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**Understanding Precarity in Asian Labour  
Migrations: A Literature Review**

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**Migration and Mobility in the Asia Pacific (MMAP)** is an interdisciplinary research cluster established in 2020 and based at Monash University Malaysia. The aim is to foster a multifaceted dialogue on the complexity of migration and mobilities in the Asia Pacific. This cluster sets out to study the factors, conditions and challenges faced by migrants, groups and communities concerned, especially with regards to the social, economic, legal and political implications of gender, inequality and health in the local, national and international contexts.

# Understanding Precarity in Asian Labour Migration: A Literature Review

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## Introduction

Since the 1980s, economies of the world have increasingly become absorbed into the global economy as a result of the rise of neoliberalism. The opening of borders in a neoliberal world has led to the free flow of ideas, goods and services, as well as labour. In part, the sweeping effects of neoliberal policies in Asia have fuelled the region's future as a global powerhouse of economic growth. In 2020, the region had the world's largest GDP; by 2030, the region is expected to contribute to about 60 percent of the global GDP, with the bulk of the growth generated by China, India and countries in Southeast Asia (Yendamuri & Ingilizian, 2019).

The quest for a neoliberal model of development, however, has led to the uneven development of capitalism in countries across the world as labour is increasingly marked by low wages in spite of rising productivity, as well as workers facing precarious conditions (Neilson, 2020). Economic growth has been uneven at different scales with income inequalities becoming a stark reality of the global economy. Within countries in Asia, cities became magnets for migrants in search of economic opportunities — a migratory pattern which would precede human mobility across national borders as some countries achieve greater and faster progress than others and thereby become centres for foreign migrant labour. In fact, labour migration has been a significant factor in Asia's economic development (Harkins & Lindgren, 2017). As Chan (2014, p. 6951) asserts, migration has been maintained as a viable development strategy, "even if a 'temporary' one ... taken for granted, promoted, and maintained by international migration institutions, states, and NGOs ..." because of the positive outcomes of remittances (see also Sutradhar, 2020);<sup>1</sup> although others have argued that for some countries, reliance on remittances is a form of "mask[ing] a dearth of meaningful economic development within its own borders" as it pushes its own vulnerable people out of the country to seek waged work abroad (Withers, 2019, p. 420).

### A survey of the labour migration trends in Asia

In Asia and the Pacific, 2019 saw 65 million international migrants, comprising a quarter of the global international migrant population of 272 million (United Nations, Economic and Social Commission for Asia and the Pacific [ESCAP], 2020). In mid-2020, of the 114.9 million migrants from Asia worldwide, 60 percent moved to Asian countries (Hanna & Batalova, 2021), indicating that labour migration tends to occur intra-regionally. Although numbers had fallen in 2020 because of the Covid-19 pandemic, economic migration is set to revert to pre-covid-19 times because countries depend on migrant labour to boost their economies.

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<sup>1</sup> While remittances have been instrumental in boosting the economies of labour sending countries, the over-reliance on remittance flows can have negative consequences on national economies since they create a "culture of dependency in the receiving country, lowering labor force participation, promoting conspicuous consumption, and slowing economic growth" (Amuedo-Dorantes, 2014, p. 1).

Of the top ten migrant origin countries for both white-collared and low-skilled workers in the world in 2019, six were Asian: with India leading the way at 17.5 million; followed by China (10.7 million), then Bangladesh (7.8 million), Pakistan (6.3 million), and the Philippines (5.4 million) (United Nations Department of Economic and Social Affairs [UN DESA], 2019a). Among the top 20 migration corridors in Asia in 2019, the major labour destination countries included India; Hong Kong, China, Thailand, Pakistan, Malaysia, Singapore, Bangladesh, and Japan, in that order (ESCAP, 2020).

The most popular labour destination countries in the Middle East for nationals of Bangladesh, India and Pakistan are the United Arab Emirates, Saudi Arabia and Oman. The majority of migrants from South Asia to the Middle East are invariably male (Shah et al., 2018) while fewer are women employed mainly in the domestic work (Shah, 2013) and nursing sectors. The Philippines is another important labour exporter to the Middle East with its women working as domestic workers (Rodriguez, 2011); while yet fewer work as nurses (Ennis & Walton-Roberts, 2018). In contrast, migrants from Indonesia are invariably women who enter the domestic worker market and their numbers are greater than those of Filipinas (Silvey 2004, 2007).

Asia is also a labour receiving destination region as well. India is the main destination country for migrants from other South Asian countries such as Bangladesh and Pakistan who are unable to afford migration to the Middle East (Battistella, 2014). Nevertheless, their numbers have been slowly declining over the last two decades (Theme 1: Labour Migration in Asia, 2020). In Southeast Asia, two main broad migration sub-regions are evident – the first which has emerged in insular Southeast Asia and the second in the Greater Mekong Sub-region. In the first migration sub-region of insular Southeast Asia, there are several migration corridors with the main labour destination countries comprising Singapore, Malaysia and Brunei. The migration countries include Singapore with migrants coming from China, Indonesia, India, the Philippines, Myanmar, Nepal and the Philippines. Then there is the labour destination country of Malaysia whose labour supplies come mainly from Indonesia, Myanmar, the Philippines as well as countries from beyond the region such as India and Nepal. In the Greater Mekong Sub-regional migration region, Thailand is the main labour destination country with labour migrants coming from the bordering states of Myanmar, Laos and Cambodia. In fact in Southeast Asia, Thailand (3.635 million) and Malaysia (3.43 million) have the largest numbers of migrants, followed by Singapore (2.1 million) (UN DESA, 2019a); while as a labour exporter country, the Philippines saw approximately 2.2 million leave the country to work between April and September 2019. Among Filipino migrants, 1 in 5 (22.5%) went to Saudi Arabia, while the UAE (13.2%) saw fewer, followed by Hong Kong (7.5%) and Taiwan (6.7%). In contrast, Thailand as a labour destination country has seen migrants from Myanmar (1.9 million), Laos (1 million) and Cambodia (750,000). With regard to low-skilled workers, East Asia has mainly been a labour receiving region. The economies dependent on low-skilled labour migrants are Hong Kong SAR, Japan, Macau SAR, Taiwan and South Korea with the bulk coming from Indonesia and the Philippines.

Asia, in fact, has been both a labour destination and exporting region for migrants over the last 20 years (Asian Development Bank Institute, Organisation for Economic Co-operation and Development, and International Labour Organization, 2018), the bulk of whom migrate for waged work (Hugo, 2012) although at times the boundaries between economic migrants and other categories of migrants are blurred (Nugroho et al., 2018). Several factors have been driving labour migration in Asia. In a region where labour migration has been the dominant form of international migration (Hugo, 2012), the lack of jobs in countries of origin has been a significant factor pushing people towards seeking employment in the more affluent countries in the region. In fact, that some governments in Asia have not been successful in creating ample jobs for its growing population has meant that their people have had to seek employment abroad. Moreover, these labour sending countries typically have far higher rates of fertility, creating a “vast army of underemployed labour [especially] in its agricultural sector” (Hugo, 1995; Leinbach, 2004; Nakamura, 2008; Stahl, 2003, p. 39). Concomitantly, the falling fertility rates in

labour destination countries have created gaps in the labour market which workers from the neighbouring countries have had to fill over the years (Devasahayam & Gray, 2020; cf. Harkins & Lindgren, 2018) to the extent that these migrants “benefit ... the economies of destination countries and [do] not displace national workers” (ESCAP, 2020, p. 37).

A good example of these workers are women migrants. While the Asia Pacific region has seen a surge in their numbers in the last decades since the 1980s until 2019, migrant women have taken on mostly low-skilled jobs such as domestic work with the percentage of female migrants being only slightly lower than that of male migrants at 49 and 51 percent, respectively (ESCAP, 2020). Migrants in Asia also tended to be in the prime working ages and were younger than those in the general population: almost 51 million (78.0 percent) were aged 15 to 64 years old, compared to 67.7 percent for the general population, according to 2019 estimates. Over the years, however, the share of international migrants in Asia and from Asia has been slowly dropping. From 2010 to 2019, the share of migrants from Central and South Asia, for example, took a dip from 8.9 percent to 7.2 percent (UN DESA, 2019b).

But not all migrants in Asia move out of their country to seek out waged work. The region has seen its share of human forced displacement because of religious persecution, examples of which include the Rohingya and Chin people from Myanmar (Ho & Robinson, 2018). Climate change has also been another factor forcing people out of their homes although it has resulted in internal migration more than cross-border migration. For example, Kalandi et al. (2020) found that weather variation in the state of Telangana and Maharashtra was a driver for temporary migration. Cross-border migration stemming from climate change has increasingly become a concern. In the Indian Sundarbans Region (ISR), coastal communities have been migrating from one island to another in search of food and shelter, a situation exacerbated by flooding (Bose, 2014). In fact, as sea-levels continue to rise, millions of Bangladeshis will flee to India and human security will become a major issue.

That said, the majority of migrants traverse national borders in search of economic opportunities, going through various bureaucratic hoops both in their home and destination countries. States, in fact, play a critical role in either facilitating or blocking the migration of its people.<sup>2</sup> Because of increasing dependency across states on migrant labour to fill jobs in certain sectors (Devasahayam & Gray, 2020), the governance of migration has become a critical issue, both for labour sending and labour destination economies. Migration governance is often associated with an orderly movement with entry and exit rules established by the countries of origin and destination. The controls applied by governments to low-skilled migrant workers, in particular, tend to be far more stringent than those designed for their skilled counterparts, thereby resulting in migration governance being bifurcated with the professional group enjoying greater freedoms and rights compared with the low-skilled group who tend to face tighter restrictions on their movement (Hugo, 2012). Thus we can speak of “hierarchies of regulation” (Lindquist et al., 2012), whereby different social determinants such as ethnicity, education, and skills result in differential migration management policies. Hence, it is more commonplace to find low-skilled workers employed in the labour destination country on temporary, guestworker-type arrangements: jobs having little access to labour protections and “the condition of uncertainty and insecurity associated with flexible work” (Cangià, 2018, p. 11); demonstrating that practices governing this group of migrants are reflective of migration control much more than

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<sup>2</sup> The Nepalese government, for example, has held back its workers, claiming that they are integral to domestic economic growth (Arnøy 2014; Sijapati & Limbu, 2012). There have also been fears that encouraging international migration may lend to agricultural deactivation and de-agrarianisation, as well as incipient re-agrarianisation. In response, the alternative would entail ensuring remittances be integrated into diversified livelihood portfolios to which the state should play a more active part: formulating concrete strategies to channel remittances into community development, lest transnational migration leads to the reproduction of structural drivers for rural poverty (Sunam et al., 2021).

migration governance (Grugel & Piper, 2007). Furthermore, the state of precarity and itinerancy among low-wage migrant workers manifests itself across all the stages of migration, with financial insecurity being a constant. To put it differently, the “precarious and prohibitive conditions of settlement in both countries of origin and destination, produce the itinerancy of low-skilled migrant workers” acting as a trigger for repeated migrants (Parreñas et al., 2018, p. 1230). As Tappe and Nguyen (2019, p. 1) assert, in spite of the insecurity and uncertainty attached to the jobs these temporary migrants take, they “have profound implications for the social and economic life of migrant labourers [since they] hold possibilities for crafting translocal livelihoods and social relations”.

Encountering the “threat of marginalization and exclusion” (Cangià, 2018, p. 10), low-skilled workers become objects or transnational commodities of the migration governance process, perceived by states as requiring control. Far from ensuring the protection of these workers, such labour migration arrangements cause precarity among these workers since temporary guestworker-type arrangements are associated with restriction of freedom of movement, on the one hand; and not requiring the range of safeguards offered to workers of other labour categories, on the other. Hence labour migrants suffer the fate of informal sector workers because of the absence of laws and policies that assure the protection of this group (cf. Chang, 2009). To this extent, the migration arrangements reinforcing the temporariness of these workers, in turn, lead to barriers to the establishment of labour laws and standards ensuring the rights of these workers (Rosewarne, 2012).

### **A lens into the concept of precarity**

In the migration literature, the term “precarity” has been intimately connected to neoliberalised development policies, nationalist citizenship regimes and discourses, and arbitrary state power governing human flows and, in turn, reinforcing migrant insecurity and uncertainty (Tappe & Nguyen, 2019). In fact, intrinsic to neoliberal ideologies is the dismissal of rights protection since, “informality is more often the norm and formality the exception” (Piper et al., 2017, p. 1093). The dichotomous concepts of ‘social exclusion/inclusion’ throws into view the possibility of seeing the “excluded [as] unsafe and vulnerable” (Schierup & Jørgensen, 2016, p. 2). To this effect, precarity is a “constitutive element of the new global disorder, to which it is very functional” (Ricceri, 2011, p. 68, as cited in Schierup & Jørgensen, 2016, p. 2). In such a political, economic and social milieu under conditions of neoliberalism characterised by “government deregulation, regulatory and managerial practices tend to be justified by appeal to global competition and market constraints” (Chin, 2019, p. 3) and workers are stripped of their rights to “contest work and resist” (Wilson & Ebert, 2013, p. 268).

The main goal of this review paper is to interrogate the notion of precarity among international labour migrants in Asia. Precarity in this case refers to the state of vulnerability, insecurity and instability faced by migrant workers.<sup>3</sup> Specifically, the paper makes the point that in spite of the existence of different migration governance mechanisms operating at different scales and acting in tandem with each other, labour migrants, especially the low-skilled, continue to be vulnerable to “varieties of precarity” in their jobs (Schierup & Jørgensen, 2016, p. 949): ranging from being trapped in extended debt repayment, experiencing abusive and exploitative work conditions, lacking recourse to state support and labour protections, lacking access to relevant and needed health services and facilities. In particular, the analysis highlights the weaknesses or inadequacies of the prevalent labour governance mechanisms regulating migration, on the one hand; and the struggles and challenges faced by migrants, on the other; resulting in a “legally and socially precarious situation” for these workers—“one in which their bargaining power is severely restricted” (Franck & Anderson, 2019, p. 22).

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<sup>3</sup> The concept of precarity is used in a range of disciplines from sociology to political science to economics and psychology. In sociology, the term *precariat* refers to the social class comprising people lacking job security or no prospects of full-time employment – being in more unstable employment, they face greater vulnerability.

Following Hardy (2016), this paper employs political economy, both as an interpretive and methodological framework, to understand precarious work in the context of migrant labour since it covers two broad facets: the economic dimension to migration which includes a cost-benefit assessment among migrants, on the one hand; while the political culture of states on how human flows are managed in terms of determining policy and choices of policy (Epstein, 2012). The assertion is that a reflection of the notion of precarity has to seriously consider the structures and institutions of capitalism together with the agency of workers individually and collectively, beyond merely focusing on the abuses and exploitative labour practices these workers face. In other words, the labour abuses felt by this group of workers ought to be evaluated within the processes of intercrossings and intersections of recruitment processes, institutional and social factors, boundaries and borders, networks, regulatory and legal injunctions and barriers treated as interwoven conditions. Hardy (2016, p. 264) proposes that structural factors “limit[ing] the field of action in which agents formulate strategy, and broad imperatives ...” operate at the spatial level within the context of capitalism. In this regard, as capital moves, it brings with it uncertain and precarious forms of work. Precarity also reflects an “endemic crisis” as it is embedded in the “institutional architecture of capitalism and its temporal dimensions” (Hardy, 2016, p. 264). By default then, precarious work is the norm under capitalism – meant to be short-lived and so short-term contracts are common. Furthermore, that low-skilled workers are unable to organize and seize collective action for their rights as workers because of the kinds of sectors they work in is another dimension of the kinds of precarious work they engage in; while their inability to defend their wages, working conditions and security of employment constitute other facets. Hardy (2016), in citing the work of Guy Standing (2011), makes the point that migrant workers, rather than occupying the periphery of capitalism, are central to the workings of capitalism. As Hardy (2016, p. 270) remarks: “employers do not simply want to obtain additional labour – they also want to get workers who can be employed under specific conditions to raise the rate of exploitation. In general, these conditions embody a form of control over the workforce that presupposes the powerlessness of workers assuming that their status will make them easier to exploit”.

The focus in this paper is on international or transnational migrants rather than internal migrants since the issues and challenges for migrants might be different because of the sheer fact of working in a locale where one is considered a “foreigner” or “alien”<sup>4</sup> rather than a citizen who has some rights under the labour laws of the country. Previous studies have singled out women to be particularly vulnerable when engaged in international migration, especially since many have moved to take on low-skilled work. Adopting an intersectional approach, the paper takes gender as a social determinant of vulnerability into account in the analysis, investigating the extent to which women are more likely to work in more precarious conditions than men, therefore underscoring the point that social location becomes important in understanding precarity in the migration process.

## Methods

Based on a survey of the published social science research over the last 12 years, this review mainly draws on journal articles accessed through the following databases: Sociological Abstracts, Scopus, Proquest and Heinlaw, as well as Google Scholar. The rationale for consulting these diverse databases was to ensure that journal articles covering a wide range of areas, topics and themes would be reviewed. In fact, each of the databases would have enabled access to journal articles covering a different area, topic or theme related to international migration. Sociological Abstracts, for example,

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<sup>4</sup> This does not mean that working in one’s own country as a migrant in the city, for example, does not have its problems. In fact, the distinction between internal and international migration has become “increasingly blurred, not only because of geopolitical events and the changing nature and configuration of borders, but also because migrants’ journeys are becoming increasingly multiple, complex and fragmented” (King et al., 2008, p. 2).

covers journal articles written from a sociological perspective; in contrast, Scopus covers journal articles from a multidisciplinary and development perspective; and HeinLaw allowed for access to works discussing migration and international conventions. Hence the common areas, topics and themes emerging in the identified literature included: gender, labour legislation and protections, low-skilled workers, exploitative work conditions, healthcare access, health outcomes and so forth.

Keywords deployed in the literature search included: Global Compact, health, healthcare access, international migration, International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICMW), labour migrants, labour migration, Migration for Employment Convention, precarity, transnational migrants, and vulnerabilities. Other keywords used included the following countries: Asia, Bangladesh, China, India, Japan, Middle East, Myanmar, Nepal, Singapore, Sri Lanka, South Korea, Thailand and Vietnam. In addition to journal articles, materials published by international and regional organizations such as Asian Development Bank Institute, International Labour Organization, Organisation for Economic Co-operation and Development, United Nations Economic and Social Commission for Asia and the Pacific (ESCAP), and World Health Organization (WHO) were consulted. Non-academic peer-reviewed documents published by non-governmental organizations such as CARAM Asia and Women's Aid Organisation have also been referenced.

While the aim was to review the literature covering a gamut of areas, topics and themes related to the precarious work conditions related to international migration, it must be said that the literature on migration and precarity in certain regions seemed to be richer and more comprehensive than that in other regions. For example, the published materials on labour migration in the countries of Southeast Asia was found to be voluminous compared to the literature on transnational migrant workers in the Middle East. Moreover, the published literature on migrants from India to labour destination countries was not as copious as one would expect. Instead there has been much more written up on Bangladeshi migrant workers. It could be said that the literature on precarity and international migration seemed uneven. But it must be noted that only English language journal articles and published documents were consulted in writing the paper. In other words, a different conclusion might be drawn, if documents written in the vernacular were cited as well. Moreover, the paper does not cover non-indexed articles.

The literature search yielded a total of around 190 records. Among these, 162 were consulted in writing up the review; of which 107 were journal articles, 14 academic book chapters, 8 academic books, 1 unpublished academic paper and 33 were documents/websites published by international organisations and non-governmental organisations (NGOs). These documents were selected for citation in the paper because they either directly dealt with the concept of precarity among migrant workers or demonstrated this concept with a case study. The bulk of the literature covered in this review is based on qualitative rather than quantitative studies. The quantitative data presented in this review comes mainly from published documents by international organisations.

## **How Precarity Plays Out among Migrants in Asia**

### **Precarity on the economic and employment front**

All over Asia, low-skilled migrant workers are restricted to certain labour sectors, often confined to jobs that locals do not wish to take on. Depending on their nationality, they are channelled to different job sectors. They work on temporary arrangements without access to permanent residency and citizenship, although many might now be a permanent part of the workforce, undertaking the 'dirty, dangerous, and degrading' jobs. But in many situations, they have no freedoms to leave their jobs or



to transfer to jobs in other labour sectors: the precarity of these workers is tied up with occupational and spatial labour restrictions. By dint of the fact that these workers engage in low-skilled work, they find themselves constantly in a petitionary position viz. their employers and the state, entrenching their disempowerment to the extent that the precarity in which these low-skilled migrant workers find themselves is further attributed to the “three social relations” of dependence, disempowerment, and discrimination (Chin, 2019, p. 532). The discrimination they face further reinforces their disempowerment in a society in which they are not only “outsiders”; but speak a different language and are unable to negotiate a complex web of actors and intermediaries in order to obtain recourse. Such is the case of women migrants from Vietnam to Taiwan. For them the impetus for migration rests in the fact that internal migration to the wealthier provinces is not encouraged but rather the state promotes migration in spite of the exploitative practices entrenched in the migration process (Nguyen et al., 2020).

### ***Unscrupulous recruitment agents***

At the heart of the discourse on the precarity of low-skilled migrant workers is the abusive and exploitative labour practices these workers face because of unscrupulous private recruitment agencies upon whom these workers are highly dependent to locate work in the labour destination countries. The abusive practices range from the excessive recruitment fees, costs and charges for securing employment, and the deception surrounding the nature and conditions of work engaged in by these recruiters, placement agents and employment brokers in both origin and destination countries. Such practices leave these workers extremely vulnerable. In Thailand, migrant jobseekers were “pay[ing] more than the prescribed rate” and “most of the jobseekers accepted these costs” (Ayuwat and Chamaratana, 2014, p. 65): which are channelled towards the processing of the passport, health checks, skills testing, and language and cultural training. In some cases, these fees only deepen the debt levels among these workers as these emerge along a continuum from salary deductions to more “resonant forms of debt” made upfront before travelling to the destination country; but nevertheless, reinforcing the precarity of the work they take since it affects their job mobility and even forces them to tolerate exploitative work conditions (Platt et al., 2017, p. 120).

In Qatar, the situation is slightly different although recruitment agencies were found to engage in equally exploitative labour practices. The practice is that companies are called to submit tenders for construction projects. Many of these are highly competitive. In some instances, dummy bidders are created to produce a façade of competitiveness although the favoured company will win the bid against competitors. In the tendering process, the lowest cost bid is awarded the contract. However, in many cases, the company awarded the contract is asked to reduce the budget. In the negotiation phase, companies are more than willing to reduce the budget so as to be able to break into the construction sector. In order to withstand the financial pressure, the company usually ends up “squeez[ing] the profit margins of their subcontractors and their sub-subcontractors down the supply chain” (Jureidini, 2016a, p. 38). But in desperate hope of penetrating the construction sector, recruitment agencies in the labour sending countries such as India, Pakistan, Nepal, Bangladesh and Sri Lanka pay these company representatives bribes. The process of recruitment is more complex than that: representatives from the employment company usually travel to the labour sending countries themselves to recruit workers. But the expenses of that individual are usually paid by the recruitment agents who are expected to pay for their hotel and food expenses as well as ‘entertainment’ costs. Instances have been found of these company representatives turning in these receipts to their own companies to make claims (Jureidini, 2014). In the hope of maximising profits, the recruitment agents themselves in the labour sending countries end up squeezing as much as they can from the low-skilled migrant workers. It is the low-skilled migrant workers who end up paying for their jobs unlike their skilled and professional counterparts.

### ***Abusive employers***

Employers have also been found to perpetuate slave-like work conditions, further abusing these migrant workers. A case in point are migrant workers from Indonesia, Thailand, and Bangladesh employed in the smaller oil palm plantations in Malaysia (Kumar et al., 2014). Low wages, long working hours, the remote location of work, and lack of welfare support are a few of the problems faced by these workers. Others include poor living conditions such as the lack of proper housing, clean drinking water, and access to needed and timely medical facilities; while their children do not have access to education. As in recruitment and placement agencies, employers are looking out for themselves: “if they are not paying recruitment costs, their employees are paying them” (Jureidini, 2016b, p. 9). It is common that employers themselves are well aware that these workers are trapped in debt, having had to borrow large sums of money to secure work abroad. This makes it very difficult, if not impossible, for them to leave their jobs should they be in an abusive work situation or are not compensated a salary they were promised.

Having to pay exorbitant brokerage fees in comparison to the wages earned in the labour destination country is not uncommon. Vietnamese female migrants intending to enter the domestic work sector in Taiwan have been forced to face large deductions to cover the brokerage fees they had to pay (Nguyen et al., 2020). Citing Wang and Bélanger (2011, as cited in Nguyen et al., 2020, p. 5): these “authorised costs” include the fees for pre-departure training, visa, health checks, insurance, airfare, and passports, amounting to on average US\$3851. These upfront costs sometimes throw these workers into debt and, in turn, become the main reason they stayed in their jobs in spite of harsh and exploitative working conditions they might face such as long working hours, stringent terms of employment, and other violations. Sometimes it is these very unreasonable work conditions that have led some domestic workers to “run away” from their employers, resulting in their vulnerability as they have the potential to slip into illegal status.

### ***Role of the state***

In fact, government manpower agencies in the labour destination countries have also been culpable of aggravating these abuses: governments of destination countries tend to “wash their hands off” these harmful practices instead of taking strong action against these recruiters and placement agencies, claiming that these problems belong to the labour sending countries (Chin, 2019, p. 532). The shifting of blame to events in the labour sending countries serves to “diffuse responsibility” from that state onto the state and business models found in the labour sending economies (Chin, 2019, p. 534). Singapore as a labour destination country has undertaken this stance for decades. But this also signals its disinterest in ‘looking out for the protections’ of migrant workers, leaving it instead to ‘market forces’ to determine the fate of these workers. Hence it cannot be assumed that the state plays a benevolent role in the migration trajectory of these workers. Like businesses, it opts for a hands-off approach, seeking its own preservation. The vulnerabilities of low-skilled migrant workers are further compounded by the lack of proper legislative and policy measurements since in many countries in Asia, these workers continue not to have a legal identity (Islam & Cojocar, 2015). The Malaysian government has been equally culpable of stripping migrant workers of their rights through the kinds of procedures it has put in place, pressuring employers to take responsibility for the foreign workers under their employment: the “Strict Liability Principle” exemplifies this point. For example, employers are responsible for deporting workers on the completion of contracts and for renewing work permits. Because the fees involved in these processes are fairly exorbitant and are costs incurred by employers, often costs are transferred to the migrant workers themselves and, in turn, this penalises the latter, thereby exacerbating their vulnerability (Franck & Anderson, 2019).

In response to labour conditions encountered by migrant workers, there have been governments of labour sending countries that have refused to quietly sit by on the fringes, stymied by the abuses faced by their citizenry working abroad. Instead, some have been found to adopt targeted strategies to oversee labour conditions outside their sovereign domain. The Indonesian government, for example, sees establishing exit procedures, such as pre-departure programmes as a protection mechanism; the assumption here being that possessing skills is an effective means for self-protection: skills that serve to raise the domestic worker's bargaining power in a household in which she is an outsider (Chang, 2018). Appropriating proactive actions to prevent abusive labour practices is commonplace among labour sending countries. The converse is true of labour destination countries. Many have gone to the extent of practising 'double standards' in their migration policies: often one set of regulations govern low-skilled workers while another kinder set of rules apply to the professional migrant group who are welcomed into the country. A case in point is the Taiwanese government. Migrant worker regulations and policies are class-based, differentiated across blue-collared and white-collared workers (Hsia, 2016). This discrimination filters down to the community level: should the state receive information about an abuse. For example, the government is quick to retreat rather than take the necessary action to address the problem, often claiming that it should not pry into affairs in the private domain. Hence reports of abuse of migrant domestic workers often fall on deaf ears. That the state has 'two faces' is evident in another way. Labour sending countries are no different in the extent that a similar pattern of discrimination has been enforced. This is the case with the Philippines when the state deliberately differentiates women hoping to find employment in the low-skilled sector abroad versus its women who are professionals. In an attempt to take its people under its wing in the hope of providing them with greater protections through the redress mechanism it has set up; women seeking low-skilled work abroad are forced to navigate through state-accredited recruitment agencies to find work, suggesting that they are disadvantaged as the agency is taken away from them (Henderson, 2021). In fact, these women face another layer of discrimination compared to their skilled counterparts who are free to apply for work abroad without encountering any intervening structures.

States have also been found to have institutional deficiencies, negatively impacting on the employment experience of migrant workers. Among migrant domestic workers from Indonesia working in the United Arab Emirates, the lack of legislative protections both in Indonesia and in the UAE defining 'decent work' explains the poor migrant conditions and arbitrary treatment these women workers have had to confront at different points of the migration process (Irianto and Truong, 2014). Particularly in the UAE, the *Kafala* system continues to govern how these women are received: organized around the concept of 'guardianship' when a guest is placed with the host, the entire set-up is flawed since it does not recognize the domestic worker as a worker with rights during the two-year, renewable contract she may have signed. Instead, the *Kafala* system reinscribes structural dependency between the worker and employer and in turn, abusive practices such as "normaliz[ing] the practices of withholding migrant workers' passports and of socio-spatial control" (Irianto & Truong, 2014, p. 37). Another case of institutional deficiency which had a dire effect on migrant workers is the Saudization policy implemented by the Saudi Arabia government. While aimed at encouraging local citizens to work by making it costlier and more difficult for employers to hire foreign workers, the *Nitaqat* policy resulted in the unemployment rate rising by 11.7 per cent in the private-sector in 2015 (Rajan & Joseph, 2016). This was followed by a revision to the *Nitaqat* programme in June of the same year; which saw a crackdown on visa irregularities under which irregular workers were required to find a sponsored job or face legal penalties. This led to many migrants taking up whatever jobs they could find for fear of deportation, especially if they wanted to stay on in the country; the majority took jobs which underpaid them. Instead of boosting the employment of locals, the policy led to "depressed domestic wage conditions, creating a grey market of undocumented workers that price[d] out local hires from the labour market" (Rajan & Joseph, 2016, p. 172).

There is another insidious dimension to the state. It is near universal that immigration officers represent the “face of the state”. But in the Rayong Province in Thailand, Cambodian migrant workers have faced daily forms of intimidation and harassment from immigration officers. The construction, fisheries, and agricultural sectors have massive labour shortages which are filled by migrant workers from neighbouring countries like Cambodia. Often those intimidating these low-skilled migrant workers are immigration officers themselves in search of undocumented migrant workers. But the threats and harassment are not confined to undocumented workers alone: many migrant workers said they did not dare leave their working and living premises for fear of police arrests, extortion, or even deportation. For these workers, being invisible to the larger community is how they operate since they lack rights to complain. On the global stage, Thailand’s industrial fisheries sector has raised eyebrows because of poor work conditions embedded in the sector, reflecting the work abuses linked to labour trafficking. It has been argued by some scholars that essentially Thai government policies are to be blamed for being the source of vulnerabilities for these workers as well as opportunities for traffickers or brokers (Marschke & Vandergeest, 2016). Policies governing this group of workers have undermined individual agency. For example, migrant worker registration has served to limit workers’ options to leave an abusive employer to find work on another vessel or to find work in another sector (Vandergeest, 2019). For example, the “pink cards” issued to this category of workers, while enabling them to access public healthcare services for the duration of their employment in Thailand, these same cards restrict them to employment in other labour sectors (Vandergeest, 2019, p. 335). Policies also prevent unionization and collective bargaining by these workers. While migrant workers in Thailand working in the informal sector or in casual work, as construction workers, domestic workers, and shop and factory workers, face precarity in ordinary times because of their transient status, the Covid-19 pandemic has accentuated their vulnerabilities manifoldly (Suhardiman et al., 2021). Because these workers lack work contracts stipulating minimum wage, industry standards, and contract termination conditions, the termination that they faced overnight during the pandemic could not be contested and many have been left without work. Their struggles, in fact, have been exacerbated as they continue to have to pay rent, water and electricity bills, as well food bills.

The vulnerabilities faced by migrants are not only felt by migrants in the labour destination country. A notable example is that of Vietnamese migrants in Taiwan. Their vulnerabilities start in their country of origin because of the corrupt and inefficient Vietnamese labour export system (Hoang & Yeoh, 2015d) which compromises their power viz. recruitment agents and employers. Thrust into such a situation, the social capital and social networks the Vietnamese migrant domestic workers develop and the choices they make are deeply embedded in the inequalities and vulnerabilities resulting from restrictive migration regimes in the host country. As pointed out by Hoang (2016), although they may be bound to the same labour legislation as their Filipina and Indonesian counterparts, they are worse off because of the lack of institutional support in the home country although Vietnam is the second largest labour exporting country to Taiwan.

But to identify clearly exactly who is responsible for the exploitative abuses of this group of workers is obscure in many instances. In Singapore, the state and businesses collaborate to “diffuse responsibility” as the main strategy for governing labour migrants and, in turn, determining the work conditions of this group of workers. This results in a cascade of social vulnerabilities from discrimination in legal status; live-in requirement for domestic workers; dependence for basic goods; sub-contracting of construction workers; limited bargaining power; the unpredictability of exit; vulnerability to coercion; vulnerability to repatriation; limited workplace redress; and limited collective action (Chin, 2019, p. 534). That the state closes one eye to labour practices such as sub-contracting further entrenches the vulnerabilities of migrants employed in the construction sector.

### ***NGOs as helpers of migrant workers***

NGOs have played a critical role through their advocacy work in helping labour migrants navigate the precarity confronting them. In the past, the Myanmar government was found to have implemented a ban on migration for domestic work over concerns about the safety of their women migrating to Singapore. The ban was only instituted by the government after it had been alerted to the abuses and exploitative practices faced by their migrants through NGO and media reports (Deshingkar, 2021). In this regard, the role of NGOs was catalytic to the extent to which they were successful in moving the Myanmar government to act in favour of its citizens migrating for work so as to avert precarious working conditions they might otherwise encounter (cf. Sim, 2003). There have also been transnational efforts among CSOs to push for worker rights. In 2005, the Asian Domestic Workers Network was established after the Asian Domestic Workers forum was held in Hong Kong in 2004 (Rosewarne, 2013). The Network was a result of the collaborative synergies across the Committee for Asian Women (CAW) and the lobby groups, United for Foreign Domestic Workers Rights, the Asia Pacific Forum on Women, Law and Development and CARAM Asia, resulting in the formation of the International Domestic Workers Network (IDWN) (WIEGO, 2021). The Network aims to assist in organising domestic worker unions, providing for the exchange of information, providing mutual support and solidarity, advancing common political aims.

In other instances, migrants have taken the lead in organising themselves with the aim of proposing strategies on how best to safeguard their interests. In Hong Kong, Filipina and Indonesian domestic workers became exposed to political and labour activism through shelters managed mostly by Filipinas who had experienced abusive and exploitative work conditions. Their affiliation with these NGOs is critical in that these organisations framed the concerns of migrant workers within global, transnational and human rights discourses and did not merely treat them as local migrant worker rights interests. Unlike other labour destination economies such as Japan, Malaysia, Singapore, Thailand or countries in the Middle East, protests led by migrant workers are allowed only because the Hong Kong government permits such public protests among this group of workers in spite of their temporary and guest worker status (Constable, 2009); while in other countries the fear of deportation means that protests would never be seen as a possible path to pursue in an effort to solve problems migrant workers may encounter in the labour destination country. It could be said then that the Hong Kong state itself has opened up spaces in which migrant workers themselves can voice their concerns instead of them waiting for the state apparatus to address the precarity migrant workers face. In South Korea, Filipina migrant workers working in factories have found help through faith-based advocacy groups run by Catholic and Protestant churches (Choo, 2016, p. 355). Because of the “high degree of exclusion from long-term settlement and family unification” (Choo, 2016, p. 355), churches have become significant sources of moral and mutual support to these migrant workers where they would attend mass or services. Furthermore, these churches became important to these workers as they provided assistance on resolving labour, medical, and other issues these women might encounter.

Places of worship have been shown to be venues for the work of migrant activists since these spaces are focal points of meeting for large numbers of migrant workers. The example of Migrant International, an alliance of grassroots Philippine migrant labour groups headquartered in the Philippines and with affiliates or chapters throughout the world, is a case in point (Rodriguez, p. 2011). In countries where migrant workers have limited rights and are unable to exercise their agency, places of worship become ‘safe spaces’ for migrants to organize given that there is strength in numbers.

### **Precarity on the health front**

Migrants have health needs as much as the local population does. But unlike the local population, often low-skilled migrants face health inequalities in terms of healthcare access and outcomes.

Temporary, low-skilled migrants are worse off than their professional peers. Barriers to accessing healthcare services among migrant workers in the host country are bound up with labour policies which are largely discriminatory, reinforcing the otherness of this group.

Social determinants of health (SDH) are non-medical factors shaping health outcomes. They include the conditions in which people are born, grow, live, work and age; encompass factors like socioeconomic status, education, neighbourhood and physical environment, employment, and social support networks; as well as consider access to healthcare services (Artiga & Hinton, 2018). Migration is a social determinant adding another “layer” to the pre-existing determinants (Davies et al., 2006, p. 5). However because the majority of labour migrants tend to be young, they tend to be healthy.

But as in the natives in a country, migrants are at risk of disease exposure. Migrants are considered at higher risk for a range of health problems including infectious diseases such as HIV, hepatitis B, tuberculosis, schistosomiasis and malaria (World Health Organization, 2018). A range of socioeconomic factors; health and mental health factors; sexual practices; and low perceived HIV risk were correlated with adverse health outcomes of migrants, demanding multilevel interventions (Weine & Kashuba, 2012).

### ***Health outcomes***

It is not uncommon that low skilled migrant vulnerability to diseases occurs in all the stages of migration. Vulnerability to negative health outcomes has been found among migrant workers on transit to the labour receiving country. The factors for their higher risk to exposure to diseases were attributed to a complex interplay of several factors, including higher disease prevalence in their countries of origin, socio-economic factors, their living conditions together with financial, language, and cultural barriers to healthcare access (Sadarangani et al., 2017). During pandemics, populations with migrant communities may have worse health outcomes than the local populace. In particular, migrant workers appear to be at higher risk than the local population for specific infectious diseases. A study in Singapore of its 1.4 million migrant workers confirmed this trend as a significant proportion of migrants were found to have malaria, enteric fevers, hepatitis A and E and tuberculosis. In fact in the island-state of Singapore, the resurgence of tuberculosis (TB) has been linked to migratory populations. Since 2008, foreign-born TB cases have accounted for slightly more than 40 percent of the country’s tuberculosis burden (Chee et al., 2017).

Similarly, in Chonburi Province in Thailand known for its fruit plantations, the industry is highly dependent on Cambodians travelling through forested areas in an attempt to enter Thailand. In their travels, Cambodian migrant workers become susceptible to being infected with malaria, bringing it into the border areas in Thailand, so making malaria difficult to eradicate. In the Province of Chantaburi, the vulnerability of Cambodian migrants primarily working on orchards or on cassava farms is heightened because the majority do not speak Thai and bednet use was low among them (Wangroongsarb et al., 2012).

In Malaysia, the phenomenon of “sudden deaths” occurring during sleep was found among Nepali migrant workers (Aryal et al., 2019). The cause of such deaths is unknown especially since the history of the deceased is not available from hospital records, immigration documents, and so forth although there is some evidence pointing to working conditions such as long working hours, extreme temperature, strenuous physical activity, alcohol consumption and being overweight being factors for mortality. The higher prevalence of Covid-19 among migrant workers in Singapore is another example of health risk among migrant workers (Koh, 2020).

Migrant workers' vulnerability to HIV is heightened by them lacking family support, feeling loneliness and having little knowledge of STD/HIV: additionally, there are very few STD/HIV prevention programmes targeted at this group. Current government policies, which marginalizes this group, together with the lack of education among migrants, largely contribute to the problem. Vulnerability to HIV continues to be a public health concern in South Korea with migrants who tend to face a higher risk to HIV compared with locals. One factor for this is because the bulk of migrant workers are unmarried males in the sexually active age groups (that is, in their 20s and 30s). Lee (2008), citing from a survey conducted by the Korea UNAIDS Information Support Center (KUISC) recorded about 15 percent of migrant workers having had the experience of engaging in sex with commercial sex workers.

In the area of HIV/AIDS and other sexually transmitted diseases, migrant workers continue to face barriers such as discrimination, lack of access to health and HIV preventive information, lack of access to treatment, counselling, referral and access to assisted reproductive technologies for HIV positive migrant workers, mandatory health and HIV testing and so forth. Embedded in the literature is the conflation of citizenship status with healthcare access (Rajaraman et al., 2020). In fact, many of the health policies directed at migrant workers are aimed at reinforcing the temporal identity of this group of workers in the labour destination country: separating them from the professional group who are not hit by such labelling since the latter are not expected to undergo similar health tests. Some have argued, however, that the health risks and vulnerabilities migrants face are a result of both state and market failures (Amrith & Amrith, 2016).

### ***Risk exposure and vulnerability***

Living conditions represents a high-risk factor leading to poorer health outcomes and health vulnerability among migrant workers. Low skilled migrants tend to live in poorer housing such as cramped spaces, bunkers, one-room flats shared by several workers or in urban slums. These housing conditions pose physical and environmental hazards, adversely impacting migrant workers' well-being. Recently in Singapore, the migrant worker dormitories were a hotbed for Covid-19: social distancing was near impossible and hygiene standards were deplorable, resulting in a sharp rise of Covid-19 cases in early April 2020. As of 6 May 2020, 17 758 Covid-19 cases were confirmed (Koh, 2020). Prior to Covid-19, 20 dormitories were found each year to breach the Foreign Employee Dormitories Act. Employers often get away with providing inadequate living conditions because they have power over the employment of migrant workers, especially when they are less educated and are unaware of their rights. In this case, "unsuitable housing" might be singled out as a factor for precarity among this group (cf. Matias et al., 2020, p. 30; McPhee, 2016).

The working conditions of low skilled migrants also have implications on their health. Because of discrimination and isolation stemming from their status as foreigners from less developed countries engaging in jobs characterised by low pay and status, migrant workers, in particular single males, those who are undocumented, and females working in the sex industry were found to engage in risky sexual behaviours such as commercial and casual sex, leaving them vulnerable to adverse health outcomes (Lee, 2008). These low-skilled migrant workers are subjected to a range of abusive, humiliating labour practices.

These often spill over into the health aspects of migrant workers; which largely violate their basic health rights. Undergoing pregnancy testing for female migrants has become a standard labour practice throughout countries in East and Southeast Asia for domestic workers in fulfilment of their visa application process (International Labour Organization [ILO], n.d.; Loganathan et al., 2020). Among these female workers, ensuring that they stay pregnancy-free throughout their sojourn in the labour receiving economies is synonymous to expecting them to abandon their marital status as

married individuals with families. This expectation is reinforced further in that this group of workers is prohibited from bringing family members with them into the host country (Elias, 2018).

Research has shown that most countries in Asia continue to “institute intrusive and regressive health policies” prohibiting migrant workers to continue working if they are found with infectious diseases (CARAM Asia, 2018). Labelled as “unfit” for work, migrant workers suffer deportation (CARAM Asia, 2015). Being struck by an illness is a huge drawback for migrant workers since it could result in their being thrown out of their jobs should employers choose not to undertake their health costs. Not only are their basic rights as workers violated, national laws and enforcement mechanisms have not been adequate in addressing or responding to the labour abuses faced by this group of workers, reflecting the point Derks (2010, p. 846) makes that: “human-rights abuses are related not only, as is often argued, to the absence of the law (that is, the lack of rule of law, weak state structures and corruption) but also to the actual workings of the law”.

### ***Access to healthcare***

It is not uncommon that migrants face barriers in accessing healthcare in the host country, a concern of both male and female low-skilled migrants. Not only are they not able to access healthcare services available to locals because of affordability but they are also subjected to a myriad of stringent regulations indicating their weak negotiating power. In Malaysia, for example, policies emphasize their temporary presence and employers are not expected to pay for health insurance to enable migrant workers to access healthcare (Loganathan et al., 2019). If workers are protected by health insurance, often the full amount is never covered and the migrant worker is expected to pay the rest, resulting in some leaving the hospital before being discharged. Among those who have outstanding bills, they are penalized by being barred from renewing their work permits upon expiry. In such a scenario, the marginalization of undocumented migrant workers becomes even more heightened. The fear of arrest, detention and being deported is often the major deterrent for not seeking healthcare. There is also the ensuing stigma to being an undocumented worker. Although doctors have raised concerns that withholding healthcare services from undocumented workers goes against the medical code of ethics, they find themselves in a bind as the state demands that they report any undocumented worker who seeks medical attention from them (Loganathan et al., 2019).

In Singapore, for example, contractual low-skilled migrant workers are not entitled to the healthcare subsidies provided by the Singapore government, and do not qualify for the financing schemes available to Singaporeans and permanent residents. Survey responses from 427 doctors working in four restructured hospitals in the country identified the barriers to healthcare utilization among this group of workers: the most common being culture/language (92.3 percent) and finances (healthcare cost) (81.0 percent): revealing the reasons underlying the precarity this group of workers face in respect to healthcare access (Ang et al., 2020). And because many low-skilled migrant workers in the construction sector stay in Singapore for an average of 14-26 years, many develop chronic diseases, such as hypertension, diabetes mellitus, and their attendant complications, with charity clinics taking up the burden of serving these migrant workers.

In Thailand, although migrant workers in the fishery industry have access to the public healthcare system, this privilege is tied to their employers who are responsible for their status and well-being (Marschke et al., 2021). Yet migrant workers face hurdles in accessing healthcare or receiving the PPE because of their legal status, lack of information and language barriers. Furthermore, the persistence of racism or xenophobia directed towards migrant workers continues to make it difficult for this group to access needed healthcare services. That said, the Thai government has been working towards ensuring that all migrant workers have access to Universal Health Coverage (UHC). In 2003, the government instituted migrant-friendly health services aimed at responding to unmet needs and



improving migrant access to health services comparable to the quality of services accessible to Thai citizens. These programmes were initiated in partnership with non-governmental organisations in areas with large migrant worker populations (Kosiyaporn et al., 2020). Despite the positive benefits of these programmes, the sustainability of this effort has been called to question. In fact, barriers continue to exist which include insufficient budget support, diverse and non-standardised training courses for the migrant health worker (MHW) and the migrant health volunteer (MHV), and the lack of legislative support to ensure that these initiatives can continue in the long run (Kosiyaporn et al., 2020; see also United Nations Development Programme, 2004).

Public morality regarding contraceptive use has been detrimental to migrant communities, determining their healthcare access and negatively affecting both married and unmarried migrant women. The assumption by the state is that reproductive health services are only needed by the sexually active and that since pregnancy leads to deportation, by extension migrant women should not be sexually active and thus do not require sexual and reproductive healthcare services. In reality, however, the lack of access to relevant and timely sexual and reproductive health services raises the vulnerability of migrant women to unplanned pregnancies. In Malaysia, migrant women face limited options for sexual and reproductive health services, leading to abortions (Loganathan et al., 2020). Most often migrant women resort to unsafe abortions because of financial constraints and cultural disapproval, despite surgical abortions being legal in Malaysia. Poor obstetric outcomes have also been reported among migrant women because they tend to delay seeking medical help. While health facilities for gender-based violence are available, migrant women do not use these facilities because of discrimination and scrutiny by authorities (Women's Aid Organisation, 2021).

Understanding precarity in its totality demands that we examine the mental and psychological health of these workers, especially since experiencing anxieties and loneliness is not uncommon among those away from their natal family encountering the disruption caused by being separated from loved ones. Among the over 230,000 foreign domestic workers employed in Singapore, the majority of 182 respondents in a study reported relatively good overall quality of life although more than half reported feeling stressed; which was linked to their being isolated (Anjara et al., 2017). In fact, stress was found to contribute to worsening quality of life in all domains except social relationships. Social connectedness was positively associated with all domains of quality of life, and agreement of working management style was positively associated with physical health, psychological health and environmental quality of life. In Singapore, a few support networks, often provided by civil society groups as well as religious communities, have emerged for low-skilled migrant workers. (Chan & Kuan, 2020). One NGO, known for establishing strong networks of friendship and goodwill between ministerial agencies, employers, migrant worker dormitory operators and migrant workers, operates low-cost primary care clinics including case work support to workers who had sustained workplace injuries, as well as a mental health and counselling arm. During Covid-19, the role of HealthServe has become a leader in conducting needs assessment; as well as undertaking a massive call for volunteers with and without mental health expertise to enlarge the pool of native speakers, training all in Psychological First Aid as well as basic knowledge about possible emotional responses and issues faced by migrant workers (Chan & Kuan, 2020).

Similar examples were found in other parts of Asia. In Japan, for example, Nepalese workers who enter the country as language students and to take on low-skilled work as cooks were found to work very long hours to make a sufficient income to meet the high cost of living. At the end of 2019, around 96,824 Nepalese were found to be in Japan (Bhandari et al., 2021, p. 2). Many Nepalese are attracted to living and working in Japan not only because of the quality of life but because as students and dependents, they are permitted to work for up to 28 hours per week. Moreover, there is no language proficiency test as a prerequisite for them to gain entry into the country. In reality, many continue to face discrimination and stigma in terms of finding employment and housing; as well as suffering from

anxiety and fear exacerbated by visa-related problems, travel restrictions and legal matters. The Covid-19 pandemic placed greater stress on these migrants despite the Japanese government's effort in establishing a migrant-friendly environment. Furthermore, our study was able to shed light on factors such as lack of social support, the impact of the language barrier, occupational instability, family obligations, and other factors that inequitably affect the health and livelihoods of non-Japanese community members in Japan. Living and working in Japan has its shortfalls. This group of migrants has experienced discrimination and stigmatisation, as well as a lack of social support, a language barrier, occupational instability, family obligations, and other factors such as lack of access to health information: which has led to poorer physical and mental health among the group.

### **Precarity from a gendered perspective**

Asian women make up the fastest-growing category of migrant workers in the world. Since the 1960s, transnational migration in Asia has become increasingly feminised and diversified with the proportion of female labour migrants rising significantly because of a growing demand for this group of workers in Hong Kong, Malaysia, Singapore, Taiwan, Thailand, and less so in Japan (with the majority migrating from the Philippines, Indonesia and Sri Lanka, and smaller numbers from India, Bangladesh, Myanmar, Nepal and Thailand (Malhotra et al., 2016). According to 2019 estimates from ESCAP, East and North-East Asia have the highest number of female migrants at 52 percent (ESCAP, 2020).

Migrant women do not make the decision to migrate for work in a vacuum. While migration for work might carry negative connotations in Java, Indonesia, women are still motivated to leave the family in search of work abroad because of financial benefits, although knowing fully well that they undertake demanding journeys fraught with uncertainties. This motivation is linked to “gendered morality” or *kodrat*, encompassing the idea of fixed destinies and duties specific to men and women (Chan, 2018, p. 579). The less well-educated woman who wants to contribute to the household income does so because of the abundance of gendered work in the more affluent economies, not necessarily overtly wanting to displace the breadwinner role of her husband. In fact these women could migrate for work only because they were successful in convincing their husbands and parents to allow them to do so, signifying that men were the “legitimate labor migrants” and, in turn, breadwinners and that women, if they do migrate, “are deemed out of place” (Khoo et al., 2017, p. 327). Paradoxically, for women seizing the opportunity to migrate for work, this might be the only chance for them to lift their families out of poverty because of the scarcity of decent paying jobs back in their own countries. But their earning power does not automatically translate into household decision-making power, as was uncovered in the case of Sri Lankan women migrants (Handapangoda, 2012).

Thus, for women migrants migration is a gendered experience to the extent that these women engage in jobs closely connected with their gender identity. Castles and Miller (1998, p. 9) describe how the feminisation of migration is one of five major drivers of migratory flows across the world, with “women play[ing] an increasing role in all regions”. The feminization of migration in Asia reflects the increasing flows of women working as care workers and domestic servants, engaged in cleaning and cooking, childcare and caring for the elderly and disabled. Because of their involvement in the sector, migrant women more than migrant men typically end up working in isolated occupations or ‘behind closed doors’, which subjects them to exploitative labour abuses as well as violence and sexual harassment. Suffering violence at the hands of employers is not unheard of. Compounding this is that female domestic workers are entangled in a superior-inferior employer-employee relationship where the domestic worker is construed as a member of the “lower class, stupid, incapable to make decisions”; resulting in these abuses (Wijaya et al., 2015, p. 525). In Hong Kong, Indonesian domestic workers were found to be subjected to a range of abuses from sexual violence such as rape, physical violence (beating with broom) to verbal abuse: with many women not able to help themselves because of language barriers and cultural unfamiliarity.

Furthermore, the low-level jobs they take on in the labour destination countries suggests that they have limited bargaining power, contractual protection, and other rights. Moreover, domestic work remains one of the least protected labour sectors in many countries in Asia. Among the myriad of employment abuses include passport retention, withholding of salary, violations of human dignity and fundamental freedoms that include working without food or rest, degrading treatment and violence. These abuses are heightened especially since domestic work is seen as low-paid and low status work, and is gendered work usually carried out without a salary by the lady of the house or female kin.

Migration for women is a gendered experience in another respect: women migrants tend to be subjected to patriarchal “modes of organization articulated in protectionist laws and policies” aimed at limiting their movement (Bhattacharjee, 2017, p. 46). This is evidenced in the South Asian countries of Bangladesh, India, Nepal and Sri Lanka. Potential migrant women from Sri Lanka are expected to submit a Family Background Report (FBR), in keeping with the requirements of the Ministries of Foreign Employment Promotion and Welfare (WFEPW), requiring them to seek the approval of their husbands, or other male members of their family (should she not be married) to migrate for work. It could be said that because the FBR form has to be signed by their husbands or a male family member, the bureaucratic injunctions around women’s migration are in effect an extension of the social control men have over women – stemming from gender ideology anchored in politics, legislation, culture and an ideological system. In this case, the reinforcement of patriarchy is seen to be operating at different scales: at the national level through bureaucratic processes and at the inter-personal level in the context of the family. The operation of an extreme form of patriarchy is seen in the case of Sri Lankan women, departing their home country for the Middle East, who have been forced to take the Depo-Provera contraceptive injection by recruiters prior to departure (Dias & Jayasundera, 2002). This is a violation not only of their rights but is “degrad[ing] these women to sexual objects” (Puleston, 2018). Moreover, the current migration policy, said to be designed with the “male breadwinner” model in mind, could be said to perpetuate the scenario where women are construed as victims in need of protection by the state. In some cases, it was found that these policies have forced women to resort to unregulated private recruiters in their attempt to flee the “protectionist-statis framework” of the state (Maheshwari, 2018, p. 3).

In a growing number of countries in Asia, as much as the rest of the world, the rapidly ageing population in conjunction with falling fertility rates in the destination country has meant that there is a demand for elder caregivers (Cheng, 2020; Devasahayam & Gray, 2020). In Thailand, Burmese women have filled the gap of being eldercarers because of the shortage of locals entering the sector. It is fortuitous that both Thailand and Myanmar are in different phases of the demographic transition: the former with a rapidly ageing population leading to shortages of labour while the latter is continuing to see relatively high fertility rates, thereby leading to an excess of labour. Therefore, gaps in the local labour market could be met by migrant communities from neighbouring countries (Devasahayam & Gray, 2020). The greying of Taiwan’s population has seen a similar migratory trend. Taiwan has been another major destination country for migrant care workers in spite of Taiwan restricting the inflow of migrants from Southeast Asia to take on jobs as caregivers in the past. But this trend has not seen similar outcomes in other greying countries in the Asian region. Although this mix of “familialism” and liberalism through market forces leading to the hiring of migrant caregivers is an increasingly common trend in Asia (Ito & Morikawa, 2020, p. 112), some countries such as Japan have resisted this strategy of care provision owing to its migrant policies of being restrictive in its importation of low-skilled workers.

That aside, like factory workers, these domestic workers cum elder caregivers are mostly hired on temporary contracts. In Taiwan, for example, these women are employed under the guest worker programme, reinforcing the precarity of their jobs; they, unlike the white collared professional group of workers who hold different rights and obligations, work under strict employment conditions and

are not allowed to change jobs unless their employers die. If they do choose to leave their employers for whatever reason, they become illegal “runaway migrant workers” or they lose their legal status as migrant workers and become wanted by the police and in this sense, these workers are “invisible” to the rest of Taiwanese society (Huang, 2019, p. 7). Because employers pay an “employment security deposit” to the government, they are reluctant to give their domestic workers a “day off” lest their domestic workers use the opportunity to run away, forcing the employer to bear the brunt of being punished under the law. Working in the homes of families markedly different from their own culture poses problems. These foreign women migrant workers, mostly from Indonesia and thus Muslim, have found adjusting to Chinese families challenging because of dietary differences. In terms of the spaces they have colonized on their “day off,” these workers have created temporary enclaves, places that the ordinary Taiwanese would never enter. Treated as marginalized individuals living in the social fringes of Taiwanese society, albeit providing a vital service to families, the discrimination these women experience results from the condescending social attitude of the Taiwanese society at large. Currently, the legislation governing this migrant group is not only market-driven to ensure a cheap source of caregivers is available to the Taiwanese population; but also “exclud[es] them from the national community and den[ies] them rights and protections enjoyed by the rest of society” (Cheng, 2020, p. 454). Thus, for these women, migrant networks are even more important in helping them navigate the choppy waters of working abroad away from personal support provided by their own families; especially in the face of a lack of institutional support provided by their government back home (Hoang, 2016).

In the case of migrant women, they have faced other forms of discrimination: public and private judgments attached to the kind of work women take serve to reinforce migrant women’s precarity. Research has found that Filipina migrant women working in the entertainment industries are often condemned by citizens in the labour destination country or by their own countrymen and are labelled “immoral” (Cheng, 2010; Parreñas, 2011). Because of the kind of work they have chosen to take on these women are expected to shoulder the blame for bringing these gendered discriminations upon themselves. Chan (2014, p. 6958) reflects on how most state discourses and responses to the abuse of Indonesian migrant workers contribute to not only blaming the victim and calling her out as “immoral” but also “sustaining the precarity of migrants’ lives and labor ... through discursively naturalizing the unfair working conditions of workers in informal sectors domestically and abroad with reference to global market inequality.” In transferring the blame to these women, the state eschews the responsibility of ensuring a safe migration path for its women and instead shifts the responsibility to the migrant woman.

While there have been migrant women engaged in carework in the labour destination countries in order to earn incomes, many such women have found themselves struggling with their dual roles as workers as well as caregivers to their own children because of constraints thrust upon them (Kusakabe & Pearson, 2014). In Thailand, Burmese migrant workers face challenges in keeping up with their responsibilities to their own families while engaging in factory work. The support they receive to keep up their reproductive responsibilities is meagre and compounded by the fact that they are non-citizens who are not entitled to childcare provisions local Thai working mothers would have received. Among these women, decisions about working and mothering are a stark reminder that they have had to be self-reliant.

## **Mapping Legal and Policy Labour Migration Mechanisms: Do They Work and to What Extent?**

In Asia, formal arrangements governing migration have taken different forms, operating at different scales—international, multilateral or regional; bilateral; and national. Policy negotiations pertaining to migration governance occurring at every level are necessary since each of them presents limitations (Battistella, 2012). Global migration governance mechanisms, which include international conventions related to human mobility, have mostly been enacted by international political actors and multilateral entities, including the United Nations (UN) and the European Union (EU). By and large, the ILO and UN conventions on migrants have led to limited success because they have not received the consensus of many countries (Battistella, 2012; Islam & Cojocaru, 2015). Although states might be occasionally spurred or pressed to endorse the international mechanisms governing migration by international organisations, human rights defenders, social media and NGOs, in most cases their attitude is that of hesitance or even reluctance, preferring instead to be in control of managing migration processes themselves. In contrast, bilateral frameworks have had better success: to this extent, labour migration is “governed almost entirely at the level of the nation-state ...” – a “prerogative” they continue to “guard ... jealously” (Newland, 2010, p. 331).

### **International policy mechanisms**

An obvious example is that of the International Convention of the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW). Considered by some scholars to be a reflection of “the failure of ILO Convention No. 143 to engage the attention of the international community” (Daway, 2010, p. 271), the ICRMW has not met with much success either. Currently, signatories to this Convention include labour sending countries while nearly every one of the labour destination countries has not signed this document. That there is hesitance, let alone refusal, to ratify this international legal instrument governing labour migrants signals not only “the lack of international recognition ... but undermine[s] the influential power of the Convention” (Arora, 2017, p. 87). The reason why only a handful of countries in Asia have signed the Convention has been attributed to the lack of political will, with an obvious trend in that labour destination countries in particular, are hesitant about ratifying the Convention (Piper, 2009). There are a number of obstacles cited for the low numbers of countries ratifying the Convention but the common ones are that states lacked the motivation to adopt the Convention (Orosa, 2014) and that there is a lack of understanding of what the Convention holds for them (Piper, 2009). In fact, it has been pointed out that there is “confusion as to the gains and losses in the event of ratification” (Piper, 2009, p. 176). Furthermore, labour destination governments mistake the Convention thinking that it encourages liberal migration policies and that they would have to give particularly low-skilled workers more rights than they think this group should be granted since the aim is to keep such workers on short-term contracts. However, on the part of those governments, there is little understanding that ratifying the Convention has advantages since it serves to control clandestine human movements. Sending countries, in contrast, think that ratification of the Convention would demand that they grant migrants more rights than the state already does: which they think they might not be able to afford. Hence while there have been arguments made for the relevance of international mechanisms in governing migration as “these [provide] a necessary platform in which different actors can cooperate and collaborate at a transnational level” (Turmaganbet, 2015, p. 2), in reality there has been hesitance on the part of governments to ratify the Convention since they do not see it as a priority unless they face an “external push” to do so (Piper, 2009, p. 177). At the regional level, even a regional bloc such as the Association of Southeast Asian Nations (ASEAN) has not made “a pledge of commitment to the ICRMW [and instead] ... build[ing] its own human rights regime” (Orosa, 2014, p. 736). The position of ASEAN is clear: while understanding that trade necessitates labour migration, it has generated its own human

rights mechanism, seeing it instead as a solution to encourage governments to render protection to migrant workers.

Then there is the UN's Global Compact for Safe, Orderly and Regular Migration (GCM), the first negotiated United Nations document addressing migration governance by advocating that governments govern migration in conformity with international law. Although receiving wide support among UN member states, the document has been found not to have a meaningful impact on countries. One problem with this non-binding document is that it fails to provide a definition of "migration" or of "migrant," "impairing constructive policy debates" (Bloom, 2019, p. 481). Yet the Global Compact for Safe, Orderly and Regular Migration (GCM) has attracted the interest of non-governmental organisations, one of which is the Migrant Forum in Asia (Migrant Forum in Asia, 2021). In July 2019, the organisation held a meeting of civil society organisations (CSOs) and trade unions from Bangladesh, India, Maldives, Nepal, Pakistan and Sri Lanka to discuss synergies between the Regional Consultative Processes (RCPs) and the implementation of the GCM; and to identify and develop a matrix of national priority areas of government agencies and civil society bodies working on migration issues. The meeting saw the creation of a strategic plan developed to ensure the implementation of national focus areas. The meeting concluded by outlining a matrix of national priorities, in light of what has been achieved by CSOs and governments in South Asia and what else needs to be achieved in line with the objectives of the GCM.

The International Labour Organization conventions are the other legal instruments covering migrant workers. Primarily these global legal instruments serve to ensure a measure of "uniformity of ... treatment for transient [workers]" (Rahel & Chowdhury, 2017, p. 163). In June 2014 at an International Labour Conference, the ILO Director-General called for a Fair Migration Agenda emphasizing the "construct[ion of] an agenda for fair migration which not only respects the fundamental rights of migrant workers but also offers them real opportunities for decent work" (ILO, 2016, p. 1; see also ILO, 2021). The aim of the agenda was to emphasize the role migrant workers play in creating prosperity and the importance of sharing equally that prosperity across all actors and stakeholders of the migration process: labour sending and destination countries, migrant workers, employers and nationals. In December of that year, an Inter-Regional Experts Meeting on *Realizing a Fair Migration Agenda: Labour Flows between Asia and the Arab States* was held in Kathmandu, Nepal. The meeting discussed five broad themes: fair recruitment; ensuring decent employment and working conditions for low skilled labour migrants such as domestic workers and construction workers; recognizing the skills of potential and returning workers; enhancing the development impact of migration; and promoting partnerships among governments and social partners (ILO, 2014). The meeting saw a gathering of scholars, officials, employers and trade unionists to discuss reforms to bring to fruition the Fair Migration Agenda. Subsequent to the meeting, working groups were established across Asia and the Gulf Cooperation Council (GCC) member states. In September 2016, the Fair Recruitment Principles and Guidelines were adopted by the Tripartite Technical Meeting following the Fair Recruitment Initiative launched as part of the Fair Migration Agenda. In 2018, the Definition of Recruitment Fees and Related Costs was adopted in 2018 to further strengthen guidelines on migrant protections (ILO, 2021).

There has been some promise that several countries have ratified these international conventions, showing interest in upholding the rights of migrant workers. One such country is Malaysia which has ratified the ILO Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19), which requires equal treatment of national and foreign workers (Olivier, 2018). But by and large while states might endorse the spectrum of ILO Conventions governing worker rights, they might not necessarily be committed to upholding labour rights. On the contrary, these states may actually "use ratification as cover for the further relaxation of labor rights" (Peksen & Blanton, 2017, p. 79). In some instances, employers have contested state efforts to uphold international labour standards. Such is the case of

Indonesia where firms were found to flexibilise labour contracts to explicitly violate the new established labour laws put in place by the government (Caraway, 2009). It must also be noted that these Conventions were relatively silent on certain labour sectors, such as domestic work, for a long time. For decades, there was a lack of formal recognition of the status of domestic workers and, in fact, ILO Conventions excluded domestic workers from being protected under them (Demarat, 2007). What this implies is that women workers were excluded from international and national labour protections. A shift, however, was seen in the new millennium when the ILO began to engage with migrant domestic worker issues. Other complications were associated with these international legal instruments. In the drafting of the Convention on Domestic Work, the Committee faced hurdles as employers and some governments preferred a Recommendation over a Convention, in their quest for “flexibility and diversity, that would not be too prescriptive and which should accommodate national circumstances ... (Rosewarne, 2013, p. 9). However, the resulting Recommendations, which act as a supplement to C189, did provide for greater employment rights and entitlements in the end.

### **Regional policy mechanisms**

In contrast to multilateral strategies towards achieving migrant worker right protections, there has been more progress made at the regional level. The Association of Southeast Asian Nations (ASEAN) issued the ASEAN Consensus on the Promotion and Protection of the Rights of Migrant Workers (Devasahayam & Gray, 2020). The Consensus might be seen as an achievement because it “delivers on the 2007 Declaration’s paragraph 22 which called for the development of an ASEAN instrument to advance the principles of the Declaration” (Thuzar, 2017) and demands that the ASEAN Secretary-General submit an annual report on the progress achieved in the implementation of the Declaration’s commitments to the Summit through the ASEAN Foreign Ministers. The most promising step forward in migrant protection is that the ASEAN Consensus requires member states to extend social protection and other services such as legal, medical, and housing to migrant workers; while the downside of the Consensus is that it only covers documented workers and not undocumented workers. Furthermore, it is not legally binding and member states are not required to ratify the document for implementation, although Chapter 7 underscores the commitment of ASEAN member states to the Consensus to be “in accordance with national laws, regulations and policies” (Thuzar, 2017).

### **National policy mechanisms**

While the bilateral approach was generally considered arduous since it was assumed that the labour sending country had to enter negotiations with many governments and subsequently countries would have had to sign a Memorandum of Understanding (MOU) with the labour destination country. This approach to governing migration has drawn criticisms for focusing on the technicalities and costs of the recruitment process rather than a commitment to labour protections and upholding human rights (Wickramasekara, 2015). Yet increasingly this migration approach has gained momentum in recent years, although these formal arrangements are non-binding and have limited objectives (Battistella, 2012). Instead of relying on bilateral agreements per se, some countries have utilized trade agreements “to fill labour shortages [and in turn] bypassing the highly restrictive domestic immigration law” to govern labour migration. As described by Jurje & Lavenex (2018), the Japan–Philippines FTA enacted in 2008 included labour mobility provisions, facilitating the movement of Filipino nurses into the Japanese labour market.

But while bilateral agreements have promise, there have been instances where the processes of recruiting, processing and transporting of migrants are largely outsourced to private companies to the extent that many migrants end up in abusive employment conditions. This is not uncommon in Malaysia where labour brokers and recruiters act on behalf of employers. Coupled with the fact that employment rules are restrictive, leaving migrants “little room for manoeuvre” labour abuses have

persisted, questioning the efficacy of bilateral agreements or MOUs signed between countries (Anderson, 2021, p. 90).

At the national level, most countries, both labour destination and sending, have institutional and legislative frameworks to deal with migration with securitisation at the heart of many of the legislation and policies produced at the state level (Triandafyllidou & Ricard-Guay, 2019); although for the most part, these mechanisms work in favour of the state and not the migrant worker (Devasahayam, 2010). Very often, the institutional framework sees the involvement of several government agencies, such as in the case of the Philippines. But states do not act alone as a critical stakeholder in the migration process. Eschewing the rights approach, there have been governments found to have “ceded to an ever-expanding number of private actors such as recruitment brokers and labour placement agencies”, with the minority taking a more proactive approach to managing these migratory movements themselves (Elias, 2018, p. 279). Such is the case of Indonesia where there has been some attempt by the state to ascertain controls over labour recruitment agents. The focus of the programme – to license informal brokers through the biometric fingerprint technology – however, was not aimed at the securitisation of migration nor as a response to neoliberal policies. Instead it was meant to regulate two levels of relationships: the first between brokers and the migrant; and the second between brokers and the state (Lindquist, 2018).

### **Issues of national governance**

For most national governments, the rationale for upholding the status quo is that labour brokerage regimes “offer a kind of institutional ‘fix’” while the state can take its hands off the ‘migration steering wheel’ while letting the market step in (Rodriguez, 2010, p. xxii). In some cases, broker licensing programmes were implemented to regulate them in response to calls to license this group because of their profiteering practices at the expense of exploiting migrants (Lindquist, 2018). These private-public partnerships have been met with opposition, however, from pro-migrant worker civil society groups in some destination countries because of the capitalist stance of the state in approaching migration management. But there have been states that have usurped the crucial role of the brokerage actors themselves in an effort to secure greater protection for their citizens who migrate for work. The Philippines is a case in point, the state developed standardised contracts of employment for its overseas workers in which minimum rates of pay and rest days were stipulated (Elias, 2018). In the absence of bilateral labour agreements, the Philippine Embassy in Singapore concluded an agreement with a group of employment agencies. Although this has led to limited improvement of the working conditions of Filipina migrant domestic workers, it has had limited impact on redressing the “human rights deficiencies in the regulation” of this migrant worker group (Marti, 2019, p. 1347); but rather has increased the inequalities between the different national groups of foreign domestic workers and perpetuated the country’s existing migration policies. Others have taken it upon themselves to closely monitor the migration process. The Singapore state has been obsessed with establishing placement procedures to control migrant labour through its labour policies and practices towards unskilled workers; the concern has been their own priorities, followed by the concerns of employers; with little regard given to ensuring the actual protection and empowerment of these workers (Devasahayam, 2010). But in choosing to implement the guest worker system, as in the case of the Taiwanese government, this not only is a “hostile approach that suppresses [the] labour and human rights” of migrants as the state treats this group of workers as the “undesirable other” (Cheng, 2020, p. 457); but forces workers to rely on networks and intermediaries, and brokerage fees, that in turn contribute to marginalisation and exploitation among low-skilled migrant workers (Kaur, 2010).

Migration governance is indicative of another related concept: that of the documented worker. In fact, migration governance presupposes that migrants come under the radar of formal arrangements rolled out by governments, labelling them as what is commonly known as ‘documented’ or ‘legal’ migrants.



Although becoming a documented or legal migrant is deemed to be far superior to adopting the undocumented or illegal route to migration since the former guarantees that the migrant enjoys many more rights and privileges, the undocumented route to migration has sometimes been considered a “preferred option” for a range of reasons (cf. Schaeffer & Kahsai, 2011). For one, there is a lack of access to regular forms of migration and safe migration channels in some labour sectors in Asia. Moreover, documented migration is associated with high costs which act as a deterrent to potential migrants. Another common scenario leading to opting for undocumented channels of migration is the selective bans and raising age barriers – measures which although presumably aimed at protecting female migrants have led to discrimination against them since they tend to be disproportionately affected by such state decisions (ILO, 2015).

In Asia, unfortunately, millions continue to opt for undocumented channels of migration in spite of their numerous dangers: problems with unscrupulous recruitment agents; abuses at various stages of the migration process; exploitative working conditions such as nonpayment and long working hours; human and sex trafficking; violence against women and gender-based exploitation/abuse; lack of workplace safety and health protections; and the non-recognition of certain sectors such as domestic work under the country’s labour laws (Arisman & Jaya, 2018). In spite of scores of labour destination countries having strict immigration regulations in force to govern migrants, the shortage of labour in these countries has led to the acceptance of large inflows of undocumented migrants (Devasahayam, 2014; Hugo, 2005). Particularly in Asia, documented or legal migration occurs in tandem with undocumented or irregular migration although many continue to seek to minimize the risks associated with migration by seeking employment through government-accredited recruitment agencies, complying with legal requirements of labour migration (Aguilar, 2018). But it is more likely that undocumented workers are pushed into marginalization more than documented workers. For example, undocumented migrants are more likely not to be able to access healthcare as easily as documented migrants.

While the status of being undocumented heightens the individual’s vulnerability to a multitude of labour abuses in the destination country; there is ample evidence demonstrating that documented worker status does not guarantee rights to labour protections under the different levels of migration governance mechanisms in the labour sending and destination countries. This is especially the case among low-skilled migrants since they are often considered as transient to the economy and, thereby treated as bodies to “use and discard” (Chin, 2019, p. 541; Yeoh, 2006, p. 36). Derks (2013, p. 216) makes a similar assertion in that a strict dichotomy of “legal” and “illegal”, “documented” and “undocumented” does not automatically translate into “protection” and “exploitation” and that documented migrants are protected against abuse and exploitation. While the state is responsible for the protection of the human rights of migrants, paradoxically it has been found to create the conditions that have resulted in those migrants’ exclusion from protection (Devasahayam, 2010).

## **Recommendations**

Undoubtedly governance is crucial in ensuring safe, orderly and documented migration to the extent that development potentials of migration are maximised and its negative effects minimised. Migration governance mechanisms occur at different scalar levels with international and regional approaches to managing migration being most human rights-responsive while mechanisms operating at the national and local levels being the least. As this paper has demonstrated, in Asia, labour migrants face a whole slew of precarities as they move in search of waged work. For this reason, there should be greater attention granted to ensuring that governance mechanisms at the national and local levels, whether policy, practice or programmatic, should be migrant-centric to the extent that a rights-based approach is central to migration management. In this regard, states have the greatest responsibility in

implementing protections for migrants through genuinely committing to the rights approach and, in turn, upholding international and regional principles related to migrant protections.

The following are recommendations that may be adopted by the state to engender the protection of migrant rights, although some recommendations may be more relevant to other actors, stakeholders and institutions whose role are integral to migration processes:

### **The role of regional blocs in migrant worker protections**

Increasingly regional mechanisms have become important in migration governance. In Asia, ASEAN should be held up as an example although it has been operating mainly as an economic bloc. But because the region has seen immense migrant flows in the last decades, ASEAN must move from being a “disjointed to a complementary actor” in protecting migrant rights (Allison-Reumann, 2017, p. 427). This can only be achieved if ASEAN conforms to international institutions and standards, rather than act on a separate plane of governance.

### **The importance of bilateral frameworks**

The case for bilateral labour frameworks is strong; especially since they have been found to provide greater protections to migrant workers aside from expediting the migration process. Recent bilateral agreements signed by the Philippines with various labour destination countries might be used as a model since workers’ welfare has been a central feature of these agreements (Blank, 2011) since they are supply-driven. Some agreements have included clearly delineated roles for relevant agencies in both the labour sending and labour destination countries; standardized contract usage; high levels of protection for migrant workers, including service access placing them on par with the local populace. Although not all agreements are perfect, because their benefits outweigh the costs of establishing these mechanisms, states should aggressively pursue new bilateral agreements.

### **Health rights of migrant workers**

Further work is needed to overcome the barriers faced by migrant workers in healthcare access in host countries. It is not only important to remove barriers such as affordability but also to ensure bridging the communication gap by using translators in healthcare facilities. Moreover, it is imperative to raise migrant-health literacy among doctors, so that they may act as healthcare advocates for patients (cf. Ang et al., 2020). Moreover, governments of labour destination countries should facilitate access to sexual and reproductive health services for female migrant workers. They should ensure that migrant women have access to and have choices of safe, effective, affordable, and acceptable methods of fertility regulation. Moreover, the Covid-19 pandemic has invariably underscored the importance of ensuring migrants’ access to healthcare.

### **Acknowledging civil society’s role**

The role of civil society in rights protection for migrant workers has proven to be critical in recent decades. It is important that spaces for civil society dialogue be opened up because of their critical contribution to migrant worker issues, to opening dialogue and to influencing public opinion processes. In recent years, spaces for civil society activism have been shrinking especially with the slow demise of democracy and the rise of authoritarian states. Governments should see civic engagement as central to their mission. In fact, as pointed out by Ford (2019), the protection of migrant rights has to start with the emancipation of migrant workers and their right to organize.

### **Freeing migrant workers from debt bondage**

Recruiters are usually the first point of contact to securing a job for migrant workers. Hefty fees, however, are demanded of migrant workers by recruiters who are profit-oriented. While there are bona fide recruiters who find jobs for migrant workers, there have been instances where fees are so hefty that it has left many migrant workers worse off than before. In the worst case scenario, some migrants have lost their monies only to discover that they were deceived as promises of jobs were actually lies. On the part of sending countries, innovative programmes making credit available from formal financial sources might be the solution to enabling workers to free themselves from informal debt relations.

### **Directions for future research**

New areas of research related to migration governance should be expanded: namely research undertaken on how migrants might have better access to healthcare services, including mental health services, especially since these people tend not to be medically insured and socio-economically marginalised. Their unmet healthcare needs suggests that research is required to inform policies and the development of targeted service delivery and training programmes.

Moreover, the research should be gender informed. Male migrant workers should be studied as a distinct group from female migrant workers. Research should also delve into how governments should act to ensure that the migration process is a win-win situation for all actors—governments, recruitment agents, as well as the migrant workers themselves—with the aim that migrants are empowered and become active changemakers in their own lives. Focus should be on best practices of labour sending countries such as the Philippines; how their policies and programmes have ensured protections for their migrant citizens and how they may be adapted to other labour sending economies. Investigation into this area requires multi-site research. The research would also entail understanding how governments might be able to shift away from a pro-neoliberalism framework to the extent that they are able to embrace international frameworks and good practices related to migration governance in conjunction with the upholding of migrant rights.

Another area for research should explore the role of foreign domestic workers as elder caregivers, especially as countries in Asia face ageing populations as well as falling fertility rates—the latter signalling a growing dearth of family caregivers and dependence on non-kin to execute care provision. Currently foreign domestic workers undertake an integral responsibility in providing care in the familial context, even if they lack the necessary skills to play this role. This research should also look into the kind of policies and programmes necessary to upskill this group of caregivers. Research should also delve into governmental role in relation to migratory processes and its effects on the provision of formal versus informal eldercare both in labour sending and destination countries.

## **Conclusion**

The paper is primarily interested in understanding the multiple axes of precarity faced by migrant workers in Asia, and how migration governance or management may be enhanced to address these issues – such as providing greater protections to migrants, not only with respect to their work conditions but also enabling their rights to access to health services; allowing movement within the destination country/areas; optimising benefits of documented labour migration; promoting inter-state cooperation; establishing support networks and systems to help their families back home; but also facilitating different actors, stakeholders and institutions to play a crucial role as enabling forces

to ensure the rights of these workers. Governance mechanisms should protect not only the physical safety and economic rights of migrants, but also, more broadly the social rights of this group.

Currently, the large body of policies governing the migration of low-skilled workers not only fails to protect the rights of these workers but instead heightens the vulnerabilities of migrant workers while in some cases, encouraging the labour trafficking of these workers. These vulnerabilities need to be addressed at different scalar levels through changes in migration management to enable migrants to easily register, change employers, and reduce the role of brokers. In a nutshell, governments are responsible for putting in place governance mechanisms to protect and empower migrant workers. Meaningful migrant worker reforms need to take into account migrant hopes and aspirations and enable them to obtain safe and well-remunerated employment. In fact, states bear the biggest brunt in ensuring the rights of migrants at different points of the migration process. But the nature of migration implies that states do not have the capacity to act single-handedly. While political will goes a long way to addressing the precarities faced by labour migrants, partnerships and dialogue with state and non-state actors are equally significant in maximising the combined efforts undertaken by actors, stakeholders and institutions that are critical to the migration process.

The role of CSOs continues to be imperative in being a critique of government policies for labour migrants. Their feedback is important in generating migrant labour policies and regulations. In fact, the development of migration policies at the regional level (as well as the national level) can benefit from the inclusion of migrant civil society voices. Moreover, the governance of migrants may be complemented by governance for and by migrants to the extent that governance mechanisms should open up “participatory spaces and allow ... agency for migrants and their organisations ... as a crucial component of global migration governance (Rother, 2018, p. 13).

In some instances, there is justification for rethinking the fundamental concept and practice of undocumented migration. While there is evidence that migrants moving through regular channels report better pay and working conditions than those using undocumented channels, documented workers have also systematically reported working conditions that do not meet legal standards, and routinely experience contract substitution (Bylander, 2019). Because there is insufficient evidence to confirm that undocumented migratory channels are less safe than documented channels, there should be greater flexibility on the part of governments to encourage documented migration but not penalize migrants with hefty migration fees, for example. In other words, governments in insisting on greater regularity in the migration process should be cognizant of not generating new forms of exclusion (cf. Dauvergne & Marsden, 2014; McKeown, 2012; Strauss and McGrath, 2017, as cited in Bylander, 2019). Instead, upholding the human rights of labour migrants – whether by labour sending or destination countries – should be the central priority of all states in the quest to govern migration.

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