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OVERSEAS RECRUITMENT IN INDIA:
STRUCTURES, PRACTICES AND REMEDIES

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ABSTRACT

This paper is drawn from an exploratory study aimed at assessing the efficiency of the existing institution for governing labour emigration in India with special reference to the overseas recruitment system. It traces the evolution of the current institution from the colonial times and foregrounds its discriminatory rationalities engendering enormous social cost. It tracks the difference between emigration through social network and recruiting agents and looks at the difference of cost and risk involved. By focusing on the unskilled and semi-skilled emigrations from India, the paper makes an endeavour to determine the discrepancy between the legal/policy structures and the prevailing practices of overseas recruitment, including strategies of circumventing legality. Drawing inputs from major stakeholders like intending emigrants, return emigrants, emigrant households, recruiting agents, Protectors of Emigrants, foreign employers, emigrant labourers and Indian Missions in select destination countries, it assesses the transaction costs of the present institution, identifies its major inadequacies and make recommendations for an alternative institutional framework that can effectively counter the many and varied illegitimate and dishonest activities which have sprung up in the field of emigration and ensure ethical practices in India's overseas recruitment sector.

Key words: emigration, recruitment, institution, social cost, transaction cost, social network, legality/illegality, protection, ECR/ECNR

JEL Classification : J21, J23

1. Introduction

The increasing number of emigrants from India for employment over years has resulted in intense transnational transfer of funds in favour of the country.¹ The inward flow of remittances to India had been increasing steadily from the 1970s – from just USD 0.08 billion in 1970 to 2.79 billion by 1980, 3.42 billion by 1991, 13 billion by 2000 and 27 billion in 2007 (Irudaya Rajan, 2004; Irudaya Rajan and Prabha, 2008; World Bank, 2008). It has reached 52 billion in 2008 and it represents 4.2 percent of India's GDP (World Bank, Irudaya Rajan, 2010). At the individual level, emigration turns out to be an option for economic mobility for many and its 'success' has enticed many more to choose the path. However, rising overseas labour emigration coupled with a relentless urge among others to follow the same has produced a robust overseas recruitment industry in the country and has also complicated and despoiled the system in general, offering a formidable challenge to the government and its regulatory organs. In fact, the Government of India itself has admitted that the system put in place to regulate and streamline the emigration process has failed to generate the desired results. On the other hand, the nexus formed between the erring government officials in this administrative apparatus and the unscrupulous recruiting agents has accentuated corruption resulting in

1 India is highest recipient of remittances in the world today. With about 10 million Indians working in various parts of the globe, the country obtained US\$ 27 billion as remittances in 2007. China, Mexico and Philippines follow India in the list of the highest remittance receiving-countries with US\$ 25.7 billion, US\$ 25 billion and US\$ 17 billion respectively. However, Mexico (11.5 million) and Russia (11.5 million) have a greater number of their citizens working outside as migrants than India (World Bank, 2008).

increasing exploitation of the poor.² In such an alarming context, the present study endeavours to understand the structures and dynamics of the overseas recruitment system in India, bring out its inadequacies and propose measures for their rectification.

1.1 The Problem

The study presumes that the chances for exploitation and deceit are significantly lower in the case of recruitment of skilled labourers and professionals. Higher levels of educational attainment, professional/technical competence, better awareness and lesser competition due to inelastic supply and high demand ensure them a relatively trouble-free emigration and expatriate life, compared to their unskilled and semi-skilled counterparts. In the case of the latter, the compulsion to eke out a living and attain some vertical economic mobility through spatial relocation is much more intense. However, at a broader level, this study is concerned with the efficiency of the institution dealing with emigration governance in India. According to the perspective of New Institutional Economics (NIE), an institution is defined as a set of rules, both formal and informal, that governs the game. An institution like the one for governing emigration, is usually devised through governmental intervention as the dynamics of the market alone might not be sufficient to achieve socially desirable outcomes or the market dynamics could adversely influence such outcomes. Over a period of time, an institution devised under specific circumstances may lose its currency and relevance. The changing socio-economic milieu or the unrealistically high social cost involved in maintaining the institution may have caused this change. Whenever newer institutions are formulated, replacing the earlier ones, fresh challenges may crop up. All such governmental interventions formulating new institutions would involve varying

2 Statement by the Minister for Overseas Indian Affairs in the Parliament and to the media, Sept, 2007.

magnitude of social costs. Hence it is very important to devise an institution that requires minimum social cost, whenever an existing institution is revamped because it entails enormous social costs. The functioning of any institution invariably involves transaction costs too, by which its efficiency may be assessed.³ The most effective institution will be the one that incurs minimum transaction cost as people will find it obligatory to follow the rules of the institution in their own best interest. An institution that functions without such voluntary public compliance would require greater enforcement. The transaction costs of the institution will also be higher if the people can or have incentive to manipulate the administrative apparatus and escape the enforcement mechanism or circumvent it altogether.

The present exercise is intended to assess the efficiency/deficiency of the existing institution for governing labour emigration, with special reference to the overseas recruitment system. Overseas recruitment activities in India are interlinked with diverse factors and spheres. They include the structures for regulating emigration that are not related to the recruitment system *per se*. Other factors such as market dynamics, social auditing or lack of it, pressure for emigration and varied characteristics at the destination countries also affect recruitment activities. This inquiry does not go into the intricacies of this interrelationship in great detail and depth. The attempt is confined to identifying some of the major problems associated with the existing institution of emigration governance pertaining to the overseas recruitment practices that makes its social and transaction costs unaffordable. The study starts with an analysis of the evolution of the institution of overseas recruitment from colonial times and the rationalities underlying it, followed by a detailed description of the diverse problems encountered in the field as revealed and perceived by

3 The costs of resources utilised for the creation, maintenance, use, and change of institutions and organisations are included in the transaction cost.

different stakeholders. The multiple ways in which the institution is manipulated will be brought into discussion in terms of the manifold transaction and social costs involved. From there, it proceeds to outline a few alternative forms of governmental intervention to envision a new institution that would significantly minimise social and transaction costs alike.

1.2 The Objectives

The specific objectives of the study are the following:

- To study the existing institution for governing labour emigration from India with its discriminatory and protective rationalities and to assess its efficiency with special reference to the overseas recruitment practices.
- To investigate the emigration process through different channels like recruiting agents (RAs hereafter) and social network and to identify the differences, cost and risk.
- To determine the magnitude of discrepancy between legal/policy structures and prevailing practices of overseas recruitment, with special reference to the segments of unskilled, low-skilled and semi-skilled expatriate workers, alongside the strategies adopted by the parties involved to circumvent the legal structures and regulatory mechanism.
- To identify the areas in which the social and transaction costs of the present institution are prohibitively high and make recommendations for an alternative set up in the best interests of the emigrant workers.

1.3 Data and Methodology

The study has drawn inputs from various stakeholders. They include intending emigrants, emigrant households, return emigrants, registered recruiting agents and Protector of Emigrants (POEs).

Consultations, in a limited scale, with foreign employers, recruiting companies and labourers in a few destination countries in the Gulf region were also held. All the stakeholders, except employers, recruiting agencies and labourers at the destination countries have been interviewed with the help of structured schedules. While intending emigrants, recruiting agents and POEs were surveyed in the eight cities where the POE offices are located,⁴ the coverage of emigrant households and return emigrants in this study is restricted to the state of Kerala. Table-1 gives the sample size of the surveys with location-wise distribution.

The intending emigrants were interviewed at the POE offices when they came there for getting emigration clearance (Table-2). Out of the two categories of emigration clearance seekers, namely, those who seek it directly and those who do it through registered RAs, only the former are covered in the survey as the latter are not required to personally appear at the POE office. Most of the intending emigrants who seek emigration clearance directly are found to be emigrating through informal networks of friendship or kinship, and not through RAs. However, it is found that there are a good number of intending emigrants, though not substantial, who submit their application directly, to the POE even when an RA – whether registered or unregistered – is behind their recruitment. RAs are not allowed to recruit housemaids. So the housemaids approach the POE directly for emigration clearance even when they are illicitly recruited by RAs.

4 Chandigarh, Chennai, Cochin, Hyderabad, Kolkata, Mumbai, New Delhi and Thiruvananthapuram are the eight cities with POE offices. These eight key locations are also the major hubs of overseas recruitment activity in the country.

Table 1: Locations and Sample Size of the Survey among Five Stakeholders, 2007

Place	Intending Migrants	Recruiting Agencies	POE	Emigrant Households	Return Migrants
Chandigarh	12	26	1	389	387
Chennai	43	7	1	(Alappuzha,	(Kollam,
Delhi	60	19	1	Palakkad	Kozhikode,
Hyderabad	135	26	1	and Kannur	Malappuram.
Kolkata	100	3	1	districts of	Pathanamthitta
Mumbai	94	108	1	Kerala)	and Thrissur
Kozhikode	0	12	0		districts of Kerala)
Ernakulam (Kochi)	103	42	1		
Thiruvananthapuram	107	24	1		
Total	654	267	08	389	387

Note: Kozhikode is the only location covered in the study without a POE office.1

Table 2: Number of Intending Migrants surveyed in 8 POE Locations in India by Sex, 2007

Place	Male	Female	Total	Male	Female	Total
Chandigarh	11	1	12	2.5	0.5	1.8
Chennai	32	11	43	7.2	5.3	6.6
Delhi	60	0	60	13.5	0.0	9.2
Ernakulam	57	46	103	12.8	22.0	15.8
Hyderabad	20	115	135	4.5	55.0	20.6
Kolkatta	99	1	100	22.3	0.5	15.3
Mumbai	93	1	94	20.9	0.5	14.4
Thiruvananthapuram	73	34	107	16.4	16.3	16.4
Total	445	209	654	100.0	100.0	100.0

An extensive survey of expatriate Indian workers located in different countries was not feasible on account of the non-availability of time and resources. So a survey of emigrant households was conducted selectively in three districts of Kerala. Though it cannot be a substitute for a full survey of Indian workers currently abroad, yet was useful as it brought in a wealth of information on the processes and problems of overseas labour recruitment. The three districts surveyed are Alappuzha, Palakkad and Kannur. Nearly half the sample is from Kannur, the district with the second largest share of emigrant households in the state (Zachariah and Irudaya Rajan, 2007). Table-3 shows the sex-wise distribution of emigrants in the sample households, selected from the 'Migration Monitoring Survey, 2007' conducted by the Centre for Development Studies for the Department of Non-Resident Keralite Affairs, Government of Kerala. Close relatives of the emigrants living in the household were interviewed to collect information on various aspects of the emigration with special reference to the overseas recruitment process.

Table 3: Distribution of Sample Emigrant Households by Districts, 2007

Districts	Number of Households	Number			Percent		
		Male	Female	Total	Male	Female	Total
Alappuzha	115	114	22	136	24.5	34.4	25.7
Palakkad	87	117	17	134	25.2	26.6	25.3
Kannur	187	234	25	259	50.3	39.1	49.0
Total	389	465	64	529	100.0	100.0	100.0

The survey of the 'return emigrants' draws its samples from five districts of Kerala, the state that has the lion's share of return emigrants in India. The sample for this household survey is also taken from the same 'Migration Monitoring Survey, 2007' (See Table-4 for sex-wise and district-wise distribution of the sample). The survey is carried out on the presumption that return emigrants, being a category of workers who had been exposed to diverse realities of emigration both in the source and the destination countries, would be able to give highly useful information on the functioning of the overseas recruitment system in India. Among the five districts covered by the survey, Malappuram, Trichur and Kollam have high proportion of return emigrants in the state, and Kozhikode and Pathanamthitta have relatively fewer numbers.⁵ It is also important to note that most of the return emigrants reporting under the present survey emigrated after 1981: 20.6 per cent during 1981-90, 40.7 per cent during 1991-2000 and 24.2 per cent during 2001-2007. Only 3 per cent had emigrated prior to 1970 and another 11.5 per cent between 1971 and 1980.

5 The share of Malappuram in the total number of return emigrants in Kerala is 16.2 per cent, 11.8 per cent in the case of Trichur, 9.6 per cent in the case of Kollam, 6.4 per cent in the case of Kozhikode and 2.9 per cent in the case of Pathanamthitta. Thiruvananthapuram has the highest share (18.1 per cent) and Idukki and Wayanad districts the lowest (1 per cent each). Zachariah and Irudaya Rajan, 2007.

Table 4: Survey of Return Emigrants by Sex and districts, 2007

Districts	Number			Percent		
	Male	Female	Total	Male	Female	Total
Kollam	61	6	67	17.2	18.8	17.3
Kozhikode	44	6	50	12.4	18.8	12.9
Malappuram	151	3	154	42.5	9.4	39.8
Pathanamthitta	31	2	33	8.7	6.3	8.5
Trichur	68	15	83	19.2	46.9	21.5
Total	355	32	387	100.0	100.0	100.0

The survey of registered RAs was conducted in eight POE cities and one non-POE city, a total of nine cities. The RAs, who are important players in the system, were interviewed with the intention of comprehending the intricacies of the recruitment process in India as practiced and subjected to by the authorised agents. The survey was designed to identify the difficulties faced by genuine agents and the ambiguities and loopholes that abound in the process. The sites of the survey were decided under a presumption that most of the registered RAs are located in the cities in which POE offices function. Those cities are also the major gateways of international migration from India. The study covered all the three types of authorised RAs who were falling within the statutory categorisation based on the volume of recruitment permitted, namely: (a) 'up to 300' workers, (b) '301-1000' workers and (c) 'above 1000' workers. Of the RAs covered under the present study, 41.6 per cent were from South India (Chennai, Cochin, Kozhikode, Hyderabad and Thiruvananthapuram) while the remaining 58.4 per cent were from regions other than South India (Chandigarh, Delhi, Kolkata and Mumbai). As a whole, 267 RAs came under the present survey – 108 from Mumbai, 26 each from Chandigarh and Hyderabad, 7 from Chennai, 19 from Delhi, 3 from Kolkatta, 42 from Kochi and 24 from Thiruvananthapuram. Twelve RAs in Kozhikode, a city with robust

recruitment activity but without a POE office, were also surveyed (Table-5).⁶

All the eight Protectors of Emigrants were also consulted. They were supplied with a structured schedule to elicit their perception about the overseas recruitment sector in general and the existing administrative mechanism in particular. The structured schedules had been supplemented by personal interactions with each of them. The foreign employers in the labour-receiving countries of Qatar, Bahrain and the United Arab Emirates and the foreign recruiting agents in Bahrain and the United Arab Emirates had also been very selectively consulted. First-hand information about the recruitment channels, the fraudulence involved and the sufferings that the emigrants underwent in the destination countries was obtained through visits to a few migrant labour camps in Qatar and Bahrain; a few interviews were also conducted with the Indian Missions in these countries. Newspaper reports from India as well as from the Gulf region were also used selectively. Collection of data for the study was conducted during the period between September and December 2007. However, major limitations of this endeavour are that neither a full-fledged ethnographical investigation nor extensive usage of case studies was made.

2. Making of the Institution

The Indian Emigration Act of 1983 and the Indian Passport Act of 1967 form the legal bedrocks on which the existing Indian institution for governing emigrations rests. Governmental intervention on emigrations from India during the postcolonial phase seemed to be half hearted and the institutional framework that came into being with the Emigration Act of 1983 had not been bolstered subsequently by coherent administrative and policy structures. However, the underlying rationalities intrinsic to the present institution have a slightly longer historical evolution.

6 The sample constitutes nearly 15 per cent of the authorised RAs 'functioning' in the country. The website of the Ministry of Overseas Indian Affairs listed 1,820 RAs as on 2005.

Table 5: Distribution of Registered Recruiting Agents Surveyed, 2007

CITY	REGION		CATEGORY of RAs	
	Number	Region	Number	Category
City				Number
Kozhikode	12	South India	111	300
Chandigarh	26	Other than SI	156	300-1000
Chennai	7	Total	267	1000 Plus
Delhi	19			Total
Kochi	42			267
Hyderabad	26			
Kolkatta	3			
Mumbai	108			
Thiruvananthapuram	24			
Total	267			

2.1 The Colonial Technology

Colonialism, apart from integrating India into the larger imperial world, had produced conditions that spawned an unprecedented scale and variety of emigrations from the country. However, the passport regime and the emigration regulations of the colonial days were guided by multiple structures of discrimination in which race, education, loyalty, social and economic position and labour skills played defining roles of citizenship and space for mobility.⁷ Introduced into India during the 19th century, the passport institutionalised a race discriminatory immigration regime and became an instrument of restricting the emigration of Indians to colonies and dominions of the Empire earmarked for white settler nationhood, like Australia and Canada for instance (Lake and Reynolds, 2008; Singha, 2006; Mongia, 1999; Mongia, 2007).⁸ As a result, the British Indian passport, which offered protection by the British Crown to its holder, became a privilege open only to a few; an official attestation of civility, a document meant for men of means or of “education and respectability” who “could potentially be accepted as settlers anywhere in the empire” (Singha, 2006). The colonial administration also used the document as an instrument of political control and as a mechanism to enforce loyalty during the heydays of Indian nationalism (Metcalfe, 2005; Singha, 2006). This naturally became a point of dispute between the colonial administration and the Indian intelligentsia, which was otherwise happy with the pleasing distinction drawn between the ‘wretched’ coolie and the respectable passport holder (Singha, 2006).

7 The invention of the passport as a measure to discipline the citizen had its genesis in the modern political evolution of mutually excluding nation states and citizenship. As a bureaucratic expression of nationality, it became yet another instrument in the expansion of state authority (Lloyd, 2003; Torpey, 2000).

8 The racial facet of immigration policy of the Empire is apparent in the ‘colour-bar’ imposed by the colonies for white settlements on Indian Emigrants (Huttenback, 1973; Mongia, 1999).

The coolie labourers, who were emigrating as indentured labourers to colonial plantations, were technically not required to possess passports to emigrate. On the contrary, the rule practically denied them passports and thereby the colonial promise of protection by the British Crown. The vitality of this form of emigration, which was certainly the dominant stream in terms of number, was such that within the existing legal vocabulary of the time, terms like ‘emigrate’, ‘emigration’ and ‘emigrant’ were referred to indicate only indentured labour (Mongia, 2007). It is estimated that more than 1.3 million Indians left their homeland as indentured labourers between 1830 and 1920 (Metcalf, 2007). The ‘coolie agreement’ was a mandatory requirement for such emigrations. In reality it did not ensure any protection to the concerned labourers due to the vagueness of local laws in the destinations. The documentation served the disciplining purpose of binding the coolie to a five-year engagement with a particular plantation owner, and more importantly, to stagnant wages (Singha, 2006). However, the Government of India laid down various regulations, which included the regulations of 1837, 1843, 1864, 1882, 1908 and 1916, with a self-assumed intention of ‘protecting’ the indentured worker at the respective destinations in the wake of outcries that indenture was yet another form of slavery (Tinker, 1974). As a result of these regulations, indentured embarkations were permitted only from the ports of Calcutta, Madras and Bombay and each colony recruiting indentured labour was made to appoint an emigration agent in the ports of embarkation (Lal, 2006). The regulations also brought in a licensed regime of recruitment, according to which only those authorised agents working under the main emigration agent were given the right to recruit.⁹ The office of the “Protector of Emigrants”

9 The Protector of Emigrants licensed such agents who were working in the field on the recommendation of the emigration agent and this license had to be countersigned by the magistrate of the district where the recruiting agent intended to work. Despite this regulatory institutional framework, apart from the licensed recruiters, there were unlicensed recruiters or *arkatis* active in recruiting indentured labour from colonial India (Lal, 2006).

which came into existence in the 1860s, was made responsible for the overall supervision of the overseas recruitment in India. It had to make sure that labourers emigrated with proper coolie agreements, that the emigrants were proceeding on their own free will and that they understood the conditions of the contract (Anstey and Anstey, 1977). Most of the recruitment for indentured labour had been done from the regions of North India, whereas the recruitment from the South was done mostly under the *kangani* and *maistry* systems.¹⁰ It is pointed out that *kangani* system prevailed in the case of Malaya and Ceylon, whereas *maistry* system was in place for recruiting labour to Burma (Lal, 2006; Bhaskar, 2000), colonies known for ‘free labour migration’ (Ramasamy, 1992; Guilmoto, 1993; Lal, 2006; Peebles, 2001; Jain, 1998). This was justified on the ground that these destinations were close to India. (Carter, 1995). At the same time, labourers, small peasants and retailers were discouraged from setting out for British Columbia, California, Australia or Argentina. As a result, men of humbler backgrounds found it extremely difficult to get official documentation for moving out to work in spaces other than tropical plantations (Singha, 2006).

The Passport Rules of 1917, the Passport Act of 1920 along with the Emigration Act of 1922 had almost put a stop to indentured labour emigration. This was also a result of an elite campaign in India for its abolition. The nationalist campaign was due to the broken promise of ‘imperial citizenship’ and was considered as an attempt to retrieve India’s “national prestige” which was seen lost due to ‘coolieism’. Abolition of indenture was articulated as necessary for stimulating national industrial development (Shirras 1931; Singha 2006; Metcalf, 2007).¹¹ The Act of

10 Like the *kangani* system, the *maistry* system of labour recruitment too relied on a system of advances as an inducement for emigration and every plantation worker started his work in the overseas plantations with a debt account (Lal, 2006).

11 The nationalist discourse, informed considerably by an ambivalent colonial discourse, had seen the indenture system as something that enslaved men, made women prostitutes and destroyed family - a system that brought national shame for Indians (Mohapatra, 1995).

1922 stipulated procedures for emigration and steps to be taken by foreign agents in India for the welfare of such emigrant workers. The Act made government notifications for recruitment and emigration mandatory. The Great Depression that followed also held back demand for labour in the colonial plantations across the world and in fact resulted in large-scale repatriation of Indian labourers (Metcalf, 2007; Lal, 2006). However, it should be remembered that the colonial government was successful in sustaining the trans-colonial flows of indentured labour from India almost for a century through strategies like the modality of inquiry, underwritten by a liberal notion of impartiality (Mongia, 2003).

2.2 Postcolonial Institution of Emigration Governance

The Passport Act of 1967 tightened the passport regime of postcolonial India and invalidated emigration of persons at their individual ('at one's own risk') discretion.¹² In contrast, the government of independent India remained almost indifferent to emigration governance for a long time. Nonetheless, an office called 'Controller General of Emigrants' was established in the Ministry of External Affairs which was supposed to work broadly on the principles laid down by the colonial Emigration Act. However, new emigration flows from India of people with technical and professional qualifications to the industrialised West from the 1950s onwards and of predominantly unskilled and semi-skilled emigration to the Middle East from the 1970s, made apparent the inadequacies of the Emigration Act of 1922. The Gulf boom also resulted in the emergence of large number of recruiting agents who resorted to exploitative practices, including extortions and betrayals. The unskilled and semi-skilled labourers were particularly at their mercy. It was in such a context of 'market failure' that the Emigration Act of 1983 was enacted with the same protectionist logic of the colonial institutional framework, though the immediate provocation was a

12 Passport Act of 1967, (Act No. 15 of 1967 dated 24th. June, 1967), Section 3.

Supreme Court directive as part of a judgement (*Kangra and Others Vs Union of India*, dated. 20.03.1979). The increasing volume of inward remittances and its importance in the national economy was arguably another reason for government intervention. As a result of the 1983 Act, the office of the Controller General of Emigrants in the Ministry of External Affairs was re-designated, with new responsibilities and powers, as the Protector General of Emigrants (PGE). The new office was attached to the Ministry of Labour till it was transferred to the Ministry of Overseas Indian Affairs in 2004,¹³ and since then, the protection and welfare of emigrants, along with the regulation of the recruitment practices in the country became the responsibility of the PGE.

The Act introduced a licensed recruitment regime. It brought a new system of ‘emigration clearance’ according to which “[n]o citizen of India” was permitted to emigrate without the authorisation of the Protector of Emigrants (POE).¹⁴ Subsequently however, subscribing to the logic of ‘protection by exception’, emigration clearance had been made mandatory only for Emigration Check Required (ECR) passport holders, leaving Emigration Check Not Required (ECNR) passport holders out of the regulative framework. The ECNR status was conferred by virtue of the higher educational status of the passport holder, and initially, persons who were Graduates and above were exempted from ECR; this was subsequently reduced, first to the Intermediate (Higher Secondary) level and recently to the Matriculation (Secondary School) level. The ‘protection by exception’ expression here assumes that less educated emigrants, mainly working in the unskilled and semi-skilled sectors, need additional protection as they are more vulnerable for

13 The formation of the ‘Ministry of Overseas Indian Affairs’ (MOIA) in September 2004 could be seen as a testimony of Government of India’s growing interest in the affairs of overseas Indians. See for details, Irudaya Rajan, Varghese and Jayakumar (2009), pp. 19-20.

14 The PGE administers the Emigration Act of 1983 through eight field offices called Protectors of Emigrants (POE) located in the eight cities mentioned earlier.

exploitation than other categories of emigrants belonging to skilled and professional sectors. Moreover, emigration clearance is required only in the case of emigration to those countries listed by the Government of India as countries requiring such clearance.¹⁵ Seventeen countries are listed as emigration check required countries along with Iraq, to where emigration is banned. They constitute the major labour receiving countries from India. As a measure of governmentality the worker is deemed eligible for protection once s/he gets the emigration clearance. The ECR passport holders can submit their application for emigration clearance directly as ‘individuals’ or through registered RAs to the POE.¹⁶ An ECR passport holder was required to get a ‘suspension’ of the ECR (ECRS) requirement even when s/he intended to travel to the listed countries for non-employment purposes. This requirement had been repealed since October 1, 2007.

The Act authorizes the PGE to issue Registration certificates to the RAs after careful scrutiny of their applications for license. The registration is given to RAs in three categories, classified according to the number of persons they can recruit during the period for which registration is applied for: (a) 300 or less workers, (b) 301 to 1000, and (c) 1000 and above. Security deposits of Rs. 3 lakh, Rs. 5 lakh and Rs. 10 lakh respectively are collected from these three categories of RAs. In an effort to prevent exorbitant collection of charges by RAs, the Government of India has fixed upper limits for service charges – it should not exceed Rs. 2000 in the case of unskilled workers, Rs. 3000 for semi-skilled workers, Rs. 5000 for skilled workers and Rs. 10,000 for persons of other categories. The RAs are required to give ‘receipts’ to

15 As of now, seventeen countries come under this category- the UAE, KSA, Qatar, Oman, Kuwait and Bahrain, Malaysia, Libya, Jordan, Yemen, Sudan, Brunei, Afghanistan, Indonesia, Syria, Lebanon and Thailand. The Government of India views these countries as countries where immigrant labourers are exposed to exploitation of various kinds. Emigration to Iraq is now completely banned apparently for security reasons.

16 See, Irudaya Rajan, Varghese and Jayakumar (2009) for details.

the emigrants for such payments.¹⁷ The registered RAs can submit the applications for emigration clearance on behalf of their recruits.¹⁸ The registering authority is empowered to suspend or cancel the registration certificates of RAs if the latter violate the terms and conditions of the certificate; and also can initiate criminal proceedings against them.¹⁹ In addition, the Act provides space for direct recruitment by the foreign employers after obtaining necessary permission from the respective Indian Mission or from the PGE to do so. In case of exploitation of Indian workers, upon recommendation from the respective Indian Missions, the PGE may also place a foreign employer or Company under the 'Prior Approval Category' (PAC).

The current regulative mechanism, in a certain sense, retains the logic of governmentality as in the colonial regime. The latter was based on a notion of citizenship with preferential treatment through its passport regime. If the 'slave-like treatment' received by the indentured Indian migrants had given the reason for governmental intervention during colonial times, it was the widespread cheating and exploitation of the low-skilled emigrants by RAs and employers that induced the postcolonial government to 'undertake' the responsibility of protecting these vulnerable categories. The creation or innovation of ECR/ECNR categories divided the citizenry and brought the former category under a protective regime while allowing the latter to emigrate freely. If the colonial system denied passport and thereby a promise of protection by the British Crown to the disprivileged categories of Indian people, the postcolonial institution of emigration governance has brought the

17 Emigration Rules, 1983, Section. 25.

18 See, Irudaya Rajan, Varghese and Jayakumar (2009) for details on specific requirements of this.

19 See for the terms and conditions of the Registration Certificate, Emigration Rules, 1983, Section. 10; and for the grounds on which registration may be suspended or cancelled, Emigration Act of 1983, Chapter III, Section. 14.

educationally disprivileged sections of emigrants under the regulatory regime, as we would see, with an empty promise of protection.

Such a regulative mechanism has proved to be restrictive in practice, disallowing an equal opportunity framework. This is particularly true when it comes to the case of low-skilled women emigrants who could be described as outliers within outliers. Several disabling regulations are imposed upon them, one after another, in the name of 'protection'. Regulations of this kind most often receive tacit acquiescence of the public as they go in conformity with the prevailing patriarchal norms. An important intervention in this direction has occurred in 1999, when the Government of India banned deployment of Indian workers for employment as housemaids or male domestics in Kuwait. The latter category was excluded from the ban a little later. This was followed by the imposition of a minimum age of 30 years for Indian citizens to emigrate as housemaids in the Gulf countries, which was subsequently extended to all ECR countries and all ECR passports irrespective of the nature/category of employment. Another regulation that made a direct employment contract between the worker and the employer mandatory in effect had banned recruitment of ECR categories of women by the RAs.²⁰ Such disabling regulations give an impression that they are devised to prevent the women from emigrating, instead of safeguarding them. These stringent governmental measures work in tandem with the dominant social norm which holds that such women emigrants are 'low in character and capital'. This results in the denigration of recruitment to such categories of work and forces the intending low-skilled women emigrants to rely on illegal channels for recruitment.

2.3 Overseas Recruitment Process: A Snapshot

The recruitment for overseas employment from India is a highly complicated process. It takes place through a trans-national network

20 See, Irudaya Rajan, Varghese and Jayakumar (2009) for details.

involving multiple players. An authorised recruitment process usually starts when an overseas employer issues a Demand Letter and Power of Attorney to an RA to recruit labourers from the sending country.²¹ The employer is supposed to do this directly, though these days they increasingly depend on local recruiting agents or clearing agents or contracting companies for recruiting manpower. Both these documents are expected to have been attested by the concerned Indian Embassies/Missions. On request and production of these documents, the POE grants the concerned RA permission to carry out recruitment.²² If the demand is very high, the POE is supposed to send the application to the PGE for permission. After the recruitment, the RA can send the ECNR recruitees to the respective destination, but has to get 'emigration clearance' in the case of ECR recruitees on production of all the required documents. The employers are supposed to bear all the costs of emigration, including travel, visa, medical tests, service charges, cost of advertisement and other expenses. The emigrant workers in various overseas locations also manage to obtain/purchase visas from employers/sponsors/agents for their relatives and friends back home. It is also well known that many unauthorised RAs and individual agents manage to get visas from the foreign employers or their agents or recruiting/contracting companies. A foreign employer can recruit workers directly too provided s/he obtains permission for the same from the PGE. The input from the concerned Indian Mission plays a decisive role in granting them permission. Though direct recruitment is considered safe, the volume of emigration taking place through this channel is minimal and only big enterprises/employers hiring for high-end jobs, would adopt this channel.

21 Demand Letter specifies the details of labour in demand and Power of Attorney authorises the RA to recruit a labourer on behalf of the concerned employer.

22 See Sections 16-21 of the Emigration Act and Sections 11-14 of Emigration Rules of 1983 for more details on requirements for obtaining permission to recruit.

Recruitment through registered/authorised RAs represents the single most important formal channel in overseas recruitment. The registered RAs come from both private and public sectors, though the role of the latter remains insignificant. Most of the states do not have RAs in the public sector. However, a few states like Kerala, Tamil Nadu and Andhra Pradesh have state-run RAs. Kerala has two state-run RAs, viz., the Overseas Development and Employment Promotion Consultants Ltd. (ODEPC) and the Non Resident Keralites Affairs Department (NORKA). The public sector RAs are less insistent and vigorous in their functioning, as borne out by the minimal number of recruitments done by them – for instance, ODEPC could send only 4,800 people abroad till 2006, in its three-decade long functioning.²³ The private agents perform the lion's share in the quantum of overseas recruitment through RAs. Among the licensed RAs, the majority are small establishments with minimum investment. They either get job orders or purchase them from overseas employers/agents; they also get recruitment work outsourced by bigger RAs, particularly from those located in Mumbai and Delhi. A good number of RAs conduct their business fairly and ethically. However, it is believed that the private RAs in general are prone to corruption and illegalities. A large number of unauthorised agents in the field, constituting both firms and individuals, often function as middlemen between the foreign employers/agents or local RAs and the prospective emigrants. Most often the chain would be extremely lengthy, involving friends/relatives/neighbours, a strategy adopted by the unauthorised players to reach out to their potential clients and generate confidence in their bona fides. Being out of the regulative

23 ODEPC was started in 1977 as a public sector company and had been the only public sector manpower-exporting firm in the State till 2008, when NORKA too started manpower exporting services. The cases of Overseas Manpower Corporation Ltd. (OMC) in Tamil Nadu and Overseas Manpower Company Andhra Pradesh Ltd (OMCAP) in Andhra Pradesh are not different either. Most of them offer registration facility for prospective emigrants for which a fee ranging from Rs.70 to Rs.750 is charged, apart from collecting money for every other services provided.

framework, they indulge in rank corruption and illegalities, increasing the risk factor in the field as a whole.

3. Compulsive Situations and Sky-High Costs

3.1 Social Capital, Pressing Compulsions, Meagre Awareness

The surveys conducted among the intending emigrants, return emigrants and emigrant households clearly brings out that for the majority social capital, in the form of social networks through relatives and friends, is the primary resource and channel that facilitates emigration. Almost 80 per cent of the intending emigrants surveyed for the present study were planning to emigrate through the channel of social network, while another 7 per cent were seeking direct recruitment through the foreign employers (Table 6). However, even among those seeking emigration clearances directly from the POE as individuals, 13.5 per cent were actually recruited by the RAs.²⁴ Among the intending emigrants who reported that they were emigrating through recruiting agents, only 34.2 per cent relied upon registered RAs; 46.8 per cent depended on unregistered RAs, and 19 per cent did not know whether the RAs were registered or not. Only 75 per cent of the RAs, whether registered or unregistered, have established offices and the remaining 25 per cent could be better labelled as field agents. Among the unregistered, 51.4 per cent were stated to be individual agents and the remaining 48.6 per cent were firms. The emigrant household survey in Kerala too reveals that majority of the emigrants (73.2 per cent) depended on social network for their emigration, while 21 per cent arranged it through private RAs (Table 7). Compared to the men, the women are more inclined to choose the channel of social network. Regarding

24 This rather strange situation could be due to multiple reasons – the RA concerned could be unauthorised; the RA might not have the documents necessary for conducting recruitment; the number of recruitments could be very low and hence the RA could find it more viable to send them as ‘individuals’ to the POE; the recruitment could have been for categories such as housemaids for which RA involvement is virtually disallowed.

awareness about the legal status of the RAs, only 42.1 per cent of the emigrant households were sure that the RAs who arranged emigration were registered/licensed ones; while 46.7 per cent were not sure of this and 11.2 per cent were certain that they had no legal standing at all. The survey of return emigrants too reports similar results. When (in the last episode of emigration) a fourth of them emigrated through private agents, 70 per cent used their social capital for making it possible (Table 8). Out of the return emigrants who had emigrated through ‘private agencies’, only 8 per cent had done it through registered RAs, 12.9 emigrated through illegal individual agents and the remaining 4.1 per cent through unauthorised travel agencies, making a total of 25 per cent.

Table 6: Channels of Present Emigration (Intending Migrants), 2007

Channel	Male	Female	Total	Male	Female	Total
Friends and relatives	330	185	515	74.2	88.52	78.7
Government agency	3	0	3	0.7	0.00	0.5
Foreign employer	41	7	48	9.2	3.35	7.3
Private RAS	71	17	88	16.01	8.1	13.5
Total	445	209	654	100.0	100.0	100.0

Table 7: Channel of Emigration as reported by Emigrant households, 2007

Channels	Number			Percent		
	Male	Female	Total	Male	Female	Total
Friends and relatives	323	54	377	71.15	88.52	73.20
Private RAS	103	4	107	22.69	6.56	20.78
Foreign employer	28	3	31	6.17	4.92	6.02
Total	454	61	515	100.00	100.00	100.00

Table 8: Channel of the last emigration by Return Emigrants, 2007

Emigration channel	Number			Percentage		
	Male	Female	Total	Male	Female	Total
<i>RAS</i>	28	3	31	7.9	9.4	8.0
<i>Individual agents</i>	49	1	50	13.8	3.1	12.9
<i>Travel agencies</i>	15	1	16	4.2	3.1	4.1
Private Agencies	92	5	97	25.9	15.6	25.0
Friends	63	4	67	17.7	12.5	17.3
Relatives	183	22	205	51.5	68.8	53.0
Direct	17	1	18	4.9	3.1	4.7
Total	355	32	387	100.0	100.0	100.0

It seems that pressing circumstances at home along with dreams of upward mobility prompt more and more people to venture into emigration. As the statistics available from the POE offices indicate, the unskilled and semi-skilled emigrations from India are consistently on the rise.²⁵ Interestingly, only 8 per cent of the intending emigrants have cited unemployment as the primary rationale behind their decision to emigrate. As Table 9 exhibits, as much as 63 per cent of the intending emigrants cite inadequate earnings at home as the reason to emigrate. Sixteen per cent of the intending emigrants cite the problem of underemployment and the consequent lack of adequate resources for a livelihood as the reason to emigrate. Proportionately more women than men report this reason. Only about 6 per cent of the intending emigrants see emigration as a means to acquire a better job. Among women intending emigrants, the proportion of the same is just below 2 per cent. Among the return emigrants surveyed, 81.3 per cent were employed prior to their emigration, while 16 per cent of them were unemployed at

25 The total number of persons who were granted emigration clearance / ECNR endorsement in the year 2003 was 4,66,456. It increased to 4,74,960 in 2004, to 5,48,853 in 2005, to 6,76,912 in 2006, to 8,09,453 in 2007 and to 8,48,601 in 2008 (MOIA, 2008 & 2009).

home.²⁶ Noticeably, 7.31 per cent of the intending emigrants were seen to be emigrating for a job 'lower' than what they already possessed in the home country. This would certainly be on an expectation of getting better returns than what they were earning in the home country even though they would be employed in a 'lower' job.²⁷ It is inadequate earnings at home that apparently caused the majority to emigrate. Almost 50 per cent of the intending emigrants surveyed earned less than Rs. 3000 a month and another 30 per cent between Rs.3001 and Rs. 5000. Taken together, 80 per cent of them earned a monthly remuneration of less than Rs. 5000 at home. The situation is not much different when the total family income of the intending emigrants is taken into consideration.²⁸ In a majority of the cases the salaries offered would generate considerable increase of income after emigration—43 per cent of them were offered a salary between Rs. 5,001 and 10,000; 26.4 per cent between Rs. 10,001 and 15,000; 11.3 per cent Rs. 15,001 or more; however, 19.3 per cent of them would earn only Rs. 5,000 or below in the countries of destination. The intending women emigrants, in comparison to their male counterparts, were offered much lower salaries – 56.1 per cent were offered Rs.5,000 or below and 38.6 per cent between Rs. 5,001 and 10,000. However, on the whole, their overseas jobs were expected to create a surge of income for both male and female intending migrants. If the average income they earned at home was Rs. 3,916 per month (Rs. 5,144 for men and Rs. 2,687 for women), the expected/offered income overseas was Rs. 10799 (Rs.12884 for men and Rs. 6362 in the case of women) per month. The monthly earning was expected to

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- 26 Most of the return emigrants under the present survey emigrated during the period since 1981. Only 3 per cent had emigrated prior to 1970.
- 27 52.82 per cent of them were offered the 'same job' in the destination, while 31.73 per cent got a 'similar job' and only 8.14 per cent got the offer of a 'higher job'.
- 28 See Irudaya Rajan, Varghese and Jayakumar (2009) for details.

be more than double of what they earned at home for both men and women. In such a context the decision to emigrate was understandably taken in search of a better standard of life and due to compulsions for upward economic mobility.

Table 9: Reasons for Emigration as stated by Intending Emigrants

Reasons	Male	Female	Total	Male	Female	Total
Inadequate income	311	99	410	69.89	47.37	62.69
Under-employment	53	52	105	11.91	24.88	16.06
Unemployment	18	34	52	4.04	16.27	7.95
Repayment of debts	25	20	45	5.62	9.57	6.88
Getting higher job	38	4	42	8.54	1.91	6.42
Total	445	209	654	100.0	100.0	100.0

This is the driving factor that makes a significant number of people desperate to emigrate. The surveys reveal that a majority who emigrated through RAs approached the latter on their own to realise their goal. Among those who emigrated through RAs, 68.5 per cent approached them directly for the same, while the RAs reached out to the rest, 31.5 per cent. More disturbing fact is that, among the latter category, only 4.8 per cent of the intending emigrants got hooked through advertisements in the media. 52.4 per cent were canvassed by the RAs through relatives/friends/neighbours of intending emigrants; 30.6 per cent were bagged directly; 14.3 per cent were canvassed through sub-agents. This is true with the emigrants who are currently on expatriate work, as reported by their households. Among the emigrants who reportedly went through private RAs, 85.3 per cent had approached the RAs by themselves for arranging their expatriation. Only in the case of 14.7 per cent did the RAs approach the migrants. This contrasts with the information supplied by the RAs; 70.6 per cent of the RAs had stated that advertisements were their major mode of contacting potential recruits, while only 10.5 per cent stated that they employed own agents/field staff and 5 per

cent agreed to have made use of networks of local agents for the purpose of recruitment. Strikingly, 13.9 per cent of the RAs make use of web facilities too for this purpose. However, most of them informally acknowledged that it was not possible for them to get in touch with sufficient number of potential recruitees without operating through a network of local agents/ subagents/individuals affiliated to them either directly or indirectly. The very fact that the majority of emigrants are approaching the RAs by themselves shows that more than the vigorous and deceptive canvassing on the part of agents, it is the gripping push factors that drive the hapless intending emigrants to the RAs, presenting the latter with an ideal opportunity to exploit the former and allowing diverse players to masquerade as RAs.²⁹

Though social network is considered to be the more dependable channel for emigration compared to RAs, it too involves diverse players, both authorised and unauthorised, as revealed by the present surveys. Even though a vast majority of emigrants are reported to be migrating through the channel of social network of relatives and friends, in many of those cases other players like middlemen and visa merchants are also involved. The overseas emigrants would be depending on such players for arranging visa and facilitating the emigration of their relatives or friends to the country where they work. Again, many of those who claimed to have emigrated through friends/relatives might have depended upon agents or middlemen who also happened to be their distant relatives or friends. In many other instances, it is seen that the reported 'friendship' was a newly established one, mostly during the 'deal' of emigration. The research team also came across several instances in which friends/relatives were successfully made use of by the agents for canvassing prospective recruitees. In our present survey, only those who have explicitly reported to have gone through private RAs have been recorded

29 Nonetheless, it is certain that the RAs have their own structures in place even in remote places in the form of sub-agents or individual field agents 'to be contacted by the needy'.

to have done so. This remains a major limitation of the present data as well.

Added to this is an incredibly low-level of awareness among the emigrants and intending emigrants about the diverse aspects and intricacies of emigration and expatriate work. As has been already pointed out, a majority of them have no clue about the legal status of the RAs that arrange their emigration. Irrespective of the channel of emigration, the intending emigrants are oblivious of many other crucial issues also. Only 36.5 per cent of the intending emigrants stated that they were aware of the prevailing working and living conditions at the destination. As many as 44 per cent among them did not know who their sponsors were. Sixteen per cent of the sample admitted that they were preparing to emigrate without any employment contracts. Even among those who had signed the contracts, only 37 per cent were aware of the provisions in the contract. Of the remaining 63 per cent, 38.6 per cent had partial knowledge about the terms of the contract, but the rest, 24.4 per cent, were totally in the dark about the conditions of work. The vast majority of the prospective emigrants, who come to the different POE offices for emigration clearance, do not know the purpose for which the office has been established and the real service being delivered by it. It should also be noted that majority of Indian workers emigrating for overseas work have low educational qualifications, are low in awareness and belong to the unskilled, semi-skilled and low-skilled categories of labour. The survey of emigrant household in select Kerala districts underlines the low levels of educational attainment of the emigrants. Table 10 shows that 62.26 per cent of the emigrants are educated only up to Secondary School or even lower (21.40 per cent with '10th class completed' and 40.86 with even lower levels). If this is the situation prevalent among emigrants from a 'complete literate' state like Kerala, the conditions are likely to be worse in the case of emigrants from other states. The educational profile of the current emigrants indicates that though female participation in emigration is lower than that of men, the

proportion of qualified emigrants is significantly higher among women than among men.

Table 10: Educational Profile of the Emigrants in three districts of Kerala (survey of emigrant households), 2007

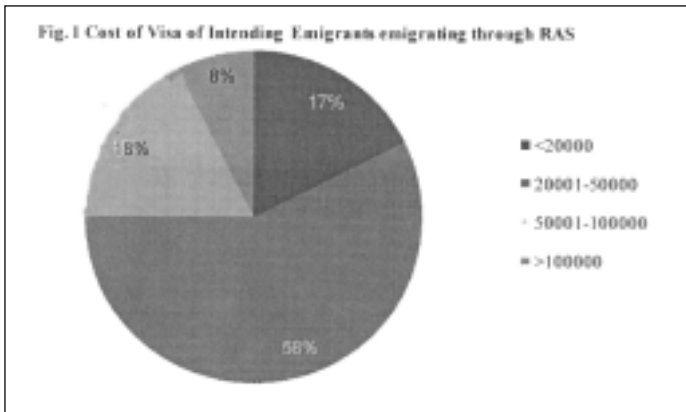
Qualification	Number			Percent		
	Male	Female	Total	Male	Female	Total
Less than 10 th class	187	23	210	41.46	36.51	40.86
10 th pass	103	7	110	22.84	11.11	21.40
Plus two	63	4	67	13.97	6.35	13.04
Technical	31	1	32	6.87	1.59	6.23
Degree	37	14	51	8.20	22.22	9.92
Professional degree	30	14	44	6.65	22.22	8.56
Total	451	63	514	100	100	100

3.2 Mounting Costs and Rising Vulnerability

The ideal scenario for persons seeking employment overseas would be one that is costless and fetches high return. However, the reality is far removed from the ideal; and emigration, in most cases, involves exorbitant cost. As pointed out already, the prospects of earning more from overseas in the face of gloomy options at home has instigated many people to seek expatriate work. Many players have been attracted into the recruitment process by the prospects of minting money in it. A variety of players including employers, overseas recruiting and clearing agents, contracting companies, RAs in India, touts, officials and even friends/relatives of the overseas job seekers are involved in the chain, in varying depth and intensity, taking advantage of the situation. There is no altruism and all, except a few friends/relatives, are lured by the lucrative nature of the process. This has made the cost of emigration skyrocket under different heads and items.

The employment visa, which allows a foreign worker to be employed in a given country, should ideally be issued free of cost to the

worker. But in reality, the document has virtually become a marketable commodity which could be sold and purchased. It is learnt that the trend of making cash payments for obtaining employment visas is on the increase, especially in the case of the Gulf countries. There are employers who have made it a business to sell visas through local 'labour companies', who in turn sell visas to RAs in the labour-sending countries. The business of selling visas has brought more players into the field, including unregistered agents, individual touts, etc. The great majority of the RAs covered in the survey conceded that it is very difficult to get visas, especially for the unskilled, semi-skilled and certain types of skilled works, without payment, though only 29.7 per cent accepted that they themselves are involved in purchasing visas.³⁰ The survey of intending emigrants too eloquently confirms this. All intending emigrants who got their visas through RAs had to pay for their visa. There was a wide variation in cost — the lowest being Rs.5,000 and the highest Rs. 130,000. Among them only 17.5 per cent could manage to get their visa for less than Rs.20,000 each, while 57.5 per cent spent Rs.



30 There is a clear regional difference in this matter; while only 15.5 per cent of the RAs in the regions other than South India admittedly purchased visas, a whopping 49.5 per cent of South Indian RAs resorted to this practice. This would be also an indication of a higher demand for foreign employment in South India compared to other parts of India, especially in lower category jobs.

20,001 to Rs. 50,000, another 17.5 per cent Rs. 50,001 to Rs.100,000 and 7.5 per cent higher than Rs.100,000 (Fig. 1). On an average, a person emigrating through RAs paid Rs.45,495 as cost of visa.

Emigrating through social network would not necessarily provide immunity from paying for visa. As many as 110 intending emigrants (out of 515) who emigrated through friends/relatives were aware of the specific component of 'visa cost' involved in their total cost of emigration.

On an average, an emigrant had to spend Rs. 33,248 for visa in this category (Table-11). Among them 64.5 per cent paid more than Rs. 15,000 as visa cost, while the remaining 35.5 per cent less than Rs. 15,000.³¹ The range of payment for procuring visa – the lowest being Rs.1,000 and the highest Rs.1,25,000 – reveals that a significant number of emigrations were not through social network *per se*. It indicates the existence of a wide variety of players who mediate between the intending emigrants and those friends/relatives who arrange their emigration. However, out of the total 515 intending emigrants who emigrated through friends/relatives, 405 (78.6 per cent) persons had not made any payment towards the cost of visa. This may be read as an indication of the fact that there are still chances of getting a visa free of cost from companies/employers. Alternatively, this might be also due to the fact that the relatives /friends concerned bore the cost on behalf of the emigrants. The return emigrants who had emigrated through friends/relatives during the last episode of their emigration too had spent less for visa than those who went through RAs. Whereas the former had spent Rs. 29,918 for visa, the latter had spent Rs.34,769.³²

31 Only 8.2 per cent of them could get visa for an amount less than Rs.5000, 5.5 per cent paid Rs.5001- Rs.10,000; and 21.8 per cent 10,001-15,000.

32 As per the findings of the Emigrant Household survey, those who emigrated through RAs had to spend Rs. 68,577 for their visa and those who went through the social network paid slightly less, i.e., Rs. 65,074

Table 11: Cost for Visa by Intending Emigrants, if they emigrate through relatives and friends, 2007

Rupees	Male	Female	Total	Male	Female	Total
0 - 5000	9	0	9	11.7	0.0	8.2
5000 - 10000	3	3	6	3.9	9.1	5.5
10000-15000	2	22	24	2.6	66.7	21.8
above 15000	63	8	71	81.8	24.2	64.5
Total	77	33	110	100.0	100.0	100.0
Average cost:	40238	16939	33248			

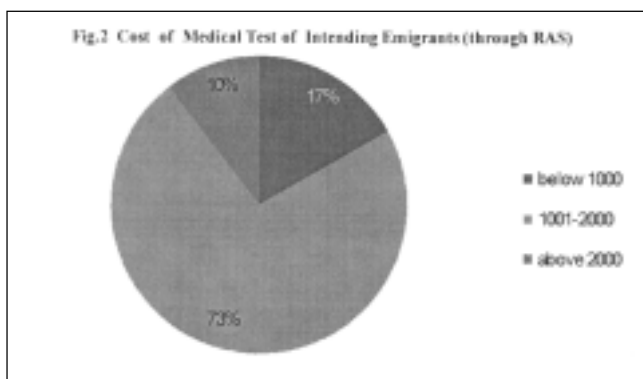
This is true in the case of other items of cost involved like air-travel, medical testing, insurance, emigration clearance, etc. Most of the RAs agreed informally that the cost of travel is usually borne by the recruitee.³³ Most of the RAs are IATA licence holders and undertake the business of air-ticketing along with recruitment.³⁴ A quarter of the intending emigrants emigrating through RAs (25.7 per cent) spent more than Rs.15,000 towards air tickets, whereas only 10.5 per cent of those went through friends/relatives had to spend that much. While those who emigrated through RAs spent an average of Rs.13,170 for the air ticket, those who did so through friends/relatives spent a slightly lower amount of Rs.12,233. There are countries that require medical fitness certificate prior to emigration. The medical test conducted prior to the emigration in the home country is also used as a money-minting segment in overseas recruitment.³⁵ Some of the RAs were frank enough to disclose that in

33 However, only 49.5 per cent conceded it by formally in their answers to questionnaire; the remaining 48.6 per cent had replied that the employers bore all the travel costs.

34 Out of the total sample, 77 per cent of the RAs are into air ticketing business and extend the service to their recruitees. The remaining 23 per cent arranged the air tickets through their associate travel agencies.

35 There are countries that require medical fitness certificate prior to emigration. In the case of GCC countries, for instance, only GAMCA (GCC Approved Medical Centres and Associations) licence holders are entitled to give medical fitness certificates to the intending emigrants. There are nearly 200 GAMCA licence holders worldwide today, *CARAM Asia Report on State of Health of Migrants – 2007*, pp. 187-90.

general they earn a fair amount of money as commission from diagnostic centres and many of them meet their running costs from it. It is alleged that out of the total Rs.1,500 usually charged by diagnostic centres for medical fitness certificate from recruits, the RA forwarding the case to the diagnostic centre would get between Rs. 300 and Rs. 600 as commission. The survey shows that 72.9 per cent of the intending emigrants going through RAs spent between Rs. 1001-2000 for medical tests and 10.4 per cent spent more than Rs. 2000, while only 16.7 per cent spent Rs.1000 or less (Fig: 2).³⁶



Some of them could get their medical examination done at a cost of Rs. 500, whereas a few had to spend as much as Rs. 4,200. On an average, a person spent Rs.1,606 for the medical test. The return emigrants' survey also showed that there was enormous differences in the amounts paid which ranged from Rs.600 to Rs.10,000 with an average of Rs. 2,642. The discrepancy also raises serious doubts about the credibility of tests being conducted. The case of insurance is not different either. The RAs allegedly receive a commission from insurance companies/agents to whom they sent the recruits for obtaining the

36 Of the intending emigrants who were emigrating through RAs, 50 per cent got the medical test done through the agents by paying extra amounts as the RA's commission. The remaining got it done 'on their own'. But it is evident from the field inquiry that, even when the RAs sent their recruits 'directly' (apparently with a chit), to the diagnostic centres, they get their commission from the latter.

mandatory insurance cover. Among the intending emigrants, those who emigrate through RAs, on an average, spent Rs.1074 for insurance,³⁷ while the amount was only Rs. 684 for those who emigrated through friends/relatives.

The disparity is apparent in the expenses incurred for ‘emigration clearance’ too. The stipulated government fee for emigration clearance is Rs. 200 per passport. The average spending by the persons emigrating through RAs in this regard is Rs. 772 and Rs. 285 for others going through the social network. The average amount incurred by the return emigrants for this was exorbitantly high, that is, Rs. 2,995. This in fact points to a parallel mechanism of ‘emigration clearance service’, in which emigrants take the service of RAs for getting their emigration clearance done, even when they are emigrating through the social network. We will come back to this point a little later.

The service charges of the RAs are also exorbitant.³⁸ Among those intending migrants who had replied to the component of service charges in their questionnaire, 27.3 per cent had paid to the RAs Rs. 10,000 or less; 40.9 per cent Rs.10,001-30,000 and 31.8 per cent, more than Rs.30,000. On an average, a person had spent Rs.23,500 on service charges. There were a few intending emigrants who approached recruiting/travel agencies to “arrange” their documents, which could even involve forging documents. Out of the 515 intending migrants who emigrated through friends/relatives, 37 persons (7.9 per cent) chose this path and paid high service charges to the agency - an average of Rs. 12,147 per person.

37 It was in 2003 the Government of India introduced the compulsory insurance scheme, namely Pravasi Bharatiya Bima Yojana, to provide protection to the unskilled and semi-skilled emigrants under the ECR category in case of eventualities and misfortunes happening during their expatriate lives.

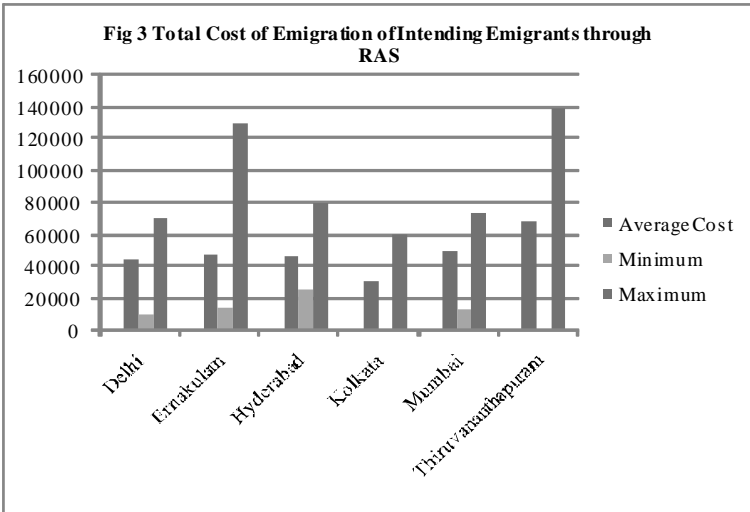
38 Protector General of Emigrants, *Emigration & You: An Information Booklet*, New Delhi: Ministry of Labour, Government of India, 2004, p. 16.

Table 12: Total cost (in Rupees) of Emigration in Six Locations in India when emigrating through RA, 2007

POE Location	Number	Average Cost	Minimum	Maximum
Delhi	10	44120	11200	70000
Ernakulam	14	47429	14000	130000
Hyderabad	3	46667	25000	80000
Kolkata	19	30084	1000	60000
Mumbai	9	50306	13200	73200
Thiruvananthapuram	33	68428	500	140000
Total	88	51451	500	140000

The inordinate costs under various heads clearly boost up the overall cost of emigration. Among the intending emigrants going through RAs, only 13.6 per cent could succeed by spending an amount of Rs. 20,000 or less, 24.3 per cent between Rs.20,001-50,000, 36.4 per cent between Rs.50,001-1,00,000 and the remaining 5.7 per cent above Rs.100,000. On an average, a person spent Rs. 51,451 as the total cost of his/her emigration (Table 12). The range of overall cost of emigration from a mere Rs. 500 to as much as Rs. 1,40,000, yet again signals the existence of both fair players and extremely exploitative foul players in the field. Fig. 3 shows the total cost (with its minimum, average and maximum) incurred by the intending emigrants in different POE locations when they had engaged RAs to accomplish their goal.³⁹ Kolkata recorded the lowest average cost and Thiruvananthapuram, the highest. Thiruvananthapuram clearly reflects volatility of the situation – some could emigrate for a paltry Rs.500, but some others could do so only after they spent as much as Rs.1,40,000.

39 The cost from Chandigarh and Chennai are not available as none of the intending emigrants from these locations in the sample emigrated through RAs.



The emigrant household survey also confirms that some people were able to emigrate spending Rs.15,000, whereas some others had to spend as much as Rs. 2,17,500. The average cost per person for emigration through RAs was Rs.76,820.⁴⁰ The intending emigrants emigrating through friends and relatives too had to spend significant amounts, but certainly not to the extent their counterparts emigrating through RAs had to spend. A quarter of the intending emigrants going through friends/relatives spent only below Rs. 5,000, 36.5 per cent between Rs.5001-20,000 and 24.4 per cent between Rs.20,001-50,000. The remaining 14.2 per cent spent more than Rs. 50,000. On an average, a person spent Rs. 25,712. In this category, the lowest reported cost is Rs. 200 and the highest, an exorbitant Rs.1,65,000 (Table 13). If the average is calculated after excluding the 110 persons who paid for the visa, as their relatives arguably purchased the visa from some agencies, the average total cost would be Rs. 16,358.

Table 13. Total Cost of Emigration across 8 Locations (through friends/relatives) 2007.

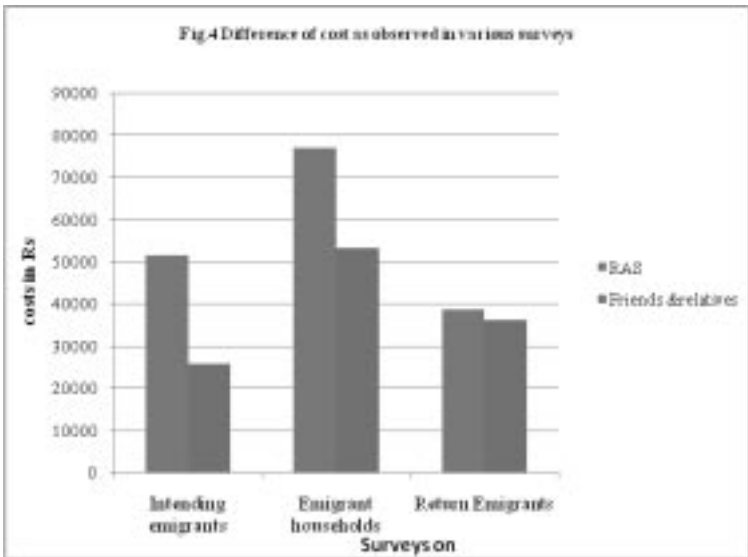
POE Location	Average	Minimum	Maximum
Chandigarh	15412	672	35500
Chennai	32208	200	100000
Delhi	37880	200	125000
Ernakulam	29194	200	165000
Hyderabad	18905	650	50000
Kolkata	20140	5000	40200
Mumbai	6104	750	49750
Thiruvananthapuram	44375	1500	150000
Total	25712	200	165000

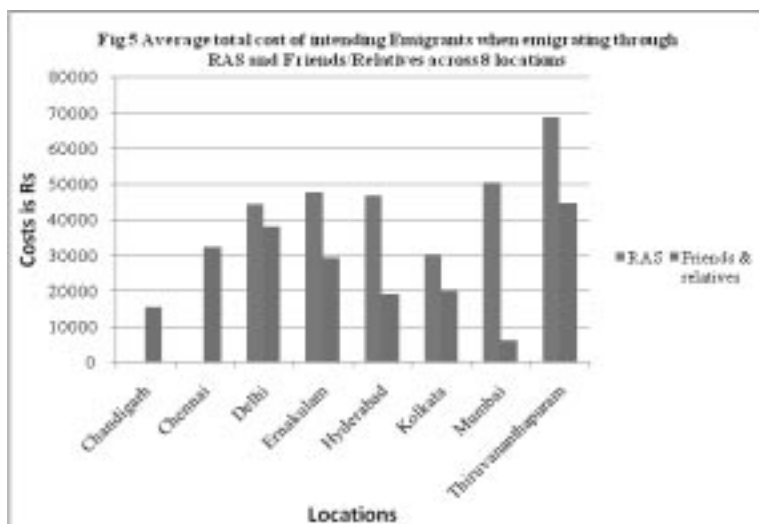
The return emigrants survey too brings out similar results, though not as noticeably as the other two surveys (Table 14). The average total cost incurred by the return emigrants whose emigration was facilitated by private RAs during their last episode of emigration was Rs. 38,507 compared to Rs. 36,212 for those whose emigration was facilitated by friends/relatives. All the three surveys which tried to capture the costs of emigration show that those who emigrated through the channel of RAs had to spend more compared to those who emigrated through the channel of Friends/Relatives (Fig. 4).

There is apparent difference in the cost of emigration across locations, indicating once again the wobbling nature of the sector (Fig.5). RAs are found to be extracting huge sums from the intending emigrants. Expenditure is relatively less though the channel of social network. However, the social network channel also does not offer any immunity from excessive expenditure.

Table 14: Cost of emigration (in Rs) of Return Emigrants who emigrated through RAs and FRs, 2007

Item of	Through RAs			Through Friends/Relatives		
	Average	Minimum	Maximum	Average	Minimum	Maximum
Expenditure						
Visa fee	34769	6000	65000	31800	3000	100000
Medical test	1320	500	2000	2318	600	10000
Emigration clearance	4375	500	15000	2994	350	7500
Travel fare	7900	3400	17500	12305	500	22000
Total	38507	6000	175000	36212	1000	100000





3.3 Acquired Capability and Returning to Insufficiency

The exorbitant costs involved in the emigration process would give an impression that only those persons with adequate economic resources would be able to nurture an idea of emigrating. But the surveys indicate that a majority of the low skilled migrants do not have the financial capability to emigrate on their own. This compels them to acquire the capability through measures like borrowing and/or disposal of their basic assets. Among those intending emigrants who sought emigration through RAs, 50.6 per cent had mobilised funds for the same either by borrowing or by disposing of their assets. The proportion of persons who resorted to borrowing was 39 per cent. Of these, the share of those who borrowed from moneylenders alone was 19.5 per cent, from financial institutions - 10.4 per cent, and friends/relatives - 9.1 per cent. It is noteworthy that 11.7 per cent mobilised funds by selling assets including jewellery and landed property. More women were seen to borrow (50 per cent) from moneylenders to finance their emigration than their male counterparts. As many as 46.8 per cent of the intending emigrants, who plan to emigrate through friends/relatives, also resorted

to borrowing. Here also, more women borrowed than men to finance their journey abroad. The results from the emigrant household survey are not different either. More than half of the emigrants reportedly mobilised finance either by selling off their assets or resorting to borrowing. While 21.5 per cent sold off the jewellery of their spouses or parents, 20.8 per cent borrowed from private moneylenders and 9.1 per cent took loans from banks. Nearly half of female emigrants (47.2 per cent) depended on private moneylenders to raise funds for emigration, while only 16.7 per cent of male counterparts had to do that. Even after enormous spending, only 78.08 per cent of them were able to emigrate with valid employment visas. Hoping for better prospects, 2.15 per cent emigrated for work with what is called 'free visa', but an alarming 19.18 per cent emigrated under 'visit visa' and 0.6 per cent went on 'pilgrim visa'.

The most distressing aspect of the situation is that even after spending substantial resources and that too after obtaining those resources at a heavy cost, most of the emigrants are not getting a reasonable return for their investment. And the lack of correspondence between the investment for emigration and the insubstantial returns from the overseas employment is astounding (Table 15). More than 60 per cent of the current emigrants earn less than Rs.10,000 a month. The remittances emigrants send home is another indicator of the insufficient earnings they make from the expatriate work. About one-third of the emigrants (32.9 per cent) are able to send home only Rs. 2,500 or less per month. Nearly half of them (47.6 per cent) could send between Rs. 2,501-5,000, 15 per cent between Rs. 5,001-10,000 and only 4.6 per cent, above Rs.10,000. Women fared better than men here as in the case of earning, though none of them transferred more than Rs.10,000 at a time.⁴¹ It should also be noted that less than half the number of emigrants (45.6 per cent) reportedly send remittances every month; 16.6 per cent do it quarterly; 1.7 per cent, biannually and 35.6 per cent, in quite an

41 While 50 per cent of the women emigrants are earning more than Rs. 10,000 a month, only 39 per cent of men are able to achieve it (Table 15).

irregular manner. An emigrant who is incapable of emigrating on his/her own with regard to the investment required for it, and resorts to borrowing to render him/her 'capable', would get bogged down in the vicious cycle of endless borrowings. Moreover, only 33.2 per cent of the emigrant households reported that emigration had brought them some economic dividends (Table 16). The reasons cited by the return emigrants why they returned provide further insight into the problem (Table 17).⁴² Almost 70 per cent of the return emigrants never would like to emigrate again, and this was not because their stint abroad had made them economically independent for the rest of their lives.⁴³ Almost half of the return emigrants who did not wish to emigrate again stated that they were no longer able to work either due to old age or ill-health (Table 18). It is quite apparent that exorbitant investment for emigration does not guarantee a reasonable yield from expatriate earnings and an easy life after return.

Table 15: Salary of Emigrants as reported by the Emigrant Households, 2007

Salary range	Number			Percent		
	Male	Female	Total	Male	Female	Total
Rs. 1-5000	34	4	38	7.9	16.7	8.4
Rs. 5001 – 10000	228	8	236	52.9	33.3	51.9
Rs. 10001 – 15000	92	0	92	21.3	0.0	20.2
Rs. 15001 – 20000	26	5	31	6.0	20.8	6.8
Rs. 20001 – 25000	13	3	16	3.0	12.5	3.5
Above Rs. 25000	38	4	42	8.8	16.7	9.2
Total	431	24	455	100.0	100.0	100.0

42 Expiry of contract, low remuneration, ill-health, problems at home, miserable working and living conditions and compulsory repatriation by the employer are the major reasons cited for return.

43 Only 8.1 per cent of the return emigrants who did not want to re-emigrate have stated that they earned adequately and thus did not need to emigrate again.

Table 16 : Forms of dividends brought by emigration, Emigrant Households, 2007

Economic Dividends	Number			Percent		
	Male	Female	Total	Male	Female	Total
House	46	3	49	31.1	27.3	30.8
Buildings	27	4	31	18.2	36.4	19.5
Landed property	31	1	32	20.9	9.1	20.1
Vehicles	2	0	2	1.4	0.0	1.3
Children's education	23	1	24	15.5	9.1	15.1
Marriage of daughters	7	0	7	4.7	0.0	4.4
Own savings	12	2	14	8.1	18.2	8.8
Total	148	11	159	100.0	100.0	100.0

Table 17: Reasons for Return as stated by the Return Migrants, 2007

Reasons for return	Number			Percent		
	Male	Female	Total	Male	Female	Total
Expiry of contract	74	5	79	24.3	22.7	24.2
Compulsory repartition by the employer	25	0	25	8.2	0.0	7.6
Due to low remuneration	60	0	60	19.7	0.0	18.3
Ill-health	61	4	65	20.0	18.2	19.9
Problems at home	39	9	48	12.8	40.9	14.7
Miserable working and living conditions	26	3	29	8.5	13.6	8.9
Harsh behavior of the employer	15	1	16	4.9	4.5	4.9
Hostile climate conditions	5	0	5	1.6	0.0	1.5
Total	305	22	327	100.0	100.0	100.0

Table 18: Reasons for not emigrating again as stated by the Return Migrants, 2007

Reasons for not migrating again	Number			Percent		
	Male	Female	Total	Male	Female	Total
Have earned adequately	17	0	17	8.5	0.0	8.1
Attractive opportunities at home	41	3	44	20.5	33.3	21.1
Retired from work due to old age	45	6	51	22.5	66.7	24.4
Retired from work due to ill-health	45	0	45	22.5	0.0	21.5
Started own business	17	0	17	8.5	0.0	8.1
Re-employed in Kerala	35	0	35	17.5	0.0	16.7
Total	200	9	209	100.0	100.0	100.0

4. Buying Multiple Vulnerabilities: Host and Home Countries

All surveys conducted in connection with the present study reveal that people emigrating through recruiting agents stand increasingly exposed to likelihood of exploitation and cheating. Among those intending emigrants who had previous experience of emigration through the RAs, 21.6 per cent were subjected to incidents of false promises and outright cheating. Surprisingly, 78.8 per cent of such deceitful agents are reported to be still functioning and are reportedly going strong in the business. The available evidence strongly indicates that emigration through RAs could make emigrants vulnerable at destinations in multiple ways.

A major cause of concern is related to the employment contract, which is a mandatory requirement of emigration clearance. It is found that, most often, RAs get their clearance done with specimen contracts in duplicate, resulting in a situation in which an actual contract is not signed at all.⁴⁴ Strikingly, 23.3 per cent of those intending emigrants with previous migration experience through RAs did not sign the contract at all before leaving India. More importantly, the survey reveals that a significant proportion (17.8 per cent) of RAs are either ignorant about the mandatory requirement or deliberately ignore the requirement of signing of the contracts. Smaller recruiting agents are found to be more at fault on this point.⁴⁵ The vast majority of RAs (83.2 per cent) have stated that they submit only specimen contracts to the POEs, since a specimen contract can satisfy the technical requirement for emigration clearance.⁴⁶ The actual contract is mostly not signed at all; and, even if it is signed once the worker reached the destination, the chances of the employer insisting on a new contract to his/her advantage are high. All these makes the worker vulnerable to abuses and the terms and conditions of the contract, in whatever form, is largely violated, particularly with regard to salary, type of job, working and living conditions, etc. The survey of return emigrants casts doubts on the sanctity of the employment contract because 34 per cent of the return emigrants were not given the promised job; 12 per cent were forced to sign fresh contracts; and for 29 per cent the working and living conditions were not on par with what were agreed upon in the contract. Needless to say that such

44 In some other cases, documents are forged outright, as happened in the recent CBI charge-sheeted case in Thiruvananthapuram involving the POE office and 18 travel agencies.

45 Only 8.2 per cent of the '1000 plus' RAs have reportedly did this; while it is 23 per cent in the case of 'up to 300' category of RAs.

46 Section 15 (c) of the Emigration Rules, 1983. But as we see a little later, the POEs are insisting upon the requirement that specimen contract needs to be authenticated by the concerned Indian Mission.

vulnerabilities are at a significantly higher level when emigration is through RAs.⁴⁷

Seizing passports of expatriate workers immediately after their arrival in the countries where they go for work has been reported as a major incapacitating measure adopted by the employers, particularly with regard to unskilled and semi-skilled workers. A majority of the return emigrants (55 per cent) were not allowed to keep their passports and work permits with them, and the documents were taken away by their employers. Among those who emigrated through channels other than private RAs, 46.7 per cent were allowed to keep their passports and work permits with them. But among those who emigrated through RAs, only 24.32 per cent had this advantage. Recruiting agents put the blame squarely on workers, rationalising the situation on the grounds that employers resort to such measures to ensure that workers do not desert them midstream. This practice, aimed at making the workers obedient and compliant to the respective employers, continues unabated in spite of the efforts on the part of many governments to stop it.⁴⁸ Most often, due to extreme harassment, the workers run away from the employer. That makes them illegal workers in the foreign country and consequently more vulnerable. The practice of confiscating passports on arrival from them by the employers has virtually put the immigrant workers under a “new form of slavery.” The denial of the fundamentals of citizenship often starts on the workers’ arrival at the destination; it is reported that the workers have to wait for hours or even days together in the airports without being picked up to transport them to their living/working places. More than 30 per cent of the return emigrants disclosed that neither the employers nor their representatives were present in the airport at the

47 See for details: Irudaya Rajan, Varghese and Jayakumar (2009).

48 To cite one instance, one of the major concerns of the newly formed Labour Market Regulatory Authority (LMRA) in Bahrain is to ensure that the passports of the expatriate workers remain in their own possession.

time of their arrival to pick them up.⁴⁹ This results in a traumatic spell of waiting, especially for the first-timers, in an alien country, often without contacts and adequate money to survive.

4.1 Pitiable Life, Debt Trap and Increasing Suicides

Excessive investments, denial of promised salaries, wretched work and living conditions and other forms of exploitation, all having direct or indirect connection with recruitment, makes the life of the majority of unskilled and semi-skilled workers miserable in the destination countries, particularly in the Gulf region. Apart from taking cuts in the promised salaries, employers deduct a specified amount every month from the salary towards recovering the visa charges, air travel cost and other expenses from the expatriates. Horrendously, such deductions happen even in cases where the workers paid hefty sums to the RAs back home. The conditions in most of the labour camps where the immigrant workers are housed by the companies in the Gulf region are extremely pitiable.⁵⁰ The discontent among the workers, for all these reasons, is on the rise resulting in an unprecedented number of strikes and riots in the Gulf region where law bans labour strikes.⁵¹ Riots in the dining halls, presumably because of poor quality of food served, are not uncommon.⁵²

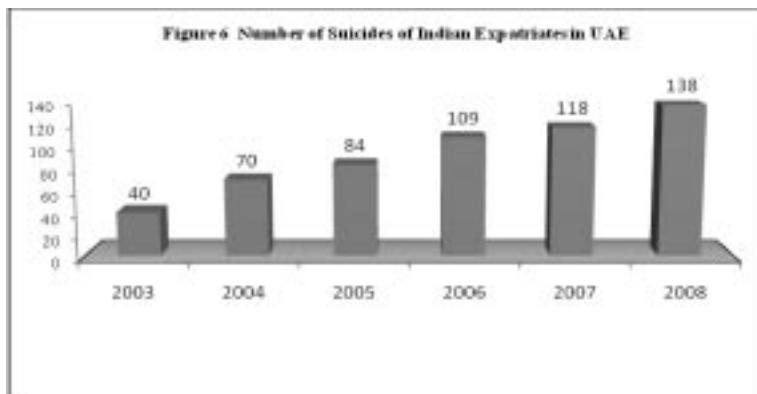
49 This pertains particularly to those emigrating through RAs, as the question is not relevant for those who emigrate through genuine social networks

50 “Presently 30 men use one bathroom. Water heaters have not been provided in the winter and so we have to bathe in cold water.... There are no room heaters either... We are living in conditions that are not fit even for animals.”-narrates a worker among the 2,000 odd workers who were on strike in the GP Zachariades Overseas Ltd. Quoted in “We will Continue Our Strike,” 10 February, 2008, *Bahrain Tribune*.

51 Two thousand workers in GP Zachariades Overseas Ltd., 400 workers from Technical Construction Company (TCC), 750 workers of Almoayed Contracting, over 300 employees of Mohsen Hajji Ali Group and 1,800 workers of Bopkhowa Constructions went on strike in Bahrain in recent times for breach of promises, low salary and poor living conditions.

52 In a recent incident at Dubai, UAE police arrested more than 300 workers, mostly Indians, after a dining room riot at a construction site. The reason for the riot is reportedly the extremely poor quality of food served to the workers when managers enjoyed a different mess. “India seeks workers’ release,” July 10, 2008, *Bahrain Tribune*.

Extreme discontent and trauma also gets reflected in the increasing rate of suicides among Indian expatriate workers in the Gulf region. According to statistics compiled by the Consulate General of India in Dubai, suicides by Indian expatriates in the UAE rose more than three-fold between 2003 and 2008 (Figure. 6).



Source: “Debts to Deaths” 2nd August 2008, *Khaleej Times*

Since the figures for 2008 are not available for the full year, the available figures (till July 92 suicides) are projected up for the entire year. As much as 75 per cent of these suicides were attributed to debts, 15 per cent to domestic strife and 10 per cent to job-related stress.⁵³ The financial commitments that accrue from the emigration process coupled with towering expectations by the society at home from the expatriate worker often drive the workers into a debt trap, leading to depression and eventually to the extreme step.

4.2 Illegal Migrations: Structures in the Destination Countries

The field of overseas recruitment is immensely complicated. The problems are not limited to the RAs in India alone. There are plenty of

53 Dhanusha Gokulan, “Debt, Main Cause of Rise in Suicide Cases Among Indian Expats: Study,” 2 October 2008, *Khaleej Times*.

recruiting companies and visa merchants operating in the destination countries also, who establish links with registered and unregistered RAs in India, to carry out their business. Many such unscrupulous foreign players operate through individual agents working in the interior labour catchment areas of the country. A good number of friends/relatives working in the destination countries also approach such players to buy visas for their aspiring kith and kin. Many of the governments in the Gulf region are finding it difficult to crack down on illegal visa merchants operating in their respective countries. The workers who reach the destination countries on visas arranged by such visa merchants invariably face the risk of illegality and the consequent ill treatment.⁵⁴ Most of the Gulf countries have a licensed regime for overseas recruitment. Nevertheless, there also exists a strong parallel economy run by illegal agents who ‘collude’ with non-operational shady employers and firms known as ‘ghost companies’. Ghost firms exist only on paper and function exclusively for the purpose of getting visas sanctioned from the respective governments. Both unlicensed and licensed agents reportedly resort to this channel to get employment visas. There is official confirmation on the pervasive ‘existence’ of ghost firms. According to Dr. Majeed Al Alawi, the Minister of Labour, Bahrain, 70 per cent of construction companies operating in the Kingdom of Bahrain are ghost firms.⁵⁵ Our own field research in Bahrain has confirmed this. The case of other Gulf countries is not different either.⁵⁶ This practice has led to the ‘free visa’ system; the persons who arrive on such visas are argued to be ‘free’ to

54 There are official conformations to this. For instance, Dr. Waleed Al-Tabtabaei, the Chairman of the Parliamentary Human Rights Committee of Kuwait shares this view. See, the news item “Government to Crack down on Illegal Labour Merchants,” 5 August 2008, *Bahrain Tribune*.

55 Minister’s statement quoted in *Bahrain Tribune*, 21 February 2008.

56 For instance, according to the Saudi Arabian Labour Minister, in Jeddah alone 45 firms ceased their activities recently, after obtaining visas to bring foreign workers into the kingdom; quoted in a news item, “45 Firms vanish after obtaining visas in Saudi Arabia,” 23 July 2008, *Khaleej Times*.

work for anyone. Another important group of players in the Gulf region are ‘clearing agents’. They take care of the lengthy process and intricate formalities of obtaining work permits and visas for the employers. Among them there are agencies that misuse the documents issued by the companies/employers; they forge signatures and create forged documents to apply for work permits and visas. The work permits and visas thus issued are sold to expatriates and agents. It is also a point in case that since the majority of the workers deployed through RAs are not equipped with the required level of skills, as visas are sold to the wanted and not offered to the qualified/skilled, the contracting companies are often forced to demand work permits for more workers than they actually need for a project.

Emigration for work on visit visas is also on the increase. Shady companies in collusion with RAs in the sending countries charge Rs.80,000 to Rs. 1,20,000 for obtaining a visit visa for an emigrant and dump such workers once the visa period gets expired.⁵⁷ It is not surprising that a significant proportion of amnesty seekers in the Gulf region had arrived on visit visas.⁵⁸ Many arrived on a false conviction that the document would afford them full freedom to work anywhere without the obligation of reporting exclusively to a particular boss. There are employers who intentionally resort to the strategy of bringing workers on visit visas to beat the demographic balancing policies of their states. For them, the cost involved is lower and time needed for processing is less. They use visit visas to bring in workers belonging to nationalities of their choice and making them completely docile. Ever since the government lifted the condition of obtaining ‘suspension of emigration

57 There are plenty of media reports on this from the Gulf region. See for instance, “Hired, brought in and duped: visa trade continues despite vigil,” 6 August 2008, *Bahrain Tribune*.

58 It is reported that 35 per cent of the amnesty seekers in Bahrain in February 2008 had arrived there on visit visas. It was reportedly 41 percent in November 2007.

clearance' for ECR passport holders to travel to the specified 17 countries on visit visas (since October 1, 2007), this channel of emigration does not have to confront any institutional barriers from the Indian side. Many RAs have confirmed that a large number of workers are emigrating to Iraq. After reaching countries like the UAE, Kuwait and Saudi Arabia on visit visas, they proceed to Iraq, circumventing the ban of emigration to Iraq by the Indian Government. Most of these workers are reportedly paying as much as Rs.1,50,000 in cash to the unscrupulous agents at home who arrange the passage to Iraq in collusion with overseas players in the transit points and destination.⁵⁹ All these underline the fact that the parallel economy of illegal migration has acquired well-knit structures functioning in the destination countries. However, the current institutional framework of emigration governance in India is not adequately informed of the functioning of these overseas players who tremendously influence the overseas labour market and the recruitment practices. There is strong nexus between such overseas players and the local RAs, which is indicated by the veiled acknowledgement by most of the RAs surveyed that they are forced to liaison with foreign RAs and contracting companies to purchase visas, due to the stiff competition in the field.

4.3 Multiple Players at Home and Lack of Transparency

One of the major problems in the overseas recruitment through RAs is the extensive involvement of sub-agents and individual touts in the process of recruiting. This is illegal as per the emigration rules.⁶⁰ The majority of RAs in India are operating either without branches or with a single branch.⁶¹ A majority of the RAs and their branches (95 per

59 There are considerable media reports on this, see for instance, "For a few Dollars More" 1 February 2008, *Khaleej Times*.

60 Emigration Rules 1983, 10 (viii).

61 Recruiting Agents survey, See Irudaya Rajan, Varghese and Jayakumar (2009).

cent as per the survey) are located in the urban areas. In such a situation, the RAs very often rely upon the services of sub-agents and individual touts for reaching out to prospective customers in remote rural catchment areas. Moreover, when local RAs establish a nexus with foreign recruiting agents and contracting companies and purchase visas, there is pressure on them to recruit the required number of people by hook or crook. As pointed out earlier, a majority of the RAs do actually engage such sub-agents and peddling individual touts in the recruitment process. This makes emigration not only an excessively expensive affair but also a risky one.

Similarly, the reporting of RAs are far from convincing with regard to the sources on which they rely for obtaining employment visas and information on vacancies. The majority of RAs covered in the present survey (78.9 per cent) claimed that they receive information regarding employment opportunities directly from overseas employers. This is far from truth as, in our informal interactions with them, the bulk of the RAs, admitted that their reliance on foreign RAs, agents and contracting companies for information regarding employment opportunities is on the increase. However, on record, only 7.66 per cent of them have acknowledged that they received information about vacancies from such agencies abroad. Another 3.83 per cent agreed that they depended on 'agents of the employers' for the purpose. Only 2.2 per cent of RAs maintain their own offices in the destination countries to gather information on vacancies.⁶²

Another shady area in overseas recruitment is the selection process of workers. It is noticed that due to the shortage of candidates with the required skills on the one hand and the greed of many RAs on the other, many unqualified persons have been selected for deployment. However, in the survey, a majority of the RAs refused to accept this as a reality; 90.1 per cent of them stated that the foreign employers used to participate

62 See Irudaya Rajan, Varghese and Jayakumar (2009) for a category and region-wise distribution.

directly in the process of recruitment and had the final say in selection matters. Conversely, there were instances where employers/foreign labour companies directly selected personnel in India but failed to locate them in their country. They were substituted by others on pay by the RA. This was the experience of one of the foreign labour companies, with whom the research team had a chance to interact.⁶³

The RAs usually receive a number of complaints from their recruits after deployment. The incidence of complaints may be considered as a window to get a sense of the breach of promise and cheating involved. More than half of the RAs candidly admitted that they used to get various kinds of complaints from their recruits. Of the RAs who admitted to having received such complaints, 56 per cent of the complaints were related to working conditions, accommodation and food; 15 per cent to remuneration, the rate of remuneration and non-payment or delay of payment, and the remaining 31 per cent related to grievances on non-compliance with the offered jobs or there being no jobs at all. The vast majority of the RAs either privately resolve the matter or pay no attention at all to it. Among those RA who used to pay attention to such grievances almost three-fourth refuses to resolve it by informing the official establishments of the Government of India both within and outside the country.

The majority of the RAs were reluctant to divulge the details regarding the quantum of recruitments they had done in the previous year. More than 50 per cent of them refused outright to give the number, and the rest relented only after much persuasion. Even then, most of them gave the investigators a feeling that what they furnished was a significantly scaled down number- 55.1 per cent of those who responded reported that they recruited less than 200 emigrants only during the previous year (2006). Of them, 16.2 per cent reported to have recruited less than 50, 21.2 per cent between 51 and 100 and 17.7 per cent between

63 See for details: Irudaya Rajan, Varghese and Jayakumar (2009).

101 and 200 persons.⁶⁴ The remaining 44.9 per cent of RAs admitted to having recruited more than 200 candidates. The larger RAs could send more workers than their smaller counterparts- 70.8 per cent of the ‘above1000’ category of RAs sent more than 200 workers to foreign destinations, whereas only 13.2 per cent of the ‘up to 300’ category could send 200 or more emigrants during 2006. If the numbers provided by the RAs are true, then it is very well evident that most of the RAs functioning in the country do not get an adequate quantum of business. At least two adverse implications may be drawn from this information: first, there would be pressure on the RAs to go to any possible extent to survive, and second, the few emigrants recruited by such RAs in all possibility would be charged sky-high.

However, the reported number of recruitments made by the RAs appears incorrect. The data provided by the MOIA on the number of emigration clearances given annually and the approximate number of emigration clearances given on a normal day of functioning (as reported by the POEs) far exceeds what is conceded by the RAs.⁶⁵ This difference is not only because of the hesitation on the part of the RAs to divulge the actual numbers but also because of the parallel stream of emigration clearances done by the agents without performing actual recruitment. A significant number of RAs have admitted that their main work is just to obtain emigration clearance for intending emigrants and not recruitment for overseas employment at all. The RAs do this ‘service’ for the intending emigrants who approach them by getting emigration clearance for them using forged or fake Demand Letter and Power of Attorney, after charging reportedly between Rs.3,000 to Rs. 15,000 per passport based on the

64 See for category-wise and region-wise distribution, Irudaya Rajan, Varghese and Jayakumar (2009).

65 676,912 workers were given emigration clearance in 2006, 809,453 in 2007 and 848,601 in 2008 (MOIA, 2009). As reported by the POEs, on a normal day of functioning, the eight offices together are giving as many as 3275 emigration clearances to intending emigrants applied through RAs (Table 20).

‘risk’ involved in each case.⁶⁶ This is also corroborated by the survey on the return emigrants. It is found that out of those return emigrants who sought emigration clearance during their last emigration episode, only 26.5 per cent had obtained it directly while the remaining 73.5 per cent had obtained it through travel/service/recruitment agencies. Unauthorised RAs and travel agents who are involved in the process act as part of a network, and eventually an authorised RA submits the applications in the POE office for clearance.

This task is mostly performed by the RAs in collusion with the POE offices. The POE offices and RAs themselves see it as a safer option, as the applicants acquire the travel documents through their social network, through unauthorised RAs and touts would not hold the POE officials and RAs responsible for the problems the emigrants are likely to confront at the destination. But this procedure has got other implications also. The RAs can push papers of potential emigrants whom they recruited for ghost companies by giving the POE an impression that the applications are for ‘emigration clearance service’. In the recent corruption case at Trivandrum, against a former POE and 18 RAs, this had allegedly taken place. According to the charge sheet filed by the CBI, Rs. 250 to Rs.1,000 was offered to the POE office as bribe for clearing each application and 300 to 500 people were given emigration clearance certificates daily from the office. A good number of these might be ‘emigration clearance services’. But it is learnt that the RAs and the POE apparently acted in collusion with a ‘mafia group’ that manufacture visas in the name of ghost companies. Those who reached the Gulf countries on such visas, according to the charge sheet, were found either wandering about without jobs or were finding new jobs on their own after a traumatic period of job hunt and agony.⁶⁷

66 See for details, Irudaya Rajan, Varghese and Jayakumar (2009).

67 Details of the charge sheet from the news item, “Immigration Kaikkuli: Protector Ravuvinethire CBI” (Immigration Bribe: CBI against Protector Rao), 2 January 2009, *Malayala Manorama* daily.

It was noticed that the number of registered RAs engaged in overseas recruitment are far lower than the number of agents actually registered with the Protector General of Emigrants. As per the information given on the website of the Ministry of Overseas Indian Affairs, till 14th March 2005, 4,330 registration certificates had been issued to RAs by the PGE. But the list of registered RAs as provided by the MOIA contains details of only 1,820 agents with names and addresses. Out of 1,820 registered RAs, only 1,406 are functioning in the eight cities in which the POE offices are located. However, only 591 RAs are said to be active at present (Table 19). The advantages of retaining the licence or registration certificate, even when they are not actually engaged in any recruitment activity need to be investigated further.

Table 19: Number of Registered RAs and actually functioning RAs in POE locations, 2007

Cities	Registered Agencies (2005)	Actively functioning RAs (current)	Difference
Chandigarh	47	20	-27
Chennai	171	35	-136
Delhi	331	50	-281
Kochi	88	50	-38
Hyderabad	47	30	-17
Kolkata	9	6	-3
Mumbai	650	300	-350
Thiruvananthapuram	63	100	+37
TOTAL	1406	591	-815

4.4 Bypassing Legality and ‘Pushing’ towards Illegality

A matter for grave concern is that a considerable number of emigrants appear to be bypassing the legal channel and wittingly or unwittingly opting for illegal channels. The return emigrant’s survey reveals that a significant number of them emigrated without getting emigration clearance even though they were required to get it. Out of the 79.1 per cent of return emigrants who were required by law to obtain emigration clearance before they emigrated, only 37.7 per cent had sought it and the remaining 40.4 per cent emigrated without it or were not aware of that requirement. ‘Pushing’ is perhaps the most prevalent method for accomplishing this, which allows ECR category workers to pass through the airports without emigration clearance. A nexus between agents and emigration authorities in the airports facilitates this.⁶⁸ Illegal emigration happens due to a variety of reasons. The incongruities between what is considered legal and what is considered illegal among the sending and receiving countries is one thing. For instance, if a person bypasses emigration clearance in India and emigrates, this would not make his/her status ‘illegal’ in the destination country. If a person emigrates on visit visa and chooses to seek employment in the country he is visiting, this too would not make his/her status illegal in the countries of the Middle East, provided he/she either returns once the visa expires or secures a new employment visa. Moreover, even if a person has emigrated without the proper documents as required by the receiving country and also by bypassing the legal channel of the sending country, there is still a market for his/her services’ to absorb him/her at

68 Many emigrants, especially women domestic workers, travel through the system of ‘pushing’ under which one needs to bribe the officials in the airport. Usually the agents take the emigrant to the airport and wait for the ‘right’ time and for the ‘right’ kind of officials to be present. The official either takes a break from the seat or just allows the emigrant to proceed without proper documents, especially the POE clearance. The official gets an envelope in return, which contains the amount of bribe. Though such practices of border crossing are considered illegal in India, these emigrants are considered no longer illegal once they reach the country of destination (Bindhulakshmi, 2008; 2010).

the destination.⁶⁹ Too many or cumbersome regulations are also pushing the aspiring emigrants to the illegal channel – regulations, which do not provide any incentives in particular for those who follow the regulations. In the current scenario, following the legal channel of emigration does not offer much when it comes to the protection and welfare of emigrants in the receiving countries.

The best illustration in this regard would be the emigration of unskilled women workers from the country. The RA survey indicates that, in general, they are reluctant to recruit women; or at least unwilling to admit it even if they do recruit them. Most of the RAs pointed out that the recruitment of female workers, especially unskilled and semi-skilled workers, is a risky business and could be undertaken only by placing their reputation at stake. Unskilled and semi-skilled women emigrants are looked down by many in the destination countries as persons willingly or unwillingly agreeable to traffic themselves in licentious ways. The government of India's discriminatory regulations against recruitment of lower categories of women workers, including the minimum age norm, vindicates this public perception, disallowing reputed RAs from venturing into it. The government regulations nearly proscribe emigration of unskilled and semi-skilled category women workers through the formal channel - forcing them to choose the illegal conduit. RAs in general admitted that the emigration of such categories of women workers, especially housemaids, is possible only through the channel of 'pushing'. Noticeably, it is smaller agents who are more into the undertaking of recruitment of women. While 91.7 per cent of the RAs reported that they never recruited housemaids for overseas employment, 15.4 per cent of the 'up to 300' category had agreed to have sent women abroad as domestic workers. Burdensome regulations, lack of protection for those who opt to emigrate along the legal channel,

69 The employers find the illegal migrant workers not only more obedient but also more profitable due to their vulnerability to accept lower remuneration on account of their illegal status.

reluctance of credible RAs to recruit them and social stigma often force the unskilled women emigrants to find alternatives to the legal conduit.⁷⁰ One such notorious parallel structure is ‘Kasargod Embassy’ in northern Kerala. It not only forges the required documents for emigration including passports, but also facilitates emigration with their own *modus operandi* and grievance redressal mechanism. It is not surprising that a good number of unskilled workers, particularly women domestic workers from Kerala, are finding this parallel network more responsive and supportive to their requirements than the legal channel managed by the government (Bindhulakshmi, 2008; 2010). There are also reports that a significant number of Asian housemaids are arriving on visit visas to the Gulf countries. All these clandestine activities stand in their way of getting reasonable wages and decent treatment in the countries to which they emigrate.⁷¹

5. POE Offices: Grand Expectations and Structural Limits to Protection

The responsibility to protect the interests of emigrants rests on the ‘Protectors of Emigrants’ stationed in eight cities across the country. Section 4 of the Emigration Act defines the responsibilities of the office comprehensively.⁷² However, in practice, the powers of POEs have been reduced to a mere exercise of giving emigration clearance and to an uneventful supervision of RAs under their respective jurisdictions. The survey of eight POEs conducted as part of the present study with the help of a structured questionnaire clearly brings forth the structural limits of the protective/regulative regime as represented by the PGE and POEs. The ‘emigration clearance’ exercise, inherited from a colonial notion that documentary uprightness and certification would protect

70 For a detailed description of the series of disabling governmental interventions on unskilled women migration, see: Varghese, 2008.

71 There are frequent media reports in the Gulf regarding the ‘backdoor recruitment’ of housemaids. See as an illustration: “Recruitment ruse rages,” 3 March 2008, *Bahrain Tribune*.

72 Section 4 (a-e), Emigration Act of 1983.

the emigrant at the destination, is basically a document verification exercise conducted under the rules and directions of the Government of India from time to time. But even in the case of prescribed emigration documents or the insistence for various documents by individual POE offices, there is gross disarray. It is found that documents required and insisted upon are not uniform across the eight POE offices,⁷³ indicating the fluidity within the system and the amount of discretionary powers enjoyed by the POEs. The discretionary power is exercised more in the cases of intending emigrants who seek emigration clearance through registered RAs. This is the domain where collusion between POE offices and RAs is evident; and the variations in the documentary requirements insisted on by different POEs point to the degree of manipulability involved.⁷⁴ Moreover, the POEs do not follow any scientific procedure to verify the veracity of the documents produced. One of the POEs expressed the complexity of the issue vividly in his statement: “[I]t is done through commonsense and experience. We lack a proper mechanism for verification of authenticity.” Many POEs agree, saying, “[T]here exists no sound or foolproof method for verifying the genuineness of the documents”. They aver that it is not a feasible option to send all the dubious documents submitted by the applicants or their RAs to the concerned Indian embassies in order to ascertain their genuineness. Ultimately “commonsense and experience” decide the outcome of the game at the end of the day.

All, except one of the POEs, are of the view that the prevailing system of emigration clearance is not at all foolproof and that fake

73 See the survey results in this regard in Irudaya Rajan, Varghese and Jayakumar (2009).

74 While some of the POEs insist on Demand Letter and Power of Attorney duly attested by the respective Indian Missions, others are not so insistent. Some of them demand original visa, while a few others did not specify whether they require the original visa or a copy of it. Some others are satisfied with copies of visas attested by the RAs concerned! Some demand an indemnity bond from the RAs, while others are silent about it. And their stand on whether the original or specimen work contract should be submitted remains vague. (Ibid).

documents, fraudulent practices and corruption reign supreme. However, only half the POEs agree that the general perception that the overseas recruitment system in India is rampant with corruption and cheating is, by and large, valid. But even those who do not share this view agree that there exist enough loopholes in the system that helps to perpetuate corruption. The POEs who agree with this general perception underscore forgery of documents as one of the main conduits of fraudulence. As one of them stated, since “only copies of visas are furnished, there is [enough] scope for fabrication” of false copies. The weak point of paper visas has been highlighted by another POE: “[E]migration clearance is given on the basis of paper visas. Genuineness of paper visas cannot be ascertained from the copies of the visas.” It is acknowledged that “corruption in the system starts from the very first stage, i.e., procurement of a certificate of demand for manpower from foreign employers” and that not only visas, but orders for recruitment are also purchased. Since each emigration, in this way, involves diverse players and huge amounts of money, the pressure to get things done ‘at any cost’ is stupendous. One of the POEs believes that the collusive relationship between POEs and RAs is mainly caused by the vulnerability of POEs! The POE often falls prey to the machinations and pressures of RAs and the general public, who want to get their business done promptly and without hassles at any cost! This POE admitted that there were occasions when the RAs and the general public tried to bribe the POE. His statement, however, did not give a clue about how often POEs succumbed to pressures/enticements or how long the irresistible would be resisted. Nevertheless, all the POEs, except one, have not reported any knowledge about serious complaint of cheating and fraudulent practice against RAs falling under their jurisdiction!

A huge amount and large variety of work is supposed to be performed by the POE offices. However, it is apparent that they are confronted with structural and physical inadequacies of various kinds.⁷⁵

75 The POE offices in all eight locations were ill equipped both in terms of manpower and physical infrastructure when the field survey was conducted for this study.

The number of emigration clearances given annually by the POE offices is growing at an enormous scale – it almost doubled between 2003 and 2008, within a span of five years. But the infrastructure of POEs remained almost the same; and many posts of office staff there lay vacant. The POE office at Chandigarh which issues clearance to about 200 persons per day functions with just two staff; one of them being the POE himself (See Table 20 for the average number of emigration clearances granted in each POE offices on a normal day of functioning). All applications received on a day have to be processed and clearances have to be given on the same day. This would “result in non-effective checking of records.” The POE office in Mumbai is doing the highest number of emigration clearances per day and it has 28 staff including three POEs. Chennai, with the second highest number of clearances, has 10 staff including two POEs. Delhi is the only other POE office with more than one POE (it is equipped with two); the rest are single-POE run offices. Needless to say it is extremely difficult for a POE to carefully scrutinise all the applications he receives and affix his signature.

Table 20: Average Number of Emigration Clearances per day by POEs, 2007

POE Office	Individual	Through RAs	Project-exporter	Total
Chandigarh	02	200	05	207
Chennai	05	600	00	605
Delhi	10	320	05	335
Ernakulam	20	180	00	200
Hyderabad	15	135	00	150
Kolkata	03	40	00	43
Mumbai	80	1600	00	1680
Thiruvananthapuram	10	200	00	210
TOTAL	145	3275	10	3430

Though the POE is supposed to make field visits to, and surprise checks at, the RA offices, such visits hardly happen due to the pressure of work. The difficulty is particularly apparent in the case of offices with only one POE at the helm of affairs; the POE is duty bound to remain in office on all normal working days, for signing of emigration clearance certificates. Added to that is the fact that the POEs are not provided with an office vehicle to make field inspections, particularly at RA offices and airports. Although POEs are supposed to regulate the emigration process in the country, the emigration officers and the Port Registration Officers (PRO) at the airports do not come under the purview of the POE. They do not even fall under the purview of the same Ministry. The situation is such that for making an inspection at the emigration section in the airports, the POEs have to obtain entry passes from the concerned airport officials, something that would potentially defeat the very purpose of inspection. Some POEs point out lack of proper security to the POE offices as another major area of concern.

One of the POEs feels that the arsenal of “powers conferred on POE does not match his/her responsibilities,” subtly indicating the reason why POEs enter into collusive relationships with RAs. Another POE says that he is greatly handicapped in the effective discharge of his duties as he is not equipped with any market intelligence and no formal structures exist to get feedback on “what is happening on the ground in the matter of illegal emigration services.” Most often, illegal recruitment activities take place in remote interior towns and villages in which numerous free-floating, unauthorised agents allure people with false promises. There are no formal mechanisms to aid POEs in getting them information on such activities in distant locations. The geographical jurisdiction of each POE is too vast for the office to cover effectively. Lofty expectations in the context of such serious inadequacies are unrealistic; they are seldom achieved, pointing to the institutional failure.

Still, a majority of the POEs see the existence and continuance of POE offices as necessary and useful as there is no other administrative mechanism in place to administer the Emigration Act of 1983. However, some of them suggested that the role of the office of POE should be redefined according to the requirements of changing times to equip it to deal with emerging challenges. Most of them admitted that the objective of protecting the interests of emigrants is hardly fulfilled at present; instead, the system only sees to it that emigrants travel with all 'necessary documents' and under safe terms and conditions of employment. However, they admit that whether such "terms and conditions are actually fulfilled by foreign employers is not being monitored." It is also underlined by them that the protection of emigrants would not fully be possible without having the necessary mechanism in place to monitor them and their employers in the destination countries as well.

The collusion between the RAs and the POE offices is a topic of current discussion. It has become almost a commonplace impression that the two collude to exploit emigrants, particularly of the lower categories. A significant proportion of RAs accept informally that corruption is a reality. They even aver that POE offices would cease to function if bribes were not given. A majority of them stated that though they themselves had not made any illegitimate payments to the POE offices for getting clearances done, almost all the other RAs did so! However, at least 20 per cent of them admitted that they paid bribes to the officials of the POE for getting their routine work completed. The smaller RAs were ahead of other categories in this regard; 25 per cent of the 'up to 300' category RAs admitted that they bribed the POE office to get their routine work done. As much as 36.5 per cent of the RAs in South India had admittedly bribed POE offices, but the proportion is just 11.1 per cent in the case of RAs from regions other than South India.⁷⁶ The payment made for each case would vary over a range of

76 See for details Irudaya Rajan, Varghese and Jayakumar (2010).

Rs. 300 to 1,500 depending upon the degree of 'risk' involved. Some RAs informally, admitted that the payment could go even up to Rs. 5,000 per case according to its specificity.

It is not surprising that the majority of the RAs surveyed (69.1 per cent) felt that the office of the POE is necessary and should be continued. It is also interesting to note that an almost equal proportion from among the smallest (73.2 per cent) and the largest (70.3 per cent) size categories held this view. But about one third of the RAs in the sample did see the POE office essentially as an unnecessary addendum, not serving any useful purpose at all. Most of the RAs were honest enough to admit that the office of the POE is "necessary to protect our rights." On the other hand, some RAs viewed the POE as a necessary evil to ward off greater evils. However, almost all of the RAs shared the view that a more credible and efficient mechanism is the need of the hour.

The mechanisms of enforcement and grievance redressal of the current institution of emigration governance continues to be very weak. In the existing setup a criminal case on a cheating incident involving an RA has to be registered at the local police station where the incident has taken place. However there is apprehension that the local police are usually susceptible to influences by the powerful. In such a situation, cases initiated at the level of local police could hardly help the victim, as RAs would be powerful enough to influence the local police machinery. The victim might be made to go through many hardships that often s/he either would not lodge a complaint at all or would give it up midway. This calls for an institutional modification by which the complaints of cheating and fraudulence should be permitted to be lodged at a higher level, at least at the level of Circle Inspector or at a special cell dealing with such cases in the District Superintendent of Police office.⁷⁷

77 The Ministry can also think about a web portal where the concerned can register their complaints. This portal may be used for multiple purposes including dissemination of knowledge.

Moreover, there is no automatic surveillance mechanism over illegal recruitment activities; that the police would usually take action only on receiving a complaint.⁷⁸ The support of the state police is said to be very weak in this regard, as the Minister of MOIA himself has pointed out “[T]hough the Ministry has referred so many cases to the state authorities to take action... there has been no single conviction so far.”⁷⁹

6. Conclusion

The current institution of emigration governance is grossly inadequate to address the manifold problems associated with India’s overseas recruitment sector is the message which this exploratory study wishes to convey. An emigrant recruited by RA or going abroad through his/her social network is deemed to be protected once s/he gets an emigration clearance stamp from the POE. This exercise of ensuring uprightness through documentary evidence is undermined not only by absence of mechanism to check the veracity of the documents but also by the nexus between the corrupt RAs and the governmental officials. Moreover, the belief that somebody who emigrates with proper documents will be safe and protected during their expatriate life has not been proved to be correct. They are not supported by any effective mechanism at the destination country. The social cost of the existing institution is enormously high especially when it fails to save from harm the unskilled and semi-skilled labourers in the important labour receiving countries from India like those in the Middle East, where labour rights are least respected. An effective institution governing overseas recruitment should necessarily be comprehensive enough to ensure a transparent process of recruitment, orderly emigration and

78 An initiative as run successfully in Kochi deserves mention here. The City Police Commissioner office has opened a separate cell to deal with overseas recruitment and emigration related issues and the cell works in greater co-ordination with the POE office and the registered recruiting agents. This mechanism could be further strengthened by incorporating the civil society, migrant associations and community organisations.

79 Quoted in *Bahrain Tribune*, 9 July 2008.

trouble-free expatriate life. Absence of institutional structures to ensure the welfare of the overseas Indian workers and to keep a good watch over the overseas employers is a serious inadequacy of the present institution. Moreover, the governance of emigration through a principle of 'protection by exception' is proving to be fundamentally discriminatory, making the fine line running between protection and restriction very thin. Experience indicates that the ECR status, given to those citizens who supposedly deserve more protection than others, has become a disabling tag. ECR in effect has become equivalent to a declaration about one's status as low in education and hence vulnerable to exploitation by others. There are outliers within the ECR category; the best example being the unskilled women emigrants who are pushed to illegality by the existing regulative regime and social stigma attached to such emigrants. The enormous economic and social pressures which force them to seek work outside the country, involvement of multiple players and a weak institutional structure of regulation have made emigration for expatriate work a highly expensive and risky affair too. If the RA channel makes the emigrants particularly vulnerable to exploitation on multiple fronts, emigration through social network too is not free from the involvement of unscrupulous players. The parallel economy of illegal e(im)migration is quite active both in India and in the destination countries with deep rooted structures in place operating in a transnational space. The credibility of the overseas recruitment system in India as a whole is at stake. The institutional failure which is the cause of this cannot be rectified by cosmetic changes but calls for a comprehensive reform.

Hence we recommend the creation of a new institution of emigration governance in place of the existing one with a dual focus. Firstly, the discriminatory regulatory regime in overseas recruitment and management should be scrapped and replaced by another which makes it liberal and which recognises the fundamental principle of equal opportunity. The discrimination among citizens in the name of protection

has essentially resulted in a situation wherein the neediest sections are prevented from/denied an opportunity for mobility through emigration. Proscribing mobility through disabling measures cannot be a strategy for protection under any liberal regime with a welfarist orientation (this pertains to low-skilled emigrants in general and low-skilled women emigrants in particular). Secondly, an effective management system of emigration which is comprehensive enough to cover all aspects of emigration and expatriate life should be put in place to promote upright recruitment and orderly emigration. An Indian Migration Management Authority (IMMA) is recommended to be established for the purpose, which should administer all aspects of migration through flawless coordination among different ministries, state and federal authorities. All categories of Indian labourers who would like to proceed for overseas employment should be able to do so with full information about the pros and cons of the same, and professionally and technically equipped to get a fair deal in the receiving countries. The responsibility of the home-wing of IMMA should not be limited merely to an exercise of document verification. It should act in coordination with the overseas wing of IMMA located in different destination countries. It should also issue to the emigrants who leave the country for employment with Indian Citizen Employed Overseas (ICEO) Card enabled with a micro-chip containing all essential information about the holder, and which also should bear testimony to the legality of the status of its holder. This would also ensure establishment of an automated baseline data generation on emigration for the country. IMMA should be empowered to deal with the RAs effectively and impartially and a wing of the proposed Authority should exclusively focus on recruiting agents. Corporatisation of the sector must be seriously considered; and a specific wing of IMMA may be designed to act as the regulator with a strong monitoring and enforcement mechanism. Simultaneously, licensing rules for RAs must be made stringent and violations should be dealt with by imposing penalties of exemplary nature. It is also important to promote good

practices in the overseas recruitment field with the help of proper incentive mechanisms. The RAs should be allowed to collect reasonable service charges from the recruitees, till the Government of India through bilateral agreements, makes the foreign employers bear the recruitment charges completely. Illegal recruitment and illegal emigration could be effectively prevented by disincentivising it and granting incentives for emigration through the legal conduit. Apart from ensuring a hassle-free emigration experience and ensuring workers' welfare at the destinations, the legal channel should also offer comprehensive social protection to the workers. A separate wing of IMMA's home establishment should manage the social protection of emigrants and return migrants with professional competence in such a way that this should make circumvention of the legal channel an unattractive/unaffordable option to the emigrants. Another wing of IMMA should focus on equipping Indian labourers with necessary skills and quality levels for foreign employment by devising finishing courses in potential fields/subjects and pre-departure training. IMMA should be equipped to help the potential emigrants to make informed decisions through dissemination of reliable information. The overseas offices of IMMA, on the other hand, should protect Indian expatriate workers in the respective destination countries and systematically ensure fair recruitment of workers from India. All emigration-related documents from the destination countries should be channelised through this office, until the Government of India, through bilateral and multilateral agreements, makes all the documents from the receiving countries available online for ready verification by anybody. The intention of this measure should not be nationalisation of labour by putting more layers and processes in place; instead it should be systemically and practically promotive in nature. Once migration and expatriate work is made a safe and reliable mobility option, it will attract more participation, beating a possible temporary slow down in the transition phase. The time and resources spent on the establishment of IMMA can be reduced to a minimum if the

Government of India eventually succeeds in getting the essential documents of emigration published online through an e-networking with major receiving countries. Such a comprehensive institutional change through considered interventions by the state at multiple levels only can effectively counter the many and varied illegitimate and dishonest activities which have sprung up in the field of emigration and ensure ethical practices in India's overseas recruitment sector.

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