



NATIONAL DEFENCE UNIVERSITY – KENYA

**BILATERAL LABOUR AGREEMENTS AND HUMAN RIGHTS
PROTECTION OF KENYA MIGRANT WORKERS IN THE GULF
COOPERATION COUNCIL**

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DECLARATION

Student's Declaration

I, Neema Mwini Mohammed Ramadhani Njoka, hereby declare that this research thesis is original work and has not been presented for a degree in any other university.

Signature.....

Date.....28 sept. 2020

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Supervisors Declaration

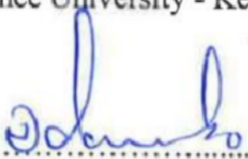
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Date.....29/09/2024

DEDICATION

I dedicate this work to my beloved family for their unwavering support and motivation throughout my academic voyage. Your faith in me and the sacrifices you have made have been the propelling force driving my achievements.

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I thank the Almighty *Allah* for enabling me to complete this research. I would also like to express my appreciation to everyone who has made meaningful contributions to the successful culmination of this research. Their unwavering support and assistance have immensely impacted this academic journey. I offer my heartfelt gratitude to my employer and the Government of Kenya, and I am forever grateful for this opportunity. My supervisors, Col. (Rtd) Dr. Stephen Handa and Dr. Dennis Ndambo thank you for providing steadfast guidance, motivation, and invaluable feedback. Their profound expertise and unwavering dedication have been instrumental in shaping the outcomes of this research. I am also sincerely thankful to my friends and colleagues whose assistance and encouragement have been a driving force throughout the various phases of this study. Their willingness to contribute was pivotal to the project's accomplishments. A special appreciation to Honorable Geoffrey Kaituko, Principal Secretary of the Ministry of Mining, Blue Economy and Maritime and former Principal Secretary of Labour, for the great insights and introductions that made this research successful. Lastly, I want to convey my appreciation to the academic community and the numerous authors whose work laid the groundwork for this research. Your contributions have been instrumental in this endeavor.

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ABBREVIATIONS AND ACRONYMS

BLAs: Bilateral Labor Agreements
COTU-K: Central Organization of Trade Unions (Kenya)
DIS: The Department of Immigration Services
EAC: East African Community
EAC: East African Community
EPS: The Employment Permit System
EU: European Union
GCC: Gulf Cooperation-Council
IDPs: Internally Displaced Persons
IGAD: Intergovernmental Authority on Development
ILO: International Labour Organization.
IRC: The International Rescue Committee
KRA: Kenya Revenue Authority
MENA: Middle East and North Africa
NCM: National Coordination Mechanism on Migration
NCM: National Migration Coordination Mechanism
NEA: National Employment Authority
NGOs: non-governmental organizations
PEAs: private employment agencies
RMPF: Regional Migration Policy Framework
RTM: Ravenstein's Theory of Migration
UAE: United Arab Emirates
UNCTAD United Nations Trade and Development Arm
USA: United States of America

OPERATIONAL DEFINITION OF TERMS

Bilateral Labour Agreements: Bilateral Labor Agreements (BLAs), also known as Bilateral Labor Treaties or Bilateral Labor Migration Agreements, are formal agreements or arrangements between two countries to govern and regulate the temporary labor migration of workers from one country (the sending country) to another country (the receiving country). This study will mainly include the agreements designed to establish the terms and conditions under which Kenyan migrant workers can be employed in the GCC countries.

Human Rights Protection: In this study, human rights protection refers to the safeguarding and promotion of the fundamental rights and freedoms to which Kenyan migrants are entitled under being human. These rights are inherent, universal, and inalienable, meaning they apply to every person worldwide regardless of nationality, race, religion, gender, or other characteristics. Human rights protection will involve legal, political, and social measures to ensure these rights are respected, upheld, and enforced.

Migrant Workers: Migrant workers move from one place or country to another to seek employment and better economic opportunities. This study refers to Kenyans who travel to GCC countries for work.

ABSTRACT

In recent years, the global Labour market has seen a substantial increase in the movement of migrant workers, driven by factors such as economic disparities, demographic shifts, and Labour shortages in various industries. However, despite the existence of the bilateral Labour agreement, the migration process exposes workers to various human rights abuses, including Labour exploitation, discrimination, and lack of access to social protections. Therefore, this study aimed to investigate the existing bilateral Labour agreements and their effectiveness in protecting the human rights of Kenyan Labour migrants in the Gulf Cooperation Council (GCC) Countries. Specific objectives included examining the existing Bilateral Labour Agreements, policies and regulations between Kenya and GCC countries, exploring the push and pull factors that make Kenyan workers travel to the GCC Countries despite the challenges faced, to establish the reasons for human rights abuses on Kenyan migrant workers in Gulf Cooperation Council and to determine the mechanisms through which existing Bilateral Labour Agreements can best serve interests of and safeguard Human rights of Kenyan Workers in GCC Countries. This study is based on Ravenstein's Theory of Migration (RTM) and Interest Theory of Human Rights. This study used qualitative research, emphasizing understanding and interpreting complex social phenomena. This study adopted a research design based on primary data collection method and secondary data analysis to explore the connection between Bilateral Labour Agreements and the protection of human rights for Kenyan migrant workers in the Gulf Cooperation Council (GCC). Primary data collection involved conventional methods, such as interviews with guides to former migrant workers at GCC and Kenyan government officials in relevant ministries/agencies concerned with migrant workers at GCC—secondary data analysis involved collecting and examining pre-existing data from diverse sources. The study also relied on established secondary data sources, including government reports, international media, academic research, and organizations. The collected data was subjected to content analysis to reveal essential themes and qualitative insights. The study reveals that many GCC countries lack comprehensive legal frameworks to protect migrant workers' rights, leaving them vulnerable to exploitation and abuse. Existing Labour laws are often poorly enforced, and domestic workers are mostly excluded from Labour law protections. The study recommends renewing Bilateral Labour Agreements (BLAs) between Kenya and GCC countries, raising awareness about workers' rights, establishing a Task Force Committee, adopting Asian Labour governance strategies, and establishing a robust migrant database for policymaking.

CHAPTER ONE

INTRODUCTION

1.0 Introduction

This chapter provides an overview of the study, outlining its background, problem statement, research objectives, research questions, justification and significance, as well as the scope and limitations of the research.

1.1 Background of the Study

Kenya has experienced a notable rise in its citizens migrating to Gulf Cooperation Council (GCC) countries for employment. This migration trend is driven by economic disparities and strong demand for Labour, particularly in domestic work and construction. Kenya has established Bilateral Labour Agreements (BLAs) with several GCC nations to manage and regulate Labour migration. These agreements aim to protect the rights of Kenyan workers, promote legal and safe migration, and define the responsibilities of both the sending and receiving countries. However, despite the presence of these BLAs, Kenyan migrant workers in GCC countries have encountered various violations of human rights.

Reports of abuse, exploitation, unpaid wages, harsh working conditions, and limited access to legal remedies have raised noteworthy concerns about the effectiveness of these agreements in ensuring the protection of Kenyan workers' rights. Since the onset of the post-Second World War era, countries have engaged in various prominent treaties and established numerous international organizations to promote global economic

cooperation. Notably, treaties like the General Agreement on Tariffs and Trade (GATT) and the World Trade Organization (WTO) foster collaboration in facilitating trade in goods, and the International Monetary Fund (IMF) promotes collaboration in the management of exchange rates. In contrast, the Basel Accords foster cooperation in banking regulation and various Bilateral Investment Treaties (BITs) encourage collaboration in the flow of investments. These well-recognized agreements and institutions have attracted substantial attention from academic researchers across disciplines, including economists, historians, political scientists, and legal scholars, as Simmons (2010) noted.

Conspicuously missing from the roster of prominent treaties and institutions dedicated to overseeing international economic cooperation is the regulation of migration, as observed by Gordon (2010). The conventional explanation for the absence of comprehensive agreements or institutions governing the movement of people is rooted in the inherent complexities of migration that hinder the creation of multilateral treaties benefiting all countries. One key challenge is the asymmetry of migration, where some nations predominantly send migrants while others receive them. Moreover, many receiving countries often find it more advantageous to independently set their immigration policies rather than coordinate with other nations. As a result, multilateral efforts to promote cooperation in migration have often been hampered by leading destination countries for migrants choosing not to participate. However, it is essential to recognize that the absence of high-profile agreements for migration regulation does not

imply their nonexistence. Instead, many agreements exist to regulate a specific type of migration: temporary labour migration (Owens & Howe, 2016).

In the seventy-five years following World War II, countries have established over a thousand bilateral labour agreements (BLAs) to manage the cross-border movement of workers. Despite their significance, these agreements have attracted little public or academic interest, probable due to the limited availability of data and accessible information on BLAs (Woda & Chilton, 2022). Although these agreements manifest in diverse formats, their common objective is to define the conditions governing the movement of migrant workers from labor-exporting countries to those that receive them (Trachtman, 2009). For example, a BLA might stipulate that sending countries must conduct pre-screening of migrant workers before departure, that receiving countries must provide specific protections for migrant workers during their assignments, and that both nations must maintain records, exchange information, and address disputes arising from the movement of workers across borders.

Notwithstanding the widespread use, these treaties received minimal attention from the public and academia until just a few years ago (Megiddo, 2020). For example, it was not until 2013 and 2015 that the International Labour Organization and the World Bank released reports exploring the possibilities of these agreements despite their longstanding utilization (Sáez, 2013). Likewise, a limited amount of academic literature has focused on these agreements. Globally, some countries have entered into bilateral labour agreements and their citizens are well protected. For instance, The United States

and Mexico have had various bilateral agreements to regulate employee movement on farms, mainly through the H-2A visa program (Garcia, 2014). According to Mieres and McGrath (2021), this program allows Mexican agricultural workers to legally work temporarily in the United States, usually for periodic work.

The United Arab Emirates and India have had bilateral agreements to regulate the employment of Indian workers in the UAE (Malit & Tsourapas, 2021). These agreements cover wages, working conditions, and legal protections. According to Pasha and Paksi (2022), South Korea has signed bilateral agreements with countries like Indonesia to facilitate the employment of Indonesian workers in sectors facing labour shortages, such as agriculture and manufacturing.

These agreements aim to ensure the rights and welfare of the workers. Canada has had bilateral agreements with Mexico that allow for temporary migration of agricultural workers under the Seasonal Agricultural Worker Program (SAWP). Mexican workers are brought to Canada to fill temporary agricultural jobs during peak farming seasons (Taillie, 2021). Germany and Turkey have had bilateral work engagements connected to the employment of Turkish workers in Germany. These agreements were initially signed in the 1960s to address shortage of labour in Germany (Akgündüz, 2021). The Philippines has been a significant source of migrant labour, and it has entered into Bilateral Labour Agreements with many countries (among them Saudi Arabia, United Arab Emirates, Singapore) (McKenzie et al., 2014). These agreements often outline the rights, responsibilities, and protections for Filipino workers employed in these countries.

The GCC countries' economic growth and development have resulted in significant Labour demand, particularly in construction, hospitality, healthcare, domestic slog, and retail (Behuria & Goodfellow, 2019). The local Labour force frequently does not meet the Labour requirements, necessitating reliance on foreign labour. GCC states have now become a preferred destination for African labour migrants, owing to their high per capita incomes (Al-ubaydli, 2015) as well as their less stringent visa application processes in comparison to European states' immigration restrictions policies (Flahaux & De Haas, 2016).

In some instances, Bilateral Labor Migration Agreements (BLMAs) performance has often fallen short of expectations. Previous research conducted by the ILO and the International Organization for Migration (IOM) suggests; BLMAs in Africa frequently lack vital provisions, particularly related to gender, social dialogue, wage protection measures, and skills recognition, among other aspects. These agreements exhibit significant variations in their objectives, scope, and level of formality.

However, recent agreements can be broadly categorized as follows: comprehensive cooperation agreements with European countries, encompassing various issues beyond labour migration, such as readmission, return, technical cooperation, and development; BLMAs, which may take the form of Memorandums of Understanding (MOUs) or formal BLAs, with Arab States to address demand in low-skilled sectors like domestic work and construction; and BLMAs between African countries designed to address specific skill gaps, including fields like education, health, and labor-intensive industries

like mining, as is South Africa's case. Additionally, various forms of bilateral and multilateral cooperation in Africa can potentially influence the conditions of labour migration and employment abroad. These encompass international trade agreements, frameworks for skills recognition, social security agreements, and agreements for trade union cooperation (Panizzon, 2022).

Due to the large number of migrants exploited by agents and employers, there is global concern about how bilateral labor agreements may affect the protection of human rights in Gulf Cooperation Council (GCC) nations (Jamie & Tsega, 2018). When comparing African countries to their Asian counterparts (Martius von 2017), it becomes evident that African nations are relatively recent entrants in terms of dispatching labour migrants to Gulf nations (Tonah *et al.* 2015). Ethiopia and Somalia were among the pioneers in labor migration to the Gulf and Middle Eastern nations and a significant percentage of migrant workers still come from these countries. Many factors contribute to the rising population of African labour migrants in Gulf and Middle Eastern nations. These factors consider the availability of employment opportunities in these nations and the relatively higher wages offered in comparison to the workers' home countries.

Furthermore, the decisions made by migrants can be influenced by recruitment practices that sometimes involve misleading information and deception (ILO 2019b). Regrettably, migrant workers, irrespective of their country of origin, have provided evidence of suffering grave infringements of their fundamental human rights. The group most adversely impacted by these breaches are the migrant workers with low levels of

competence (McGill & Scala, 2019; ICFUAE, 2019). Workers with poor skills are subject to inadequate protection within the cultural and legal systems of the countries they migrate to (Martius von 2017). The Gulf nations possess legislative and institutional frameworks that provide conditions conducive to the maltreatment of migrant workers, providing chances for their employers to abuse and exploitation them (Atong et al., 2018).

Kenya's legal frameworks on various migration elements are established by significant legislation, such as the Labour Institutions Act of 2007 and its accompanying legislative instrument, the General Regulations of 2014, as stated by Cotula and Mouan (2021). In addition, the Employment Act of 2007 and the Counter Trafficking in Persons Act of 2010 play a significant role in establishing a complete legal framework. Kenya's dedication to improving the management of migration and strengthening the safeguarding of the migrant workers' rights is further emphasised by its incorporation of international accords. This integration involves the formal approval and inclusion of ILO Conventions No.97 and No.143 into the country's legal system.

It is noteworthy, however, that despite these existing legal foundations, Kenya has not yet officially put a national labour migration policy or framework into place to effectively manage migration. Although draft versions of such policies have been created, their finalization and adoption are still pending. Nevertheless, Kenya has formulated diaspora policies to recognize the importance of engaging with its overseas citizens. Furthermore, in 2017 and 2018, the government of Kenya negotiated to

establish bilateral Labour agreements (BLAs) with countries like the United Arab Emirates and Saudi Arabia, which were intended to enhance the rights and working conditions of Kenyan citizens employed in these countries. A previous BLA was also established with Qatar in 2012 (Atong et al., (2019). Despite these efforts, Kenyan Labour migrants in Gulf countries still face challenges, hence the need for the current study.

1.2 Statement of the Problem

The government of Kenya has a role of protecting and safeguarding the rights of its citizens in GCC states. Migrant workers from Kenya face human rights abuses. They are vulnerable to labour exploitation, such as long hours, unpaid wages and hazardous working conditions. Some migrant workers report facing discrimination and racism based on their nationality, which can affect their access to equal rights and opportunities. Contract substitution and contract fraud are reported issues, where workers might sign different contracts in their home countries and encounter altered terms upon arrival in the GCC. Migrant workers often face challenges accessing effective grievance mechanisms to address labour disputes or human rights violations. Migrant workers may live in overcrowded and substandard housing, leading to health and safety risks. Some workers are subject to restrictions on their movement, making it difficult to change employers/nature of work or go back to their home countries. Occasionally, the employers confiscate their passports, creating difficulties for them to repatriate to their countries of origin (Shah & Alkazi, 2023).

Unfortunately, Kenya lacks a protected infrastructure (Malit & Al-Youha, 2016). This includes the absence of an official Office for labour and welfare, secure housing facilities, and other initiatives designed for protection. Besides, Kenya's legal and institutional frameworks have been weak to safeguard migrants, as the state also lacks comprehensive plans and the ability to conduct its laws efficiently. Manner. The absence of such comprehensive labour policies, laws and supporting institutions has created an environment where systematic labour abuses can occur, enabling recruitment agencies to exploit the situation.

This study is crucial for understanding the extent to which Bilateral Labour Agreements have effectively protected the human rights of Kenyan migrant workers in the GCC countries. It also seeks to identify the gaps in these agreements and propose recommendations for enhancing the protection mechanisms.

1.3 General Objective

This study aimed to analyze the Bilateral Labour Agreements between Kenya and the GCC and their effect on the human rights of Kenyan migrant laborers.

1.3.1 Specific Objectives

The specific objectives of the study were to:

- i. Analyze the current Bilateral Labour Agreements between Kenya and GCC countries

- ii. To identify specific strategies and mechanisms that can effectively protect the human rights of Kenyan migrant workers.
- iii. Explore the critical push and pull factors influencing the migration of Kenyan workers to GCC states.
- iv. Determine actionable improvements to the existing Bilateral Labour Agreements that will enhance their ability to safeguard the rights and interests of Kenyan workers in GCC countries.

1.4 Research Questions

- i. What are the existing Bilateral Labour Agreements between Kenya and GCC countries?
- ii. What are the specific strategies and mechanisms that can effectively protect the human rights of Kenyan migrant workers?
- iii. What factors push and attract Kenyan workers to GCC states?
- iv. What are the mechanisms through which existing Bilateral Labour Agreements can best serve the interests of and safeguard the human rights of Kenyan Workers in GCC Countries or improve them?

1.5 Justification of the study

This study is justified by the pressing need to address the critical human rights challenges migrant workers face, particularly those from Kenya employed in GCC countries. These workers are particularly vulnerable to exploitation and mistreatment in

global labour markets, often experiencing hazardous working conditions, insufficient legal protections, and various forms of abuse, including economic, emotional, and physical mistreatment. By examining the current Bilateral Labour Agreements (BLAs) between Kenya and GCC countries, this study seeks to identify specific mechanisms that can more effectively protect the human rights of Kenyan migrant workers. Addressing these issues is essential for improving these workers' welfare and protection and advocating for more robust safeguards and necessary reforms.

In addition, the study aims to explore the critical push and pull factors driving the migration of workers from Kenya to GCC states. Understanding these factors is crucial for grasping migration's broader social and economic impacts on Kenya and the GCC countries. The migration of Kenyan workers to the GCC not only helps to alleviate unemployment in Kenya but also provides the GCC nations with cost-effective labour that bolsters their economic growth. This migration has further strengthened commercial ties between Kenya and the GCC, with Kenya exporting goods such as coffee, tea, textiles, and meat, as well as importing products like vegetable oil, fertilizers, paper, and glass from GCC member states. By thoroughly analysing these dynamics, the study aims to recommend actionable improvements to the existing BLAs that will better safeguard the rights and interests of Kenyan workers in the GCC.

The findings will offer valuable insights for policymakers, stakeholders, and advocates. They highlight the importance of enhancing protections for migrant workers and leveraging the economic partnership between Kenya and the GCC to establish more

equitable and sustainable migration policies. Ultimately, this study underscores the economic interdependence between Kenya and the GCC, emphasizing labour migration as a critical component of their bilateral relationship and the need for continued collaboration.

1.6 Significance of the Study

The partnership between Kenya and the Gulf Cooperation Council (GCC) states has undoubtedly led to significant economic benefits for both parties. However, there is a notable issue that remains since Kenyan migrant workers in GCC countries occasionally face violations of their human rights. This study is very significant as it seeks to address these critical concerns by offering findings and recommendations that are highly relevant to policymakers in Kenya. The objective of these results is to advance, safeguard the living conditions of Kenyan migrant workers in the GCC, while simultaneously bolstering the bilateral connection between Kenya and the GCC nations.

This study has a wider impact than only its immediate policy consequences. Furthermore, it contributes to the broader scholarly and pragmatic discourse around the rights and welfare of Kenyan migrant workers. The results obtained from this study will be a vital resource for future research, providing a strong foundation for further analysis of the negative encounters faced by migrant workers and the requisite strategies to solve them. The outcomes of this study will provide a thorough understanding of the intricacies associated with labour migration and human rights, shedding light on theoretical frameworks and practical strategies.

Moreover, this study's potential impact is far-reaching. By analysing the merits and weaknesses of the existing employment agreements between Kenya and the GCC, this research aims to develop more robust accords prioritising safeguarding human rights. These improvements may lead to tangible changes in the working environments, legal options, and general welfare of migrant workers from Kenya in the GCC.

Furthermore, the research findings are anticipated to substantially influence the broader scope of global labour mobility, offering valuable perspectives for safeguarding human rights in international labour markets. Ultimately, this study can potentially provoke advantageous change, not only for Kenyan migrant workers but also for migrant labourers worldwide. This will contribute to the global effort to provide fair and empathetic treatment for all workers.

1.7 Assumptions of the Study

Several assumptions were established to ensure the study's robust foundation. The study assumes that bilateral labour agreements between Kenya and the GCC will be sustained over the long term, with periodic reviews and amendments to address emerging challenges. It also assumes that the effectiveness of these migration agreements is significantly shaped by external factors such as the global economy, political climate, and immigration laws. The study posits that both parties prioritize ethical recruitment practices to safeguard migrant workers from exploitation. Additionally, it assumes close collaboration between the Kenyan and GCC governments, bolstered by strong diplomatic ties and practical negotiating abilities.

Furthermore, the study recognizes that both push and pull factors drive the migration of workers from Kenya to the GCC. It assumes that the function of international organisations, including the ILO and human rights groups, is considered significant in the design and application of these migration agreements.

Finally, it acknowledges the impact of cultural and legal disparities between Kenya and the GCC states, particularly in labour regulations and societal norms, on the understanding and executing these agreements.

1.8 Scope and Limitations of the study

This study geographically focused on the Gulf Cooperation Council (GCC) states, including the United Arab Emirates, Qatar, Kuwait, Bahrain, Oman, and Saudi Arabia, to analyze pertinent issues and provide recommendations. The study assessed the efficacy of existing procedures, policies, and methodologies aimed at protecting human rights, pinpointing possible areas for improvement. In addition, it focussed on the period from the early 2010s, when Bilateral Labour Agreements (BLAs) were implemented between Kenya and GCC states, up until 2023. This temporal scope facilitated the examination of patterns and trends pertinent to the duration.

In addition, the study extensively explored the experiences of Kenyan migrant workers across these GCC countries, focusing on critical issues such as labour conditions, remuneration, healthcare access, training, free movement, legal protections, and the right to equitable treatment and judicial recourse. Furthermore, It incorporated the

perspectives and roles of various stakeholders, including Kenyan migrant workers in the GCC, individuals who have returned from the region, Kenyan government agencies, and recruitment brokers. Moreover, the research analysed the effects of bilateral agreements on managing border security, economic stability, human trafficking, exploitation, diplomatic ties, and regional stability. The study also emphasised the wider regional consequences for East Africa as well as the Middle East.

Nevertheless, doing a thorough and meticulous analysis sometimes takes a substantial amount of time, and obtaining extensive and varied datasets might be difficult. Thus, because of limited time, the research had to rely on smaller, less representative samples or easily accessible data, potentially affecting the study's validity and reliability. Data limitations may also develop due to inadequate availability and quality, especially regarding sensitive topics migrant workers face. The analysis is restricted to data from Kenya due to the impracticality of acquiring information from other GCC states. The study objectives were accomplished via the thematic analysis of reports from earlier interviews conducted with male and female individuals working in Gulf countries. Due to the study's narrow focus, its conclusions may not be broadly relevant for all migrant workers or for other nations where they pursue job opportunities.

The study faced several limitations that could impact its overall findings and implications. Conducting a thorough and meticulous analysis often requires significant time; therefore, obtaining extensive and varied datasets proved challenging. Due to time constraints, the study had to depend on smaller, less representative samples or data that

was more easily accessible. This reliance on limited data sources may have compromised the study's validity and reliability, potentially leading to findings that do not fully capture the complexities of the migrant experience.

Furthermore, there was a significant challenge in accessing comprehensive and high-quality data, particularly when addressing sensitive issues faced by migrant workers, such as exploitation, abuse, or legal challenges. This difficulty may have led to an incomplete understanding of the full scope of the problems migrant worker's encounter. In addition, the analysis was confined to data from Kenya, as acquiring information from other GCC states was deemed impractical within the scope of this study. This geographical constraint meant that the research could not consider the possibly varied experiences of Kenyan migrant workers in various GCC nations.

Additionally, the study's thematic data analysis based on prior interviews with male and female Gulf workers presented a significant limitation. The secondary nature of this data, originating from earlier interviews, may have introduced biases or omissions that the study could not entirely address or validate. Furthermore, because the study does not encompass all countries involved in the global labor market, the findings may not be fully generalizable to all foreign workers in the region or to those in other destination countries.

CHAPTER TWO

LITERATURE REVIEW

2.0 Introduction

This section discusses the empirical literature based on the four study objectives in a broader perspective and the theoretical framework which the study is built on.

2.1 Literature Review

Pursuing a better life is a significant motivator for individuals contemplating migration (Benson & Osbaldiston, 2016). However, it is crucial to recognize that the ability to migrate represents a crucial element that can function as a threshold determining whether one chooses to stay or emigrate. According to Kurek-Ochmańska and Luczaj, (2021) disparities in living standards play a pivotal role in elucidating the variances observed in intra-African migration rates.

According to Makina and Mudungwe (2023), the migration trends among African emigrants suggest that Middle-class individuals frequently migrate outside of Africa, while emigrants hailing from poor regions stay within neighbouring countries. A study by Nwadiuko et al. (2021) found that transcontinental migration might be hindered, to some extent, by factors such as cost and accessibility, which are outcomes of varying living standards across nations.

It is plausible to assume that emigrants from middle-income countries possess a greater capacity to travel longer distances (beyond Africa) due to their ability to cover transport costs and other essential expenses in their chosen destination countries (Solano & Huddleston, 2021). Additionally, they may be better prepared to adapt to the external environment, especially in the more developed western countries. Frouws et.al. (2016) contend that Kenya serves as a destination and a transit nation for individuals participating in mixed-migration flows from East Africa, encompassing refugees, irregular migrants, and economic migrants. These migrants typically pass through Kenya en-route to destinations such as the Middle East, North Africa, North America, South Africa, and West Africa, Europe (Van Hear, Bakewell & Long, 2020). A substantial portion of immigrants in Kenya originate from other countries in African, with a majority hailing from the neighbouring East African nations (Akgündüz, 2021).

Moreover, Labour migrants from Asia, including Pakistan, Bangladesh, and India, also established a presence in Kenya. In contrast to some of its neighbouring countries, Kenya tends to be less of a source country for migrants engaged in mixed migration flows (Makina & Mudungwe, 2023). Notably, Kenyan emigrants are distinguishable by their skills and educational qualifications, and they often depart the country for overseas employment through legal and regulated means. According to Al-Ubaydli (2015), the regions and countries they choose for education and work encompass a wide range, including: Europe, the United Republic of Tanzania, Uganda, Botswana, South Africa, Lesotho, the United States of America, Middle East, the Arabian Peninsula.

According to Castles (2017), migrant workers with lower skill levels from Kenya frequently seek employment opportunities in Gulf countries as well as the Middle East. Such migration is facilitated through Private Employment Agencies (PEAs). The driving factors behind these migration flows include the promise of increased pay, worries about unemployment in Kenya and surrounding nations, and the challenges associated with entering more developed nations (Limbu, 2023). However, it is essential to note that human rights abuses and human trafficking have been documented within these migration movements, prompting the Kenyan Government to take regulatory measures regarding PEAs and establish BLAs with destination countries to address these issues.

2.1.1 Kenya and GCC Countries' Labour Agreements, Policies, and Regulations

Kenya faces a severe conundrum as it tries to combine its financial goals generated from bilateral exchanges of products and services with the need to safeguard the well-being and safety of its residents overseas, particularly when their welfare is inextricably linked to critical trade partners. Although Kenya's strategies for defending the rights of its overseas workers remain limited, the republic has significantly increased her efforts in economic diplomacy within the Gulf Cooperation Council (GCC) area through various partnerships in trade. In the year 2011, the United Arab Emirates and Kenya took a significant step by signing an agreement to enhance bilateral trade. The primary objectives of this agreement include preventing double taxation on businesses, finalizing support in taxes agreements, promoting and safeguarding trade.

In the year 2014, Kenya and Qatar signed a substantial agreement with Qatar to bolster maritime cooperation between the two countries. This agreement involves the establishment of a direct Mombasa to Doha shipping route. Kenya also put concerted efforts to buttress diplomatic existence in the GCC region. This involved starting new embassies and consulates to foster closer ties. Simultaneously, governments of GCC nations have reciprocated by opening or maintaining-diplomatic missions in Kenya. This diplomatic engagement signifies a commitment to cultivating robust relationships and facilitating effective communication between Kenya and its GCC counterparts.

At the same time, Kenya has shown minimal direct involvement with these nations in tackling labour-related concerns affecting its workforce. Criticism from national human rights groups, such as Solidarity with Women in Distress (SOLWODI) and Trace Kenya, asserts that the government's actions may focus more on public relations than on substantive efforts on Labour rights. This suggests a potential prioritization of Kenya's economic development interests in the Gulf region over the wellbeing of its people. The two governments have not reached a Labour agreement although a trade agreement was signed in 2011 and the number of Kenyan domestic workers to the United Arab Emirates has been increasing in. Additionally, no public information is available regarding labour protections for Kenyan migrant workers within the scope of existing bilateral agreements or diplomatic dialogues (Malit & Al-Youha, 2016). Since domestic workers are often excluded from national labour law protections in the GCC countries, the absence of a formalized Bilateral Labour Agreement represents a significant gap in ensuring the protection of these workers.

Kenya and Saudi Arabia have established important agreements to strengthen their bilateral relationship. The first of these, the Bilateral Air Services Agreement (BASA), was signed in 1989, enabling direct flights between Nairobi and Jeddah through Kenya Airways and Saudi Airlines. This agreement simplified travel and expanded the potential market for Kenya's tourist business, including Saudi Arabia and the wider Middle East region. In 2007, the two countries strengthened their cooperation by signing a General Agreement, establishing the foundation for further engagement in several industries. In 2017, Kenya and Saudi Arabia signed a Bilateral Labour Agreement, acknowledging the increasing significance of labour mobility.

This agreement had great importance since its primary objective was safeguarding the rights and well-being of Kenyan labourers in Saudi Arabia, explicitly addressing apprehensions over the treatment of foreign workers in the area. These accords demonstrate the strengthening relationship between Kenya and Saudi Arabia while also emphasising the difficulties Kenya encounters in managing its economic interests with the responsibility of safeguarding the security and welfare of its residents overseas.

In addition to the agreements above, there are other MOUs/Agreements in various stages of negotiations. Even though Kenya and the United Arab Emirates (UAE) signed a Memorandum of Understanding (MOU) on Labour and a protocol on Domestic Workers on April 25, 2018, the MOU has not been implemented, failing to address the concerns faced by Kenyans in the UAE. Currently, an estimated 50,000 to 60,000 Kenyan nationals live and work in the UAE across various sectors, including hospitality

(tourism, travel, hotel management, leisure management), banking, finance, insurance, accountancy, and medical services (paramedics, nurses, and caregivers). Urgent action is required to expedite the establishment of the Bilateral Labour Agreement, as it has been identified that the existing MOU is neither sufficient nor legally binding, lacking a clear delineation of responsibilities for all involved parties.

In 2022, the Bilateral Labour Agreement between the Kenyan government and the Kingdom of Saudi Arabia and the State of Kuwait about the recruitment and employment of Kenyan workers reached its finalization and received approval from the National Treasury and the Office of the Attorney General. Subsequently, the agreement was transmitted to the host countries for their concurrence," stated Bore. There have been appeals for a suspension on the hiring and sending home workers to Saudi Arabia up until adequate safety precautions are put in place. The agreement with Saudi Arabia, Qatar, and the UAE includes provisions for establishing a Joint Technical Committee responsible for monitoring the implementation of the Bilateral Labour Agreement (Allan Kisia, 2022).

2.1.1.1 The Empirical Literature Gap

While there is an acknowledgement of Labour migration between Kenya and the GCC nations, there is a lack of comprehensive studies that delve into the specific legal frameworks and policies governing this migration flow. The literature gap regarding existing Bilateral Labour Agreements, policies, and regulations between Kenya and the (GCC) countries is a notable area that requires attention. Empirical research could

systematically examine the bilateral agreements and policies between Kenya and individual GCC countries. This includes exploring the terms of hire, rights and protections afforded to Kenyan migrant workers, and the mechanisms in place for dispute resolution. Understanding the legal landscape would provide crucial insights into the dynamics of the labour migration relationship. Additionally, there is a need for research that assesses the effectiveness and implementation of these agreements and policies. Exploring how well the existing frameworks addresses the rights and well-being of Kenyan workers and whether there are gaps or challenges in their enforcement would contribute to a better understanding of the regulatory landscape.

2.1.2 Factors that Push and Attract Kenyan Workers to GCC States

According to Matlin et.al., (2018) migration has been a defining characteristic of humanity since the dawn of human existence. Even in primitive times, people migrated in pursuit of abundant food, safe environments, and protection from physical harm. With industrialization and modernization migration has become prominent. Aspects like the advancement of contemporary transportation and communication, cultural intermingling, and globalization have driven thousands to migrate in pursuit of better chances in schooling, employment, and standards of living, among other reasons. Migration is a significant driver of social change and is one of the three fundamental components of population change, alongside births and deaths. This is a complex issue influenced by numerous factors, and considerable effort has been put to comprehend the various influences on this development.

Van Hear et.al, (2020) argues that push factors are conditions that force individuals to leave their homes and are still connected with their nation of origin. These include insufficient employment opportunities, economic challenges, fast population increase that exceeds available resources in a country, underprivileged living environments, desertification, starvations, lack of rain, fear of political persecution, inadequate healthcare, loss of wealth, and natural disasters. Conversely, pull factors are the attributes of a destination that appeal to individuals to relocate there. Examples of pull factors include more availability of jobs and living standards that are better, easy access to land for settling and tilling, political and religious freedom, superior education and welfare systems, improved transportation and communication facilities, better healthcare systems, an environment that stress-free, and enhanced safety.

Extensive research has explored the bases of migration, particularly its economic reasons (such as; Adovor et al., 2021; Ramos and Suriñach, 2017; Czaika and Parsons, 2017). As noted, one of the primary economic drivers is the availability of employment opportunities. People are often drawn to destinations where jobs are more plentiful, and wages are higher compared to their home countries. This desire for better financial prospects is a strong motivator for migration.

Income levels (Ramos and Suriñach, 2017) in the destination country also significantly influence migration decisions. Higher income potential in a new country compared to one's country of origin can attract individuals seeking improved financial stability and a better standard of living. Additionally, economic stability plays a critical role; migrants

are generally inclined to move to countries with robust and growing economies rather than those experiencing economic instability or high unemployment.

The cost of living is another important factor (Czaika and Parsons, 2017). Individuals may relocate to regions where the cost of living is more affordable, allowing them to enjoy a higher quality of life despite earning a similar or slightly lower income. Economic development, including advanced infrastructure and thriving industries, also attracts migrants who are looking for enhanced professional growth and living standards.

According Adovor et al., (2021), educational opportunities further contribute to migration trends. Access to high-quality educational institutions and vocational training can compel individuals to move in pursuit of better academic and professional prospects. Similarly, business and investment opportunities play a significant role; entrepreneurs and investors may relocate to benefit from favorable business conditions or to expand their ventures.

Comprehensive social services, such as healthcare and welfare programs, can attract migrants seeking improved quality of life and greater security. These economic factors, when combined with other elements such as political stability and social networks, shape migration patterns and trends, reflecting the complex interplay of opportunities and challenges faced by individuals considering relocation (Matlin et.al.,2018).

In recent decades, continuous technological advancements, including robotization and digitalization, have significantly transformed many industries. These developments have

impacted labor market dynamics, as widely discussed in the literature (e.g., Arntz, Gregory, and Zierahn, 2019; Acemoglu and Restrepo, 2017; Goos, Manning, and Salomons, 2014). Factually, such changes have also influenced migration forms by changing labor demand (see Autor, 2015), and by making cross-border mobility easier through reduced travel and information costs.

Other than technological progressions, additional aspects have contributed towards the global worker movement increase, causing an increase in migrant engagement across various states as well as job markets. Majority of these workforces are hired in high-income economies, that account for about 67% of global migrant workers (ILO, 2021). The wider impacts of recent technological advancements on domestic labor markets, including their impact on migration patterns, are fetching interest from legislators and businesses men in both origin and destination countries of migrants (IOM, 2021).

The ongoing of framework of routine-biased technological change new technology may replace for lower- and middle-skilled immigrants, particularly in the manufacturing sector, as suggested by Borjas and Freeman (2019). However, technological advancements go beyond robotization, especially with the widespread adoption of digital technologies and the anticipated future impact of artificial intelligence (AI) (see IMF, 2024). These advancements could significantly impact labor markets by creating skill shortages that attract migrants with specific expertise (Beerli, Indergand, and Kunz, 2023), potentially leading to a complementary relationship between technology and migrant flows. Additionally, the income elasticity effect suggests that rising incomes

may increase demand for low-skilled, manual service jobs, further attracting immigrants who often fill these positions (Mandelman and Zlate, 2022; Basso, Peri, and Rahman, 2020).

Understanding the relationship between migration and the adoption of these recent technologies is crucial for comprehending their implications for trends in migration and labor markets. This is particularly relevant for the European Union (EU) and other advanced economies facing challenges from decreasing working-age populations and aging societies. Such demographic trends lead to labor market shortages and can impede economic growth (Grieveson, Leitner, and Stehrer, 2019). Therefore, this paper investigates the relationship between migrant flows and technology adoption (robotization and the use of digital technologies) across EU countries and other advanced economies, including Australia, the UK, Japan, Norway, and the US, over the period 2001-2019 using a gravity model setting.

2.1.2.1 The Empirical Literature Gap

As observed much of literature on the push and pull factors are too old hence the need for the updated information on the push and pull factors that make Kenyan workers travel to the Gulf Cooperation Council Countries despite the challenges faced. Many migration studies emphasize the presence of circular migration, which is often limited in the context of international migration. While there is acknowledgment of Kenyan migrants seeking employment in the GCC nations, there is a notable lack of in-depth empirical studies that comprehensively analyze the complex interplay of factors driving

this migration pattern. Empirical research on this topic could explore the economic, social, and environmental factors contributing to the decision-making processes of Kenyan workers. It should examine the specific settings that push people to seek prospects in the GCC countries and the factors that attract them despite the challenges involved, which would provide a nuanced understanding of this migration phenomenon.

This study seeks to bolster the justification for circular migration, emphasizing the importance of return migration. It will propose policies designed to facilitate this phenomenon, advocating for substantial alterations to existing stringent restrictions. The research holds particular significance by providing valuable insights to researchers on the perceived correlation between economic dynamics and the spatial distribution of citizens within a country. Moreover, it aims to offer recommendations to align government-backed migration policies with economic laws, even if such alignment was not initially the primary intention.

2.1.3 Causes of Human Rights Violations against Kenyan Migrants in the GCC

An estimated 281 million people reside outside of their nation of birth, accounting for approximately 3.6% of the world's population (World Health Organization, 2016). Many of these migrants are forced to flee their homes for various reasons. These violations are often strongly associated with discriminatory laws and deeply ingrained attitudes of prejudice and xenophobia (Hutchinson, 2022). Migration has both positive and rewarding aspects, but a significant number of migrant workers worldwide experience

human rights violations (Hutchinson, 2022). The transgressions above encompass mistreatment by immigration and law enforcement officials, exploitative Labour conditions, restricted access to fundamental rights and safeguards, restricted mobility, and challenges in obtaining healthcare services. These issues are further compounded by institutionalized bias, xenophobia, and discrimination. Irregular migrants often find themselves living and working on the fringes of basic safety and legal protections.

According to Sterud et al. (2018), disparities in working conditions exist on multiple levels in destination countries, such as differences between native and migrant workers, variances related to skill, occupation, and gender, and distinctions based on migration status (whether legal or illegal, temporary or permanent). Migrant workers may face higher unemployment rates than native workers, and various factors like sex, country of origin, and duration of stay in the host country can influence their access to employment opportunities. Migrant workers are often found in either highly skilled occupations or the "three D-jobs" – those considered dirty, dangerous, and demanding. These "three D-jobs" are predominantly found in sectors like agriculture, horticulture, construction, healthcare, households, food, and transportation, and they are typically associated with job insecurity, poor working conditions, part-time employment, and meagre wages. Migrant workers may also experience labour market segregation due to language barriers and subtle forms of discrimination (Graycar, 2017).

Wages for migrant workers are often significantly lower than those of native workers, even when migrants possess similar skills, education, and industry experience. Due to

the non-portability of social security benefits, migrant workers may lack the freedom to associate with others, access equal and fair wages, receive proper skills matching for jobs, benefit from decent working conditions, and access adequate social protection (Borjas, 2018). Additionally, migrant workers are disproportionately affected by occupational accidents and injuries compared to native workers.

Discrimination against migrants based on their migration process, legal or illegal, is widespread, though few states openly admit to this form of discrimination. Legal migrants are provided with employment contracts and identity cards, while illegal or undocumented migrants often work in fear of deportation. This group is at risk of exploitation, receiving meagre wages, facing poor working conditions, enduring long working hours, human rights abuses, and working for months without pay (Makokha, 2020). Some countries strategically allow illegal migrants into their borders to evade the costs of recruitment or migration, as well as measures meant to protect migrant workers.

In European countries, migrants and ethnic minorities frequently encounter significant discrimination in employment, exploitation, challenging working and living conditions, job insecurity, and wage disparities (Bazzoli & Probst, 2023). Similar disparities are observed in countries like Australia, France, and Germany. Discrimination in employment extends to sex, age, pregnancy, home country, religious beliefs, health, and disability. Women of colour and non-European men face the highest levels of employment discrimination. The Labour market in France is known for its high level of racial and religious discrimination. Migrants often experience employment

discrimination related to sex, age, pregnancy or maternity, home country, religious beliefs, health, and disability (Mayer et al., 2017). The discrimination is particularly severe in the field of employment, with people of African origin underrepresented in management positions, earning lower wages, and facing an increased risk of poverty.

Equally, migrant workers in the United States and Canada endure poor working conditions, limited access to occupational health benefits, and lower wages compared to native workers (Weiler et al., 2020). In the case of Canada, migrant workers often hold temporary jobs that expose them to employment instability, limited human rights, and low wages. In the United States, migrant workers who come from all over the world, including Mexico, the Philippines, Africa, and Asia, earn lower wages than native-born Americans. They experience discrimination based on age, language, education, and race (ibid). Migrant workers are often found in jobs considered undesirable for native-born Americans, such as positions in the food service, construction, and agriculture sectors.

In the Middle East and North Africa (MENA) region, where many migrant workers serve as domestic workers, they face risks of exploitation. As observed by Phelps (2020), this region grapples with additional challenges such as conflict, Islamic extremism, and other hardships. Migrants from South Asia, Southeast Asia, and sub-Saharan Africa travel in large numbers to the MENA to work in sectors such as construction, manufacturing, agriculture, food service, housekeeping, gardening, driving, and caregiving. While these jobs often improve the lives of migrant workers' dependent families, they come with the risk of poor working conditions, extended

working hours, inadequate or unpaid wages, limited freedom of movement, sexual harassment, substandard living conditions, human trafficking, and forced Labour (Makina & Mudungwe, 2023).

The establishment of the East African Community (EAC) Common Market Protocol in 2009 aimed to promote accelerated economic development and growth through the free movement of goods, services, capital, persons, and Labour and the rights of establishment and residence. However, implementing the Common Market Protocol poses considerable technical and administrative challenges (Njuki, 2016).

2.1.3.1 The Empirical Literature Gap

Studies will explore the working environments (conditions) and rights of Migrant labourers from Kenya working in GCC nations. This includes issues related to labour laws, workplace conditions, and access to consular services. Despite the ever-growing complaints about the violation of human rights in the Gulf Cooperation Council (GCC), the number of Kenyan Labour migrants keeps growing. It will also investigate the reasons for human rights abuses on Kenyan migrant workers in the Gulf Cooperation Council. Although many returnees have given adverse reports on the same, many Kenyans are pursuing their goals of working in (GCC) Countries to meet the economic demands. The human rights issues faced by Kenyan migrant workers in the (GCC) countries represent a critical area of concern, and there is a notable empirical gap in our understanding of these challenges and reactions related to this. There is a need for comprehensive research and empirical data to shed light on the reasons for human rights

abuses on Kenyan refugee workforces in the Gulf, the specific as well as human rights issues they encounter, and how they are addressed.

2.1.4 The Effects of Labor Migration on the Bilateral Relationship

Subsequently, Labour migration has a multifaceted impact on the bilateral diplomatic relationship between Kenya and other nations, encompassing both positive and intricate dimensions (Ayieko, 2016). As Kenyan citizens seek employment opportunities in foreign countries, this process yields far-reaching effects on diplomatic ties. Labour migration fosters stronger economic links between Kenya and host countries. Remittances sent home by Kenyan migrants significantly contribute to Kenya's economy, bolstering financial stability and potentially alleviating the need for foreign aid (Phelps, 2020).

Cooperation on a diplomatic level is frequently required to regulate labour migration and protect the rights of Kenyan migrant workers. To protect the welfare of Kenyan workers abroad, diplomatic agreements and protocols can be established. Moreover, labour migration facilitates cultural exchange and enhances people-to-people connections between Kenyan nationals and host-country citizens, fostering mutual understanding and positive perceptions of Kenya in the host nation and vice versa. Effective management of labour migration-related issues can result in more robust diplomatic relations. Agreements that protect Kenyan migrants' rights and well-being may lead to increased collaboration in various other domains (Nwadiuko et al., 2021).

Nonetheless, labour migrants, especially those employed in low-skilled and vulnerable sectors, may encounter exploitation and abuse. Reports of mistreatment can strain diplomatic relations between Kenya and the host nation if not addressed efficiently (Graycar, A. (2017). The departure of Kenyan workers for extended periods can have social and political ramifications in Kenya, including family separation and the potential loss of skilled labour. Labour law and regulation discrepancies between Kenya and host countries may pose diplomatic challenges. Disputes regarding employment conditions and workers' legal status can emerge (Bazzoli& Probst, 2023). In severe abuse or crises affecting Kenyan workers abroad, diplomatic relations may face considerable strain. Host nations might encounter international scrutiny and diplomatic pressure to rectify such situations.

Besides, establishing Bilateral Labour Agreements can provide a structured approach to addressing issues related to Labour migration, setting employment standards, and safeguarding the rights of Kenyan workers. The Kenyan government's effective consular services to Kenyan migrants are pivotal in mitigating adverse impacts. These services address Kenyan nationals' welfare, legal rights, and well-being abroad. Maintaining open communication channels and diplomatic engagement with host countries is pivotal (Kumi & Elbers, 2022).

2.1.4.1 The Empirical Literature Gap

The increasing migration trend poses considerable difficulties for Kenya and the Gulf Cooperation Council, particularly concerning labour rights. Migrant workers in the GCC

often face vulnerabilities within the regulatory system, exposing them to Employers and intermediaries acting unethically and illegally. In response to claims of mistreatment of its citizens in the area, Kenya is faced with the following dilemma: balancing protecting its diaspora with maintaining vital relationships (bilateral ones) between the two parties that are essential to its economic goals.

According to some analysts, Kenya has so far put its financial interests ahead of the welfare of its migrant labourers in the Gulf, and the nation has not yet enacted specific worker protection laws/mechanisms similar to those implemented by Asian countries that send substantial numbers of workers to the GCC (Malit & Al Youha, 2016). The study examined the presence and effectiveness of bilateral agreements or protocols regarding Labour migration between Kenya and the GCC countries and assessed how these agreements influence diplomatic relations. Given the urgency of the situation, the findings of this study will be crucial in addressing the immediate needs of Kenyan migrant workers in the GCC.

2.2 Theoretical Framework

This study is based on Ravenstein's Theory of Migration (RTM) and Interest Theory of Human Rights.

2.2.1 Ravenstein's Theory of Migration (RTM)

Ravenstein's Theory of Migration, formulated by Ernest George Ravenstein from 1885 to 1889, is based on humans making rational decisions when they relocate from one

place to another. The idea highlights the dynamic interaction between "push" influences, which compel people to leave their original location, and "pull" factors, which entice them to new places. Ravenstein's theory is used in this study to comprehend the sociocultural factors that mould labour migration and the conceptual difficulties encountered in the Gulf area.

According to Mburu (2020), migrant workers, driven by rational choices, confront specific deterrents when they encounter violations of their human rights in the countries where they are employed. Moreover, applying Ravenstein's Theory of Migration (RTM) to examine the context of Bilateral Labour Agreements and protecting Kenyans' human rights in the GCC countries provides valuable insights into the underlying forces and migration patterns. This approach also sheds light on the potential impact of bilateral agreements in safeguarding the rights of migrant workers. Ravenstein's theory posits that those various factors, including economic opportunities, often prompt migration. In the context of Kenyan migrants in the GCC, this principle holds. Many Kenyan labourers seek employment in Gulf countries due to the promise of more lucrative jobs and improved economic prospects. Nevertheless, it is essential to acknowledge that limited employment opportunities in Kenya push them to pursue work overseas. Corresponding to Ravenstein's theory, migration volume decreases as the distance from the home country increases.

In the case of Kenyan migrants in the GCC, this principle could explain why most Labour migration is directed toward the relatively closer Gulf region as opposed to more

distant destinations. Accessibility and closeness are essential considerations when selecting a destination. The theory underscores that migration is influenced by push factors (conditions in the home country that encourage emigration) and pull factors (conditions in the destination country that attract migrants). For Kenyan migrants, push factors may include unemployment and limited economic prospects in their home country. Pull factors encompass the demand for labour in the GCC, which is driven by its economic development and growth.

2.2.2 Interest Theory of Human Rights

The Interest Theory of Human Rights asserts that human rights primarily safeguard and advance fundamental human interests. These interests are vital for making societal decisions and constitute the basic requirements for a dignified existence. As Kramer (2013) states, human rights are inherent to our fundamental human nature. Applying this theory to this study setting emphasises the significance of protecting migrant workers within the broader universal human rights framework, guaranteeing their dignity and well-being.

Furthermore, applying the "Interest Theory of Human Rights" to the context of Bilateral Labour Agreements and human rights protection for Kenyan migrants in the (GCC) provides a valuable framework for comprehending the dynamics involved in this scenario. The Interest Theory of Human Rights posits that human rights are inherent or universal and rooted in the interests of individuals and societies. According to this theory, human rights are established and protected because they serve the fundamental

interests of individuals and communities. It asserts that individuals are interested in safeguarding their fundamental rights to lead a life characterized.

2.2.3 Interdependence

The Interest Theory of Human Rights and Ravenstein's Theory of Migration (RTM) are interconnected in their focus on dignity and well-being, and both theories play a crucial role in this study. RTM explains how individuals migrate to improve their living standards and personal dignity, aligning with the Interest Theory's emphasis on human dignity as a fundamental right. Migration is driven by the desire for better employment and living conditions, which are essential for maintaining dignity and well-being. The RTM also highlights the importance of protecting rights during migration, as it ensures that individuals' dignity and well-being are preserved. Thus, both theories underscore the importance of preserving human dignity and well-being during migration, ensuring that the experience is beneficial and respectful, and this understanding is integral to the study's approach.

When applied to the case of Kenyan migrants in the GCC, several key insights can be drawn. This theory offers a perspective through which this study can analyse the various interests involved in the context of Kenyan migrants in the GCC. It will underscore the interconnected interests of the migrants, host countries, sending countries, the international community, and the role of Bilateral Labour Agreements in safeguarding these interests while upholding human rights.

2.3 Conceptual Framework

Based on the theories and literature discussed earlier, a conceptual framework model has been developed for the proposed study. This model is shown in Figure 2.1 below.

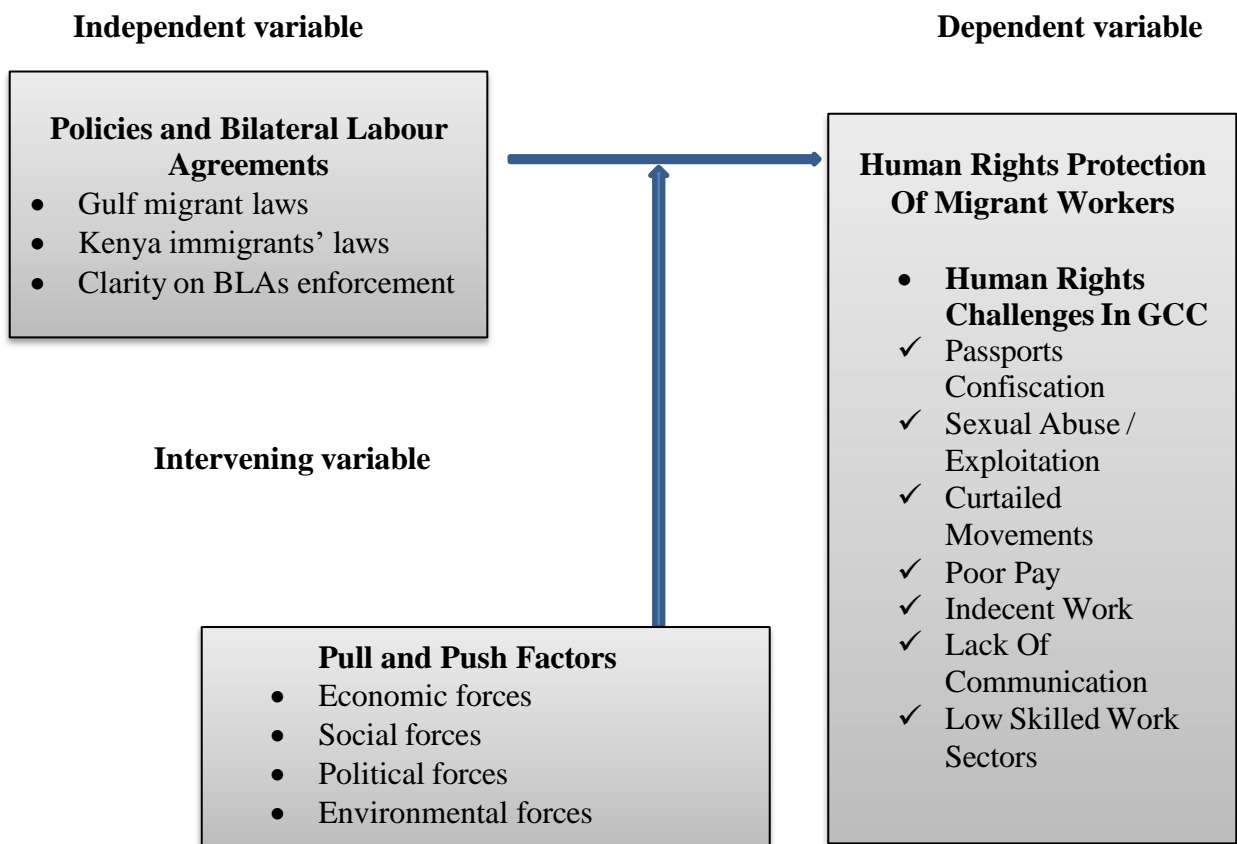


Figure 1: Conceptual Framework

(Source: Researcher, 2023 - 2024)

The study's conceptual framework demonstrates the complex connection between Bilateral Labour Agreements (the independent variable) and the safeguarding of migrant workers' human rights (the dependent variable). This theory suggests that the amount of protection provided to migrant workers is heavily influenced by the success or deficiencies of these Bilateral Labour Agreements. More precisely, if these agreements fail to achieve their intended goals or are not correctly put into action, the protection of the rights of migrant workers is undermined, resulting in an increased likelihood of human rights abuses. On the other hand, strong and strictly enforced agreements are expected to improve the safeguarding of these workers' rights, guaranteeing improved working conditions and legal options for seeking justice.

In addition to directly impacting human rights protection, Bilateral Labour Agreements incorporate intervening elements that mitigate this connection. The intervening variables refer to the many migration methods labour migrants use to enter Gulf Cooperation Council (GCC) nations. Legal labour migration occurs via legally approved routes, as outlined in current Bilateral Labour Agreements. Migrants who use these authorised pathways are often presumed to possess enhanced safeguards and opportunities for legal redress, diminishing their susceptibility to exploitation.

Nevertheless, not all migrants enter GCC nations through legal means. The framework identifies human trafficking and irregular migration as important contributing causes.

These types of migration take place outside the confines of legal structures and often include force, deceit, or unlawful entrance. Migrants who are victims of trafficking or engage in irregular migration are more susceptible to human rights violations as a result of their lack of legal status and safeguards, rendering them susceptible to exploitation and cruelty.

Another crucial mediating factor is the Kafala system, a sponsorship system widely used in several GCC nations. Within this framework, the legal residence status of a migrant worker is intricately linked to their employer, resulting in notable power disparities that might heighten their susceptibility to exploitation and mistreatment. The Kafala system often limits workers' freedom of movement and exposes them to their employers' arbitrary decisions, worsening their unstable status.

The theory posits that in the absence of robust Bilateral Labour Agreements and the presence of intervening circumstances such as illegal migration, human trafficking, or the Kafala system, migrant workers are prone to encountering various human rights difficulties. These issues include instances of sexual abuse and exploitation, in which migrant workers, particularly those in non-standard circumstances, may be exposed to acts of sexual violence. The framework also highlights the problem of restricted mobility since systems such as Kafala may significantly limit a migrant's freedom of movement, trapping them in exploitative circumstances.

In addition, the framework brings attention to the issue of exploitative employment, where migrants may be coerced into jobs that infringe upon fundamental labour regulations. Furthermore, it addresses the issue of limited communication, which results in migrant workers being isolated from their families and authorities, thereby impeding their ability to seek assistance or report instances of mistreatment. One of the challenges mentioned is the need for more employment opportunities in low-skilled work sectors. Migrants generally end up in little-remunerated, low-skilled occupations with limited prospects for career progression.

Moreover, employers confiscating passports, a prevalent practice in many GCC nations, deprives migrants of autonomy and intensifies their reliance on their employers. In addition, migrant workers often face the problem of inadequate compensation, as they usually get earnings that are much lower than the legally mandated minimum or the amount initially promised to them. This situation further contributes to their economic exploitation.

2.4 Summary

The literature review explores the motivations behind migration in Africa, focusing on four main areas: the quest for a better life, disparities in living standards, barriers to transcontinental migration, and Kenya's role as both a destination and transit country for mixed migration flows. It reveals that middle-class individuals are more inclined to migrate beyond Africa, while those from poorer regions tend to stay within neighbouring

countries. Emigrants from middle-income nations are generally better prepared to migrate further due to their ability to afford expenses and adapt to new environments.

The review identifies Kenya as a key destination and transit point for mixed migration flows involving refugees, irregular migrants, and economic migrants, mainly from East African nations and South Asia. It also notes that Kenya is less of a source country for mixed migration, with most Kenyan emigrants being skilled, educated, and seeking overseas employment through legal and regulated channels. The review underscores the need for empirical research into the legal frameworks governing labour migration between Kenya and GCC countries and the push and pull factors driving Kenyan workers to migrate to the GCC states.

The study employed Ravenstein's Theory of Migration, which explains migration through push and pull factors, and the Interest Theory of Human Rights, which focuses on safeguarding fundamental human interests, to analyze labour migration to the GCC. The interconnection of these theories highlights the importance of ensuring dignity and well-being for migrant workers. Additionally, the review points out the need for empirical research to better understand the human rights challenges faced by migrant workers and the effectiveness of the responses to these issues.

CHAPTER THREE

RESEARCH METHODOLOGY

3.0 Introduction

This chapter provides a comprehensive overview of the study methodology, divided into four main sections: research strategy, target population, data collecting methods, and data analysis procedures.

3.1 Research Design

A research design was a researcher's framework, technique, and strategy to meet specific research questions or objectives. It describes the methodology utilised throughout the study, including data collection, assessment, and interpretation, and is an essential component of the research process (Creswell, 2014). In this study, an explanatory research approach was used, with the primary goal of understanding and interpreting complex social phenomena.

The research design combined primary data collection and secondary data analysis to investigate the relationship between Bilateral Labour Agreements and the protection of human rights of Kenyan migrant workers in Gulf Cooperation Council (GCC) countries. Secondary data analysis included collecting and studying existing data from several sources.

The research design aligns with the grounded theory approach of Strauss and Corbin (1994), which centers on comprehending and interpreting intricate social phenomena by gathering and examining primary and secondary data. The research technique known as "grounded theory" emphasises the systematic collection and analysis of data to generate hypotheses or explanations. It enables researchers to conduct in-depth investigations and comprehend social phenomena, which frequently begin by gathering data devoid of preconceived notions or hypotheses. Instead, theories are generated from the data through an iterative data collection, coding, and analysis process.

The described research design's emphasis on understanding complex social phenomena and exploring the connection between Bilateral Labour Agreements and protecting human rights for Kenyan migrant workers in the GCC countries suggests an inductive approach like Grounded Theory. By collecting and analyzing primary and secondary data, the researcher uncovered patterns, relationships, and underlying mechanisms contributing to our understanding of the phenomenon under investigation, leading to new theoretical insights or explanations.

3.2 Area of Study

This study examined Kenyan citizens' intricate labour migration patterns who travel to the Gulf Cooperation Council (GCC) member countries—Bahrain, Oman, Kuwait, Qatar, the United Arab Emirates, and Saudi Arabia—searching for work opportunities. The study primarily focused on Kenyan migrant workers, namely those who have

encountered substantial obstacles, such as adverse working circumstances or infringements of their labour and human rights.

The study aimed to investigate the complex nature of labour migration from Kenya to the Gulf Cooperation Council (GCC) countries. It analysed the socio-economic factors that motivated this migration, the bilateral labour agreements that enabled these movements, and the legal and institutional frameworks that regulated the rights and safeguards of migrant workers. The study also examined the experiences of Kenyan migrants, including the hazards they faced, such as exploitation, mistreatment, and lack of legal remedies, which could result in a challenging return to Kenya.

Moreover, the study investigated the involvement of Kenyan and GCC governments, international organizations, and non-governmental organizations (NGOs) in overseeing, assisting, and safeguarding the rights of migrant workers. This included an evaluation of the efficacy of existing laws, the influence of remittances on Kenyan families, and the broader ramifications of labor migration on Kenya's economy and society.

The maps provided served as visual aids and a geographical framework for the study. The research emphasized the specific area of study, with particular attention given to Kenya as the place of origin and the six GCC nations as the destination countries. These maps illustrated the geographical distance and location of the nations involved, as well as the transnational aspect of the research. They showed the migratory routes and geopolitical terrain that influenced the experiences of Kenyan migrant workers in the

GCC. The study aimed to thoroughly analyze migration trends and the associated challenges within a particular regional context by examining the geographical settings.



Figure 2: Map of GCC nations

Source: (<https://www.britannica.com/topic/Gulf-Cooperation-Council>)

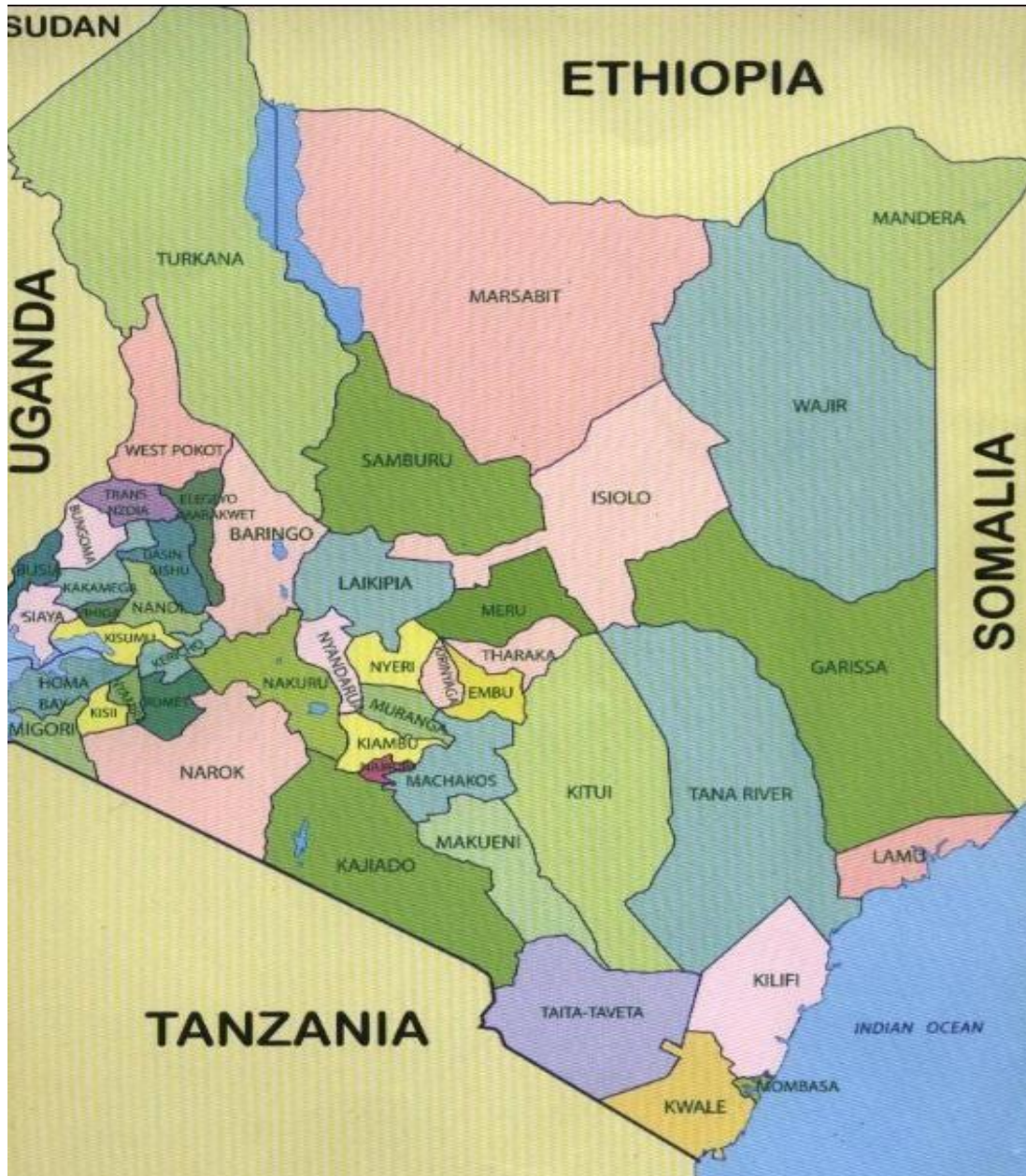


Figure 3: Map of Kenya

Source: (<https://maps-kenya-ke.com/map-of-kenya-showing-counties>)

3.3 The target population

The study targeted a specific population, estimated at approximately 41 individuals, comprising Kenyan workers employed in Gulf Cooperation Council (GCC) countries and those who had returned to Kenya due to various challenges or personal reasons. Additionally, the research included 10 Kenyan government officials responsible for overseeing labour migration, such as the Ministry of Labour, and representatives from Kenyan embassies in the six GCC nations. These diplomats played a vital role in negotiating and managing bilateral agreements and providing consular services to Kenyan migrants in these regions.

In addition to direct data collection, the study also incorporated secondary data from reputable sources such as government papers, international media, university research, and organizational reports. The investigation examined official reports and statistical data from Kenyan and GCC government databases regarding labor migration trends and remittance flows. News stories and investigative reports provided vital insights into the realities of Kenyan migrant workers in the Gulf Cooperation Council (GCC). Academic articles offered insights into labor migration, human rights concerns, and the characteristics of bilateral labor agreements. Furthermore, the research examined reports from international organizations such as the International Organization for Migration (IOM) and the United Nations (UN) to gain insights into human rights concerns and international treaties related to labor migration. These assessments provided a comprehensive perspective on the obstacles and frameworks associated with the migration of Kenyan workers to GCC nations.

3.4 Sample Size and Sampling Procedures

The study targets at least five (5) individuals who have worked in the six different states in GCC. On the other hand, the study sampled at least one (1) Official from each Kenyan government agency responsible for overseeing labour migration, and embassy representatives in the six GCC countries were also part of the study population. Purposive sampling involved selecting participants based on specific characteristics or criteria aligned with the study's purpose. These procedures ensured that the chosen individuals were relevant to the study's goals. The criteria were based on the participants' availability and willingness to respond to the interview guide during the data collection period. Additionally, Snowball sampling, which resulted from leads provided by referrals—where research participants were asked to assist the researcher in identifying other potential subjects—was used as a popular non-probability sampling method in qualitative research. This approach involved selecting the study's initial participants and then asking them to recommend additional participants. It proved particularly useful when studying marginalized or difficult-to-reach populations, where establishing a formal sampling frame could be challenging.

3.5 Data Collection and Procedures

Data collection is the fundamental process of acquiring, documenting, and aggregating information or data from diverse origins. It constitutes a crucial phase in research, analysis, and decision-making workflows. Various techniques can be employed to collect data, including surveys, interviews, observations, experiments, and the

examination of preexisting records or documents. This particular study used both an interview guide and desktop data collection. The interview guide generated questions about the objectives and specific categories, including the Kenyan migrant workers in GCC and relevant stakeholders, such as government authorities, labour agencies, and organizations involved in labour migration and human rights protection.

The researcher, with the support of assistants, performed a desktop analysis to collect, analyse, and assess data from various digital sources, including journal articles, e-books, and Memoranda of Understanding of Ministry of Labour Agreements. This investigation examined the diplomatic, economic, and social interactions between Kenya and the Gulf Cooperation Council (GCC), utilising secondary sources, including government reports, trade magazines, news stories, and online databases. This methodology circumvented conventional data collection techniques, including surveys, interviews, and fieldwork, by concentrating on effectively extracting and consolidating information from pre-existing digital resources. Its cost-efficiency and capacity to handle substantial data volumes rendered it especially beneficial, circumventing the logistical difficulties associated with field research. Despite its advantages, desktop analysis may be deficient in the depth and nuanced insights that primary data collecting generally provides (Browning, 2014).

3.6 Validity and Reliability

According to Ovan and Saputra (2020), validity is the degree to which a research study effectively measures or evaluates what it claims to measure. This concept was paramount in the research methodology, ensuring that the study's findings and inferences

were significant and precise. The validity of a proposition was defined as the extent to which it aligned with accepted definitions of knowledge and truth, emphasizing its adherence to established standards. An attitude scale was considered valid because it accurately measured what it claimed to measure, relating to how well a tool posed the right questions. Ovan and Saputra (2020) stated that validity refers to the correctness and significance of inferences drawn from study results. The researcher consulted with supervisors, department lecturers, and coworkers regarding the instrument's items. Their advice helped the researcher determine the validity of the study instruments. Suggestions, clarifications, and other comments were incorporated into the guidance.

Reliability, a cornerstone of research methodology, referred to the consistency, stability, and dependability of measurements (Shao & Ye, 2021). The study ensured the reliability of its methods by consistently yielding similar results when applied to the same phenomenon or group of participants under consistent conditions. The test-retest approach was used to determine reliability, and transcripts were meticulously checked to prevent glaring transcription errors, providing a secure foundation for the study's findings.

.3.7 Data Analysis

The data analysis for this project was performed utilising a blend of manual and computer-based techniques to guarantee a thorough review of the gathered information. Data processing included using Microsoft Excel for methodical arrangement, enabling

streamlined analysis, unambiguous interpretation, proficient presentation of findings, and formulating informed conclusions and suggestions.

Thematic analysis was the primary approach to analyzing qualitative data from interviews and literature-based research. This methodology was critical in discerning and scrutinizing the data's patterns, themes, and correlations. The thematic analysis procedure included a meticulous coding of the data to reveal recurrent themes, similarities, differences, and linkages among the results derived from different sources. By classifying the data into significant themes, the analysis yielded a more profound understanding of the study participants' experiences, difficulties, and viewpoints and the wider context of the research.

After organizing the data and identifying themes, a content analysis was performed to investigate these topics further and extract qualitative insights. This included thoroughly analyzing the data's content to pinpoint crucial signals, patterns, and ideas relevant to the study's goals. Content analysis achieved a more detailed and sophisticated comprehension of the data. This analysis brought attention to central themes that influenced the research results and aided in the creation of specific suggestions.

Thematic and content analyses were combined throughout the study to guarantee thorough and consistent conclusions. This dual strategy established significant correlations across the data sources, resulting in a comprehensive and multifaceted comprehension of the research issue. The data analysis results answered the study

questions and enhanced comprehension of the relevant problems, developing practical suggestions for stakeholders.

3.8 Ethical Considerations

The research on Kenyan immigrant workers in GCC countries focused on ethical considerations to ensure the integrity and protection of participants' rights. This was particularly important due to the sensitive nature of the topic, which touched on human rights, labour conditions, and the experiences of a vulnerable population. Protecting the confidentiality and anonymity of participants was also crucial, especially in a study involving migrant workers who might be at risk of deportation, job loss, or other forms of retaliation if their identities were revealed.

The study placed significant importance on cultural sensitivity as an essential ethical concern. The researcher demonstrated a conscientious awareness and reverence for the cultural norms, beliefs, and traditions that may have impacted the participants' replies or their inclination to participate. The researcher consciously tried to avoid taking advantage of the participants' weaknesses. Instead, it aimed to empower them by ensuring their opinions were considered and their experiences were correctly portrayed.

Before initiating the study, ethical permission was acquired from the Ethical Clearance Committee (ERC) and the University Security Sensitivity Committee. This permission guaranteed that the study's design complied with ethical standards, safeguarded the

rights and well-being of participants, and got the required clearance for any security-sensitive parts before commencing data collection.

CHAPTER FOUR

PRESENTATION AND ANALYSIS OF DATA AND DISCUSSION

4.0 Introduction

This section unfolds the outcomes from the data acquired through structured interview guides. The research objectives systematically present the findings, elucidating key themes that emerged during the analysis process.

4.1 Background Information

The study focused on two separate cohorts of participants, each offering essential perspectives via customised interview protocols. The first cohort included 30 Kenyan migrant workers presently or have previously been working in the Gulf Cooperation Council (GCC) nations. The selection was made to include these people who would provide their own experiences, difficulties, and viewpoints on the working circumstances in the GCC area.

The interview guide for this group was explicitly crafted to extract comprehensive narratives of their experiences, including any concerns about labour rights, working conditions, and the general ramifications of migration on their livelihoods. In addition, participants were requested to indicate the specific Gulf Cooperation Council (GCC) nation or countries in which they had worked. This allowed for a more detailed comprehension of the varied circumstances within the area.

The second group consisted of eleven essential players, including government officials, labour agencies, and organisations engaged in labour migration and the safeguarding of human rights. The stakeholders played crucial roles in creating, implementing, and monitoring policies concerning labour mobility between Kenya and the GCC nations. Their perspectives were essential for comprehending the broader structural, legal, and institutional frameworks that regulate the labour movement and safeguard the rights of migrant workers. The interview guide for this group focused on policy implementation, issues in safeguarding migrant workers, and the efficacy of existing bilateral agreements and international treaties.

The study sought to include the individual experiences of migrant workers and the broader systemic variables that impact labour migration by focussing on these two specific categories. This dual methodology offered a thorough understanding of the intricacies involved in labour migration from Kenya to the GCC, presenting individual narratives on a small scale and institutional viewpoints on a larger one. The research addressed the complex and varied aspects of labour migration by including diverse participants. This allowed for a comprehensive examination of the issues faced by migrant workers, as well as the efforts and barriers faced by those responsible for protecting their rights.

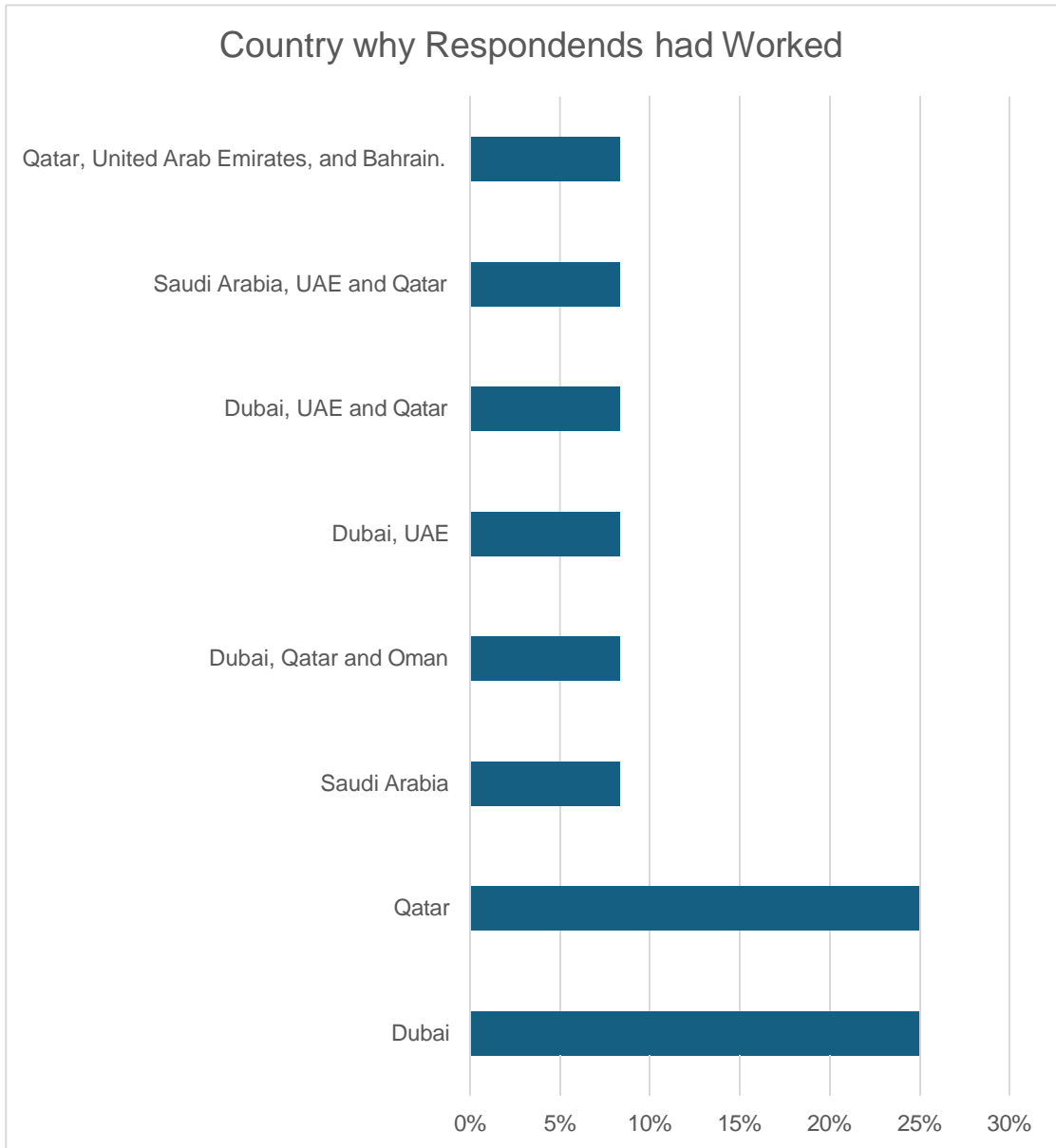


Figure 4: Country Those Respondents Had Worked

Source: (Field Data, 2024)

Table 4.1: Counties where immigrants had worked

Country worked in	Percentage
Dubai	25%
Qatar	25%
Saudi Arabia	8.3%
Dubai, Qatar and Oman	8.3%
Dubai, UAE	8.3%
Dubai, UAE and Qatar	8.3%
Saudi Arabia, UAE and Qatar	8.3%
Qatar, United Arab Emirates, and Bahrain.	8.3 %

(Source: Field Data 2023 - 2024)

Based on the responses, most of the thirty sampled individuals had worked in Dubai (25%) and Qatar (25%). A few Participants, 8.3%, mentioned that they had worked in Saudi Arabia. Some Participants, however, mentioned that they had worked in different states. 8.3% of respondents have employment experience in Dubai, Qatar, and Oman. Other people who responded had employment experience in Dubai, UAE (8.3%). Some respondents had employment experience in three states: Saudi Arabia, the UAE, and Qatar (8.3%). 8.3% had previously worked in Dubai, UAE, and Qatar, while another 8.3% had worked in Qatar, the United Arab Emirates, and Bahrain.

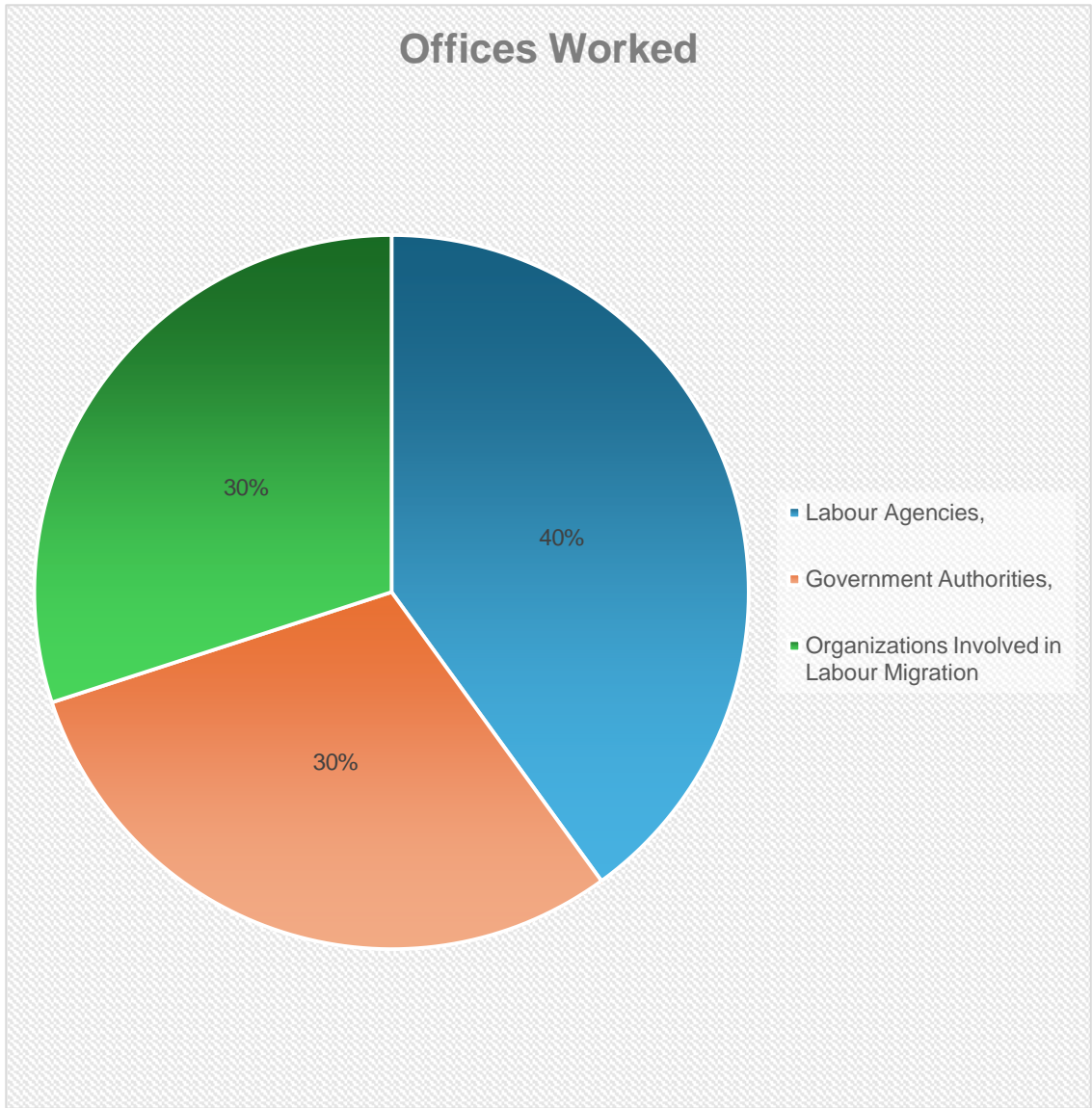


Figure 5: Offices where Stakeholders worked.

Source: Field Survey (2024)

On the other hand, relevant stakeholders were requested to indicate the office they were representing. Based on the findings, 40% of labour agencies, 30% of government authorities, and organisations involved in labour migration 30%. This implies that participants were pretty distributed regarding the countries they had worked for and the offices they were representing; hence, they could offer the information required for this study.

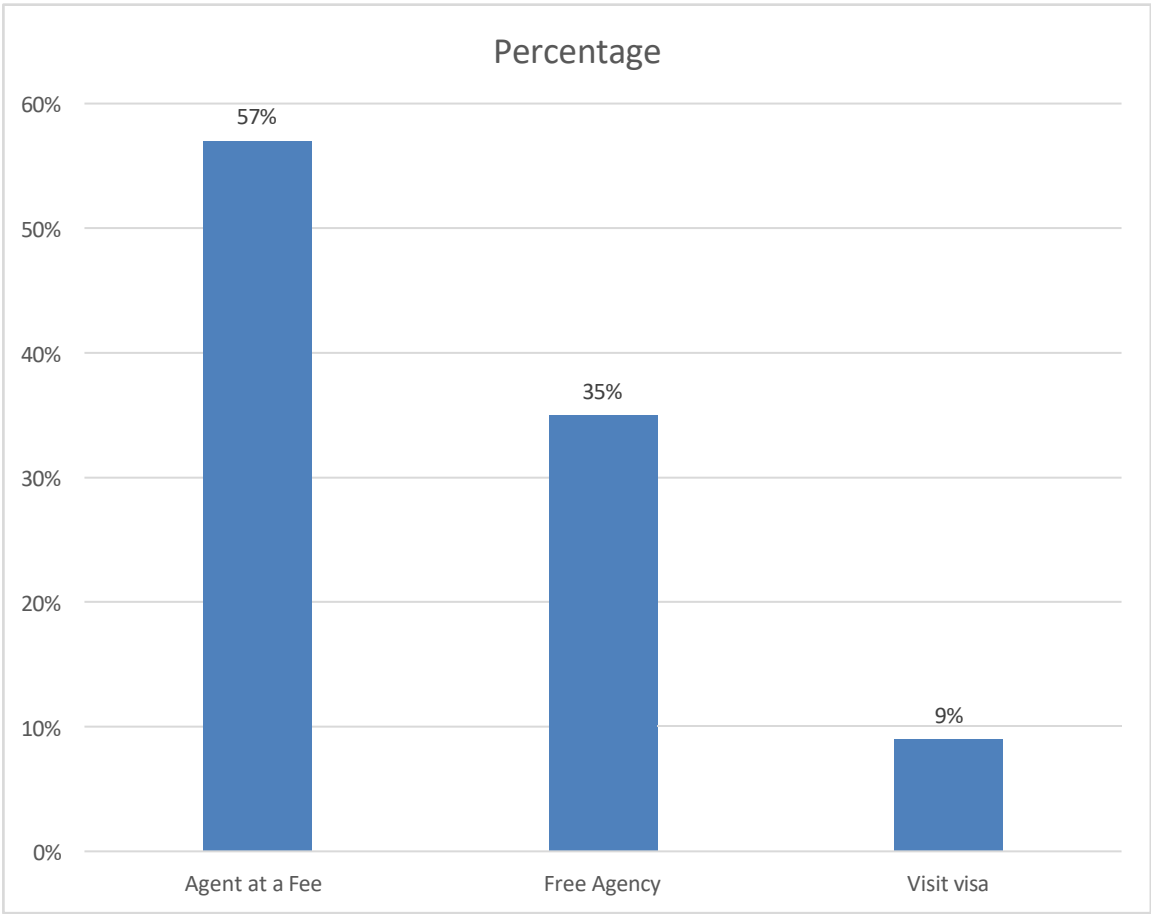


Figure 6: Methods Employed by Migrant Workers to Reach GCC Countries

Source: (Field Data, 2024)

Table 4. 1: Methods employed to obtain Migrant status

Methods	Percentage
Agent at a Fee	57%
Free Agency	35 %
Visit visa	9 %

Source: (Field Data, 2024)

As shown in table 4.2 above, migrant workers were interviewed and requested to explain the procedures or tactics they utilised when moving to a Gulf Cooperation Council (GCC) country for employment. The results indicated that a majority of individuals, namely 57%, had moved to a new location with the help of an agent. These agents often charged a fee to provide aid with finding employment, processing visas, and making travel arrangements. These agencies frequently serve as mediators between workers and potential employers in the GCC countries, providing a streamlined albeit expensive route to overseas employment.

In addition, 35% of the migrant workers who were interviewed stated that they had obtained employment in GCC states using a practice commonly referred to as "free agency." This approach entails individuals autonomously seeking employment prospects without the use of remunerated intermediaries. These workers may have utilised personal networks, online job platforms, or sent direct applications to businesses. While this method typically circumvents the charges linked to employing an agency, it

frequently necessitates greater exertion and understanding of the recruitment procedures and visa prerequisites of the target nation

Finally, 9% of the participants stated that they had initially journeyed to GCC nations using visit visas. These individuals frequently visited the country initially as tourists or guests and later on pursued jobs after their arrival. This approach, although it allows for greater adaptability in terms of input, can carry a certain level of risk. Frequently, this entails the worker exceeding the authorised duration of their visa or transforming their temporary visit visa into a work visa, which may result in legal entanglements or susceptibility to exploitation if not managed appropriately.

The range of approaches utilised by these migrant workers underscores the heterogeneous tactics employed by individuals in search of overseas employment, each accompanied by its own array of hazards, expenses, and difficulties. The selection of a methodology frequently relies on the worker's available resources, understanding of the migration procedure, and ability to obtain dependable information and support networks.

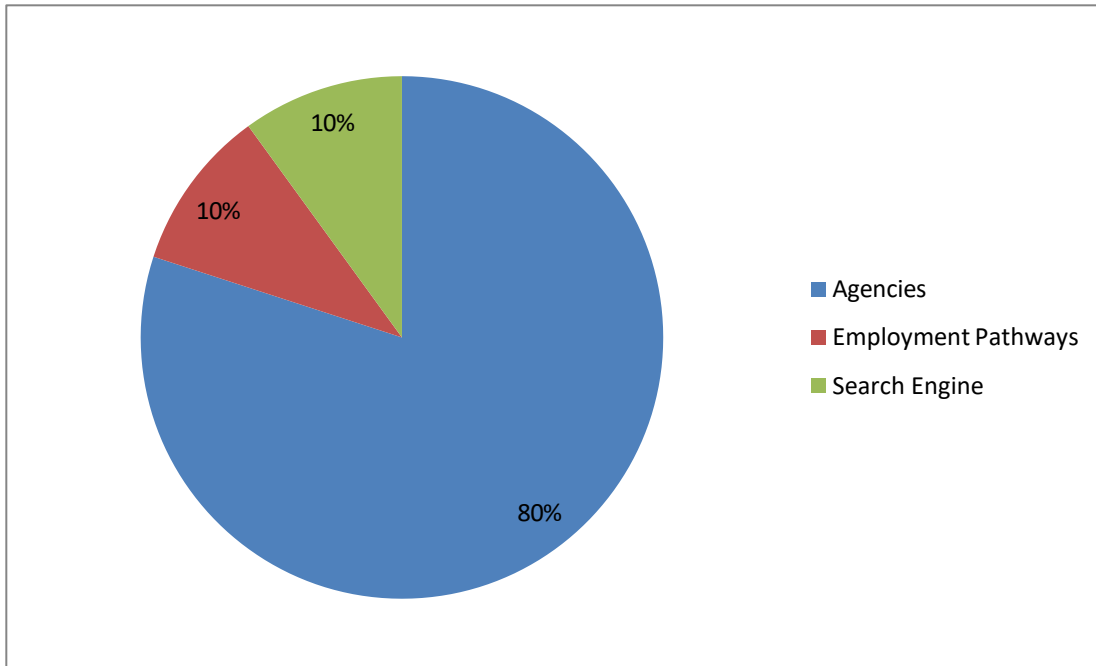


Figure 7: Methods Employed By Migrant Workers to Reach in A GCC Countries

Source: (Field Data, 2024)

Findings from the relevant stakeholders as shown in Figure 7 indicate the typical avenues or methods that Kenyan migrant workers use to secure employment in GCC countries revealed that they use agencies (80%) and employment pathways (10%). They also inform search engines (10%).

4.2 The Existing Bilateral Labour Agreements, Policies and Regulations between Kenya and GCC Countries

Migrant workers were requested to indicate whether they knew of existing Bilateral Labour Agreements between the Country they had worked for and Kenya. Based on the

findings, 100% of the migrant workers indicated they were unaware of any bilateral agreement between Kenya and GCC countries where they worked. This implies that there were no existing BLAs between these states, and if they were, they were not of any help to the migrant workers. 100% further indicated that Bilateral Labour Agreements played no role in shaping the experiences and rights of Kenyan migrant workers in the GCC countries. According to the migrant workers interviewed, there was no protection offered to them by the BLAs to enhance better protection for the rights of migrant workers.

As the organisations overseeing labour migration and protecting human rights, relevant stakeholders were asked to provide insights into the support and assistance they offered to Kenyan migrants who aspired to work in the GCC countries. Various agencies stated that a framework of agreements had been signed to enhance economic cooperation through holding industrial conferences and workshops to sensitize members. In addition, they indicated that they made them aware of contract terms, including the pay and accommodation conditions. One of the agencies stated that they offered guidance, counselling, and visa and passport processing assistance. Participants from the National Employment Authority (NEA) indicated they procured required labour documents. They further explained that they ensured that laws and regulations existed, including signing bilateral agreements.

Despite the claim by agencies on the existence of framework of agreements, there were totally no BLAs between Kenya and the Gulf States. Based on the findings it was noted

that Gulf States prefer MoUs as opposed to BLAs. As noted many migrant laborers arrive in unstable circumstances because they do not know the full scope of their contracts. This discrepancy between what migrants think they are agreeing to and what they actually experience indicates a serious lack of enforcement and transparency. To guarantee the rights of Kenyan workers are protected, comprehensive and binding bilateral labour agreements (BLAs) between Kenya and Gulf states are urgently needed.

Relevant stakeholders were asked to indicate in their capacity as a government authority or as part of an organisation how they had addressed the concerns about human rights abuse. They also stated the strategies or initiatives they had implemented to safeguard the migrant workers' rights. The officers from various departments indicated that they always sensitized the workers to the challenges they were likely to face, creating awareness. In addition, they warned the migrant workers to be careful and respect the laws of GCC countries because they differ from those of Kenya. Others stated that with the embassy's help, access to justice had been simplified; hence, wages were recovered, and laws protecting domestic workers were implemented. One of the agents' officers further explained that they engage with different stakeholders, such as civil organisations, to help educate the refugee's rights and discrimination of founding policies shared by GCC countries on economic stability and security for better livelihoods. NEA officers further indicated they had implemented proper documentation, including work permits and labour contracts from accredited agents or government officers. NEA further revealed that they even enter into contracts and contact various government officials in case of any reported human rights violation.

As labour agency representatives, the respondents were asked to describe their steps to guarantee that Kenyan labourers sent to the GCC know their legal rights and are protected from violations. Based on the findings, various labour agencies have provided communication channels due to past complaints raised by the workers. This allowed Kenyans to raise their concerns to respective agents from their embassies or agencies. The agencies further explained that Kenyans are made to understand the contract terms (including long working hours, leave lengths, and type and place of work) before leaving so that they might not feel betrayed. According to the NEA, in their capacity, the authority followed to ensure that only accredited agencies were recruited and that Kenyan migrants got pre-departure training before going to GCC countries.

All the relevant stakeholders agreed they had specific policies or procedures to guarantee the migrants' well-being. Some agencies stated that they ensured employees were treated according to the rights contained in the European Convention on Human Rights. In addition, some said that they have ensured that 'migrants no longer require an employer-approved permit to leave the country.' According to the NEA, memorandums were signed by different countries and were available in the Labour and Foreign Affairs Ministry. According to NEA respondents, there are laws, protocols, and a universal declaration of human rights.

According to the various labour agencies, their actions had yielded some fruits. Employees' rights to a reasonable degree of privacy in the workplace are respected and protected. Salaries were reasonable compared to Kenyan wages, which, according to

them, was an achievement. Other agencies claimed that bilateral systems were available and implemented; hence, workers' rights were protected.

According to the respondents, some specific measures and agreements have been established to regulate the relationship in the context of labour migration. The respondents indicated that putting mutual trust and conducting bilateral meetings via multilateral diplomacy had been implemented. Further, they stated that there were government-to-government talks to ensure social protection, such as measures about confiscating travel documents by employers. However, the agencies revealed challenges despite all the measures taken. There were employers in GCC states that still abused and mistreated their employees. In addition, findings from NEA revealed that the diplomatic relationship between Kenya and the Gulf States was still below expectations, hence the suffering of the workers.

A Meeting with a Contact in the Ministry of Labour revealed that GCC countries prefer to use MoUs as they are weaker than BLAs. The Kafala system undermined MoUs. However, Qatar was forced to do away with the Kafala system during the World Cup. The Kafala system, which governed the employment and residency of foreign workers in Saudi Arabia, was officially in place until early 2021. Saudi Arabia announced significant reforms to the Kafala system in March 2021 as part of its Vision 2030 plan to improve labour market conditions and workers' rights.

These reforms aimed to enhance worker mobility and reduce employers' control over foreign workers, marking a shift away from the restrictive Kafala system (Sovereign Group, 2021, online). The contract further stated that currently, in Saudi Arabia, Kenyan Domestic workers can change employers before the contract term expires. That Black market '*Kemboi*' is rife in Saudi. '*Kemboi*' is where a Kenyan migrant runs away from her employer while in Saudi Arabia, seeking greener pastures. Notably, enforcing signed MoUs and BLAs has been challenging in Saudi Arabia, Qatar, Dubai, and the UAE.

It was also mentioned that Kenya has not yet created a thorough plan to deal with labour abuses that have been reported, particularly in the GCC, despite the suggested measures to strengthen the protection of workers abroad. Unlike key migrant-sending Asian countries, Similar protective measures, like official labour and welfare offices, safe houses for homeless people, and other programs, have not been implemented in Kenya. Kenya cannot also implement its regulations and comprehensive strategies. Human Rights Watch claims that the lack of labour laws, regulations, and institutions encourages systemic labour violations and creates an abusive environment for employment agencies (Stephens, B. (2017).

These findings align with the corpus of literature that emphasizes the ongoing disregard for and enforcement of the Labour Migration Policy, which exposes thousands of Kenyan migrant workers in the Middle East to mistreatment, torture, and even death. The Labour Migration Management Bill was drafted in response to the Kenyan Parliament's Labour and Social Welfare Committee's assessment of insufficient laws and

rules to safeguard the welfare of Kenyan migrants. The Committee recommended 2022 a temporary suspension of labour migration to the Gulf until these challenges are resolved. However, instead of tackling the problematic circumstances encountered by migrant workers, such as the contentious Kafala system that links employees' immigration status to specific companies for the duration of their contracts, efforts have mainly concentrated on enhancing the hiring and processing system.

The Ministry of Foreign and Diaspora Affairs proposed a temporary prohibition on hiring and exporting domestic workers to Saudi Arabia in 2022. In light of contentions of mistreatment and exploitation of domestic employees in countries such as Saudi Arabia, the Ministry of Foreign and Diaspora Affairs proposed a temporary moratorium on such hiring, demonstrating its concern for the rights and well-being of these individuals.

Nevertheless, the Ministry of Labor dismissed the recommendation, expressing reservations about the ability of the regional labour market to absorb new hires. These results are consistent with the body of research that emphasizes the ongoing disregard for and enforcement of the Labour Migration Policy, which exposes thousands of Kenyan migrant workers in the Middle East to mistreatment, torture, and even death. The Labour Migration Management Bill was drafted in response to the Kenyan Parliament's Labour and Social Welfare Committee's assessment of insufficient laws and rules to safeguard the welfare of Kenyan migrants.

This highlights minimal coordination between the two State departments on immigrant issues. The lack of coordination between these two government departments indicates a potential disconnect in policy objectives and approaches to addressing immigrant matters. It underscores the need for greater collaboration and communication between relevant stakeholders to develop coherent and effective policies that consider the interests of the local labour market as well as the welfare of migrant workers. Because of long-standing legal gaps, there has been a poor relationship between the government and recruiting companies regarding the flight of domestic workers. 922 agencies that deal with hiring workers from other countries were registered with the National Employment Authority as of March 2023. However, only 65% of these agencies are licensed currently; the remaining 35% have expired licenses.

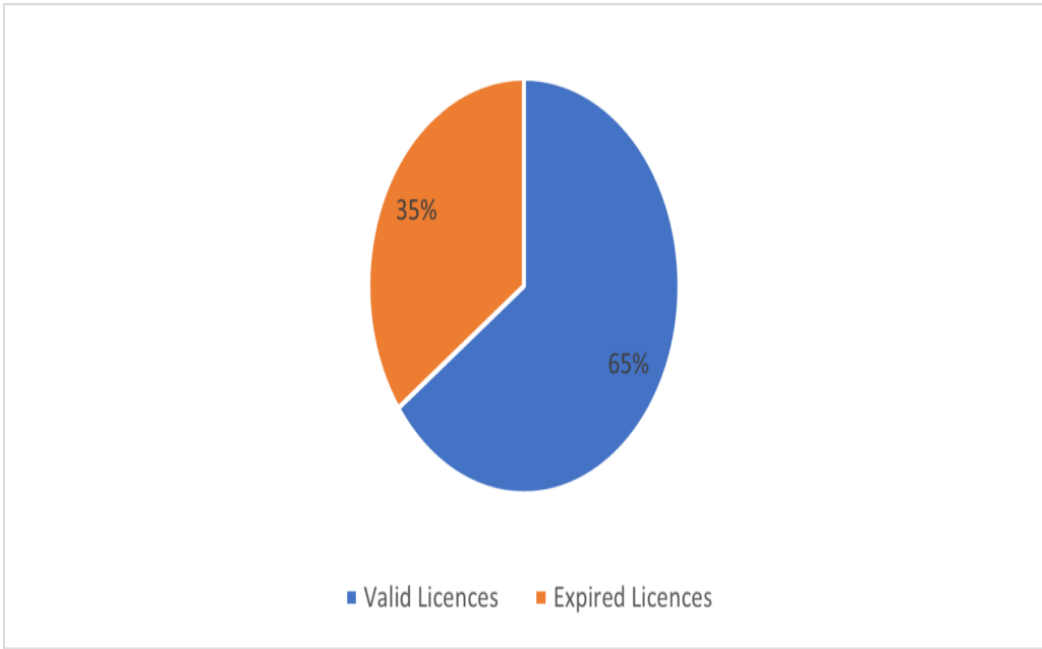


Figure 8: Registered Recruitment Agencies in Kenya 2023

(Source: National Employment Authority 2023)

Based on figure 8 above, 65% of the registered recruitment agencies in Kenya in 2023 had valid licenses, while 35% lacked valid permits. These findings align with the literature; despite introducing a diaspora policy in 2015, the government has yet to create a comprehensive plan to deal with labour infractions affecting Kenyan workers in GCC nations. Kenyan migrants are exposed to severe vulnerabilities due to the absence of official labour and welfare offices, safe havens, and protective measures in Kenyan diplomatic missions comparable to those offered for Asian labourers in Gulf countries (Mutai, 2015). Despite the recent formation of a team to investigate foreign employment administration and labour migration management in Saudi Arabia, there have been no reported advancements in terms of policies explicitly targeting the challenges faced by Kenyan migrant workers in Gulf countries (Malit & Al Youha, 2016).

4.3 Factors that Push and Attract Kenyan Workers to GCC States

The migrant workers had different opinions on the question, ‘What were the predominant factors or motivations that influenced your choice to pursue employment opportunities within the GCC region?’ as explained below.

Table 4. 2: Factors that Push and Attract Kenyan Workers to GCC States

Reason for Leaving Kenya	Percentage
No Job Opportunities	50%
Well-Paying Jobs In GCC	20%
High GCC Currency	10%

Upgrade Their Education Level	10%
Desire To Explore Outside World	10%

(Source: Field Data 2024)

The study revealed that a substantial majority of the respondents, above 50%, identified the dearth of employment prospects in Kenya as their predominant motive for relocating to the Gulf Cooperation Council (GCC) nations. This reaction highlights the economic difficulties and elevated levels of unemployment in Kenya, prompting several people to pursue work opportunities outside to ensure their financial well-being. A significant proportion of the population in Kenya is compelled to contemplate migration as an essential measure for economic sustenance due to the lack of feasible employment opportunities.

Also 20% of the participants said that the possibility of lucrative employment opportunities in the GCC nations significantly influenced their choice to relocate. The higher incomes in these states enticed these people compared to their potential earnings in Kenya. The significant economic gap between Kenya and the GCC nations motivates migration, as people strive to optimize their earning capacity and enhance their quality of life.

An additional 10% of the participants emphasized that the relative strength of GCC currencies compared to the Kenyan shilling significantly influenced their choice to seek

employment in the GCC. Due to the advantageous exchange rates, these migrant workers could send more money back to their families in Kenya, greatly improving their families' financial circumstances. The economic benefit of earning in a more robust currency is a significant reason for those who choose to work in the GCC nations.

In addition, 10% of the migrant workers said their decision to relocate was motivated by a desire to enhance their educational attainment. These people see migration as a chance to access superior educational resources and opportunities, either inaccessible or financially out of reach in Kenya. By working in the GCC, they intended to accumulate funds to further their studies or benefit from educational opportunities available in those nations.

Furthermore 10% of the participants said curiosity drove them to relocate to see the world outside their current surroundings. This group was motivated by their inquisitiveness and desire to explore life outside of Kenya. For these people, migration offered a chance to develop personally, experience other cultures, and expand their perspectives.

The many motives underscore the intricate and multiple factors driving migration to the GCC nations, including a blend of economic need, individual aspiration, and the desire for novel encounters. The results indicate that economic criteria are the most important. Still, other elements like education and the urge for exploration also considerably impact the decision-making process of Kenyan migrant workers.

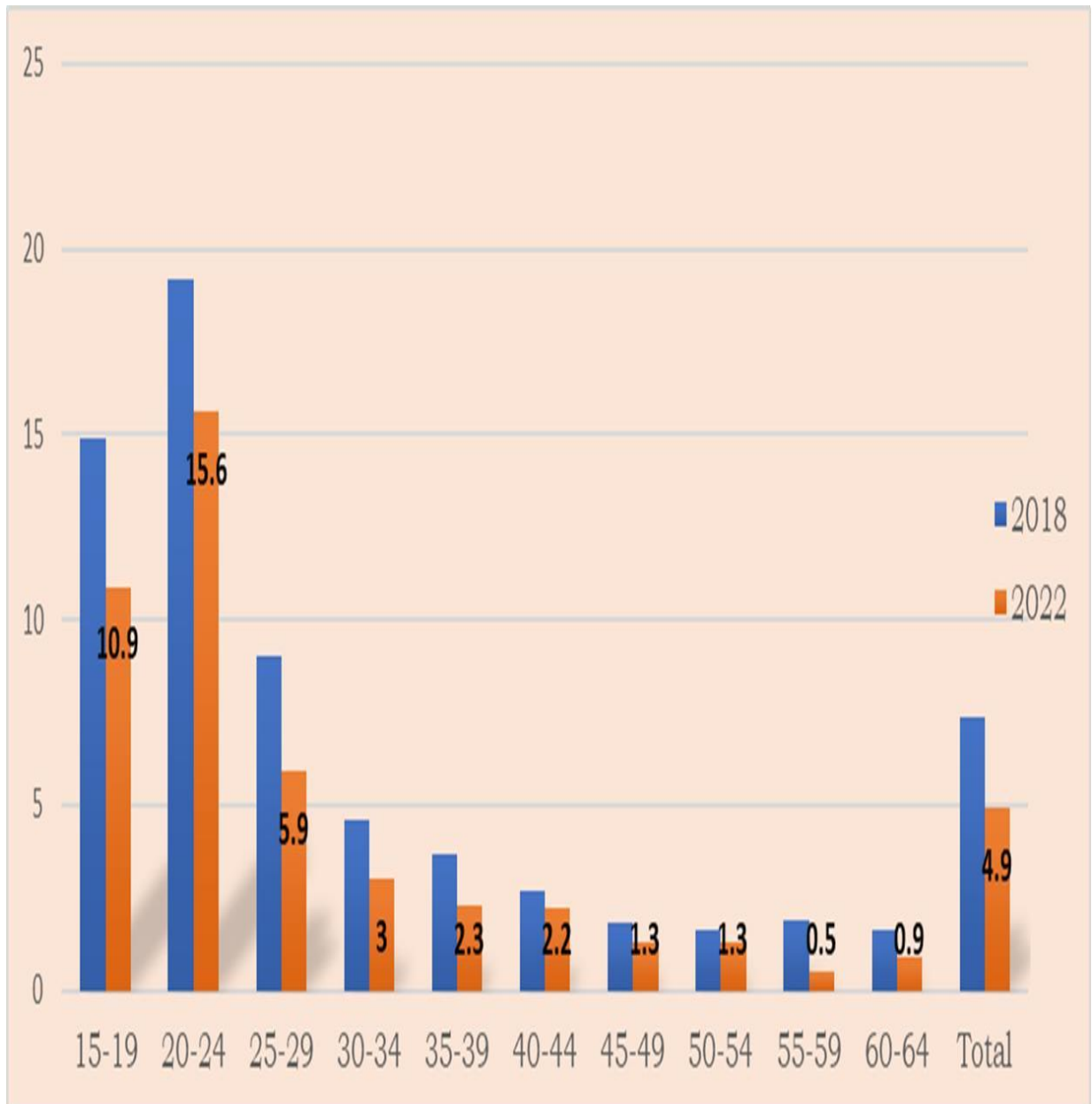


Figure 9: Kenya's Youth Unemployment Crisis

(Source: www.biznakenya.com)

Figure 9 above illustrates the high levels of unemployment and underemployment in Kenya's local labour market are significant reasons for the migration of its residents in

search of work opportunities. The unemployment predicament in Kenya is intricately linked to demographic factors, as a rapidly expanding youthful population grapples with restricted work prospects. The disparity between the number of graduates entering the labour market and the limited availability of acceptable jobs intensifies this issue, prompting several young Kenyans to pursue career prospects elsewhere. To tackle this problem, it is essential to create a comprehensive database that monitors the progress of graduates and their specific skill sets. Implementing such a database would facilitate the synchronisation of educational achievements with market requirements, possibly reducing the need for emigration by generating customised and readily available employment prospects inside the nation.

The researcher requested stakeholders to identify the primary determinants that affected migrant workers in selecting GCC countries as their job destinations. The results indicated that Kenyan migrant workers were driven by the advantageous economic and commercial linkages that GCC nations uphold, along with the area's political stability and secure trade atmosphere. Together, these factors provide improved job prospects for the workers. In addition, stakeholders observed that the vital need for labour in industries such as construction, hospitality, and caregiving and appealing advantages such as generous, tax-exempt incomes were key motivating and attracting factors. In addition, officials from the National Employment Authority (NEA) emphasised that the simplicity of acquiring visas for GCC states significantly influenced workers' choices to go to these nations.

These findings align with the National Employment Authority (2023) reports that 24.1 million worldwide migrant workers, or about 14% of the total, are housed in 12 Arab States in the Middle East. These data are consistent with what they have discovered. Among these are Kenyan workers who migrate seeking better employment opportunities due to limited prospects at home. In addition, as noted by the Organization for Economic Cooperation and Development in 2011, the demand for demographic considerations is expected to escalate due to the constraints in the labour market and social security.

4.4 Causes of Human Rights Abuse Against Kenyan Migrant Workers in the GCC

The researcher sought to investigate whether there were any primary obstacles or difficulties throughout the migration journey. However, some migrant workers claimed they had been delayed at the GCC country airports while waiting for their employers. Others complained that there was some mishandling during the departure process. Migrant workers were requested to recount their personal experiences concerning the circumstances of service and existing measures in the GCC country to which they relocated. Some respondents had faced harsh conditions. Cultural and language barriers caused the isolation of migrant workers and impeded their ability to assert their rights or seek assistance. Limited access to information and support services in their native language leaves migrant workers unaware of their rights or unsure of how to report abuses.

In addition, the researcher sought to understand the particular human rights concerns or issues that the migrant workers and other Kenyan workers have encountered. The findings indicated that many Kenyan refugee workforces in the GCC are in unskilled sectors such as construction, domestic work, and agriculture, where they may face harsh working conditions, long hours, and inadequate safety protections. Based on the findings, employers subjected workers to physical or verbal abuse, confiscated their passports, and withheld wages, trapping them in exploitative situations. Migrant workers mentioned several human rights concerns: sanitary conditions in the rooms, crowded rooms for blacks, sexual exploitation, lack of food, lack of payments, delayed police arrests, less concerned embassies about their people, threats of being deported, restricted movements, no freedom, over-exploitation with no off time, poor medication, racism in the workplace migrant workers indicated that only Indian/light skinned workers were protected in jobs and often promoted.

Findings from the relevant stakeholders on the question: ‘What are some of the human rights issues or difficulties that you have identified among Kenyan migrant workers in the GCC nations?’ revealed that there were blanket policies banning intimate relationships between colleagues as this was believed to breach their rights to private life. In addition, various agencies stated that there had been reported cases of unpaid workers, exorbitant recruitment fees and unexplained death cases and injuries. Further, the findings revealed that there were reported cases of sexual abuse as well as racial discrimination.

Human rights groups had further raised concerns such as cases of mistreatment, disappearance of workers as well as weak communication due to poor networks. Findings from NEA revealed that workers had no freedom of worship in GCC countries. Ninety-three migrant workers, sixty different employers and firms employed between January 2019 and May 2020, were questioned by Human Rights Watch on August 24, 2020. All these workers stated that they had experienced wage abuse from their employer, including wage withholding, unpaid overtime, arbitrary deductions, delayed wage payments, and inaccurate wage computations.

According to Nancy Odindo' When unemployed Kenyan women secure contracts to work as domestic workers in the Middle East, they often harbour high hopes and excitement, viewing it as an opportunity to transform their lives. However, they face a stark reality upon arriving in their host countries. Many endure traumatic experiences at the hands of their employers, facing inhumane treatment such as rape, confiscation of passports and phones, and deprivation of fundamental freedoms. Some are even subjected to conditions akin to slavery, being denied adequate food and sleep. The Kingdom of Saudi Arabia is particularly notorious for being a hotspot where such abuses are frequently reported.'

The researcher sought to examine the root causes of human rights violations endured by Kenyan migrant workers in the Gulf Cooperation Council (GCC) nations. The data indicated that a significant number of migrant workers experienced discriminatory and exploitative activities in their places of employment. They explicitly said that they often faced racial discrimination in the form of being refused promotions and receiving inadequate or delayed compensation, both of which were directly linked to their colour. In addition, migrant workers emphasised that they experienced pervasive prejudice in

several contexts based on their skin colour, exacerbating the difficulties they faced while working in the GCC area.

Respondent R1 stated that ' we often face discrimination and xenophobia based on their nationality, ethnicity, or migrant status.' 'This discrimination exacerbates vulnerabilities and contributes to the marginalization and mistreatment of migrant workers, including denial of basic rights such as fair wages, decent working conditions, and access to healthcare and justice.'

One of the government respondents, R2, highlighted a critical difference between the Philippine and Kenyan governments in their treatment of immigrants. According to R2, Filipino immigrants in GCC countries can access assistance from their embassies anytime, whereas Kenyan immigrants often face challenges in accessing their embassies or receiving support. Additionally, R2 noted that the Philippines adopts a whole-of-government approach for its citizens working in the GCC, where various government entities, including the military, immigration, and the Ministry of Labour, collaborate to ensure that Filipino workers are fully protected from abuse or mistreatment.

The conclusions align with the research conducted by the Global Fund to End Modern Slavery from 2020 to 2022, which revealed that escalating unemployment rates and an expanding youth demographic are driving Kenyans to pursue better-paying opportunities overseas, mainly through low-skilled migration from East Africa to the Gulf Cooperation Council (GCC) nations. Despite the appeal of relatively lucrative employment prospects, many of these migrant workers face economic hardship, language barriers, and a lack of robust governmental and social safety nets in their host countries. These circumstances increase their susceptibility to exploitation, including forced labour, as well as various forms of physical, verbal, and sexual abuse.

According to Rothna Begum, Associate Director, Women's Rights Division.

'As the FIFA Men's World Cup commences, Qatar is under intense media scrutiny for the reported abuse and exploitation of migrant workers who contributed to the construction and delivery of approximately \$220 billion worth of World Cup infrastructure. Additionally, concerns have been raised regarding discrimination against women and LGBT individuals in the country. In response to these criticisms, Qatari authorities have attempted to shift focus by labelling the scrutiny as racist, citing it as unprecedented for a World Cup host.'

FIFA President Gianni Infantino echoed similar sentiments in a pre-tournament address.

'While Qatari officials may argue against what they perceive as biased reporting on the Arab world, the primary criticism against Qatar revolves around the alleged racial injustice inherent in the World Cup preparations. Reports suggest that migrant workers, primarily hailing from South Asia and Africa, have been subjected to abuse and exploitation, including wage theft, uncompensated injuries, and even fatalities. Despite calls for financial compensation and redress for migrant workers who have suffered over the past 12 years, Qatar has dismissed such demands as mere publicity stunts. The country's labour practices have been likened to a de facto caste system by E. Tendayi Achiume, a former United Nations special rapporteur on racism, with a significant portion of low-paid migrant workers originating from Asian and African countries such as India, Nepal, Bangladesh, the Philippines, and Kenya.'

Another reason noted was a lack of proficiency in host-country languages and a lack of robust support networks from local governments and communities. These factors render migrants susceptible to exploitation, including forced labour and subject them to physical, verbal, and sexual abuse. According to the International Labour Organization, nearly 30 percent of domestic workers worldwide work in countries entirely outside the scope of national labour laws. This exclusion means they do not benefit from regulations on rest days, working hours, minimum wage, and overtime pay. Even in cases where they are partially covered, domestic workers frequently miss crucial protections such as

minimum age requirements, parental leave, social security, and occupational health measures.

Many GCC countries lack comprehensive legal frameworks to protect the rights of migrant workers, leaving them vulnerable to exploitation and abuse. Existing labour laws may be poorly enforced or inadequately implemented, providing little recourse for migrant workers facing rights violations. In nearly every country in the Middle East and North Africa region, domestic workers are excluded from labour law protections and are instead subjected to stringent immigration regulations. These regulations grant excessive power and authority to their employers through the "sponsorship" or Kafala system. While some countries have tried to reform their laws and practices, significant shortcomings persist. These countries have neglected mainly to acknowledge domestic workers as regular employees entitled to rest days, limits on working hours, or the freedom to form unions.

As observed, the so-called 'Kafala sponsorship system,' common in several GCC nations, links the legal status of migrant workers to their employers. Employers now have great influence over their workforce's movements and working circumstances. As previously said, because workers might not be able to switch professions or quit abusive bosses without running the danger of facing legal ramifications, this system results in circumstances of forced labour, debt bondage, and other forms of exploitation.

'Under the kafala system, employers wield unchecked authority over migrant workers, enabling them to avoid responsibility for labour and human rights violations. This system also leaves workers indebted and in perpetual fear of reprisals.'

In addition, insufficient oversight and regulation of labour recruitment agencies in Kenya and GCC countries contribute to human rights abuses. As stated by the migrant workers, unscrupulous recruitment agencies sometimes deceive or coerce workers into exploitative employment situations, charging exorbitant fees, making false promises about wages, and working conditions.

It was further noted that Kenyan migrant workers in the GCC often faced significant obstacles in accessing justice or seeking redress for human rights abuses. Legal processes are unfamiliar or inaccessible to migrant workers, and fear of retaliation or deportation deters them from reporting abuses or seeking assistance from authorities. Numerous Kenyan migrants interviewed commonly avoid seeking assistance for well-being from the consulate due to perceived corruption, which undermines their confidence in government officials, as expressed by one Kenyan migrant.

A Kenyan immigrant, R4, remarked, "Many Kenyans don't go to the embassy because the officials don't care. Even if we ask for help, they won't assist us. They are unwelcoming and seem to only think about themselves. As a result, many Kenyans avoid seeking assistance from them, knowing it won't be of any benefit."

This lack of trust hampers officials' efforts to interact with Kenyan citizens and build constructive diplomatic ties with the diaspora community residing and working in the UAE. As outlined in the article "Why Kenyan Domestic Workers Suffer In Saudi Arabia", dated August 26, 2021, despite Kenya having signed Bilateral Labour Agreements (BLAs) with countries like Saudi Arabia, where many complaints originate, violations of domestic workers' rights persist. The BLAs are intended to safeguard labour rights yet reports from Kenyan migrant workers in Saudi Arabia indicate ongoing

mistreatment. Despite the government providing pre-departure training, validating travel documents, and approving migrations, workers consistently report poor working conditions, rights violations, and the absence of standardized contracts. Some workers allege that the contract forms do not align with BLA provisions and lack crucial labour law clauses from both countries. Consequently, upon arrival in Saudi Arabia, many are coerced into signing alternative contracts.

According to a recent initiative led by the Global Fund to End Modern Slavery (GFEMS), almost all migrant workers originating from Kenya and traveling to Gulf Cooperation Council (GCC) Countries fall victim to forced labour. This rate of exploitation, described by the organization as "truly rare if not unprecedented," underscores the urgent need for comprehensive and systemic interventions to address the alarming situation. In collaboration with the non-partisan research group NORC at the University of Chicago (NORC), GFEMS conducted a study to assess the prevalence of forced labour and human trafficking among Kenyan migrant workers who had recently returned from GCC countries such as Bahrain, Kuwait, Oman, Qatar, the United Arab Emirates, and Saudi Arabia. This research was part of a series of projects supported by the U.S Department of State's Office to Monitor and Combat Trafficking in Persons (Global Newsletter April 12, 2022).

The findings of the study, detailed in the report titled "Forced Labor Among Kenyan Migrant Workers in the Gulf Cooperation Council (GCC) Countries: A Prevalence Estimation Report," revealed that nearly all participants had encountered some form of

forced labor. This included various forms of abuse such as physical harm, restriction of personal freedom, coercive employment practices, and deceptive or unfair work arrangements. Specifically, 98.73 percent of the sample reported experiencing at least one of these categories of workplace abuse or being unable to escape from abusive employment situations.

Additionally, NORC's research indicated that 98.7 percent of the interviewed workers had experienced trafficking victimization, which encompassed forms of abuse or unfair labour practices coupled with the inability to leave their employment due to fear of severe consequences.

Prime Cabinet Secretary Musalia Mudavadi (Citizen, July 10, 2024) addressed the Senate regarding the case of Stephen Bertrand Muniyako, a Kenyan man who faces execution in Saudi Arabia. Muniyako, who is 50 years old, has been in Saudi prisons for 13 years. He was sentenced to death by beheading following a fight in April 2011 that resulted in the death of his colleague. The victim's family has demanded 'blood money'—a form of financial compensation required under Islamic law for cases involving murder or serious harm. Mudavadi explained that the Kenyan government does not have the budget to cover this blood money. The victim's family is demanding Ksh.150 million, but they have raised only Ksh.10 million. The government hopes that the victim's family might lower their demand, making it more feasible to resolve the situation. In a positive development, Saudi authorities have postponed Muniyako's execution, which was initially scheduled for May 15, to allow more time for negotiations. Foreign Affairs Principal Secretary Korir Sing'oe confirmed this delay, intended to facilitate further discussions between all involved parties.

Mudavadi noted a challenge in tracking these numbers accurately. Despite being encouraged to do so, many Kenyans still need to register with Kenyan missions abroad. Registration is needed to maintain precise data on the Kenyan population in these countries. However, Mudavadi provided data on Kenyan migrant workers in Gulf countries, as indicated in the table below.

Table 4.3: Kenyan Migrant workers (2024) and Kenyans deaths (2002 – 2024)

Country	Kenyan Migrant workers (2024)	Kenyans' deaths (2002 – 2024)
Saudi Arabia	310,266	166
Qatar	66,025	58
UAE	23,000	51
Bahrain	8000	10
Oman	5,392	
Kuwait	3515	6
Total	416,198	291

Source: (Field Data, 2024)

4.4.1 Government response

However, the government needs to be faster to enforce BLA provisions through the Ministries of Labour, Social Protection, and Foreign Affairs. Workers frequently report instances of delayed or unpaid wages, issues that could be resolved with prompt government intervention. The BLA also proposed raising monthly remuneration to Ksh 40,000, yet due to delays in BLA implementation, many workers are compelled to seek alternative employment to support their families.

A local recruitment agent, R5, who requested anonymity, emphasized that *‘upon arrival, some domestic workers are influenced by their peers to seek alternative employment for better pay, contrary to the agreed two-year commitment with their initial employer. This scenario can frustrate employers who have invested significant resources in bringing the workers to Saudi Arabia.’*

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The findings further revealed that Kenya maintains only three labour attachés in the Kingdom of Saudi Arabia, Qatar, and the United Arab Emirates, posing a challenge in effectively overseeing the welfare of over 70,000 Kenyan domestic workers in Saudi Arabia alone. Reports indicate that the Kenyan embassy in Saudi Arabia lacks adequate support systems for workers, resulting in prolonged resolution of mistreatment cases.

For instance, Brenda Wafula's case exemplifies this, as she has been hospitalized for over a year without being able to return to Kenya due to her severe condition, necessitating specialized medical equipment and possibly a private jet for safe transportation.

Despite efforts by the National Employment Authority to vet and register recruitment agencies, there are still reports of inexperienced agencies making false promises to workers. These agencies expedite visa and passport processing for a fee, collaborating with unauthorized entities in Saudi Arabia. Consequently, workers often find themselves trapped in exploitative situations or facing deportation due to the absence of legal provisions for free visas under Saudi labour laws. Furthermore, a lack of proper policies, regulatory frameworks, and enforcement of labour laws exacerbates the plight of migrant workers.

Instances of abuse and exploitation, such as Shani Hassan's experience of being thrown down the stairs by her employer's son, underscore the grim realities faced by many workers.

Cultural differences also contribute to challenges as workers struggle to adapt to Saudi Arabia's customs and practices.

However, musician Jimmy Gait suggests that indiscipline among workers significantly contributes to mistreatment. He argues that engaging in immoral behavior or theft can provoke employers and lead to adverse treatment. Gait's remarks have sparked debate, with some disputing claims of natural deaths among migrant workers in Saudi Arabia, alleging mistreatment and torture as primary causes.

In light of these issues, there is a pressing need for comprehensive policies, improved diplomatic engagement, and enhanced oversight mechanisms to safeguard the rights and well-being of Kenyan migrant workers in the Middle East.

According to the National Employment Authority (2023), Kenyan domestic workers in the Middle East frequently complain about subpar working circumstances despite the International Labour Organization's (ILO) adoption of employment norms, including freedom from discrimination, safe working conditions, and freedom from forced labour. These include overly lengthy workweeks—60 hours on average, as opposed to the ILO requirement of 48 hours—as well as incidents of aggression, harassment, and sexual exploitation, as well as a lackluster reaction to situations of distress and communication restrictions.

Besides, their pay is generally poor; the average compensation for a domestic worker in Qatar is US\$ 206, less than the US\$ 275 minimum required by Qatar Law No. 17 of 2020. Kenyan workers in the Middle East have suffered psychological anguish, bodily damage, document confiscation, and, tragically, the loss of life as a result of labour

practice breaches by employers. A 2021 Kenya Parliamentary report states that during the previous three years, 93 Kenyans have died while working in the Middle East, most of them in Saudi Arabia, Qatar, and the United Arab Emirates. The survivors' accounts primarily attribute the deaths to harassment and abuse by employers.

The primary frameworks that govern Kenya's relations with other countries in labour, trade, and diplomacy are the country's 2014 Foreign Policy and Diaspora Policy. Nevertheless, the situation of Kenyan domestic workers in the Middle East has worsened due to the policies' incomplete implementation. Moreover, corruption matters, particularly involving State representatives and operatives, have significantly eroded the credibility of Kenyan Establishments and the formulation of policies, carrying substantial policy implications for the well-being of Kenyan migrants in Gulf countries.

As exemplified in the UAE scenario, Saudi Arabian migrants from Kenya frequently express concerns about perceived shortcomings and corruption among state officials responsible for assisting them. Undermining the growing interest of Kenyan migrant workers looking for work in Saudi Arabia, the labour minister of Kenya acknowledged that recruitment agencies and Kenyan embassy employees frequently collude (Wandera, 2015).

The government was compelled to investigate cases of misconduct and corruption due to the presence of these illicit recruitment companies, which often collaborated with particular government agencies. On September 29, 2014, 930 recruitment agencies had

their licenses revoked due to allegations of labour exploitation of Kenyan workers in the Middle East (Ngugi, 2014). This internal bureaucratic government struggle over regulations poses a severe threat to the Kenyan government's legitimate role in protecting the Kenyan migrant population in Gulf countries.

4.5 Optimising GCC bilateral labour agreements to protect Kenyan workers

The authorities stopped sending labourers to the Middle East in 2014 in reaction to several reports of mistreatment and fatalities of Kenyan labourers. As a result, the licenses of 930 recruitment agencies engaged in the trade were revoked, and a screening procedure was started for these firms. As a result, organisations had to comply with stringent government directives, which included keeping physical locations and filing quarterly reports on their foreign workers. After labour arrangements with the United Arab Emirates, Qatar, and Saudi Arabia were signed in 2017, the prohibition was withdrawn. The accords addressed wage issues, protected identification and travel papers, and gave access to complaint procedures.

The State Department for Diaspora Affairs was founded by the legislature in 2022 to promote the freedoms and well-being of Kenyans residing abroad.

A government official, R6, who preferred anonymity, stated that *'the National Labour Migration Policy of August 2023 in Parliament is about to be approved. A Bill on National Labour Migration is in the process, too. BLAs are new to Kenya. The first was signed in 2023. The above are new tools the Government is adopting to protect Human rights, as ILO wants Countries to adopt BLAs*

'In Oman, Kenya is facing a situation of sabotage from recruitment Agencies; therefore, the BLA was not signed; however, Kenyans continue working in Oman. It is noteworthy that Kenya has prepared 19 BLAs, and none has been

signed so far. Kenya has a shortage of resources as we only have four labour attaches in GCC – Qatar, Riyadh, Dubai and another Country in GCC.’

Migrant workers suggested some support systems or mechanisms to address these human rights challenges facing workers in GCC countries. They indicated that the Kenyan government should sign agreements with GCC countries (especially Saudi Arabia) on some issues concerning human rights. The government of Kenya, through its embassy, should strictly follow these agreements and ensure their citizens are protected and given the necessary support.

Other migrant workers suggested that the visa be made accessible to avoid agency exploitation. They also indicated that the embassy management in GCC countries should be changed. Migrant workers further explained that the government should fight for the freedom of its citizens. Kenya and the Gulf States governments must agree on off days for workers to rest. The two governments must sign some agreements and policies addressing racism and discrimination.

Respondent R7 stated, "When you connect with your employer, it feels like a life sentence. There is no movement, leave days, or freedom at all." They explained that it feels like being in prison, adding, "In Kenya, we are used to socializing, visiting friends on weekends, going out, and exploring different places."

Refugee staff have emphasized that the medication lifestyle ought to be better, and this ranks as one of the most prominent issues facing the GCC countries. The government should send doctors who only treat their citizens in case of any health issues during the working period. It was noted that Kenyans were lowly paid compared to some states; hence, the migrant workers further suggested that the government of Kenya should sign

agreements with GCC states on standard payment like the Philippine government. Other migrant workers indicated that the foods they feed should change.

Further, migrant workers even suggested that the Government create more jobs in Kenya to limit worker migration to the Gulf region. If there were jobs in Kenya, facing these human rights challenges in GCC countries would not be necessary.

CHAPTER FIVE

SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

5.0 Introduction

This section provides an overview of the conclusions drawn from the data analysis and suggestions.

5.1 Summary

The purpose of this study was to critically examine the Bilateral Labour Agreements and their effect on the human rights protection of migrant workers: the case of Kenyan migrants in the GCC countries. The study discusses how the absence of bilateral agreements affects Human rights protection. This study examined the effectiveness of Bilateral Labour Agreements in protecting the human rights of Kenyan labour migrants in the Gulf Cooperation Council (GCC). It explored factors that drive Kenyan workers to GCC countries, the reasons for human rights abuses, and the mechanisms through which these agreements can best serve Kenyan workers' interests.

The study used Ravenstein's Migration and Interest Theory of Human Rights. It used primary and secondary data analysis to examine the connection between bilateral labour agreements and human rights protection. All data gathered from both primary and secondary means was analyzed and presented thematically. Photos, direct quotes, and reported speeches enhanced the findings. Based on the study's findings, conclusions and recommendations were made.

5.2 Conclusion

Based on the findings of this research on Bilateral Labour Agreements and Human Rights Protection of Kenya Migrant Workers in the Gulf Cooperation Council Countries, the Kenyan government persists in actively promoting higher deployment rates, particularly among young workers, even in the absence of labour cooperation agreements. However, the government has yet to develop a comprehensive strategy to protect its nationals from labour exploitation. This includes the absence of Bilateral Labour Agreements, the establishment of labour and welfare offices, and orientation campaigns.

The Kenyan government faces challenges in safeguarding the labour rights of its citizens in Gulf countries, primarily due to limited resources, concerns about potential repercussions such as trade restrictions, withdrawal of humanitarian aid, and limitations on immigration. Consequently, government regulations have proven ineffective, leading to widespread corruption, inadequate policing of unethical recruiters, illegal labour deployment, and a rise in labour violations and exploitations, particularly among domestic workers, leaving Kenyans vulnerable in Gulf countries.

This study coverage has shed light on the abuses suffered by migrant workers in GCC countries such as Bahrain, Kuwait, Oman, Qatar, the United Arab Emirates (UAE), and Saudi Arabia, which have become increasingly popular destinations for Kenyan workers. Despite mounting international pressure, these countries with documented human civil liberties desecrations have been chiefly unresponsive. Additionally, the

nonexistence of reliable data and effective data collection methods poses a significant challenge in addressing human trafficking in the GCC region, undermining existing and proposed interventions.

The absence of mutual labour cooperation agreements and standardized contracts with Gulf countries poses a challenge for Kenya in upholding labour protections for its citizens, particularly in enforcing contractual rights within the region. The lack of a comprehensive emphasis on labour protection, coupled with restricted institutional, administrative, and resource capabilities, significantly obstructs endeavors to shield Kenyan migrants from labour exploitation and abuse. Consequently, Kenyan migrants, especially those engaged in domestic work, find themselves legally exposed and susceptible to exploitation by recruitment brokers/agents and government officials. The largely unregulated character of Kenya's recruitment industry, combined with informal agents and brokers operating in Kenya and the Gulf Cooperation Council (GCC) countries, opens avenues for exploitation. This scenario introduces regulatory challenges for both the Kenyan and Gulf governments and amplifies the vulnerability of Kenyan migrants throughout the migration process.

5.3 Recommendations

As the demand for Kenyan migrant workers in the Gulf region continues to grow, the Kenyan government must take decisive action to address labour governance issues to prevent a corresponding increase in human rights violations. Historical evidence has shown that Kenyan migrants have faced significant challenges, including exploitation,

abuse, and unfavourable working conditions in countries like Saudi Arabia, Oman, and Qatar (Begum, 2016). These challenges threaten the sustainability of Kenya's foreign labour strategy and undermine the government's responsibility to protect its citizens abroad. Therefore, this study strongly recommends that the Kenyan government take urgent and effective measures to tackle these labour governance challenges.

One crucial step is enforcing stricter regulations on recruitment firms, a strategy successfully implemented by countries like the Philippines (Bal & Gerard, 2018). Such regulations could significantly reduce the exploitation of Kenyan workers. Without these interventions, Kenya's foreign labour policy will remain vulnerable, and the government's ability to safeguard the welfare and rights of its expatriate community will be compromised.

5.3.1 The Ministry of Labour and Social Protection

To build and maintain trust domestically and internationally, the Kenyan government, through its Ministry of Labour and Social Protection, should prioritise the protection of its citizens working abroad. Proactive measures, such as deploying labour attachés in Gulf countries and providing robust support services for migrant workers, are essential to reinforce public confidence in the government's ability to manage these issues. Failure to meet these obligations could result in a loss of confidence, weakening Kenya's international labour relations and diminishing its influence in the global labour market (Ewers et al., 2020). Therefore, the government should enhance labour governance systems by adopting successful strategies from other labour-exporting countries. This

approach would ensure the protection of Kenyan migrant workers and bolster the government's strategic objectives in the international labour market.

Therefore, this study recommends a methodical approach to addressing labour governance challenges, particularly for Kenyan nationals in Gulf Cooperation Council (GCC) nations. Initially, establishing a specialised task force is essential to thoroughly examine and address issues such as corruption, unethical recruitment practices, inadequate dispute resolution systems, and human trafficking. This task force will identify and mitigate Kenyan workers' risks. Moreover, the government should consider adopting effective labour governance strategies employed by Asian countries, such as Bilateral Labor Agreements, labour and welfare offices, contract verification procedures, and migration orientation services. Implementing these strategies would significantly enhance the protection of Kenyan migrant workers.

Secondly, developing a comprehensive migrant database and research system is also vital for monitoring and analysing migrant data, informing labour migration policy and enabling proactive solutions to emerging challenges. An updated database of Kenyan workers in GCC countries, including their locations and contact information, should be maintained to ensure effective monitoring and support. Thirdly, the government must enforce policies that require employers to provide social welfare programs for their employees and expand emergency shelters and support systems in GCC nations. Establishing clear and accessible communication channels is essential for migrant

workers to report issues and seek assistance from the Kenyan Embassy in cases of human rights violations.

Fourthly, engaging Kenyan media is crucial for raising awareness and ensuring accountability for the mistreatment of Kenyan workers in GCC nations. Media involvement can help expose abuses and promote transparency in labour practices. Furthermore, addressing unethical recruitment practices through strict regulations and deploying labour attachés in all GCC countries will enhance the support and protection of Kenyan workers. In addition, education is critical to safeguarding the well-being of Kenyan migrant workers. Potential migrants should be educated on the correct processes before travelling to GCC countries for employment. This education should include information on cultural differences, legal considerations, and the importance of understanding their rights and obligations in the host country.

5.3.2 GCC countries' government

On the other hand, GCC governments should prioritise the protection of migrant workers by enforcing strict labour laws, establishing specialised agencies to conduct inspections, imposing penalties for violations, and enhancing transparency in the recruitment process. Fostering cooperation with sending countries like Kenya and engaging in dialogue with international organisations and civil society will further strengthen protection mechanisms for migrant workers.

5.3.3 Migrant Workers

Kenyan migrant workers should use official employment channels to ensure proper follow-up by the Kenyan and GCC governments. They should thoroughly understand their employment agreements, seek legal counsel if necessary, and ensure their contracts clearly outline their rights and working conditions. Workers need to be aware of their entitlements, including wages, working hours, and benefits, and they should respect the host country's laws. Any violations should be promptly reported to the relevant authorities or the Kenyan Embassy. Also, migrant workers should seek support from worker organizations, stay informed about labour laws, network with peers, prioritize their safety, and be aware of avenues for redress. By implementing these systematic measures, the Kenyan government can significantly improve the protection and welfare of its citizens working abroad. This will ensure that the rights of Kenyan migrant workers are safeguarded and that the country's foreign labour strategy remains sustainable and effective.

5.3.4 Recommended Areas for Future Research

Further research is needed to understand the effectiveness of bilateral labour agreements in safeguarding Kenyan migrant workers' human rights in the GCC. Analyzing migration factors and tracking Kenyan migrant workers' experiences over time could provide insights into their implementation and effectiveness. Additionally, examining the mechanisms involved in implementing and enforcing policies related to bilateral labour agreements and human rights protections is crucial.

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APPENDICES

APPENDIX I: INTERVIEW GUIDE - KENYAN MIGRANT WORKERS IN THE

GCC

i. In which Gulf Cooperation Country/Countries have you worked?

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.....
.....

ii. Are you aware of existing bilateral labor agreements between the Country you worked in and Kenya?

.....
.....
.....

iii. In your opinion, what role do bilateral labor agreements play in shaping the experiences and rights of Kenyan migrant workers in the GCC?

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.....

iv. How could these agreements be enhanced to provide better protection for the rights of migrant workers?

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.....
.....

v. Could you explain the procedures or methods you employed when deciding to relocate for work in a GCC country?.....

.....
.....

- vi. What were the predominant factors or motivations that influenced your choice to pursue employment opportunities within the GCC region?.....
.....
.....
- vii. What were the primary obstacles you faced throughout your migration journey?
.....
.....
.....
- viii. Were there specific circumstances or conditions in Kenya that acted as incentives for you to explore work prospects in a GCC country?.....
.....
.....
- ix. Can you recount your personal experiences concerning the conditions of employment and living arrangements in the GCC country to which you relocated?
.....
.....
.....
.....
- x. Are there particular human rights concerns or issues that you, along with other Kenyan migrant workers, have encountered?
.....
.....
.....
- xi. Have you, at any point, observed or been a victim of discriminatory or exploitative practices in your workplace or living environment within the GCC?

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.....

xii. What, in your view, are the necessary support systems or mechanisms to address these human rights challenges?

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xiii. Have you noticed any transformations or developments in this context?

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APPENDIX II: INTERVIEW GUIDE OTHER STAKEHOLDERS

INCLUDING GOVERNMENT AUTHORITIES, LABOR AGENCIES, AND ORGANIZATIONS INVOLVED IN LABOR MIGRATION AND HUMAN RIGHTS PROTECTION

i. Could you please specify your department or office?

.....
.....

ii. From your standpoint, what are the typical avenues or methods that Kenyan migrant workers utilize to secure employment in GCC countries?

.....
.....

iii. What are the driving factors that lead these workers to select GCC destinations for employment?

.....
.....

iv. As an organization engaged in overseeing labor migration and protecting human rights, could you provide insights into the support and assistance you offer to Kenyan migrants who aspire to work in the GCC?

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.....

v. What are some of the human rights issues or difficulties that you have identified among Kenyan migrant workers in the GCC nations?

.....
.....

vi. In your capacity as a government authority or as part of an organization, how have you gone about addressing these concerns, and what strategies or initiatives have you implemented to safeguard their rights?

.....
.....

vii. As a representative of a labor agency, how do you ensure that Kenyan workers sent to the GCC are informed about their rights and are shielded from human rights infringements?

.....
.....

viii. Do you have specific policies or procedures in place to guarantee their well-being?

.....
.....

In your role as a government authority or as a representative of an organization engaged in labor migration and human rights protection, how do you perceive the impact of Kenyan labor migration on the diplomatic relations between Kenya and the GCC nations?

.....
.....

ix. Are there any specific measures or agreements established to regulate this relationship in the context of labor migration?

.....
.....

x. In your view, what actions have been taken to enhance the bilateral diplomatic ties between Kenya and the GCC, with a particular emphasis on the rights and welfare of Kenyan migrant workers?

xi.
.....

xii. Could you share any noteworthy success stories or challenges encountered in this regard?

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.....