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Migration Policies across the GCC: Challenges in Reforming the *Kafala*

Abdoulaye Diop, Trevor Johnston, and Kien Trung Le

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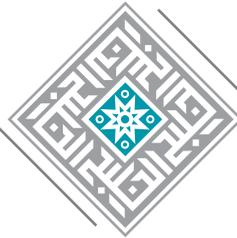
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III

Migration Policies across the GCC: Challenges in Reforming the *Kafala*

*Abdoulaye Diop**, *Trevor Johnston***, and *Kien Trung Le****

Abstract: Much of the debate over immigration policy in the states of the Gulf Cooperation Council (Bahrain, United Arab Emirates, Kingdom of Saudi Arabia, Kuwait, Oman, and Qatar) revolves around the *kafala*, or sponsorship system. In recent years, scholars, activists, and policymakers have all debated the urgent need for *kafala* reform. In its current form, the system is not sustainable. Initially designed to ensure a steady supply of labour for economic development, the *kafala* system has come under growing criticism from non-governmental and human rights organisations. Such criticism reached new heights when Qatar was awarded the rights to host the 2022 FIFA World Cup. With this decision, Qatar and the rest of the Gulf Cooperation Council (GCC) countries were exposed to greater scrutiny for their labour conditions and policies. While all GCC countries share a

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variation of the *kafala* system, each country has attempted to implement a different set of reforms at various times over the last decade. Results from these reforms have been marginal and limited in scope. In most cases, the reform agenda has faced significant opposition from a coalition of domestic groups and economic interests that underlie public support for the status quo. This chapter provides an overview of the *kafala* system in the GCC countries and the different reforms that have been attempted. We draw on original survey data from across the GCC to better understand the varying conditions across these countries and how interests shape the challenges to reform. Finally, we return to the motivating case of Qatar, which has recently implemented changes to its labour laws. Using quarterly survey data, we explore the degree to which citizens' perceptions and support for these reforms have changed over time. We conclude by drawing lessons for the broader GCC and speculate on the opportunities for reform in the future.

Introduction

The *kafala* has become increasingly costly and more difficult to sustain over time. Administrative challenges and labour market inefficiencies have increased the economic costs of the *kafala*, while non-governmental organisations (NGOs) and international media have exposed systemic abuse, hurting the Gulf states' reputations. The Gulf states continue to fight a losing battle for a system that can no longer meet its basic goals. Partial and failed enforcement has resulted in efficiency losses for the entire economy. Compounding these losses, basic incentive problems generate negative externalities for domestic labour markets and investors. In concert with these many economic costs, domestic pressures and international condemnation pose significant political challenges to the ruling regimes. And yet despite this hard reality, the system persists throughout the Gulf. Given such severe and growing costs, the question then is, how has the *kafala* lasted this long and resisted reform?

A central tension underlies the societies and political economy of the Gulf today. The presence of a large, permanent foreign population produces myriad social problems. But this population is indispensable to the economy and citizens' quality of life. Given such a tension, the regimes of the Gulf states find themselves in the unenviable position of having to reform without broad popular support. Political and international pressures, in concert with the long-term economic implications of foreign labour dependence, have made the *kafala* increasingly costly and potentially unsustainable. How these states achieve reform, and the degree to which they can

reframe the debate, depends critically on economic and social interests. Policy change will require careful negotiation between costly trade-offs, and few in the Gulf appear ready for such rebalancing.

Many of the Gulf's leaders have come to recognise this policy challenge, but few have successfully done much to wean their countries off foreign labour. We would think that, of all states, those of the Gulf should be able to set decisive immigration policies and enforce them. We argue, however, that even states lacking pluralism or pronounced competition may be so constrained as to allow continued immigration, even when it is against their interests. Such constraint takes the form of broader popular pressures and economic interests, which capture policy to the detriment of long-term development goals.

Given the myriad ways in which *kafala* may influence an individual's life, and the potentially heterogeneous effects of economic interest, it remains to be seen what underlies the resistance to reform. Is it driven by business owners and other private sector actors whose interests are most closely tied to workers? Or do we see this resistance at an even more popular level, including groups with more diffuse interests, like workers or even consumers?

In this chapter, we begin to answer these questions, focusing on Qatar but also using this case to help tease out insights for the rest of the Gulf. In the next section, we introduce the *kafala* system in theory and practice. The *kafala* is replete with inefficiencies and structural challenges that introduce significant costs on employers and workers alike. We then describe efforts to reform the *kafala*, which have largely failed to address the real structural problems in the Gulf. Against this background, the next two sections sketch out our argument on policy change in the Gulf. We argue that reform crucially depends on public opinion and support, which has been lacking in the past. In the penultimate section, we return to Qatar to show where and why this support has been lagging. Drawing on a series of surveys, we explore the political and economic interests that support opposition to reform. Finally, we conclude with a discussion on the prospects for *kafala* reform.

***Kafala* Today: Challenges and Costs**

Rooted in early Gulf traditions, the *kafala* is a reputation-based system that helped ensure visitors would be vetted by their local *kafeel*—who in turn would be held accountable for the visitor's actions—but also protected. The *kafeel* would help prevent the visitor from contravening local law or custom, while also providing succour and protection as needed. Throughout this chapter, we use the term *kafala*

as short-hand to refer to the collection of rules, both formal (e.g., laws and statutes) and informal (e.g., norms and conventions), that not only drive migration to the Gulf, but also shape the relationship between sponsors and migrants. At its most basic level, the *kafala* explicitly (or implicitly) defines how migrants enter/exit the country, how long they may reside, and the rights and benefits entitled to both the sponsor and migrant within this contractual relationship.

The debate and analysis of the *kafala* often focuses exclusively on blue-collar or low-skill migrant labour. While many of the most egregious abuses within the system often fall disproportionately on this vulnerable population, the *kafala*'s scope is much more expansive. More than just labourers, domestic servants, and retail workers, the *kafala* also regulates the entry/exit and treatment of white-collar, high-skill expatriate labour [for a recent study on Western expats, see Chaudoir (2010), Diop et al. (2015)].

While the exact numbers have varied over time and across the region, foreign labour continues to be critically important to the growth and development of the Gulf. In 1975, foreign workers comprised just over half of the Gulf's labour force, at nearly 1.4 million workers. By 2008, foreign workers were approximately 67 per cent of the labour force and had grown to over 11 million region-wide. This trend is particularly stark in the migrant-dependent states, like Qatar, where foreign workers held 94.3 per cent of the jobs in 2008. After Qatar, states with at least 80 per cent foreign workforce include the UAE and Kuwait; Bahrain and Oman have around 75 per cent foreign workers, while Saudi Arabia has been the most resistant, having reduced this workforce population to 50.6 per cent in 2008. For more details and data, see Winckler (2010), Baldwin-Edwards (2011), and De Bel-Air (2017).

Officially, the movement and welfare of these workers is subject to international treaties, government regulations, and other formal rules. In practice, an expansive extralegal market dominates the entire migration process, beginning with the very recruitment of workers in their home countries. In the early years, the responsibility for labour recruitment and management fell on specialised ministries in migrant-sending countries or on employers (Shah 2013). Such a system, however, could not meet the growing demands of the Gulf economies. Recruitment agencies grew out of this need for a more expansive and organised system. Over time, though, these formal agencies have been increasingly supplemented or replaced entirely by private agents operating outside the formal system and without much regard for the legal statutes in place.

Despite these large numbers, this foreign-born population is supposed to be temporary. By design, contracts last only a few years or even fewer if the sponsor decides to terminate them early. These temporary contracts should have encouraged a regular rotation of workers and thus avoided the creation of a lower class of semi-permanent non-citizens. Unfortunately, such stratification is exactly what happened and constitutes just one of the many challenges that the system confronts today.

At its very core, the *kafala* system rests on a shaky foundation, encouraging employers and workers to circumvent the formal system. In economic terms, many of the system structures are not incentive compatible: they expect firms and workers to act contrary to their basic, rational self-interest. Systemic incentive problems not only undermine the *kafala*'s implementation but also introduce negative externalities throughout the broader economy and domestic labour market. Restrictions on worker mobility have produced frictions, which contribute to a highly segmented and rigid labour market.

The most obvious cost has been the unexpected difficulties to fully enforce the complex labour law governing the *kafala*. However beneficial the system may have been in theory, its practical application and implementation has faced many challenges. Having already paid a great price to bring workers to the Gulf and train them, individual firms have no interest in spending more to replace these existing employees with new workers, who likely lack the commensurate skills and experience. At the same time, migrants who have already travelled to the Gulf for work can only expect a lower wage at home, along with the added costs of navigating the process yet again to find a new job abroad. Private sector actors, from firms to workers, simply have no incentive to uphold the temporary or rotational scheme that the Gulf states initially envisioned for the *kafala*.

Given such incentives, various exchanges have emerged—some legally ambiguous and others outright criminal—to provide workers with a range of options to enter the Gulf and avoid deportation. An especially common practice is that of visa trading, where a worker's sponsorship and rights are unofficially traded to another sponsor (Shah 2008). In addition to visa trading, there are “floating,” “free” and “flying” visas that all subtly violate the *kafala* system and help migrants find employment without first signing a formal contract with their sponsor (Rahman 2011).

These markets and inefficiencies have very real costs for the economy. Soto and Alvarez (2011) explore these problems in the context of Dubai. They find strong evidence that firms operating under the *kafala* are much less efficient than their competitors in adjacent free-zones, who can better induce worker productivity.

While there are many possible explanations for this difference, Vazquez-Alvarez (2011) suggests that *kafala*-firms do not incentivise worker productivity or efficiency. Workers in these firms simply do not have an incentive to increase their effort or acquire new skills: “the combination of short contracts, flat wages and lack of internal mobility... destroys the incentives for migrant workers to exercise higher effort levels in production” (Soto and Alvarez 2011, 8). We should not underestimate the costs of such productivity losses. As their revenues from energy exports continue to decline over time, the Gulf states can ill afford low worker productivity, which represents one of the greatest impediments to economic growth.

Finally, while perhaps the most difficult cost to identify, let alone measure, we cannot overlook the vast reputation costs of the *kafala* for the Gulf countries. As criticism grows, these regimes become the target of unwanted negative publicity for their treatment of workers. According to critics, the current system permits exploitation by giving sponsors vast control without offering workers feasible options to redress their grievances or escape an abusive situation. Generally, migrants are unaware of or have little access to formal legal channels of redress (e.g., courts, embassies, or other NGOs) and instead must often resort to absconding. Such action makes the migrant a criminal and subject to prosecution, further increasing his or her personal risk.

While pressure comes and goes, the *kafala* persists. Given the system’s many costs and the purported urgency for reform, the *kafala*’s robustness is surprising, to say the least. Failures of inaction and implementation continue to puzzle observers and policymakers looking for a solution to the mounting immigration problem. In the next section, we discuss these reform efforts in detail.

Efforts towards Reform

At different points in time, all the GCC countries have introduced measures to reform the *kafala* system. However, the experiences of two GCC states, Bahrain and Kuwait, best illustrate the tendency for promised reforms to become watered down through the policymaking process. In 2009, Bahrain was the first GCC country to make a genuine attempt to reform its *kafala* system. Bahrain introduced legislation allowing workers to change employment without requiring formal permission from their sponsors (Migrant Forum in Asia 2012). Such reforms would provide workers with an exit option should conditions become abusive or if other contractual terms were not met. Later, in 2012, a private sector labour law was passed to improve workers’ protection and benefits. The new law extended the

sick days and annual leave while imposing higher penalties for unfair sponsorship practices. A compensation for unfairly dismissed workers was established while a jail penalty and fines were declared for employers who violated the labour law. Under the law, domestic workers—usually excluded from these regulations—would have the right to a contract that specified working hours and their benefits as an employee (Human Rights Watch 2012).

More recently, in 2016, Bahrain also announced a flexible work permit that would allow migrant workers to be their own sponsors, thus granting more autonomy to the workers. However, the permit did not apply for every worker. The real purpose was to allow illegal workers who had been victims of abusive sponsors to get a permit to work for a maximum period of two years after paying a unique monthly fee. Workers could not apply for a professional position and it was not clear whether domestic workers could benefit from this policy (Americans for Democracy & Human Rights in Bahrain 2016). Like the reforms of 2009 and 2012, this change was far less sweeping and meaningful in practice than was promised in official announcements.

After years of delay, the Kuwaiti parliament finally passed its own reform bill in May 2013. This bill was to institute a set of reforms to ease the change of employment under the *kafala*. The legislation established the Public Authority for Labour Affairs, a government agency in charge of migrant recruitment and management.¹ A few years later, in 2015, the Public Authority started a project in conjunction with the United Nations Development Programme (UNDP), the International Organisation for Migration (IOM), and the International Labour Organisation (ILO) to improve labour conditions in compliance with international labour standards (United Nations Development Programme 2015). Kuwait's intention to reform its version of the *kafala* system was also described in the 2016 Human Rights Watch report on the country. The document notes how these improvements have made it easier to transfer employers, giving domestic workers this right for the first time, and enacted a minimum wage for these workers (*Arab Times* 2017).² While these reforms are undoubtedly a positive step, they do not fundamentally restructure the *kafala* system or address the many negative externalities it imposes on labour markets in the Gulf.

Baldwin-Edwards (2011) suggests that the lack of verifiable data and widespread under-reporting of abuses makes any assessment of reform difficult. That

1. "Sponsorship System to be Scrapped," *Kuwait Times*, June 16, 2013.

2. "New Domestic Labor Law to Help Improve rights of 'Weaker Party,'" *Arab Times*, April 27, 2017.

said, the Labour Market Regulation Authority of Bahrain (tasked with overseeing the recent reform) has released some data that indicate an increase in migrants switching employers. Ultimately, however, there is little evidence even in the cases of Bahrain and Kuwait that the reforms have brought about significant change, let alone the promised dismantling of their *kafala* system. The effects of these reforms have been attenuated by partial implementation and a gradual watering down of the legislation. In Bahrain, its once-ambitious reforms had been significantly curtailed by the time of implementation. Kuwait has similarly failed to live up to its high-minded reforms by ignoring domestic workers who are often the most vulnerable and least likely to receive protection under existing law (Human Rights Watch 2010).

Elsewhere in the Gulf, leaders have attempted similar reforms. After five years of research, the Ministry of Labour of Saudi Arabia proposed a reform to change the *kafala* system in 2012. The proposal included the elimination of individual sponsorship, replacing it with a corporate system that would be managed by a labour authority affiliated with the Labour Ministry. Migrant workers would not be asked to surrender their passport anymore and sponsors would benefit from an insurance programme that would cover damages caused by the workers (Malaeb 2015). The ministry's proposal, however, did not eliminate the sponsorship system.

In 2015, modifications to the labour law went into effect. The new law prohibited and increased fines for confiscating migrant workers' passports, for failing to pay salaries on time, for not giving a copy of the contract to employees, and for obligating workers to perform tasks that were not included in the contract. The reform also increased the paid leave and compensated workers for injuries due to their work. Nevertheless, the legislation did not protect domestic workers and those that would work in Saudi Arabia for less than two months (Human Rights Watch 2015).

The reform also increased the Labour Ministry's inspection and enforcement powers towards companies not obeying the law (Hannan 2015). Despite these changes, some critics have continued to denounce persistent labour abuse and exploitation, especially after the price of oil decreased. Passport withholding and the exit permit are still part of the main problems migrant workers face (Lynch 2016; Whitaker 2016). Moreover, Saudi Arabia's Ministry of Labour and Social Development recently declared that the government is no longer studying efforts to abandon the *kafala* system (*The New Arab* 2017)

The United Arab Emirates (UAE) has also attempted to reform its *kafala* system. In 2009, the Ministry of Labour introduced a wage protection system

(WPS), an electronic transfer system to guarantee supervision and protection of the workers' wages. A year later, a newly introduced resolution enabled the Labour Ministry to protect migrant workers by issuing work permits to them so that they could transfer from one employer to another even before their contract is terminated if certain conditions are met (i.e., an employer breach of contract) (Human Rights Watch 2014). Additionally, in 2010 and 2012, the government attempted to regulate recruitment agencies engaged in acts of forced labour or human trafficking by revoking or suspending their licenses (Human Rights Watch 2014) and by imposing fines on those employers who make their employees pay recruitment fees. Finally, in 2014, the UAE revised the standard contract for domestic workers, a contract characterised by Human Rights Watch as falling short of international standards.

Reforms to the *kafala* system in the GCC countries have been limited, and reforms in Oman and in Qatar are not an exception. In 2003, a law enacted in Oman made it illegal to loan migrant workers to others employers (Migrant Forum in Asia 2012). And in 2011, the government told the United Nations Human Rights Council that they are researching options for a new system to replace the *kafala* system. However, the government has not yet presented any proposal (Human Rights Watch 2016).

No state in the region has been subjected to more scrutiny and criticism than Qatar in recent years, and it has become the latest state to promise reform. Since winning the bid for the 2022 FIFA World Cup, Qatar has faced mounting pressure to reform, and hardly a month goes by without another scathing human rights report calling for an end to the *kafala* system (Human Rights Watch 2013). Having recognised these pressures, in 2012 the government formed a committee to study possible reforms to the sponsorship system, and in 2014 the government announced that a new law would soon finish the sponsorship system for foreign workers (Al-Khatib 2014). By December 2016, Qatar's new policy was implemented to replace the sponsorship law of 2009. Per the announcement, the new policy "kills the *kafala* system" by making it easier for workers to change jobs and to leave the country (Kovessy 2016), although some critics have argued that this new policy does not fully remove the institutional hurdles to labour mobility and freedom to exit the country at will, in effect leaving the basic structure of the *kafala* system in place.

Amnesty International (2016) contends that even though the new law abolishes the words "sponsor" and "sponsorship," in practice it only introduces a few changes. The law retained the exit permit and made it easier for the employer to withhold the workers' passport, something that was previously illegal. In response,

the government of Qatar requested that the international community not draw any conclusions about the new law prior to the evaluation of its results (*The New Arab* 2016).

Rather than pursuing meaningful reforms to end the *kafala*, these regimes have often been criticised for focusing on public relations and damage control. By ignoring the basic structural problems, these efforts have only raised the cost of enforcing and administering the *kafala*, without properly addressing the root causes that would enable a comprehensive reform of the system.

Policy Change in Non-Democratic States

In the previous sections, we have argued that the *kafala* is not only costly, but surprisingly enduring. This persistence is especially puzzling given various regimes' attempts to reform their systems. While some of these efforts have undoubtedly been little more than lip service to international and domestic critics, some policy reforms have represented a real recognition that the current system is unsustainable and must be changed. The *kafala*'s persistence, in light of such pressure and desire for change, represents a real puzzle for scholars and reformers alike.

We argue that this persistence ultimately depends on the overwhelming public support for the *kafala*. Despite conventional wisdom, public opinion is also important in non-democratic countries, even those lacking formal mechanisms for accountability and representation. This is especially true for politically sensitive and highly salient issues. And in the Gulf, perhaps no issue is more sensitive or salient with than immigration reform.

While by no means representative, under certain conditions non-democratic states can come to resemble their democratic counterparts, at least in some limited way. This effective equivalence has been most often seen in economic outcomes, which provoked a fierce debate around the “developmental state” (Woo-Cumings 1999). The rapid growth of the Asian Tigers in the late 20th century forced scholars to revise long-held assumptions about economic growth, capitalism, and democracy. Beginning with Japan, scholars found that economic reform and development could be achieved through deliberate state intervention. Moreover, in some cases, an authoritarian regime could more efficiently enact such change, using its power to “mobilize the overwhelming majority of the population to work and sacrifice” (Johnson 1999, 52). While such mobilisation is not sustainable and can be easily abused, it can accelerate reform so long as the regime can maintain broad support from society.

The Gulf states today somewhat resemble the developmental state, in which

the regime enjoys incredible influence over industry and finance. When a monarch has an “encompassing interest” in society’s welfare, he may pursue pro-growth strategies like any democratic leader (Olson 2000). Once thought the domain of re-election-oriented democrats, such an interest can even extend to providing public goods and improving citizen welfare. To be clear, such policies are often motivated by an instrumental logic (e.g., the long-term, growth-inducing effects) rather than some inherently progressive value system. This “benevolent” behaviour depends on leaders’ incentives and will only obtain in cases where rulers internalise their citizens’ interests or, at a minimum, identify some other economic or political benefit from these policies.

Although fully specifying these conditions is beyond the scope of this chapter, we can generally expect public interest to influence policy when rulers are in some way constrained by their populations or some critical subset. Selectorate theory (de Mesquita et al. 2004) suggests that in monarchical regimes like those of the GCC, rulers must keep a subset of their populations happy to prevent challengers from emerging and replacing the incumbent regime. While defining this subset can often be difficult in practice, in the case of the GCC states, this vital group clearly derives from the small citizen population.

Thus, to explain the survival of the *kafala*, we must look to public opinion and the determinants of popular support for or against reform. How some citizens perceive immigration and the policies regulating it can be driven by basic misconceptions, rooted more in emotions than “objective self-interest or personal experience” (Cornelius and Rosenblum 2005, 103). Condemnation of the *kafala* from international NGOs, civil society organisations, and international media has largely focused this debate on the treatment of the migrant workers in the Gulf. While many of these organisations have pushed for comprehensive reforms to improve the treatment of migrant workers, GCC government bodies and Shura councils tend to discuss the need for reform in terms of development, with a focus on their citizens’ economic and financial concerns.

This debate around the *kafala* can be politically charged and entangled with normative positions on both sides. Such framing can be misleading and tends to obfuscate some of the basic facts of the system. Most importantly, this debate too often ignores the long-term sustainability challenges endemic to the system. For all the press surrounding the GCC states’ ambitious strategic visions and long-term plans, few reports critically note that these programmes will continue to depend on foreign labour. This dependence is especially ironic given that many of these policies also aim to reduce these states’ dependence on this non-citizen population.

In recent years, this topic has taken on a sensitive political dimension. The dependence on these workers and their ubiquitous penetration of Gulf life has led many in the media and in government to frame this issue as one of basic security and a cultural threat. According to these critics, the persistent reliance on foreign workers has sweeping implications, from undermining the long-term economy to eroding basic cultural foundations (e.g., Arabic language, gender dynamics). Yet, for all this rhetoric and anxiety, for most citizens the debate over the *kafala* is much more personal and banal. Public opinion on reforming the *kafala* does not revolve around such esoteric concerns but those of any household: How will reform affect me? Will my maid quit? Will my driver demand a higher wage? In short, the debate over immigration reform evokes fear, anxiety and, most importantly, great uncertainty for the citizens of the Gulf. In the view of these local populations, the complex system of control essential to the *kafala* helps minimise security and cultural threats, while safeguarding their traditional values and basic economic interests.

For most citizens of the Gulf, the *kafala* is the only system they have ever known, bringing them tremendous wealth and an unrivalled quality of life. Notwithstanding the dire media reports and studies calling for reform, most remain unaffected and uncertain. Under such uncertainty, attitudes toward reform will depend less on actual beliefs about the effects of reform and more on individual perceptions of the economy and one's own personal financial circumstances. Ultimately, we argue that public support for *kafala* reform is associated with an individual's personal interests and economic insecurity. Absent strong beliefs about the effects of immigration reform, basic economic status will drive attitudes towards the *kafala*.

In other cases, however, there is no misunderstanding or confusion—opposition to reform represents a well-defined policy position rooted in basic economic interest. For some groups, resistance to *kafala* reform derives from their basic political economic interest in the status quo. These interests make the prevailing system so profitable that nearly any change would result in losses. Such loss would be perhaps most pronounced for the *kafeel*, whose personal rents may be jeopardised by reform. All citizens in a rentier state enjoy a variety of benefits (e.g., well-paid public sector jobs, and energy and housing subsidies) in exchange for their political quiescence. But the *kafeel* extracts additional rents through the exploitation of cheap migrant labour. By regulating the labour market, the *kafala* helps suppress wages, which provides a benefit to employers and other migrant sponsors. Artificially cheap labour thus represents an important “second-order” rent (Beblawi and Luciani 2015, 62), making reform unpopular among sponsors.

In addition to the *kafeel*, actors directly involved in the vast industry built

around labour recruitment and management have vested interests in obstructing reform. The *kafala*'s many inefficiencies generate opportunities for rent-seeking and exploitation during the recruitment and visa processes. Even if reform were beneficial at an aggregate level, these groups would clearly lose out, at least in the short run. The potential losses have galvanised such entrenched interests and, in combination with the larger uncertainty among the population, have made reform difficult. These potential losses are real and should not be gainsaid. After all, uncertainty alone cannot explain the overwhelming opposition to reform found throughout the Gulf.

If it were this simple, the biggest challenge for the reform-minded regimes of the region would be one of public relations. The sagacious rulers would blitz the population with propaganda and media, touting the benefits of reform. Of course, in reality it is never this simple to win support for an unpopular policy. This is especially true if opinion and mass belief have already congealed around an issue. The regimes of the Gulf appear to face entrenched popular opposition on the issue from their citizens, making reform nearly impossible in theory or implementation. The cases of Bahrain and Kuwait have shown as much; they each tried reform and faced significant hurdles even before implementation, forcing them to water down their own policies. The question then becomes, if not uncertainty alone, what drives this public resistance to immigration reform?

The Political Economy of Immigration Reform

For scholars of advanced democracies, this is hardly a new question, having inspired a vast and sophisticated literature (for recent reviews, see Cornelius and Rosenblum 2005; Ceobanu and Escandell 2010). This literature generally suggests that public opinion towards immigration derives from both subjective (i.e., individual) and objective (i.e., contextual) factors. Given the uncertainty around changing the *kafala*, we should expect individual attitudes to draw on perceptions of personal status and broader, macro indicators. Although prejudice towards migrants may jaundice such attitudes, these perceptions and beliefs should play a significant role in determining support for or against reform. Absent strong beliefs about the effects of immigration reform, attitudes will depend more on individual perceptions of the economy and one's own personal financial security. These perceptions help individuals determine their relative interests and, in turn, their positions on policy change.

Of course, which specific factors are decisive can vary across contexts. Citrin et al. (1997) find that personal economic circumstance plays a marginal role, while perceptions about the national economy are vital to explaining views toward immigration in the US. By contrast, Burns and Gimpel (2000) argue that much

of the underlying prejudice towards migrants is actually driven by an individual's economic insecurity. Comparative studies of European public opinion towards immigration reach similarly mixed results. While Sides and Citrin (2007) do not find evidence that the national economy matters much, Meuleman, Davidov and Billiet (2009) argue that national context (e.g., unemployment) is important in understanding the evolution of anti-immigrant attitudes.

Drawing on different data and varying methods, these studies collectively suggest that in some contexts, perceptions of personal circumstances and the national economy may drive public opinion on immigration. This literature, however, does not reach a clear consensus on which factors predominate and under what conditions. Nor do they have anything to say about public opinion and immigration outside of the West or in non-democratic contexts. To better understand how these foundational results and propositions vary in such contexts, in the next section we explore the determinants of Qatari support for *kafala* reform.

A political economic explanation would suggest that public opinion on the *kafala* and its reform—whether it be tightening the system or relaxing it—should depend on the individual's expected costs and benefits. These costs and benefits are relative, driven not only by an individual's objective reality (e.g., income, employment) but subjective evaluations as well (e.g., financial confidence, quality of life).

Recall the regulatory and enforcement problems earlier. The basic failure of the *kafala* system and its perverse incentives has led to the emergence of informal and extralegal markets. These markets have arisen to exploit the *kafala's* failures. Markets for visa trading and exchange, exploitative recruitment agencies and other intermediaries all represent a response to the failure of the current system. In each of these cases, businesses, sponsors and workers enter informal markets to circumvent the *kafala* system altogether. The cumbersome legal code and bureaucratic failures have produced a variety of rent-seeking opportunities, giving rise to intermediaries whose very livelihoods are tied to the basic inefficiency of the system. Thus, any reform would be viewed as threatening to these actors.

Rather than treat these citizens as important actors, most explanations of the *kafala's* robustness reduce to but one actor: the ruling regime. While we readily admit that the regime is important and its interests must be considered, the rulers of the Gulf do not operate within a vacuum insulated from popular pressure. Satisfying these groups requires that even the most non-democratic rulers consider public opinion when making policy decisions. Existing accounts ignore this role and thus the citizenry's influence in buttressing the *kafala* system.

Qatar and the New *Kafala* System Reform

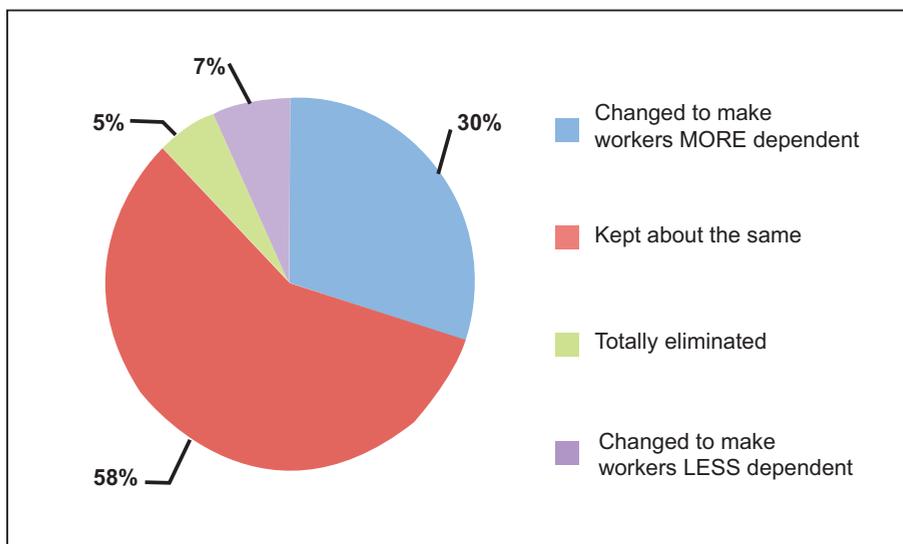
Turning to Qatar, we can see how this basic problem plays out in practice. Like the rest of the Gulf, the state needs to reform and has even pursued it recently, but structural change remains elusive. Since winning the rights to host the FIFA 2022 World Cup, Qatar has come under the watchful eye of the world for the *kafala* system and its treatment of migrant workers in the country. Many articles and reports of varying quality have been published regarding the *kafala* system, with a larger number being negative reports about the system from organisations and media calling for reforms. A simple search online reflects this large volume. Faced with a flood of articles and opinions on the worker sponsorship system in the Gulf and in Qatar, Qatar implemented reforms for its *kafala* system at the end of 2016.³ Even more intriguing is how Qatari nationals and migrant workers viewed the system before and after these newly implemented reforms.

SESRI conducted several scientific opinion surveys on this issue over the years both before and after implementation of the new law. Overall, these surveys indicate that most Qatari nationals believe that the *kafala* system should have been kept about the same as before the December 2016 reform. In 2012 (two years after the 2022 FIFA bid award to Qatar), we asked respondents whether the *kafala* should be changed to make foreign workers more dependent on their sponsor, less dependent, kept about the same, or the system be totally eliminated. Most Qatari nationals surveyed (58 per cent)⁴ favoured maintaining the system as it was before (see Figure 3.1). They also preferred fewer migrant workers in the country overall. This last point was especially surprising since the country would need an even larger foreign labour force to build the infrastructure necessary for the games. A few Qatari nationals (12 per cent) thought that the system should have been changed to make foreign workers less dependent on their sponsors or that sponsors be totally eliminated. Surprisingly, nearly one-third (30 per cent) of Qataris advocated a system change to make foreign workers even more dependent on their sponsors. It must be noted, however, that among Qataris who were business owners and high-income nationals, we found less likelihood of support to tighten the system, and more support for keeping it the same (Diop et al. 2015).

3. The new Law, Law No. 21 of 2015 Regulating the Entry, Exit, and Residence of Expatriates, replaces the previous sponsorship law, Law No. 4 of 2009 for Regulating the Entry and Exit of Expatriates, their Residency and Sponsorship.

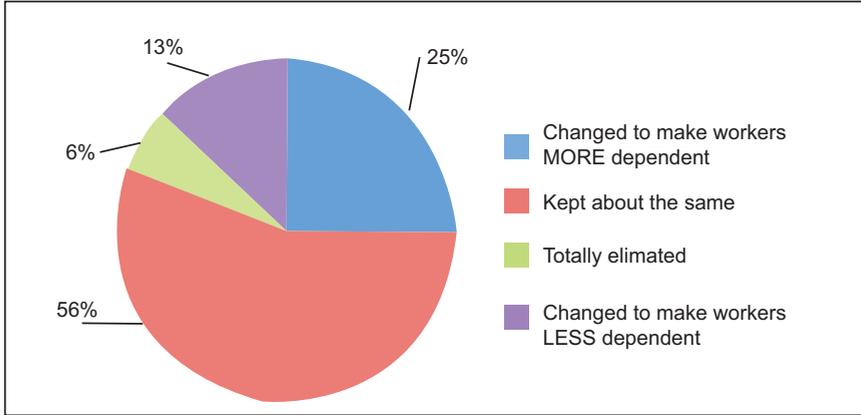
4. These results are based on the 2012 Qatari Attitudes towards Foreign Workers survey, a project which was funded by Qatar Foundation through its NPRP programme (a face-to-face survey of Qatari nationals n=2,394 and a margin of error of +/- 2.3 percentage points).

Figure 3.1: Do you think the sponsorship system or *kafala* should be changed to make the foreign workers more dependent on their sponsor, less dependent on their sponsor, kept about the same, or totally eliminated?



These Qatari attitudes seem to be consistent over the years including in different modes of survey administration. During the third quarter of 2015, Qatari nationals were asked the same *kafala* question in a quarterly telephone survey. Again, slightly more than half (56 per cent) indicated preference for keeping the worker sponsorship system about the same, while one-quarter (25 per cent) preferred to change it to make migrant workers more dependent on their sponsors. Less than one-fifth (20 per cent) answered that they wanted the system changed to make migrant workers less dependent on their sponsors (13 per cent) or totally eliminated (6 per cent) (see Figure 3.2).

Figure 3.2: Next, we would like to ask you about the sponsorship system or “kafala”. Do you think this sponsorship system should be changed to make foreign workers more dependent on their sponsor, less dependent on their sponsor, kept about the same, or totally eliminated?



Whether in face-to face interviews as in the 2012 survey, or on telephone, as in 2014 and 2015 (see Table 3.1), Qatari nationals clearly expressed their preferences for maintaining the status quo. And this opinion held steady in a media climate where already in 2015 there were widespread reports about government intention to reform the *kafala*. The stickiness of these beliefs suggests that many Qataris had already made up their minds about *kafala* reform before seeing the draft bill and its potential effects.

Table 3.1: Qatari nationals and the sponsorship system or *kafala*

%	Quarter 1 2014	Quarter 2 2014	Quarter 3 2014	Quarter 4 2014	Quarter 1 2015	Quarter 2 2015	Quarter 3 2015
More dependent	31	25	29	27	26	26	25
Less dependent	14	12	10	14	13	15	13
Kept about the same	49	53	52	50	54	53	56
Totally eliminated	6	10	9	8	7	6	6

Survey question: Next, we would like to ask you about the sponsorship system or “*kafala*.” Do you think this sponsorship system should be changed to make foreign workers more dependent on their sponsor, less dependent on their sponsor, kept about the same, or totally eliminated?

These Qatari nationals' attitudes, which favour maintaining the status quo or making migrant workers more dependent on their sponsors, put them out of step with policies aimed at appeasing critics. They reflect the nationals' ambivalent evaluation of the presence of migrant workers in their country as reflected in the survey data. While perceiving migrant workers to be economically vital for the development of their country, Qatari nationals often also viewed these workers as a direct threat to Qatari life and culture, which one could describe as a sense of 'a homeland under siege.' In the views expressed by Qatari nationals, this foreign population has been also associated with several negative aspects and societal costs, including traffic congestion, a strain on health services, a threat to traditional customs and values, and increasing crime.

Qatari attitudes towards the *kafala* prior to the implementation of the reform were completely different from those expressed by foreign migrant workers, whether low- or high-income.⁵ As expected, these two groups of migrant workers clearly expressed their preferences for a reform that would make the workers less dependent on their sponsors or totally eliminate the *kafala*. For example, in the 2015 quarterly telephone survey, one-third or more of the high-income migrant workers expressed a preference to see the *kafala* changed in a way that would make them less dependent on their sponsors (33 per cent) or have the system be completely eliminated (38 per cent) (see Table 3.2). Responses from low-income migrant workers followed a similar pattern (with 30 per cent and 33 per cent, respectively) (see Table 3.3).

Table 3.2: High-income expatriates and the sponsorship system or “*kafala*”

%	Quarter 1 2014	Quarter 2 2014	Quarter 3 2014	Quarter 4 2014	Quarter 1 2015	Quarter 2 2015	Quarter 3 2015
More dependent	6	7	6	7	6	7	8
Less dependent	34	35	32	35	33	30	35
Kept about the same	22	18	20	20	23	23	23
Totally eliminated	38	40	42	38	38	40	34

Survey question: Next, we would like to ask you about the sponsorship system or “*kafala*.” Do you think this sponsorship system should be changed to make foreign workers more dependent on their sponsor, less dependent on their sponsor, kept about the same, or totally eliminated?

5. In the quarterly telephone surveys, migrant workers are classified into two groups: low-income and high-income workers. Low-income workers are defined as those workers earning less than QR4,000 (\$1,096) per month. In the face-to-face surveys, this classification is based on housing unit type.

Table 3.3: Low-income expatriates and the sponsorship system or “*kafala*”

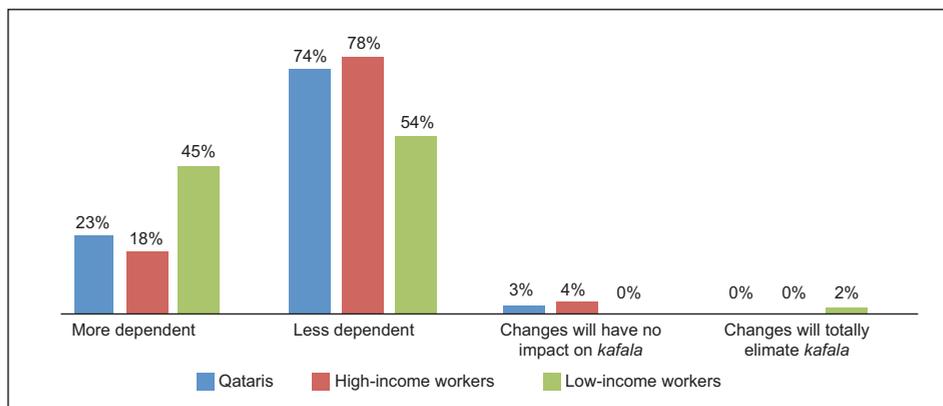
%	Quarter 1 2014	Quarter 2 2014	Quarter 3 2014	Quarter 4 2014	Quarter 1 2015	Quarter 2 2015	Quarter 3 2015
More dependent	17	12	20	9	11	13	17
Less dependent	32	28	19	33	36	31	30
Kept about the same	25	18	22	18	26	25	20
Totally eliminated	26	42	39	40	27	31	33

Survey question: Next, we would like to ask you about the sponsorship system or “*kafala*.” Do you think this sponsorship system should be changed to make foreign workers more dependent on their sponsor, less dependent on their sponsor, kept about the same, or totally eliminated?

By February 2017, two months after the new reform laws were passed in December 2016, Qataris and migrant workers (both low-income and high-income) were asked in a semi-annual telephone survey⁶ whether the implemented changes would make foreign workers more or less dependent on their sponsors. Surprisingly, three-quarters or more of Qatari nationals (74 per cent) and high-income migrant workers (78 per cent) as well as more than half of the low-income migrant workers (54 per cent) thought the announced changes would make migrant workers less dependent on their sponsors (see Figure 3.3).

6. At the end of the 3rd quarter of 2015, the Qatar Quarterly Survey (QQS) conducted by the Social and Economic Survey Research Institute (SESRI) became the Qatar Semi-Annual Survey (QSAS). In each survey, about 700 Qatari nationals, 700 high-income as well as 700 low-income expatriate workers are asked several questions covering several topics of importance to Qatari society, including the recent changes to the labour laws. The margin of error ranged from ± 3 to ± 3.6 percentage points.

Figure 3.3: Do you think the announced changes will make foreign workers more dependent on their sponsor or less dependent on their sponsor?



These expectations from citizens and high-income, and low-income expatriate workers about the changes in the labour laws are consistent with findings from the previous Qatar Quarterly Survey (QQS) when the question was asked with the similar phone mode (see Table 3.4).

Table 3.4: Qatari citizens, high-income and low-income workers and the announced changes

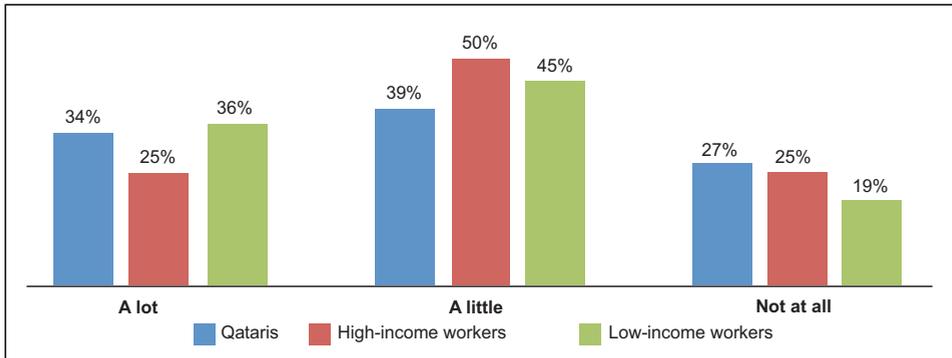
Response Category	Quarter 4_2014			Quarter 2_2015			Quarter 3_2015		
	Qatari citizens (%)	High income workers (%)	Low income workers (%)	Qatari citizens (%)	High income workers (%)	Low income workers (%)	Qatari citizens (%)	High income workers (%)	Low income workers (%)
More dependent	28	14	28	27	18	38	28	20	31
Less dependent	71	85	69	72	79	57	69	75	66
Changes will have no impact on the <i>kafala</i>	0	1	1	1	3	3	3	4	0
Changes will totally eliminate the <i>kafala</i>	1	0	2	0	0	2	0	1	3

Survey question: Do you think the announced changes will make foreign workers more dependent on their sponsor or less dependent on their sponsor?

Regarding Qataris, these expectations are in opposition to their usual preference for keeping the *kafala* as it was or for tightening it. Nevertheless, this general climate of opinion from Qatari nationals can be viewed as an opportunity for policy makers who favour further reform to promote a legal framework making workers less dependent on their sponsor.

Even though the changes in the law have been talked about for a period of one year prior to their implementation in December 2016, about a quarter of each of the three sub-groups of the Qatari population (Qataris, low-income migrant workers and high-income migrant workers) still believed that the system would not be changed “at all” in February 2017. While slightly more than one-third high-income migrant workers (36 per cent) and Qataris (34 per cent) as well as one-quarter (25 per cent) of low-income migrant workers believed that the system would change “a lot,” the majority of all three sub-group populations believed that the system would change a little. Among high-income migrant workers, this proportion is half (50 per cent of the respondents) (see Figure 3.4).

Figure 3.4: Lately, the Qatar Government has announced that it will make changes to the foreign worker’s sponsorship system or “*kafala*.” To what extent do you believe the *kafala* system will be changed? Do you think it will change?



The same question was asked of the three types of respondents during the previous quarters of the Qatar Quarterly Survey (QQS) and the responses are presented in Table 3.5. Again, these results indicate a high level of scepticism about the extent to which the *kafala* system would be changed.

Table 3.5: Qatari citizens, high-income and low-income workers and the announced changes

	Quarter 4_2014			Quarter 2_2015			Quarter 3_2015		
%	Qatari citizens	High income workers	Low income workers	Qatari citizens	High income workers	Low income workers	Qatari citizens	High income workers	Low income workers
A lot	40	31	26	33	24	25	36	26	22
A little	43	60	58	47	59	60	44	60	61
Not at all	17	9	16	20	17	15	20	14	17

Survey question: Lately, the Qatar government has announced that it will make changes to the foreign worker's sponsorship system or "*kafala*." To what extent do you believe the *kafala* system will be changed? Do you think it will change?

When asked which one element of the *kafala* they would like to see changed, the majority of low-income and high-income migrant workers indicated two primary elements of the system: elimination of the exit permit and permission for migrant workers to change jobs without approval from their sponsors. In contrast to this preference for elimination of exit permit and labour mobility (allowing workers to change jobs without sponsor approval) among expatriates of all incomes, the majority of Qataris continued their preference for keeping the old law and changing nothing within it.

Significantly, these two elements are specified as part of the new reforms. Critics, however, contend that the old *kafala* system is still de facto in place and that migrant workers still need their employers' permission to travel or to change jobs. Officially, the new Qatar labour law abolishes the terms "*kafala*" and its English equivalent "sponsorship." As announced, the new law replaces the *kafala* system with a contract-based system. Nevertheless, critics still argue that despite removing the word "sponsor" from the law and replacing it with "recruiter," the new law falls short of abolishing the most exploitative aspects of the sponsorship system.⁷

One of the especially exploitative aspects concerns passports. Qatari labour laws stipulate a hefty fine for withholding migrant workers' passports. Migrant worker passport retention by employers, recruitment agencies or other third parties is one of the most common violations which is criticised by human rights organisations. In a 2012 SESRI survey of migrant workers across the GCC countries, we found that the majority of respondents reported that their passports were held by their

7. <http://www.adhrb.org/2016/12/qatars-new-sponsorship-law-fails-abolish-Kafala-system/>.

employers. In Saudi Arabia (97 per cent), Oman (96 per cent) and Bahrain (90 per cent), it was nearly universal in practice, while in Kuwait and Qatar the percentages were somewhat lower at 83 and 82 per cent, respectively. The number of workers who reported having their passports held by a recruitment agency was extremely low across the different GCC countries, which meant that outside of employer possession, the proportion of workers holding their own passports was the inverse of the above numbers. That is, 18 per cent of workers in Qatar, 16 per cent in Kuwait, 9 per cent in Bahrain, 3 per cent in Oman and 1 per cent in Saudi Arabia were in possession of their own passports.

But this is not the whole story. In subsequent follow-up surveys, we found that different reasons were given by migrant workers for these passport retention practices (Diop et al. 2017). The first most common reason mentioned by participants was related to the lack of safe places for workers to keep their own documents. In fact, 59 per cent of the workers in Oman mentioned that their passports were held by either their employer or a recruitment agency as per their own request, since they did not have a safe place to keep it. This was also the case with 38 per cent of the workers in Qatar, 25 per cent of those in Kuwait, 22 per cent in Bahrain but only 3 per cent of those working in Saudi Arabia.

The second most common reason mentioned by the respondents was that their passports were confiscated against their own will. This was mainly the case with the majority of the workers in Saudi Arabia and Kuwait (62 per cent and 60 per cent, respectively) and 27 per cent in Oman, 22 per cent in Bahrain and 18 per cent in Qatar.

The third most common reason for passport withholding reported by the workers was in exchange for local resident identification (ID). Workers usually provide their passports to employers or to recruitment agencies to obtain their residency card. This reason was most common in Saudi Arabia and Bahrain where 35 per cent of respondents in each of the two countries reported exchanging their passport for their residency card, while 15 per cent of workers in Kuwait and 6 per cent in both Qatar and Oman mentioned this exchange as a reason.

Conclusion

Facing growing pressure from international human rights organisations, media and other groups, all GCC states have attempted to reform their *kafala* system. All these attempts were not only for improving the living and working conditions of migrant workers in the Gulf countries, but also to appease international critics' concerns

about migrant workers' labour rights and human rights violations. The persistent and growing criticism and calls from these organisations to safeguard the rights of all migrant workers and to eradicate the *kafala* constitutes a clear indication that these groups expect comprehensive reforms. This expectation is on a collision course with Qataris' preferences for maintaining the status quo or making workers more dependent on their sponsors. It is precisely this preference for a dependent status that critics believe places workers in a vulnerable position and is at the foundation of workers' problems in the GCC countries. So, these critics are unlikely to be satisfied with the incremental changes that Qatari nationals only grudgingly accept.

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Migration to the Gulf: Policies in Sending and Receiving Countries

International migration is a ubiquitous reality in the Gulf states where foreign citizens are a majority in the workforce as well as in the total population of several states. Migration is instrumental in the Gulf nations' prosperity and at the same time regarded as a challenge to their identity. For many countries of origin in Asia, the Arab world and East Africa, migration to the Gulf is an integral part of the daily lives of tens of millions and a constitutive element of economies and societies.

On the sending side, there is a widespread view that emigrants serve the prosperity of their nation, through financial remittances, enhanced skills, and enlarged business networks, and that they must be protected in the countries where they live. State institutions have been created to look for migration opportunities and to defend the rights of their expatriate nationals in terms of living and working conditions. Fair recruitment and decent work have become an integral part of their agenda. Emigration is now regarded as a resource for national economies in the same way as trade, and a matter for external policies and politics.

On the receiving side, Gulf policies must address the challenge of admitting contract workers needed by ambitious development programmes and welfare goals, while tackling a number of migration-related imbalances: too much dependency on foreign labour; too few women in the labour force; too much unused education and wasted skills among nationals; too much money flooding out of the country in the form of workers' remittances; and too rigid regulations ending up in high levels of irregularity.

This book is about policies designed to regulate migration and protect the migrants and enable them to contribute to the prosperity of the Gulf and the development of their home countries. It brings unique knowledge to all those striving to improve current systems, from a state's as well as a migrant's perspective.

