



Centre for the Study of
Labour and Mobility

‘Kafala’ or ‘Sponsorship System’

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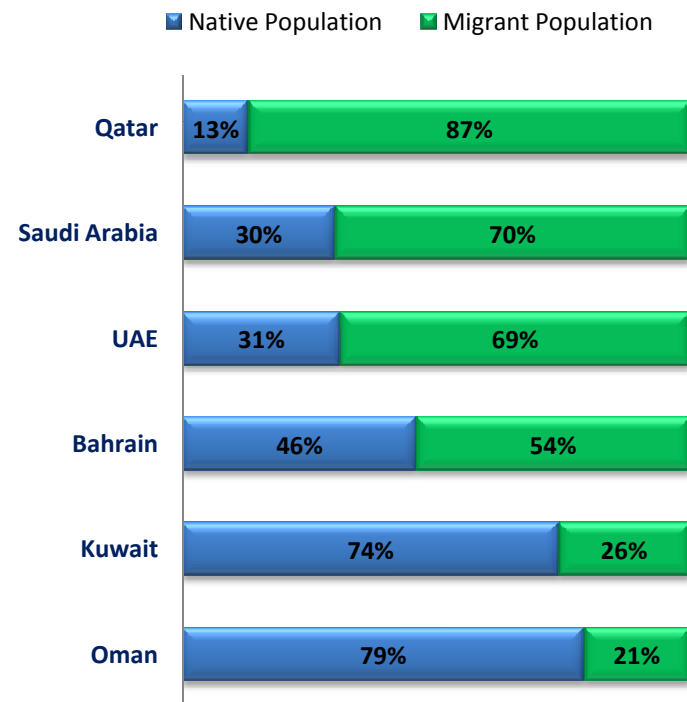
Centre for the Study of Labour and Mobility (CESLAM)



Gulf Cooperative Council (GCC) Countries

- Comprises of Qatar, the Kingdom of Saudi Arabia, United Arab Emirates, the Kingdom of Bahrain, Kuwait and Sultanate of Oman
- Majority of the GCC countries have amongst the highest proportion of foreign workers population

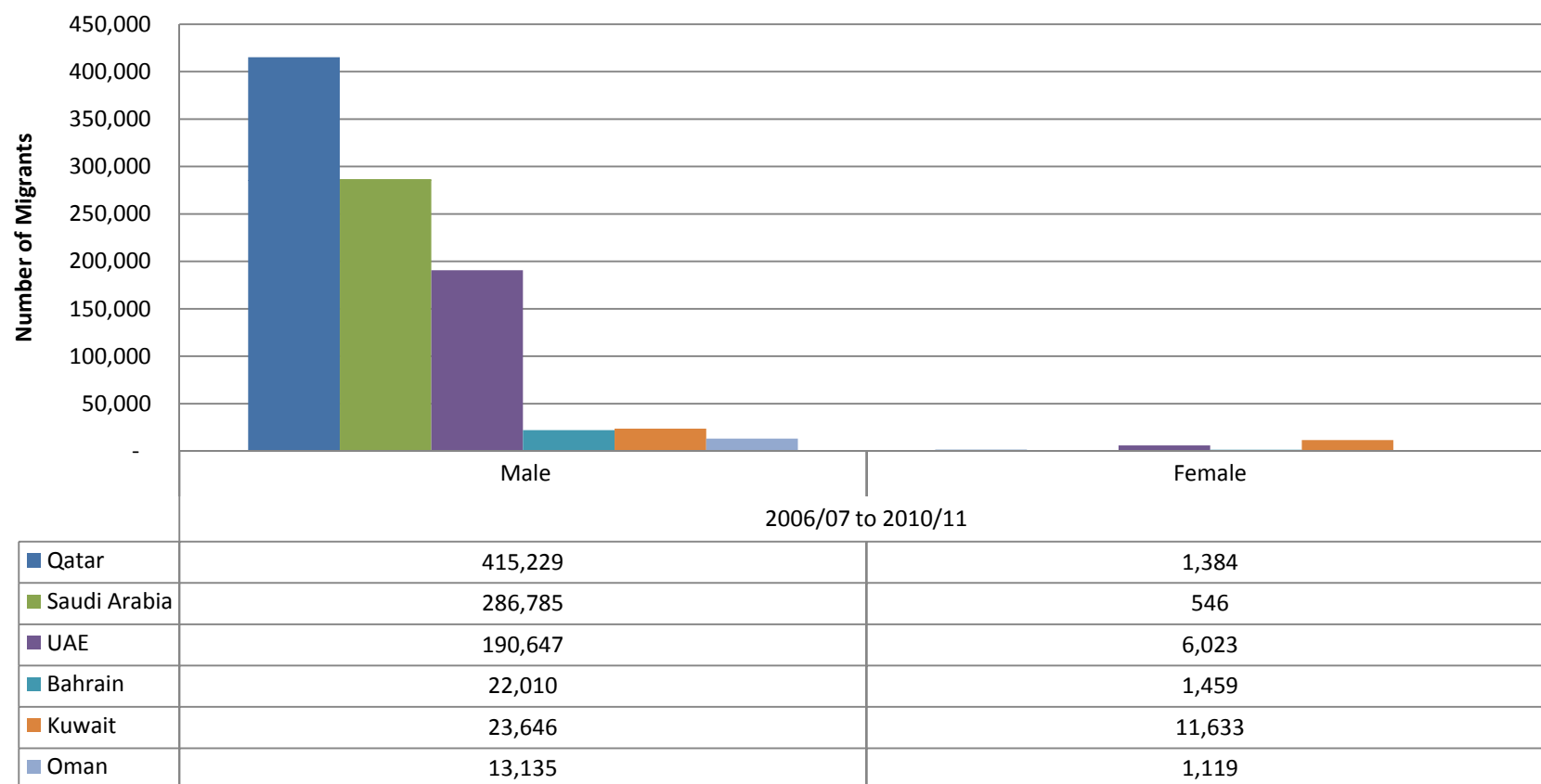
Native vs. Migrant Population in GCC Countries





Total Number of Migrants to GCC Countries between 2006-2011

Total Number of Migrants Between 2006-2011 to the GCC Countries





What is the Kafala System?

- **Kafala System:** Sponsorship system that regulates residency and employment of the workers in the GCC countries
- **Who are they?:** Not just maid that work in the household but is defined as any and anyone who works within household (drivers, gardener, maid etc)
- **Sponsors Responsibility:**
 - Pays for recruiting the worker to the GCC Country
 - After the arrival of the worker he is required to assume full economic and legal responsibility
 - Workers visa status is tied to the sponsor
- **Contract period :**
 - For a minimum of two years
 - No contract signed between sponsor and worker; only between worker and recruitment agency



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- **Breach of contract:**
 - If a contract is broken sponsor may ask the worker to pay back the recruitment fee , unless abuse or proven violation has been committed by the sponsor
- **Binding workers:**
 - Sponsor has complete control over the mobility of worker
 - Cannot transfer employment without first obtaining a consent from the sponsor
 - Cannot leave the country without first receiving an 'exit visa' from the sponsor



Why is it a problem for domestic workers?

- **Why does the system affect them most?:** GCC countries explicitly excludes domestic workers under their labour laws and social security laws

Country	Labour laws that explicitly exclude domestic workers
Bahrain	Explicitly excluded under section 2 of the Labour Code for the Private Sector No 23 of 1976
Kuwait	Explicitly excluded under section 2 of the Labour Code for the Private Sector No 30 of 1995
Qatar	Explicitly excluded under section 3 of the Labour Code No 14 of 2004
Saudi Arabia	Explicitly excluded under section 7 (b) of the Labour Act, 2006 (Royal Decree No. M/51)
UAE	Explicitly excluded under section 3 of the Federal Act No. 8 of 1980, regulating employment relationship
Oman	Explicitly excluded under section 2 of Labour Code, 2003 (Royal Decree No. 35)



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- **Monitoring situation of workers:** No proper study on the situation of domestic workers since GCC laws do not allow labour inspectors into their homes
- **Cause of escalating abuse:** Recruitment fee for live-in domestic worker is 2-3 times higher than what a yearly salary of a worker
- **Types of abuse:**

Types of Abuse	Description
Economic abuse	Terms and conditions of the work contract are violated by the employer-not paid on time, or paid less or not paid at all
Psychological abuse	Employer forbids the domestic worker from contacting their family, restricts movement (withholding passport and other documents), trauma from the sexual advances and
Verbal abuse	Use of degrading words, insulting, humiliation, making fun of the workers race, cast, religion, clothes, personal behavior
Physical violence	Workers are slapped, hit, burnt, punched, not given food or enough rest/sleep, no proper health care or no health care, locked in the room against the workers will
Sexual abuse	Forced to have sex against their will, unwanted sexual advances made by the employer



Runaway/ Absconding

- **Why is running away bad?:** GCC country laws consider running away as a crime and jailed
 - Runaway workers do not get any form of justice even in the case where there is an obvious violation of rights
 - Slow judiciary process ,identification
 - Not allowed to work while there is a pending case
 - Work illegally making them more vulnerable
 - Cannot leave the country without an ‘exit visa’ from the sponsor
 - No embassies- no embassies in Bahrain, Oman and Kuwait



Bilateral Agreements

- **Why is it important?:** excluded from labour laws it is the only instrument that can insure protection of domestic workers
- Nepal has signed bilateral agreements with just Bahrain, UAE and Qatar
- **What does it say?:**
 - Just an agreement allowing sending of Nepali migrant workers to the countries
 - No specification of domestic workers protection
 - Article 3 (2) and (3) of the bilateral agreement with **Bahrain**-protection and periodic information about worker to Embassy of Nepal respectively but no specification for domestic workers
 - Article 6 of the bilateral agreement with **Qatar** states workers travel expenses to be borne by sponsor but no mention of domestic workers



Recommendations

- **Campaigning and Awareness:**
 - Raising awareness on the Kafala System
 - Focus should be on pre-employment orientations
 - Encourage prospective migrants to apply for work outside the domestic sphere
- **Pre Departure Orientation:**
 - Leave a copy of travel document at home and carry one in person, so that identification becomes easier in the destination country
 - Target domestic workers
 - Providing migrants with contact information for emergency assistance-embassy/ consulate, civil society organizations at destination country



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- **Lobbying:**
 - Better management of Nepali embassy and establishing embassies in all the destination countries
 - Mandatory registration with the Nepali embassy at the destination country
 - Safe houses set up at the destination countries
 - Better bilateral agreement with specific protection for domestic workers
 - Encourage sending workers for work that's covered by the labor laws