



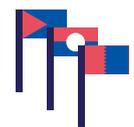
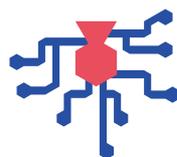
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► Extending social protection to migrant workers in the Gulf Countries



► **Social protection for migrant workers in countries of the Cooperation Council for the Arab States of the Gulf (GCC)**

A regional mapping of provisions on paper and in practice



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# ► Social protection for migrant workers in countries of the Cooperation Council for the Arab States of the Gulf (GCC)

A regional mapping of provisions on paper and in practice

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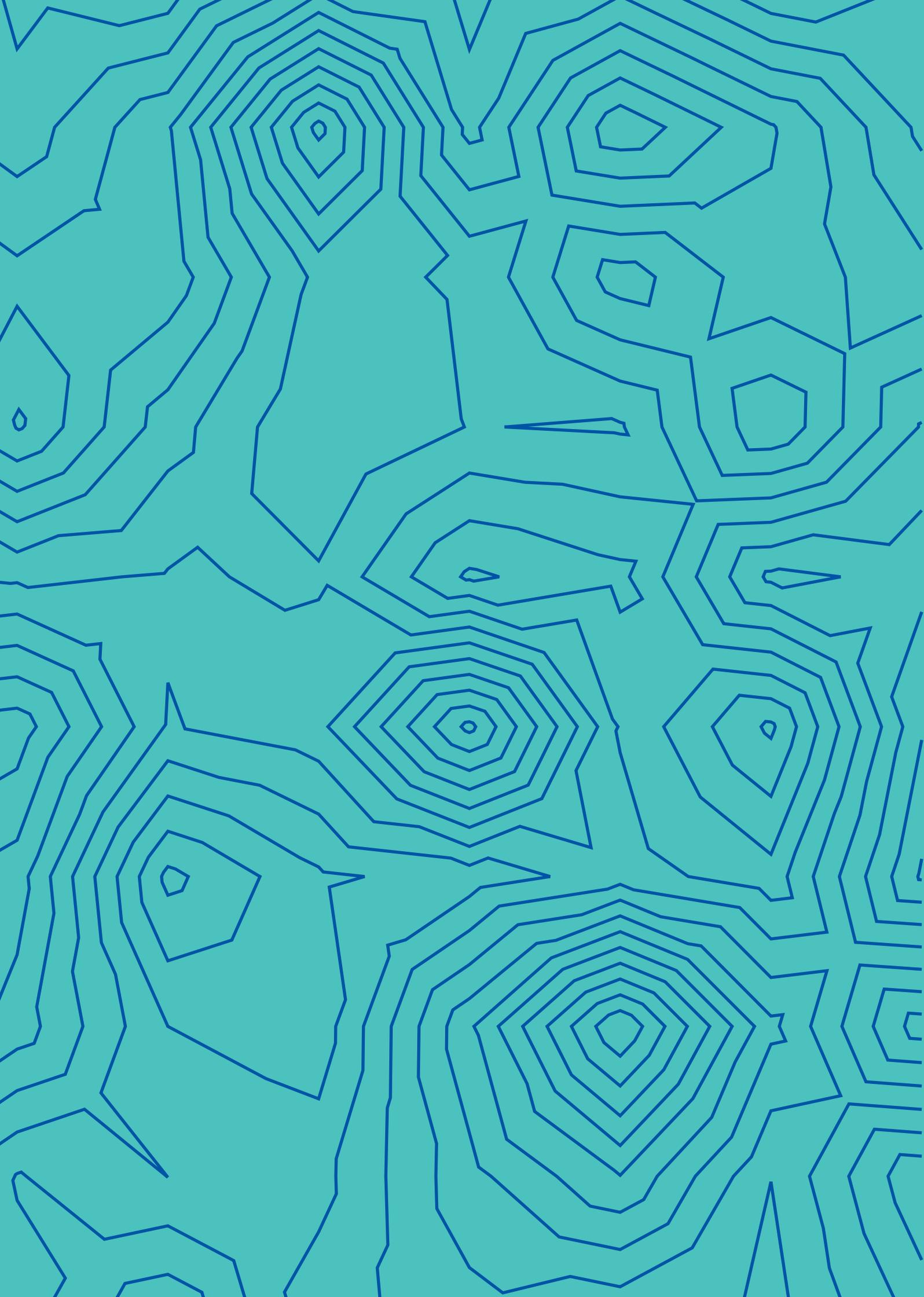
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## ► Abbreviations

<b>ADGM</b>	Abu Dhabi General Market
<b>BLA</b>	Bilateral labour agreement
<b>BSSA</b>	Bilateral social security agreement
<b>BWI</b>	Building and Wood Workers' International union
<b>DIFC</b>	Dubai International Financial Centre
<b>DEWS</b>	DIFC Employee Workplace Savings
<b>EOSI</b>	End-of-service indemnity
<b>FIFA</b>	International Federation of Association Football
<b>GCC</b>	Cooperation Council for the Arab States of the Gulf
<b>GCM</b>	Global Compact for Migration
<b>GOSI</b>	General Organization for Social Insurance
<b>IDWF</b>	International Domestic Workers Federation
<b>ILO</b>	International Labour Organization
<b>IOM</b>	International Organization for Migration
<b>ISSA</b>	International Social Security Association
<b>ITUC</b>	International Trade Union Confederation
<b>ITF</b>	International Transport Workers' Federation
<b>KSA</b>	Kingdom of Saudi Arabia
<b>KTUF</b>	Kuwait Trade Union Federation
<b>MFA</b>	Migrant Forum in Asia
<b>MoU</b>	Memoranda of understanding
<b>MoL</b>	Ministry of Labour
<b>MSSA</b>	Multilateral social security agreements
<b>NGO</b>	Non-governmental organization
<b>OWWA</b>	Overseas Workers Welfare Administration
<b>POEA</b>	Philippine Overseas Employment Administration
<b>QFC</b>	Qatar Financial Centre
<b>SDGs</b>	Sustainable Development Goals
<b>SSS</b>	Social Security System, Philippines
<b>UAE</b>	United Arab Emirates
<b>UN</b>	United Nations
<b>WSIF</b>	Workers' Support and Insurance Fund



## ► Executive summary

Social protection is a basic human right for all, as enshrined in multiple international human rights, labour and social security instruments and agreements. Globally, social protection systems have seen impressive growth in recent decades, having now been established in virtually all countries. However, coverage has not expanded equally to all types of workers, with migrant workers standing out as an important group continuing to receive lower levels of coverage.

Even though positive progress has been achieved, challenges of extending social protection to migrant workers are particularly evident in the countries of the Cooperation Council for the Arab States of the Gulf (GCC), where migrants comprise between 76 per cent (Saudi Arabia) and 95 per cent (Qatar) of the workforce. Such a large share implies a need to better understand the current state of social protection coverage for migrant workers, and the factors that determine the level of coverage afforded to them.

This study explores the *de jure* (according to the law) and the *de facto* (actual) access of migrant workers<sup>1</sup> to nine areas of social protection across the GCC countries, and the factors that have facilitated or hindered the extension of such coverage. The report is the first of its kind to assess this topic in a structured and systematic manner, and includes a review of the relevant literature in both English and Arabic, a review of applicable legislation and regulations by country, and an analysis of 51 key informant interviews.

►► Even though positive progress has been achieved, challenges of extending social protection to migrant workers are particularly evident in the GCC

### De jure social protection coverage

In the GCC, the vast majority of nationals are employed in the public sector, and are well-remunerated and covered by generous contributory social protection systems. By contrast, the vast majority of migrant workers work in the private sector, where contributory systems are much weaker. Even for citizens, contributory schemes are often less generous for private-sector employees than for those in the public sector (e.g. pensions). Certain contingencies are entirely neglected (e.g. family allowances in all cases, except Bahrain) or covered only through employer-liability provisions (e.g. sickness and maternity leave). This means that individual employers are directly responsible for paying benefits when such contingencies arise. Yet, many of these employer-liability provisions in the law fall short of international labour standards since they do not meet the key principles of collective financing and broad risk-sharing, often resulting in reduced coverage, inequities and a lack of sustainability.

The substantial gap between private and public social protection provisions poses a significant policy challenge, even when comparing nationals with one another. However, migrant workers are further disadvantaged relative to nationals, since the law often does not recognize the principle of equal treatment as far as migrants' status is concerned.

Generally migrant workers in full-time private-sector employment are granted the right to certain statutory levels of leave for sickness and maternity on the same terms as nationals through standard employer-liability provisions. Migrant workers also largely enjoy the same benefits for workplace injuries as citizens, via inclusion in the social insurance system (e.g. Bahrain, Oman and Saudi Arabia), or under employer-liability schemes (e.g. Kuwait and the United Arab Emirates). In other cases (e.g. Qatar), citizens are covered through both social insurance and employer-liability provisions, but migrant workers are only covered through the latter.

1. The term "migrant worker" refers to non-GCC nationals working in the GCC region. It does not include GCC nationals working in a different GCC country from their country of citizenship. Such workers are already covered under a multilateral agreement that ensures coordinated regional access to social security. In any case, such workers constitute a small and specific minority and are not the focus of this report.

In relation to medical care, an increasing number of provisions in the GCC now include migrant workers, with all but five of the seven UAE emirates entitling migrant workers in the private sector to a minimum level of health insurance, funded by employers. However, healthcare for migrant workers is often provided on distinctly different terms from those that apply to nationals. In the past, migrant workers accessed the same public health system as GCC nationals (sometimes for a nominal annual fee). Recently, however, there has been an increasing shift towards mandating private health insurance for migrant workers while treating them at separate health facilities. This has led to concerns about a potential two-tier system that varies in terms of quality and cost, depending on nationality. More broadly, the shift towards private insurance for certain groups does not align with international social security standards, since it significantly reduces the crucial element of solidarity, widens inequities and leads to systemic inefficiencies and increased costs.

## Healthcare for migrant workers is often provided on distinctly different terms from those that apply to nationals.

Meanwhile, a number of contingencies remain largely or wholly neglected for migrant workers, particularly those whose social security rights are independent of any employer–employee relationship. For example, migrant workers’ family members have no access to benefits in any GCC country, and only Bahrain has granted migrants legal access to the national unemployment insurance system on par with nationals. Migrant workers in the private sector also have no legal access to old-age, disability or survivors’ benefits. Instead, the only widespread entitlement at the conclusion of an employment contract is the end-of-service indemnity (EOSI) benefit.

Recent reforms in Oman have introduced a new unified social insurance system to cover sickness, maternity and paternity, and employment injury for both nationals and migrant workers employed within the private and public sector. Oman and Bahrain have also legislated the establishment of national provident funds to administer EOSI

benefits for migrant workers, to be managed by the same public institution responsible for social security for nationals.

The UAE announced in September 2023 a voluntary privately managed EOSI savings system for employees in the private sector and free zones. EOSI benefit for migrants working in the Dubai International Financial Centre (DIFC) and the government had been already previously replaced by a mandatory defined-contribution savings scheme. More broadly, the UAE has also introduced a requirement for private-sector employees to purchase private unemployment insurance, regardless of nationality.

## Variations in de jure access by migration worker sub-group

The present research included a review of national legislation and found that a significant sub-group of migrant workers experience further limitations to the legal protections available to them. Historically, domestic workers have not been considered employees under national labour laws in the GCC, an anomaly that previously meant a complete lack of protection. However, encouraging developments over the last decade or so have included separate legislation for domestic workers being developed in Saudi Arabia, Kuwait, Qatar and the UAE, as well as certain provisions in Bahrain’s 2012 Labour Law. Nonetheless, the few social protections provided in these new laws have tended to be limited in scope and adequacy when compared with the provisions afforded to private-sector employees.

Other kinds of workers who lack a regular work permit and residence visa are unable to avail of any employment-based protections. Workers in alternative forms of employment (e.g. part-time, self-employed, seasonal or casual) are inadequately covered by the legislation, and largely bear the economic risks and burden of responsibility for protection themselves.

Coverage can also vary depending on the migrant worker’s country of origin. Certain countries of origin have taken unilateral measures to enhance protection for their citizens in cases of employment overseas. For example, Filipino workers are required to contribute to a special Overseas Worker Welfare Fund while also participating in national health insurance and social security systems while

working overseas. While migrant workers' families remaining at home may receive some protections through these schemes, there are limits to the benefits that overseas workers can access while in the GCC. According to legislation in the Philippines, permits are only issued to workers to travel abroad if social protection rights are specified in the contract. Both the recruitment agency and the employer are liable for implementing the contract, with recruitment agencies required to leave a bond with the Philippines Overseas Employment Association to pay out claims in cases of non-payment. This represents one of the more comprehensive examples of unilateral measures initiated by a country of origin. However, these arrangements have resulted in a high contribution burden for migrant workers (with no contributions made by the overseas employer) and, in some cases, coverage has been duplicated while, at the same time, also largely excluded Filipino workers who were not recruited directly from the Philippines or who extended their stay beyond the initial contract term.

Further, some countries of origin have entered into bilateral labour agreements (BLAs) with GCC countries. Typically, though, there is little substance in terms of social protection measures in the main text of these agreements, but they sometimes feature selective social protection considerations in a model (or "standard") contract in an annex. Even so, such provisions generally only re-assert the employer's and the State's obligation to provide social protection entitlements in line with the applicable GCC country legislation, meaning that BLAs principally serve as an additional enforcement mechanism of existing rights, rather than a method of extending new rights to migrant workers. It should also be noted that such agreements generally only cover formal workers with a regular residence and employment contract. This leaves out those workers who arrive or reside in the country through irregular means, as well as those working outside the formal private sector, such as domestic workers, although specific bilateral agreements covering domestic work have been developed in some cases (e.g. between Saudi Arabia and various Asian and African countries of origin).

### De facto social protection coverage

Data from the key informant interviews suggest significant gaps between the social protections enshrined in legislation and migrant workers' actual

access to such provisions, although the picture is more favourable in some areas than in others. While access to health insurance systems seems to have generally improved in recent years, access to medical care was found to be more mixed, depending on the location and specific company where migrant workers were employed. The evidence indicates that, when sick, migrant workers are not consistently able to take paid time off, either because of the employer's lack of awareness or compliance, or the employee's fear of losing wages or their job. In cases of injuries at work, compensation is not always being provided at the level required by law.

EOSI benefits continue not to be fully paid, especially in cases where companies face financial difficulties or bankruptcy – common during the COVID-19 pandemic. In relation to maternity benefits, there was little evidence of migrant workers benefiting from paid leave in practice, in part because many migrant women tend to be employed in jobs with fewer legal protections, such as domestic work, and because migrants are highly dependent on their employer for their ongoing residence in the GCC. In Bahrain, the only country where migrant workers are formally covered by the unemployment insurance system, migrant workers constitute the largest share of scheme contributors but only represent a tiny fraction of beneficiaries, signalling significant barriers to effective access.

There were no quantitative data available to assess the scale of migrant workers' de facto access to social protection in the GCC, indicating a clear need for further quantitative research.

### Variation in de facto access by migration group

De facto access to social protection appears to vary by company size and wage level. Large companies often provide migrant workers with better information and access to social protection than small and medium-sized enterprises, in part because they have greater financial capacity to fund employees' insurance and partly because they are more concerned with maintaining a positive public image. Some of the data also suggest that higher-wage workers have more effective access to social protection than their lower-paid counterparts. This may be linked to the types of jobs performed and employers being willing to provide more comprehensive social

## De facto access to social protection appears to vary by company size and wage level.

protection coverage for high-wage workers, but also the different insurance packages available depending on the specific type of work.

Some migrant workers lack effective access to social protection because of their work environment. Domestic workers – already entitled to lower levels of de jure protection – often enjoy limited access in practice because they are both geographically and socially isolated. Unlike in other parts of the world, workers in the gig economy in the GCC are typically employed by an agency, which is legally responsible for ensuring their access to labour law provisions. However, in practice it appears that they are often left in a grey area, considered “self-employed” and, therefore, responsible for their own protection. Other de facto gaps in access are documented for workers with an irregular employment status, even where workers have a legal entitlement to benefits, notably in the case of emergency healthcare.

Given the gaps in provision from GCC employers and governments, migrant workers are, in practice, often dependent on private savings, charity and mutual support from within migrant communities to cover their social protection needs. Sometimes, unilateral measures are taken by countries of origin. This array of substitute arrangements subsidizes social protection provisions to some extent, but ultimately only partially fills the gaps arising from the two-tier social protection model. Substitute measures are inevitably insufficient and heterogeneous, and coverage is far from comprehensive.

Furthermore, where workers are required to pay into private or government insurance schemes in the country of origin, without any contribution from the employer or government, an excessive burden is placed on the migrant worker to finance

their own long-term social protection – a responsibility and cost that ought to be shared by their employers in countries of destination that benefit from migrant labour.

### Enablers and barriers to extending social protection coverage

Potential enablers of rights are emerging via channels of representation and advocacy, such as the joint worker–management committees in Qatar and collaborations with national (Kuwait, Bahrain and Oman) and international trade unions.<sup>2</sup> Diplomatic missions of countries of origin have, in certain cases, successfully negotiated better legal coverage for their nationals (e.g. the Philippines). There is also potential for multilateral dialogue mechanisms to play a greater role in promoting social protection for migrant workers, although key informants reported these have not yet been realized, notably the Abu Dhabi Dialogue – the main dialogue mechanism between GCC countries and Asian countries of origin.

Another enabling factor involves international attention and public commitments. High profile events, such as the UAE Expo 2020 and the FIFA World Cup in Qatar in 2022, bring focus to international labour standards and comparisons. Even where Conventions have not yet been ratified by the countries in question, key informants felt that certain international Conventions, such as the Domestic Workers Convention, 2011 (No. 189), may have contributed to the momentum behind the adoption of domestic worker laws in Saudi Arabia, Kuwait, Qatar and the UAE – all of which now contain at least some minimal social protection provisions.

The COVID-19 pandemic highlighted the need for a better system to cover migrant workers, not least because of the intense financial challenges that companies experienced in paying employer-liability provisions during lockdown restrictions and the subsequent economic downturn.

More generally, the limitations of the longstanding

2. These include the Building and Wood Workers' International (BWI) union, the International Trade Union Confederation (ITUC), the International Transport Workers' Federation (ITF), the International Domestic Workers Federation (IDWF) and UNI Global, formerly Union Network International.

employer-liability model of social protection for migrant workers are increasingly being recognized. There appears to be a shift away from such arrangements towards either including migrant

►► This report also identified major factors that have, historically, served as key barriers to legal reforms. At the heart of this lies the very foundation of immigration in the region – the kafala [sponsorship] system.

workers in national social insurance systems (e.g. Bahrain, Saudi Arabia and Oman) or mandating publicly-regulated private insurance (e.g. health insurance across the GCC and the new unemployment insurance and retirement accounts in the UAE).

This report also identified major factors that have, historically, served as key barriers to legal reforms. At the heart of this lies the very foundation of immigration in the region – the kafala [sponsorship] system. This system binds a worker's residence and employment status to a single sponsor – their employer. Short-term employment visas place many restrictions on a migrant's ability to reside in the country outside of their employment relationship or change employers. The kafala system is starting to be reformed. Particular steps have been taken to increase worker mobility in Qatar by enabling all workers including domestic workers to unilaterally terminate their contract (with notice) during the contract period. Countries including Bahrain and Saudi Arabia have similar provisions for workers who have finished one year of employment (but not domestic workers), while in the UAE, workers can also unilaterally terminate with notice but only if they show "legitimate reason".

These shifting employment arrangements may help spur some extension of social protection coverage. In the UAE, for example, there is a new requirement for private-sector workers to purchase private unemployment insurance (although without any mechanism for employer contributions). In

general, however, the implications for social protection systems of reforming sponsorship arrangements have not yet been considered. Since the current social protection systems for migrant workers were conceived for single-employer, single-contract arrangements, the challenge now is to adapt these systems to preserve and combine entitlements across multiple employers. Coverage needs to be extended to workers who may now be considered by the law as effectively self-employed, while expanding provisions to account for new risks and vulnerabilities that workers may face, such as periods of unemployment between contracts.

A further hindrance is that economic policy has tended to downplay the role of the private sector. GCC nationals have historically relied on public-sector employment and hence there has been limited mobilization of interest behind extending social protection in the private sector. From the perspective of private-sector employers, easy access to low-wage labour created little incentive to push for reforms. Efforts to reduce dependency on migrant labour are also hindered by the assumption among some government officials that migrant workers are needed to ensure national competitiveness and growth. Other labour reform agendas have taken higher priority, including the push to nationalize the workforce in order to diversify and increase private-sector employment of citizens while reducing reliance on the oversized public sector and dependence on oil. While this push has the potential to improve conditions for all workers in the private sector, discussions to date have generally emphasized making the private sector more attractive specifically for citizens.

Despite some positive developments, migrant workers still have significantly limited representation and bargaining power. Freedom of association is already restricted in much of the region, and channels for representation of migrant workers' interest are particularly limited. Where national trade unions and civil society organizations exist, there may still be limits on their ability to advocate for migrant workers' interests. Even diplomatic missions face obstacles in representing migrant workers because of asymmetries between GCC countries and migrant workers' countries of origin, in addition to wider diplomatic and economic priorities.

Some of these factors also constitute de facto barriers to coverage. The very design of the migration system, where the majority of migrant workers are

entirely dependent on employers for sponsorship and required to leave the country shortly after the end of employment, can hinder their awareness of and access to entitlements, and discourages workers from reporting employers' non-compliance. State outreach, monitoring and enforcement mechanisms have generally been weak, because of the lack of political focus and administrative challenges, which tend to be amplified when regulating complex employer-liability provisions. Such challenges include high complexity, transaction costs and employment risks for individuals attempting to access justice mechanisms, as well as weak and under-resourced labour dispute mechanisms.

Practical hurdles related to lack of awareness, bureaucracy, geography, affordability, language and documentation have further hindered migrant workers' access to social protection in practice. These are amplified for workers' dependents when attempting to recover benefits in cases of death, and for workers themselves trying to access unpaid benefits after returning to their country of origin, which also creates difficulty for the effective reintegration of returnees. However, some GCC governments are making moves to mitigate de facto barriers. In Qatar, for example, the joint worker-management committees mentioned above have the potential to support the monitoring and enforcement of provisions. In addition, Qatar has established the Workers' Support and Insurance Fund (WSIF), financed through the national budget, which aims to hold employers and business owners financially accountable when they fail to pay workers their wages and benefits in full.

However, in practice there are concerns about accessibility and sustainability of the mechanism, as well as the cap on the total amount that can be paid to each claimant. The reforms in Oman proactively place the administration of social security benefits for migrant workers under the responsibility of national social security institutions which have important implications in expanding the enforceability of provisions and access to rights.

These measures by governments complement the longstanding efforts by civil society organizations and diplomatic missions seeking better conditions for migrant workers, and help raise migrant workers' awareness of their

entitlements. Even so, outreach, monitoring and enforcement efforts still need to be substantially increased, and active steps are required to overcome both these practical barriers and employer-employee power imbalances inherent in the current migration system.

## Conclusion and recommendations

Social protection lies at the core of protecting and upholding the rights of all individuals, as outlined in international human rights and social security standards. Beyond these fundamental principles, there is also a strong economic case for GCC governments and employers to enhance the social protections afforded to migrant workers. First and foremost, GCC countries depend more heavily on migrants than any other region in the world. Strengthening the provisions for both nationals and migrants working in the private sector will be critical for attracting migrant workers in an increasingly competitive global market, as well as addressing informality, reducing labour market distortions, and increasing citizens' participation in the private-sector labour market. Developing stronger and broader solidarity-based systems for nationals and non-nationals alike can result in both higher-quality work from better-protected workers while improving risk-sharing across employers. This increases efficiency, reduces overall costs and promotes growth for firms and for national economies. Improving the social protection system goes hand-in-hand with better management of labour migration for instance by guaranteeing the portability of benefits to enhance mobility. While the GCC countries currently have young populations, the demographic ratios are shifting towards an ageing population and migrant workers hold the potential to contribute to more resilient national social insurance systems and allow for greater risk-pooling.

►► Reforms are not only advantageous for economic progress; they are also essential if GCC countries are to meet the Sustainable Development Goals.

Reforms are not only advantageous for economic progress; they are also essential if GCC countries are to meet the Sustainable Development Goals (SDGs). The low levels of social protection afforded to migrant workers means that GCC countries currently fall far short of other high-income countries on many social and economic measures. Certain commitments were reaffirmed by all GCC countries in the 2021 Ministerial Forum Declaration on the Future of Social Protection in the Arab Region. Governments committed to ensure that social protection systems would be inclusive, adequate and comprehensive (i.e. “leave no one behind”) and to review efforts to extend social protection to all migrant workers.

The international attention on Qatar in the run-up to the FIFA World Cup showed that the reputation of governments and employers in GCC countries is being increasingly assessed in relation to the treatment of migrant workers. By adhering to international labour standards and granting universal access to rights across the whole population, countries can improve their international standing.

The task ahead will require not only the concerted effort of governments, but also the participation of a wide range of actors, including workers’ and employers’ organizations, diplomatic missions and civil society organizations from both sides of the migration corridor. In summary, the report finds that future strategic priorities ought to be structured around the following three sets of recommendations:



### 1. Improving de jure protections for migrant workers

- a. Ratify and implement key Conventions, as well as international and regional declarations and instruments that relate to social protection.
- b. Sustain positive reforms. Efforts should aim at:
  - i. improving de jure provisions for workers in the private sector in order to reduce the gaps between the public and private sectors – a key priority is to continue the transition away from employer-liability systems, which are often inefficient, ineffective and difficult to regulate;
  - ii. expanding legislative provisions for migrant workers by moving towards equal treatment with nationals, and progressively including migrant workers in national social insurance systems;
  - iii. extending social protection legislation to cover diverse forms of employment, including domestic work and gig-economy work, and using an incremental approach where necessary;
  - iv. reaffirming that migrant workers in irregular status or in the informal economy are entitled to social security as a right and enhancing efforts to provide them with access to social protection and particularly to any medical care that is urgently required. This goes in hand in with the need to reinforce efforts to regularize migration flows in the region;
  - v. strengthening the role of the State as guarantor of social security rights and adopting progressive steps towards publicly financed and administered mechanisms to manage and deliver social protection to migrant workers.
- c. Prevent segmentation of national social protection systems. Segmented systems single out specific categories of workers (e.g. high-wage workers) or adopt fragmented individualistic solutions. Such approaches risk higher transaction costs and exclusion of certain categories of workers, fragment the risk pool and fail to deliver on the fundamental principles of solidarity, collective financing and state oversight.
- d. Build on ongoing reforms to the kafala system to develop effective social protection arrangements that correspond with workers’ increasing mobility in the evolving migration system and support employers, particularly small and medium-sized enterprises in providing social protection to its workers.
- e. Determine how migrant workers can be protected against the long-term risks they face upon returning to their home countries. Experimenting with new models of EOSI can gradually allow for portability and exportability. Countries will need to identify methods of granting long-term access to healthcare and injury compensation, recognizing that a number of migrant workers

return to origin countries with injuries or long-term health issues as a result of their employment in the GCC.

- f. Explore solutions to the longstanding issue of social security coordination between systems in countries of destination and origin, including through expanded bilateral and multilateral social security agreements and including and improving social protection provisions in bilateral or multilateral labour agreements.
- g. Carefully consider the role of unilateral measures of countries of origin in the extension of social protection. Narrowly defined unilateral measures may divert the focus from true extension of migrant workers' rights to social security. While, host countries should bear the overall responsibility for improving de facto access to social protection, origin countries can improve access through unilateral provisions, especially as an interim measure. As opposed to minimalistic welfare fund models, preference should be given to facilitating migrant workers' participation in social security systems in countries of origin, provided that mechanisms ensure financial contributions from employers.



## 2. Improving de facto access to social protections

- a. Strengthen the proactive monitoring of employer compliance with social protection requirements, including for those working in domestic work and complex contracting chains, in partnership with entities representing migrant workers and national statistics authorities.
- b. (b) Enhance enforcement and accountability mechanisms for current provisions. Strengthen national institutions, ensure more comprehensive implementation of fines and penalties for employers' non-compliance, and develop more effective grievance procedures, dispute mechanisms and access to justice.
- c. Address the wider, practical barriers to access. These include improving awareness-raising initiatives in both countries of

origin and destination, delivering information in languages and formats accessible to migrant workers, addressing discriminatory attitudes and practices of service providers offering services close to geographic areas where workers reside, and ensuring that employers facilitate workers' documentation and identification required to access services and benefits.



## 3. Strengthening social dialogue and collaboration to realize priorities

- a. Promote and participate in dialogue at regional and international levels. Countries of origin and destination need to align around the goal of extending social protection to migrant workers and their families. This should be done both in a targeted way, as well as by incorporating the issue into existing dialogues (e.g. the Abu Dhabi Dialogue, the Colombo Process) and other continental forums (e.g. between countries in Africa and the Arab States).
- b. Ensure that the voices and concerns of migrant workers are heard. Create a space for workers to engage in collective action without repercussions, and reinforce protections for workers who identify and report issues and instances of non-compliance.
- c. Ensure that the preferences of migrant workers are considered in policy reforms. Recognize migrant workers' contributory capacity to participate in formal social security systems, as well as the length of time between contribution payments and their eventual access to benefits.
- d. Bolster explicit and structured platforms for tripartite dialogue between state actors, employers and workers. Include countries of destination and origin, as well as civil society organizations and global, regional and national stakeholders and advocates.





## ► 1. Introduction

Social protection includes a set of policies and programmes that aim to reduce and prevent poverty and vulnerability throughout the life cycle (ILO 2017). Through a combination of contributory schemes (social insurance) and non-contributory publicly financed schemes (including social assistance), social protection systems provide financial or medical assistance (“benefits”) at times of maternity, unemployment, employment injury, sickness, old age and disability. Recipients may include workers and their dependents (“survivors” in cases of death) and those unable to work. Globally, social protection has seen impressive growth in recent decades, with social protection systems now established in virtually all countries (Ortiz et al. 2019).

However, coverage has not expanded equally to all types of workers, with migrant workers<sup>3</sup> standing out as an important group continuing to receive lower levels of coverage. Gaps in coverage emerge where migrant workers are prevented from accessing social protection provisions in the host country, yet they cannot access benefits from their country of origin while working overseas, or where they lose access to benefits or rights previously acquired when they change their country of residence.

Several international instruments and standards make reference to the rights of migrants with respect to social protection. The legal framework includes a number of international human rights instruments, such as the Universal Declaration of Human Rights (1948), the International Covenant on Economic, Social and Cultural Rights (1966), and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990), as well as standards agreed by Member States of the ILO, such as the Social Security (Minimum Standards) Convention, 1952 (No. 102). Other international policy documents and action plans reinforce migrant workers’ rights, including the 2030 Agenda for Sustainable

Development and the 2018 Global Compact for Safe, Orderly and Regular Migration (GCM). Such instruments are complemented by frameworks at the regional level, such as, for example, the Ministerial Forum Declaration on the Future of Social Protection in the Arab Region: Building a Vision for a Post-COVID-19 Reality.

Yet, in spite of these international principles and standards, social protection coverage of international migrant workers remains low, both *de jure* (according to the law) and *de facto* (actual or effective) (van Ginneken 2013; Hirose et al. 2011; ILO 2015; ILO and ISSA 2020). Worldwide, migrant workers face multiple challenges when attempting to access social protection, including restrictive and discriminatory legislation, a lack of specific social security agreements concerning migrant workers (non-ratification of existing Conventions), as well as administrative and practical barriers (ILO Governing Body 2022). These difficulties are further aggravated for those working in the informal economy or where a person’s immigration status is irregular.

In an ILO mapping of national laws on contributory forms of social security, only 70 of 120 countries were found to provide equality of treatment between nationals and non-nationals (van Panhuys et al. 2017). Effective coverage is likely to be much lower than legal coverage suggests, as low levels of compliance and weak enforcement undermine the effective capacity of the law. In the countries of the Cooperation Council for the Arab States of the Gulf (GCC),<sup>4</sup> these challenges are also evident.

With the discovery of oil in the 1950s, the newly rich GCC countries started recruiting foreigners to work firstly on infrastructure projects, and then in other sectors. Initially, workers were recruited from other Arab countries; but since the 1970s recruitment has focused on South Asia, in

3. The term “migrant worker” is used in accordance with international standards. Article 2 of the International Convention on the Protection of All Migrant Workers and Members of Their Families (1990) defines a migrant worker as a “person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national”. Similar definitions are found in the ILO Migration for Employment Convention (Revised), 1949 (No. 97), and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143). In a few instances in this introduction, we refer to migrants or non-nationals more broadly when discussing specific ILO Conventions or policy documents that might refer to a broader group.

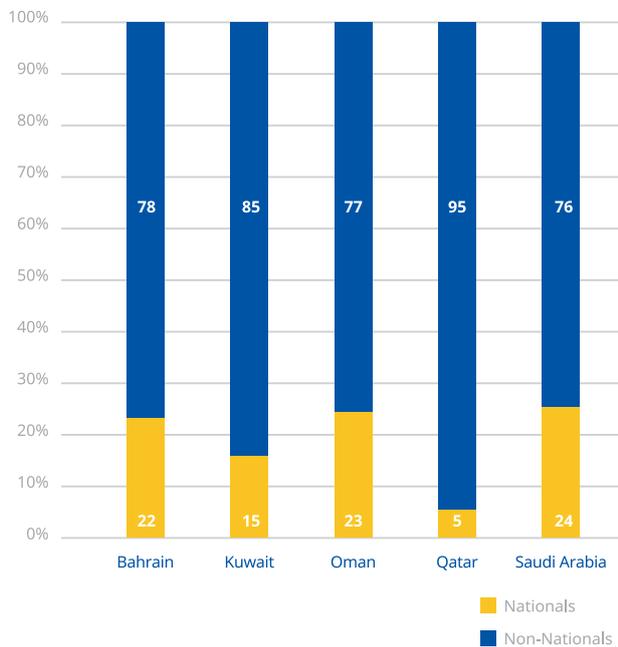
4. Kingdom of Bahrain, Kingdom of Saudi Arabia (KSA), the State of Kuwait, the Sultanate of Oman, the State of Qatar and the United Arab Emirates (UAE).

part because of lower labour costs (Robinson, 2021). Now, of the estimated 169 million migrant workers worldwide, around 24.1 million are employed in Arab States (ILO 2021a). Among the Arab States, GCC countries host around three quarters of all migrants and refugees, most of them migrant workers (UNDESA 2020).

Migrant workers are mainly recruited from South and Southeast Asia, as well as some African countries, notably Ethiopia, Kenya and Uganda (ADB, ILO and OECD 2022). Migrant work tends to be temporary and earns low wages for jobs that nationals prefer to avoid for financial or cultural reasons, in areas such as construction, domestic work and the service industry (Robinson 2021).

The figure below shows that migrant workers comprise a large share of workforces across the GCC – between 76 per cent in Saudi Arabia and 95 per cent in Qatar. These figures are among the highest in the world.

► Workforce by country and nationality of workers, 2020 (%)



Note: These are the most recent national data available (Gulf Labour Markets, Migration and Population (GLMM) Programme 2022). Available at [gulfmigration.eu](http://gulfmigration.eu).

Labour markets in the GCC are highly segregated, with nationals working mainly in public-sector jobs while the private sector is dominated by migrant workers. For example, the most recent data show that, in most GCC countries, non-nationals make up at least 80 per cent of the private-sector workforce.

In the case of Qatar and Kuwait, non-nationals constitute at least 95 per cent of the private-sector workforce, although in Qatar they also make up around half of the public sector (GLMM 2013, 2015; CSB 2020).

Social protection coverage of the population is relatively low across the GCC (61.4 per cent), especially when compared with other high-income countries (85.4 per cent); this difference is mainly explained by the limited coverage extended to migrant workers in the Gulf (ILO 2021e). Social protection spending is heavily concentrated on contributory benefit schemes and disproportionately favours public-sector workers. Despite their importance to the workforce, migrant workers are largely excluded from national social protection frameworks.

Although the question of extending social protection (and broader socio-economic rights) to migrant workers was already a topic on various policy agendas, the COVID-19 pandemic highlighted the urgency of the issue. The limited effectiveness of social protection systems was acutely noticeable during the pandemic, as many migrant workers worldwide were left exposed to its health and socio-economic impacts (ILO and ISSA 2020). Overall, the lack of social protection for migrant workers in the GCC countries rendered them among the most vulnerable groups in the region (UN 2020).

There are important reasons for extending social protection to migrant workers. Social protection is a key method of reducing poverty and protecting workers against various contingencies. But there are also strong social and economic arguments with respect to national aspirations, including the following:

- Social protection rights are an important step to formalizing the labour market and reducing unfair competition, and lessen the perverse incentive for employers to recruit migrant workers as “cheap and unprotected” labour (ILO 2023b; ILO 2021d; ISSA 2014). Formalization helps to reduce the exploitation of migrant workers.
- Providing access to comprehensive social protection coverage can help promote decent work and productive employment, while guaranteeing a conducive environment for sustainable enterprises. Levelling contribution rates reduces labour market distortions associated with the pay gap between nationals and non-nationals. Guaranteeing social security rights for migrant

workers is essential if countries are to steer away from economic development paradigms based on low wages and low productivity.

- Guaranteeing better access to social protection for migrant workers can contribute to economic development and macroeconomic stability in both countries of origin and destination because:
  - employers in the GCC can be shielded from liquidity constraints during economic shocks and downturns;
  - when workers enjoy income security, this helps maintain aggregate demand, acting as a macroeconomic stabilizer during economic shocks;
  - governments in countries of origin and destination can channel employers' contributions and workers' savings into national social security funds, and align their investment choices with national development priorities, with a positive effect on economic sustainability and structural transformation.
- Improving social protection for migrant workers goes hand-in-hand with better management practices of labour migration. For instance, guaranteeing the portability of benefits removes a key constraint on the mobility of labour so that migration flows can be more closely matched to the supply of and demand for labour (Hagen-Zanker, Mosler Vidal and Sturge 2017). By improving the reputation of destination countries, this reduces certain obstacles to foreign investment.
- Extending coverage to migrant workers has the potential of strengthening social protection systems. Bringing migrant workers into contributory social protection systems can also result in more sustainable financing by improving demographic ratios (i.e. the ratio between active contributors and dependent members in contributory schemes), given the ageing populations in many host countries and migrant workers' younger average age (ILO 2023b; ILO 2021d). Access to contributory social insurance benefits reduces pressure on publicly funded social protection mechanisms, both in countries of destination and origin (ILO 2023c).

## 1.1. Objectives of this report

This report provides an overview of de jure and de facto access to social protection for migrant workers in six GCC countries across nine contingencies, as well as the enablers of improved protection and barriers to access.

The overarching research questions framing the report include:

1. What is the de jure social protection coverage of migrant workers in GCC countries?
2. What are the key factors enabling and limiting de jure social protection coverage of migrant workers in GCC countries?
3. What is the de facto social protection coverage of migrant workers in GCC countries?
4. What are the main factors influencing de facto access and implementation?

These questions are explored through (a) a review of literature available in Arabic or English; (b) a comprehensive review of applicable legislation in each GCC country; and (c) 51 key informant interviews conducted across five of the six GCC countries<sup>5</sup>. While the data collected should not be considered comprehensive, the report nonetheless provides an indicative picture of a very under-researched area<sup>6</sup>. The methodology is summarized in the appendix.

## 1.2. Structure of the report

Chapter 2 reviews the instruments and measures for the extension of social protection to migrant workers. Chapters 3 and 4 then explore social protection coverage of migrant workers in GCC countries by examining regional trends, enriched with specific country examples. Chapter 3 focuses on de jure coverage, looking at the general legal framework for accessing social protection in the GCC, access by contingency, variations by migrant group and the factors enabling or hindering the extension of de jure coverage. Chapter 4 focuses on de facto coverage by examining the extent of social protection access in practice, and explores variations between migrant groups and considers the key factors that facilitate or hinder social protection. The report concludes with a summary of key findings and identifies several policy implications at national, regional and international levels.

5. The collection of primary data through key informant interviews and focus group discussions took place in Bahrain, Kuwait, Oman, Qatar and the United Arab Emirates. The analysis based on secondary data sources covers all six GCC countries.

6. A later phase of the research for this project will include a quantitative study.



## ▶ 2. Relevant agreements and instruments for extending social protection for migrant workers

This chapter provides an overview of the core framework of instruments and agreements for extending social protection to migrant workers, namely:



the international legal framework



bilateral and multilateral agreements relating to social security or labour migration



unilateral measures in countries of origin and destination

Box 1 describes the approach taken by the ILO.

### ▶ **Box 1. The ILO approach for securing social protection for migrant workers and their families**

The ILO notes the importance of a range of policy measures, including the following:

- ▶ Equality of treatment is a fundamental principle embedded in international human rights instruments and international labour standards, including those relevant to social protection for migrant workers. It is an overarching framework that should guide all efforts aimed at extending social protection for migrant workers and their families.
- ▶ The ratification and implementation of relevant international labour standards is an important step towards ensuring migrant workers' rights to social protection. In particular, Convention Nos 19, 118 and 157 constitute a critical foundation for ensuring the application of common rules among ratifying Member States.
- ▶ The conclusion and implementation of bilateral or multilateral social security agreements, which are designed to coordinate the social security schemes of two or more countries, is one of the most effective and commonly used policy options for extending social protection to migrant workers, and is essential to ensuring the portability of entitlements. International labour standards provide useful guidance and a model for the development of such agreements.
- ▶ The inclusion of social protection provisions in temporary labour migration programmes and BLAs is another means of ensuring that migrant workers are not treated less favourably than national workers, in line with international labour standards.
- ▶ In order to ensure more comprehensive social protection coverage of migrant workers or fill protection gaps resulting from a lack of bilateral or multilateral social security agreements, or where there is limited coverage provided by such agreements, countries may unilaterally implement contributory or non-contributory measures based on the principle of equality of treatment.
- ▶ Complementary measures that address the practical obstacles to migrant workers' effective access to social protection are also important. Such measures may include simplified administrative procedures, accessible information in understandable language(s), effective mechanisms for complaints and appeals, the mobilization and reallocation of fiscal resources, reinforced labour inspection and monitoring, coherence with employment, fiscal, migration and other policies, and regularization campaigns and formalization strategies.
- ▶ When developing and implementing policies or mechanisms aimed at extending social protection to migrant workers and their families, it is important to follow a holistic and participatory approach anchored in social dialogue.

## 2.1. Migrant workers' right to social protection and the international legal framework<sup>7</sup>

The right to social protection for migrant workers is firmly outlined in international law, as well as in various regional instruments of relevance to the GCC countries.

### 2.1.1. International human rights instruments

The Universal Declaration of Human Rights (1948) establishes that “everyone, as a member of society, has the right to social security” as well as to “a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control” (Art. 25). In 1966, this was complemented by the International Covenant on Economic, Social and Cultural Rights, which enshrines “the right of everyone to social security, including social insurance” (Art. 9). Another core human rights instrument, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, was passed by the United Nations (UN) General Assembly in 1990, and establishes that “with respect to social security, migrant workers and members of their families shall enjoy in the State of employment the same treatment granted to nationals in so far as they fulfil the requirements provided for by the applicable legislation of that State and the applicable bilateral and multilateral treaties” (Art. 27). Other key human rights instruments relevant to migrants' rights to social protection include the Convention on the Elimination of All Forms of Discrimination against Women (1979), the Convention on the Rights of the Child (1989) and the International Convention on the Elimination of All Forms of Racial Discrimination (1965).

### 2.1.2. Relevant ILO standards regarding social protection for migrant workers

At the core of the ILO's mandate is “the extension of social security measures to provide basic income to all in need of such protection and comprehensive medical care”. The ILO Constitution recognizes the importance of “protection of the interests of workers when employed in countries other than their own”.

To achieve this, the ILO has developed a comprehensive body of standards that aim to guarantee the social security rights of all workers, including migrant workers, based on the overarching principle of equality of treatment and non-discrimination (ILO Governing Body 2022).

These instruments establish several key social security principles, including:

1. equality of treatment between nationals and non-nationals whereby migrants have the same rights and obligations as nationals in the destination country;
2. determination of the applicable legislation to ensure that the social security of a migrant worker is governed at any time by the legislation of one country only;
3. maintenance of acquired rights and payment of benefits abroad (portability of earned benefits), meaning that migrant workers who have acquired rights in one territory should be guaranteed those rights in any of the States parties to the relevant instruments;
4. maintenance of rights in the course of acquisition, which represents the accumulation of qualifying periods under different national social security schemes to allow for the aggregation or totalization of periods of insurance, employment or residence;
5. mutual administrative assistance, including data and information exchange, to facilitate the implementation of social security agreements (ILO 2021d).

7. This section draws directly from the ILO's guide on extending social protection to migrant workers, refugees and their families (ILO 2021d).

Moreover, social security agreements are often based on the principle of reciprocity, meaning that each State party agrees to apply the same mechanisms as every other State party to make its social security benefits more accessible to migrant workers (ILO 2021d).

These principles stem from several ILO Conventions and Recommendations that contain provisions on the social security rights of migrant workers and their family members. First and foremost, this includes the ILO Social Security (Minimum Standards) Convention, 1952 (No. 102), which is the only international instrument that sets global minimum standards for all nine branches of social security, including protections for migrant workers. The nine branches comprise: (1) medical benefit; (2) sickness benefit; (3) unemployment benefit; (4) injury benefit; (5) old-age benefit; (6) invalidity benefit; (7) family benefit; (8) maternity protection; and (9) survivors' benefit. Convention No. 102 contains a provision dedicated to the equality of treatment between national and non-national residents (Art. 68).<sup>8</sup> From this Convention the following obligations to extend social security coverage to migrant workers are derived:

- ▶ Benefits need to be comprehensive and adequate.
- ▶ The benefits provided to migrant workers must be in periodical and predictable payments.
- ▶ The inclusion of migrant workers should be based on the principle of solidarity in financing and risk-pooling. Social solidarity and solidarity in financing are at the heart of social security.
- ▶ Governments need to ensure the enforceability of rights and accountability, highlighting the role of the State as a guarantor of the social security system. The Government should administer benefits or ensure that the recognized parties administering the benefit are accountable and are protecting the rights of workers.

Another important reference to the right to social security for migrant workers and their families is the ILO Social Protection Floors Recommendation, 2012 (No. 202). The Recommendation outlines four basic social security guarantees, including access to essential healthcare and income security for children, persons of working age who are unable to earn sufficient income and older persons. The Recommendation calls on signatories to provide these social security guarantees to at least all residents and children, as defined in national laws and regulations.

Several other ILO Conventions and Recommendations are also of key relevance for migrant workers' right to social protection:

- ▶ The Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19), guarantees to nationals of any Member State that has ratified the Convention who suffer personal injury as a result of a work accident equality of treatment with respect to national workers' compensation, without any condition as to residence.
- ▶ The Migration for Employment Convention, 1949 (No. 97), introduces the principle of equality of treatment in social security between nationals and migrants without discrimination with respect to nationality, race, religion or sex.
- ▶ The Equality of Treatment (Social Security) Convention, 1962 (No. 118), sets forth the right to equality of treatment between national and non-national workers and their family members with a view to specifically addressing the situation of migrant workers in relation to social security.
- ▶ The Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), establishes the principle of equality of treatment in respect of social security by requiring States parties to adopt a national policy guaranteeing equality of opportunity and treatment for migrant workers and members of their families in respect of employment and occupation, social security, and trade union and cultural rights.

8. Article 68 stipulates, "Non-national residents shall have the same rights as national residents: Provided that special rules concerning non-nationals and nationals born outside the territory of the Member may be prescribed in respect of benefits or portions of benefits which are payable wholly or mainly out of public funds and in respect of transitional schemes. 2. Under contributory social security schemes which protect employees, the persons protected who are nationals of another Member which has accepted the obligations of the relevant Part of the Convention shall have, under that Part, the same rights as nationals of the Member concerned: Provided that the application of this paragraph may be made subject to the existence of a bilateral or multilateral agreement providing for reciprocity". In the GCC context, the considerable share of migrant workers in the workforce implies a large degree of subsidization of social assistance to nationals only.

- The Maintenance of Social Security Rights Convention, 1982 (No. 157), provides for the maintenance of acquired social security rights or rights in the course of acquisition for migrant workers.
- The Domestic Workers Convention, 2011 (No. 189), introduces domestic workers' rights, including freedom of association, the elimination of forced labour and conditions equal to those granted to workers generally.

However, none of the GCC countries have ratified any of these ILO Conventions, and this presents a clear obstacle to extending international standards on social protection to non-nationals working in the GCC.<sup>9</sup>

### 2.1.3. Other international policy instruments

Beyond the instruments mentioned above, broader international frameworks also reinforce the right to social protection for migrant workers, directly or indirectly. The 2030 Agenda for Sustainable Development advocates for safe and orderly migration and the expansion of legal and effective social protection coverage and, while it does not explicitly link the two, migrant workers are implicitly included in Target 1.3 of the SDGs on the expansion of social protection (Hagen-Zanker, Mosler Vidal and Sturge 2017). The 2018 Global Compact for Safe, Orderly and Regular Migration (GCM) recognizes the importance of protecting workers across borders and ensuring their access to social protection. It refers to migrant workers' social protection, including in Objective 22, which calls on governments to "assist migrant workers at all skill levels to have access to social protection in countries of destination and profit from the portability of applicable social security entitlements and earned benefits in their countries of origin or when they decide to take up work in another country". The GCC countries have committed to both the GCM and the SDGs.

At the regional level, a number of agreements commit to extending social protection to migrant workers in the GCC. For instance, the 2021 Arab Ministerial Forum Declaration on the Future of Social Protection in the Arab Region commits to "inclusive, adequate and comprehensive social protection systems that leave no-one behind" and to "reviewing efforts to extend social protection to especially vulnerable groups, such as ... all migrant workers" (Ministerial Forum 2021). The extension of social protection to migrant workers has also been a discussion point at regional forums and dialogues. It has featured in the Colombo Process, a regional consultation forum of 12 Asian countries of origin whose objectives are to optimize the benefits of migration for countries of origin, including the provision of social protection to migrant workers in countries of origin and destination (see also Hagen-Zanker et al., unpublished). Social protection has been mentioned as a concern by some countries of origin at the Abu Dhabi Dialogue,<sup>10</sup> and has been put on the agenda in a session on the future of work in April 2019. Moreover, since 2022 a dedicated track of work on this subject has been established under the auspices of the Executive Bureau of the Council of Ministers of Labour and Ministers of Social Affairs in the GCC States. With technical assistance from the ILO, the Executive Bureau organized a series of regional workshops with representatives of the ministries of labour, social insurance institutions and social partners dedicated to the end-of-service-indemnities systems reforms in light of international social security standards.

9. For a more detailed discussion of the international legal framework, see ILO (2021d).

10. The Abu Dhabi Dialogue is a voluntary and non-binding inter-government consultative process, engaging seven countries of labour destination: Bahrain, Kuwait, Malaysia, Oman, Qatar, Saudi Arabia, and UAE; and eleven countries of origin: Afghanistan, Bangladesh, China, India, Indonesia, Nepal, Pakistan, the Philippines, Sri Lanka, Thailand and Vietnam. Regular observers include the IOM, ILO, the private sector, and civil society. The permanent secretariat is provided by the United Arab Emirates.

## 2.2. Bilateral and multilateral agreements<sup>11</sup>

The international legal framework outlined in section 2.1 above does not translate into universal effective access to healthcare and social security benefits for all migrant workers around the world without coordination between countries of origin and destination (ILO 2021d).

To enhance social security provisions for migrant workers and overcome coordination challenges between origin and destination countries, international labour standards and agreements call for the conclusion and effective implementation of bilateral and multilateral social security agreements (BSSAs and MSSAs).

▀▀ BSSAs and MSSAs are treaties between origin and destination countries that aim to ensure that social security rights are maintained.

BSSAs and MSSAs are treaties between origin and destination countries that aim to assist migrant workers to access social security in any of the countries in which they have worked (Hirose et al. 2011). Such agreements aim to ensure that social security rights, either acquired or in the course of acquisition, are maintained. They also allow for the payment of benefits abroad. These agreements are binding once in force and establish a legal framework to coordinate social security schemes between countries.

For the reasons above, BSSAs and MSSAs are the preferred method of guaranteeing social security entitlements for migrant workers (ILO 2021d; ILO Governing Body 2022). However, they face a number of challenges, including long time frames for development and negotiation, complexity in the provisions on the portability of benefits, and require a high degree of administrative and

technological capacity (ILO 2021d). Other challenges include the incompatibility or absence of a fully portable contributory scheme in either the country of origin or destination (e.g. in cases where benefits are provided only through employer-liability mechanisms, even for citizens). In addition, BSSAs and MSSAs often do not cover the entire workforce. For instance, workers in the informal economy and domestic workers are typically not included (ILO 2021d).

Most importantly, despite becoming more common in recent years, the extent of coverage of BSSAs and MSSAs continues to be limited (ISSA 2022). For instance, there are no such agreements between destination countries in the GCC and African countries of origin (ISSA 2022; IOM, 2022), and such agreements are similarly scarce between the GCC and Asian countries (Olivier, 2018; ISSA, 2022). In the GCC region, an MSSA was signed in 2006 to guarantee access to social security for nationals of one GCC country when they live and work in another GCC country. This is known as the *Unified Law on Insurance Protection Extension for Citizens of Gulf Cooperation Council States Working outside Their Countries in Any of the Council Member States*. However, this only benefits citizens of GCC countries, so is not relevant to migrant workers who are not GCC nationals.

In the absence of a BSSA or MSSA, another potential mechanism to cover migrant workers is to include social security provisions in more general BLAs. The purpose of such agreements is primarily to manage labour flows and extend employment rights. The content and scope of BLAs vary considerably. Sometimes, there are specific social protection measures mentioned in the text of the agreement. However, more often the specific social protection measures included in the agreements lack substance, with social protection considerations instead featuring only in a model (or “standard”) contract in its annex (ILO 2021d). As with BSSAs, another major weakness of BLAs is that large shares of the migrant workforce may not be covered if the BLA only covers formal workers with regular residence status. Moreover, low-income countries of origin tend to have weak bargaining

11. While the primary focus of this report is on mapping the entitlements granted to migrant workers by the GCC countries, bilateral and multilateral agreements, as well as unilateral measures by the country of origin, are discussed where identified by the literature review or cited by key informants. However, it should be noted that such bilateral and unilateral measures have not been systematically mapped across all countries.

power in negotiating these treaties (Olivier 2022; 2023). Taken together, this means that BLAs have often not provided meaningful extensions of social protection coverage for migrant workers. There are, however, several recent normative and policy developments that aim at more effective inclusion of social protection in BLAs, including through several new guidelines (UN Network on Migration 2022).<sup>12</sup>

Memoranda of understanding (MoUs) are less formal than bilateral agreements and are not legally binding, meaning that even if they contain provisions on social security, they do not provide the same level of legal entitlement to social security as in a BLA (or BSSA). They often contain only general references to protecting workers' welfare in accordance with existing laws and Conventions, but occasionally make more explicit reference to social protection provisions. As in the case of BLAs, these references are sometimes outlined in the main MoU text, but specific social protection clauses may also be restricted to an accompanying model/standard employment contract (or job offer template) that is referenced in or annexed to the MoU.

BLAs and MoUs tend to reaffirm the (albeit limited) social security obligations that are already established in labour and social security laws in destination countries. Therefore, while they do not offer an avenue for any extension of rights, they can serve to enhance enforcement of the social protection rights already established in national legislation, typically in the form of an employer liability.

### 2.3. Unilateral measures

In addition to the State–State agreements and cooperation processes mentioned in section 2.2, governments can also take unilateral action to grant social protection rights to migrant workers (ILO 2021d). Chapters 3 and 4 discuss the many

measures that have already been adopted by countries of destination in the GCC, who hold primary responsibility for ensuring the protection of workers on their territory.

However, the country of origin may also take unilateral measures to improve the level of protection available to their nationals working abroad (ILO 2021d). Examples of these are discussed throughout the report, although they have not been systematically mapped. Broadly speaking, the measures taken by countries of origin typically fall under one of two categories of action. On the one hand, countries of origin may take measures to support migrant workers claim access to entitlements from the GCC country government, employer or intermediary recruitment agents, including:

- verifying that each worker's contract and treatment complies with the necessary social protection provisions outlined in relevant laws, agreements and model employment contracts – for example, by setting terms for what the model employment contract should contain, imposing liability on non-compliant employers and recruitment agencies, imposing an individual employer ban (i.e. blacklisting non-compliant employers and recruitment agencies);
- raising awareness among workers and all relevant parties concerning workers' rights to social protection and the procedures for accessing it in the country of destination;
- providing legal assistance to workers to enforce their social protection rights – for example, through consular support in the destination country.

12. The [UN Guidance on Bilateral Labour Migration Agreements](#), published in February 2022 includes specific suggestions for social protection clauses to provide access to social protection, including healthcare on a par with nationals, and facilitate the portability of social security benefits for migrant workers and their families. At a regional level, recent guidelines include the 2021 [AU Guidelines on Developing Bilateral Labour Agreements](#) and the 2022 [IGAD Regional Guidelines on Rights-Based Bilateral Labour Agreements](#), both of which call for specific provisions on access to and portability of social protection/social security for migrant workers (including health coverage), to ensure the core principles reflected in ILO Conventions in relation to the social protection rights of migrant workers. The 2018 Global Compact for Safe, Orderly and Regular Migration calls on governments to “assist migrant workers at all skill levels to have access to social protection in countries of destination and profit from the portability of applicable social security entitlements and earned benefits in their countries of origin or when they decide to take up work in another country” (Objective 22).

On the other hand, countries of origin can improve the entitlements that they extend to migrant workers during their overseas employment, including:

- ▶ allowing nationals working abroad and their dependents to participate in (general) national social protection schemes of the country of origin on a voluntary basis;
- ▶ establishing a specific (voluntary or mandatory) social insurance scheme for all or certain subsets of nationals working abroad (contributory payments and corresponding benefits are based on the worker's profile and contributory capacity);
- ▶ establishing an overseas welfare fund or similar mechanism, which may provide some social protection benefits (often only upon return) for nationals working abroad who registered and paid standard membership fees<sup>13</sup>; and
- ▶ ensuring the payment of relevant national social protection scheme benefits to nationals working abroad and their dependents (i.e. exportability) (ILO 2021d).
- ▶ giving families of migrants and nationals who have returned to their country of origin access to their national social protection floor benefits.

Unilateral arrangements from countries of origin are growing in number and scope, and provide interesting and important avenues for support (ILO, 2021; Olivier 2018). However, unilateral arrangements by countries of origin cannot provide for the full extent of social protection that a country of destination can extend, so they can never replace or substitute what should be the primary source of the protection (i.e. coverage under the laws of the destination country).<sup>14</sup>

13. In the GCM, member states commit themselves to "establish dedicated instruments, such as migrant welfare funds in countries of origin that support migrant workers and their families". Guidelines on Migrant Welfare Programmes have been adopted for example by the African Union in 2022 and deal extensively with different modalities of social protection provisioning by countries of origin. As noted in ILO (2021d) "overseas welfare funds have received increased attention and are often cited as unique unilateral measures. However, the social protection benefits that they provide are often limited in terms of both scope and level". See also ILO, 2023 d.

14. For a full analysis of the range of unilateral approaches that can be adopted by origin and destination countries, their potential use and limitations, see ILO (2021d).



## ▶ 3. De jure coverage of social protection

This section explores de jure access to social protection, defined as protection in the event of the nine contingency areas outlined in the Social Security (Minimum Standards) Convention, 1952 (No. 102). These include access to medical care, and benefits in the event of sickness, unemployment, old age, employment injury, family responsibilities, maternity, invalidity/disability and survivorship (where a dependent outlives an earner). Section 3.1 outlines the general framework for de jure access to social protection in the region. Section 3.2 maps de jure access to each of the nine contingencies for migrant workers employed in the formal private sector across the GCC countries.<sup>15</sup> This analysis discusses the regional picture for each contingency area, with the content extracted directly from the full legal review accompanying this paper (ILO 2023a) unless otherwise stated. For detailed analysis at the level of each GCC country (and the sub-national level, if different legislation applies<sup>16</sup>), see ILO (2023a). Section 3.3 then discusses variations in de jure access for those migrant workers who work in diverse forms of employment that deviate from full-time permanent employment.<sup>17</sup> Finally, section 3.4 identifies key factors enabling improvements in de jure coverage of migrant workers in social protection systems, while section 3.5. identifies key barriers hindering such extensions of coverage.

### 3.1. General legal framework for social protection provisions in the GCC countries

In the GCC countries, the vast majority of nationals are employed in the public sector, which is well-remunerated and generously covered by contributory systems (ILO 2021e; Radwan and Akram Malik 2021). By contrast, the vast majority of migrant workers work in the private sector, where contributory systems are much weaker. Even for GCC nationals, the schemes in place for private-sector workers often provide lower benefit levels, particularly old-age, invalidity and survivors' pensions. Some contingencies are not covered at all (e.g. family allowances in all cases except Bahrain, and unemployment in Qatar), or are covered only by employer-liability arrangements that fall short of public-sector benefits (e.g. sickness and maternity leave) and are not aligned with the ILO's core principles (see box 2).

15. Social protection for public-sector workers is not discussed since public-sector employment is dominated by nationals and the few migrants working in that sector are typically covered by the same (extensive) legislation as their national counterparts (see the ISSA country profiles for details on these provisions).

16. This is often the case for the UAE, which is a federation of seven emirates (Abu Dhabi, Dubai, Sharjah, Ajman, Umm Al-Quwain, Fujairah and Ras Al Khaimah), in which different laws may apply. Within Abu Dhabi and Dubai, legislation on the mainland differs from legislation in the ADGM and the DIFC, which are independent jurisdictions.

17. The term "diverse forms of employment" is used throughout this report as the preferred ILO term where previously the term "non-standard forms of employment" may have been used. Both terms refer to temporary, part-time or multiple jobs, agency work and self-employment arrangements, and other forms of employment that deviate from full-time, open-ended employment with a single employer. The term "diverse" forms of work includes traditional part-time and temporary work, as well as new and digital forms of work.

► **Box 2. Employer-liability approaches to social protection and international social security standards**

ILO standards promote collectively financed mechanisms and broad risk-sharing, whether in tax-financed or social security contributory schemes. These redistribute financial and labour market risks from individuals to society. However, in many countries, social protection is only available under employer-liability or private arrangements, which are often suboptimal with respect to coverage, equity and sustainability.

For example, employer-liability arrangements rely on an employment contract, and often do not conform with ILO standards. As solidarity in financing is de facto limited and coverage is often restricted to salaried workers, certain categories of workers, such as casual workers and those on hourly wages are excluded from any type of protection. In the case of sickness benefits, maternity/parental benefits and access to healthcare, individual enterprises bear the costs. This may pressure workers not to take sick leave or maternity leave, or encourage discrimination against recruiting workers with declared diseases, and small enterprises may struggle with the financial implications, creating an incentive to employ workers in forms of employment that are not subject to statutory sick leave or maternity/parental leave.

However, employer-liability arrangements may possibly have a role in complementing collectively financed protection mechanisms. Several countries have made efforts to reduce gaps in coverage and adequacy through replacing employer-liability mechanisms with collectively financed social insurance.

Furthermore, even where contributory systems are in place for private-sector employees, these systems do not necessarily include migrant workers from non-GCC countries. While separate – but possibly less advantageous – forms of coverage are sometimes in place for these migrant workers, they are excluded from general provisions covering GCC citizens in relation to old-age, invalidity and survivors' pensions, health protection, family allowances (where they exist), employment injury (except Bahrain and Saudi Arabia) and unemployment (except Bahrain and the UAE). Table 1 outlines the systems of social protection available for each contingency across each country.

In addition, many migrants work outside of the formal private sector, whether self-employed or in part-time, temporary, seasonal, casual or domestic work. These workers often have the lowest-paid and less-secure jobs. Yet, diverse forms of employment are barely covered by social protection

legislation (for both nationals and migrants, although in practice such jobs are predominantly performed by migrant workers).

Non-contributory social protection schemes (publicly funded by the national government) are relatively limited in the region, amounting to just 1.5 per cent of GDP, on average, and often comprise less than 20 per cent of total national expenditure on social protection (excluding health) (ILO 2021e). Despite migrants' increasing levels of tax contributions via consumption or income taxes (Schofield, 2021), migrant workers are excluded from non-contributory social protection provisions, except in relation to emergency medical care from public health systems (discussed in section 3.2.1), and limited provisions from Islamic *zakat* funds<sup>18</sup> (Machado et al. 2018).

18. Zakat is an obligatory donation required as one of the main pillars of Islam for Muslims whose wealth exceeds a minimum threshold. The donations are then distributed to those who meet certain criteria relating to poverty and vulnerability. In many Arab countries, zakat is a formalized system of almsgiving overseen by a zakat fund, with direct or indirect links to the national social protection system. However, there is limited information on recipients in GCC countries, and zakat assistance is not a legal entitlement that migrant workers can rely on. For this reason, it has not been discussed in this report, except where the research identified it as playing a prominent and official role in the protection of migrant workers. For more information, see Iyer et al. (2021) and Hammad (2022).



► **Table 1. Social protection coverage for national and migrant workers employed in the formal private sector****NATIONAL PRIVATE SECTOR EMPLOYEES**

	 Bahrain	 Kuwait	 Oman	 Qatar	 KSA	 UAE
 Old age, disability, and survivors						
 Employment injury		3		2		
 Sickness						
 Medical care						6
 Maternity			7			
 Unemployment						
 Family						

Source: ILO 2023a

### NON-NATIONAL PRIVATE SECTOR EMPLOYEES

 Bahrain	 Kuwait	 Oman	 Qatar	 KSA	 UAE
8	1	8	1	1	9
	3				
	4	5			
		7			

 Social Insurance

 National Health System (NHS)

 Employer Liability

 Mandatory Private Insurance (MPI)

 Not Available

(1) EOSI does not work as a social insurance mechanism and falls short of minimum standard of protection for old age, disability and survivors.

(2) Survivors of Qatari nationals insured with GRSIA are eligible to a periodical pension equal to 100% to the previous wage in case of work-related death regardless of years of service.

(3) Employment injury provision of social insurance for nationals is not implemented. Article 88 of the labour code stipulates a mandatory private insurance.

(4) Roll out of the mandatory private insurance is underway.

(5) Coverage was not previously mandatory but non-nationals did have the right to access the NHS, on a subsidized rather than free basis. Roll out of mandatory private insurance is still under debate.

(6) MPI in Dubai International Financial Centre (DIFC) and Dubai and NHS in

Abu Dhabi.

(7) Maternity and Paternity

(8) Provident Fund managed by the national social security institution

(9) Special private pension system for employees in the financial district; Voluntary privately managed EOSI savings system for employees in the private sector and free zones announced in September 2023.

## 3.2. De jure social protection coverage by contingency



### 3.2.1. Access to medical care

According to legislation across the GCC, emergency medical care is free for all, irrespective of nationality, migration status or health insurance coverage (Vital Signs Partnership 2022a). In Bahrain, Kuwait and Qatar, migrant workers have, historically, also been granted access to non-emergency care through the national health system, which they could access by showing a health card (provided for an annual fee, often paid directly by the employer). Access to health facilities has been provided either free or, more often, on a subsidized basis (meaning that nominal service fees are charged on a per-visit basis). Although there have been concerns about disparity between the service given nationals and migrants,<sup>19</sup> this public healthcare model was in place in Bahrain,<sup>20</sup> Kuwait<sup>21</sup> and Qatar<sup>22</sup> at the time of data collection (November 2021 to October 2022). In Oman, migrant workers may access non-emergency care through the national health system, but not on a free or subsidized basis (Migrant-Rights.org 2020a).

However, all the countries mentioned above have announced new arrangements that shift away from a national public health system model towards privately funded health insurance. First, a new National Health Insurance Law was passed in Bahrain in 2018 and is soon expected to be implemented. It will cover migrants' healthcare through mandatory employer-funded health insurance.<sup>23</sup> Membership will be paid by the Government on behalf of Bahraini citizens and domestic workers, and paid by employers for other migrant workers, who will also be charged a co-payment at the point of service.<sup>24</sup> A similar move is evident in Qatar where a new law (No. 22/2021) will shift migrant workers' access to healthcare away from the current public health services to mandatory employer-funded private health insurance.<sup>25</sup> As far as possible, this system will ensure migrant workers' treatment via private health facilities, but where such facilities do not exist, migrants will be referred to public services (MOPH 2022). The new system will be implemented for private-sector employees from 2023, and for the public sector and domestic workers from 2024.<sup>26</sup> In Kuwait, the Ministry of Health and the Kuwaiti Investment Authority have been working on a public-private partnership to introduce a new mandatory health insurance system specifically for migrant workers in the private

19. For example, in Kuwait, some clinics segregate appointments between nationals and migrants, and the latter are denied access to public hospitals in the mornings for non-emergency care (Migrant-Rights.org 2020a). Further disparities in access are discussed in section 4.1.1.

20. Under current arrangements in Bahrain, there is an annual fee for basic healthcare of 72 Bahraini dinars for migrants to access public health services (typically paid by the employer to the Labour Market Regulatory Authority), and migrants are then required to pay additional fees at the point of service (approximately 7 dinars per visit), although emergency services are free for migrants (Migrant-Rights.org 2020a).

21. In Kuwait, employers are required to pay a nominal annual fee of 50 Kuwaiti dinars for migrant workers to access to the public healthcare system, and most medical services at public hospitals then cost 10 dinars per visit (previously 5 dinars until 2019).

22. In Qatar, foreign residents have access to free basic public health care by registering for a government health card for an annual fee of 100 Qatari riyals, which is typically paid by the employer. There are also several primary healthcare centres that primarily serve migrant workers.

23. Mandatory health insurance for migrant workers was due to be implemented from 2019, but the Ministry of Health reportedly pushed back the start date to the third quarter of 2022 (IMTJ 2022).

24. The initial premium will be set at 120 dinars per year. Employers will also have the option to pay for private insurance for their workers, if preferred (providing that it at least matches the mandatory package). Non-nationals without an employer will have to pay their own membership and service fees.

25. Qatari citizens will continue to receive free care at public providers, while non-citizens will be covered by premiums paid by employers (for the migrant worker, their spouse and three children under the age of 18) or by sponsors/recruiters (e.g. in the case of domestic workers). There will be a mandatory basic insurance package, with options to pay more for an extended package (MOPH 2022).

26. While awaiting implementation, current arrangements will remain in place. Rollout to residents from 2023 onwards follows the rollout of the less comprehensive, but mandatory, insurance package for tourists/visitors from September 2022.

sector and their families. Under the new Dhamani [guarantee] scheme, employers will be required to pay 130 dinars (per individual) to Kuwait's Health Insurance Hospitals Company,<sup>27</sup> which will cover primary and secondary care via private health services specifically aimed at migrant workers (Axelson 2022).<sup>28</sup> The system is expected to be rolled out over 2 years starting from December 2022.<sup>29</sup> In Oman, private employer-funded health insurance for all private-sector workers and their dependents, including migrant and domestic workers, will become mandatory once a new law from 2019 is fully implemented.<sup>30</sup>

Combined with existing laws in Saudi Arabia, Dubai and Abu Dhabi, these developments mean that employer-funded health insurance arrangements will be mandatory for migrant workers in all of the GCC region, with the exception of five of the seven emirates in the UAE (Sharjah, Ajman, Fujairah, Umm Al-Quwain and Ras Al Khaimah). Current provisions for mandatory private health insurance date back to 1999 for Saudi Arabia, 2005 for Abu Dhabi mainland, 2013 for Dubai mainland, and 2019 for the free zones of the Abu Dhabi General Market (ADGM) and the DIFC.

However, not all of the laws ensure health coverage for migrant workers' family members (even those residing in the host country). The legislation in Bahrain and Saudi Arabia requires employers to provide insurance coverage for the worker's

dependents, and this is also expected to be the case under new legislation in Oman (Resolution No. 34 of 2019). In Abu Dhabi mainland and in new legislation in Qatar,<sup>31</sup> the employer is required to cover the spouse and up to three children up to the age of 18 years. But in Dubai mainland, it is left to the employer's discretion (though the obligation to obtain insurance then lies with the sponsor if dependents are left without employer coverage). In Kuwait, employer-funded private health insurance for the migrant worker is not required to cover family members. The legal requirements sometimes also differ depending on certain characteristics of the worker or employer, namely the size of enterprise and age of employee.<sup>32</sup>

This shift towards the private-insurance model is not aligned with international social security standards for health coverage (ILO 2020c). Systems based on private insurance are premised on the principle of individual risk management, as opposed to collective risk-sharing, and this is likely to lead to excessive fragmentation and, ultimately, higher costs overall. Such systems are not in line with the principle of universality of coverage and solidarity-based financing, which are at the core of ILO social security standards on healthcare coverage. International social security standards provide guiding principles to ensure universal protection in a way that reflects risk-sharing, equity and solidarity – across income groups, men and

27. This is expected to cover all healthcare needs of migrant workers, including medical consultations, diagnostics, treatment, medicine, and all specialty treatment that Dhamani provides (Arab Times 2021). According to Dhamani representatives in the interviews, this more comprehensive coverage justifies the higher cost compared with the current annual payment of 50 dinars to the Ministry of Health for coverage of migrant workers and their dependents.

28. According to a key informant, insured workers will be referred to public health services run by the Ministry of Health for tertiary care.

29. This time frame is based on estimates reported in Arab Times (2022).

30. In Oman, employer-funded health coverage was not previously mandatory and was accessed by migrants either through health insurance voluntarily purchased, employer-provided health facilities or out-of-pocket payments by migrants at the point of service (except for free emergency services). Migrants working in the public sector could access free public health services, akin to Omani citizens. Under the 2019 health insurance law, mandatory private health insurance will be required for all migrants, funded by the employer (ILO 2023a). Known as Dhamani, the new compulsory private health insurance system is being developed by the Capital Market Authority and will be implemented in stages, starting with migrant workers. It is expected to cover 80–100 per cent of health service costs. Under the scheme, employers will be able to purchase private insurance for their workers from a range of accredited private insurance providers, all of which must meet minimum criteria for the basic package.

31. As reported by interviewees from the Qatari Ministry of Public Health.

32. In Kuwait, a representative from the Public Authority for Manpower noted that enterprises with more than 15 employees should provide private health insurance on top of the basic mandatory insurance, as per a recent ministerial decree on occupational safety. Employers are reportedly also required to provide full health insurance (as opposed to the basic package) for migrant workers above 60 years old, according to Decision No. 156 of 2022. Under the insurance arrangements developed for Qatar's recent law (22/2021), the annual premium for individuals aged under 60 years will, reportedly, vary between 495 and 920 riyals, with an annual coverage of 60–80 per cent (depending on the purchased package), while the premium for individuals aged over 60 years will cost almost the same, but with a lower annual coverage (60–70 per cent) (Al Khaleej 2022).

women and generations – in a fiscally, economically and socially sustainable fashion.

In particular, international social security standards promote collectively financed mechanisms to cover the costs of accessing health services, recognizing the contributions made by workers, employers and government. Likewise, the standards recognize a range of institutional arrangements, namely national health services, under which public services deliver affordable health interventions, and national social health insurance, whereby an autonomous public entity collects revenue from different sources (social contributions and government transfers) to purchase health services, either only from public providers or from both public and private providers. Consequently, the transition towards financing social health protection by private insurance should be carefully considered, as it may, potentially, significantly reduce elements of solidarity and widen inequities in access to health-care, while increasing inefficiencies and costs. Globally, private health insurance has a minor role in health-financing, and is generally used only as a complementary mechanism to national solidarity-based financing systems.

Beyond these provisions by the destination country, there are also certain unilateral measures that a country of origin may take to mandate health coverage for migrant workers before granting clearance for them to enter into overseas employment.<sup>33</sup> For example, under the Government of India's Emigration Act 1983, Indian citizens who are recruited to work in a country with weak protections (which includes all of the GCC countries) are required to complete an emigration check with the Government of India's Protector of Emigrants, before they are approved for travel. During this process, the prospective emigrant must show that they have purchased insurance from the Government's

*Pravasi Bharatiya Bima Yojna* (PBBY) scheme for migrant workers travelling to countries with weak protections. The PBBY provides medical coverage for the worker and pays for repatriation in cases of premature termination of employment, as well as family hospitalization in India for the spouse and the first two children up to 21 years of age (along with compensation for legal expenses, maternity benefits, death and disability benefits) (India, Ministry of External Affairs 2017; n.d.).

Coverage may also be mandated by a country of origin requiring that migrant workers continue paying for national health insurance in their home country while overseas. For example, although currently reversed by a COVID-related suspension introduced in 2020, the 2019 Universal Healthcare Act (2019) states that Filipino migrant workers are required to contribute to the national health insurance scheme of the Philippines, PhilHealth (Locus 2022). This scheme covers the insured worker and their family members for hospitalization and outpatient surgery in the Philippines, as well as expenses if hospitalized abroad (The Pinoy OFW n.d.). However, premiums for this scheme can be high; a key informant reported that their premiums are over three times higher than the rate for workers residing in the Philippines, despite not being able to access many of the benefits during their time abroad.<sup>34</sup> Furthermore, such mandates can lead to inefficient dual coverage and place a substantial financial burden on Filipino workers abroad, since they are typically also required to be covered by employer-funded health insurance in the destination country (IOM 2022).

33. As Al-Harashsheh et al. (2019: 5) explain, "Recognizing the health gaps faced by their citizens overseas, sending countries have taken more proactive steps to formulate practices and policies around the health needs of migrants as a special category of health vulnerability. Many migrant-sending states now enforce mandatory provisions of pre-departure trainings for migrants, and a portion of this training is to provide migrants with an awareness of healthcare systems and practices in the host states they are moving to. Sending countries increasingly also provide compulsory insurance schemes to their citizen-migrants. ... A few states have also adopted strategies to support returning migrants with access to adequate healthcare once they are in their country of origin."

34. According to recent news reports, the Migrant Workers Secretary in the Philippines wants to permanently amend the stipulated contribution of overseas workers required under the 2019 Universal Healthcare Act, in which the mandatory fee is pegged to their salary (Locus, 2022).



### 3.2.2. Sickness benefits

Across the GCC countries, migrant workers employed in the private sector have the right to statutory sick leave and to remain in the country while using it. Sickness benefits are the same for all full-time employees in the private sector, regardless of whether the worker is a national or migrant. These provisions are not as generous as those in the public sector yet still guarantee a period of annual sick leave, provided that the worker presents a valid medical certificate (in all countries) and has completed the first 3 months of employment (Bahrain and Qatar) or probation period (federal UAE law).

The laws outline specific limits on the maximum amount of sick leave that an employee can take in a 12-month period, after which the employment contract can be terminated (although in Bahrain, Saudi Arabia and Oman, the legislation makes clear that the worker can also combine annual leave and sick leave entitlements). The sick pay arrangements differ by country, but in all cases start with an annual allowance of fully paid leave,<sup>35</sup> followed by an allowance of partially paid leave<sup>36</sup> and then, in most cases, a specific allowance of unpaid sick leave.<sup>37</sup>

Paid sick leave is entirely covered by the employer as a headcount cost. It is not required to be underwritten by any insurance, nor can it currently be reclaimed from any government authority. During the period of unpaid sick leave, there are no state-funded schemes under which migrant workers may benefit. Oman is the only case in GCC region where a recently approved social protection reform introduces a social insurance scheme for sickness benefits, which covers both national and migrant workers.

Beyond these provisions in the host country, some country-of-origin governments mandate that overseas workers participate in their national social insurance system, with subsequent access to sickness benefits. Through the Filipino Social Security System (SSS), overseas workers are reportedly covered by

the same benefits as for Filipino residents, which includes sickness benefit, as well as maternity, disability, unemployment, retirement, death and funeral benefits (Philippines, Social Security System 2021). However, access to benefits while working abroad is problematic, as discussed in Chapter 4.



### 3.2.3. Unemployment benefits

In the previous two decades all countries in the GCC introduced unemployment insurance schemes for national workers in the private sector. Migrant workers have not been granted access to these unemployment benefits, except in Bahrain, where migrants are eligible for a public scheme under Law No. 78/2006 (with equal treatment for nationals and migrants). Through this scheme, workers are entitled to monthly compensation, typically worth 60 per cent of their wage (based on the monthly wages during the 12-month period prior to their unemployment, without exceeding a sum of 1,000 dinars), for a maximum period of 9 consecutive or non-consecutive months. Workers must have been employed for a minimum period (generally 12 months), to be able to claim unemployment benefits, and their employers must have contributed.

Historically, migrant workers have not been covered by national unemployment systems (outside of Bahrain), but there is a growing need to consider how migrant workers should be protected given reforms to the kafala system (see section 3.5.1) and the increased mobility of migrant workers. Ensuring the coverage of migrant workers in unemployment systems needs to go hand in hand with ensuring migrant can stay beyond the termination of their contract and have the opportunity to look for a new job.

Increased mobility combined with the growth in diverse forms of employment seems to have stimulated legal reforms in the UAE, where a new unemployment insurance scheme covering both national and migrant workers came into effect in October

35. Thirty days in KSA, 15 days in Bahrain and Kuwait, 2 weeks in Qatar and Oman, 10 days in the ADGM and DIFC. In the rest of the UAE, 15 days of fully paid sick leave are granted except where the sickness resulted from the employee's misconduct.

36. Sixty days in KSA, 50 days in Kuwait, 7 weeks in Oman, 30 days in UAE (except where the sickness resulted from the employee's misconduct), 4 weeks in Qatar, 20 days in Bahrain, ADGM and DIFC (with the degree of partial pay ranging from 25 per cent to 75 per cent of remuneration).

37. Six weeks for Qatar, 30 days for KSA, 20 days for Bahrain, 45 days in the UAE, 30 days in the ADGM and DIFC.

2022 (Federal Decree Law No. 13 of 2022). The scheme consists of a mandatory employee-funded private insurance scheme for national and migrant workers in either the private or public sector (excluding domestic workers, temporary employees and business owners who manage their entire business). Workers who have paid the insurance premium for at least 12 consecutive months will be eligible for compensation equal to 60 per cent of their basic salary, for a period of no more than 3 months from the date of their unemployment (UAE Government Portal 2022). While the development is significant, it should be noted that the lack of progressivity in contribution, risk-pooling and the financial participation of employers contradict the core principles of international social security standards. Since the premium is calculated as a flat yearly amount,<sup>38</sup> but the benefit is calculated as a portion of the salary, the effective contribution rate is significantly higher for low-wage earners.



#### 3.2.4. Old-age, natural death and survivors' benefits

To date, none of the GCC countries provide old-age benefits to migrant workers. Instead, provisions are limited to the statutory EOSI of each country. Generally, EOSI arrangements fall short of social security standards,<sup>39</sup> and the exact terms of the EOSI vary by country, with the size of the benefit increasing with longer periods of service (sometimes capped,<sup>40</sup> or reduced if the employee resigns<sup>41</sup>) (see ILO 2023 for details). In some cases (Qatar, Oman, mainland Abu Dhabi and mainland Dubai), the law requires employees to have worked for more than

1 year in continuous service to be entitled to the EOSI. Rules for migrant domestic workers differ from those for other types of workers (see section 3.3.1). Depending on national legislation, EOSI may also apply in cases where the employment relationship ends because of illness, injury, disability or death (whether of natural causes or related to an employment injury), in which case survivors should be eligible to claim benefits. However, details on eligibility terms under such circumstances are often limited in the legislative framework (ILO 2023a; 2023c).

In practice, challenges are common with payment of the EOSI. In some cases, such as Qatar and the UAE, this has led to the establishment of new legal mechanisms to guarantee EOSI payments (without actually reforming EOSI benefits or entitlements). Qatar has established the WSIF, which is financed through the state budget (ILO 2023c). The fund holds employers and business owners financially accountable when they fail to pay workers their wages and other benefits in full. In April 2022, the WSIF laid out the conditions and regulations pertaining to the disbursement of dues and benefits, including unpaid wages and unpaid end-of-service payments. The WSIF disburses funds based on the final decision of the Dispute Settlement Committee or the specialized court in emergency and exceptional situations, taking into account the common good. An electronic platform dedicated to fund disbursements will be created and, in case of death, survivors may apply for the payment of the worker's benefits. The fund was established in 2019 and, as of 30 September 2022, has disbursed 1,165,316,181 riyals (over US\$320 million) in unpaid

38. Workers with a basic salary of 16,000 dirhams or less will need to pay a monthly insurance premium of 5 dirhams. Those with a basic salary exceeding 16,000 dirhams will need to pay 10 dirhams per month. The worker may choose to pay the premium monthly, quarterly, half-yearly or annually.

39. See ILO (2023c) for a discussion of the key shortcomings of EOSI and proposals for alternatives.

40. In Kuwait, employees paid on a monthly basis are entitled to receive 15 days remuneration for each of the first 5 years of service, and 1 month's remuneration per subsequent year, capped at 1.5 years' remuneration. In Bahrain, employees are entitled to half a month for each of the first 3 years of employment, and 1 month for each subsequent year. In KSA, employees are entitled to half a month's wage for every year for the first 5 years, and 1 month's wage for each of the following years. In Qatar, employees are entitled to a gratuity determined under agreement between the employer and employee that is not less than the wage of three weeks for each year of service (the QFC employment regulations do not contain any provisions relating to this benefit). In Oman, employees are entitled to the wage of 15 days for each year of service for the first 3 years and 1 month for subsequent years. In mainland Dubai and in Abu Dhabi, employees are entitled to a wage of 21 days for each of the first 5 years, and 30 days for each additional year (in ADGM the total of the gratuity shall not exceed the wages of 2 years of service).

41. In case of resignation, the employee would be entitled to: one third the standard benefit in KSA and mainland Abu Dhabi, and half of the standard benefit in Kuwait, if the period of service is 2–5 years; two thirds of the benefit in Kuwait, KSA and mainland Abu Dhabi if 5–10 years; and the full benefit if the period of service is 10 years or longer.

wages and benefits. It is not known how many workers have benefitted, although ILO Qatar (2022) reports that around half that amount had reached more than 37,000 workers.

In 2018, the UAE Ministry of Human Resources and Emiratization began to implement the cabinet resolution concerning the optional replacement of a mandatory bank guarantee for recruiting and employing workers in the private sector with a low-cost voluntary insurance system. A group of national private insurance companies (administered by Dubai Insurance) launched the Establishment Workers Scheme as an alternative to the Banking Guarantee System,<sup>42</sup> to protect the rights and financial dues of all private-sector and domestic workers registered with the Ministry (ILO 2023c). The scheme aims to protect employees from employers who refuse or are unable to pay labour dues, with a maximum coverage up to 20,000 dirhams. In case of an employer's financial failure, the policy covers end-of-service benefits and unpaid wages, the cost of an airfare to their home country, and compensation for work-related injuries or the repatriation of the body of a deceased worker for both private-sector and domestic workers, as well as all financial labour rights stipulated in Federal Law No. 8 of 1980 regarding the regulation of labour relations. Insurance policies for private-sector workers cost 120 dirhams and are valid for 2 years. For domestic workers, the cost of the policy is 60 dirhams and valid for 1 year. If the employer cannot pay, the insurance pool covers the employee's dues when an order is issued by the labour execution department of the competent court. This does not mean that the employer can avoid responsibility, as they remain liable to reimburse the insurance scheme (ILO 2023c).

However, in the UAE and, potentially, Saudi Arabia, there are signs of governments experimenting with more substantial reforms to replace the EOSI system with retirement or other individual savings accounts in certain cases. The UAE is introducing an individual pension savings scheme to replace the EOSI system for certain categories of white-collar employees in the financial sector, the government sector, or in large firms, with the stated objective of attracting and retaining highly skilled employees and easing the financial management

of EOSI liabilities for high-income earners. The DIFC Employee Workplace Savings (DEWS) plan for expatriate workers became effective in February 2020. It is a defined-contribution pension plan for white-collar expatriate employees in the DIFC, and replaces the EOSI arrangement, with the intention to "attract and retain the best professional talent into the region by offering employees to earn returns on their benefits ... [and] create greater cash-flow certainty with EOSI entitlements" for employers and "have clarity about employers EOSI liability with assurance of no further obligation once paid". The scheme is administered privately by Zurich Insurance Group and expected to protect around 25,000 employees by utilizing a mix of insurance providers. Member contributions may be invested into a single default fund, and a *shari'a* compliant option is also available. Employers contribute a minimum of 5.83 per cent of the basic salary for members with less than 5 years' service, and 8.33 per cent for members with 5 years' service or more. The scheme claims that employers would normally pay less into the qualifying scheme than they would have paid under the old end-of-service system as payments are paid monthly based on current salary, not on final salary. The initiative also offers a voluntary complementary savings plan for employees (ILO 2023c).

In July 2022, the Government of Dubai launched a scheme targeting migrant workers employed in the government sector called the Savings Scheme for Employees in Government of Dubai with the DIFC as the entity responsible for supervising implementation. This scheme has since opened to foreign staff at 61 government firms and is expected to enhance the economic and social stability that the Government offers to workers in Dubai and strengthen the position of Dubai as a global financial centre operating under international best practices (ILO 2023c).

In October 2022, the National Bonds Corporation, an investment company owned by the Investment Corporation of Dubai, also launched a separate initiative called the Golden Pension Plan. The optional pension plan caters for large enterprises that contribute a lump-sum amount or monthly deposits from, or on behalf of, their employees in lieu of EOSI. Companies can register for the Golden

42. The Banking Guarantee System requires those recruiting and employing migrant workers in the private sector to show bank guarantees worth 3,000 dirhams annually.

Pension Plan by either investing all or part of their employees' accumulated end-of-service benefits. The initiative responds to the dual objective of allowing workers to "bridge the savings gap and better plan for their retirement needs" and "support businesses with employee retention efforts, as well as help them to plan their end-of-service financial commitments rather than paying them out of company cash when the benefits fall due" (ILO 2023c).

In October 2023 UAE also announced the launch of a new privately managed EOSI savings schemes which will apply on a voluntary basis to all companies in the private sector and free zones. Companies which opt for the new system will pay monthly EOSI contributions into privately managed saving funds. Management and investment by private financial institutions will be overseen by the Securities and Commodities Authority in coordination with the Ministry of Human Resources and Emiratisation. Further details were not released at the time of publication of the report.

Meanwhile, Saudi Arabia is considering a mandatory mobility saving account for migrant workers, which would consist of privately administered savings account into which the worker or employer would contribute monthly. It would be linked to a retirement savings scheme, but migrants could also tap into these savings in cases of unemployment (ILO 2023c).

Such solutions still fall short of minimum social security standards, though, as private savings arrangements are not linked to social security contingencies and eschew the principles of risk-pooling and solidarity. Individual savings accounts and private pension schemes offer lower levels of protection against social security risks because of their overly flexible approach to withdrawals, lack of options for long-term periodical benefits and lack of solidarity in financing benefits. Where products are offered and administered by (perhaps several) private-sector financial institutions, transaction costs and complexity increase from both the worker's and employer's perspectives. This is a disadvantage when compared with the enforceability, rights and accountability derived from publicly managed systems. Moreover, individual workers are exposed to investment risks and management fees because of the fragmentation of risk (ILO 2023c).

Following a different approach, recently adopted reforms in Oman establish a defined-contribution

national provident fund to replace the EOSI. If it proceeds, the fund would collect mandatory employers' contributions and administer benefits to non-Omani workers in cases of retirement, death or disability and upon the worker's return to their country of origin. The proposed design includes options to convert lump-sum benefits into annuities and minimum guarantees on investment returns. Moreover, the option to transfer the accumulated fund and make further contributions to the origin country's social security system is envisaged as a future development. The provident fund would be managed by the same public institution that runs the social security system for Omani nationals. Omanis participating in the main pension scheme could also join the provident fund on a voluntary basis to receive complementary retirement benefits (ILO 2023c).

Beyond the provisions extended by GCC governments, countries of origin may also take legal measures to facilitate – or even mandate – migrant workers' participation in long-term pension schemes for when they eventually retire back home. For example, workers from Myanmar may contribute voluntarily to funds falling under the 2012 Social Security Law (ILO 2021d), while workers from Sri Lanka may voluntarily pay into a special foreign employment pension scheme known as Sesetha, run by the Sri Lankan Foreign Employment Bureau in partnership with the National Social Security Board (Sri Lanka, Bureau of Foreign Employment n.d.). Similarly, workers from Indonesia may voluntarily participate in the JHT (Jaminan Hari Tua or old age protection) scheme, either by registering themselves directly or via their employer (BPJS Ketenagakerjaan 2021; Ayunindya 2022). Such provisions may also exist at the sub-national level. For example, a key informant in Kuwait noted that migrant workers from Kerala, India, who pay monthly or annual contributions for at least 5 years to the Kerala regional government's social insurance system, are eligible for a small monthly pension in their old age.

Following a different approach, under the Social Security Act of 2018 it is now compulsory for migrant workers from the Philippines to make contributions while abroad into the national SSS (Philippines, Social Security System 2021). The SSS includes the same defined-benefit social insurance scheme, which provides a basic pension to local workers in the Philippines, but those contributing

from abroad pay both the employee and employer contributions themselves. A defined-contribution individual account scheme known as the SSS Flexi-Fund Programme serves as a supplemental pension savings plan, and is offered exclusively to Filipino migrants (Olivier 2017).

In March 2023, Nepal launched a contributory social protection scheme for migrant workers abroad. The scheme, which previously covered only formal private-sector workers, has been expanded to include migrant workers abroad. Such workers will be entitled to accident and disability plans, support for dependents and an old-age security plan. Migrants based abroad will have to contribute at least 2,002 Nepalese rupees monthly, equivalent to

21.33 per cent of the minimum monthly salary fixed by the Nepali Government for domestic industrial workers. The maximum amount they can pay into the scheme is three times the minimum basic salary (Nepal, Social Security Fund 2023; Pandey 2023).

There are two noticeable challenges with country-of-origin schemes for old-age and survivors' benefits. First, such schemes are typically voluntary, and the participation of migrant workers tends to be limited. Second, contributions are only paid by the employee and often include the employer's share, which places the financial burden on workers and does not recognize the employer's responsibility.

### ► Box 3. Examples of social protection provisions in BLAs (bilateral labour agreements)

As mentioned in Section 2.2, some countries of origin have included social security-related provisions in BLAs with GCC countries, to try to reinforce social protection coverage for their migrant workers. These provisions only support the workers covered by the agreement, which is typically restricted to those who migrate through formal recruitment channels from the country of origin. They also generally only reiterate obligations already specified in the GCC country's legislation, rather than extending any new social protection entitlements. Nevertheless, the inclusion of such clauses may serve as an additional enforcement mechanism for ensuring certain provisions.

Where social security provisions are included, one of the more commonly referenced contingencies relates to employer-funded access to medical care. For example, in the MoU signed between Sri Lanka and Bahrain in 2008, it specifies that Bahraini employers must provide health and accident insurance for Sri Lankan employees as per the regulations of the National Organization of Insurance in Bahrain. Qatar has agreements in place with many countries of origin mandating employer-funded health coverage. For example, the Bangladesh–Qatar model contract stipulates that “employers are responsible for providing free medical treatment to their workers”, while the Philippines–Qatar model contract specifies “the employer’s obligation to provide medical treatment”. The Sri Lanka–Qatar model contract specifies that the employer shall provide the employee with “necessary medical treatment in accordance with the regulations and provisions applied in the State of Qatar”.

In some cases, the BLA or associated contract may cover a broad range of contingencies. One of the more comprehensive, publicly accessible examples is the 2018 MOU signed by India and the UAE on Cooperation in the Field of Manpower. Among other duties, the main text of the agreement obliges the UAE Government to: ensure the rights and promote the welfare of Indian workers in the UAE pursuant to its law; ensure that applications for the employment of Indian workers specify working hours, wages, non-wage benefits, medical facilities, accommodation and transport when applicable, compensation in case of injury or death of the worker due to employment, as per UAE law, and end-of-service entitlement; and ensure the enforcement and implementation of the employment contract. It also includes a template job offer and associated standard employment contract, which provides for paid sick leave, paid maternity leave, employment injury treatment and compensation, and an end-of-service indemnity.

### Domestic workers

Since BLAs typically only cover workers in sectors covered by Labour Law, some countries of origin have developed specific BLAs for the protection of domestic workers. Saudi Arabia has many such agreements with countries of origin both from Asia (for example Bangladesh, India, Indonesia, the Philippines, Sri Lanka and Vietnam) and Africa (such as Ethiopia, Kenya and Uganda). These require the Saudi Arabian Ministry of Human Resources and Social Development to ensure that the welfare and rights of domestic workers are promoted and protected in accordance with applicable laws, with the contractual relationship regulated via a standard employment contract. These agreements are typically short (10 to 13 articles in total), and detail the obligations and rights of employers and domestic workers.

While it is common to have minor variations in the content and structure between agreements with different countries of origin, some more prominent distinctions have been observed in relation to social security. For example, the standard domestic worker employment contract annexed to the Uganda–Saudi Arabia agreement shows that Ugandan external recruitment agencies are required to obtain insurance under the employment contract, although it should be the responsibility of the employer.

Sources: Atong et al. 2018; IGAD and ILO 2021; India, MEA 2018; ITUC 2014; MFA 2014; Olivier 2018; van Panhuys et al. 2017; Wickramasekara 2018;



### 3.2.5. Employment injury benefits

With the exception of the DIFC (where the law does not cover medical expenses), employment law across the GCC region accords workers employed in the private sector (nationals and migrants) the right to receive medical treatment at the employer's expense after suffering a workplace injury.<sup>43</sup> Different rules are in place for domestic workers (see section 3.3.1). Generally, employees also have the right to remain in the country and continue to receive their salary, for a certain period, while recovering or undergoing treatment. Payment arrangements vary between countries, but generally the labour law prescribes that the employer must pay the employee their full salary during treatment, up to 6 months in Bahrain, Kuwait, Qatar mainland, Abu Dhabi mainland and much of the UAE, and 60 days in Saudi Arabia. After that, the employer is liable to

pay the employee a partial salary (typically 50 or 75 per cent) until the worker is recovered or is declared to have a disability that does not allow them to resume work, or dies. Sometimes, partial remuneration is limited to a certain time period (in Saudi Arabia and Abu Dhabi it is capped at 6 months).

Certain jurisdictions require employers to pay workplace injury compensation in the event that the injury causes disability or death, with some countries only requiring compensation in the case of the latter (e.g. UAE federal law), or exclude cases of partial disability (e.g. Saudi Arabia). In other contexts (Bahrain and Kuwait), the labour law is somewhat less prescriptive, simply stating that employees shall be eligible for such compensation. The amount of mandated compensation also varies, with some laws leaving the amount unspecified<sup>44</sup> and others specifying the amount to be paid.<sup>45</sup>

43. In most cases, the same law applies to nationals and migrants working in the private sector.

44. E.g. in Kuwait and the QFC. In Bahrain, the Labour Law simply states that the required compensation will be set "according to the schedule to be issued by an order of the Minister". However, as discussed later, migrant workers employed in the private sector in Bahrain should theoretically be covered by social insurance legislation for employment injuries, which is more prescriptive (and generous) regarding compensation.

45. E.g. under UAE Federal Law, employers must pay 24 months of salary (minimum 18,000 dirhams up to a maximum of 200,000 dirhams) in the event of an employee's death from workplace injury. In KSA, employers must pay 3 years' wages in the event of permanent/total disability or death, or a proportionate amount for permanent/partial disability. In the ADGM, the employer is liable to pay compensation as specified by the board of directors. In Qatar mainland, the amount is to be determined according to the provisions of *shari'a*.

Beyond these requirements in labour legislation, there are also certain requirements specified in social insurance legislation, which generally applies to both national and migrant workers formally employed in the private sector in Bahrain<sup>46</sup>, Saudi Arabia and = in Oman. In Bahrain and Saudi Arabia, employers are required to make monthly contributions to the General Organization for Social Insurance (GOSI). In the event that the employee suffers a work injury or occupational disease (including an accident while commuting to or from work), GOSI covers the cost of medical care, the worker's salary during treatment and recovery, and more generous compensation than outlined in the Labour Law. In the context of the recent social protection reforms, Oman has adopted the gradual inclusion of migrant workers into the national social security scheme covering employment injury insurance, as well as maternity and sickness. As per the Sultani Decree No. 52/2023, employment injury benefits will be covered under the Social Protection Law within three years of the law taking effect on same terms for Omani and non-Omani workers, with financing based on a 1 per cent contribution from employers (ILO 2023c).

In the rest of the GCC, it is generally not mandatory for employers to take out insurance to cover the costs of treating or compensating workplace injuries, although, in Kuwait, the Labour Law does oblige the employer to insure workers, in coordination with insurance companies, against work-related illnesses, taking into account the rules of the Social Insurance Law. Elsewhere in the region, if employers fail to cover the costs as per the above-mentioned laws, the employee may file a complaint to oblige the employer to pay expenses related to treating the injury. In all of the GCC jurisdictions, there is a duty on the employer to report an occupational injury at the workplace to the police (or

other appropriate authority) and to the country's Ministry of Labour or Ministry of Human Resources, which should then conduct an investigation.

Aside from these laws, some countries of origin impose their own requirements regarding employment injury compensation. Countries of origin may require the employer or recruitment agency to take out insurance to cover employment injury risks in order for the worker to be permitted to migrate. For example, in the UAE and Oman, the Tanzanian embassies require such insurance as part of the standard contract (Human Rights Watch 2017). Countries of origin may also operate compulsory insurance schemes for workers, such as in India, where migrant workers must be covered by either the PBBY insurance scheme or another registered insurance policy specifically for low-wage and domestic workers (Burmeister-Rudolph 2022; India, Ministry of External Affairs, n.d.). The PBBY scheme compensates workers, or their survivors, for employment-related injuries, disability or death. Similarly, Sri Lanka's Foreign Employment Insurance Welfare Scheme is state-run and applies to all Sri Lankans registered with the Sri Lanka Bureau of Foreign Employment (Jayaweera and Shlala 2015). The registration fee (paid by the worker) covers workers for a 2-year period, and provides benefits in the event of certain cases of repatriation, disability or death.<sup>47</sup> In the case of domestic workers, the local recruitment agency pays on behalf of the sponsor in the destination country.<sup>48</sup> In Indonesia, overseas workers who were previously covered by a separate state insurance mechanism are now covered by Indonesia's general social security, with workers required to contribute to the working accident protection scheme (JKK)<sup>49</sup> (BPJS Ketenagakerjaan 2021).

47. In cases of harassment, illness, accident or injury and repatriation due to pregnancy as a result of sexual harassment by a sponsor or his family members (this consists of a return ticket and medical expenses upon return to Sri Lanka, except in the case of "runaways" from the sponsor), death due to any cause (except suicide), and permanent disability or partial disability while working abroad (compensation, medical expenses in Sri Lanka and return ticket). Coverage only applies to the 2 years covered by the employment contract. If workers extend their contract beyond 2 years and do not re-register with the Sri Lanka Bureau of Foreign Employment, their entitlement to insurance is lost (Jayaweera and Shlala 2015).

48. For further details on employment injury schemes and compensation provided by other countries of origin, see Vital Signs Partnership (2022b: 31).

49. JKK employment injury-related benefits include: (a) care and treatment when suffering an occupational accident or being proven to have suffered acts of physical violence or rape; (b) assistance and vocational training when suffering disability because of occupational accidents; cash compensation relating to disability, death or treatment costs for occupational accidents (BPJS Ketenagakerjaan 2021).

46. In Bahrain, the legislation excludes "non-citizen workers delegated for training purposes for a period not exceeding 12 months by parent companies working abroad or by any foreign branch thereof operating in Bahrain".



### 3.2.6. Disability benefits

Beyond the provisions discussed above,<sup>50</sup> migrant workers (including domestic workers) are not entitled by law to invalidity or disability benefits in the GCC countries. However, certain countries of origin may extend social security coverage that includes disabilities to their workers. For example, Filipino workers abroad whose contracts are processed at the Philippine Overseas Employment Administration (POEA) are required to contribute to the Overseas Workers Welfare Administration (OWWA), which provides social security benefits, including for disabilities, under the Overseas Workers Welfare Administration Act 2015. Workers who migrated from the Philippines and entered the destination country without an employment contract, but who later acquired employment, may participate voluntarily in the OWWA scheme (Olivier 2018; IOM 2022).



### 3.2.7. Survivors' benefits

In the event of a migrant worker's death while overseas, the worker's heir or dependents would be legally entitled to the end-of-service compensation listed in section 3.2.4, as well as the employment injury provisions discussed in section 3.2.5, if the death was assessed to be a workplace accident or injury. Beyond this scenario, migrant workers' families are not entitled by law to a survivors' pension or equivalent in any of the GCC countries.

However, various countries of origin have taken steps (unilaterally or bilaterally) to ensure that migrant workers are covered by life insurance during their overseas employment. Key informants from diplomatic missions noted that some countries of origin have made life insurance mandatory for their workers, with proof of such insurance

required prior to travel clearance. For example, every prospective emigrant from Pakistan is legally bound to get their foreign service agreement cleared by the Protectorate of Emigrants Office and must purchase a 5-year life insurance policy from the State Life Insurance Corporation of Pakistan. Under Nepal's foreign employment law, recruitment agencies must procure insurance covering death and disability for the duration of the worker's contract and provide proof of such insurance in order for the labour permit to be approved.<sup>51</sup> In addition, workers are required to contribute to the Foreign Employment Welfare Fund before travelling abroad, which can provide one-off financial assistance to family members in Nepal in the event of the worker's death or permanent disability. In the Philippines and India, life insurance is part of a larger social security package to which workers must contribute prior to travel.<sup>52</sup>

In Indonesia, overseas workers are required to register with the contributory *Jaminan Kematian* scheme before travel, which offers survivors' benefits when a participant dies from a cause that is not an employment injury (BPJS Ketenagakerjaan 2021).



### 3.2.8. Family benefits

Migrant workers are not entitled to family benefits in any of the GCC countries and, in most instances, low-paid migrant workers are not eligible to bring their families to the country of destination (in Oman private-sector workers cannot obtain residency for their families, but public-sector workers can). Employers can choose to provide visas and other forms of support for the family members of some migrant workers, but this is only likely to be considered in relation to highly paid employees.

50. I.e. the disability-related provisions covered by health insurance schemes, compensation for a workplace-related disability, and end-of-service payments when a worker ceases employment because of a disability. These are not discussed here since they relate to other types of social protection benefits, rather than targeted, ongoing support to provide at least basic income security for those who are unable to earn sufficient income because of a disability (see Social Protection Floors Recommendation, 2012 (No. 202)).

51. Foreign Employment Act, 2007 (Act No. 26 of the year 2042) and The Foreign Employment Rules, 2064 (2008).

52. The OWWA social security benefits for Filipino workers (mentioned above) includes both survivor benefits and burial support for workers who have contributed to that scheme (Olivier 2017). Life insurance is also included in the PBBY mandatory insurance scheme for Indian citizens travelling to countries that are labelled as "Emigration Check Required" (those with weak protections, such as all GCC countries).



### 3.2.9. Maternity benefits

Workers within the private sector have, in principle, the right to the statutory maternity leave, provided that they meet the minimum service requirements of each GCC Member State. The entitlement is the same for most workers in the private sector, regardless of nationality (see section 3.3 for the different rules for domestic workers and those in diverse forms of employment). Migrant workers also, de jure, have the right to stay in the country while on maternity leave (provided they have a valid residency visa). However, they may find themselves unable to avail of such rights in the context of zina laws,<sup>53</sup> which criminalize pregnancy outside of marriage in much of the GCC.

In all GCC countries, maternity benefits are financed for both nationals and migrant workers as an employer liability, which is not in line with international standards. This means that any period of maternity leave is required to be paid by the employer as a headcount cost, which creates a disincentive to employ women (Addati 2015). The only exception is new legislation in Oman, which establishes a nationalized social insurance scheme for maternity (and paternity) benefits. The Social Protection Law promulgated by the Sultani Decree No. 52/2023 provides for the gradual inclusion of migrant workers in national social insurance cash benefits for maternity and paternity on same terms as Omani national workers (within one year of the law taking effect). In both the public and private sectors, employed non-Omani mothers of newborns, are entitled to a job-protected maternity leave for 14 weeks at full pay, financed based on a 1 per cent contribution from the employer, with the option of unpaid leave for up to 98 additional days. Furthermore, fathers of newborns, are entitled to a paternity leave for 7 days at full pay, financed from the same fund as maternity benefits.

The specific arrangements for leave duration, payments and minimum service requirements for

private-sector workers vary by country. Across the region, a period of paid maternity leave is granted, typically at least 50 days,<sup>54</sup> although sometimes payments are split between full and partial pay (as in the UAE and the Qatar Financial Centre (QFC)). In some countries (Bahrain and Saudi Arabia), women are then entitled to an additional period of unpaid leave, while in others (Oman, Qatar and some parts of the UAE), they are entitled to additional unpaid leave only if required for medical reasons. In Kuwait, women benefit from additional unpaid leave for a period not exceeding four months, upon the approval of the employer. In the QFC, ADGM and DIFC, the legislation makes clear that maternity leave provisions also apply to female employees adopting a young child.<sup>55</sup>

Maternity legislation in all GCC countries also protects women against dismissal in cases related to the pregnancy or maternity leave and, in all cases except Oman, ensure the right to take daily breaks during working hours to nurse the infant (typically 1–2 hours per day).<sup>56</sup> In Kuwait and Saudi Arabia, employers with a certain number of female employees are required to provide care facilities for young children.<sup>57</sup>

Certain provisions cover migrant workers from their countries of origin. The Philippines' SSS scheme, for example, covers maternity benefits for those who have made at least three monthly contributions within the 12 months prior to the semester of delivery (Philippines, Social Security System 2021; OFW Guide 2014). The PBBY insurance scheme for Indian workers abroad also provides maternity benefits up to 50,000 Indian rupees (India, Ministry of External Affairs n.d.).

As with all other measures discussed in this section, the measures discussed above do not extend to domestic workers, the majority of whom are women, nor workers in diverse forms of employment or residency arrangements. The limitations for these workers are discussed in the following section.

53. Zina is defined as any act of illicit sexual intercourse between a man and a woman.

54. See the legal review accompanying this paper for specifics in each country (ILO, 2023).

55. In QFC and ADGM, this applies only when adopting a child younger than 3 months old, whereas in DIFC the child may be up to 5 years old.

56. This includes provisions for: Bahrain – two breastfeeding breaks for one hour each for the baby's first 6 months, plus two half-hour breaks to care for the baby's first year; Kuwait – two hours for the baby's first 2 years subject to written request; KSA – up to one hour per day for breastfeeding; Qatar – one hour per day for the baby's first year; UAE (not mentioned in ADGM or DIFC legislation) – two half-hour breaks for the baby's first 6 months.

57. In Kuwait, employers with more than 50 female employees or with more than 200 employees in total must provide care facilities for children under the age of four, while in the KSA employers with more than 50 female employees (who have ten children or more between them) must provide care facilities for children under the age of six.

### 3.3. Variation in de jure access by migration group

Domestic workers and others in diverse forms of employment (and those with irregular residency status) generally experience limited rights with respect to social protection.



#### 3.3.1. Domestic workers

According to legislation across the GCC, emergency Across the GCC, general labour laws typically do not apply to domestic workers (whether nationals or non-nationals), meaning that employers of domestic workers are not liable for the benefits specified in legislation regulating the private sector. The one exception is Bahrain, where domestic work is covered by some select provisions in the 2012 Labour Code,<sup>58</sup> namely the articles regarding the existence of an employment contract, wage protection, annual leave and end-of-service benefits (on the same terms as other workers in the private sector). Beyond this, domestic workers in the GCC

are not covered by any of the employment legislation provisions discussed in section 3.1.

In four GCC countries (Saudi Arabia,<sup>59</sup> Kuwait,<sup>60</sup> Qatar<sup>61</sup> and UAE<sup>62</sup>), separate laws have recently been enacted to provide domestic workers (whether migrants or nationals) with some elements of labour protection, albeit with limited scope (typically for the EOSI and sick leave, where mentioned). These developments are encouraging, although provisions often fall short of those extended to other migrant workers employed in the private sector. For example, for domestic workers none of the laws provide access to maternity protection, and legislation in Saudi Arabia and Kuwait does not cover employment injuries. Kuwait does not require employers to grant sick leave, and in both the UAE and Saudi Arabia, the sick leave allowance is lower than for workers in the private sector. Similarly, for end-of-service gratuity, the allowance in Saudi Arabia and the UAE is much smaller for domestic workers compared to other migrant workers in private-sector jobs.<sup>63</sup> In Qatar, EOSI entitlements for domestic workers and other workers employed in the private sector are calculated at not

58. Law No. 36 of 2012 promulgating the Labour Law for the Private Sector.

59. Ministerial Decision No. 310 of 1434 regulates the employment of domestic workers in KSA. In February 2017, a new Ministerial Decision No. 605 of 1434 was issued permitting domestic workers to transfer between employers in certain circumstances (together with the KSA Domestic Workers Law). Domestic workers under the Domestic Workers Law includes both male and female household workers, private chauffeurs, gardeners and security guards. As announced by the Ministry of Human Resources and Social Development (KSA, MHRSD 2022; reported in English in Saudi Press 2022), the Government will soon implement a new bylaw, including very similar labour regulations to those of Ministerial Decision No. 310. The new bylaw will include improved and unified (or standard) contracts made since the end of 2017, and requires that the employer declares, among other things, the nature of the job, working and resting hours, and weekly days off.

60. Law No. 68 of 2015 (on Domestic Labour) and the associated Ministerial Orders No. 2194 of 2016 and No. 2302 of 2016 aim to remedy previous legislative gaps related to the regulation of domestic workers' affairs given they are not covered by the 2010 Labour Law (Kuwait Society for Human Rights 2018a and 2018b).

61. Law No 15 of 2017 (Qatar Domestic Workers Law) regulates the employment relationships of domestic workers in Qatar. The law defines domestic worker as an individual "who performs housework under the management and supervision of the employer in return for a wage" and provides examples of the types of occupations that would be captured by such a definition, including driver, nanny, cook and gardener. The law does not appear to provide a list of occupations in the same manner as that provided in other countries, such as UAE and KSA.

62. Federal Law No. 10 of 2017 on Support Service Workers, as amended (UAE Domestic Workers Law), affords domestic workers fundamental working rights, which previously were absent. The law applies to such individuals working at the temporary or permanent residence of their employer, including private farms, and captures 19 domestic worker occupations, including employee/worker, housekeeper, sailor, guard, shepherd, ostler, tamer, falconer, chef, nursemaid, farmer, gardener, personal trainer, private teacher, home-based caregiver, special representative, private agricultural engineer and personal driver. More recently, Federal Decree Law No. 9 of 2022 Concerning Domestic Workers was also passed, outlining further protections.

63. In KSA, domestic workers are entitled to 1 month's wage for every 4 consecutive years of service, whereas workers in the private sector are entitled to a half-monthly wage for each year of the first 5 years, and then 1 month's wage for every month of the following years. In the UAE, under Federal Law No. 10 of 2017, domestic workers are entitled to 14 days of wage per year of service, whereas workers in the private sector are entitled to 21 days' wages for each of the first 5 years of service, plus 30 days of wage for every additional year. However, Federal Decree Law No. 9 of 2022 states that "on the Minister's recommendation, the UAE Cabinet shall adopt the rules and regulations for calculation and payment of end-of-service gratuity for domestic workers". Domestic workers are included in the optional Taa-meen insurance scheme covering EOSI payments, as well as wage protection and compensation for workplace-related injuries for migrant workers in the private sector.

less than 3 weeks for every year of service but, for domestic workers, there is no requirement that this calculation be based on the worker's last basic wage (unlike for other workers in the private sector, where the requirement is stipulated in the Labour Law). In Kuwait the legislation ensures at least as generous EOSI payments for migrant domestic workers as for other migrant workers employed in the private sector.<sup>64</sup> In all four countries, the legislation requires employers to provide healthcare coverage for domestic workers, but the minimum policy requirements differ between domestic workers and other workers in the private sector.

In Bahrain and Oman, there are no specific national laws outlining social protection rights for domestic workers, but both countries have introduced new health insurance legislation with provisions that ensure coverage for domestic workers. In Oman, the new mandatory health insurance scheme (Dhamani) is expected to be extended to domestic workers in the third phase of rollout (after major corporations and unorganized workers). In Bahrain, the 2018 Health Insurance Law requires domestic workers to be covered for free by the Government (although this regulation has not yet been implemented). In Bahrain, as noted at the start of this section, domestic workers are also covered by certain social protection provisions in the labour code. Specifically, they are entitled to end-of-service benefits on the same terms as other migrant workers in the private sector.

Various unilateral measures have been taken by countries of origin to improve the situation for their citizens working as domestic workers in the GCC region. For example, Sri Lanka's Foreign Employment Act requires domestic work contracts to specify that the employer shall provide

all medical services for free. This contract must be signed by the employer at the initial stage of submission to the Sri Lankan embassy or diplomatic mission in the GCC country, before it is signed by the migrant worker at the Sri Lankan Bureau for Foreign Employment. However, Sri Lanka cannot use it as a legal document where disputes arise unless agreed bilaterally (Jayaweera and Shlala 2015). In the Philippines, the Domestic Workers Act makes the recruitment agency in the Philippines responsible for ensuring that the employment agreement covers the terms, conditions and benefits prescribed by the Act. It also makes the recruitment agency liable in the event that the expected wages or benefits are not provided by the employer in the host country.<sup>65</sup> Until the EOSI is paid, the recruitment agency is not allowed to process new hires. The Philippines has also translated these provisions under national law into a Standard Employment Contract for Filipino Household Service Workers, which is widely used by embassies of the Philippines in the GCC countries to ensure that domestic workers have access to a minimum level of social protection, namely free medical and dental services, and personal life, accident, medical and reparation insurance with a reputable insurance company in the host country (see e.g. Philippines Overseas Labour Office – Doha n.d.).

64. In Qatar, both domestic workers and workers in the private sector are entitled to three weeks of remuneration per year of service. In Kuwait, the 2015 Domestic Workers' Law provides for EOSI benefits of 1 month's wage for each year of service, whereas the 2010 Labour Law covering private-sector workers requires benefits equivalent to 15 working days for each of the first 5 years, and 1 month's wage for each subsequent year (provided that the overall total does not exceed the wage of a year and a half for workers paid on a monthly basis) (Kuwait Society for Human Rights 2018a; 2018b).

65. Republic Act No. 10361. [An Act Instituting Policies for the Protection and Welfare of Domestic Workers.](#)



### 3.3.2. Workers in diverse employment or irregular residency arrangements

A second major category of excluded workers comprises those without a standard employment contract (e.g. self-employed, temporary, part-time, seasonal or casual workers), some of whom may also lack regular residency status, which usually depends on sponsorship by a formal employer.

For workers with an irregular residency status, the gaps in social protection are most stark. In some cases, these workers may have entered the country without valid documents. However, in many cases, workers fall into this category when their residency expires after the end of a contract (i.e. “overstaying” their visa). Beyond access to emergency medical care,<sup>66</sup> they are not covered by any legal protections, since they lack any employment-based protections afforded to migrant workers employed in the private sector. In fact, because of their lack of legal residency, they may be unable to access any social protection at all.

Partly in response to this situation, flexible permits have sometimes been used to regularize migrant workers' status on a self-sponsored basis. The most formalized scheme of this nature was the flexi-permit system adopted in Bahrain in 2017. This was intended for workers of either irregular or regular status who were victims of unpaid wages and had filed a complaint in the labour court (Migrants & Refugees, n.d.). The scheme gave migrant workers the possibility to self-sponsor their stay in Bahrain, although the conditions to qualify were strict and the fees high, making it prohibitive for low-wage workers (Migrant-Rights.org 2022a). In December 2022, the government of Bahrain replaced the flexi-permit with the 'labour registration program', stating it incorporates key lessons learned and prioritizes alignment with the country's Economic Vision 2030. This programme is open to all Flexi-permit holders and those without valid work permits currently residing in the country.<sup>67</sup> To enhance accessibility, the Government accredits private companies who can then act as labour registration centres where migrant workers can apply for a “vocational work permit” to be employed (without a sponsor) in a registered profession (LMRA, 2023).

COVID-19 also prompted flexible work arrangements. In the UAE, new labour legislation expanded

the range of migrant work permits available, including for freelance work (KPMG 2022). New freelance visa schemes target migrant workers in such professions as media, consultancy, communication and marketing, among others (Abbas 2022).

Ultimately, while flexible permits give migrant workers the right and freedom to move between employers or work for several different employers at once, they effectively place them in a situation of self-employment, bearing the full responsibility, risk and economic burden of complying with insurance and permits. This is especially problematic from a social protection perspective, given that the already limited social protection provisions for migrant workers in GCC countries are financed by individual employers, and there are no clear frameworks to extend these to migrant workers who are effectively self-employed.

Protections are similarly weak for migrant workers engaged in part-time, temporary, casual or seasonal work, even in the few cases where migrant workers in the private sector are covered by social insurance provisions. The only exception is Saudi Arabia, where part-time, temporary, seasonal and casual workers are, reportedly, covered by employment injury provisions. Even where private healthcare coverage is mandated for migrant workers, the same requirements do not apply to those in diverse employment. However, workers may still voluntarily participate in insurance schemes (or may be required to do so by their country of origin) (ILO 2021e).

A final sector which requires attention is the growing “gig” economy (Kantaria 2021). Unlike in many other parts of the world, gig workers in GCC countries are, in general, not self-employed because of the limitations with self-employment status that derive from the kafala system. Rather, these workers need to be sponsored and employed by an entity in the GCC. Usually, that entity has been contracted by the original gig platform. For example, Uber drivers must be sponsored by a local limousine company in the UAE. That company is officially their employer, and is responsible for adhering to the terms and conditions of the Labour Law (including social protection provisions). In practice, however, it appears that such conditions are often not adhered to (see section 4).

66. Emergency care is, de jure, free for workers regardless of their migration status across the GCC.

67. Workers with absconding charges, criminal offenses or in violation of their contracts are not eligible.

### 3.4. Key enablers of enhanced de jure coverage

This section considers the factors that have enabled improvements in the legal provisions covering migrant workers, drawing on the insights of key informants and the literature. Several factors were identified as potential enablers of increased political action and reforms to strengthen de jure coverage, including: (1) emerging channels for migrant worker representation and advocacy; (2) international attention and commitments; and (3) to a somewhat lesser extent, the COVID-19 pandemic.

#### 3.4.1. Emerging channels for migrant worker representation and advocacy

Although freedom of association has been and continues to be constrained in the GCC context, recent developments in engagement platforms have facilitated discussion regarding the improvement of labour conditions of migrant workers. While these cannot substitute for true freedom of association or collective bargaining mechanisms, key informants highlighted the potential role of emerging channels for representation and advocacy, including the establishment of workers' networks, the diplomatic missions of origin countries and multilateral frameworks of cooperation.

For example, Qatar issued a decree allowing the establishment of joint committees of employee-elected representatives and employers or managers in companies with 30 or more employees to discuss workplace issues, including potential access to social protection provisions (ILO and Ministry of Administrative Development, Labour and Social Affairs of Qatar 2020). A representative from the Ministry of Labour noted that there is keen interest in understanding how provisions can be developed to comply with best practices, with the Ministry signing agreements with countries (e.g. the Netherlands) to learn from their experiences. So far, 71 joint committees have been set up, with 613 workers participating (representing over 40,000 employees) (ILO Qatar 2022). Key informants from civil society regarded these committees as an important initiative, but emphasized that they should not be equated with any kind of trade union movement and noted that it was too soon to assess their impact on policy or practice. These assessments echo reflections documented in the literature (see Aboueldahab 2021).

Key informants from Oman and Kuwait also noted the growing potential of trade unions to facilitate representation. A key informant from the Kuwait Trade Union Federation (KTUF) noted that the KTUF now has over 50 agreements with trade union federations in other countries. Recently, they signed a protocol with the Ethiopian federation to represent Ethiopian workers in Kuwait. In Oman, some diaspora organizations have reportedly been collaborating with trade unions, which allow them to raise issues and interact with agencies like the ILO and IOM. In November 2022 a conference on social protection organized under the patronage of the Ministry of Labour (MoL) with the participation of the international confederation of domestic workers helped keep the issue of domestic workers' social protection under the spotlight. A key informant noted that international trade union organizations such as BWI are now setting up worker liaison networks in some parts of the GCC, which could open up new spaces for dialogue. In Qatar, for instance, BWI, along with the ITUC, the ITF, the IDWF and UNI Global, work with migrant worker networks and leaders. These global trade unions also liaise with the MoL to hold periodic forums with community leaders to exchange views between the Ministry and migrant worker groups and networks. These positive developments lie in contrast with the general picture of weak mechanisms for the formal representation of migrant workers (see section 3.5.3). With the exceptions of Bahrain and Oman, across the Arab States migrant workers are excluded from trade union representation by law (ILO n.d.(a)).

Several stakeholders also noted the role of diplomatic missions and countries of origin in negotiating improved legal coverage for workers from their countries. For example, key informants working in the GCC region noted that the regulations set by the Philippines tend to ensure greater protection for Filipino workers than for other nationalities. The importance of consular advocacy was also recognized by other key informants; one informant in Bahrain discussed the need for embassies to lobby for life insurance for flexi-workers, noting that, in the absence of such insurance, the embassy is often asked to cover the costs of repatriating deceased workers.

At the international level, several key informants recognized that intercontinental dialogue mechanisms, such as the Abu Dhabi Dialogue, are playing a growing role in negotiating better social

protection and labour rights for migrant workers. One key informant in Bahrain noted that social protection still has insufficient traction among GCC countries at the Abu Dhabi Dialogue, but that there is scope for such rights to be promoted more actively.

### 3.4.2. International attention and commitments

While not sufficient in their own right to secure expansions in de jure coverage, several key informants noted that international commitments, frameworks and attention play a role in improving rights for migrant workers. Often, though, international attention has focused more on recruitment practices and workplace conditions rather than on social protection per se. A representative of the Government of Oman outlined the process to revise and update Omani legislation as part of Vision 2040, which aims to improve the standing and reputation of Oman by following international standards. Other key informants pointed towards international Conventions in helping to build the case for legal reforms – even if GCC countries do not actually ratify those Conventions. One example cited was the Domestic Workers Convention, 2011 (No. 189), which has not been signed by any of the GCC countries, but was felt to have been part of the momentum behind revised laws on domestic workers in Saudi Arabia (2013), Kuwait (2015), Qatar (2017) and the UAE (2017), all of which contain references to social protection.

Similarly, key informants noted the potential for international review mechanisms to be used to promote effective policy change, although this needs to be linked with effective implementation mechanisms to produce changes in practice. Such mechanisms include UN special procedures, such as the Universal Periodic Review, as well as the ILO supervisory system, which was recently activated in the case of Qatar and resulted in the establishment of the ILO Qatar Technical Cooperation Programme (ILO 202b).

Other key informants noted the impacts that can follow heightened global attention. For example, in the build-up to the FIFA 2022 World Cup international public concern about workers' rights in Qatar became a contributing factor behind the Government's actions to strengthen frameworks to monitor and enhance the working conditions of migrant workers. Labour reforms over the last 4 years in Qatar now give way to a consideration of social protection.

There has been some attention on delayed or denied payment of wages and EOSI benefits, and the need to improve the situation by strengthening complaints mechanisms. International attention on the issue of accidents in the workplace is also opening space for reconsidering employment injury compensation.

►► International attention on the issue of accidents in the workplace is also opening space for reconsidering employment injury compensation.

### 3.4.3. COVID-19

In 2020, the COVID-19 pandemic saw the temporary extension of some forms of social protection to migrant workers in a number of GCC countries, as well as other forms of labour-related protections such as wage guarantees and amnesties for migrant workers overstaying their visas or unable to extend their work or residence permits because of lockdowns.

68. Important progress has been made on improving the freedom to change jobs, adopting a non-discriminatory minimum wage and monitoring non-payment of wages, legal protection against heat stress, establishing new complaints mechanisms, and creating joint worker-management committees (ILO 2022c). However, as some stakeholders have noted, important challenges remain in the implementation of reforms (ILO 2022c).

#### ► **Box 4. Recent changes in social protection in response to the COVID-19 pandemic**

As in other regions of the world, the outbreak of COVID-19 saw GCC governments rapidly expand some forms of social protection. Yet, the level of protection made available for migrant workers was largely viewed as inadequate to fully address the economic impacts of the pandemic on this group, who were identified as among the most vulnerable (Amnesty International 2020; Ahmed 2021; UN 2020; ILO 2020b). Broadly speaking, while COVID-19 medical care provisions included migrant workers in most countries (including those of irregular status), social assistance and wage and job protection measures were limited for migrant workers. Out of 162 governmental social protection responses mapped in 20 MENA countries, only 15 per cent guaranteed some form of access for non-nationals (Sato et al. 2021).

#### **Access to COVID-19 medical care**

COVID-19 treatment and vaccinations were available to all workers, including those in an irregular situation, in Bahrain, Saudi Arabia and Qatar (Sato et al. 2021; ILO 2023a). Free tests, treatment and vaccinations were also available in Bahrain and the UAE (Bahrain MOH 2020; Sato et al. 2021). In Oman, migrant workers covered by health insurance benefitted from expanded medical care benefits, including free COVID-19 tests and treatment, while the Government funded treatment for migrants without insurance or a sponsor (Sato et al 2021; ILO 2023a).

#### **Social assistance**

Very little social assistance was extended to migrant workers during the pandemic. In Kuwait, the Government provided emergency cash (or in-kind assistance) for some migrant workers, funded by a national campaign, including ministries for social affairs and labour, as well as national charities and the state-affiliated Zakat Fund. In the UAE, the Al Meer initiative (led by the Ministry of Community Development and the Ministry of Economy) reportedly provided 12,000 vulnerable families and migrant workers with essential food supplies (Sato et al. 2021). Food transfers were also reportedly provided to migrant workers in Saudi Arabia, Oman and Kuwait (Gentilini et al. 2022). Otherwise, newly unemployed workers who were unable to return home were provided with lodging and food in Qatar and in the UAE, and migrant workers were included in programmes suspending electricity and water bills in Bahrain and Saudi Arabia (Gentilini et al.

2022; ILO 2023a). In addition, initiatives were put in place by certain origin countries. While much of the evidence relates to support for workers' repatriation flights, some governments, such as the Philippines, created an emergency fund to provide payments to Filipino workers in the host country, applicable to workers in both formal and informal employment (ILO 2020b).

#### **Wage and job protection**

Meaningful protection of migrant workers' wages and employment contracts was limited during the pandemic. Where furlough programmes applied to private-sector employees, these were limited to citizens only (Bahrain, Saudi Arabia and Oman). Nonetheless, other measures attempted to maintain private-sector workers' wages and employment and also covered migrant workers ILO (2023a). For example, in Saudi Arabia, employers were required to use paid or unpaid leave or reduce pay (instead of terminating employment) and grant additional paid sick leave to workers requiring quarantine and those at high risk. In the UAE, private-sector companies were required to register their redundant workforce (including migrant workers) in a "virtual labour market" so that other companies might hire them, and were encouraged (not mandated) to minimize redundancies. Migrant workers in Oman could agree on a salary reduction or take paid leave, and employers could terminate migrant workers' employment only if they were permanently leaving Oman and were being paid out in full. In Kuwait, companies were permitted (but not required)

to place migrant workers on paid leave, and the Government selectively used the guaranteed money deposited by employers at the time of visa application to pay those employees who had not received their salary. Companies in Qatar were able to terminate workers based on existing labour laws, although migrant workers were still entitled to their wages when quarantining. The Government created a fund of over \$US800 million to support companies to fulfil this obligation (Sato et al. 2021). Qatar also offered financial assistance for companies to avoid laying off staff (see ILO 2021f). Several countries also waived residency renewal fees and allowed more flexible term for rehire migrant workers. Despite these official measures, many instances of non-compliance were reported (Sato et al. 2021; Vital Signs Partnership 2022b).

While many pandemic measures were temporary, the urgency with which they were approved and implemented offers a basis for discussion around the need to extend social protection more generally to this group. In Oman, a government representative drew a link between the COVID-19 experience and forthcoming plans to shift from the EOSI system to an employer-funded provident fund, since employers faced the burden of paying EOSI during the pandemic.

However, the pandemic also allowed some divergent views of migrant workers to emerge, in some cases stalling progress on extending legal protections to them. On the one hand, some people called for increased regulation of the migrant workforce, notably in relation to the “shadow” (i.e. informal) economy, which uses workers trafficked without documents or protections (Yee 2020). On the other hand, migrant workers played an essential role in keeping supply chains and basic services active during lockdowns, leading others to express support. Generally, though, the pandemic reinforced xenophobic and discriminatory discourse, potentially undermining efforts to expand migrants’ rights and protections. For example, migrant workers were incorrectly perceived as spreading the disease, partly because of the high rates of infection in their often cramped and unsanitary accommodations (Yee 2020; Abueish 2020; Alsahi 2020).

Thus the pandemic spurred a new wave of workforce nationalization concerns, which may have

mixed effects on migrant workers’ rights (Alsahi 2020). Government revenues were depressed by closures of many key sectors, such as tourism, aviation, retail and construction. Combined with a fall in oil revenue, this led some to argue that newly unemployed citizens must be prioritized for private-sector jobs ahead of migrant workers (Alsahi 2020). Such workforce nationalization initiatives could detract from efforts to advance migrant workers’ rights if narrowly focused on improving provisions for citizens. However, historic gaps in social protection coverage for migrant workers could be filled if calls for strengthening private-sector legislation result in general improvements in entitlements for private-sector employees, including nationals and non-nationals.

### 3.5. Key barriers limiting the extension of de jure coverage

While there are visible moves to extend social protection to migrant workers, several barriers hinder progress, including: (1) the inherent design of the sponsorship-based migration system in the GCC; (2) the challenging political economy evident in the region; and (3) the limited representation and bargaining power of migrant workers.

#### 3.5.1. Design of the migration system

Perhaps the main structural factor limiting migrant workers’ de jure access to social protection has been the kafala system – the primary framework that has governed migrant workers’ rights and conditions in GCC countries for many decades (Kagan and Cholewinski 2022). Under kafala, a migrant worker’s immigration and legal residency status is tied to an individual sponsor (*kafeel*). Sponsorship conditions largely prohibit the worker from entering or leaving the country, resigning or changing employment, without first obtaining the employer’s explicit permission (ILO Regional Office for the Arab States 2017). This is different from most other sponsorship regimes, in which only the migrant worker’s employment status is determined by the employer at the time of entering the country. Other kinds of system typically offer more flexibility for workers to change employers without losing their immigration status. In the GCC countries, however, the specific characteristics of kafala mean that the worker is effectively bound to their employer (ILO 2023a).

The power imbalances and unequal distribution of responsibilities built into the kafala system have shaped the social protection paradigm in the GCC (Calabrò 2021; Mlambo and Zubane 2021). Sponsorship conditions have created labour market segmentation, whereby the dual social protection system provides no equality of treatment between nationals and migrants. Moreover, the sponsorship system reinforces the notion of social protection as an employer-provided benefit, as opposed to a worker's right. This minimizes the State's direct liability for migrant workers' protection and, instead, places financial and legal responsibility on each employer. It also entrenches an individually financed approach to social protection (employer liability) that does not allow for solidarity across workers, employers and sectors, hence falling short of international social security standards. The sponsorship system creates a certain asymmetry in labour market relations, in which there is limited ability for workers to claim rights, low levels of enforcement of labour laws and inefficient compliance mechanisms.

In terms of perception, the kafala system has led to the belief, among GCC citizens, governments and employers alike, that migrant workers only come to the GCC region temporarily for individual employment,<sup>69</sup> rather than understanding that migrants often uproot their lives, raise their families and integrate long-term into the host country.<sup>70</sup> Key informants repeatedly noted that the common view that migrant workers are not permanently rooted in the GCC region has prevented the extension of social protection measures that would otherwise support workers to raise their families in the region (e.g. maternity benefits<sup>71</sup>) or contribute to unemployment insurance or pension systems.

The kafala system is starting to be reformed, with particular steps taken to increase worker mobility in Qatar and, to a lesser extent, in Saudi Arabia, Bahrain and the UAE (Kagan and Cholewinski, 2022). In Qatar, all workers including domestic workers can unilaterally terminate their contract (with notice) during the contract period. Countries including Bahrain and Saudi Arabia have similar provisions for workers who have finished one year of employment (but not domestic workers). Both countries have also experimented with "flexible" employment permits for freelance work. In the UAE, workers can also unilaterally terminate with notice but only if they show "legitimate reason". In Saudi Arabia, reforms came into effect in March 2021. Workers covered by the Labour Law can change employers after 1 year of service and can also leave the country without the employer's permission, subject to certain conditions. However, since domestic workers are not covered by the Labour Law, they are not covered by the reforms. In other countries, planned changes have not been characterized as so far-reaching, but are nevertheless shifting the nature of the employment relationship. For example, in 2017 Bahrain introduced flexible permits (since cancelled), and the UAE has an option for "skilled" migrant workers to enter into more than one employment relationship, including freelancing (see Kagan and Cholewinski 2022, and Annex 2 of ILO 2023a).

The implications of kafala reforms on social protection architecture and workers' entitlements have, largely, not yet been addressed. Gaps in social protection provisions remain under the new labour model, with workers still largely unprotected by state mechanisms and, in some ways, left facing new risks and vulnerabilities associated with new forms of work

69. This perception is also reflected in the terminology used by GCC governments. The Arabic term for migrant workers translates into English as "incoming workforce", thus avoiding any insinuation of long-term migration (which is implied by the strict translation for migrants in Arabic). In the Abu Dhabi Dialogue, the official terminology for migrant workers is "temporary contractual workers".

70. Temporary contracts are closely monitored, with strict immigration enforcement mechanisms to ensure that migrant workers leave at the end of their sponsored contract period (Aarthi and Sahu 2021).

71. The lack of maternity rights for domestic workers was explained by several key informants as being rooted in the expectation, across the GCC, that domestic workers are not to become pregnant during their contract as they are contracted as single women, and extra-marital sex is considered unlawful. If the pregnancy is discovered, the worker risks breaching their contract, and will likely be dismissed.

and increasing labour mobility. The ability to switch employers is likely to lead to periods of unemployment for migrant workers, which increases the need for unemployment support (Rutkowski and Koettl 2020).

The reforms have prompted a need to rethink the social protection provisions available to migrant workers. Most significantly, the few existing protections in place for migrant workers (notably EOSI benefits and employer-liability health insurance) were conceived for single-employer, single-contract arrangements. The challenge now is to adapt these systems to preserve and combine entitlements across multiple employers.

### 3.5.2. Political economy challenges

Apart from structural barriers, another clear challenge hindering the extension of social protection rights to migrant workers is the limited political will to make the necessary reforms. Such gaps in political will are evident among citizens, the State and the private sector – albeit for different reasons.

GCC citizens tend to have relatively little interest in improving social protection in the private sector since they are mostly interested in public-sector employment.

*Public employment for GCC citizens is at the core of the social protection system. GCC governments use public employment, together with implicit subsidies in the form of high wages, as a mechanism to distribute national wealth among its citizens. ... GCC citizens are less inclined to accept private-sector jobs since public-sector employment, in combination with a range of other social benefits, is an integral part of the social contract of GCC countries. (World Bank 2018: 8)*

As a result, there is a complex interplay between public-sector employment and social protection systems across GCC countries. According to Van Ginneken (2013: 210), “countries of destination restrict access [of migrants] to social benefits, partly to discourage immigration and partly to maintain the national social cohesion that is

the foundation of national welfare states”. While recent reforms in Oman indicate the potential for social protection systems to become more inclusive in both the public and private sectors, any exclusive focus on reforming the private sector is not in high political demand.

Furthermore, where social protection benefits have been extended to migrant workers on the same terms that citizens enjoy, this has generated some degree of public opposition. In Bahrain, nationals expressed discontent on social media during the pandemic at the idea that migrant workers might access unemployment benefits (Migrant-Rights.org 2020b). Such public reactions seem to indicate a low level of awareness that migrant workers have contributed to the unemployment insurance fund for many years (although de facto access to such benefits before and during the pandemic appears to have been negligible, as discussed further in section 4.1).

From the perspective of employers, the easy access to low-wage labour has created little incentive to push for reforms. In general, the immigration policies pursued by GCC countries have generated incentives for firms and entrepreneurs to focus on low-wage, labour-intensive activities that produce high, and relatively secure, profits. GCC citizens are not incentivized to work in the private sector, and this is reinforced by employers’ preference for cheap migrant workers who are more motivated to work since they are dependent on their employer for a valid visa (World Bank 2018). Improved protections for migrant workers across the board could lead to greater productivity and economic benefits for employers (see ILO 2021b; 2021d; 2021e). However, several key informants noted that employers are often averse to actions perceived as making businesses less competitive in the short term, especially schemes that would require employers to contribute to government social insurance systems, or those that might be indirectly financed through increased corporate taxes.

Efforts to reduce dependency on “low-cost” migrant workers are also hindered by the assumption among some government officials that cheap labour contributes to national competitiveness and growth (World Bank 2018). Moreover, strong links between public- and private-sector leaders, as well as the lack of trade union representation, mean that the Government may be particularly cognizant of and responsive to employers’ concerns. Combined with the few platforms for social dialogue that covers migrant workers’ interests, decision-making can easily skew towards employers’ interests and away from those of migrant workers.

That said, there is also growing recognition among governments and certain employers that the economic model in the region is not sustainable in the long term (Mishrif 2018). This has resulted in increasing initiatives to shift from the current labour-intensive model dependent on low-wage migrant workers to a capital-intensive model which is more heavily based on a knowledge economy. Realising this transition will require highly-educated international talent, which in several cases is already resulting in new measures to attract and retain high-wage migrant workers (Gagnon and Gagnon 2021; Khadi 2018). Many such measures have initially focused on providing more favourable and stable terms of residency, such as the Golden Visa programmes in Bahrain, the UAE and Saudi Arabia. In future, though, it is likely that social protection will become increasingly prioritized as a mechanism to remain a competitive destination for highly-educated migrant workers.

To date, however, there has generally been little impetus for GCC governments to prioritize migrant worker concerns over other labour reform agendas, especially in view of possible reactions of the public or corporations. Other labour market concerns have tended to take precedence, not

least the growing levels of unemployment among nationals, and the oversized public sector. These concerns have resulted in a “workforce nationalization” push across the GCC to try to increase citizens’ employment in the private sector. As a result, private-sector reforms have explicitly aimed at reducing dependency on migrant workers while improving employment rates in the private-sector. This has led to a focus on conditions specifically for GCC nationals, rather than on simultaneously enhancing private-sector conditions for all workers, including migrant workers (World Bank 2018; Alsahi 2020).<sup>72</sup> As Alsahi (2020: 1) notes, this results in “a question of how to strike a balance between the implementation of workforce nationalization policies while reducing the harm on migrants, in view of the current lack of adequate governance structures, social protection mechanisms, and solidarity networks”.

These tensions between the employment concerns for nationals and non-nationals were also observed by some key informants. One key informant noted heightened attention on the employment of national workers in the lead-up to and following the pandemic, with limited focus on migrant worker’s interests: “During COVID, about 80,000 workers lost their jobs ... So, the main concern has been to find jobs for national workers. And I don’t think that migrants are in their preference lists”.

Ultimately, these ideas, interests and incentives among key stakeholders have thus far resulted in maintaining the status quo of the political economy. This has hindered more rapid and comprehensive progress on the expansion of social protection rights for the migrant workforce in the region.

72. Examples include Saudi Arabia’s Nitaqat employment system that “sought to incentivize local companies to employ Saudi nationals and absorb more Saudi jobseekers. This was unprecedented in its size and scope and applied to all firms in the private sector with ten or more employees, thus affecting 6.3 million Saudi and expatriate workers. The programme was later modified in 2016 to become part of the Crown Prince’s Saudi Vision 2030. ... Omanization is implemented in the framework of the long-term national development strategy ‘Vision Oman 2020’, which outlines the diversification of the national economy over a 25-year time frame. The plan aims to overcome the country’s heavy reliance on energy revenues by boosting the private sector, as well as training and increasing the employment of the national labour force. To hire migrant workers, companies need labour clearances that they can only receive if they comply with the Omanization pre-defined quotas for their sector” (Alsahi 2020).

### 3.5.3. Limited representation and bargaining power

As noted, a major constraint on progressive policy reform in the GCC countries continues to be migrant workers' limited representation and bargaining power. Freedom of association is already heavily restricted in much of the region,<sup>73</sup> and channels for representation of migrant workers' interest are particularly limited. The few examples of emerging representation and advocacy mentioned in section 3.4.1 are both tentative and limited in nature, meaning that migrant workers' ability to organize and engage in collective action remains minimal. This point has been noted by Babar (2013), Aarthi and Sahu (2021), Aboueldahab (2021) and Equidem (2021), who argue that migrant workers are excluded from the social contract. For example, Babar (2013) finds that the "privatization of migrant governance" by the kafala system prevents migrants from using bargaining mechanisms to exercise their rights and entitlements. Where labour or social movement organizations relevant to migrant workers are permitted to operate, they do not always prioritize social protection as a core "ask". Instead, they tend to focus more on improvements to the human and labour rights of migrant workers (e.g. see Aboueldahab 2021).

Such constraints were repeatedly raised by key informants in our research. For example, several key informants noted migrant workers' restricted ability to organize and advocate for their rights:<sup>74</sup> "Another challenge I feel is the right to associate. If you are a group of migrants and you're meeting, in the next minutes, the police is there. They interrogate us as if we're doing something wrong".

In many countries, social or community clubs are permitted, but they are closely regulated by the Government, including requirements to inform the Government of meetings and request permission before conducting programmes or inviting anyone

from outside the country. These clubs are not supposed to work on migrant welfare issues, and while they may sometimes raise migrant workers' concerns, they are well aware that they should not resemble anything akin to an organized union.

Migrant workers may also be hindered from raising their concerns in any significant manner through national trade unions and civil society organizations, because of the restrictions to freedom of association, limited independent activities of those organizations in the GCC context and limitations of "real" representation of migrant workers' issues within them. As suggested by one key informant, "In the Gulf states you don't have trade unions or, where you will have them, they are very weak, or they are there for the locals. You'll see a lot of the work being done for the locals. It's not that they are fighting tooth and nail for the migrant workers".

In terms of governmental representation, there can be restrictions on the ability of countries of origin to push for more comprehensive reforms, including in migration governance forums. Although some researchers have noted the potential for countries of origin to use the prominence of their migrant workforce as leverage to negotiate for better protections (e.g. the Philippines) (Malit and Tsourapas 2021), the bargaining power of countries of origin may in many cases be relatively limited. Aarthi and Sahu (2021) note the strong economic interests of countries of origin to ensure emigration opportunities and subsequent remittances from the large numbers of citizens seeking better or higher-paid jobs than may be available in their home country. These economic concerns often carry strong weight in the complex factors influencing diplomatic relations, and can limit the possibilities – and political impetus – to negotiate improved protections.

73. Trade unions are not explicitly prohibited in Saudi Arabia but they do not exist in practice. However, the Labour Law permits the establishment of worker councils, but for Saudi nationals only (ILO 2021d). There are still no independent trade unions in the UAE. However, the Government has granted some professional associations limited freedom to raise work-related concerns, lobby the Government for redress, and file grievances (ILO n.d.(b)). Although worker committees are permitted at establishments in which the number of Qatari workers is 100 or more, only Qatari workers may join. Joint Committees can be established in companies employing 30 or more workers. Migrant workers may only join these joint committees, which are committees at the enterprise level that include equal numbers of worker and management-level representatives. The worker representatives are selected by the workers through direct election (ILO 2022e).

74. It is worth noting, however, that citizens also face restrictions on their freedom of association in most GCC countries, meaning this challenge is heightened for, but not exclusive to, migrant workers in this context.





## ► 4. De facto social protection coverage of migrant workers

While legal coverage is a key step in ensuring social protection coverage, the impact of legislation is limited if it does not translate into effective access in practice. This chapter focuses on the implementation of the de jure provisions that were discussed in Chapter 3. Section 4.1 looks at regional trends and section 4.2 discusses variations by migrant group. Finally, the key factors enabling or limiting de facto access to social protection are discussed in section 4.3.

### 4.1. Extent of access in practice

There are no quantitative data available to comprehensively assess the extent of de facto access to social protection for migrant workers in the GCC region. The available statistics are typically limited to country-specific independent studies conducted on an ad-hoc basis by NGOs and academics. It is challenging to access a representative sample of migrant workers in GCC countries for quantitative research, meaning there is a clear need for representative, robust and impartial research to form a clearer picture of de facto social protection coverage of migrants working in this region.

Much of the independent analysis that has been conducted has instead relied on smaller-scale, qualitative research, which aims to understand the perceptions and behaviours of migrant workers and employers, allowing for in-depth insights rather than representative statistics. The key informant interviews conducted for this report were similarly qualitative in nature, serving to explore untheorized terrain (see annex).<sup>75</sup>

Based on both the earlier literature and on the key information interviews conducted for this report, there appears to be substantial gaps in effective access to social protection for migrant workers in the GCC countries. The rest of this section offers

insights on de facto access to benefits to which migrant workers are legally entitled as outlined in section 3.<sup>76</sup>

#### 4.1.1. Access to legal entitlements



##### Access to medical care

De facto access to healthcare is far from universal, but registration in private insurance or government health systems appears to have improved significantly over the last decade. For example, a 2009 study of over 400 Nepalese migrants who had worked in the UAE, Qatar and Saudi Arabia found that only 37 per cent were insured for health services,<sup>77</sup> and a representative survey of over 1,000 low-income migrant workers in Qatar in 2012 found that 56 per cent of workers lacked the government health card that employers were mandated to provide (Joshi et al. 2011; Gardner et al. 2013). However, more recent studies have generally shown higher rates of coverage. According to an original survey undertaken by the Egyptian Ministry of Social Solidarity (forthcoming) and focused on Egyptian returnees from GCC countries, 60 per cent of the 3,543 respondents had access to medical care from their employer. In Qatar, Ewers et al. (2020) found that 69 per cent of manual workers in Qatar had a medical insurance card.. In Saudi Arabia's 2018 Household Health Survey, 78 per cent of the non-Saudi population had private health insurance (Saudi Arabia, General Authority for Statistics 2018). However, this non-Saudi average included nationals from other GCC countries (as well as non-GCC nationals), and coverage was below 70 per cent in several governorates (Kuncic and Sosa Andrés 2021). An April–June 2020 survey of 119 migrant workers from the Philippines, Egypt and Pakistan in Jeddah and Dubai found that 77

75. Quantitative data is currently being collected for this project to complement insights from key informants.

76. This means that the section below does not cover old-age, family, disability and survivors' benefits (beyond those required by other health/employment injury/end-of-service provisions), since migrant workers generally do not have the legal entitlement to these benefits under GCC country legislation.

77. At the time of the study, employer-funded insurance or health card provision was already mandatory in Saudi Arabia, Qatar and Abu Dhabi (but not across the UAE as a whole).

per cent had health insurance, but the survey comprised mostly highly-educated migrant workers, so likely overstates coverage among the migrant workforce as a whole (Alsharif and Malit 2020). In Dubai, a 2022 study suggests that low-paid migrant workers do now tend to be covered by a health insurance policy following the mandatory requirement introduced in 2013 (Malaviya et al. 2022). This echoes results in Abu Dhabi, where a 2012 study found that 95 per cent of the population were enrolled in one of three insurance plans (the *thiqa* plan for nationals, and the enhanced and basic plans for non-nationals), following the 2005 law that requires employers to pay compulsory private health insurance for non-nationals (Koorneef et al. 2012).

Even if migrant workers are covered on paper by a health insurance policy, this does not necessarily translate to access to medical care in practice. A recent survey of over 1,100 low-paid migrant workers in Kuwait found that around 40 per cent struggled to access healthcare when needed (Vital Signs Partnership 2022a). Low levels of healthcare access was found to be similar in other GCC countries. Furthermore, the survey showed that – unlike for high-paid migrant workers and citizens – increased rates of health insurance coverage did not translate into any substantial increase in health service utilization for low-paid migrant workers in Dubai (Malaviya et al. 2022). This was related to wider challenges with scheduling, transport and logistics, cultural and language barriers, health literacy, coverage awareness and difficulties seeking approval from the employer to attend appointments. Similarly, in Abu Dhabi, nationals made an average of 14 claims per year, whereas “basic” insurance-holders (typically low-paid migrant workers, who constitute the majority of the population) made only three claims per year on average, in part because they had to pay co-payments at a much higher rate than UAE nationals (Koorneef et al. 2012). A recent study from Qatar reported cases where migrant workers were not taken to hospital by their company unless they had a serious illness, and even then migrant workers reportedly faced discriminatory treatment and further obstacles to access entitlements (Equidem 2022).

These gaps in treatment quality have also been documented in the wider literature. For example, in the survey of 1,101 low-income migrant workers in Kuwait, nearly half reported experiencing

discrimination when seeking access to medical care (Vital Signs Partnership 2022a). In December 2022, the Ministry of Health in Kuwait imposed on migrants a flat fee of 5 dinars when collecting prescribed medication at primary health clinics and hospital emergency rooms, and 10 dinars at outpatient clinics. These fees are imposed in addition to the consultation fees that migrant patients must pay for public health services (2 dinars at polyclinics and 10 dinars at outpatient clinics, as well as laboratory, in-patient care and radiology fees that migrant patients must pay when availing of public health services). The new fees are expected to discourage low-wage earners from accessing basic health services, and have been labelled by Migrant-Rights.org as representing “yet another discriminatory obstacle to accessing healthcare for the vast majority of Kuwait’s population, specifically low-wage earning migrant and domestic workers” (Sadliwala 2023: 1).

However, there are some more promising cases documented in the literature. For example, in a study by the Sri Lankan Centre for Women’s Research, 38 out of 40 domestic workers who had returned from a GCC country, Jordan or Lebanon had obtained health insurance for their employment as mandated by the Sri Lankan Bureau of Foreign Employment (Jayaweera and Shlala 2015). Some 31 workers said they had received medical treatment for an illness or injury while employed, and they generally received satisfactory healthcare that was equal to, or better than, the treatment they would have received in Sri Lanka. All but one respondent reported that healthcare was arranged by the employer, although it was not clear to what extent the health service or insurance costs were deducted from the workers’ salaries.

These mixed findings on de facto access to health coverage were often mirrored in the interviews conducted for this report. On the one hand, there were several negative accounts, such one by a representative of civil society who commented, “Honestly, the legislation includes healthcare, end of service, etc., but in practice it’s non-existent”. Another key informant who worked as a representative of a diplomatic mission explained that, in practice, not all workers are covered by health insurance, some are not allowed to go to the hospital by their employers, while those who are able to go generally have little information about what treatments they can access. However, informants

also provided accounts with more positive elements. One in Kuwait noted, “If you’re sick, you can go to the public hospital for treatment and my insurance also covers going to a private hospital. I get to have a good medical treatment. However, speaking for the community, many of them ... have public healthcare services, but they do not have the medical insurance”. One key informant in Qatar summarized that “in Qatar, access to healthcare is really good”, while another in Bahrain said, “I must say they [migrant workers] are well covered [for healthcare]”. However, several others disagreed, highlighting deficits concerning health coverage. In the UAE, a key informant praised the scope of the health services, affirming, “From my experience, it covers practically everything”. In Oman, where private health insurance for migrant workers is not yet mandatory, it was noted that some employers already pay for insurance on a voluntary basis, and others pay “out of pocket” for their workers’ healthcare or establish a deal with a private clinic to treat its workers in case of need. Positive accounts often referred to access to health prior to the recent reforms that introduce private insurance.<sup>78</sup>



### Sickness benefits

There is far less research on de facto access to sickness benefits but the evidence available suggests that many migrant workers are not consistently granted paid sick leave, despite their legal entitlement to it in all GCC countries. For example, in the 2009 study of returned Nepalese migrants from the UAE, Saudi Arabia and Qatar, half of those not seeking treatment (49 per cent) reported that lack of sick leave was a barrier for accessing health services (Joshi et al. 2011). In Qatar, migrant workers were threatened by their managers when asking to take sick leave, with the manager either handing them a warning letter or verbally threatening them to terminate their contract (Equidem 2022). In the interviews conducted for this report, several key informants noted that time off for sick leave is often not given, and when it is granted, the employee risks losing their wages. For example, one interviewee commented that “a lot of workers we speak to will complain that they do not either get sick leave ... or they don’t get paid the correct

amount if they take sick leave, which then becomes a disincentive to actually seek it”.



### Employment injury benefits

Trends for employment injury benefits show that de jure provisions are frequently not respected, because of both a lack of awareness and neglect, with provisions often only being observed when they are not too onerous on the employer. For example, in a 2018 survey of 173 employers of domestic workers in Kuwait, nearly 1 in 4 employers stated that they did not compensate the worker for an injury suffered at work (Kuwait Society for Human Rights 2018b). In the interviews conducted for this report, a key informant estimated (anecdotally) that around four in five migrant workers were not paid for employment injuries, while another noted that “with respect to worksite accidents, there are companies who are doing perfectly. [And] there are many [who aren’t]”. Meanwhile, another key informant had observed “many cases where workers have been injured in the workplace and they have not been able to get the necessary compensation very often”. A key informant commented that if injury leads to disability or complications that make the migrant worker unfit to work, the employer might pay the EOSI to the employee, who, at that stage, has to leave the country. But payment of employment injury compensation was rare in their experience.

An additional issue brought to the fore by an interviewed government official relates to migrants working “in jobs that they are not authorized to do [in order] to earn more money. Employment injuries were “due to the inexperience of these workers in the additional work they do”. This represents a barrier for migrant workers’ access to social protection because the irregular nature of this secondary job prevents them from being covered by a formal contract and, in turn, by de jure social protection provisions. The same informant pointed out that some employers do not collaborate with inspectors from the MoL, making it arduous for inspectors to investigate the incident site and take witness statements.

78. Private insurance was considered “worrisome” by a few informants, who argued that the State should be the sole insurance provider.



### End-of-service indemnity

Earlier research has documented migrant workers' challenges in accessing their EOSI payment on time and in full after finishing their contracts (e.g. Mafiwasta 2009; DLA Piper 2014; ILO 2023c). Recent evidence suggests that issues with the EOSI payment worsened during COVID-19, with many migrant workers leaving the GCC countries with EOSI benefits (or wages) still owing (ILO Migration Advisory Group – Arab States 2021; Foley and Piper 2021). According to a forthcoming survey undertaken by the Egyptian Ministry of Social Solidarity, the COVID-19 crisis resulted in termination of employment for 93 per cent of the 3,543 respondents, whereby only 56 per cent of these received their total agreed financial dues upon termination of employment. A report on migrant workers employed as security guards or construction workers at the FIFA World Cup Qatar 2022 describes evidence of companies sidestepping measures used to ensure EOSI payments, confirming the trends mentioned above (Equidem 2022). Among 23 migrant workers interviewed in a study on migrant employment at the Dubai 2020 Expo, two thirds reported that their salaries or other benefits (including EOSI) were not always paid on time or in full (Equidem 2021).

Evidence from our interviews echoes findings of wider research regarding EOSI payments. One member of a migrant workers' association reported "a countless number of complaints [from migrant workers] often not getting everything that is due to them at the end of service". Similarly, another key informant, also a member of a migrant workers' association, reported that, in many cases, companies simply refuse to pay the EOSI to their migrant employees. A third interviewee, speaking as a representative of migrant workers, discussed how domestic workers are particularly disadvantaged in relation to EOSI payments. They explained

that "even if the instructions [on the calculation of EOSI] are part of the law ... often the employer can calculate a lesser amount – and the worker is left without the capacity to question the calculations".

Financial difficulties of the employer also appeared to affect the full and timely payment of the EOSI – a problem which was amplified during the pandemic. As noted by the General Federation of Bahrain Trade Unions (2020), benefits may not be paid because "the employer is exposed to operational, financial, or legal difficulties that lead to bankruptcy or closure of the enterprise".<sup>79</sup> A key informant noted that when firms go into financial difficulties, payments for EOSI and outstanding wages were often only paid after other debts had been paid, by which time there may be little to no money left. While some mechanisms, such as Qatar's WSIF, have been set up to try to prevent this from occurring, the WSIF has capped the total financial entitlement that can be provided to a worker (for unpaid wages and benefits)<sup>80</sup> and, according to one key informant, this means that it may not cover the full EOSI payment.

Key informants confirmed the many challenges and obstacles that migrant workers experienced during the COVID-19 pandemic. Most migrant workers' issues related to lack of, delayed or partial salary, and EOSI payments – violations which took place despite reinforced legal measures to prevent them – especially when they were repatriated. Many migrant workers effectively lost wages and benefits that they thought had remained "frozen" in the GCC countries to be collected at the end of the first lockdown. Furthermore, one key informant noted that even where EOSI payments were paid during COVID-19, the value was sometimes much lower than migrant workers expected, since it was based on their most recent wage (which may have been temporarily reduced during COVID-19) rather than on the pre-pandemic salary level.

79. A key informant also pointed out that issues in relation to the timely and fair payment of EOSI sometimes arise because many workers do not want their contract to actually terminate when it expires, but rather to be renewed. As such, the informant claimed that in those cases it is the workers who do not want the EOSI to be paid at the end of the first contract.

80. According to the Decision of the Chairman of the Board of Directors of the Workers' Support and Insurance Fund No. (2) of 2022, the maximum disbursement (to cover any unpaid wages or benefits) shall be:

- for workers from existing companies – a gross salary of 3 months up to a maximum of 20,000 riyals;
- for workers from expired companies – a gross salary of 2 months up to a maximum of 20,000 riyals;
- for domestic workers – a gross salary of 3 months up to a maximum of 8,000 riyals.

In Qatar, migrant workers (including domestic workers) are entitled to three weeks of salary as their EOSI payment for every year of service they have worked.

Moving places of employment or changing employer can prevent migrant workers from meeting eligibility criteria for EOSI benefits, such as a minimum qualifying period with a single employer. This problem also arises in relation to legislation that provides for a guarantee period for employers. In Qatar, for instance, an employer can ask the recruitment agency to replace a domestic worker during this guarantee period (9 months) under certain circumstances (e.g. refusal to work, “chronic illness” or violation of conditions of the recruitment contract between the employer and the recruitment agency). Usually this means the domestic worker would then be placed in another household, but since EOSI is only applicable after a year, the domestic worker would not be eligible to receive a benefit.



### Unemployment benefits

In the only country where migrant workers have a right to unemployment insurance, Bahrain, effective access has been challenging. According to key informants, migrant workers contribute to the Bahraini unemployment fund but rarely benefit from it because of administrative hurdles, limited awareness and ambiguity in the government interpretation of the relevant provision. Migrants who lose their jobs have only 30 days to transfer to another job, otherwise they become irregular and are ineligible for benefits. However, the process for setting up a claim for unemployment benefit and starting to receive it reportedly takes around 2 months (Migrant-Rights.org 2020b). One key informant commented, “In legal terms, both [locals and migrant workers] are entitled to the benefit. But in practice only locals get the benefits. In one way or another, the Ministry of Labour, who is administering the Fund, are discouraging expatriates from getting the benefits and most of them are not aware that they are entitled [to it]. ... If a migrant worker comes and asks if he/she’s eligible, they will just tell them no”.

The disparity in access between national and migrant workers to Bahrain’s unemployment fund is supported by administrative data on benefits.

Between 2018 and October 2020, 408,159 non-Bahraini workers paid a total of 57.5 million dinars (US\$53 million) in unemployment contributions. Of these, only 31 received unemployment benefits upon losing their job. In contrast, over 95,619 Bahrainis paid unemployment contributions over the same period, and 28,000 received unemployment benefits in 2021 alone (Migrant-Rights.org 2022c; Bahrain, Social Insurance Organization 2021). According to a Bahraini news outlet, around 20,000 COVID-19 pandemic-induced unemployment benefits payments were disbursed by the Ministry of Labour and Social Development between the onset of COVID-19 and January 2021, but these benefits were paid only to Bahraini nationals (Alayam 2021; Sato et al. 2021). In a November 2020 statement the Ministry indicated that unemployment benefits are only paid to unemployed Bahrainis, while non-Bahrainis are entitled to receive compensation only in the event of arbitrary and unlawful dismissal from work. However, the law does not provide for this difference in treatment (ESCWA 2022; ILO 2023a). Similar to arguments made in section 3.2.3, there is a risk that migrant workers are effectively subsidizing unemployment benefits for nationals (Migrant-Rights.org 2020b).



### Maternity protection

Very little evidence was available on migrants’ de facto access to maternity protection. Key informants highlighted that migrant women often work in sectors where there is no entitlement to maternity leave (e.g. domestic work). Furthermore, even when they were entitled to maternity leave on the same terms as nationals, low-paid migrant workers cannot avail of long-term leave as their residence is tied to their ability to work for their sponsor. In general, even when workers are de jure entitled to maternity leave, they may find themselves charged under the zina laws that criminalize pregnancy outside of marriage<sup>81</sup>.

81. In UAE, Decree No. 10-2022 regulating the registry of birth and death in the UAE, recognises the rights of single mother to register their children without the requirement of a father or a marriage certificate.

#### 4.1.2. Alternative forms of support

Given the gaps between legal provision and effective access to benefits, support in practice often depends on organizations and actors that are not actually legally responsible. Several key informants noted that civil society organizations and charities in destination countries provide some support. As described by a key informant in Oman in relation to covering uninsured workers' healthcare costs, "Omani charities are there to provide support to Omanis and migrant workers. The process includes assessing the case at hand. For those who are unable to pay the healthcare treatment, they [the charities] would help and provide the needed financial support, even before the pandemic."

Some key informants also discussed the role of countries of origin in providing additional support to migrant workers abroad, as such subsidizing provisions that should, by law, have been provided by GCC governments or employers. One key informant in Bahrain described this support from countries of origin as "a whole system of welfare and support and work protection" for their migrant communities. As noted in section 3.2, these provisions are sometimes legally mandated by the country of origin's emigration legislation, but in other cases assistance from diplomatic missions is less structured.

The support provided by diplomatic missions was felt to be important in many cases, but key informants noted several limitations. First, some migrant workers may be hesitant to seek assistance from diplomatic missions because of ethnic or socio-economic discrimination experienced within their country of origin, or because of concerns about irregularities in their residence or employment status in the GCC country. Second, migrant worker funds are limited in the amount and scope of support possible; this was particularly so during the pandemic. For example, the Philippines' OWWA repatriation budget was reportedly exhausted within the first months of the pandemic, leading to an exceptional request to Congress to try to secure additional resources (GMA News 2020). As a key informant pointed out, the cost of living in the GCC region is, on average, quite high, while the currency of most countries of origin is weak – limiting consular support in cases where workers are deprived of wages or compensation, have been wrongfully dismissed or need support for out-of-pocket healthcare costs. Third, consular support is normally only available to help migrants return to their country of origin so

that they may access assistance upon their return. For example, the mandatory insurance provided by Sri Lanka's Foreign Bureau of Employment does not cover medical costs in the receiving country. Instead, it relates principally to public services in Sri Lanka after a worker's return or repatriation (Jayaweera and Shlala 2015). More generally, coverage provided by migrant welfare funds is often only able to be claimed upon return (Hagen-Zanker et al., unpublished).

It must be noted that the assistance provided by diplomatic missions is often paid for by migrant workers themselves. Such payments are sometimes explicit, either as service fees charged when processing overseas work permits, or as overseas worker contributions or membership fees paid at the outset or over the course of the workers' employment. In other cases, payment is indirect, via remittances that fuel the economies of countries of origin.

Finally, and arguably the most critical, mutual support between migrants is a major shadow form of social protection across the GCC, with migrants effectively taking on the role not being fulfilled by GCC country governments or employers, or by their own countries. Informally, migrant worker community clubs or social clubs in countries of destination often help to support migrant workers who have no formal protection. Community clubs can provide social and economic support to migrants and connect them to their embassies. However, it is worth noting that – even if less evident – community clubs are sometimes internally divided according to social or ethnic groupings within the country of origin. This may skew any charity towards the needs of certain members rather than others (Burmeister-Rudolph 2022).

Migrant workers frequently rely on community members for cash assistance to cover expenses such as children's education, housing, serious medical cases, and important events such as weddings. They also provide in-kind support to one another as, for example, when migrants share their accommodation with workers in irregular status, or when migrant health workers provide pro bono medical services to other migrants.

Taken together with the fact that migrant workers often need to pay for their own insurance, it appears that, even though governments and employers in GCC countries rely heavily on migrant workers for their economic activities, it is migrant workers who overwhelmingly bear the economic costs and responsibility for their social protection.

## 4.2. Variation in de facto access by migration group

Variation in migrant workers' de facto access to social protection also depends on a number of personal and other characteristics, such as their skill level (categorized as low- or high-skilled), the size of their employer, their work environment and residence status. Skill levels emerged as crucial in determining the extent of migrant workers' de facto access to social protection. Besides the diverse range of awareness of their entitlements displayed by migrant workers (see section 4.3.1), some key informants pointed to the differences in insurance packages available for different categories of workers. For instance, a key informant explained that, while employers normally purchase the minimum healthcare package for blue-collar workers, they purchase wider-encompassing packages for high-skilled and white-collar workers, in part because of differences in regulations for different sectors and categories of workers. Another informant explained that "white collars tend to buy their own private health and life insurance", an option that is only available to workers above certain salaries. In the UAE, similar observations of differences between white- and blue-collar workers were documented, while in Bahrain, a key informant noted that workers from high-income countries classified as high-skilled tended to have access to social protection schemes from their countries of origin too, but typically this was not the case for blue-collar workers from lower-income countries.

The size of the company employing the migrant worker is also relevant; large companies reportedly comply better with de jure provisions than medium-sized or small companies. According to several informants, large companies' higher levels of compliance are a result of having more resources to fund employees' health insurance and pay employment injury compensation and EOSI, as well as reputational concerns. In the UAE, large companies employing mid-level and highly skilled people have well-trained human resources staff, who hold regular meetings with workers and display posters making employees aware of their labour rights. This does not necessarily signify easier access to social protection but certainly increases transparency and workers' awareness.

In addition, some migrant workers lack effective access to social protection because of the specifics of their work environment, notably domestic

workers and those working in the gig economy. Domestic workers are particularly isolated because they often live and work entirely in their employers' home, as well as facing many other barriers that together mean that enjoyment of social protection benefits is entirely dependent on the employer's goodwill. For example, a key informant in Kuwait reported repeated instances of domestic workers not being taken to the hospital by their employer when sick. Another key informant singled out domestic workers as the hardest group to inform and ensure protection of their entitlements in practice. The informant explained that domestic workers are only occasionally made aware of their rights when signing their work contracts. This connects to the discussion on whether or not written contracts are issued in practice and which provisions they include (see section 4.3.4). In combination with the fact that domestic workers already have among the lowest levels of protection according to the law, the additional practical restrictions they face in accessing benefits explains why they were repeatedly cited by key informants as a key group of concern across the GCC region.

The research found relatively limited information about social protection for workers in the "gig" economy, but the available evidence suggests that it is limited relative to other migrant workers. Unlike in other parts of the world, gig workers in the GCC countries are often employed by an agency, which is legally responsible for ensuring their access to labour law provisions. However, in practice, it appears that they are often left in a grey area, considered "self-employed" and thus not covered for employer-provided entitlements (Migrant-Rights 2022b).

For workers in an irregular situation, even where they are legally entitled to benefits, notably in the case of emergency healthcare, access can prove difficult in practice because of the risk of deportation. However, some key informants stressed that providers are willing to offer emergency healthcare to irregular workers. In Kuwait, a key informant noted that medical care for irregular workers is often covered by the Patient Helping Fund Society. Similarly, another informant suggested that emergency departments of all hospitals were "pretty much required to accept anybody free of charge or relatively free of charge ... plus the Red Crescent Society also provides medical clinics and all kinds of services for the migrant workforce".





### 4.3. Key factors influencing de facto access to social protection

Three key elements were identified that can function as either enablers of or barriers to social protection for migrants: (a) awareness of social protection provisions; (b) monitoring of employers' compliance to such provisions; and (c) mechanisms to facilitate their enforcement. The design of the migration system and certain practical barriers also emerged as factors that can hinder access.

#### 4.3.1. Migrant workers' awareness of social protection and awareness-raising initiatives

Migrant workers often do not adequately or fully understand social protection provisions, to the point of not knowing in what circumstances and through which mechanisms they may access it (GAATW 2017; Atong et al. 2018). Key informants suggested that some workers may only be partially aware of social protection provisions or ways to access them, while others are completely unaware of social protection at all. Other informants provided a more nuanced picture, arguing that migrant workers are often aware of the reality of their working conditions and of the obstacles they will experience in claiming social protection benefits. Realistically, they have no alternative as they are in dire need of employment. One key informant posited that this may be because contracts are only short-term (typically 2 years).

► Migrant workers often do not adequately or fully understand social protection provisions, to the point of not knowing in what circumstances and through which mechanisms they may access it

Awareness of workers' rights can be raised through (a) training or orientation sessions (pre-departure or post-arrival) and (b) awareness-raising campaigns. According to a government representative in Kuwait, migrant workers are now more aware of their rights than in the past because the number of organizations available to provide such information

has increased to include civil society organizations, human and labour rights charities, and diplomatic missions. In some cases, national human rights institutions in the country of origin are also available. Another key informant noted that there is now extensive "institutional memory" in certain countries of origin among returned migrants, who provide advice to outgoing migrants on how to navigate and access support systems. However, this more likely refers to the kinds of social protection measures provided by countries of origin, rather than those under national GCC legislation. Moreover, awareness-raising initiatives have tended to focus on labour rights more generally, and less specifically on social protection.

#### 4.3.2. Pre-departure trainings

Pre-departure orientation is a potentially pivotal instrument to make migrant workers aware of their rights before commencing employment. Although not strictly focused on social protection, pre-departure orientation sessions include the labour law, labour rights and social protections available in the country of destination, and cover such topics as unemployment, sick leave, employment injury and end-of-service benefits.

By law, only some GCC countries and countries of origin require pre-departure training, but its effectiveness depends on the way the training is designed and delivered. A key informant in Kuwait stated that "the ones [migrant workers] who are trained, they know how to access protection. They know what their rights are. They know how to protect themselves".

The quality and comprehensiveness of training is another key factor to its success. A government official reported that recruitment agencies in countries of origin often do not give the correct information to migrant workers. Even when the information provided is correct, it can often be quite basic, generalized and exclude country-specific information. Conversely, other key informants highlighted the useful content of training sessions offered by the Philippines, compared with other countries of origin. Training in the Philippines is specifically tailored to each country of destination's labour laws and rights (seemingly not the case in other countries of origin). In the Philippines, the OWWA provides pre-departure training and relies on grassroots associations to teach migrants on how to assert their rights in case of litigation, and from whom to seek support.

### 4.3.3. Post-arrival training and orientation

Post-arrival training sessions are provided by the destination country government, the employer or civil society organizations. They normally cover the same topics as pre-departure training, but also the culture and traditions of the country, with the significant difference of always being tailored to one country.

Post-arrival training is not conducted systematically across all GCC countries, unless mandatory for specific jobs (e.g. migrant teachers in Oman) or specific origin countries (e.g. the Philippines Overseas Labour Office post-arrival orientation seminars)<sup>82</sup>. Given this inconsistency, it is difficult to evaluate the overall impact of training, but several informants in this study considered them very useful to raise migrants' awareness on their social protection entitlements, and the processes required to access them. Where training is not offered – the more common scenario – written material may instead be provided to newly arrived migrant workers, outlining local laws, labour rights and obligations, as well as local customs.

### 4.3.4. Awareness-raising campaigns

Awareness campaigns, both one-off and recurring, are another important avenue for enabling migrants' understanding of and access to social protection. Civil society organizations, diplomatic missions and destination country governments organize various awareness campaigns from time to time,<sup>83</sup> even though they may not formally focus on social protection. Nonetheless, they help migrant workers increase their understanding of their

entitlements to social protection benefits, especially in cases of ill health or employment injury. They may also help specific categories of migrant workers, such as domestic workers. This report identified several examples across the GCC<sup>84</sup>.

Campaign efforts are likely to be particularly important in contexts where other information channels (e.g. training sessions) are largely absent. However, it is important to note that, depending on their design, they may not reach certain migrant worker categories. For instance, one key informant noted that worker attendance at awareness-raising sessions varied, depending on the country or region that workers come from, and that sessions may better cater to speakers of certain languages.

It should be noted that employers may also lack awareness of their specific obligations in relation to social protection. One government official speculated that employers may not respect contractual obligations because they are not aware of the social protections to which private employees are entitled. This raises concerns about contracting and recruitment procedures, and highlights the need for targeted initiatives to ensure that employers understand their responsibilities, as well as for monitoring and enforcement.

### 4.3.5. Government monitoring

Gaps in the oversight of national legislation and adherence to international labour and social protection standards by governments are well documented in the GCC region (Aboueldahab 2021; Business and Human Rights Resource Centre 2019).

82. In the UAE, post-arrival orientation is provided by the Tawjeeh Centres which are affiliated to the Ministry of Human Resources and Emiratisation and are present across the country. These centres offer many awareness and orientation services including training to employers and employees related to the UAE Labour Law (Tawjeeh 2019).

83. One key informant in Kuwait discussed the One Roof campaign, which had planned to design a booklet on domestic workers' legal entitlements, and translate it into 15 languages. When printed on paper, when folded it would become the size of a 20 dinar bank note and could fit in a wallet. However, according to the informant, political obstacles prevented the production of the booklet, though an e-version was available on the campaign website. Another key informant (a government official in Kuwait) reported that the Public Authority for Manpower had, in the past, distributed 90,000 brochures in nine languages, which included key information on the labour code, the rights and duties of migrant workers, the rights and duties of domestic workers, and grievance mechanisms in the country. These brochures were sent to the embassies of migrant workers' countries of origin and were expected to be used during pre-departure training. Oman used the same strategy, adding explanatory videos to the brochures, as reported by a representative of the MoL. Another example concerns the National Human Rights Committee of Qatar, which organizes events where migrant workers may ask experts for legal information.

84. Some diplomatic missions have established periodic initiatives aimed at reaching as many migrants as possible and raising awareness on their rights. For instance, the embassy of Bangladesh in Oman offers a weekly event called Legal Aid Day, during which lawyers provide advice to migrant workers and offer to mediate with their sponsors in cases of litigation. One representative of the Kuwait Trade Unions Federation described their labour rights awareness training programme for domestic workers. The Federation held training on Fridays, when most domestic workers have a day off. During the training sessions, the Federation distributed brochures on the national labour law and informed participants of available mechanisms to record any complaints concerning a breach of their rights.

Lack of monitoring has direct consequences both for employers' efforts to comply with social protection requirements and for employees' (or their families') ability to claim compensation. A 2022 report looking at migrant worker death data across GCC countries suggested that a persistent lack of monitoring of the cause of death may be resulting in employment-related fatalities going undocumented, leaving the families of deceased workers unable to access any employment injury compensation (Vital Signs Partnership 2022b). Such findings were corroborated by interviewees for this report. Overall, the lack of monitoring of employers' compliance was frequently identified by key informants as a key priority and challenge, even more so in the case of domestic workers whose work environment is a private household.

There are some positive signs of increased government monitoring of employers' compliance, although, so far, increased monitoring seems to have focused more on private-sector workers' labour rights – including wage protection and monitoring mechanisms – than on social protection as such. Nonetheless, in Saudi Arabia, it was noted that the Cooperative Health Committee within the Ministry of Health has been particularly active in verifying the provision of health insurance for migrant workers (ILO 2023a).

#### 4.3.6. Other organizations supporting monitoring of labour rights

Besides regular state monitoring of employers' compliance, other entities can help monitor compliance with de jure provisions. Several key informants noted that labour ministries in some GCC countries have signed an MoU with the Migrant Forum in Asia (MFA), a regional network of NGOs, associations and trade unions of migrant workers, as well as individual advocates. According to the MoU in Bahrain, the MFA will collaborate with the MoL in facilitating access to and effective use of existing monitoring mechanisms, notably for labour complaints mechanisms. In Qatar, the MoU outlines that the MFA will hold training and awareness-raising sessions for

community leaders focusing on the labour law, the procedure for using the online complaints system, and the Workers' Support Fund. The MFA will also feed back to the MoL on how the complaints platform can be further strengthened.

The Government of Qatar has permitted the establishment of joint committees of workers and employers, regarded by one key informant as a compromise solution (see section 3.5.3). It is too soon to evaluate the efficiency of these bodies, since only a few have been established in the country so far. Meanwhile, in the UAE, a new employment model, Tadbeer, has been introduced, under which domestic workers are managed not only by the employing family, but also by a professional company approved by the Government. Tadbeer consists of a network of government-approved agencies connecting domestic workers with employers. According to this model, these agencies should make sure that employers comply with the terms of employee contracts, while simultaneously presenting a guarantee to the employers that the worker will respect pre-determined standards. This scheme was only recently introduced, thus there no indication yet regarding its effectiveness of regulating domestic workers' access to social protection. While supporters of this model consider it a stronger guarantee of both parties' rights, critics point out that it effectively outsources the Government's monitoring function, thus failing to comply with the Labour Inspection Convention, 1947 (No. 81), which has been ratified by the UAE.

#### 4.3.7. Enforcement of social protection provisions

Weak enforcement has often been reported as a key barrier to accessing employer-funded social protection entitlements (e.g. see Aboueldahab 2021 for discussion on Qatar, as well as the region more widely; see also Equidem 2021 for a discussion on the UAE). However, as mechanisms for handling labour disputes across the region have developed, such as in Kuwait, there is room for optimism. The research found evidence that governments play a role of

85. Between October 21 and October 22, the Ministry of Labour received 34,425 complaints (mainly through the online platform), out of which 66.5 per cent were settled and 30.7 per cent sent to a DSC (ILO Qatar 2022).

mediating disputes between workers and employers. In Qatar and Oman, the MoL sometimes engages in conciliation or mediation concerning salaries, EOSI, employment injuries, disability and survivors' benefits. In Qatar, when the worker and employee cannot reach an amicable solution, the case is submitted to the Dispute Settlement Committee (DSC).<sup>85</sup> However, a key informant felt that enterprises are more likely to be subject to "a soft strategy for enforcement", such as refusal to process any official paperwork until the issue is resolved.

Qatar has developed a state mechanism to ensure that workers still get paid in cases where employer-financed schemes fail or neglect to pay benefits. The WSIF was established in 2019 to support workers to access their entitlements in cases of non-payment, with unpaid amounts reclaimed from the employer (see section 3.2.4). As of 30 September 2022, the fund had disbursed over US\$320 million in unpaid wages and benefits (ILO Qatar 2022b). However, a key informant in Qatar highlighted some concerns on the effectiveness and fairness of this fund. There is a cap on the total support available, which may prevent a worker from getting their full entitlements, as well as potential ambiguity surrounding eligibility for compensation and a problematic clause that allows cases to be overruled in the name of the public interest. Issues relating to the systematic and timely processing of complaints have also been identified (ILO 2022b).

When social protection provisions are in place, but not implemented by employers nor enforced by officials, migrant workers can, in some instances, draw on support from civil society organizations and diplomatic missions, who may advocate on the worker's behalf. These actors tend to employ a mediating approach aimed at avoiding lengthy, costly and uncertain legal cases. In other cases, diplomatic missions can work with destination countries to establish communication channels and mechanisms to facilitate enforcement. Several key informants reported ongoing or past mediation processes regarding missing, delayed or partial payment of

wages or EOSI, employment injury, and access to disability or survivors' benefits.

All across the GCC region, but particularly in Bahrain and Kuwait, civil society organizations also provide de facto support for migrant workers during mediation, such as legal assistance and financial support. Two examples cited by key informants were the Solidarity Centre Abdulrahman in Kuwait and the MFA in Bahrain. Recently, the Centre for Migrant Advocacy in Qatar (a member of the MFA) organized a campaign tailored to those migrant workers who must leave the country at the end of their contract, yet are involved in an ongoing dispute with their employer. The Centre for Migrant Advocacy raised awareness on the possibility of hiring a lawyer to represent the migrant worker after they had left, although there was no information yet available on the success of the campaign. According to one key informant, most employers are cooperative when they are contacted by a civil society organization (or a diplomatic mission) concerning a mediation, especially large companies concerned about their public image.

Countries of origin can also play an important role in enforcing employment contracts for their nationals deployed to GCC countries. This includes steps to ensure that workers only travel abroad in cases where the work contract complies with the relevant labour and social protection laws, Conventions and agreements. For example, the POEA only issues permits for workers to travel abroad if the rights of Filipino migrant workers are contractually protected. Recruitment agencies and the employer are jointly and severally liable for any and all claims arising out of implementation of the contract. Recruitment agencies are required to lodge a "performance bond" with the POEA, which may be used to pay outstanding claims. Furthermore, foreign employers or recruitment agencies that violate the terms of employment contracts may be blacklisted (Olivier 2018). On multiple occasions, the Government of the Philippines has also suspended recruitment of Filipino nationals to GCC countries when it was felt that the contracts or treatment of

86. See Middle East Monitor (2021) on the suspension of recruitment of domestic workers in Saudi Arabia, and Middle East Monitor (2023) on the suspension of recruitment of new domestic workers in Kuwait.

87. For example, BLAs between Saudi Arabia with Ethiopia, Kenya and Uganda were temporarily suspended, halting deployments of workers from those countries following reports of severe mistreatment of migrant workers. Deployment to Saudi Arabia has since been reinstated with Ethiopia and Kenya since the BLAs were revised (IGAD and ILO 2021).

their workers did not comply with the necessary provisions.<sup>86</sup> Such enforcement measures are not unique to the Philippines. Several other countries of origin also have unilateral legislation requiring alignment of the actual employment contract with the model employment contract developed by the country of origin (e.g. Bangladesh). Similarly, many countries of origin have issued short or longer-term bans on employers, recruitment agencies, and destination countries that have clearly violated the treatment of their migrant workers and rights under national and international laws, Conventions and agreements.<sup>87</sup>

The research suggests that diplomatic missions are the body to which migrant workers often turn, yet they are not always able to provide such support adequately. Diplomatic missions are often constrained by a lack of human and economic resources. One key informant argued that diplomatic missions tend to be understaffed and underfunded, thus cannot adequately assist migrant workers. Another key informant explained that the Government of India forwards the online complaints it receives by migrant workers in Oman onto its diplomatic mission, which reportedly does not have sufficient staff to address them. Their work was particularly challenging during COVID-19 because of travel restrictions. Another key informant reported an absence of data on the extent to which migrant workers are covered by insurance, which could facilitate the mission's work. Diplomatic missions only discover extreme situations after they have unfolded, such as when migrant workers without health coverage are urgently taken to a hospital but cannot cover the cost of their treatment. Fragmented information effectively prevents diplomatic missions from monitoring migrant workers' conditions before they become urgent. Diplomatic missions are also not evenly distributed across the GCC, so they are not always accessible at times of need.<sup>88</sup> In addition, there are cases where embassies prefer to take a step back to maintain positive diplomatic relations with the country of destination. This is often the case when a migrant worker, especially a domestic worker, absconds.<sup>89</sup>

Overall, court cases between employers and employees are limited, in part appears because civil society organizations and diplomatic missions prefer to pursue diplomatic channels, which offer a higher probability of success than seeking a remedy through the courts. One key informant described the situation thus:

“There is almost always an external influence that blocks cases from proceeding to the judiciary and even the reports that are written do not reflect reality. If the case does make it to court, the bureaucratic process is futile and lengthy and so most workers don't opt for it, and during this process, the worker remains in a deadlock, unemployed, and cannot transfer their residency, and even bears the burden of all this”.

Furthermore, even if the court system were to work well, workers' ability to successfully submit a claim is constrained by the inherent design of the migration system, as outlined in the following section.

#### 4.3.8. Monitoring employer compliance

This section explores compliance monitoring, and considers the role of governments and other entities that support the monitoring process, together with their limitations.

►► Even if the court system were to work well, workers' ability to successfully submit a claim is constrained by the inherent design of the migration system

88. Oman, for example, does not host many diplomatic missions, which are mainly based in Saudi Arabia and the UAE. This hinders the capacity of migrants residing in Oman to seek consular support, although some countries of origin without consular representation may have an agreement with another country of origin that does, providing a potential channel for representation.

89. Absconding is unlawful across the GCC, and employers sometimes use it as a weapon, especially with informal or domestic workers. In these cases, the employer reports the migrant worker as absconding when, in fact, the worker decided to leave the employer at the end of their contract or because their labour rights were breached. In other cases of abuse or when a domestic worker gets pregnant, migrant workers abscond even if the consequences could be very severe.

### 4.3.9. Restricted rights of workers within the migration system

The very design of the migration system in the GCC can hinder migrant workers' effective access to social protection. First, through power imbalances generated by the kafala system and, second, in the discrepancies between work contracts and real-life working conditions.

► With large power imbalances between employers and workers, the kafala system not only affects the feasibility of expanding legal entitlements for workers; it also limits the ability of workers to access the entitlements they have already been accorded.

#### The foundations of the Kafala system

With large power imbalances between employers and workers, the kafala system not only affects the feasibility of expanding legal entitlements for workers; it also limits the ability of workers to access the entitlements they have already been accorded. The kafala system enables employers to restrict workers' mobility, and limits their practical access to social protection, as well as dispute and complaints mechanisms. A clear example refers to health protection, whereby migrant workers are required to pass health checks as a prerequisite for qualifying for sponsorship and employment. Yet, many fear losing their job if they disclose any symptoms of ill health (Al-Harashseh et al. 2019). Often such fears appear well-founded as key informants noted that, although some employers may be willing to facilitate access to healthcare when a worker is injured, others can be quick to substitute a worker at any sign of sickness, since they can easily hire another

(considered to be particularly common in relation to domestic workers). Thus, although health and sickness protection are included in the de jure provisions across the GCC, de facto access is often limited.

One key imbalance relates to the power that employers have to threaten workers who complain about their lack of protection, including by filing false absconding charges (see Motaparthi 2015; Saraswathi 2020). Absconding is a criminal offence, thus involving the Ministry of Interior, and can result in the worker being deported without benefits or compensation. Other ministries – including those processing any grievances logged by the worker do not, reportedly, exercise much influence over criminal case proceedings. Absconding is rare, but employers hold immense power over their employees in terms of their ability to threaten to evict workers or withhold their food. Such threats are powerful, given that workers are dependent on their employer for accommodation and maintenance (i.e. all domestic workers). But just the threat alone of terminating employment holds weight for all migrant workers in GCC states, given the difficulty of changing employers and their reliance on sponsorship for their visa. Further, workers often take on high levels of debt to finance their migration and need to service that debt.

Under the kafala system workers must normally leave the country within a short period after the employment ends.<sup>90</sup> This makes it challenging for workers to access employment provisions that are only owed after an employee stops working (e.g. EOSI or compensation for an employment injury). A key informant pointed out that EOSI is meant to be paid just before the workers' departure. However, if they are not paid as expected, it is impossible for the worker to access the complaint mechanism because once they return to their country of origin their residence ID has expired. While some interviewees noted the potential of technology to help improve access to justice for returned migrant workers through cross-border litigation and online case hearings, workers' ability to access entitlements after returning home has thus far been limited to diplomatic missions, notwithstanding the shortcomings already mentioned.

90. Typically, workers are given a short grace period after their job has ended, but it is difficult for low-waged workers, who rely on their employers for accommodation and food, to extend their stay beyond the termination of their contract.

Given the State's lack of legal responsibility for workers' social protection under the kafala system, access to benefits is further complicated where migrant workers are engaged in more complex employment relationships, as with those employed within subcontracting chains or holders of flexible work permits. In many cases, these contracting arrangements delay or hinder effective access to benefits, as reported by a key informant working for an international organization: "There is a problem in the whole chain for payments. The main contractors may be diligent with respecting the law, but there is a long line of subcontractors. The delay of payment from one subcontractor to another means that EOSI are paid very late and sometimes are not". In relation to flexi work permits, the research to date suggests that despite offering greater freedom to change employers and control the pace of work, protections may actually have decreased for workers in the gig economy. The intermediary that technically sponsors their employment in the GCC<sup>91</sup> often does not provide them with social protection or insurance coverage, even though they are legally required to do so – and workers' ability to hold these sponsors to account is even more limited (Migrant-Rights.org 2022b).

Even where reforms in the migration system have taken place, many of the perceptions and structures underlying the kafala system remain, meaning employers might show resistance to adapt to these changes or need some time to incorporate them. A government representative in a context where reforms had recently taken place noted that it is difficult and takes employers time to adapt. "The Kafala system ... has been in place for the past 30 years. Employers do not know anything else. They know only this system. So, employers today need time to adapt to the new laws. It should also be noted that enterprises will also have to amend their internal regulations and procedures in light of these reforms, and this also takes time."

#### 4.3.10. Work contracts not reflecting real working conditions

Employers may use considerable discretion when issuing contracts, making it easier for them to default on social protection requirements. The literature highlights a "false dichotomy" or "continuous temporariness" (Rajan and Oommen 2021) between temporary and long-term employment.

Contracts issued under the kafala system are formally temporary but, in practice, they get repeatedly renewed. The contracted worker may be employed by the same sponsor/employer for many years while still not qualifying for benefits associated with long-term employment (MFA 2013: 3; Diop et al. 2019). They are also likely not to be well-covered by bilateral or unilateral measures involving the country of origin, because by then the insurance provisions specified in the original 2-year contract (and verified by the country of origin) have expired, and the new contract is typically signed in the destination country without the same level of oversight or coverage as originally specified by the country of origin. Another problem, particularly for domestic workers, is the common practice of using two contracts – one verified by the country of origin before departure and one signed on arrival, which contains less favourable conditions (Jayaweera and Shlala 2015).

Key informants also expressed concern about the potential for employment injury compensation claims to be hindered by ambiguity in the definition of the word "workplace" and the worker's ability to prove where the accident happened. If they are unable to prove the accident was work-related, they will be unable to claim employment injury compensation.

The need to improve the quality and reporting of data was echoed in a recent report on employment injuries in Qatar, which noted that investigations were not carried out when workers were initially professed to have died "from natural causes", making it difficult to verify whether there were any work-related causes or any reason for the employer to pay compensation to the deceased worker's family (ILO 2021g).

#### 4.3.11. Practical barriers to migrant workers' participation

Certain practical barriers often hinder migrant workers' access to social protection benefits, and can range from complex bureaucracy and high insurance premiums, to everyday obstacles such as geographical isolation or language barriers. These are, of course, not exclusive to GCC countries, but they are exacerbated by the power imbalance between employers and workers built into the kafala system.

91. For example, licensed taxi companies in the case of Uber drivers.

### Cumbersome bureaucracy

In some cases, the procedures to access labour rights are well-known but too bureaucratically complex or financially onerous for migrant workers. For instance, one key informant reported that one of the main loopholes in the system concerns filing for employment injury. According to this informant, hospitals could file automatically for employment injury through the workers' file, but the onus of undertaking the procedure is placed onto the migrant.<sup>92</sup>

Similarly, another issue relates not only to the complexity of bureaucracy but also to some gaps in its functioning. For instance, in countries that have established mechanisms for wage protection, these have typically not been extended to guarantee EOSI benefits. When they have, such as in Qatar, these mechanisms can require cumbersome decision-making processes, sometimes leading to non-payment of dues despite eligibility (ILO 2022b).

### Affordability barriers

In addition to bureaucratic hurdles, another crucial obstacle to migrant workers' access to social protection is the cost of accessing social protection, which most migrant workers – especially low-paid – cannot afford. This is particularly true in relation to health-care. Even where insurance premiums are paid by the employer, there are often co-payments at the point of accessing services, or indirect costs relating to transportation or taking time off work for treatment. In other cases, workers may be required to make insurance contributions (e.g. full contributions to the new UAE unemployment insurance scheme). For low-paid migrant workers who are already financially stretched to send regular remittances back home, such payments may not be feasible – particularly if they do not trust that they will have access to benefits in practice.

### Language barriers

As many migrants to the GCC do not speak Arabic, this can present communication difficulties and misunderstandings. It can prevent migrant workers from accessing vital information, communicating with institutional bodies or pursuing justice effectively. Governments in the Gulf tend to communicate

information and updates via social media such as Twitter, which may not be the most effective channel for migrant workers. Language barriers pose difficulties for the everyday life of a migrant worker, and can increase the potential for exploitation and wrongdoings. One key informant in Oman noted the obstacles migrant workers can encounter when pursuing justice in court, in that support services and resources are mostly offered in Arabic and take longer than stated to access. A representative of the Public Authority for Manpower in Kuwait observed that language barriers constituted an obstacle with respect to follow-up procedures for employment injuries, notably between inspectors, witnesses and injured workers in cases where inspectors record statements.

### Geographical barriers

The physical distance between the place where the worker spends most of their days (workplaces and accommodations) and civil society organizations, diplomatic missions, national human rights institutions and, more generally, where nationals live can pose a barrier to accessing protection. Living and working in isolation from the host society may prevent migrant workers from becoming aware of their rights and how to access them. This issue impacts some categories of migrant workers more than others, namely low-skilled workers living either with their sponsor (e.g. domestic workers) or in camps, such as construction workers.

### Identification and documentation barriers

Lack of accurate identification can also act as a significant barrier access to social protection benefits. In some cases, employers may fail to update workers' residence cards, so they lose access to the identification required for accessing benefits (Vital Signs Partnership 2022a). In other cases, workers – particularly domestic workers – may have been trafficked to the GCC country, so they have no residence, visa or identification documents from the outset. This puts them in a situation of extreme vulnerability and isolation, which is extremely hard to break free from. Although trafficking represent a minority of cases and is not the focus of this report, it is nonetheless a reality that hinders any access to social protection for one of the most vulnerable migrant worker groups.

92. There are signs that this situation might be improving, and the project concerning the introduction in Qatar of a Unified Register of Employment Injuries is expected to be ready in 2023. Specifically, the MoL and the Ministry of Public Health have concluded an MoU to share information on registered employment injuries, according to which every employer is expected to register an employment injury on the portal of the MoL. The police and hospitals should also collect and share this information with the Ministry. The present research identified gaps and inconsistencies in the way different bodies report injuries, but the MoL is reportedly aware of them. It is not certain yet whether domestic workers will be included in the register, mainly because of the practical challenges of access.

## Key enablers

Emerging channels for migrant worker representation and advocacy



International attention and commitments



The Covid-19 pandemic



## EXPAN OF LE COVE

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# What has determined for migrant work

### Restricted rights of workers within the migration system

Migrant workers' dependence on employer under the Kafala system can hinder access to social protection in practice, and ability to make a complaint if access is restricted.

### Practical barriers to migrant workers' participation

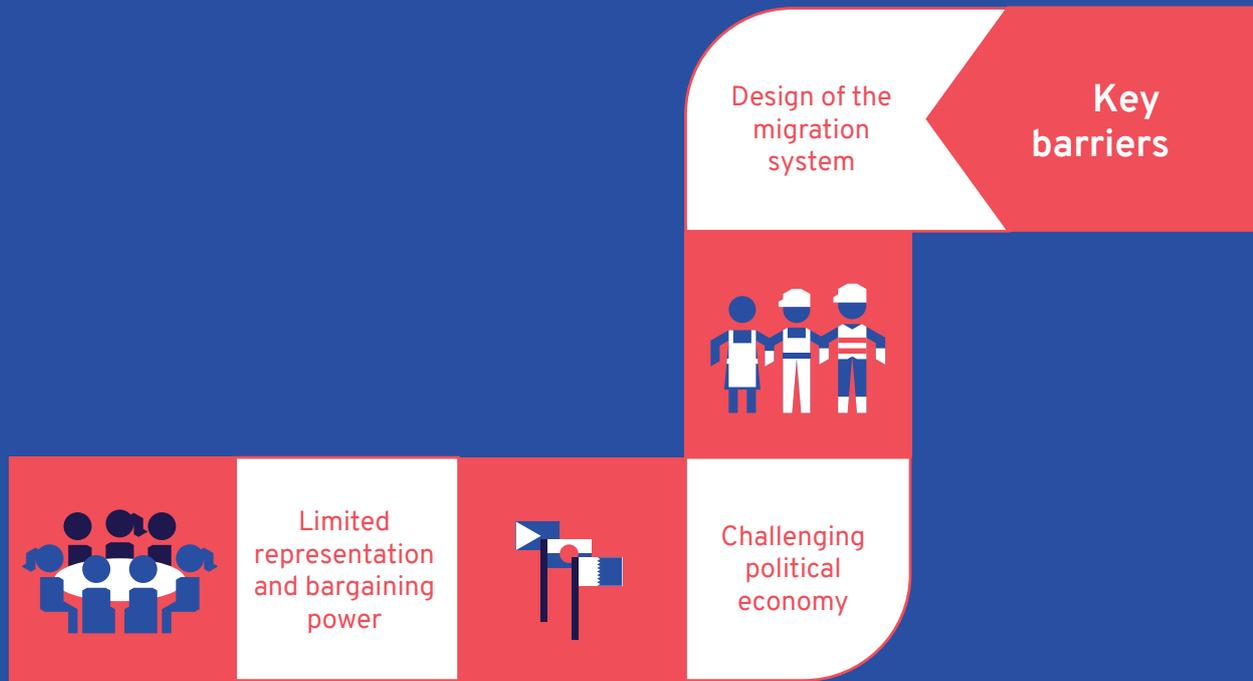
Migrant workers' access to social protection provisions can be hindered by bureaucratic, geographic, affordability, language and ID/documentation barriers

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Source: Authors



## ► 5. Concluding remarks and implications for policy

The objective of this report was to provide an overview of de jure and de facto access to social protection for migrant workers in GCC countries across nine contingencies, as well as the enablers and barriers to such access. The report is the first of its kind to assess the topic in a structured and systematic manner, and included a review of literature in English and Arabic, a review of legislation in each country of the GCC, and interviews with over 50 key informants across five of the six GCC countries. The lack of quantitative data available, though, highlights the need for further research.

By increasing the state of knowledge, the report aims to facilitate dialogue between stakeholders and social partners in countries of origin and destination and to provide insights into potential policy reforms, hence contributing to extending social protection access to migrant workers in GCC in line with the principles reflected in international social security standards.

In this final section we summarize broad trends found in the research and draw out implications for policy, highlighting avenues for building a comprehensive framework of national and/or regional policies that promote the inclusion of migrant workers in social protection systems. Such policies can contribute to reducing unfair competition, promoting formalization of the labour market, and enhancing labour mobility, while also ensuring the rights of migrant workers to social protections.

### 5.1. Trends in de jure access to social protection

Legislation across the region is increasingly granting migrant workers access to a limited range of social protection benefits. While many risks remain legally unaddressed, there is potential to build on this positive trend. In Bahrain and Saudi Arabia migrant workers are legally allowed access to social insurance systems on equal terms with nationals with respect to employment injury and, in the case of Bahrain, unemployment. Oman is paving the way for a new model for the entire region, having recently introduced legislation that

gives migrant workers access to national social insurance coverage across multiple contingencies – sickness, maternity and employment injury – and establishes a national provident fund to administer end-of-service benefits. Employer-funded health insurance coverage for migrant workers will soon be mandatory for migrant workers for all GCC countries, except in five of the seven UAE emirates. Migrant workers are also included in a new mandatory unemployment insurance scheme in the UAE, where new approaches are also being taken to replace end-of-service-indemnities with voluntary privately-managed savings schemes for employees in the private sector and free zones. Pension schemes are also being trialled for migrant working in the financial district and the government. Although legal coverage for those in diverse forms of employment is still extremely weak, there has been some progress, including new legal provisions that recognize domestic workers' entitlements to certain basic social protections in five GCC countries.

In general, de jure social protection provisions for migrant workers in GCC countries continue to exhibit important gaps, shaped by the legacy of the sponsorship system, an assumption that migration is only short-term, and a dual social protection system that discriminates between national and migrant workers. In practice, this means that coverage for migrant workers tends to be directly financed by employers, and there is very limited recognition of social security rights independent of the employer–employee relationship. For migrants working full time in the private sector, legal entitlements typically consist of paid sickness and maternity leave, access to healthcare while in the host country, compensation in case of employment injury and an end-of-service lump-sum benefit upon termination of the employment contract. As a result, the long-term risks of old age, disability and access to healthcare upon return to the country of origin, as well as unemployment, are almost entirely unaddressed, as are the rights of family members and survivors. This places a significant burden on the formal and informal social protection systems of the countries of origin.

Consequently, the systems and provisions in the GCC countries currently fall short of international social security standards, notably those in ILO Conventions related to solidarity in financing, coverage, comprehensiveness, adequacy, predictability and the role of the State in ensuring effective access. There are also recurrent violations of the core principle of equality of treatment between nationals and migrant workers. With bilateral social security arrangements mostly non-existent, the absence of coordination principles, such as the maintenance of acquired rights and rights in the course of acquisition, further limits migrant workers' enjoyment of their social security rights – an element that is common among many countries in the Arab region.

In GCC countries where the sponsorship system is in the process of being reformed, the implications of these reforms on social protection systems and workers' entitlements still need to be addressed. Initiatives that enhance migrant workers' mobility between employers and jobs are highly needed, but this brings a new risk of eroding social protection for workers who are no longer engaged in a single-employer framework, such as workers who are part-time, freelance, self-sponsored or sponsored by a recruitment agency. Moreover, migrant workers may experience longer periods during which they are not directly employed, but still residing in a GCC country, creating a need for forms of social protection that were not previously common, such as unemployment protection.

In practice, recent reforms relating to the social protection of migrant workers have primarily entailed a shift away from a social protection model based on direct employer liability, which has demonstrated limitations for both workers and employers, towards one of two approaches. Either (a) including migrant workers in national social insurance systems or (b) mandatory, publicly-regulated private insurance. In cases such as Oman, and previously in Bahrain and Saudi Arabia, efforts to protect migrant workers against specific risks used existing national social insurance schemes,

either on the same terms as national workers or through special arrangements under the same national social security administration. This approach contributes to enhancing equity and solidarity in financing, and recognizes the role of national institutions, as opposed to individual employers, in guaranteeing social protection benefits for migrant workers.

More commonly, in other cases there has been a shift towards mandating social protection through private insurance. In the UAE, the new unemployment insurance scheme and the retirement savings accounts for migrant workers operate as mandatory private insurance mechanisms under public regulation. In the same vein, there has been a shift towards the private financing of health insurance across the GCC countries, coupled with reforms that separate healthcare facilities between national and migrant workers. This represents a notable retrenchment of the previously inclusive access to the public health system, which, in some cases, was the only risk for which migrant workers were protected through national systems on the same terms as national residents. More broadly, solutions based on private insurance need to be assessed carefully as, in the absence of strong public regulation and monitoring, they may significantly reduce elements of solidarity, widen inequities based on nationality, skill, wage level, sector and company size, and risk benefit adequacy, as well as increase inefficiencies and transaction costs across the board.<sup>93</sup> Moreover, the lack of involvement of public institutions prevents options for effective coordination between social protection systems in countries of origin and destination.

► Significant gaps exist between the social protections as legislated and migrant workers' actual access to such provisions.

93. For example, in the new mandatory unemployment private insurance scheme in the UAE, employers do not contribute and low-wage workers contribute disproportionately more, relative to salary, than high-wage workers. The new private pension schemes are also restricted to a small segment of high-wage white-collar workers and are unlikely to represent a viable solutions for all workers. Moreover, they are based on a defined-contribution design, which raises concerns from the perspective of international social security standards (see ILO 2023c).

## 5.2. Trends in de facto access to social protection

Significant gaps exist between the social protections as legislated and migrant workers' actual access to such provisions. Evidence for this was found across the range of contingencies considered in the study. While the registration process for health insurance seems to have generally improved in recent years, access to medical care in practice is more mixed, often depending on the specific company and location where workers are employed. When ill, the evidence indicates that migrant workers are not consistently able to take paid time off, whether because of the employer's lack of awareness or compliance, or the employee's fear of losing wages or their job. In the case of an injury at work, available evidence suggests that compensation is not always being provided at the level required by law. Challenges ensuring the full and one-time payment of EOSI also continue to be widely noted, including in cases where companies face financial difficulties or bankruptcy – as was common during the COVID-19 pandemic. In relation to maternity benefits, there is little evidence of migrant workers benefiting from paid leave in practice, in part because female migrants are usually employed in sectors with worse legal protections (such as domestic work) and because the worker's residence is tied to their ability to work for the employer that sponsored them. In the only country, Bahrain, where migrant workers are formally covered for unemployment, migrant workers constitute the largest share of scheme contributors yet only represent a tiny fraction of claims, with significant barriers to access being documented.

These gaps exist for a range of reasons, many of which are exacerbated by employer-liability models of social protection. The migration system is designed such that workers are entirely dependent on employers for sponsorship and required to leave the country shortly after their employment ends. This can hinder workers' awareness of entitlements, access to them and their ability to report non-compliance. State outreach, monitoring and enforcement mechanisms have, historically, been weak because of gaps in political will and administrative challenges, which tend to be amplified when regulating employer-liability provisions.

Access to justice involves a high degree of complexity, transaction costs and employment risks for individuals seeking a remedy, as well as weak and under-resourced labour dispute mechanisms. Practical hurdles related to lack of awareness, bureaucracy, geography, affordability, language and documentation further hinder migrant workers' access to social protection in practice. These hurdles are amplified for workers and their dependents trying to access social protection or justice mechanisms once returned to the country of origin, whether chasing unpaid benefits or survivors' benefit in the case of the worker's death.

In response to these limitations, new measures are being taken to overcome de facto barriers to social protection. In the UAE, for example, employers now have the option to purchase private insurance to cover workers in the event of outstanding wages or benefits, as a voluntary alternative to the existing system that requires employers to provide an upfront bank guarantee for each worker at the time of their hire. Qatar has established the WSIF, which is financed through the state budget and aims to hold employers and business owners financially accountable when they fail to provide workers with their wages and benefits in full. However, in practice there have been concerns about the accessibility and sustainability of the mechanism, as well as the cap on the total payments that can be provided to each claimant. Reforms announced in Oman will proactively place the administration of social security benefits for migrant workers employed by the private and public sector under the responsibility of the national social security institutions, with important implications from the perspective of enforceability and access to rights. These complement the long-standing efforts by civil society organizations and diplomatic missions to assess and advocate for better provisions for migrant workers, as well as raise migrant workers' awareness of their entitlements and directly support their access to justice mechanisms. Even so, outreach, monitoring and enforcement efforts will need to be substantially increased, with active steps taken to overcome both practical barriers and employer–employee power imbalances.

Given the gaps in provision from GCC employers and governments, migrant workers are, in practice, often dependent on private savings, charity and mutual support from their communities.

Sometimes, migrant workers can only access social protection by purchasing private insurance or paying healthcare fees directly or docked from their salary.

In other cases, social protection is ensured through unilateral measures taken by countries of origin, including requirements for workers to participate in overseas worker welfare funds or private insurance schemes, or schemes linked to national social security systems. They may provide important sources of support for migrant workers for certain contingencies during their employment overseas and upon their return as many returning migrants develop health issues, which need to be treated in their country of origin.

This array of substitute arrangements subsidizes, to some extent, social protection, but they can only partially fill gaps created by GCC governments' exclusionary social protection systems. Inevitably, substitute measures are insufficient and heterogeneous and, especially in the case of welfare funds, coverage is far from comprehensive. Furthermore, where workers are required to pay into private insurance or government schemes organized by the country of origin, with no contribution from the employer or government that benefits from their labour, it places an excessive burden on migrant workers to finance the bulk of their long-term social protection – a responsibility that ought to be shared by employers and the countries of destination that benefit from their labour.

### 5.3 Implications for reform

Social protection is a vital component of the fundamental rights for workers, including migrant workers, as outlined in the international social security standards. Beyond these fundamental principles, there is also an economic case for enhancing the social protection of migrant workers residing in GCC countries. First and foremost, GCC countries depend more heavily on their migrant workforce than any other region in the world. Strengthening the provisions for both nationals and migrant workers across the private sector is critical for attracting migrant workers in an increasingly competitive global market – including those working in highly specialized roles.

As the GCC countries are looking to reduce their dependence on the hydrocarbon industry and shift reliance on the bloated public sector for employing nationals, it is imperative that the private sector takes on a larger role for employing citizens. Developing stronger and broader solidarity-based systems for national and migrant workers alike can result in both higher-quality work from better-protected workers and more effective risk-sharing across employers. The goal is to increase efficiency, reduce overall costs and promote more solid growth for firms and economies. While the GCC countries currently have young populations, the demographic ratios are shifting towards an ageing population. Migrant workers could contribute to more resilient and robust national social insurance systems and allow for greater risk-pooling.

Reforms are not only advantageous for economic progress; they are essential if GCC countries are to meet the SDGs, since the situation of migrant workers in the GCC currently falls far short of other high-income countries on many social and economic measures. Commitments to ensure inclusive, adequate and comprehensive social protection systems that leave no one behind, and to review efforts to extend social protection to all migrant workers were also reaffirmed by all GCC countries in the 2021 Ministerial Forum Declaration on the Future of Social Protection in the Arab Region.

The international attention on Qatar in the run-up to the FIFA World Cup and on the UAE in the run-up to Expo 2020 demonstrated that the reputation of governments and employers in GCC countries is increasingly being assessed in relation to the treatment of migrant workers. Adhering to international labour standards and providing universal access to rights across the whole population will, therefore, play a central role in influencing each country's – and the region's – overall international standing.

Governments of destination and origin countries, workers and employers organizations, diplomatic missions and civil society all have critical roles to play in ensuring that migrant workers' access to social protection in the GCC is maintained and improved.

In summary, the report finds that future strategic priorities ought to be structured around the following three sets of recommendations, whilst considering the resources needed for implementation:



## 1. Improving de jure protections for migrant workers

- a. Ratifying and implementing key Conventions and international and regional declarations and instruments that relate to social protection. Key Conventions in the areas of social protection and labour migration include, among others, the ILO Social Security (Minimum Standards) Convention, 1952 (No. 102), the Equality of Treatment (Social Security) Convention, 1962 (No. 118), the Adoption of the Maintenance of Social Security Rights Convention, 1982 (No. 157) and the Domestic Workers Convention, 2011 (No. 189). Just as important as ratification is the effective implementation of Conventions and instruments already adopted (whether binding or non-binding), including those mentioned above, as well as the SDGs, the Global Compact on Migration, the 2021 Ministerial Forum Declaration on the Future of Social Protection in the Arab Region, and others.
- b. Sustaining positive reform trends. This means reinforcing efforts aimed at:
  - i. Improving de jure provisions for the private sector in order to reduce the current gap between public-sector and private-sector provisions, and thereby increase the efficiency of social insurance systems and the comprehensiveness of coverage for all private-sector workers, including both citizens and migrant workers. A key priority is to continue the transition away from employer-liability systems towards including private-sector workers in social insurance systems, especially for contingencies that have so far remained poorly covered, notably maternity, sickness, employment injury and unemployment. The recent or planned adoption of new social insurance schemes to protect private-sector workers from unemployment and other short-term risks in some countries of the region constitutes an important opportunity for extension of coverage.
  - ii. Expanding legislative provisions for migrant workers by working towards
    - equal treatment with nationals, and progressively including migrant workers in national social insurance systems. This requires addressing those risks where there are currently large gaps in equal treatment, such as employment injury and unemployment. Governments may need to take an incremental approach.
    - iii. Extending social protection legislation to cover diverse forms of employment, including domestic work, and gig-economy work. While some progress has been achieved in relation to domestic workers, there remains a need to build on this progress to achieve more comprehensive access to social protection on par with other workers and across all contingency areas. There is also a vital gap in relation to legislation for workers in other diverse forms of employment, including nationals and non-nationals in the platform economy or other forms of part-time, temporary, self-employed, seasonal or casual work, for whom provisions are almost entirely absent at present. Again, an incremental approach may be required.
    - iv. Reaffirming that migrant workers in irregular status or in the informal economy are entitled to social security as a right and enhancing efforts to provide them with access to social protection and particularly to any medical care that is urgently required. This goes in hand in with the need to reinforce efforts to regularize migration flows in the region.
    - v. Strengthening the role of the State as guarantor of social security rights and adopting progressive steps to recognize public financed and administered mechanisms to manage and deliver social protection benefits to migrant workers, instead of relying on direct employer-liability models that are often inefficient, ineffective and challenging to regulate. This can build on positive experiences of creating national public funds to secure social protection for migrant workers with increasing solidarity and enforceability, and opens potential pathways to strengthen social security coordination between countries of origin and destination.

- c. Preventing further segmentation of national social protection systems. This singles out specific categories of workers (e.g. developing provisions only for higher-wage workers) or adopts fragmented private-based solutions (e.g. in relation to healthcare across the GCC). These approaches risk increasing transactional costs and exclusion, fragmenting the risk pool and failing to deliver on the fundamental principles that differentiate social insurance from private insurance, such as broad-based solidarity, collective financing and the role of the State as guarantor of social protection entitlements.
- d. Building on ongoing reforms to the kafala system to ensure that effective social protection arrangements are developed that correspond with workers' increased mobility under the new migration system. Single-employer liability systems may no longer fit with the reality that many workers could soon face. In particular, increased labour mobility creates a need to determine how systems can be adapted to enable the pooling of contributions across multiple employers, and how workers can be supported through periods of unemployment over their working lives. Protections need to be ensured for the growing number of migrant workers with de facto self-employment status. There is also a need to support employers, particularly small and medium-sized enterprises, in providing social protection to its workers.
- e. Determining how migrant workers can be protected against the long-term risks they face upon returning to their home countries, including experimenting with new models for the reform of end-of-service indemnities that can gradually allow for portability and exportability. Moreover, such new models should find ways of granting long-term access to healthcare and injury compensation, recognizing that a number of migrant workers return to their origin countries with injuries or long-term health issues arising from their employment in the GCC.
- f. Exploring solutions to the longstanding issue of social security coordination between systems in countries of destination and countries of origin, including through expanded multilateral and bilateral social security agreements that can improve the portability and exportability of benefits. Bilateral or multilateral social security or labour agreements should improve or include strong social protection provisions that can support migrant workers' access to social protection.
- g. Carefully consider the role of unilateral measures of countries of origin in the extension of social protection. Narrowly defined unilateral measures may divert the focus from true extension of migrant workers' rights to social security, especially when the contributory burden is put only on migrant workers themselves. Host countries should bear the overall responsibility for improving de jure and de facto access to social protection, while origin countries can improve access through unilateral provisions, especially as an interim measure. However, as opposed to minimalistic welfare fund models, preference should be given to facilitating migrant workers' participation in social security systems in countries of origin, provided that mechanisms ensure financial contributions from employers.



## 2. Improving de facto access to social protection for migrant workers by

- a. Strengthening the proactive monitoring of employer compliance with social protection requirements. This can be done more consistently at the point of issuing or renewing work visas and contracts, by ensuring that required social protection provisions are included for all migrant workers (and rejecting such applications until mandatory provisions are comprehensively met). Mechanisms to ensure ongoing monitoring of contract compliance also need to be bolstered, including for those working in "less visible" employment, such as domestic workers and workers in complex contracting chains or diverse forms of employment. Collaboration with entities representing migrant workers and collection of quantitative data will be vital in order to gain an accurate understanding of de facto

access to provisions and enable emerging issues to be promptly addressed. Collecting such data on a systematic basis will help changes in access to be tracked over time. For example, social protection indicators can be disaggregated by nationality in the socio-economic and employment data collated for national statistics.

- b.** Enhancing enforcement and accountability mechanisms for current provisions. This includes strengthening the awareness and role of national institutions for enforceability and rule of law, and ensuring more comprehensive implementation of fines and penalties for instances of employer non-compliance. There is also a need to develop more effective grievance redress procedures, legal dispute mechanisms and access to justice, including for workers who are no longer in the country (and for their overseas relatives where required), as well as to support organizations who assist migrants to navigate these grievance procedures, including civil society organizations and diplomatic missions
- c.** Addressing the wider barriers to access. These include improving awareness-raising initiatives in both countries of origin and destination, delivering information in languages and formats accessible to migrant workers, addressing discriminatory attitudes and practices of service providers, offering services close to geographic areas where workers reside, and ensuring that employers facilitate workers' documentation and identification required to access services and benefits.



### **3. Strengthening social dialogue and collaboration between all actors to realize priorities by**

- a.** Promoting and participating in dialogue at the regional and international level, bringing together countries of origin and destination around the goal of extending social protection to migrant workers and their families. This should be done both in a targeted way, as well as by incorporating the issue into existing dialogues (e.g. the Abu Dhabi Dialogue, the Colombo Process) and other continental forums (e.g. between countries in Africa and the Arab States). Such conversations can help
  - i.** strengthen the focus on social protection within international labour rights frameworks and dialogues, and reinforce momentum for implementing existing social protection commitments;
  - ii.** strengthen the references to social protection in multilateral and bilateral agreements, including the acknowledgement of existing and new legal provisions covering migrant workers in GCC countries and the reinforcement of mechanisms for compliance and monitoring of effective access;
  - iii.** deepen dialogue on social security coordination, including on the portability of benefits to ensure that migrant workers do not lose access to benefits they have accrued.
- b.** Ensuring that the voices and concerns of migrant workers can be heard. There needs to be a space for workers to engage in collective action without repercussions, as well as reinforced protections for workers who report non-compliance, for accountability mechanisms to be successful in holding employers to account.
- c.** Ensuring that the preferences of migrant workers are considered in policy reforms. It is critical to understand the views and preferences of migrant workers concerning potential policy options. Policy reforms should recognize that, for many migrant workers, remittances support family members at home and the end-of-service payment is critical to their livelihoods. Moreover, time frames may be contradictory, with migrant workers potentially hesitant to contribute to systems that only provide benefits on a long-term or uncertain basis.
- d.** Bolstering explicit and structured platforms for tripartite dialogue between state actors, employers and workers. Include countries of destination and origin, as well as civil society organizations and global, regional and national stakeholders and advocates.



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## ► Appendix: Methodology and limitations

The regional mapping exercise consisted of the following three components:



**1** A literature review of de jure and de facto migrant worker coverage across the region and within each GCC country. This provided an overall understanding of key trends and potential barriers and enablers



**2** A legal review of relevant laws and regulations, as well as unilateral, bilateral and multilateral agreements for each GCC country. This comprehensive review was separately commissioned by the ILO to a legal firm (Clyde & Co.).



**3** Key informant interviews with stakeholders, including representatives of ministries responsible for the design and delivery of contributory and non-contributory social protection schemes and ministries overseeing labour migration. Representatives of trade unions, employers' organizations, migrant workers' organizations and associations, recruitment agencies, private insurance companies, chambers of commerce, countries of origin's embassies and diaspora organizations were also interviewed to further understand migrant workers' entitlements to social protection mechanisms in GCC countries and to gather data on the successes and challenges evident in the implementation of these entitlements<sup>94</sup>.

A thematic analysis of the interview transcripts was conducted, and the report synthesized and analysed the findings from all three components.

### Data sources for the report



#### The literature review

The literature review was carried out by ODI in September–October 2021, and then updated in March 2022 to address reviewer comments. Additional references retrieved during the report-writing stage were also included. A total of 119 sources comprising academic, institutional and grey literature, as well as news articles, were retrieved and key knowledge gaps were identified.

English and Arabic publications were searched using a protocol to identify key terms/strings. Bibliographies and reference lists of relevant reports were then used to identify further literature. Literature that specifically focused on social protection and labour migration in GCC countries was prioritized. Reports of a global nature were included where relevant, such as those produced by the ILO, the IOM and the Regional UN Issue-Based Coalition on Social Protection (IBC-SP). Given this was a rapid review, the quality of the literature was not assessed. However, literature published in high-quality peer-reviewed journals and grey literature published by well-respected organizations and institutes was prioritized.



#### The legal review

The legal review of national social protection legislation and frameworks for migrant workers was undertaken between September 2021 and August 2022, taking a broad view of the definition of social protection and presenting the legislature in this area within the wider legislative and procedural context in which migrant workers are recruited and deployed in the GCC. The review was grounded on the laws reported in the Legal Gazette of each of the GCC countries. The detailed country-level analysis is published as a separate paper (ILO 2023a) and this content forms the basis for the de jure analysis in the present regional mapping report, along with the findings from the literature review and new insights from key informants.

94. Migrant workers' perspectives were reflected in this report through interviews with migrant workers' organizations and associations, as well as with diaspora organizations. The next phase of the project includes interviews with individual (current or former) migrant workers, to provide further details on their views and experiences.



### Key informant interviews

Interviewees helped to fill the gaps left by the literature and legal reviews, and provided an eyewitness, in-depth understanding of different country contexts, particular regarding de facto access to social protection. The perspectives of a range of different stakeholders were detailed, including on policy implications.

An interview guide was developed following the legal review; key research objectives were developed and revised over several rounds of iteration. An accompanying training manual was also developed and tested during the 2-day training workshop and finalized after a number of interviews had been conducted. Interviewers included a team of regional researchers, almost all of whom were native Arabic speakers.

Interviews were conducted in-person or online, depending on the preference of the respondent and the COVID-19 situation, between November 2021 and October 2022. Where the respondent agreed, interviews were recorded. Otherwise, a second interviewer took detailed notes. Interviews were mostly conducted in Arabic, although some of those with migrant worker groups, embassies or civil society organizations were conducted in English. In some cases, two or three informants took part in the same interview.

The interviewing process was somewhat more protracted than anticipated because of challenges securing interviews with some stakeholders. In the end, a total of 51 interviews were conducted, but the number varied by country. Government stakeholders, in particular, were underrepresented, even though they were prioritized.

### Data analysis

The interview transcripts were analysed using computer-assisted qualitative data analysis software (MAXQDA). A coding structure was generated, and relevant transcribed segments were extracted where they related to de jure or de facto social protection coverage for migrant workers. After dividing the sample by nodes, the researchers explored the material looking for regional trends and relevant examples that corresponded to each selected topic. These were then examined in relation to the literature and legal reviews. For the de jure theme, priority was given to official sources, whereas the de facto section centred around participants' accounts.

Respecting participants' decisions, the authors have not named those who wished to remain anonymous, identifying only the country where the interview took place. Because of the sensitivity of some of the data collected, for some of the quotes we have not named the country.



### Limitations of the data collected

The interview data depended on the availability of participants, both in a practical sense and in relation to their agreement or interest to share details regarding what can be perceived as a sensitive topic. The team did not have access to an equal number of participants across the GCC countries, nor were participants evenly distributed across categories. Notably, CSOs, community groups and diplomatic missions were more frequently represented than employers' associations and ministries.

The data thus reflect a more detailed picture for some countries, particularly Oman and Kuwait, than for others. In the report we give examples from the interview data; this does not mean that these are the only instances of any particular trends.

It is also important to note that the data collection strategy was deliberately qualitative; numerical estimates are provided only when they were reported by key informants or available in published research. However, none were sufficient to provide anything close to a comprehensive quantitative mapping. As such, this report should not be viewed as a complete picture of the de jure and de facto social protection coverage for migrant workers across the GCC. Nonetheless, to our knowledge the report represents the most detailed and up-to-date research so far conducted for the region.

In addition, an important limitation is that the issues covered in the interviews relating to labour, migrants and social protection are quite sensitive in the region. This means that respondents may have been somewhat guarded in their comments, and may not have revealed all relevant information, particularly on potential challenges. The researchers note that migrant workers are largely prohibited from discussing employment-related issues. Consequently, the insights shared by specific migrant worker groups should be seen as illustrative, rather than wholly representative, of the experience of the migrant workforce.

► **Table 2. Number of interviews by country and stakeholder**

	 Bahrain	 Kuwait	 Oman	 Qatar	 UAE	Total
<b>Stakeholder</b>						
Diplomatic mission in destination country	2	2	4		1	9
Civil society organization, workers' union, diaspora organization, community group or faith group	1	8	3	4		16
MoL or related institution	2	1	1	2		6
Ministry of Social affairs or related institution			4	1		5
IO, NGO, think tank, researcher, academic	1	1		1	2	5
Private insurance company			1			1
Public or private subcontracting company, recruitment agency (including specific recruitment agency for domestic workers)			1		2	3
Representative of employers		1	2			3
Representative of workers of key economic sectors			1			1
Social security institution	1				1	2
<b>Total</b>						
	<b>7</b>	<b>13</b>	<b>17</b>	<b>9</b>	<b>5</b>	<b>51</b>





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