



18 December 2021

Dear Special Rapporteur De Schutter,

The Global Research Network's Think Tank Programme on War, Conflict and Global Migration, Gender and Migration Research Group, is submitting a dossier for consideration and action to, Mr. Olivier De Schutter, Special Rapporteur on extreme poverty and human rights, for his thematic report on "Social protection: a reality check.

Global Research Network's Think Tank Programme recognizes that the environmental, economic, political, migration and social crises we face today have one thing in common: they are replicated in every jurisdiction and are produced by forces that extend globally. They require deep analysis, lateral thinking, and innovative problem-solving. As such, our response, Female Migrant Laborers and COVID-19 in Asia and the Middle East, highlights the necessity of a regional approach to safeguarding irregular workers.

The contents of this dossier are in responds to the call for inputs: to what extent are informal workers protected by social protection schemes provided by the State in your country? What measures have been put in place to help informal workers transition to the formal economy? What challenges remain?

The following recommendations are derived from the cases presented in this dossier and calls for a Feminist and gendered approach to managing and legislation irregular labor of migrant women in Asia and the Middle East. COVID-19 served as an amplifier of existing inequities, and the lack of safeguards exacerbated the precarious position of female informal women laborers.



Best regards,

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**In response to question five:**

To what extent are informal workers protected by social protection schemes provided by the State in your country? What measures have been put in place to help informal workers transition to the formal economy? What challenges remain?

## **Female Migrant Laborers and COVID-19 in Asia and the Middle East**

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### **I. Background**

Informal workers are fundamental drivers of global economic activity. According to the International Labor Organization's [2018 report](#), there are around two billion people in informal employment globally – representing 61.2 % of the world's workers. However, because of the [status of state labor codes](#), these workers are subjected to less regulated work conditions, are at a higher risk of exploitation, and tend to have less recourse under public labor law. The COVID-19 pandemic acted as a threat amplifier for informal workers, significantly exacerbating the vulnerability and injustices in the system. These effects were especially significant across Asia and the Middle East – primarily due to the effects the pandemic had on significant numbers of migrant workers in both regions, and the [migration corridors](#) between them.

Within the collectives of migrant workers, women are [disproportionately affected](#). There is a notable gender dimension to informality – women experience added difficulties due to systemic issues such as [sexual and gender-based violence](#) (SGBV), social marginalization, and efforts to impose external control over their bodies and sexual identities. Women are also often found in more [vulnerable categories](#) of informal work. In the context of the Middle East, a significant portion of informal female laborers are governed under the *Kafala* System, placed at the mercy of a labor law often compared to '[modern-day slavery](#),' as well as nationalist narratives rooted in



anti-immigrant sentiments. In Asia, particularly [South Asia](#) and [Southeast Asia](#), female garment and domestic workers are left unemployed with little or no public support. Following the surge in

COVID-19 cases across both regions, many women were stuck in legal limbo as they attempted to navigate national legal frameworks keeping them in host countries at the mercy of their

employers, and the inadequate application of basic human rights principles. As such, it becomes relevant to explore these cases in detail to develop policy measures that address the specific and systemic vulnerabilities faced by female migrant workers faced across Asia.

## **II. Case studies: Middle East, South Asia & Southeast Asia**

We present cases representative of the struggles of informal female migrant workers across three sub-regions: the Middle East (specifically the Gulf States), South Asia (India), and Southeast Asia (Singapore). These cases serve to evidence the shortcomings of State social protection mechanisms among informal workers, and the significant consequences this generated in the wake of the pandemic.

### **a. The Condition of Domestic Workers in the Arab States during COVID-19**

An estimated [75% of care work](#) globally is carried out by women, much of which is structured as informal employment. This is now an essential contributor to global migration as made evident by its role in the feminization of migration. Arab states have a large stake in this, as [19% of domestic workers](#) globally reside within their borders. However, this does not come without underlying issues. By and largely due to the individualized structure of [Kafala employment systems](#) in the Arab states (particularly GCC, Lebanon, and Jordan), social protection is largely left up to the benevolence of the employer – including protections like healthcare and access to legal information. Beyond this, very little protection for migrant workers is enshrined in labor codes. For instance, Jordan and the Kingdom of Saudi Arabia (KSA) have separate instructions governing domestic work as this category of work is actively excluded from the general labor law.

*COVID, Migration and Social Protection in the Arab States*



There are consistent civil society and research [reports](#) on the conditions faced by domestic workers globally and especially in the Kafala-system states. The system largely rests on the systematic exclusion of non-national workers from national labor protections. The COVID-19 pandemic highlighted the weaknesses within the Kafala System and the necessity for social protections. In fact, most social protection responses to COVID-19 in the Middle East and North Africa (MENA) region [excluded non-nationals](#). COVID-19 social protection responses, largely expanding upon pre-existing social protection systems, and only [25 out of 162](#) mapped social protections explicitly included (some) non-nationals.

Reported social protection shortcomings during the lockdowns included worker dismissals, increased workloads, and wage theft. One such example included an [instance in KSA](#) where nine African domestic workers were dismissed and ‘returned’ to their employment agency, then locked in their employer’s office basement with the provision of only one meal per day, and denied access to healthcare, despite one worker being pregnant.

#### *Shifts in Protections Still Lacking*

Generally, special measures under COVID-19 largely excluded domestic workers and migrant workers. This means lack of access to cash assistance or unemployment benefits. While over the past several years there were attempts to correct these social protection misalignments, they still largely fail to correct the issues involving migrant work. For instance, starting in 2009, GCC states, one after the other, began to implement wage protection systems (WPS), where payment to workers was to be regularized and tracked. However, this left domestic workers behind, as they are often locally paid in cash, or by holding payments with their employers. Unified contracts for domestic workers have also been introduced across the Arab states; however, these do not include clear or enforceable mechanisms to protect workers if the already-weak standards of the contract are not observed.

Recently, there have been reports about the lifting of the Kafala systems in the Gulf, particularly in KSA and Qatar. In KSA however, the new liberalized system does not apply to domestic workers. In Qatar, it does; however, they have not decriminalized ‘[absconding](#)’. Ultimately these do not represent a sustainable shift away from current individualized protection approaches and require a move towards centralized labor governance that can extend protections to informal migrant workers.

#### **b. Indian Women Migrant Laborers in the Gulf Countries and the Impact of COVID-19**



Among the various migration pathways between South Asia and West Asia, the India-Gulf corridor deserves particular regard. Indian migration to the Gulf occurs principally for economic reasons. The latest estimates show that 8.4 million Indians live and work in the Gulf countries, of which women accounted for [around 39%](#). A significant economic contributor to both regions, Indian women migrant laborers are a heterogeneous group hailing mainly from the middle and lower-income households and engaging in all categories of work in the Gulf. Their migration is tied to the much-criticized Kafala system of contractual labor. The majority critics are women from the South Indian states of India – from Kerala, Tamil Nadu, Telangana, Andhra Pradesh, and Karnataka.

### *The COVID-19 Pandemic and Indian Women Migrants in the Gulf*

The COVID-19 pandemic [amplified](#) the hardships experienced by migrant women, cutting across all strata of labor. Indian migrant women found it especially difficult to maintain work-life balance, with their jobs at stake and heightened familiar demands. The fear of job loss and the financial concerns heightened among those informally working in the hospitality and other professional sectors when their employers stopped paying wages regularly, forced them to work extra without overtime remuneration, asked them to take unpaid leave or terminated them from jobs without any notice. Considering the women migrants engaged in the low-skilled sectors, one particularly vulnerable group in the ordinary and COVID-19 pandemic situation was Indian migrant domestic workers. Highly dependent on their employers due to the Kafala system and working in the private spaces of employers' houses, they are more prone to exclusion, discrimination, gender-based physical/emotional harassment and violence, limited or no access to essential services, and restricted mobility. The word 'stranded' that is frequently used in the context of lockdown has the real meaning when we look at the plight of these domestic workers. This was worsened by the limited options in returning to India (Vande Bharat repatriation flights by the Indian government) were limited and expensive, as well as uncertainty around the possibility of re-entering the Gulf countries that are nationalizing its workforce.

Added to this, the inability to afford medical costs in the Gulf and other financial constraints, (pending Equated Monthly Installments (EMIs) and loans, etc.) led many migrant families to decide to send women and children back to India to cut the cost of living. Many of those working in the beauty industry also had to return to India due to the closing down of the parlors. Post-Gulf war, the current COVID-19 pandemic engendered the return of Indians from the Gulf under the Vande Bharat Mission in large numbers; about [716,000 as per the Ministry of External Affairs](#) estimates. A substantial number of them are women, and they returned hurriedly without procuring salary arrears and end-of-service benefits such as bonus, PF, and gratuity. However, they suffered on return to India as the country lacks any concrete policy on rehabilitation and reintegration of its returning citizens.

### c. Female Migrant Labor in Singapore during COVID-19

In Singapore, currently there are an estimated [240,000 female migrant workers](#), primarily working informally in domestic help. Singapore typically accepts female migrant labor from an approved source country or region as laid out by the Ministry of Manpower. Sending countries with the most numerous expatriates working in Singapore are the Philippines, Myanmar, Indonesia, and Sri Lanka. Migrants working in Singapore are required to obtain a two year work permit visa. Usually, the employer applies on behalf of the worker. However, in the case of female domestic workers (FDWs), the head of the family applies for the visa.

Once they are in the country, different laws govern male and female migrant workers. Female workers are required by law to stay in their employer's house, while male migrant workers live in dormitories (built for them in the peripheries of the country) or private accommodation. Here already we can see FDWs are especially isolated from one another, while male migrant workers are isolated from the community.

#### *Female Domestic Labor*

FDWs are required by law to be screened for [pregnancies and sexually transmitted infections](#) every six months, and if the results are positive, they will be repatriated. There is no such requirement for male migrant workers. Although both male and female migrant workers cannot marry local Singaporeans, doing so voids their work permit.

FDWs' sexuality is made hyper-visible by the monitoring of a hyper-vigilant legal structure. These laws also make assumptions that migrant workers are inherently heterosexual, cis-gendered people. An example that demonstrates the application of these regulations is the governance of Pink Dot (Singaporean version of pride) – only Permanent residents and Singaporean citizens are allowed to [enter this parade](#) every year.

The acknowledgment of the mistreatment of FDWs significantly impacted political bilateral relations between Southeast Asia countries for a short term. In 1995, a Filipino domestic worker, Flor Contemplacion, murdered her employer and employer's child. Contemplacion was given the death penalty by the Singaporean courts. Upon closer investigation, it was found that Flor was severely [abused](#) by her employer and her family. The killing of Flor led to political demonstrations in the Philippines. President Ramos recalled the Filipino ambassador to Singapore, and many bilateral exchanges between the countries were canceled. However, the tensions were short lived and bilateral relations between the two countries resumed without instituting concrete safeguards for FDWs.



The abuse of female migrant workers produces very emotional responses by ministers, and national media. However, the more fundamental issue that is not clearly defined or addressed is the protection and safeguarding of migrant labor, especially female domestic labor. Male migrant

workers are not similarly sexualized in the same way their female counterparts are, underscoring the necessity of a gendered policy lens as a means of safeguarding.

### *The COVID-19 Pandemic*

The pandemic has highlighted some key issues in how gendered labor is viewed differently. The male migrant population suffered a tremendous blow – about [152,000 male migrant](#) workers had

COVID-19 according to data made available. However, data on female migrant workers is challenging to obtain because they are isolated from each other and living with their employers. Moreover, with the whole country working from home – the stress on domestic help has increased significantly. However, due to care and domestic work not being recognized as formal labor, it has been challenging to measure an increase in stress.

General legal regulations do not recognize the power dynamics involved in FDW inhabiting the intimate, private space of their employers'. COVID-19 complicated and [amplified](#) the existing inequities. The limitation of this case study is the difficulty of data collection and documenting the narratives from FDWs during the pandemic.

### **III. Recommendations: Ensuring Access to Justice for Informal Female Migrant Workers in Asia and the Middle East during COVID-19**

The following recommendations are derived from the cases presented in this dossier and calls for a Feminist and gendered approach to managing and legislation irregular labor of migrant women in Asia and the Middle East. COVID-19 served as an amplifier of existing inequities, and the lack of safeguards exacerbated the precarious position of female informal women laborers.

#### **a. Including Informal Migrant Workers in National Labor Protection Laws**

Migrant workers are not given equal protection in national labor laws. Moreover, recruitment of migrant workers – especially female migrant workers – is individualized through the Kafala system in the Middle East, and the work permit system in Singapore. This means that access to social protection such as healthcare and grievance mechanisms are entirely controlled by the employer. The state needs to regulate and enforce social protection and labor rights of migrant workers to ensure the fate of migrant workers is not



in the hands of employers. As seen during the COVID-19 crisis, this leads to unfair dismissals, wage theft, and over-working.

**b. Including Domestic Labor in Foreign Labor Reforms**

There have been reforms in foreign labor-management laws in different countries; however, these laws are inherently gendered and exclude the domestic work sector which is dominated by female migrant workers. The wage protection scheme (2009) in GCC states aims to ensure regularized and tracked payments to migrant workers; however, it does not include cash payments of salary. Due to domestic work being a highly informal sector, many female migrant workers are paid in cash. The social protection offered for fair and consistent pay does not consider the realities that female migrant workers face. In Singapore, the Workmen Injury Compensation scheme (2019) which aims to compensate

foreign workers for injuries sustained during/related to their work does not include domestic work either. This means that the female migrant labor force is not properly recognized by the few national laws that are supposed to protect migrant workers. The lack of recognition from laws makes it more challenging for female migrant workers to collectivize and make demands.

**c. Strengthening Reintegration Programs for Female Migrant Workers in their Countries of Origin**

Many informal migrant workers have decided to return to their home countries due to the precarity of their visas and employment overseas due to the COVID-19 crisis. Countries such as India have launched programs such as Vande Bharat Mission to facilitate the return of an estimated 716,000 Indians from the Gulf. However, these programs do not cover efforts to rehabilitate and reintegrate returning migrants properly. This further adds to the stress and precarity – such as loans, children’s education, and family medical expenses – that migrant workers are subjected to. There needs to be increased dialogue between sending and receiving countries to ensure that female migrant workers have the skills and resources to reintegrate into their home communities.