electronic migration regulatory system.

The findings from these cases support two arguments advanced in our chapter: first, labour migration governance needs to be understood as a

multi-scalar governance activity that occurs in a contested and constantly evolving space. Second, regulatory choices that occur are not only influenced by the multiplicity of actors operating in this space, but also influence their activities, choices, and advocacy. That is, we see that recruitment agents, business hiring managers, migrants, and migration advocacy organizations react to regulatory choices by adjusting their activities, lobbying for new regulations, looking for ways of facilitating the continuation of labour migration, and creating new platforms and mechanisms for generating governance change.

Where some view migration and citizenship governance and border security as a ‘last bastion of sovereignty’ (Dauvergne 2008: 169 and 184), others suggest growing evidence in various spheres of migration governance of ‘extraterritorial interventions’ by states and private actors (Rodriguez and Schwenken 2013: 381), and even ‘deterritorialized labour market regulation’ (Ennis and Walton-Roberts 2018: 179). These cases allow us to ‘imagine a form of sovereignty that is not limited to the territory within a border’ (Longo 2018: 26). With a view of recruitment agencies, subnational governments, and transnational activist networks, we can see how these actors engage with, but also sideline, states to pursue their own agenda and shape outcomes in the labour migration space. Indeed, the ‘sidelining of states is also characteristic of large parts of policy approaches to the problem of unfree labour’ (LeBaron and Phillips 2019: 2). This becomes more prominent in global policy discourse in corridors with a reputation for facilitating controversial regulatory frameworks that allow various forms of unfree labour to emerge. Governance gaps are part of the story of global migration governance.

Our chapter proceeds by examining the two cases introduced above, as follows. We begin by setting the contextual picture for understanding the space in which migration is governed in the Kerala–Dubai corridor. We then examine each case in turn. First, we show how the actors and processes involved in labour recruitment operate across the corridor, and create and adjust their activities, both in relation to the national and international regulatory changes and to influence those processes. Second, we examine the creation of a shared electronic migration platform between India and the UAE to illustrate and concretize the ways through which sovereign political domains are contested and regulated. The research that underpins this chapter was conducted by both authors between 2017 and 2019, with interviews and participant observation in Kerala and New Delhi by Ennis and Blarel, and Dubai by Ennis.

## **The State-to-Emirate migratory corridor**

Economic factors have historically been one of the main drivers of migration between South Asia and the Gulf, where millions of migrants emigrate to work. Among South Asian countries, Indian nationals have a major presence

in the Gulf Corporation Council (GCC) countries, having increased from 1.95 million migrants in 1990 to 8.18 million in 2015 (United Nation 2015). For labour-sending countries, the 'export' of labour becomes an implicit (and sometimes explicit) strategy for addressing domestic job creation demand, targeting poverty levels and stimulating social mobility, offsetting the cost of social welfare provision, and generating foreign exchange. The contribution of Indian emigrants in the UAE to the Indian economy through remittances account for 13.2 billion USD and in 2015 was the fourth top remittance corridor in the world (World Bank 2015: 16). Among the states of India, Kerala has been a major labour-sending region to the Gulf since the 1930s; a trend which increased after the first oil boom of 1973. At present, about two million Keralites reside in Gulf countries. The continuation of migration from Kerala to the region means the Malayali presence is an important demographic, cultural, economic, and linguistic social sphere. Economic factors are considered one of the central drivers of migration from Kerala to the Gulf, and remittance income has played a central role in development.

Keralite migration to the UAE increased in intensity in the 1970s when the Emirati authorities started an ambitious economic and infrastructural development programme (Oommen 2016; Rajan 2017, 2019). Some estimates suggest that about one inhabitant out of seven living in the UAE is a Keralite, but precise, reliable demographic data is not available (Venier 2007). Of the 9.5 billion USD remittances sent to Kerala in 2014, 85 per cent came from the Gulf (Rajan and Zachariah 2019: 200). Although there has been a decline of emigration from the state, and a return of migrants over the last decade, inward remittances have risen as migration from Kerala has increasingly included higher skill levels, moving from migration largely based on unskilled and semi-skilled jobs to high-skilled professions such as engineering, management, and accounting (Rajan and Zachariah 2019). At least partly as a result of the important remittances and investments made by Malayali immigrants in the Gulf, the state of Kerala is estimated to be about 50 per cent wealthier per head than the national Indian average (The Economist 2015).

Like all labour immigration to the UAE, the migration of Malayalis is primarily regulated through a form of temporary migration that functions as a sponsorship regime. This regime is known by the Arabic, *kafala*.<sup>1</sup> All migrant workers are hired through temporary contracts, usually on two- or three-year cycles, which are tied to their employer, who serves as the sponsor (*kafeel*). This sponsorship system means that each Emirati national or expatriate that employs foreign workers also plays a role in the governance of migration, as responsible actors for the host nation's employment regulations (Hamadah, this volume).

A majority of Malayalis enter the UAE in this form, as guest workers, and are obliged to leave at the end of their contract. In practice, the temporary

sponsorship system allows a precarious type of long-term residence through the regular renewal of contracts and visas. Many expatriates, especially among semi-skilled and skilled classes of labour, spend their entire working lives in one Gulf country. They are often accompanied by their spouses and children because expatriates earning above a certain salary level can sponsor their families (Ewers and Dicce 2016; Vora 2011, 2013). Immigrants pursue multiple strategies to serve as back-up safeguards to prolong residence should they not manage to renew their contract, as detailed by Valenta et al (2020).

Economic elites, business investors, and property owners are able to secure more durable ties and longer settlements in the UAE. Dubai, for example, has offered freehold ownership to foreigners with a corresponding residential permit since 2002 (Bagaeen 2007; Valenta et al 2020: 189). Entrepreneurs and business investors also receive residency permits, with the residency of business owners in free zones tied to the company rather than business partner as sponsor (Valenta et al 2020). Some of the wealthiest individuals in the UAE are Keralite entrepreneurs. Four of the eight people in the UAE to make it onto the 2020 Forbes UAE billionaires list are foreign, and all four are from Kerala (Abbas 2020; *Emirates* 24/7 2016).<sup>2</sup> Some wealthy expatriates have managed to secure permanent residence. A famous example from Kerala is Yussuf Ali, chairman of the Lulu Group (that owns retail establishments like malls and a chain of hypermarkets). He was the first UAE expatriate to receive a ‘gold card’ permanent residency as part of a wave of new migratory paths announced in recent years (*The Economic Times* 2019). Among these were the ten-year residency visa for knowledge workers announced in 2018, which aimed at attracting and retaining high-skilled professionals, and the possibility of 100 per cent foreign ownership anywhere in the country in 2020 (Cioccarelli et al 2020; Duncan 2018).<sup>3</sup> Therefore, *class matters* in migration regimes and socio-economic positions impact the legal situations of Keralite migrants within the UAE.

The context of the Kerala to Dubai migration corridor demonstrates the power of class and the ‘social’ in not only influencing migratory paths but also in governing migration. Formal roles and processes exist but operate alongside informal ones, and are, in turn, influenced and reshaped by them. Two significant examples became clear through our research – labour recruitment and bi-national digital platform creation. Here we see governance co-constituted between the formal and informal, and being produced by multi-level and social regulation. We turn first to labour recruitment in the following section.

### **Governing recruitment in the Kerala–Dubai corridor**

One of the central processes in facilitating migration between Kerala and Dubai is recruitment. That is, the ways through which aspiring and existing

labour migrants decide to work abroad, find and secure employment, and navigate through the bureaucratic and regulatory processes to leave their home state of Kerala (or the place in which they are working) to move to Dubai for work. Some of the actors in this process include recruitment agencies, migrants and their relatives, state/emirate and national officials, and employers.

Recruitment agents and agencies – formal, legal agents and informal ones – are key actors in the governance of recruitment. They act as intermediaries in the process of finding work and the processing of the necessary paperwork for travel to, and employment in, the destination country. Among recruitment agencies we observe official and unofficial actors in the public and private sector and in the informal space – with a great deal of slippage across them. Sometimes these agents operate in separate national spaces, based in a particular city in Kerala or in Dubai. But often they operate across national contexts by managing the full recruitment and travel process from one location, or by having separate legal agencies on both sides.

Chain migration is central to the migratory process, and to the ways through which Keralites of all skill levels find work in Dubai. Chain migration refers to the way through which migrants receive help from relatives or friends in order to migrate. In the absence of being able to sponsor family members, finding work for friends and family is also a way of family reunification for low salaried positions (Shah and Menon 1999; Taylor 2016). According to an International Labour Organization (ILO) study from 2015, 74.5 per cent of surveyed migrant workers in the UAE said they had received help from close relatives to acquire employment. In Dubai, many small businesses build their employee base through internal references, making use of informal networks instead of official recruitment agencies based in Dubai or Kerala. Even those who migrate through official channels often report being connected to the agency through a network referral. As observed in the wider South-Asia to Gulf corridor (see Percot and Babar, this volume), chain migration is also a major force in Kerala, and various towns have reputations for migration to particular destinations in the Gulf. The expansion of a migration chain has a multiplier effect – the expansion of the network leads to more migration, which in turn leads to the expansion of the network (Shah and Menon 1999: 363–5). These informal chains play a role in governing migration through shaping the process and providing critical information.

The regulations of the home state and country form the first set of procedures and rules for a migrant to navigate through. International labour standards, like the Private Employment Agencies Convention 1997 (No. 181 adopted by the ILO), alongside initiatives for ‘improved regulation and enforcement, support for industry-led and multi-stakeholder certification schemes’, and ‘increased government-to-government oversight’ under the Global Compact for Safe, Orderly, and Regular Migration, are important

instruments promoting the regulation of recruitment agencies (IOM [nd](#); [Samanthroy 2014](#): 407). These have partly encouraged states to enact regulatory measures and official channels for migration, such as the official recruitment agencies.

Within India, private recruitment agents, according to the Indian Emigration Act of 1983, need to be approved and registered with the Indian Ministry of External Affairs (MEA). Yet it has only been since 2015 that the Government of India has become more active in trying to develop its capacities and reassert sovereign control over migration flows through the regulation of recruiters. It authorized six state-run agencies to manage recruitment across the country, two of which are based in Kerala. Even more recently, it developed the e-Migrate recruitment system, which we explore later in this chapter, to better monitor the practices of private recruiting agencies and directly assume the task of recruiting nurses (see [Walton-Roberts et al](#), this volume). The central government also set up two Protector of Emigrants (POE) offices in Kerala (Kochi and Thiruvananthapuram), and a Migrant Resource Centre in Kochi.

Within Kerala, the state government has attempted to consolidate and oversee the recruitment process. It chiefly does this through the two government-sanctioned recruitment agencies authorized to facilitate outward migration from Kerala mentioned above: the Non-Resident Keralite Affairs (NORKA), and the Overseas Development and Employment Promotion Consultants (ODEPC). All unskilled and semi-skilled workers, and women under the age of 30, are supposed to use these official agencies. Neither ODEPC nor NORKA, however, are new, but are part of a longer-term practice whereby the state government stepped into a governance vacuum to provide its own welfare support to Keralite emigrants at the subnational level. Indeed, these bodies have been operating for decades – with ODEPC established in 1977 and NORKA in 1996 ([WHO 2017](#): 6). NORKA was the first separate Non-Resident Indian department of its kind created by an Indian state. In 2002, it established NORKA-Roots to serve as its field agency to handle recruitment. It has since also been involved in providing free legal aid through Malayali lawyers in the UAE ([Saseendran 2018](#)) and, more recently, in hosting a website where non-resident Keralites wishing to return from abroad could register ([Gulf Times 2020](#)). The decentralized and proactive NORKA has also been emulated or cited as a model by other states, such as Andhra Pradesh and Karnataka, wishing to develop a similar type of subnational migration governance mechanism ([Akhil and Ganga](#), this volume).

Next to these formal regulatory bodies and recruitment agencies in the home nation, there are regulatory bodies, recruitment agencies, and employers in Dubai and across the UAE that also recruit workers from Kerala. There is a disaggregation of regulation around the Dubai labour market that makes

this space especially complex. There are four segmentations of the Dubai labour market regulatory responsibility: (1) the public sector, (2) the private sector, (3) free zones, and (4) the household sector. Each of these spaces are regulated differently. Regulation of public sector employment is divided by the locational jurisdiction of the authority – that is, the local Emirate (Dubai in this case) regulates employment across the Dubai Government, and national government bodies are managed by the federal UAE authorities. The Ministry of Human Resources and Emiratization (MOHRE), formerly the Ministry of Labour and Social Affairs, covers the private sector labour market. Interestingly, it is not only the public sector that falls outside the auspices of MOHRE but also the economic free zones, like the Jebel Ali Free Zone. Special economic zones have regulatory exceptions, and in the case of free zones in the UAE, the federal authorities have no jurisdiction to intervene on economic and labour market matters – only criminal law applies. The fourth separate regulatory area is the household sector. That is, domestic workers like maids, cooks, and drivers are not subject to the same labour laws. In fact, domestic work used to fall under the Ministry of Interior, also leaving the sector without labour oversight and instead under the auspices of internal security. A 2017 reform had household workers move under the jurisdiction of MOHRE (HRW 2016). While this has been lauded as an important step, domestic workers still remain governed under a separate law with different regulations. These four realms of regulation govern the recruitment and employment of workers in these sectors, and are a necessary space and field for private recruitment and employment agencies to be familiar with. Yet the complexity and segmentation of legal authority creates regulatory ambiguity, opening gaps in migration governance.

The recruitment of prospective workers through public and authorized private agencies constitute the more formalized channels that are, in theory, more easily and directly regulated and managed by the subnational and national authorities in both the place of origin of the emigrants (Kerala, India) and the place of destination (Dubai, UAE). In practice, the lines are less clear. Private recruitment agencies in the corridor remain abundant. Even as government efforts to sanction and regulate private agencies have expanded, this remains an opaque space that is difficult to govern. Some studies suggest that there are many thousands of recruitment agencies operating in the India–UAE corridor, including official agencies, informal brokers, and criminal traffickers (Samantray 2014: 407). Our interviews with agencies on both sides of the Kerala–Dubai corridor revealed that many licenced agencies in India have affiliates in Dubai, and others work in partnership. This pattern is also borne out in other studies (Kern and Müller-Böker 2015; Samantray 2014: 407). We found that some of these agencies feature the same recruiters who travel back and forth between distinct agency offices that are not officially connected but nevertheless work together to facilitate migration.



Such recruitment businesses are in close touch with labour demand patterns, connect with sub-agents in Keralite villages that direct prospective migrants to them, lobby regulatory authorities at the sending and receiving country sides, remain very aware of evolving regulation and enforcement protocols, and negotiate employment conditions with employers. Often recruitment agencies also act as intermediaries in employment disputes. Sometimes the migrant is able to find the agent and ask for their intervention when terms of employment violate contractual commitments. With increasing frequency, embassies inform agencies that they are responsible for resolving problems with their employment placements in the destination. Agencies view this as an unfair financial burden on their activities, claiming the protection responsibility should squarely rest with the government.

Our observations of circular blame shifting in the regulation of recruitment suggests the governance of migration is, at least partially, shaped by this pattern of conduct. Regulatory blame shifting helps explain delays in action and gaps in governance. In this manner, the Indian Government tends to offload the burden of intervening in labour disputes from the embassy labour attaché onto the recruitment agent. If recruitment agencies are authorized, they can also be made responsible for negative outcomes. This allows the embassies to deflect responsibility – for blame and costs – onto the intermediary responsible for migration. In turn, agencies (as well as migrants and migrant rights activists) complain of severely understaffed embassies and a blatant unwillingness to be active in the duty of care towards migrant workers (interviews). Both public and private authorities involved in the governance of recruitment likewise point towards the unregulated ‘sub-agent’ as the one most responsible for misinformation, illegal fee charging, and other malpractices. Regardless of the national Indian Government regulations and monitoring systems, sub-agents in Kerala operate freely within the recruitment system because they are virtually impossible to regulate. They could be contracted actors in a recruitment agent’s business, but they could also be a friend or relative network, connecting migrants with jobs across the corridor with direct employer access or other informal means. Moreover, these categories (agent, sub-agent, migrant, friend) regularly overlap. Thus, despite a negative policy discourse around sub-agents, they often enjoy a more trustworthy status due to their embeddedness within communities. Even when prospective Keralite workers do access formal channels from the national and state-level governments, the first information about job opportunities in the UAE generally comes from sub-agents. Sub-agents point blame at a weak government that is unwilling to protect its workers, or at official agencies or employers for contractual violations. The circulation of blame is often political, but it has clear governance implications.

Based on our interviews in Kerala in 2017 and Dubai in 2018, we realized that workers are rarely aware of the information and support that can be

provided by official recruitment agencies. The two state-run recruitment agencies in Kerala, NORKA and ODEPC, have been criticized for their perceived inefficiency and tardiness in operations, as well as their lack of autonomy from the state authorities (IOM 2016). Even interviews at the Protector General of Emigrants (PGoE) at the MEA in Delhi and at NORKA-Roots in Thiruvananthapuram revealed a wide recognition that government recruitment agencies have not devoted enough efforts to publicize their activities and generate awareness of safe, legal options for migration. This is partly due to the nascence of many of the current government initiatives, including the growing involvement of the six state-run recruitment agencies and the launch of the e-Migrate portal in 2015 (Rajan and Saxena 2019: 5). Private recruitment agencies remain more active and better connected with social networks. On the one hand, this helps spread information and facilitate migration. On the other hand, many prospective workers remain unaware of blacklisted recruitment agencies and government standards, such as caps for official recruitment fees, minimum salary guarantees, or complaints mechanisms. For many Keralite migrants, informal networks and/or private recruitment agencies have remained the normal and only practicable channel.

The recruitment and hiring activities within the migration process vary not only by the corridor, but also by the education and skill-level of the migrant. As we saw earlier, higher-skilled and wealthier migrants have a wider array of options and tools for migration and longer settlement at their disposal. Based on their educational level and networks, they can more easily navigate migration options and business opportunities, and also the labour laws and human rights regulations that apply to workers in Dubai (Ennis 2022). Skill and education level do not just mean you are better able to find alternatives and know your rights, but within India also mean that you are free from direct state regulation of your mobility. Blue collar workers who have not passed Class 10 are subject to an emigration clearance in order to be eligible for formal migration. If this category of prospective migrants wants to travel to countries designated as Emigration Check Required (ECR) countries, they require a notation on their passport allowing their departure for work purposes. The MEA designates a selection of countries it deems to have weak enforcement of labour standards for migrants as ECR, including the UAE and 17 other countries in West Asia, North Africa, and South East Asia. Based on the Emigration Act of 1983, emigration clearance must be obtained from the POE office at the MEA. This applies to early school leavers and, since 2015, to women migrating as domestic workers and as healthcare workers, regardless of their education level (Walton-Roberts et al, this volume).

Blue collar workers and women of various skill levels are therefore more likely to seek the assistance of intermediaries, from recruitment agents, to

sub-agents, to informal social networks of family, friends, and acquaintances, operating at both their origin and destination (Walton-Roberts et al; Percot; Babar, this volume). Educational, linguistic, and literacy levels can interact with the ability of the migrant to determine the legality and acceptability of the terms being agreed to. Thus, this is a space in which a great deal of transformative help can be offered to prospective migrants, but also a space in which a great deal of exploitation is possible (Kaur 2010; Samantroy 2014; Wickramasekara 2008). Intermediaries like private recruitment agencies can help facilitate migration, which can dramatically enhance the economic prospects of the migrant and their family and home communities. But agents are also regularly accused of malpractices, like excessive fee charging and providing limited or misinformation on working conditions and social security in the destination. Indebtedness to pay for recruitment fees and migration costs often worsens economic outcomes and makes migrants more vulnerable to exploitative conditions (Rahman 2015; Samantroy 2014). Private recruitment agencies and sub-agents are thus viewed as both developmental heroes and as villains in the migration process (Kern and Müller-Böker 2015).

In particular, informal recruitment networks have the benefit of being able to circumvent official registration channels and speed up cumbersome bureaucratic processes. Facilitating your own employment and escaping a regulatory shadow that might prevent your migration can be experienced as empowering (Mehta 2017). Yet such networks also allow for undocumented emigration, which can lead to unfree labour and a trafficked workforce (Rajan 2019; Rajan and Joseph 2017). Women regularly approach informal networks for migration because of the gender discrimination embedded in the onerous procedures, like age restrictions and the ECR requirements for their legal migration, and because they are often targeted by informal recruiters for specific jobs like domestic work. Governmental restrictions on the mobility of women are usually issued with the rationale of protection, but ultimately have the adverse effect of driving women to irregular channels (see Wadhawan; Walton-Roberts et al, this volume). Using irregular channels makes migration and work invisible to official accounting, and therefore more difficult to identify and resolve if contractual breaches or exploitation occurs (Wadhawan, this volume).

According to Kodoth and Varghese (2011), one of the main problems with the current emigration clearance process is that state intervention has indirectly served to produce and sustain a form of ‘controlled informality’ in the emigration process, which promotes the use of informal and unauthorized agents and procedures. This has created a shadow institutional space with a network across India and the Middle East that serves to replicate the functions of the central government. This pattern is clear in our study of recruitment. A potent example of this shadow institutional space that

generated media attention is the so-called ‘Kasargod Embassy’ in India and the UAE. This is essentially an operational network that produces duplicate or forged documents like passports (Pattadath 2020). The term Kasargod is a reference to an organized network of fake passport forgers based in the Kasaragod district of Kerala. Such services are sometimes sought after in order to circumvent the ECR requirement, age restrictions, or in cases of confiscated passports. Domestic workers routinely turn to non-state actors like the Kasaragod Embassy when they need to escape a bad employment situation but do not have access to their passport. Although the practice is illegal in the UAE, it is common for employers, especially of domestic workers in households, to confiscate passports. It is regularly explained as a way of securing or safekeeping important documents, but serves as a way of restraining freedom and mobility. The network became publicly known after the tragic Air India plane crash in Mangalore that killed 158 people (Sathish 2010). At least 12 travellers of the flight had secured passports with fake identities from the Kozhikode Passport Office with the help of this informal network (*Mangalore Today* 2015). The workers are often unaware that they are travelling on forged documents (Bhattacharya 2010). For some prospective workers, such informal processes are considered more effective than navigating cumbersome formal procedures. Such practices also highlight how vulnerability and instrumentality can go hand in hand in precarious migration situations, underscoring the very real, yet fraught, individual agency (see also Chimienti 2018: 427–8).

The nature of state regulation has not only produced shadow institutional spaces but has allowed intentional gaps in migration governance for economic reasons. Immigration control is ‘flexible and open to manipulation partly because enforcement costs are significant and partly because citizens within each state benefit from this ambiguity’ (Willoughby 2006: 236). Moreover, on the Indian side, the government has long emphasized the importance of labour migration for its future development (Shah 2013: 61). Overlooking or being unable to regulate certain aspects of emigration to the Gulf still profits the nation insofar as it eases the employment burden on the economy, which in turn benefits from inward remittances.

In the Emirates, one can observe how the complex regulatory landscape shifts alongside economic reforms designed to facilitate the attractiveness of Dubai as a destination for business activities and multinationals. There are three illustrative examples. First, as mentioned earlier, companies that set up in the Jebel Ali Free Zone are not under the regulatory authority of the MOHRE but the Jebel Ali Free Zone Authority (JAFZA). In fact, the free zone became independent of Dubai municipal laws as early as 1986 (Gunson 2011: 4). What this means is that companies can get around regulation by setting up their operations in free zones. This allows them to avoid the complications of labour market regulation and monitoring from Dubai and

federal authorities. For example, visa processing is reportedly easier in the free zone, which is not subject to as much control (interview, 4 March, 2018).

Second, the UAE introduced a Wage Protection System in 2010, whereby all companies under the authority of the Ministry of Labour (now MOHRE) were required to register salaries and pay them electronically into employee bank accounts. This was a mechanism for the state to ensure companies paid salaries regularly and on time. A major worker grievance is the non-payment of wages, and this comes up more frequently during periods of economic decline. Such a reform is intended to protect a worker from this possibility. However, interviewees estimated that as many as 30 per cent of companies had not yet fully enrolled in the Wage Protection System, as companies with connections to the authorities were able to receive exemptions.

Third, the UAE introduced a company classification system, initiated in 2005, which determines a company's access to permits for recruiting foreign labour (interviews, 2018). The higher ranked you are, the easier it is to access foreign permits. The determination of corporate ranking is primarily based on the number and type of the labour violations, the diversity of the organization, and the appointment of Emiratis. In 2017, skill level was added as a determining factor in the classification system in a bid to encourage knowledge worker recruitment. High ranking companies are those that have not been charged with violating labour codes, that hire Emiratis and high-skilled workers, and that have a high mix of cultures in the organization. That is, if all your employees come from one country (for example, India), then your company is ranked lower. Some interpret this cynically as a means of preventing labour solidarities and mobilization, but others interpret it as a move towards enhancing diversity and innovation (interviews, 2018). There are three ranks. First class companies should not have more than 25 per cent of their employees from any one country, and should adhere to all labour codes. They are subject to the lowest work permit fee tier, which adds a financial incentive for good behaviour. The second class has four levels, each with an increasing cost for the labour card. The third rank is the worst, and given to companies accused of violating labour codes, like hiring a worker who entered the country illegally or cheating the Wage Protection System. Third class companies are charged a fee of approximately 5,000 AED (approximately 1,300 USD) for a single labour permit, and may be banned from recruiting foreign labour altogether (Kubarek 2017; MOHRE 2020). This form of sanctioning companies can incentivize better employer–employee relations and mitigate against the exploitation of migrant workers. Like with other forms of recruitment regulation, there are often structural ways to get around it and benefit from exemptions or other political choices. In 2019, for instance, the year dubbed the 'year of tolerance' in the UAE, MOHRE cancelled fines and unblocked 27,000 'third class' establishments that committed labour violations. The minister did this alongside unblocking

12,000 work permits for workers who had violated labour regulations, all in the name of promoting ‘tolerance in the labour market’ and ‘supporting employers and workers [by] reducing burdens’ (Nasrallah 2019).

Taken together, these three examples raise important questions about the role of states in labour governance. While states are primarily viewed as the responsible party for responses to labour exploitation, they can also ‘play a causal role in shaping the conditions’ in which it arises (LeBaron and Phillips 2019: 2). It is clear in this chapter that migration governance is of secondary concern to economic policy choices taken by states in the interest of private sector growth. Despite large advances in labour market reform and improved company monitoring within Dubai, it is worth remembering that these regulations only apply to a subset of business activities and labour relations in the UAE.

The fragmentation and disaggregation of the migration governance space between and within India and the UAE has challenged the relationship between migration control and national sovereignty. Even in recruitment, a multitude of actors at various levels of governance are involved in shaping its form. National governments, subnational governments, public and private sector recruitment agencies, informal recruiters, transnational activist networks, families and friends, and Dubai-based employers all play a role in governing recruitment in the Kerala–Dubai migration corridor.

## **A shared e-Migrate system**

The migration recruitment governance space, examined above, illustrates well the multi-level, multi-scalar character of migration governance, and how these levels intersect with informality and the social regulation of labour markets (Peck 1996). The case of recruitment governance also hints at the variety of ways through which the governments in India and the UAE respond to criticisms of weak migration management and attempt to reassert control over migration. The case we now examine further highlights such trends. The creation of the e-Migrate system in India, and the attempt to make it a shared migration management platform, underlines the inherent difficulty in securing national control over a fundamentally bi-national (and arguably global) activity. It also underscores the deep contradiction in reasserting sovereignty while necessarily devolving some of it. The devolution of authority from the immigrant-receiving state and the ‘border’ happens in a multitude of ways in the migration governance space, from the regulation of wages (Ennis and Walton–Roberts 2018: 179) to recruitment (see above). The story of the shared e-Migration platform provides a vivid example.

The pattern of large-scale outward labour migration to West Asia has gained increased attention over the decades in India, especially in states like Kerala, where labour migration is an entrenched, regular social reality. When

things go wrong abroad, demands for better protection of nationals abroad rise in force. On the other side, within the UAE, where the number of immigrants has overtaken the national population, the public discourse turns towards security narratives – the security of cultural practices and values in the face of foreign religious and cultural ones, the security of economic growth with rising economic ‘leakage’ due to outward remittances, and the security of the political economy benefits held in place by reserving citizenship for the minority of the national population. These narratives can border on the xenophobic, and are comparable to concerns over immigration in Europe from right-wing politics. The public discourse in India and the UAE are, at times, manipulated by political agendas and to rally nationalism – in India to gain credit for defending and protecting citizens abroad and in the UAE to continue to grow the economy through migration while also protecting citizens from possible negative outcomes.

One direct consequence of these patterns was the introduction of the e-Migrate system in India, and the desire to use it as a shared migration regulatory platform. This evolved out of a longer pattern of actions over the last two decades from the Indian Government to try to improve its reputation in the management of emigration and protection of emigrant welfare abroad, and to try to pull back some control from the multiplication of informal and subnational political actors in the migration governance space. One way of doing this was through encouraging its diplomatic missions to provide direct channels for workers to seek redressal of their grievances. To this end, it established the Indian Worker Resources Centres in Dubai, Sharjah, Riyadh, and Jeddah, and set up an Indian Community Welfare Fund (ICWF) in 2009 that could be tapped into by embassies as necessary for the protection and welfare of Indians abroad.

Another way was through bilateral cooperation and policy interventions with the GCC states. India and the UAE signed a Memorandum of Understanding (MOU) in the late 2000s, which declared a mutual commitment to enhancing employment opportunities and to cooperate bilaterally in the protection and welfare of workers across the UAE (Shah 2013: 62). This was an important step for securing more cooperation and collaboration in labour relations between states in the lead up to the e-Migrate system. In this vein, the Indian Government set up the online MADAD portal in 2015, where emigrants and family members can register their consular grievances as part of a Consular Services Management System (*The Economic Times* 2015).

These were all steps signalling and building towards the launch of the e-Migrate system. Successive Indian governments had planned to launch a computerized, online platform to directly monitor and regulate the migration corridor between India and the Gulf, and more specifically the recruitment process between employers, recruitment agents, and

prospective workers at home. The e-Migrate online system was intended to replace the in-house System Automation Initiative platform and to reduce administrative and financial costs of the migration process (Charlie 2014). The digitization was directly framed as a response to criticisms of the existing long, costly, and burdensome administrative process of emigration clearance as regulated by the 1983 Act. The e-Migrate system was initially due to be launched in June 2013, but it was delayed until May 2015, soon after the election of Narendra Modi. Before this, an earlier version of the e-Migrate system had already been designed and used for online tracking of the return of mortal remains of Indians who had died abroad (*The Economic Times* 2014). The revised version functions as a portal for online registration for foreign employers recruiting Indian workers. Some consider it useful as it auto-generates job identifications and job codes for foreign employers, helps in making employment contracts, and should eliminate the need for workers to visit the POE for emigration clearance (*Khaleej Times* 2015). The e-Migrate platform was launched with the promise that it would ensure a certain respect for basic labour standards, such as minimum referral wages in various sectors (carpenters, masons, drivers, fitters, nurses, and domestic workers) (Sasikumar and Sharma 2016), and foster a transparent process for recruitment and employment in the destination. By requiring all prospective workers to the Gulf holding ECR passports to be employed directly by a foreign employer, with both employees and employers submitting all necessary documents for emigration clearance, the e-Migrate platform is intended to regularize and protect labour migrants deemed most vulnerable.

It is in the ‘shared’ element of the e-Migrate system that many difficulties were encountered. A shared system between sending and receiving countries, and between recruiters and employers based across the corridor, meant that states, companies, and individuals had to be willing to provide personal and financial details to a system held and managed by the Indian Government. It raised a variety of privacy as well sovereignty concerns. As soon as the e-Migrate system was launched by the Indian Government, it was criticized by all other actors and stakeholders involved in the Kerala to Dubai migration corridor, including the UAE authorities, UAE-based employers, the Kerala Government, the recruitment agents, and the migrants themselves. The Dubai and UAE federal authorities raised objections about violations of sovereign policy domains – immigration very much viewed as something to be managed at the receiving border. Moreover, companies in the UAE balked at the idea of sharing their personal and financial details on such a system. An interviewee further suggested that “companies fear losing their advantages – losing the power to skip obligations” that might be more easily worked around in less formalized or regulated procedures (5 March, 2018, Dubai).



For instance, any UAE-based firm must first register itself and describe its vacancy in the e-Migrate system, notably describing the type of work, the facilities provided to successful candidates, and the details of the recruitment agency that will conduct the recruitment process. Through the system, the employer in the UAE must select either government agencies (including the six state government agencies, two of which are based in Kerala) or a registered private recruitment agency with prior approval from the ministry (IOM 2016). The recruitment agency must then approach the POE with the documents to obtain permission to advertise the position through the e-Migrate online platform, to conduct interviews, and select the worker. Selected candidates need to provide their passport information, as well as their certificate of completion of secondary education. Once an offer letter has been sent and signed, prospective workers are required to undergo medical examination. Once all these conditions are met, the ticket and visa are issued. Furthermore, the maximum fee that the recruitment agency can charge to the prospective worker is fixed and publicized on the website (20,000 INR, or approximately 298 USD) (IOM 2016).

The Kerala Government was also initially critical of the system. As an authority that had been more active, for far longer, in the governance of emigration from Kerala to the Gulf, it resisted initiatives of the central government to re-engage in a policy area it had earlier mostly ignored. Most vocally, Kerala criticized the technical problems of the online system, which made it less efficient. The e-Migrate website crashed shortly following the announcement of it went public. Queries then began pouring into the Indian diplomatic missions and social organizations (Sankar and Gokulan 2018). According to the Kerala Government, thousands of prospective workers lost job opportunities due to these online glitches (*Khaleej Times* 2015).

Migrants and recruitment agents also raised concerns. They were offered the explanation that it was necessary for e-Migrate to capture the data of Indian emigrants so they could be reached without delay in the case of any urgent situation (*Khaleej Times* 2018). Indeed, the public justification for the launch of the system continued to be the welfare of Indian nationals abroad. Within the portal, the government set up a multi-lingual helpline through the Overseas Workers Resource Centre (OWRC), through which grievances could be logged to be settled by the POEs – the responsible party for granting emigration clearance (MOIA nd).

Migrant rights activists operating in this corridor, scholars of migration, and policy makers continued to be especially critical of the e-Migrate system. It came under scrutiny for pushing more unskilled workers into illegality. Between 2015, when the e-Migrate system began, and 2019, the number of officially registered (e-Migrate) Indians to the UAE dropped from 225,000 to 42,000 per year (Calabrese 2020; Chari 2018). Stakeholders in both India

and the UAE suggest that the stark decline of Indians heading to the UAE is partly attributable to the tightening of the procedures for sending workers abroad by the Indian Government. They view the move to e-Migrate, as well as any regulatory measures around the overseas labour of Indians, as contributing to a shift in the UAE away from recruiting Indians. The sense is that labour recruitment is also a race to the bottom in terms of wages and regulation, which has been suggested as the explanation for a shift towards employing a greater share of Pakistanis or Bangladeshis for work (Chari 2018). Moreover, because of the strict rules, intermediaries and migrants have found ways to bypass the e-Migrate system. For example, private agents bring domestic workers on tourist visas and change them into employment visas once the maids have arrived. The Indian Government only prevents ECR passport holders from going abroad for work, not for tourism-related travel. Once the workers enter the UAE, the agents can find placements for them through local employment agencies or 'under the table'. Through such ways of bypassing regulation, domestic workers, and others who migrate irregularly, are more at risk of exploitation. The chance that the agency never secures a work permit increases their likelihood of overstaying their visa, raising concerns that any allegations of exploitation would result in their deportation based on the visa violation. The e-Migrate system has therefore not solved the existing structural problems and has, instead, been quickly bypassed by informal channels of recruitment and migration, thereby further pushing migration into the parallel system of 'controlled informality' that we discussed earlier (Kodoth and Varghese 2011).

Yet it was not concerns over rights that hindered the establishment of the shared system but national sovereignty ones. Sovereignty concerns were immediately expressed by the UAE following the creation and implementation of the e-Migrate system. In May 2017, the UAE Ambassador to India, Dr Ahmed Al Banna, raised alarm over the infringement of the UAE's sovereignty due to the launch of the e-Migrate programme of India and its mandatory obligations for both UAE employers and recruitment agents. The UAE Government accused India of using the portal to extract information about the companies in UAE. In addition to the extraction of data, the Ambassador added that e-Migrate's mandate included inspections of premises of UAE companies (Haidar 2017). In response to concerns shared publicly by the UAE, the Embassy of India in Abu Dhabi claimed that the e-Migrate system did not violate the sovereignty of any country and the main objective of the portal was only to discourage illegal recruitment and protect the welfare of Indian nationals abroad. Yet some of the recent policies initiated by the Indian Government, such as the Minimum Referral Wages (MRW) in 2014, were made explicit and mandatory through the e-Migrate system,<sup>4</sup> thus stretching the control of the country outside its borders and into the UAE. Such an attempt from India to indirectly regulate within

another national labour market challenges the sovereign prerogatives of the UAE and is a form of de-territorialized regulation.

The public agonizing brought both sides to the negotiating table. Officials from MEA in India and MOHRE in the UAE, and a selection of migrant rights advocates, joined together in consultation, quietly behind the scenes, and more publicly through the Abu Dhabi Dialogue (interviews, March 2018, Dubai and January 2019, Kochi; Kumar 2019). The engagement of migrant rights activists in the conversation was an interesting attempt to secure buy-in and demonstrate an interest in taking the concerns ‘from the ground’ seriously. The activists were themselves sufficiently vocal and active in international platforms that they had to be taken seriously. Both governments viewed the possibility of a shared system as an opportunity to deflect negative attention around migration in the corridor and instead be viewed as proactive in the protection of workers. A shared e-Migrate system also offered the promise of improving the efficiency of immigration procedures and oversight. But critically, it first had to address the sovereignty concerns. The UAE was unwilling to be seen as devolving control over a sovereign policy domain, but seemed more inclined to repackage the initiative more positively as a progressive step for the future of migration: the UAE likes to be seen as leading the way in policy innovation in the region, and pursues avenues such as this for raising its status in the international community (Ennis 2018).

In a seeming turnaround in February 2018, India and the UAE agreed to work together to integrate their digital migration platforms. They signed five separate MOUs, one of which was for labour cooperation. In this, the governments aimed to ‘institutionalize the collaborative administration of contractual employment of Indian workers in UAE’, with both sides working to ‘integrate their labour related e-platforms for ending the existing malpractices, combat trafficking, and organise collaborative programmes for education and awareness of contractual workers’ (*The Statesman* 2018). Linking India’s e-Migrate system with the UAE’s MOHRE labour visa portal was lauded as a ‘major step to protect the rights of blue collar workers’ (Sankar 2018). This measure would be an important step in deterring contract substitution, where prospective migrants would sign one contract in India promising a particular wage and then sign a new contract on arrival in the UAE (Kader 2018). A linked system on both sides of the corridor would be a measure against these malpractices (Rasheed and Kader 2018). India and the UAE also discussed possible cooperation between Tadbeer, a new network of domestic labour recruitment centres in the UAE, and Indian government-designated agencies for the recruitment of domestic workers. This could reduce the costs of recruitment of domestic workers (Kader 2018). A year later, in October 2019, the two countries interlinked their online labour platforms (Kumar 2019).

The journey towards a shared e-Migrate system between India and the UAE offers an unambiguous example of contested sovereignty and multi-level governance in the migration governance space. It highlights the importance of the involvement and cooperation of stakeholders in government on both sides of the corridor, and at the subnational level in the State and Emirate. It also shows that, even in the seemingly concrete space of a formal regulation system, non-state actors like employers, recruitment agents, migrants, and activists all have a say in raising the stakes for such a programme, and eventually have to be involved in the discussions on how to facilitate the system. While in this example non-state actors are still not fully convinced in the efficacy of the system, and continue to raise concerns about regulation leading to informality, they were involved in the track two discussions leading to the agreement. The insertion of shared e-governance in this migration space is an important area to monitor as it further unfolds.

## Conclusion

Through the case studies of the governance of recruitment and the creation of a shared electronic migration system in the Kerala–Dubai migration corridor, this chapter has examined the overlapping and contested spheres of governance that occur within migration governance. The use of a subnational spatiality allowed us to zoom in and provide concrete empirical examples for the complex assemblage of actors involved in the migration governance space – a pattern that is replicated in other corridors. The insights of how governance occurs, and how gaps in this governance emerge, offer important lessons to the wider literature on global migration governance. Sponsorship regimes and guest worker programmes continue to exist around the world, and similar forces of supply and demand, of recruitment agents and intermediaries, and of national agitation around labour demand, welfare, and regulation are all shared experiences and pressures. Labour migration within the Kerala–Dubai corridor occurs within a global system of labour flows, both within Asia and from Asia to other regions. The patterns and tensions around regulation and governance observed in our cases also illustrate how the ‘local’ in policy domains such as migration are very much *transnational* and *global*. Immigration policy does not occur in a vacuum within a single receiving nation but is subject to a variety of other invested actors and stakeholders, as well as fuzzier processes of globalization and regulatory deterritorialization.

## Notes

- <sup>1</sup> For a longer definition, see Blarel and Ennis in the introduction to this volume, as well as Hamadah’s chapter interrogating the broader way that *kafala* shapes migration governance regimes in Gulf states.

- <sup>2</sup> Several other Keralite businessmen were on this list in previous years but dropped out during the economic downturn.
- <sup>3</sup> Previously foreign investors could only hold up to 49 per cent of shares in a mainland UAE company.
- <sup>4</sup> More details about the MRW: <http://pib.nic.in/newsite/PrintRelease.aspx?relid=113158>

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